



The Institute of Chartered Accountants of India
Indirect Taxes Committee

SUGGESTED ANSWERS

CERTIFICATE COURSE ON INDIRECT TAXES ASSESSMENT TEST

HELD ON 31st AUGUST, 2014

PART – A

Write the correct alternative in the in the answer column

Q. No.	Question	Answer
1.	<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) Opt for centralized registration.</p> <p>(c) 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> <p>(d) Make a single application for excise registration.</p>	(d)
2.	<p>Which of the following activities does not form a part of Agriculture as defined u/s 65B of Finance Act, 1994 :</p> <p>(a) Rearing of Sheep</p> <p>(b) Fish Farming</p> <p>(c) Rearing of Horses</p> <p>(d) Rearing of Hens</p>	(c)
3.	<p>Which of the following forms are uses to file an appeal before the CESTAT?</p> <p>(a) Form ST 7</p> <p>(b) Form ST 4</p> <p>(c) Form ST 5</p> <p>(d) Form ST 6</p>	(c)

Q. No.	Question	Answer
4.	<p>Which of the following statements is not correct in respect of SSI exemption?</p> <p>(a) The value of export clearances should be excluded in computing the value of clearances in the financial year.</p> <p>(b) The value of clearances of goods exempted under other notifications should be excluded in computing the value of clearances in the financial year.</p> <p>(c) The value of clearances of non-excisable goods should be excluded in computing the exemption limit in the financial year</p> <p>(d) The value of clearances of goods exempted under other notifications shall be excluded in calculating the limit of Rs.400 lakhs in the previous year</p>	(d)
5.	<p>Which of the following is not to be included in the assessable value:</p> <p>a. Packing Charges</p> <p>b. Warranty Charges</p> <p>c. Excess price debited and collected from the customer after sale according to the price escalation condition in the contract</p> <p>d. Interest charged to the customer for delay in payment beyond normal credit period</p>	(d)
6.	<p>Under the Central Excise Act, 1944 the maximum period of delay in presenting the appeal that can be condoned by Commissioner (Appeals) is:</p> <p>(a) 60 days</p> <p>(b) 90 days</p> <p>(c) 30 days</p> <p>(d) 45 days</p>	(c)
7.	The benefit of input stage rebate cannot be claimed under	(a)

Q. No.	Question	Answer
	<p>following scenarios:</p> <ul style="list-style-type: none"> (i) Rebate Amount is less than Rs. 500 (ii) Where finished goods are not exported under a duty drawback claim (iii) Where CENVAT Credit is availed on such raw materials under CENVAT Credit Rules, 2004 (iv) Where market price of goods is more than rebate <p>Which of the above statements are true:</p> <ul style="list-style-type: none"> a. (i) & (iii) b. (i), (ii) & (iii) c. (ii),(iii) & (iv) d. (i), (ii) & (iv) 	
8.	<p>When the order is passed by Appellate Tribunal involving rate of duty or valuation, the appeal lies to which of the following:</p> <ul style="list-style-type: none"> (a) High Court within 180 days of receipt of order (b) Supreme Court within 60 days from the date of order sought or receipt of order whichever is later (c) Supreme Court within 60 days of communication of order (d) High Court within 3 months of communication of order sought to be appealed 	(b)
9.	<p>In which of the following cases the assessable value is to be determined in accordance with the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000?</p> <ul style="list-style-type: none"> i) The goods are sold from the depot after transportation from the factory ii) The goods are sold from the factory to an unrelated buyers for immediate delivery iii) The goods are sold through the subsidiary company of the manufacturer iv) The goods are transferred to job worker for further production on behalf of the manufacturer. 	(a)

Q. No.	Question	Answer
	(a) (i), (iii) & (iv) (b) (i), (ii) & (iii) (c) (ii), (iii) & (iv) (d) (i), (ii) & (iv)	
10.	<p>Rule 5 of CENVAT Credit Rules, 2004 deals with refund of CENVAT Credit. Therein the Refund is calculated as:</p> $\text{Refund} = \frac{\text{Export turnover of Goods} + \text{Export turnover of services}}{\text{Total Turnover}}$ <p>The refund calculated here is:</p> (a) Total refund Admissible (b) Maximum Refund Admissible (c) Minimum refund Admissible (d) Average Refund Admissible	(b)
11.	<p>M Ltd. receives taxable service from N Ltd. of London on 25.2.2014 for Rs. 13 lac. N Ltd. raises the invoice on 26.3.2014. M Ltd. makes the payment on 15.4.2014. Determine the point of taxation.</p> (a) 15.04.2014 (b) 25.02.2014 (c) 26.03.2014 (d) 31.03.2014	(c)
12.	<p>Constitution provides power to Levy VAT vide Entry No:</p> (a) 53 of State List (b) 97 of the Union List (c) 54 of State List (d) 94 of the Union List	(c)

Q. No.	Question	Answer
13.	<p>Ram is a dealer at Mumbai purchased goods from Shyam a dealer of Mumbai for Rs. 13, 50,000 including VAT @ 12.5%. X earns a profit @ 20% on the cost and sold the same goods to a retailer Rajan. Compute the amount of VAT payable by Ram.</p> <p>(a) Nil (b) Rs. 30, 000 (c) Rs. 1, 80, 000 (d) Rs. 1, 50, 000</p>	(b)
14.	<p>In case of exempted goods, input tax credit is and in case of zero rated goods input tax credit is</p> <p>(a) Allowed, Allowed (b) Not- Allowed, Not- Allowed (c) Not- Allowed, Allowed (d) Allowed, Not-Allowed</p>	(c)
15.	<p>Anil provided Binod a space on the garden wall facing the main road for advertisement of Binod's construction business for a consideration of Rs. 12 lacs for a year. Which of the following statements stand true:</p> <p>(a) Anil is liable to pay Service Tax on total amount received as consideration after adjusting the property tax. (b) No Service Tax is payable (c) Binod will pay service tax under reverse charge (d) Both will pay service tax under partial reverse charge</p>	(b)
16.	<p>A service provider who started the business in FY 2013-14 provided services for a value of Rs. 50 Lakhs in that year. Now when he pays the arrears of tax (in June 2014) what is the rate of interest applicable for payment of interest?</p> <p>(a) 15% (b) 12 % (c) 18% (d) 10 %</p>	(a)
17.	MYP ltd. Provides a service of transportation of passengers by	(c)

Q. No.	Question	Answer
	<p>rail with or without accompanied belongings. What would be the exempt portion of consideration received?</p> <p>(a) 30%</p> <p>(b) 40%</p> <p>(c) 70%</p> <p>(d) 60%</p>	
18.	<p>Hema is a performing artist of Bharatanatyam Classical Dance. During the year she earns Rs. 50 lacs from such performances. She is also a brand ambassador of a leading cosmetic range from which she earns Rs. 60 lacs. Which of the following is the total value of taxable services for Hema :</p> <p>(a) Rs. 110 lacs</p> <p>(b) Rs. 60 lacs</p> <p>(c) Rs. 50 lacs</p> <p>(d) Fully Exempt</p>	(b)
19.	<p>While checking the return of M/s SJ Ltd., the assessing officer finds that the service tax has been short levied and not paid by the company. Within what time frame a show cause notice can be issued:</p> <p>(a) 18 months</p> <p>(b) 18 months/ 5 years</p> <p>(c) 5 years</p> <p>(d) 18 months/ 3 years</p>	(b)
20.	<p>Appeal against an adjudication order received by an assessee on 30/04/2014 by Assistant Commissioner in respect of non-payment of service tax should be presented to the Commissioner (appeals) latest by</p> <p>(a) 30th August, 2014</p> <p>(b) 29th June 2014</p> <p>(c) 30th June 2014</p> <p>(d) 31st August 2014</p>	(c)
21.	<p>"<i>Audi AlteramPartem</i>" is a valuable right recognized under</p>	(c)

Q. No.	Question	Answer
	<p>Article 14 of the Constitution which holds that:</p> <p>(a) Everyone, whether individually or collectively, are unquestionably under the Supremacy of Law.</p> <p>(b) All are equal before law and are entitled without discrimination to equal protection of the law.</p> <p>(c) No one should be condemned unheard by the courts.</p> <p>(d) No state can deny any person equality before the law or equal protection of laws within the territory of India'.</p>	
22.	<p>Ajay rents out an immovable property to Vijay. He pays the service tax due but fails to adjust the amount of property tax as allowed by Notification No. 29/2012 –ST. Within what time can he adjust the amount paid as property tax:</p> <p>(a) 6 months from the date of payment of such property tax</p> <p>(b) within one year from the date of payment of excess service tax</p> <p>(c) within one year from the date of payment of such property tax</p> <p>(d) 6 months from the date of payment of excess service tax</p>	(c)
23.	<p>According to Article 272 prior recommendation of President is required to bills affecting Taxation in which States are interested.</p> <p>The taxes and duty here means:</p> <p>(i) Tax or duty where whole or part of the net proceeds are assigned to any state</p> <p>(ii) Tax or duty on income other than agricultural income.</p> <p>(iii) Tax or duty by reference to the net proceeds for the time being payable out of consolidated fund of India to any state.</p> <p>(iv) Tax or duty payable out of State Fund to another state.</p> <p>Which of the following is correct?</p> <p>(a) (i) & (iii)</p> <p>(b) (i), (ii), (iv)</p> <p>(c) (ii),(iii)& (iv)</p>	(a)

Q. No.	Question	Answer
	(d) (iii) & (iv)	
24.	<p>Pursuant to a contract for construction of a power plant in Kerala between Lomax ltd. Mumbai and Xycus& Co. in Chennai, Lomax's supplier dispatches certain equipment's from Delhi by road to Kochi. Freight is to be paid by Lomax ltd. Mumbai. The place of provision of GTA service is:</p> <p>(a) Delhi (b) Mumbai (c) Kochi (d) Chennai</p>	(b)
25.	<p>CENVAT Credit cannot be utilized for payment of</p> <p>(a) an amount under Rule16(2) of Central Excise rules, 2002. (b) an amount equal to CENVAT credit taken on inputs which are removed as such. (c) interest payable on CENVAT credit wrongly utilized. (d) duty of excise on final product.</p>	(c)
26.	<p>An assessee failed to pay service tax amounting to Rs. 5 lacs on the due date June 6. The tax is paid on June 30. The penalty payable under section 76 is.</p> <p>(a) Rs. 4000 (b) Rs. 4167 (c) Rs. 5000 (d) Nil, as the tax is paid before month end.</p>	(a)
27.	<p>Who of the following can pay tax on receipt basis:</p> <p>(a) Individuals / firms with a turnover of not more than Rs. 50 lakhs in the previous financial year (b) Any person with a turnover of not more than Rs. 60 lakhs in the previous financial year (c) Individuals / firms with a turnover of not more than Rs. 60 lakhs in the previous financial year (d) Any person with a turnover of not more than Rs. 50 lakhs in the previous financial year</p>	(a)

Q. No.	Question	Answer
28.	<p>Nims Ltd., a Company incorporated in India has a branch in Australia for the purpose of overseeing marketing operation in Australia. Branch office enters into an agreement with Sync Ltd. (a US based firm) to undertake its marketing and sales promotion activities. The consideration is paid in US Dollars by branch office from the funds transferred by Nims Ltd. In this background, which among the following is correct?</p> <p>(a) Nims Ltd. is the ultimate recipient of service and hence they are liable to pay service tax under reverse charge mechanism.</p> <p>(b) 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.</p> <p>(c) Branch being an extended arm of head office cannot be termed as separate person hence taxable in the hands of Nims Ltd., as receipt of service by branch is nothing by receipt by the head office.</p> <p>(d) None of the above</p>	(b)
29.	<p>State whether true or false:</p> <p>(i) Service tax is payable on the gross amount</p> <p>(ii) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description</p> <p>(a) False, True</p> <p>(b) True, True</p> <p>(c) True, False</p> <p>(d) False, False</p>	(b)
30.	<p>Who of the following is authorised to cancel the Registration Certificate under Service Tax?</p> <p>(a) Commissioner of Central Excise</p> <p>(b) Assistant Commissioner of Central Excise</p> <p>(c) Deputy Commissioner of Central Excise</p> <p>(d) Superintendent of Central Excise</p>	(d)

Q. No.	Question	Answer
31.	<p>Who led the panel for creating the technology backbone for Goods and Service Tax (GST)?</p> <p>(a) Sh. Nandan Nilekani (b) Sh. Sushil Kumar Modi (c) Sh. Abdul Rahim Rather (d) Sh. P. Chidambaram</p>	(a)
32.	<p>Who recommended dual GST structure for India:</p> <p>(a) Kelkar Task Force (b) Empowered Committee (c) Dr. Raja J Chelliah Committee (d) Dr. Parasarthi Shome Committee</p>	(b)
33.	<p>Whose decision is final & binding in respect of interpretation of any provision of Foreign Trade Policy</p> <p>(a) Director General of Foreign Trade (b) Ministry of Commerce (c) Chief Justice of Supreme Court (d) Central Board of Excise & Customs</p>	(a)
34.	<p>Export Promotion Capital Goods Scheme allows import of capital goods</p> <p>(a) With concessional duty of 3% with no export obligation (b) With concessional duty of 3% with export obligation 8 times the import made (c) Free of import duty (d) With concessional duty of 3% with export obligation 8 times the duty saved</p>	(d)
35.	<p>Which of the following Schemes had to be evolved to disburden the duties on the export product and duties on the inputs used in manufacture of export product?</p> <p>(a) Incremental Exports Incentivisation Scheme (b) Focus Market Scheme (c) Advance Authorization Scheme (d) Export Promotion Capital Goods Scheme</p>	(c)

PART – B

[Answers 6 questions in brief]

1. Sueno Pvt. Ltd. manufactures Vacuum Cleaners - 240 Volt. The following dispatches were made from its factory in Pune on 25-12-2013:

- 20 units were sold to a customer in Mumbai at an ex-factory agreed sale price of Rs. 20,000 each.
- 80 units were sent to its depot in Delhi. As per the price list of the company in respect of the Delhi depot valid for the month of December, 2013, the per unit price was Rs. 20,500. 10 units had been sold from Delhi depot on 20-12-2013 at the aforesaid ex-depot price of Rs. 20,500 each.
- 40 units were sent to its other factory in Surat for fitment of further attachments and subsequent sale to various customers. The cost of production of the Vacuum Cleaners (worked out as per CAS-4) was Rs. 16,000 each.

With effect from 01-01-2014, the ex-factory price was revised to Rs. 21,000 each and the ex-depot price of Delhi depot was revised to Rs. 22,000 each. From the same date the rate of Central Excise duty on vacuum cleaners was increased to 14% from 12%. All the above dispatches reached their destinations after 01-01-2014. Accordingly the cleaners sent to Delhi depot were sold to customers at the revised price of Rs. 22,000 each.

Calculate the excise duty payable by the Pune factory of Sueno Pvt. Ltd. on the above transactions along with suitable explanations on the basis of calculation. Ignore education cess and CENVAT credit.

(5 Marks)

Ans.

Excise duty payable by Pune factory of Sueno Pvt. Ltd.

Particulars`	Amount
Ex-factory sale to customers in Mumbai: $20,000 \times 20 = 4,00,000 @ 12\%$	48,000
Transfer to Delhi Depot: $20,500 \times 80 = 16,40,000 @ 12\%$	1,96,800
Transfer to Surat factory: $[(16,000 \times 40) \times 110\%] = 7,04,000 @ 12\%$	84,480
Total Duty Payable	3,29,280

Notes:

1. As per Rule 5 of the Central Excise Rules, 2002, the rate of duty and assessable value of final products shall be the rate and value in force as on the date of removal from the factory. Any subsequent change in rate or value shall not be relevant. Hence, the increase in rate of duty and value w.e.f. 01-01-2014 shall not have any effect on any of the removals, since it is subsequent to the date of removal from the factory.
2. As per Rule 7 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, goods transferred to depots are to be valued at the price prevailing at the depot on or nearest to the date of removal from factory. Accordingly, the assessable value for depot transfer has been taken at 20,500 each.
3. As per Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, the assessable value of goods consumed captively (including inter-factory transfers within the same organization) shall be 110% of the cost of production or manufacture of such goods. The value of goods transferred to Surat.

OR

1. Answer the following:

- (i) Senu is a manufacturer of electric ovens. The value of clearances is above the exemption limit. During February, 2014, Senu obtained a large order for Rs. 70 lacs from a customer Renu. Since he did not have facilities in his factory for executing the order, Senu outsourced the entire job to a job worker Nenu. For this purpose, it was arranged that Senu would instruct the suppliers of all raw materials in respect of Renu's order to send them directly to Nenu's factory. Nenu would manufacture the completed electric ovens in its factory and dispatch them directly to Renu on payment of appropriate excise duty as applicable. The order was duly executed within February, 2014.

For executing the above order, the following transactions took place during February, 2014:

Raw materials supplied to Nenu worth Rs. 45 lacs.

Processing charges charged by Nenu from Senu (including profit margin) – Rs. 12 lacs.

Excise duty rate on the raw materials and the finished goods is 12% (ignore cess).

Assuming that the above were the only transactions carried out by Nenu during the month, calculate the excise duty payable by him for February, 2014 along with suitable explanations on the basis of calculation.

Ignore opening balance of CENVAT credit and Education Cess.

(3 Marks)

Ans.

Excise duty payable by Nenu for February, 2014

Particulars	Amount (Rs.)
Value of goods cleared as job-worker for Senu: 70 lacs @12%	8,40,000
Less: CENVAT credit on raw materials: 45 lacs @ 12%	5,40,000
Net Duty Payable	3,00,000

Notes:

1. As per Rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rule, 2000, where a principal manufacturer gets goods manufactured by a job worker on his behalf and sells those goods ex the job worker's factory, the assessable value of such goods shall be the price at which the principal manufacturer sells such goods to its customer. Since Senu's sale price to Renu is Rs. 70 lacs, the goods in this case have been valued at Rs. 70 lacs irrespective of its intrinsic value comprising value of raw materials and processing charges.

2. CENVAT credit on raw materials is available to Nenu even if he has not purchased them, so long as it is supported by excise invoices from suppliers mentioning Nenu as the consignee.

(ii) Test the veracity of the following statements with reasons:

- a) Excise department cannot challenge the reasonableness of the MRP printed on the package.

- b) If any excisable goods are exempted from the duty of excise absolutely, the manufacturer of such goods will be bound to avail the exemption.

(answers without a reason would not be considered for marking)

(2 Marks)

Ans.

- a) True – The Central Excise Department cannot challenge the reasonableness of MRP printed on the package. It can satisfy itself that there is a declaration of MRP in prescribed form [ITC Ltd. vs. CCE 2004 (171) ELT 433 (SC)].
- b) True- As per Section 5A (1A) of the Central Excise Act, 1994, if any excisable goods is exempt from duty of excise absolutely, the manufacturer of such goods will be bound to avail the exemption.

2. Answer the following:

- (i) What is the minimum and maximum rate or amount of duty drawback prescribed under the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 made under Section 75 of the Customs Act, 1962? Explain with a brief note.

Ans:

- (i) **Minimum rate of duty drawback** - Rule 8(1) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 provides that no amount or rate of drawback shall be determined in respect of any goods, the amount or rate of drawback of which would be less than one percent of the FOB value thereof, except where the amount of drawback per shipment exceeds five hundred rupees.
- Maximum rate of duty drawback** - Rule 8A of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 provides that the drawback amount or rate shall not exceed one third of the market price of the export product.

(2 Marks)

(ii) Discuss whether any duty drawback is admissible under Section 75 in the following cases and if yes, what is the quantum of such duty drawback:

S. No.	FOB Value of Exported Goods	Rate or Amount of Drawback	Market Price of Goods	Value of Imported Material used in Goods
(a)	1,00,000	0.75% of FOB	80,000	50,000
(b)	60,000	0.8% of FOB	70,000	35,000

Ans:

The admissibility or otherwise of duty drawback in the aforesaid cases is discussed thereunder:

(a) Drawback Admissible Rs. 750: Even if the rate of drawback is less than 1% of FOB value of goods, drawback will be admissible because the amount of drawback i.e. 0.75% of Rs. 1, 00,000 i.e. Rs. 750/- exceeds Rs. 500.

(b) Drawback Inadmissible: The drawback will not be admissible because it is less than 1% of the FOB value of the goods and its amount (0.8% of Rs. 60,000 i.e. Rs.480) is less than Rs. 500

(2 Marks)

(iii) Who is Adjudicating Authority under the provisions of the Customs Act, 1962?

Ans:

Under Sec. 2(1) of the Customs Act, 1962, Adjudicating Authority means any authority competent to pass any order or decision under the Act but does not include -

- (a) Central Board of Excise and Customs
- (b) Commissioner of Central Excise (Appeals) or
- (c) Appellate Tribunal.

(1 Mark)

OR

2. Aarav imported certain goods in December, 2013. An 'into Bond' bill of entry was presented on 14th December, 2013 and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for four months was issued on 21st December, 2013. Aarav deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 20th April, 2014.

A notice was issued under section 72 of the Customs Act, 1962, demanding duty, interest and other charges. Aarav cleared the goods on 14th May, 2014. Compute the amount of duty and interest payable by Aarav while removing the goods on the basis of following information:

Particulars	14-12-2013	20-04-2014	14-05-2014
Rate of exchange per US \$ (as notified by Central Board of Excise & Customs)	65.20	65.40	65.50
Basic Customs Duty	15%	10%	12%

No other customs duty is payable except basic customs duty. (5 Marks)

Ans.

Computation of import duty payable by Aarav

Particulars	Amount (US \$)
Assessable value	1,00,000
	Amount (Rs.)
Value in Indian currency (US \$ 1,00,000 x Rs. 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000
Add: Education cess @ 2%	13,040
Add: Secondary and higher education cess @ 1%	6,520
Total customs duty payable	6, 71, 560

Notes:

1. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.

2. Goods which are not removed within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962

on the day they should have been removed [Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

3. It has been assumed that the term “no other customs duty” refers only to Customs duties and not to education cesses. As per section 61(2)(ii) of Customs Act, 1962, where any warehoused goods (not meant for being used in 100% EOU) remain in a warehouse beyond a period of ninety days, interest would be payable on the amount of duty payable at the time of clearance of the goods (in accordance with the provisions of section 15 on the warehoused goods), for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods. As per Notification No. 28/2002-Cus (NT) dated 13.05.2002, interest is payable at the rate of 15% p.a.

Therefore, interest payable will be computed as under:

Period of ninety days commence from the date of deposit of the goods in the warehouse [Circular No. 39/2013 Cus dated 01.10.2013]	21.12.2013
Period of ninety days expire on	20.03.2014
No. of days for which interest shall be payable [11 days of March + 30 days of April + 14 days of May]	55 days
Interest payable = Rs. $[6,71,560 \times 15/100 \times 55/365]$ (rounded off)	Rs. 15, 179

3. Answer the following:

- (i) Explain briefly whether VAT is leviable on sale of leased asset after lease period? If yes, in which form, will it be exigible to tax?

(2 Marks)

Ans.

Yes, VAT is leviable on sale of leased asset after lease period. Sale of a leased asset after the expiry of the lease period is taxable in the same manner in which normal sale of such asset would have been taxed.

Normally, such sale is effected to the same lessee and hence, would be a local sale exigible to tax under the VAT laws of the State in which the asset is located.

- (ii) What is VAT invoice? What are the mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer?

(2 Marks)

Ans

VAT invoice is a document listing details of goods sold along with price, tax charged and other details as may be prescribed. VAT invoice is issued by a dealer authorized under the VAT law.

Mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer are:

- (i) Every registered dealer whose turnover of sales exceeds the specified amount shall issue to the purchaser a serially numbered tax invoice, cash memo or bill containing following particulars:-

- (a) the words 'tax invoice' in a prominent place;
- (b) name and address of the selling dealer and purchasing dealer;
- (c) registration number of the selling dealer and some VAT legislations may also require to mention registration number of purchasing dealer;
- (d) date of issue;
- (e) description, quantity and value of goods sold;
- (f) rate and amount of tax charged in respect of taxable goods.

(ii) The VAT invoice shall be dated and signed by the dealer or his regular employee, showing the required particulars.

(iii) The dealer shall keep a counterfoil or duplicate of such VAT invoice duly signed and dated.

- (iii) What is Tax Payer's Identification Number (T I N) for purposes of VAT?

(1 Marks)

Ans

Tax Payer's Identification Number (T I N) is the registration number of the dealer. It consists of 11 digit numbers throughout the country. First two characters represent the State Code and the next nine characters are different in different states. TIN facilitates computer applications and helps in cross checking of information on tax payer compliance

OR

3. M/s. Vistrut Productions is manufacturing two products - 'R' and 'T' and provide you the following particulars:

	Amount (Rs.)
(i) Cost of raw material purchased (including VAT@ 12.5%)	3,60,000
(ii) Cost of other material purchased	
(a) Intra-State purchases (including VAT @ 12.5%)	90,000
(b) Inter-State purchases (including CST @ 2%)	81,600
(iii) Wages and other manufacturing expenses (for product 'R' and 'T' in ratio 3:1)	82,800
(iv) Profit margin on sales value 20%	

M/s. Vistrut Productions utilized inputs and manufactured 75% of production as 'R' and 25% of production as 'T'. While 'R' is subject to 12.5% VAT, 'T' is exempt from VAT. All the materials were used in production and there was no opening or closing stock of any material. Compute the invoice value of sales and net VAT liability, if all the sales were made within the State.

(5 Marks)

Ans.

Computation of invoice value of sales and net VAT liability of M/s. Vistrut Productions

Particulars	'R' (12.5% VAT)	'T' (Exempt)
	Rs.	Rs.
	(75%)	(25%)
Raw material [Rs. <u>3,60,000</u> x 100] = 3,20,000 112.5	2,40,000	80,000
VAT paid on the same [Rs. 3,60,000/112.5 x 12.5]= 40,000 (*30,000+10000)	*Nil (Refer Note below)	10,000 (Refer Note below)
Other materials purchased Intra-State [90,000/112.5 x100]	60,000	20,000
VAT paid on the same [90,000/112.5 x12.5] = 10,000 (*7,500+2,500)	*Nil (Refer Note below)	2,500 (Refer Note below)
Other material purchased inter-state [Input Tax Credit not available on CST and thus it forms part of the total cost]	61,200	20,400
Manufacturing expenses	<u>62,100</u>	<u>20,700</u>
Cost of goods sold	4,23,300	1,53,600
Add: Profit @ 20% on sales (i.e. 25% of cost)	<u>1,05,825</u>	<u>38,400</u>
Sale price	5,29,125	1,92,000
VAT payable @ 12.5% (rounded off)	<u>66,141</u>	<u>Nil</u>
Invoice value	5,95,266	1,92,000
Output VAT payable	66,141	
Less: Input tax credit - 75% of Rs.50,000 [Rs.40,000 (raw materials) + Rs.10,000 (other materials purchased within the State)]	*37,500	
Net VAT liability	28,641	

Note: VAT paid on raw materials used in manufacture of taxable goods is eligible for input tax credit and thus, does not form part of total cost. However, VAT paid on raw materials used in manufacture of exempt goods is not eligible for input tax credit and thus, it forms part of total cost.

4. Compute export duty from the following data:

- (i) FOB price of goods: US \$ 1,00,000.
- (ii) Shipping bill presented electronically on 26-02-2014.
- (iii) Proper officer passed order permitting clearance and loading of goods for export on 04-03-2014.
- (iv) Rate of exchange and rate of export duty are as under:

	Rate of Exchange	Rate of Export Duty
On 26-02-2014	1 US \$ = Rs. 65	10%
On 04-03-2014	1 US \$ = Rs. 62	8%

(v) Rate of exchange is notified for export by Central Board of Excise and Customs.

(Make suitable assumptions wherever required and show the workings.)

(5 Marks)

Ans.

Computation of export duty:

Particulars	Amount (US \$)
FOB price of goods [Note 1]	1,00,000
	Amount (Rs.)
Value in Indian currency (US \$ 1,00,000 x Rs. 65) [Note 2]	65,00,000
Export duty @ 8% [Note 3]	5,20,000

Notes:

1. As per section 14(1) of the Customs Act, 1962, assessable value of the export goods is the transaction value of such goods which is the price actually paid or

payable for the goods when sold for export from India for delivery at the time and place of exportation.

2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by the CBEC on the date of presentation of shipping bill of export.

3. As per section 16(1)(a) of the Customs Act, 1962, in case of goods entered for export, the rate of duty prevalent on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation, is considered.

OR

4 Answer the following:

(i) When shall the safeguard duty under section 8B of the Customs Tariff Act, 1975 be not imposed? Discuss briefly.

Ans:

The safeguard duty under section 8B of the Customs Tariff Act, 1975 is not imposed on the import of the following types of articles:

(i) Articles originating from a developing country, so long as the share of imports of that article from that country does not exceed 3% of the total imports of that article into India;

(ii) Articles originating from more than one developing country, so long as the

aggregate of imports from developing countries each with less than 3% import share taken together does not exceed 9% of the total imports of that article into India;

(iii) Articles imported by a 100% EOU or units in a Free Trade Zone or Special Economic Zone unless the duty is specifically made applicable on them.

(ii) With reference to drawback on re-export of duty paid imported goods under section 74 of the Customs Act, 1962, answer in brief the following questions:

(a) What is the time limit for re-exportation of goods as such?

(b) What is the rate of duty drawback if the goods are exported without use?

Ans:

- (a) As per section 74 of the Customs Act, 1962, the duty paid imported goods is required to be entered for export within two years from the date of payment of duty on the importation. This period can be extended by CBEC if the importer shows sufficient reason for not exporting the goods within two years.
 - (b) If duty paid imported goods are exported without use, then 98% of such duty is re-paid as drawback.
- (iii) Explain briefly the offences which are cognizable and bailable under section 104 of the Custom Act, 1962

Ans:

As per section 104(4) of the Customs Act, 1962, following offences are cognizable offences:

- (a) offences relating to prohibited goods; or
- (b) offences relating to evasion or attempted evasion of duty exceeding ` 50 lakh.

As per section 104(6) of the Customs Act, 1962, all offences under the Customs Act, 1962 are bailable offences

(2+2+1=5 Marks)

5. A manufacturer purchased raw material for Rs. 5, 40,000 (inclusive of 12.5% VAT - Value Added Tax) and capital equipment for Rs. 9, 36,000 (inclusive of 4% VAT). Other cash expenses of manufacture (excluding depreciation) are Rs. 5, 00,000. He sells the final product at 50% mark-up above cost. VAT on sales is 12.5%. The capital equipment is to be depreciated @ 25% straight line. Ascertain the amount of VAT payable in cash as per income variant. (Make suitable assumptions wherever required and show the workings.)

(5 marks)

Ans:

Computation of Net VAT payable

Particulars	Amount (Rs.)	
Raw material [(Rs. 5,40,000 × 100)/112.5]	4, 80,000	
Manufacturing expenses	5, 00,000	
Depreciation [Rs. 9,00,000 × 25%]	<u>2, 25,000</u>	
Total cost	12, 05,000	
<i>Add:</i> 50% mark up	<u>6, 02,500</u>	
Sale price	<u>18, 07,500</u>	
VAT payable @ 12.5% [Rs. 12,00,000 × 12.5%] (rounded off)	2, 25,938	
<i>Less:</i> Input tax credit (ITC)		
ITC on raw material [(Rs.5,40,000 × 12.5)/112.5]	Rs. 60,000	
ITC on capital equipment proportionate to depreciation i.e. 25% of Rs. [9, 36,000 × 4/ 104]	<u>Rs. 9,000</u>	<u>69,000</u>
Net VAT payable (in cash)	1, 56,938	

Note: Under income variant of VAT, deduction is allowed for tax paid on capital goods in proportion to the depreciation charged on the same and the tax paid on inputs.

OR

5. Answer the following:

- (i) What is meant by VAT chain? When is the VAT chain broken or interrupted?

(2 marks)

Ans.

Levy of VAT on value of goods at each stage of supply chain with corresponding set-off of the VAT paid at earlier stages is known as VAT chain.

VAT chain gets broken when the persons to whom the goods are sold cannot issue VATable invoices due to which credit cannot be passed on to the buyer. This happens when goods are sold to -

- (a) a dealer registered under composition scheme; or
- (b) an unregistered dealer; or
- (c) a dealer who sells exempted goods; or
- (d) the ultimate consumer.

- (ii) Distinguish between addition method and subtraction method of VAT computation.

(2 marks)

Ans.

	Addition Method of VAT computation		Subtraction Method of VAT Computation
(i)	This method aggregates all the factor payments including profits to arrive at the total value addition on which the rate is applied to calculate the tax.	(i)	Under this method for imposing tax, 'value added' is simply taken as the difference between sales and purchases
(ii)	This method can be used with income variant of VAT.	(ii)	This method is suitable for gross product variant of VAT where purchases of capital goods are ignored.

(iii) Transfers by way of mortgage are liable to CST. Comment

(1 marks)

Ans:

False. Sec. 2 (g) of CST Act, 1956 deals with the definition of sale. It specifically excluded mortgage, hypothecation, charge or pledge on goods. So CST cannot be charged in case there is transfer by way of mortgage.

6. Reliable Agro Industries furnishes the details of its activities undertaken in the month of May, 2014 as under:

S. No.	Particulars	Amount (Rs.)
1.	Supply of farm labour	55,000
2.	Warehousing of refined vegetable oil	1,25,000
3.	Sale of wheat on commission basis	60,000
4.	Hiring of trucks for transport of minerals	2,50,000
5.	Leasing of vacant land to a stud farm	30,000
6.	Renting of farmhouse for marriage and birthday parties	45,000
7.	Dehusking of paddy in rice mill	32,000

Compute the service tax liability of company for the month of May, 2014. Assume that the point of taxation in respect of all the activities falls in the month of May, 2014 itself. Company had paid service tax of Rs. 3,18,000 during the Financial Year 2013-14. Give working notes as may be suitable. (Rate of service tax is 12% + education cess as applicable).

(5 marks)

Ans:

Computation of service tax liability of Reliable Agro Industries for the month of May, 2013

Particulars	Amount (Rs.)
Supply of farm labour [Note 1]	Nil
Warehousing of refined vegetable oil [Note 2]	1,25,000
Sale of wheat on commission basis [Note 3]	Nil
Trucks given on hire for transport of minerals [Note 4]	2,50,000
Leasing of vacant land to a stud farm [Note 5]	30,000
Renting of farmhouse for marriage and birthday parties (since not used for agricultural purposes)	45,000
De-husking of paddy in rice mill [Note 6]	Nil
Total taxable services	4,50,000
Service tax payable @ 12.36% (inclusive of 3% education cesses) [Rs. 4,50,000 × 12.36%] [Note 7]	55,620

Notes:

1. Supply of farm labour is covered in negative list of services under services relating to agriculture or agricultural produce and thus, will not be liable to service tax [Section 66D(d)(ii) of the Finance Act, 1994].
2. Since refined vegetable oil is not an agricultural produce, warehousing thereof will not be covered under negative list of services [Section 65B(5) read with section 66D(d)(v) of Finance Act, 1994].
3. Since, wheat is an agricultural produce, services provided for its sale on commission basis will be covered in negative list of services and thus, will not be liable to service tax [Section 65B(5) read with section 66D(d)(vii) of Finance Act, 1994].
4. It has been assumed that the trucks have been given on hire without transfer of right to use. Transfer of goods (trucks) by way of hiring without transfer of right to use such goods is a declared service as per section 66E(f) of the Finance Act, 1994 and hence, will be liable to service tax.
5. Services relating to agriculture or agricultural produce by way of renting or leasing of vacant land are covered in the negative list of services. However, since rearing of horses is specifically excluded from the definition of agriculture, leasing of vacant land to stud farm will not be covered thereunder [Section 65B(3) read with section 66D(d)(iv) of Finance Act, 1994].
6. It has been assumed that de-husking of paddy in rice mill is done on job-work basis. Carrying out an intermediate production process (de-husking of paddy) as job work in relation to agriculture is exempt from service tax [Notification No. 25/2012 ST dated 20.06.2012].
7. Since service tax of Rs.3,18,000 had been paid during the preceding financial year; turnover of services would have been more than Rs.10,00,000

during the preceding financial year. Hence, small service provider's exemption under Notification No. 33/2012 ST dated 20.06.2012 cannot be availed.

OR

6. Answer the following:

- (i) The assessee received some taxable services from Rahul. A formal contract was entered into between them. As per the terms of the contract, Rahul had to bear all the taxes, duties and other liabilities in connection with discharge of his obligations. Subsequently, liability to pay service tax in case of such taxable services was shifted from service provider to service receiver retrospectively, owing to an amendment in law. Therefore, the assessee deducted service tax in the bills raised by Rahul. Rahul refused to accept the said deduction saying that the contractual clause could not alter the liability placed on the service recipient (i.e. the assessee) by law.

Discuss whether the contention of Rahul stands to reason with the help of a decided case law, if any

(3 marks)

Ans:

The facts of the given case are similar to the case of *Rashtriya Ispat Nigam Ltd. v. Dewan Chand Ram Saran* 2012 (26) S.T.R. 289 (S.C.). On the issue of submission of shifting of service tax liability, the Supreme Court, in the instant case, held that service tax is an indirect tax which may be passed on. Thus, assessee can contract to shift its liability.

The Finance Act, 1994 is relevant only between assessee and the tax authorities and is irrelevant in determining rights and liabilities between service provider and service recipient as agreed in a contract between them. There is nothing in law to prevent them from entering into agreement regarding burden of tax arising under the contract between them. Therefore, in view of the above-mentioned ruling of the Supreme Court, the contention of Ramesh does not stand to reason

(ii) With reference to the Finance Act, 1994, discuss the taxability of following activities relating to a bank:

(a) Bank extended housing loan of Rs. 50 lac to Mr. A.

(b) Bank received Rs. 50,000 as loan processing fee from Mr. A.

(2 marks)

Ans:

- (a) Housing loan of Rs. 50 lakh extended by the bank to Mr. A will not be taxable as the same being a transaction in money, does not represent the value of taxable services.
- (b) Rs. 50,000 received as loan processing fees by the bank from Mr. A will be taxable as any charges or amounts, collected in respect of a loan. The same being over and above the interest or discount amounts are not covered in the negative list [Section 66D(n)(i)] and thus, represent taxable consideration.