## Indirect Tax Laws

<table>
<thead>
<tr>
<th>Q. No.</th>
<th>Q. 1</th>
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<th>Total Marks Awarded</th>
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<tbody>
<tr>
<td>Marks Awarded (to be filled by Examiner)</td>
<td>0.5.5.5.</td>
<td>0.4.3.0.</td>
<td>0</td>
<td>0.4.4.7.e</td>
<td>0.4.2.3.e</td>
<td>0.2.1.0.</td>
<td>0.2.1.0.</td>
<td>83</td>
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<td>Total</td>
<td>15</td>
<td>94</td>
<td>0</td>
<td>114</td>
<td>10</td>
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</tbody>
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Examiner's Signature: [Signature]

Checked by: [Initials]

Total Marks awarded (in words): 83
INSTRUCTIONS TO THE CANDIDATE

Answers are not to be written on this page

1. Roll number should be written in the box in numbers and darken the appropriate circles of the OMR portion provided in the right hand corner of the cover page with Black / Blue ball point pen.

2. Fill particulars such as name of Examination, Group No., Paper No. and subject at the appropriate space at the left hand upper corner.

3. Remove the perforated Bar Code sticker of the particular paper from the Attendance sheet and affix the same on the box provided in the right hand corner of the cover page.

4. Since a machine will read the Roll no., please check and ensure that Roll number written in numbers and words and circles darkened are correct. In case any candidate fills this information wrongly, Institute will not take any responsibility for rectifying the mistake.

5. The answers should be written neatly and legibly

6. The answer to each question must be commenced on a fresh page and question number prominently written at the top of each answer. Alternatively, the question number should be distinctly written in the margin.

7. The answer to each question in all parts should be fully completed in one page, or in a consecutive set of pages, before the next question is taken up.

9. Writing of Roll number in place/s other than the space provided for the purpose or writing distinguishing mark, symbols like “OM”, “Sri”, “Jesus”, “786”, etc., will tantamount to adoption of “unfair means”.
Question No. 1

1(b) Computation of value of taxable services of New Bank of India Limited for the Month of April 2016:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Amount (₹)</th>
</tr>
</thead>
<tbody>
<tr>
<td>[in Lakhs]</td>
<td></td>
</tr>
</tbody>
</table>

1) Interest received on various loans
   including home loan (Note-1)

2) Administrative Charges & Folie Charges
   Collected (Note-2) 120

3) Value of sale & purchase of Forward Contract
   (Note-3) 80

4) Charges for credit and debit card
   facilities extended (Note-4) 200

5) Charges for ATM Card Transaction 200
   (Note-4)

6) Commission received for DD Transfer
   Cheque Collection (Note-6) 200

7) Margin earned on Reverse Repo Transaction
   (Note-5)

Value of Taxable Service  ₹ 720

Service Tax Payable @ 14.5%  ₹ 104.4
(including Swachh bharat cess @0.5%)

[720 x 14.5%]
Note:

1) Service by way of extending loans, advance, deposits in so far as the consideration is represented by way of interest or discount are covered under negative list hence not taxable.

2) Administrative charges are collected in addition to above services are Taxable.

3) Sale and purchase of Forward Contracts are merely a transaction in money. They are outside the scope of service definition under Section 65B(44).

4) Charges for debit & credit facilities, ATM Card transactions are not covered in negative list hence Taxable.

5) Reverse Repo transaction means transaction dealing in securities. They are outside the scope of service definition under Section 65B(44).

6) Amount received to the extent of face value of instrument are transaction in money but Commission received for DD, Cheque Collection are Taxable.

7) It is assumed that all amounts given in the problem are exclusive of service tax.
1(c) Computation of value of Taxable Services and Service Tax payable by A Ltd. for the month of December 2015:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Amount ₹ (lakh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Renting of Agricultural Machinery [Note-1]</td>
<td></td>
</tr>
<tr>
<td>2) Cultivation of Ornamental Flowers [Note-2]</td>
<td></td>
</tr>
<tr>
<td>3) Processing of Tomato Ketchup [Note-3]</td>
<td>3</td>
</tr>
<tr>
<td>4) Plantation of Rubber [Note-4]</td>
<td></td>
</tr>
<tr>
<td>5) Processing of Potato Chips [Note-3]</td>
<td>1.5</td>
</tr>
</tbody>
</table>

Value of Taxable Service $\Rightarrow$ ₹ 4.5

Service Tax @ 14% (4.5 x 14%) $\Rightarrow$ 0.63

Swachh Bharat cess @ 0.5% (4.5 x 0.5%) $\Rightarrow$ 0.0225

Total Service Tax Payable [Note-5] $\Rightarrow$ ₹ 0.6525
Notes:

1) Renting of agricultural machinery covered under negative list hence not taxable.

2) Agriculture includes cultivation, harvesting, threshing, plant protection, testing, cultivation of ornamental flowers covered under definition of agriculture.

3) Agriculture produce means produce means produce of any agriculture on which no further processing is done on processing is done as casually done by the cultivator on produce which does not change its essential characteristics and makes it marketable for primary market. Processing of tomato ketchup, processing of potato chips are meant for retail market only hence taxable.

4) Plantation of tea, coffee, rubber covered within the definition of agriculture which is in negative list hence not taxable.

5) It is assumed that amount given in problem are exclusive of service tax. If it is assumed that they are inclusive of service tax then value of taxable service and service tax were 3.938 lakh and 0.569 lakh respectively.
(d) Computation of Assessable value of machine for valuation & customs duty:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>FOB value of the machine</td>
<td>10000 UK pound</td>
</tr>
<tr>
<td>Licence fee the buyer was required to pay in UK</td>
<td>400 UK pound</td>
</tr>
<tr>
<td>Customs FOB</td>
<td>10400 UK pound</td>
</tr>
</tbody>
</table>

2. Add: Freight (A/S):

Actual 2080 UK pound

20% of FOB (10400 x 20%) = 2080 UK pound

Whichever is lower.

3. Add: insurance premium @ 1.125% of FOB: 117 UK pound

(10400 UK pound x 1.125%)

CIF (in UK pound) 12597

4. Exchange rate: 99/- per one pound.

CIF (in Indian Rs) 1247103

[12597 UK pound x 99]

5. Add: 1% CIF Unloading Charges [Note-4] 1247103

Assessable value 1259574.03
Basic customs duty @ 10%  

12,595.7403  

Additional customs duty @ 12.5%  

[13,085.5314 x 12.5%]  

1,731.91  

Education cess @ 3%  

(12,595.7403 + 1,731.91) x 3%  

897.4  

Total duty payable = 12,595.74 + 1,731.91 + 897.4  

= 15,225.06  

Note:  

1) Buying commission is not includable in Assessable value.  

2) CBEC exchange rate on the date of presentation of Bill of Entry was taken.  

3) Relevant date for rate of duty and tariff valuation is Date of Bill of Entry or Date of Entry entry Inwards whichever is later.  

i.e, 25/5/2015 prevailing rate of BCD was 10%.  

4) 1% of CIF is taken as unloading Charges as per proviso to Rule-10(2) of Customs (valuation of imported goods Rules 2007)
Question No-2

2(b) 1) Transportation of organic manures of Rs 50000 are exempt from Service Tax by way of mega exemption notification.

2) Transportation of goods by a single goods carriage does not exceed 1500/- are exempt from Service Tax. Hence here amount is 1800 and Service Tax is payable after availing an abatement of 70% if chosen.

3) Transportation of military equipments Rs 25000 are exempt from Service Tax by way of mega exemption notification 25/2012 ST dated 20/12/2012.

4) Transportation of polyester fibre of Rs 15000 are taxable. No exemption is available under mega exemption notification or under negative list also.
2(c) Value of taxable services of Y Ltd. for the month of December 2015:

Amount (\(¥ \))

- Installation of machinery: \(80000\)
  \([200000 \times 40\%]\)

- Completion and finishing service: \(70000\)
  \([100000 \times 70\%]\)

- Repairs of machinery: \(50000 \times 70\%\)
  \(35000\)

- Additions to damaged structure: \(100000\)
  \([250000 \times 40\%]\)

- Installation of electrical fittings: \(30000\)
  \([75000 \times 40\%]\)

Value of Taxable Service

(inclusive of service tax @14.5%)

\(315000\)

Value of Taxable Service

(exclusive of service tax)

\(275109\)

Service tax @14.5%: \(39890\)

Note:

1. Point No. (i), (iv), (v) are original works as per Rule 2A of Service Tax determination of value rules 2006. Hence value of service portion = 40% of Gross amount charged for works contract.

2. In point No. (iii), (ii) value of service portion is 70% of Gross amount charged for works contract.
2(a) Amount of CENVAT Credit available for Z Ltd:

Central Excise duty (₹)

10,000

(i) Inputs used in factory of manufacture (fully available)

50,000

(ii) Goods for use in generation of electricity for self consumption (Available)

(iii) Cement for construction of a godown in the factory

(iv) Goods for laying foundation support of capital goods

25,000

(v) Goods primarily for personal use (not available)

(vi) Consumable store in manufacture of goods

Total CENVAT Credit available → ₹ 190,000
5(a) The department claim was not tenable because for the purpose of levy of excise duty the normal transaction value which is in force on that date on which V Ltd. transferred the goods shall be taken account. That is payment of duty on 10,000 @ 15% paid by V Ltd. was correct.

5(b) As per Rule-5 of Place of Provision Rules; Pops is location of immovable property i.e. South Africa.

Rule-8 of Place of Provision Rules says if service provider and service receiver both are in Taxable Territory then Pops is location of service receiver.

Here Swamy Ltd. (Service receiver) and Kish and Kish Architects (Service provider) both are in Taxable Territory. Pops here is Chennai.

As per Rule-14; if there is a conflict between Rules, rules which comes (in) latest in numerical order will apply.

Here Rule-8 will apply.

The contention of the department is correct in this regard and service tax is payable by Kish and Kish Architects.
5(c) (i) As per Rule-9 of Place of Provision of Service rules, services provided by Indian Bank to Foreign MTSO in relation to money transfer to a beneficiary in India comes under the category of intermediary service. Hence, place of provision of service is location of service provider.

(ii) Yes, service tax is leviable on services provided by above intermediary to MTSO as located outside India as place of provision of service falls in Taxable Territory i.e., location of service provider.
5(d) (i) As per the customs act 1962, the rate of duty applicable in this case is the rate of duty applicable on submission of Bill of Entry for home consumption (i.e., here ex-bond bill of entry).

Rate of duty = 30% Ad valorem prevailing on 1/8/2016.

(ii) In respect of rate of exchange, the rate prevailing on the date on which Bill of Entry for warehousing (into bond bill of entry, yellow column) could be adopted, hence rate of exchange on 5/6/2016 should be adopted but not rate of exchange on 1/8/2016 which is prevailing on goods cleared for home consumption.
Question No-6

6(a) i) 100% EOU

- Registration required under Central Excise Act.

ii) State transport corporation manufacturing excisable goods.

- Registration not required.

iii) Persons who manufacture excisable goods chargeable to NIL rate of duty

- Registration required.

iv) Importer issues CENVATABLE invoice

- Registration required under Central Excise Act.
6(b) Services provided by sub-contractor to main contractor who provides exempt services, are not exempted by reason that main contractor providing exempt services.

As per section 66F (1) of Finance act 1994 service by nature or description of the does not include service reference to a service used for providing such service.

Hence interior decoration services provided by sub-contractor are liable to service tax even though these services are used by main contractor for providing exempt services of construction activity.
6(c) As per rule 8 of point of taxation rules 2011, in case of copyright services, point of taxation is date of invoice (15-7-2015) or date of receipt of payment (27-12-2015) whichever is earlier.

Hence, point of taxation in case of services provided by Mr. Foster was 15-07-2015.
Question No.- 4

(i) Treatment of effluent by common effluent treatment plant operator was exempt from service tax by way of mega exemption notification No. 25/2012 ST dated 20/6/2012 amended w.e.f. 1-4-2015.

(ii) Exemption for intermediate production process of Alcoholic Liquor for home consumption on Job Work basis was withdrawn and hence this activity is now Taxable.
4(d) (i) As per customs central excise duties and service tax drawback rules 1995 if an exporter who has already filed duty drawback claim under all industry rates cannot file an application for fixation of special drawback rate.

In other words exporter has to decide whether he wants to claim the duty drawback under special drawback rate or all industry rate prior to date of export.

(ii) In case of improper exportation non-prohibited dutiable goods, the penalty will be:

- Maximum 10% of duty sought to be evaded

\[ \text{\textsterling 5000} \]

whichever is higher.

- Penalty is only 25% of penalty if duty interest, reduced penalty is paid with in 30 days of issue of notice.
4(b) Situation - Fraud case (section 78)
Notice date - 30.6.2015
Received date - 10.7.2015
Adjudication Order received date - 15/10/2015
Service tax involved = 200000.

Maximum penalty leviable = 100% of service tax
= 200000 x 100% = 200000.

(i) Assessee paid tax, interest and penalty on 30/7/2015
ie, within 30 days of receipt of notice
penalty = 200000 x 15% = ₹ 30000.

(ii) Assessee paid tax, interest & penalty on 5/11/2015
ie, after receipt of adjudication order but within 30 days.
penalty = 200000 x 25% = ₹ 50000.

(iii) Assessee paid tax, interest, penalty on 5/12/2015
penalty = ₹ 200000.
7(c) Relaxations available under Rule 4A of Service Tax Rules, 1994 in case of
1) Banking companies and financial institutions.
   - Invoice may not be serially numbered
2) Goods transport agency
   - Invoice must be accompanied by a consignment note.

7(d) Relevant date for refund of duty:
1) Goods exported out of India: within one month from date of export.
2) Relinquishment of title to goods:
3) Goods destroyed: within 6 months.
7(a) Central excise department cannot agitate the same matter in the appeal for subsequent year if department already accepted the orders on identical issues for the previous year in respect of same assessee.

7(b) Advance ruling final order shall be passed by authorities with in 90 days of filing of application.

The pronouncement of advance ruling is binding upon the Assessee, applicant and the jurisdictional Assessing officer in respect of that assessee only.
**Question No. 1**

1(a) Particulars | 2 (lakh)
---|---
Value of clearance of goods “AB” = | 500
Clearance for Captive Consumption | Eligible for SS1 exemption.

\[ \text{Rate of excise duty @ 12.5\%} = 6.25 \]  
\[ \text{Less: CENVAT Credit: } \]
\[ \text{Inputs (3+5) } = 3.75 \]  
\[ \text{Capital goods (7.5 \times 50\%) } = \]  
\[ \text{Total duty payable } \rightarrow 50.75 \]

Value of clearance of goods produced with other brand name (other than manufactured in rural area) should be treated separately.

i.e., here duty payable = 100 \times 12.5\% = 12.5 (lakh)

Export clearances are not liable for payment of excise duty.

Clearance of goods exempted under 8/2003 of ₹100 lakhs are also not liable for 12.5% excise duty payment.