



The Institute of Chartered Accountants of India
Indirect Taxes Committee

CERTIFICATE COURSE ON INDIRECT TAXES

SUGGESTED ANSWERS OF ASSESSMENT TEST

HELD ON 27TH JANUARY, 2013

PART – A

Write the correct alternative in the in the answer column

Sl. No.	Question	Answer
1.	<p>Which of the following Articles of the Constitution of India gives power to the Central Government for taxing goods?</p> <p>(a) <i>Article 246(1)</i> (b) Article 268A (c) Article 269 (d) Article 267</p>	(a)
2.	<p>According to clause 29A of Article 366 of the Constitution, tax on the sale or purchase of goods includes :</p> <p>i. a tax on the transfer of property in goods (whether as goods or in some other form) invoked in the execution of a works contract. ii. a tax on the delivery of goods on hire purchase or any system of payment by installments. iii. a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration. iv. tax on transfer of immovable property.</p> <p>Which of the following is correct?</p> <p>(a) Only (i) (b) (i) and (ii) (c) <i>(i), (ii) and (iii)</i> (d) All of the above</p>	(c)
3.	<p>Evidence under the Indian Evidence Act, 1872 means & includes:</p> <p>i. all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry. ii. all statements in relation to matters of fact under inquiry. iii. all documents including electronic records produced for the inspection of the court.</p>	

Sl. No.	Question	Answer
	<p>iv. all documents including electronic records in relation to matters of fact under inquiry.</p> <p>Which of the following is correct?</p> <p>(a) (i) and (iii)</p> <p>(b) (ii) and (iv)</p> <p>(c) (i) and (iv)</p> <p>(d) (ii) and (iii)</p>	(a)
4.	<p>Which of the following Statement is not provided by the Central Government to the Parliament?</p> <p>(a) Macro Economic Framework Statement</p> <p>(b) Fiscal Policy Strategy Statement</p> <p>(c) Short-term Fiscal Policy Statement</p> <p>(d) Medium-term Fiscal Policy Statement</p>	(c)
5.	<p>A SSI unit availing the benefit of Notification No. 8/2003 CE dated 01.03.2003 can avail CENVAT credit of :</p> <p>(a) service tax paid on input services</p> <p>(b) central excise paid on inputs</p> <p>(c) central excise duty paid on capital goods</p> <p>(d) all of the above</p>	(c)
6.	<p>A manufacturer manufacturing more than one excisable goods must :</p> <p>(a) make a separate application for registration for each of the excisable goods manufactured.</p> <p>(b) make a single application for excise registration.</p> <p>(c) opt for centralised registration.</p> <p>(d) register only in respect of the excisable goods which would be manufactured in large quantity and not for the excisable goods which would be manufactured in small quantity.</p>	(b)
7.	<p>An excisable product is covered under the provisions of the Standards of Weights and Measures Act, 1976 and falls in the category of 'specified goods' subject to excise duty on the basis of retail sale price. MRP printed on the package of such product is ₹ 10,766 per unit. The price is inclusive of excise duty of 12% and education and secondary and higher education cess at the applicable rates.</p> <p>What will be the assessable value of the package if it is eligible for an abatement of 38%?</p> <p>(a) ₹ 10,000</p> <p>(b) ₹ 9,581</p> <p>(c) ₹ 6,675</p> <p>(d) ₹ 6,200</p>	(c)

Sl. No.	Question	Answer
8.	The definition of goods include all materials, articles, commodities and all other kinds of movable property but does not include : (a) <i>newspapers, actionable claims, stocks, shares and securities</i> (b) cereals, stock, shares (c) cotton, securities (d) newspaper, pulses	(a)
9.	Calculate the VAT liability for the period December 1, 2012 to December 31, 2012 from the following particulars : Input worth ₹ 1,25,000 were purchased within the State. ₹ 1,40,000 worth of the finished goods were sold within the State and ₹ 1,50,000 worth of goods were sold in the course of inter-State trade. VAT paid on procurement of capital goods worth ₹ 55,000 during the month was at 12.5%. If the input and output tax rate in the State are 4 % and 12.5% respectively, credit of capital goods is allowed in two equal installment and the central state tax rate is 2%, estimate the total tax liability under the State VAT law. (a) ₹ 5,625 (b) ₹ 12,063 (c) ₹ 6,875 (d) ₹ 9,063	(d)
10.	The due date for submitting the declarations in Form C, Form F or Form E-1 or E2 is : (a) <i>within three months from the end of the period to which declarations relate.</i> (b) within six months from the end of the period to which declarations relate. (c) within nine months from the end of the period to which declarations relate. (d) no time limit.	(a)
11.	National Calamity Contingent Duty of customs is not imposed on : (a) <i>Mobile phones</i> (b) Pan masala (c) Chewing tobacco (d) Cigarettes	(a)
12.	Which of the following are 'goods' as per the Customs Act, 1962 ? (a) vessels, aircrafts and vehicles (b) stores (c) baggage (d) <i>All of the above</i>	(d)

Sl. No.	Question	Answer
13.	<p>Under section 101 of the Customs Act, 1962, a suspected person may be searched if he has secreted about his person any of the specified goods which are liable to confiscation. Such specified goods are :</p> <p>(a) Gold (b) Diamonds (c) Watches (d) <i>All of the above</i></p>	(d)
14.	<p>i. Goods can be confiscated if they are attempted to be cleared by way of mis-declaration in quantity, description or value etc. ii. Goods can be confiscated if there is an intention to evade customs duty. iii. Smuggled goods may be confiscated even if their form has been changed. iv. Goods exported under claim of drawback and unloaded with permission of the proper officer can be confiscated.</p> <p>Which of the above statement(s) is correct with respect to confiscation of goods under the Customs Act, 1962 ?</p> <p>(a) (i) and (ii) (b) (i), (ii) and (iii) (c) (i) and (iv) (d) (iv)</p>	(b)
15.	<p>M/s X Ltd. was imported diamonds from a US Exporter by air. The Exporter raised the invoice with the following details: FOB price of US\$ 30,000. Freight paid was US\$ 7,500 and insurance cost of US\$1,500. The Bank of M/s X Ltd. released the payment to US Exporter @ Rs.50/US\$1. The Central Board of Excise and Customs notified the exchange rate as Rs.48/US\$1. The assessable value of the diamonds as per the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 is:</p> <p>(a) ₹ 18,18,000 (b) ₹ 18,93,750 (c) ₹ 18,72,000 (d) ₹ 18,00,000</p>	(a)

Sl. No.	Question	Answer
16.	<p>G is the owner of a website which is a photography blog. G earns profits by allowing various companies like Nikon and Canon to advertise on the web site. Whether G is liable to pay service tax?</p> <p>(a) Yes, if the amount earned is beyond ₹ 10 lakhs.</p> <p>(b) Yes, it amounts to selling space and time for advertisement.</p> <p>(c) <i>No, the selling of space or time slots for advertisements other than advertisements broadcast by radio or television features in the negative list.</i></p> <p>(d) None of the above.</p>	(c)
17.	<p>It was observed that the NICE road toll booths collect an average of ₹ 40 lakhs a day. In the new scheme of taxation, would this be taxable?</p> <p>(a) Yes, allowing people to use the road for a consideration is a service.</p> <p>(b) No, it is outside the purview of renting of immovable property.</p> <p>(c) Yes, it amounts to renting of immovable property.</p> <p>(d) <i>No, as service by way of access to a road or a bridge on payment of toll charges is featured in the negative list.</i></p>	(d)
18.	<p>X Ltd., a Company incorporated in India has a branch in Canada for the purpose of overseeing marketing operation in Canada. Branch office enters into agreement with YZ (a US based firm) to undertake marketing and sales promotion activities. The consideration is paid in US Dollars by branch office from the funds transferred by X Ltd. In this background, which among the following is correct?</p> <p>(a) X Ltd. is recipient of service and hence they are liable to pay service tax under reverse charge mechanism.</p> <p>(b) Branch being an extended arm of head office cannot be termed as separate person hence taxable in the hands of X Ltd., as receipt of service by branch is nothing by receipt by the head office.</p> <p>(c) <i>Branch is recipient of service. Since it is located outside taxable territory, no service tax is applicable as it is termed as a distinct entity.</i></p> <p>(d) None of the above</p>	(c)
19.	<p>If any payment has been received prior to a service being chargeable to tax, no tax shall be chargeable if an invoice has also been issued within ____ days of the date when the service is taxed for the first time.</p> <p>(a) 30 days</p> <p>(b) 45 days</p> <p>(c) <i>14 days</i></p> <p>(d) none of the above.</p>	(c)

Sl. No.	Question	Answer
20.	<p>An option has been provided to determine the point of taxation in respect of small advances up to _____, in excess of the amount indicated in the invoice, on the basis of invoice or completion of service rather than payment.</p> <p>(a) ₹10,000 (b) ₹ 5,000 (c) ₹ 500 (d) ₹ 1,000</p>	(d)
21.	<p>Value of taxable service does not include :</p> <p>(a) <i>accidental damages not relatable to the provision of service</i> (b) demurrage charges relatable to provision of service (c) both (a) and (b) (d) none of the above</p>	(a)
22.	<p>Under service tax provisions, which of the following would be regarded as 'authority competent' to issue a completion certificate in respect of residential/commercial complex?</p> <p>(a) Registered architect (b) Registered chartered engineer (c) Licensed surveyor of the local body of the city (d) All of the above</p>	(d)
23.	<p>i. Grant given to a researcher to carry out any research of his choice. ii. Alms received by a folk artist performing on a street. iii. Amount paid as alimony for divorce iv. Amount paid to the winner of a contest inviting people to develop software and promising them specific prize money on their contribution being finally accepted.</p> <p>Which of the above is not liable to service tax?</p> <p>(a) (i) and (ii) (b) (i), (ii) and (iii) (c) (ii) and (iv) (d) (iv)</p>	(b)

Sl. No.	Question	Answer
24.	<p>In respect of sponsorship services, under which of the following scenarios is service tax required to be paid by the recipient of service?</p> <p>(a) Service provider is a corporate entity and service recipient is non corporate entity</p> <p>(b) Service provider & service recipient both are corporate entities</p> <p>(c) Service provider is Individual & service recipient is a Charitable Trust</p> <p>(d) Service provider & service recipient both are individuals</p>	(b)
25.	<p>In respect of services of supply of manpower, the percentage of service tax payable by service provider is :</p> <p>(a) 25%</p> <p>(b) 75%</p> <p>(c) 50%</p> <p>(d) 40%</p>	(a)
26.	<p>In case of reasons not involving fraud, collusion, suppression of facts etc., a show cause notice can be issued within a period of :</p> <p>(a) 365 days from the relevant date</p> <p>(b) 12 months from the relevant date</p> <p>(c) 5 years from the relevant date</p> <p>(d) 18 months from the relevant date</p>	(d)
27.	<p>Which of the following service is not covered in the negative list ?</p> <p>(a) Services provided by RBI</p> <p>(b) Services provided to RBI</p> <p>(c) Services provided by a foreign diplomatic mission located in India</p> <p>(d) Services by way of access to a road or a bridge on payment of toll charges</p>	(b)
28.	<p>Which of the following services provided to the Government is an exempt service ?</p> <p>(a) Repair or maintenance of a vessel</p> <p>(b) Repairs or maintenance of a railway coach</p> <p>(c) Repairs or maintenance of a state transport bus</p> <p>(d) Repairs or maintenance of an ambulance</p>	(a)

Sl. No.	Question	Answer
29.	<p>Section 80(2) provides that no penalty shall be levied for failure to pay service tax on taxable services of “renting of immovable property” if the amount of service tax along with interest is paid :</p> <p>(a) within 180 days from the date of enactment of the Finance Bill, 2012</p> <p>(b) within 6 months from the date of enactment of the Finance Bill,2012</p> <p>(c) on or before 30th June, 2012</p> <p>(d) on or before 30th September, 2012</p>	(b)
30.	<p>In which of the following case, an audit under section 72A be referred by the Commissioner to a Chartered Accountant?</p> <p>(a) Mr. A declared his taxable services at ₹ 2 crore on the basis of the books of accounts maintained by him. However, the Commissioner has reason to believe that Mr. A is having taxable services of ₹ 4 crores.</p> <p>(b) Mr. B has availed and utilized CENVAT credit of ₹ 3.5 crores which is 7% of output taxable services provided by him. As per industry, normal CENVAT credit availed and utilized is 4.5% of output taxable services.</p> <p>(c) Commissioner, Delhi is not able to obtain the true and complete picture of Books of Accounts of M/s XY & Co as it is having its head Office at Delhi and Branches at Mumbai, Chennai and Patna and it does not maintain the Centralized Books of Accounts.</p> <p>(d) In all the above cases.</p>	(d)
31.	<p>As per proposed Article 366 (12A) of the Constitution, which of the following would be liable to GST?</p> <p>(a) Petroleum crude</p> <p>(b) High speed diesel</p> <p>(c) Motor spirit</p> <p>(d) Medicinal and toilet preparations containing alcoholic</p>	(d)
32.	<p>Which of the following taxes would not be subsumed into GST?</p> <p>(a) Stamp duty</p> <p>(b) Service Tax</p> <p>(c) VAT</p> <p>(d) Excise Duty</p>	(a)

Sl. No.	Question	Answer
33.	<p>Which of the following is not a function of Board of Trade?</p> <p>(a) Advising Government on policy measures for preparation and implementation of both short and long term plans for increasing exports in the light of emerging national and international economic scenarios.</p> <p>(b) Reviewing policy instruments and procedures for imports and exports and suggest steps to rationalize and channelize such schemes for optimum use.</p> <p>(c) <i>Suggesting rates of drawback for exports.</i></p> <p>(d) Reviewing export performance of various sectors, identify constraints and suggest industry specific measures to optimize export earnings.</p>	(c)
34.	<p>Incentives offered to the units in SEZ's are :</p> <p>(a) Exemption from service tax</p> <p>(b) Exemption from dividend distribution tax</p> <p>(c) Exemption from central sales tax</p> <p>(d) <i>All of the above</i></p>	(d)
35.	<p>Which of the following is not a deemed export ?</p> <p>(a) Supply of goods against Advance Authorization/ Advance Authorization for Annual Requirement</p> <p>(b) Supply of capital goods to holders of licences under the Export Promotion Capital Goods (EPCG) Scheme</p> <p>(c) Supply to projects funded by UN Agencies</p> <p>(d) <i>Supply of goods to any project or purpose in respect of which the Board of Trade permits the import of goods at zero customs duty</i></p>	(d)

PART – B

[Answers all questions briefly]

1. Explain briefly whether “assembly” would tantamount to ‘manufacture’ under the Central Excise Act, 1944.

Ans : Assembly is a process of putting together a number of items or their parts to make a product. All cases of assembly may not amount to manufacture as an already manufactured item may also be assembled to put it in a readily usable form.

However, assembly of various parts and components may tantamount to manufacture if a new product which is movable and marketable emerges out of such assembly. Therefore, if an “immovable property” emerges after such assembly, it will not be considered as manufacture.

The Apex Court in the case of Narne Tulaman Manufacturers Pvt. Ltd. V CCE 1988 (38) E.L.T. 566 (S.C) held that if the assembly results in new commercial commodity with a distinct name, character and use, then it would amount to manufacture.

2. With reference to Rule 12(2) of the Central Excise Rules, 2002, explain in brief the main provisions of the return in form E.R.-4, to be filed with the Central Excise Department by an assessee. What is the maximum penalty leviable for non-submission or late submission of E.R.-4 return?

Ans : Every assessee paying duty of `1 crore or more per annum [either through PLA or CENVAT Credit or both together] is required to file Annual Financial Information Statement for the preceding financial year to which the statement relates by 30th November of the succeeding year in Form E.R.4. The main contents of the return are as under (all information is to be in lakhs) –

- (i) Financial year to which it relates
- (ii) Registration Number
- (iii) Name of the Assessee
- (iv) Details of Expenditure
- (v) Details of Income
- (vi) CENVAT credit details

The maximum penalty for non-submission or late submission can be ₹ 5,000 under rule 27 of the Central Excise Rules, 2002.

3. State the conditions to be satisfied for treating the provision of any service as Export of Service with effect from 01.07.2012.

Ans : With effect from 01.07.2012, provision of any service is being treated as export of service, if following essential conditions are satisfied cumulatively as per Rule 6A (1) of Service Tax Rules, 1994:

- (a) The provider of service is located in the taxable territory,*
- (b) The recipient of service is located outside India,*
- (c) The service is not a service specified in section 66D [which deals with Negative List of Services] of the Act;*
- (d) The place of provision of the service is outside India;*
- (e) The payment for such service has been received by the provider of service in convertible foreign exchange; and*
- (f) The provider of service and recipient of service are not merely establishment of a distinct person in accordance with item (b) of Explanation 3 of clause (44) of section 65B of the Act.*

OR

Mr. Bagchi is the author and copyright-owner in relation of a book on the subject of service tax. He enters into an agreement with ABC Publishers on 15.07.2012. As a result of foregoing agreement Mr. Bagchi transfers the copyright to said publishers for a lump sum consideration of ₹ 10,00,000/-. The other relevant details are as under:

Date	Particulars
15.07.2012	Issue of invoice by Raj Jaggi
27.11.2012	Receipt of lump sum consideration of `10,00,000/-

Determine point of taxation in the above case.

Ans : In the above case Point of Taxation will be determined as under:

The first important thing is that although the above-mentioned contract is in relation of copyrights, provisions of Rule 8 of Point of Taxation Rules, 2011 will not apply. The reason is that one of the essential requirements of Rule 8 is not getting satisfied in this case. According to prescribed requirement the whole amount of consideration for the provision of service should not be ascertainable at the time when service was performed [i.e. when the agreement is entered into between the concerned parties]. Since in the present case the whole amount of consideration of `10,00,000/- has been ascertained at the time of entering into agreement itself, one of the essential requirements of Rule 8 does not get satisfied. Resultantly, Rule 8 becomes inapplicable in the present case. Contrarily, Point of Taxation

will be determined in accordance with Rule 3 of Point of Taxation Rules, 2011 in the following manner:

Since invoice has been issued within thirty days from the date of completion of provision of service [which in the present case is the date of entering into agreement], earlier of the following dates will be the Point of Taxation:

Date of invoice	15.07.2012
Date of payment	27.11.2012

Thus, Point of Taxation is 15.07.2012.

4. Kirti Ltd. was awarded a contract in September, 2012 for providing plastering services in respect of an immovable property for ₹ 2,00,000/-. The material required for plastering is also required to be supplied by Kirti Ltd. Whether the foregoing plastering services are subject to service tax and if so, how will the service tax liability be computed?

Ans: Kirti Ltd. has agreed to provide materials which are leviable to tax as sale of goods. In addition, it is also required to provide its services to its client. Therefore, its services fall within the scope of term 'works contract' as defined under Section 65B (54) of Finance Act, 1994. As a result, aforesaid services of Kirti Ltd. are subject to Service Tax.

*As the value of materials transferred in the execution of said works contract has not been separately given, the value of Works Contract Services has to be determined in accordance with Rule 2A(ii) of Service Tax (Determination of Value) Rules, 2006 which is effective from 01.07.2012. Since, the present contract will be covered under Rule 2A(ii)(C) of Service Tax (Determination of Value) Rules, 2006, service tax **shall be payable on sixty per cent of the total amount charged** for the works contract .*

The computation of service tax payable has been exhibited below:

Sixty per cent of the total amount charged	₹. 1,20,000/- [Rs. 2,00,000 X 60%]
Rate of Service Tax	12.36%
Amount of Service Tax payable	₹. 14,832/- [which is 7.416% of the total amount charged of ₹.2 lakh]

5. State the necessary conditions required to be fulfilled by a contract to be eligible as a works contract.

Ans: To ascertain whether a transaction is a works contract as contemplated in Article 366(29A)(b) the following guidelines need to be considered:

- (i) There must exist an indivisible works contract. Divisible contracts are outside the scope.*
- (ii) Goods must be involved in the executions of works. Transfer of property in goods does qualify as works contract when it is incorporated in the works.*
- (iii) Transfer of property in goods must pass as goods or in some other form. Form of goods has no relevance [It may be relevant for determination of rate of tax but not otherwise]*
- (iv) If during the execution of works contracts, goods are consumed and their identity is lost then no transfer of property occurs in those goods.*
- (v) Property in goods must pass during the execution of works and not before or after the execution of works.*
- (vi) Pure labour contracts or service contracts are outside the purview of the sales tax/ VAT law.*
- (vii) There must be a dominant intention to effect the transfer of property in goods in execution of works contract. However, even if the dominant intention of the contract is rendering of a service and in that process if there is a transfer of property in goods, the contract will amount to a works contract.*

6. What are zero rated goods and how are they different from the exempted goods?

Ans: Zero rated goods are taxable goods but at a zero rate. The significance of this rating is that businesses selling such goods are entitled to claim input tax credit on the raw materials used for manufacturing of such goods. Exports are "zero" rated under VAT. The input tax paid is refunded in case of zero rating taxation under VAT.

However, exempted goods are the goods on which no tax is payable and at the same time no input tax credit is available on purchase of these goods or on raw materials used for manufacturing these goods.