



The Institute of Chartered Accountants of India  
Indirect Taxes Committee

**SUGGESTED ANSWERS**

**CERTIFICATE COURSE ON INDIRECT TAXES ASSESSMENT TEST**

**HELD ON 1st FEBRUARY, 2015**

**PART – A**

**Write the correct alternative in the in the answer column**

<b>Q. No.</b>	<b>Question</b>	<b>Answer</b>
1.	On what basis should excisable goods that consist of different materials be classified?  (a) Classified under heading that appears last in numerical order. (b) Classified under heading to goods which they are most akin (c) <b>The material that gives them their essential character</b> (d) None of the above	<b>(c)</b>
2.	Which of the following Articles of the Constitution of India gives power to the Central Government to make law?  (a) Article 246 (3) (b) <b>Article 246(1)</b> (c) Article 366(29A) (d) Article 268	<b>(b)</b>
3.	What percentage should be added to the cost of production in the case of captive consumption under Excise Valuation?  (a) 5% (b) 7.5% (c) <b>10%</b> (d) 15%	<b>(c)</b>
4.	Writ of Mandamus can be issued under Article 32 of the Constitution of India in which of the following case:  (a) <b>The writ is issued to order lower court or public authority to perform a public or statutory duty.</b>	<b>(a)</b>

Q. No.	Question	Answer
	(b) The writ is issued for quashing the order already passed by an inferior court, tribunal or quasi-judicial authority. (c) The writ is issued to prohibit lower court to stop the proceeding , popularly known as 'Stay Order' (d) The writ is issued to produce a person who has been detained.	
5.	Which of the following activities does not amount to deemed manufacture under Third Schedule to the Central Excise Act?  (a) Packing or repacking of such goods in a unit container (b) Labelling or re-labelling of containers (c) <b>Packing goods from unit container to bulk pack.</b> (d) The declaration or alteration of retail sale price on containers	(c)
6.	Value of Clearances' for the purpose of calculating basic exemption of Rs. 150 lakhs, would mean value fixed under section 4 or 4A or tariff value fixed under section 3(2) of the Act. However it would not include, which of the following:  (a) Exports to Bhutan (b) <b>Trading Turnover</b> (c) Goods manufactured in rural area with other's brand name (d) All of the above	(b)
7.	Which of the following are included while computing "Transaction Value" under Central Excise:  (a) Freight Charges, indicated separately in invoice (b) Installation and Commissioning (c) <b>Price Escalation Subsequent to the Removal of Goods</b> (d) Taxes and duties	(c)
8.	Utilization of input credit availed on input services and inputs has been restricted to :  (a) <b>The availability of credit at the end of the relevant month/ quarter</b> (b) The availability of credit on the date of payment of service tax for the relevant month or quarter (c) The availability of credit at the end of the previous financial year	(a)

Q. No.	Question	Answer
	(d) The availability of credit on the date of submission of return	
9.	<p>The benefit of input stage rebate cannot be claimed in which of the following scenarios?</p> <p>(a) <b>Where the finished goods are exported under a claim for duty drawback</b></p> <p>(b) Where market price of goods is more than rebate</p> <p>(c) Where amount of rebate is more than Rs. 500.</p> <p>(d) None of the above</p>	(a)
10.	<p>State which of the following Statements are True or False:</p> <p>(i) Input credit is available on account of basic custom duty paid on goods purchased from a country outside India</p> <p>(ii) Input credit is available only if the purchaser has obtained proper tax in voice</p> <p>The above statements are:</p> <p>(a) False, False</p> <p>(b) <b>False, True</b></p> <p>(c) True, False</p> <p>(d) True, True</p>	(b)
11.	<p>Under Central Sales Tax, Form I is obtained by the selling dealer.</p> <p>(a) <b>From his customer located in a Special Economic Zone</b></p> <p>(b) From his customer for Free sales</p> <p>(c) From his customer for export</p> <p>(d) From his customer in STPI</p>	(a)
12.	<p>Compute the VAT payable by R, who purchased goods from a manufacturer on payment of Rs. 5, 25,000 (including VAT) and earned 20% profit on sale price. VAT rates both on purchase and sale is 5%.</p> <p>(a) Rs. 5,000</p> <p>(b) Rs. 6,500</p> <p>(c) <b>Rs. 6,250</b></p>	(c)

Q. No.	Question	Answer
	(d) Rs. 7812.5	
13.	<p>What is the rate of service tax applicable in the case of contracts of employment?</p> <p>(a) 12.36%</p> <p>(b) 7.42%</p> <p>(c) There is a specific exemption available to such contract and hence there is no service tax</p> <p><b>(d) Service tax is not leviable on such contracts</b></p>	<b>(d)</b>
14.	<p>It was observed that the M/s. SITE Road Toll Company collects an average of Rs. 50 lakhs a day from their toll booths. In the new scheme of taxation, would this be taxable?</p> <p><b>(a) No as covered under the negative list.</b></p> <p>(b) Yes. Leviable to service tax under section 66B.</p> <p>(c) Yes, as it is a declared service u/s 66B &amp; 66E</p> <p>(d) No. as covered under the Mega Exemption Notification</p>	<b>(a)</b>
15.	<p>Simons Ltd. is a Company incorporated under laws of UK, which engages BOM Inc. an US based body corporate to undertake repairs and maintenance of its servers all over the world. One of such server is situated in India at the premises of NM (India) Pvt. Ltd., a subsidiary of Simons Ltd. Technicians of BOM Inc. visit India for the purpose of undertaking repairs and maintenance. In this background which of the following is true?</p> <p>(a) Place of provision of service is US as service provider (BOM) is located in said country- hence not liable to service tax</p> <p>(b) Place of provision of service is UK as provider of service recipient (Simons) is located in such country- Hence not liable to service tax</p> <p>(c) Place of provision is the location of the server (NM), which is in India. However, same is exempt from service tax as both service provider and recipient are located outside taxable territory</p> <p><b>(d) Place of provision is the location of the server, which is in India. Hence NM (India) Pvt. Ltd. will pay service tax under reverse charge.</b></p>	<b>(d)</b>
16.	M/s. Emerald Landscaping Services is a partnership firm which is engaged in providing garden maintenance service which	<b>(a)</b>

Q. No.	Question	Answer
	<p>includes supply of goods viz., plants, fertilizer, soil etc. as well as supply of manpower for maintenance of garden to corporate clients. What is the percentage of service tax liability for the 'service recipient'?</p> <p>(a) <b>50% as the services are in the nature of works contract. Supply of manpower for garden maintenance gets naturally bundled with maintenance contract</b></p> <p>(b) 100% - as service recipient under reverse charge</p> <p>(c) 75% – as there is supply of manpower</p> <p>(d) 70 % - as per the Valuation Rules</p>	
17.	<p>Shubh Ltd. provides taxable services under the brand name belonging to Ellie Ltd. The aggregate value of taxable services provided by Shubh Ltd during financial year 2013-14 is Rs. 9 lakhs. In this scenario which of the following is correct?</p> <p>(a) Shubh Ltd is not liable to pay service tax as the aggregate value of services is less than the exemption limit of Rs. 10 Lakhs</p> <p>(b) <b>Shubh Ltd. is liable to pay service tax on entire value of service as exemption is not applicable to them</b></p> <p>(c) Shubh should register under service tax provisions and file a NIL returns</p> <p>(d) None of the above</p>	(b)
18.	<p>Which of the following amounts are not to be included in the taxable value for a Works Contract under service tax:</p> <p>(a) The cost of various consumables such as water, electricity, fuel, used for the execution of the works contract</p> <p>(b) The amount paid to a sub-contractor for labour and services</p> <p>(c) <b>The VAT or sales tax paid on the transfer of goods used in the execution of the works contract</b></p> <p>(d) All of the above.</p>	(c)
19.	<p>The provider of which of the following services need not issue a serially numbered invoice, bill or challan:</p> <p>(a) General Insurance Service</p> <p>(b) Business Auxiliary Service</p> <p>(c) Tour Operator Service</p>	(d)

Q. No.	Question	Answer
	<b>(d) Banking and Other Financial Services</b>	
20.	<p>For what purpose is Form ST-3A used</p> <p><b>(a) For filing memorandum of provisional assessment</b>  (b) Filing the details of Best judgment assessment  (c) Filing appeal before High court  (d) Filing appeal before commissioner</p>	<b>(a)</b>
21.	<p>Mr. SMA, a service provider is in the practice of raising invoices after 35 days of completion of services and provides a credit period of 60 days. In light of the Point of Taxation Rules, 2011, when does he become liable to pay service tax assuming payment is received after credit period?</p> <p>(a) Date of invoice.  <b>(b) Date of completion of service.</b>  (c) Date of payment.  (d) Date of contract.</p>	<b>(b)</b>
22.	<p>Who among the following is mandatorily required to obtain a registration under Service Tax?</p> <p><b>(a) An input service distributor</b>  (b) Every provider of taxable service whether or not the aggregate value of taxable service in a financial year exceeds Rs.9 lakhs  (c) It is not mandatory to obtain registration under service tax even if credit is distributed  (d) A person who is yet to start rendering taxable services</p>	<b>(a)</b>
23.	<p>Which section of the Finance Act provides that penalty shall not be imposed in case the assessee proves he had reasonable cause:</p> <p>(a) Section 78  (b) Section 78A  <b>(c) Section 80</b>  (d) Section 82</p>	<b>(c)</b>
24.	<p>Whether refundable security deposit for Renting of immovable property is liable to service tax?</p> <p>(a) Liable to service tax as 'renting of immovable property' is a 'Declared Service'</p>	<b>(c)</b>

Q. No.	Question	Answer
	<p>(b) Not liable to service tax at the time of receipt of refundable security deposit</p> <p>(c) <b>Not liable to service tax as refundable security deposit is not in the nature of consideration for provision of service</b></p> <p>(d) Liable to service tax at the time of receipt but deductible at the time of refund.</p>	
25.	<p>An appeal against first order passed by Commissioner of service tax, before CESTAT would not be admitted until</p> <p>(a) 17.5% of the amount of demand of service tax in the order</p> <p>(b) <b>7.5% of the amount of demand of service tax in the order</b></p> <p>(c) 10 % of the amount of demand of service tax in the order</p> <p>(d) None of the above.</p>	<b>(b)</b>
26.	<p>Airport Authority of India (AAI) has awarded a contract for construction of an airport in the Andaman &amp; Nicobar Islands to Sueno Construction Ltd., for Rs.100 lakh in August, 2014. Determine the amount of service tax payable :</p> <p>(a) Rs. 12.36 lakhs</p> <p>(b) Rs. 6.18 lakhs</p> <p>(c) Nil, as the same is Covered under the Negative List</p> <p>(d) <b>Nil, as the same is Covered under the Mega Exemption List.</b></p>	<b>(d)</b>
27.	<p>Sujoy, a practicing Chartered Accountant, provided taxable services valuing Rs. 75 lakhs during the year. He was liable to pay service tax for the quarter ended 31.12.2014. Compute the amount of interest payable by Sujoy under section 75 if he makes the payment on 31.03.2016. Pick options from below:</p> <p>(a) Rs. 2,05,260</p> <p>(b) Rs. 2,62,100</p> <p>(c) <b>Rs. 2,59,814</b></p> <p>(d) Rs. 2,61,570</p>	<b>(c)</b>
28.	<p>Mr. Manoj started a new venture of providing services of transport of goods by vessel from 01.12.2014. Mr. Manoj. is liable to pay _____% of the value of taxable service as service tax.</p> <p>(a) 50</p> <p>(b) <b>40</b></p>	<b>(b)</b>

Q. No.	Question	Answer
	(c) 60 (d) 100	
29.	<p>Who is liable to pay service tax in the following cases:</p> <p>(i) Case I - Services provided by Mr. P, a recovery agent to a Swift Finance Ltd. a banking company</p> <p>(ii) Case II - Services provided by Mr. A, an insurance agent to Assurance Ltd. who carries on insurance business</p> <p><b>(a) Case-I - Swift Finance Ltd. and Case-II - Assurance Ltd.</b></p> <p>(b) Case-I -Mr. P and Case-II - Assurance Ltd.</p> <p>(c) Case-I -Mr. P and Case-II -Mr. A</p> <p>(d) Case-I - Swift Finance Ltd and Case-II -Mr. A</p>	<b>(a)</b>
30.	<p>State whether the following statements are true or false:</p> <p>(i) Services provided by way of technical testing or analysis of newly developed drugs on human participants by a clinical research organisation approved to conduct clinical by the Drug Controller General of India are exempt from service tax vide Mega Exemption Notification 25/2012.</p> <p>(ii) CENVAT Credit Rules allow transfer of credit by a large taxpayer from one unit to another.</p> <p>Choose from options below:</p> <p>(a) True, True</p> <p>(b) True, False</p> <p>(c) False, True</p> <p><b>(d) False, False</b></p>	<b>(d)</b>
31.	<p>Within how many days from the enactment of GST Bill would the GST Council be constituted?</p> <p><b>(a) 60 days</b></p> <p>(b) 45 days</p> <p>(c) 30 days</p> <p>(d) 90 days</p>	<b>(a)</b>



Q. No.	Question	Answer
32.	Which of the following taxes/ duty will not be subsumed under GST regime: (a) Luxury Tax <b>(b) Stamp Duty</b> (c) Purchase Tax (d) Entry Tax	<b>(b)</b>
33.	Which of the following facilitates implementation of the provisions of Foreign Trade Policy (a) Reserve Bank of India(RBI) (b) Customs Department (c) Excise Department <b>(d) Customs &amp; Excise Department</b>	<b>(d)</b>
34.	The main objective of the SEZ Act is : (a) Creation of Employment Opportunities (b) Development of Infrastructure facilities (c) Export of goods and services without tax <b>(d) All of the above</b>	<b>(d)</b>
35.	IEC is a unique ____ digit PAN based alphanumeric code issued by DGFT to Indian companies: (a) 10 (b) 12 <b>(c) 11</b> (d) 15	<b>(c)</b>

## PART – B

*[Answers 6 questions in brief]*

1. From the following particulars for financial year 2013-14 find out whether Elegant Manufacturing is eligible for small scale exemption under Notification No. 8/ 2003 C.E. dated 01-03-2003 for the financial year 2014-15:

S. No.	Particulars	Amount (Rs.) (in lakhs)
1.	Clearance of excisable goods exempted from payment of duty under a notification other than Notification No. 8/2003 – C.E.	150.00
2.	Clearance of account books bearing brand name of another person, falling under Heading 4820 of First Schedule to Central Excise Tariff	100.00
3.	Clearance of goods to United Nations exempted under Notification No. 108/95 – C.E.	175.00
4.	Total Exports [including export to Bhutan Rs. 75 lakhs] Other exports are to USA & UK	250.00
5.	Clearance of goods {duty paid based on annual capacity of production under section 3A of the Central Excise Act, 1944}	125.00

Show your calculations, workings and explanations clearly, wherever required.

(5 Marks)

**Ans.**

In order to claim the benefit of exemption under Notification No. 8/2003 C.E. dated 01.03.2003 in a financial year, the aggregate value of clearances of all excisable goods for home consumption by a manufacturer from one or more factories should not exceed Rs. 400 lakhs in the preceding financial year.

The aggregate value of clearances for home consumption of Elegant Manufacturing Co. is Rs. 450 lakhs in the financial year 2014-15 (as per computation below). Therefore, it is not eligible to claim the benefit of exemption under Notification No. 8/2003 C.E. dated 01.03.2003 in the financial year 2014-15. Computation of aggregate value of clearances for home consumption of Elegant Manufacturing Co. for Financial Year 2014-15

<b>Particulars</b>	<b>Amount (in lakhs)</b>
Clearances of excisable goods exempted from payment of duty under a notification other than Notification No. 8/2003 CE	150.00
Clearances of account books bearing brand name of another person [Note 1]	100.00
Clearance of goods to United Nations exempted under Notification 108/95 CE [Note 2]	Nil
Exports to Bhutan [Note 3]	75.00
Clearances of goods on which duty has been paid under section 3A of Central Excise Act 11	125.00
<b>Aggregate value of Clearances in terms of Notification No. 8/2003 CE</b>	<b>450.00</b>

**Note:**

Notification No. 8/2003 C.E. dated 01.03.2003 provides that while determining the value of clearances of Rs. 400 lakhs:-

1. Clearances bearing the brand name of another person, which are ineligible for SSI exemption, are excluded. However, account books falling under heading 4820 of the First Schedule of the Central Excise Tariff are entitled to small scale exemption even if they bear a brand name or trade name whether registered or not, of another person. Therefore, clearances of such account books will not be excluded.
2. Clearances of excisable goods without payment of duty supplied to United Nations under Notification No. 108/95 CE are excluded.
3. Export turnover is excluded. However exports to Bhutan are not excluded as these are treated as "clearance for home consumption".

**OR**

1. LSP Ltd., a small scale manufacturer, purchased machine on 1.7.2010 for Rs. 20, 00,000 on which excise duty paid @ 10.30% was Rs. 2, 06, 000. He availed the CENVAT credit and utilised the capital goods. On 2.10.2014 he sold the machinery as second hand goods for Rs. 14, 00, 000. At the time of sale, the excise duty payable was 12.36%. State what steps he is required to take to comply with statutory provisions.

(5 Marks)

**Answer:**

Since the manufacturer is SSI unit, it can avail entire 100% CENVAT credit in the first year. Hence, it can avail CENVAT credit of Rs. 2, 06, 000. The capital goods have been utilised by LSP Ltd. for following quarters - Year 2010 - 2, Year 2011 - 4, Year 2012 - 4, Year 2013 - 4, Year 2014 - 4. Total 18 quarters. Thus, it can keep CENVAT credit @ 2.5% per quarter i.e. 45%. Thus, it can retain CENVAT credit of Rs. 92,700 and is required to reverse balance CENVAT credit of Rs. 1, 13, 300. The capital goods were sold for Rs. 14, 00, 000. Excise duty payable on the transaction value is Rs. 1, 73, 040.

LSP Ltd. is required to pay 'amount' equal to higher of the above. Thus, they are required to pay 'amount' of Rs. 1, 73, 040 under rule 3(5A) of CENVAT Credit Rules. He should prepare invoice giving details of 'amount' paid under rule 3(5A) of CENVAT Credit Rules.

2. From the following particulars, calculated assessable value and total customs duty payable:

- (i) CIF value 2500 US Dollars; Air Freight 500 US Dollars, Insurance cost 100 US Dollars; Landing Charges not available.
- (ii) Date of presentation of bill of entry: 20.01.2014 (Rate of BCD 25%; Exchange Rate: Rs. 58.60 and rate notified by CBEC Rs. 58.80)
- (iii) Date of arrival of goods in India: 30.01.2014 (Rate of BCD 20%; Exchange Rate: Rs. 58.90 and rate notified by CBEC Rs. 59.00)
- (iv) Rate of Additional Customs Duty under section 3(1): 12%
- (v) Additional Duty of customs u/s 3(5): 5%
- (vi) Education Cess applicable 2% and SAHEC is 1%.

(5 Marks)

**Answer:**

#### **Computation of Assessable Value**

<b>Particulars</b>	<b>Amount</b>
FOB Price (CIF \$ 2500 - Air freight \$ 500 - Insurance \$ 100)	\$ 1900
Exchange rate notified by the CBEC (in force on the date of presentation of bill of entry)	` 58.80
FOB price in Indian `	` 1, 11,720
Add : Cost of transport under rule 10(2)(a) is @ 20% of FOB [Actual is 500 \$, while in case of import by air, it cannot exceed 20% of FOB (i.e. 20% of 1900 = 380\$ X ` 58.80)]	` 22,344
Add: Insurance under Rule 10(2)(c) is (Actual viz 100 \$ X ` 58.80)	` 5, 880
Computed CIF Value	` 1,39,944
Add: Loading, unloading and handling charges under Rule 10(2)(b) is @ 1% of CIF	` 1,399
<b>ASSESABLE VALUE</b>	<b>` 1,41,343</b>

### Computation of Duty

Particulars	Duty		Total
	Rate	`	`
Assessable Value			1, 41,343
Add: Basic Customs Duty [Note 1]	20%	28, 269	28, 269
Sub-total for calculation of CVD u/s 3(1)		28, 269	1, 69,612
Add: Additional duty i.e. CVD u/s 3(1) (excise duty excluding EC and SHEC due to exemption)	12%	20, 353	20, 353
		48, 622	1, 89, 965
Add: EC @2% on duty	2%	972	972
Add: SHEC @ 1% on duty	1%	486	486
Sub-total for calculation of CVD u/s 3(5)		50, 080	1, 91, 423
Add: Special CVD u/s 3(5) @4% of total value (including duty)	4%	7, 657	7, 657
<b>TOTAL</b>		57, 737	1, 99, 080

#### Note:

1. AS per section 15(1)(a), rate of duty prevalent on date of presentation of bill of entry or date of entry inwards, whichever is later, shall be applicable. Therefore, rate prevalent on 31.01.2014 viz. 20% shall be taken.

OR

2. Explain difference between duty drawback under section 74 of Customs Act and section 75 of Customs Act.

(5 marks)

#### Answer:

Difference between duty drawback under section 74 of Customs Act and section 75 of Customs Act:

- i. Section 74 is applicable when imported goods are re-exported as it is, and article is easily identifiable while section 75 is granted when imported materials are used in the manufacture of goods which are then exported.
- ii. Drawback, in relation to any goods exported out of India, means refund of duty paid on importation of such goods in terms of section 74. Thus, drawback is allowed only on import duties of customs. As per section 75, "Drawback" in relation to any goods manufactured in India and

exported, means the rebate of duty or other things, as the case may be, chargeable on imported materials or excisable materials used or taxable services used as input services in the manufacture of such goods.

- iii. As per section 74, the identity of the goods exported should be established as the one, which was imported on payment of duty. The goods exported under section 75 are made of such inputs which are manufactured, processed or any operations are carried on them before their export.
- iv. Drawback under section 74 is available on all goods (Identification is the only criterion) while Drawback under section 75 is available only on notified goods.
- v. Under the section 74, the exported goods should have been imported and customs duty be paid thereon. But under section 75, the goods to be exported may be manufactured or processed from imported or indigenous inputs or by utilizing input services.
- vi. As per section 74, the rate of drawback is 98% in case the goods are exported without use. The rate of drawback on goods taken into use is separately notified depending upon the period of use, depreciation in value and other relevant factors. As per section 75, rate of drawback per unit of final article to be exported is fixed by taking into account — Mode of manufacture, Input-output ratio, Standardization of the products etc.
- vii. In case of section 74, the goods should be exported within two years from the date of payment of duty or such extended time as the board may allow. But there is no such restriction in case of section 75.
- viii. There is no criterion of minimum value addition, which is to be fulfilled before export for claim of drawback as per section 74. It has been specifically provided that there should not be negative value addition and in case where minimum value addition is specified the same should be achieved for claim of drawback as per section 75.
- ix. As per section 75, the sale-proceeds in respect of such goods on which the drawback has been allowed, have to be received by the exporter or by any person on his behalf within the period as specified in the FEMA, 1999. In absence of this, such drawback shall be deemed never have been allowed and procedure for recovery or adjustment of the drawback amount will be initiated. But there are no such provisions in this behalf as per section 74.
- x. The drawback is governed by the Re-export of imported goods under the section 74. While the drawback, in section 75, is governed by the Customs and Central Excise Duties and Service Tax Drawback Rules, 1995. The rules cover customs duty, central excise duty and service ta

**(Any five differences would suffice)**

3. Determine liability of Vat of X Ltd. for the month of December 2014, using invoice method of computation, from the following data:
- (i) Purchase price of goods acquired from local market (including State Vat @ 4%) Rs. 52 lakhs
  - (ii) Manufacturing cost including transportation, insurance, handling and warehousing cost incurred by X Ltd. Rs. 4,25,000
  - (iii) Goods sold at a profit margin of 14% of cost
  - (iv) Vat rate on sale of goods 12.50%.

**(5 marks)**

**Answer:**

The purchase price includes Vat @ 4%. Hence, net purchase price is Rs. 50 lakhs. The Vat of 2 lakhs is not to be considered as cost as Vat credit is available. The total cost of production is Rs. 54,25,000. Profit margin @ 14% is Rs. 7,59,500. Hence, selling price will be Rs. 61,84,500. Vat @ 12.50% on selling price will be Rs. 7,73,063. X Ltd. has Vat credit of Rs. 2,00,000. Hence, net Vat payable is Rs. 5,73,063.

**OR**

3. a. A dealer claims that he has sent some goods out of State on stock transfer basis. What evidence he is required to produce before sales tax officer to prove the stock transfer? If he is unable to produce that evidence, what are the consequences?

**(2 marks)**

**Answer:**

The dealer has to produce F form which is to be issued by the branch or depot which has received the goods despatched by dealer. If the dealer is unable to produce F form, the sale will be treated as sale within the State of dealer and will be liable to State Vat at applicable rate. Interest will also be payable for delayed payment.

- b. A dealer purchased goods within Maharashtra for Rs. 15,00,000 during 2014-15. He paid State Vat @ 5%. The dealer sold the goods in inter-state sale for Rs. 14,00,000 against C form. Can the dealer claim any refund? How much? What is the condition?

**(3 marks)**



**Answer:**

The tax paid on purchases is Rs. 75,000 (5% of Rs. 15, 00,000). This is input tax credit available to the dealer. CST paid on inter-state sale is Rs. 28,000. Thus, he has excess Vat credit of Rs. 28,000. He can claim refund of this amount, if he cannot utilise the excess credit for his sale within the State.

4. a. What is meant by 'Indian customs water' under section 2(28) of Customs Act, 1962?

**(2 marks)**

**Answer:**

As per section 2(28) of Customs Act, 'Indian Customs Waters' means the waters extending into the sea up to the limit of contiguous zone of India under section 5 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and includes any bay, gulf, harbour, creek or tidal river. As per provisions of that Act, contiguous zone of India comes immediately after territorial waters. The outer limit of contiguous zone is 24 nautical miles from the nearest point of base line. Thus, area beyond 12 nautical miles and upto 24 nautical miles is "contiguous zone of India. Thus, 'Indian Customs Waters' extend upto 12 nautical miles beyond territorial waters. The significance of the definition is that powers of customs officers extend upto 12 nautical miles beyond territorial waters.

**AND**

- b. Following particulars are available in respect of certain goods imported into India by air -

FOB Price - US\$ 50,000. Exchange rate notified by RBI 1 USD = Rs. 60.50. Exchange rate notified by CBE&C- 1 USD = Rs. 60.00. Compute the assessable value of goods as per Customs Act, 1962. The importer is unable to give details of freight and insurance expenses.

**(3 marks)**

**Answer:**

If air freight is not available, it should be taken as 20% FOB value i.e. 10,000 US dollars. Insurance is to be taken as 1.125% of FOB price i.e. 562.5 US dollars. Hence, CIF price is USD 60,562.5. Add landing charges @ 1% of CIF i.e. 605.625. Hence assessable value is USD 61,168.125. The relevant exchange rate is 1 USD = Rs. 60.00. Hence, assessable value is Rs. 36, 70,087.5 rounded to Rs. 36, 70, 088.

**OR**

4. A machine was originally imported from Canada at Rs. 200 lakhs in July 2013 on payment of all duties of customs. The said machine was exported (sent back) to supplier for repairs in February 2014 and re-imported without any re-manufacturing or re-processing in November 2014 after repairs. Since the machine was under warranty period, the repairs were carried out free of cost. However, the fair cost of repairs carried out (including cost of material Rs. 4 lakhs) would have been Rs. 7 lakhs. Actual insurance and freight charges (to and fro) were Rs. 2 lakhs. The rate of basic customs duty is 10% and Rate of excise duty in India on like article is 12% . Additional Duty of Customs under section 3(5) of Customs Tariff Act, 1975 is Nil.

Compute the amount of Customs Duty payable(if any) on re-import of machine after repairs. The owner ship of machine has not changed during the period. Importer has opted for benefit of Notification No. 94/96 Cus. Dated 16.12.1996.

**(5 marks)**

**Answer:**

Duty payable on re-importation of goods which have been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including the cost of materials used in repairs (whether such costs are actually incurred or not) , insurance and freight charges, both ways as per Notification No. 94/96 Cus. Dated 16.12.1996. However following conditions need to be satisfied for availing these concessions:

- i. Goods must be re-imported within 3 years, extendable by further 2 years, after their exportation
- ii. Exported goods and the re-imported goods must be the same.
- iii. Ownership of goods should not change.

Since all the above conditions are fulfilled in the given case, the customs duty on re-imported goods will be calculated as follows:

Particulars	Amount (Rs.)
Value of goods re-imported after exports [Rs. 7 lakhs ( including cost of materials) + Rs. 2 lakhs]	9, 00, 000
Basic Customs Duty @ 10% (A)	90, 000
Value for computing Additional Duty of Customs under section 3(1) of Customs Tariff Act, 1975 (CVD)	9, 90, 000

CVD @ 12% (9, 90, 000 x 12%) – Education cesses on CVD is exempt (B)	1, 18, 800
Total C [(A) + (B)]	2, 08, 800
Education Cesses @ 3% on (C)	6, 264
Total Customs Duty payable including Education Cesses	2, 15, 064

5. What do you mean by Penultimate Sales under Central Sales Tax? What conditions are to be fulfilled for a sale to be considered as penultimate sale? (5 marks)

**Answer:**

Penultimate sale is the sale preceding the sale occasioning the export. Such sale would also be deemed to be the sale in course of exports and would not be liable to central sales tax.

However, the penultimate sale or purchase is considered to be a sale or purchase in the course of export only if the dealer selling the goods furnishes a declaration in Form H, duly filled in and signed by the exporter to whom the goods are sold, to the prescribed authority in the prescribed form and manner.

A sale is considered as penultimate sale if all the following conditions are fulfilled:-

- (a) There is a pre-existing agreement or order in relation to export.
- (b) Penultimate sale must be, after the agreement with the foreign buyer, for the purpose of complying with such agreement or order in relation to export.
- (c) Same goods which are sold in penultimate sale must be exported, though may not be in the same form.

**OR**

5. From the following details of a works contractor who maintains sufficient records to quantify the labour charges, determine the net VAT payable:

S. No.	Particulars	Rs. In lakhs
(i)	Total contract price (excluding VAT)	100
(ii)	Labour charges paid for execution of the Contract	35

(iii)	Cost of consumables used not involving transfer of property in goods	5
(iv)	Material purchased and used for the contract taxable at 12.5% VAT (VAT included)	45
(v)	Plant purchased for use in the contract taxable at 4% VAT (VAT included). The State VAT laws allow 100% input tax credit on capital goods.	10.4

Output VAT Rate is 12.5%. Assume profit earned by the contractor relating to supply of labour and services are not included in the value of works contract.

**(5 marks)**

**Answer:**

Transfer of property in goods involved in execution of works contract is liable to VAT as 'deemed sale' of goods. However, the service element comprising of labour charges and consumable and profit attributable thereto is not liable to VAT. Hence, the taxable value of the works contract and VAT liability thereon shall be computed in the following manner:

Particulars	Rs.
Total contract price (excluding VAT)	1,00,00,000
<b>Less:</b> Labour charges paid for execution of the Contract	(35,00,000)
<b>Less:</b> Cost of consumables used not involving transfer of property in goods	(5,00,000)
<b>Taxable value of the 'works contract'</b>	<b>60,00,000</b>
VAT payable thereon @ 12.5%	7,50,000
<b>Less:</b> Input VAT credit on material (45 lakhs x 12.5% /112.5%)	(5,00,000)
<b>Less:</b> Input VAT credit on capital goods (10.4 lakhs x 4% /104%)	(40,000)
<b>Net Tax Payable</b>	<b>2,10,000</b>

**Assumption :** It must be noted that in *State of Jharkhand v. Voltas Ltd.* [2007] 7 STR 106 (SC) it was held that 'profit earned by the contractor to the extent it is relatable to supply of labour and services' cannot be included in the value of 'works contract' for the charge of VAT. This finds statutory recognition in Rule 2A of the Service Tax (Determination of Value) Rules, 2006 where it was specified that value for the purpose of service tax shall be the contract price less value of goods transferred in works contract, i.e. part of deemed sale.

Explanation (b)(vii) provides for 'value of services'. Hence, profit attributable to service element is also to be excluded.

6. Charvi Ltd. is engaged in providing taxable services. It received following amounts in the month of August 2014. Compute the value of taxable services and the service tax payable by it:

	Particulars of Receipt	Amount (Rs.)
(i)	Advances received from clients for which no service has been rendered so far	15, 00, 000
(ii)	Demurrage charges recovered from the provision of services beyond the agreed period	50, 000
(iii)	Security deposits forfeited for damages done by the service receiver due to unforeseen actions in the course of receiving a service.	30, 000
(iv)	Payment received from a client (including Rs. 20, 000 paid extra by mistake). However, Charvi Ltd. refused to return the excess payment received.	3, 00, 000

Note: Charvi Ltd. is not eligible for small service provider's exemption under Notification No. 33/ 2012 – ST dated 20.06.2012 and service tax has not been charged separately. Rate of Service tax including Cess is 12.36%.

(5 marks)

**Answer:**

Computation of value of taxable service and service tax payable by Charvi Ltd.

Particulars	Amount (Rs.)
Advances received from clients for which no service has been rendered so far [Note 1]	15, 00, 000
Demurrage charges recovered [Note 2]	50, 000
Security deposits forfeited for damages done by the service receiver due to unforeseen actions in the course of receiving a service [Note 3]	Nil
Payment received from a client [Note 4]	3, 00, 000
<b>Total</b>	<b>18, 50, 000</b>
<b>Value of Taxable Services</b> [Rs. 18, 80, 000 x 100/112.36]	<b>16, 46, 493</b>
<b>Service Tax Payable</b> [Rs. 18, 80, 000 x 12.36/112.36]	<b>2, 03, 507</b>



**Notes:**

1. Advances received in August 2014 shall be taxable shall be taxable in the month of receipt of advance only [ Rule 3 of Point of Taxation Rules, 2011]
2. Demurrage charges recovered for use of the services beyond the period agreed upon are includible in the value of taxable services [Rule 6 of Service Tax (determination of Value) Rules, 2006]
3. Accidental damages due to unforeseen actions in the course of receiving the service are excludible from the value of taxable services [Rule 6 of Service Tax (determination of Value) Rules, 2006]
4. Excess payment made as result of a mistake, if not returned but retained by the service provider becomes a part of the taxable value of services.

**OR**

6. State with reasons, whether CENVAT credit is available to a manufacturer on the following:
  - (i) Service tax charged by outdoor caterers in their bills (raised for outdoor catering services), for serving food in the employees' canteen.
  - (ii) Excise duty paid on purchase of steel and cement purchased for constructing factory building.
  - (iii) Service tax charged by contractor in his bill for repair of factory building.
  - (iv) Excise duty paid on purchase of machinery meant for trading.
  - (v) Excise duty paid on diesel purchased for running of diesel generators used for running of factory machinery.

**(5 marks)**

**Answer:**

- (i) Outdoor catering for factory employees will not be eligible for CENVAT credit since there is specific exclusion for this in the definition of input service under Rule 2(1) of the CENVAT Credit Rules, 2004 (CCR).
- (ii) Steel and cement used for constructing factory building will not be eligible for CENVAT credit since there is specific exclusion for this in the definition of inputs under Rule 2(k) of CCR.

- (iii) Repair of factory building will be eligible for CENVAT credit since it is an eligible input service under Rule 2(1) of CCR.
- (iv) CENVAT credit shall not be allowable since the machinery is for the purpose of trading and neither for use as input for manufacture, nor for use as capital goods.
- (v) CENVAT credit shall not be allowable since high speed diesel oil is specifically excluded from the definition of inputs as defined in Rule 2(k) of CCR.