



SUGGESTED ANSWERS

CERTIFICATE COURSE ON INDIRECT TAXES ASSESSMENT TEST

HELD ON 7th FEBRUARY, 2016

PART – A

Write the correct alternative in the in the answer column

Q. No.	Question	Answer
1.	<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 some other form) invoked in the execution of a works contract.</p> <p>(ii) a tax on the delivery of goods on hire purchase or any system of payment by instalments.</p> <p>(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.</p> <p>(iv) tax on transfer of immovable property.</p> <p>Which of the following is correct?</p> <p>(a) Only (i)</p> <p>(b) (i), (ii) and (iii)</p> <p>(c) (i) and (iii)</p> <p>(d) All of the above</p>	(b)
2.	<p>What is the meaning of "<i>nemo debet bis vexari</i>"?</p> <p>(a) No person shall be convicted of any offence except for violation of law at force at the time of commission of act charged as an offence.</p> <p>(b) No person accused of any offence shall be compelled to witness against himself.</p> <p>(c) No person shall be condemned unheard.</p> <p>(d) No person can be prosecuted twice for the same offence whether he is convicted or acquitted.</p>	(d)

Q. No.	Question	Answer
3.	<p>From the following particulars determine the CST payable by Mr. A assuming that all transactions were covered by valid 'C forms and the VAT rate within the state is 5%:</p> <ul style="list-style-type: none"> • Total inter-state sales during the F.Y. 2015-16 is Rs 95, 00,000, CST included in this sales. • Sales also include: <ul style="list-style-type: none"> - Freight – Rs 4, 50,000 (Rs 3, 00,000 shown separately in the invoices). - Packing Charges for machinery -Rs 68,500 - Installation and commissioning charges shown separately - Rs 65,000. <p>(a) Rs. 1,74,833 (b) Rs. 1,76,177 (c) Rs. 1,77,776 (d) Rs. 1,79,118</p>	(d)
4.	<p>Mr. X furnishes the following particulars for the month of December, 2015. Compute the VAT payable and input tax carried forward to Next period, if any –</p> <ul style="list-style-type: none"> (i) Local Purchases during the month (inclusive of VAT 12.5%) Rs. 2,25,000 (ii) Inter-state purchases (including CST 2%) Rs. 51,000 (iii) Transportation charges – Rs 5,000 & Administrative Exp: Rs. 10000; Salary Rs. 20,000 (iv) Balance of VAT Credit as on 01-12-2015 – Rs 6,700. (v) 90% of the trading stock was sold during the month at the profit of 20% on cost. (vi) Assume there was no opening stock of goods. (vii) The VAT Rate on sale is 12.5% <p>(a) VAT: Rs. 38610 & ITC c/f: Nil (b) VAT: Rs. 38475 & ITC c/f: Rs. 6910 (c) VAT: Rs. 35910 & ITC c/f: Rs. 1190 (d) VAT: Rs. 38610 & ITC c/f: Rs. 6910</p>	(a)

5.	<p>State whether the following statements are true or false with reference to Value Added Tax:</p> <ul style="list-style-type: none"> • Definition of Goods excludes livestock. • Building contractor engaged in purchasing building material and using the same in work of building construction is a dealer. <p>(a) True, True (b) True, False (c) False, True; (d) False, False</p>	(c)
6.	<p>Mr. Bharat provides you the following details:</p> <p>Cost of local Purchase of vehicles – Rs. 4,00,000</p> <p>Import of vehicles – Rs. 7,50,000</p> <p>Inter-state purchase of vehicles – Rs. 8,50,000</p> <p>VAT Rate is 12.5 % and all assets purchased are given on lease of 5 years for Rs. 25, 00,000. Net VAT payable in this case would be:</p> <p>(a) Rs. 62, 500 (b) Rs. 1,56, 250 (c) Rs. 2, 62,500 (d) Rs. 3, 12,500</p>	(c)
7.	<p>Which of the following conditions need to be satisfied to qualify as work contract transaction chargeable to VAT as defined in the case of M/s Gannon Drunkenly and company (SC):</p> <p>(i) Transfer of property in goods may be in the form of goods itself or some other form</p> <p>(ii) Goods transferred should be involved in execution of works contract</p> <p>(iii) The person doing such activity should be a seller as defined.</p> <p>(iv) It will also include any agreement for carrying out for other valuable consideration building, manufacture, erection, modification, repairs etc.</p> <p>(a) (i), (ii), (iii) (b) (ii), (iii), (iv) (c) (i), (ii), (iv) (d) (i), (iii), (iv)</p>	(c)

8.	<p>State whether True or False:</p> <p>(i) Dumpers used in the factory of a manufacturer for carrying bulk raw material, are eligible capital goods for the purposes of claiming the CENVAT credit.</p> <p>(ii) Goods in respect of which the benefit of exemption under <i>Notification No. 1/2011-CE dated 01.03.2011</i> is availed and excise duty @ 2% is paid are exempted goods under CENVAT Credit Rules, 2004.</p> <p>(a) True, True (b) True, False (c) False, True (d) False, False</p>	(a)
9.	<p>Merchant exporter is required to get a certificate called " _____ " from the jurisdictional Superintendent, Central Excise to procure excisable goods without payment duty:</p> <p>(a) ARE-1 (b) CT-1 (c) UT-1 (d) None of the above</p>	(b)
10.	<p>Ms. Nupur, manufacturer of excisable goods, failed to pay the duty for the month of November 2015 amounting to Rs. 40,000/-. An order of the Central Excise Officer demanding such duty was received on 01.01.2016. Ms. Nupur wishes to make the payment of duty, interest and penalty leviable under section 11AC of Central Excise Act, 1944, if any, on 27.01.2016. The penalty payable by Ms. Nupur would be:</p> <p>(a) Nil (b) Rs. 1,000 (c) Rs. 1,250 (d) Rs. 4,000</p>	(c)

11.	<p>Mr. A, a manufacturer, who has a balance of CENVAT Credit, provides you the following details:</p> <ul style="list-style-type: none"> (i) Duty paid inputs are removed after being partially processed (ii) Duty paid capital goods are removed as scrap (iii) Sale of final products liable to excise duty (iv) Taxable output services <p>The balance of CENVAT Credit can be utilized for the payment of:</p> <ul style="list-style-type: none"> (a) (i), (ii), (iii) (b) (i), (iii), (iv) (c) (iii) & (iv) (d) All of the above 	(d)
12.	<p>PQR Ltd., is involved in cutting of iron rods. They purchase duty paid inputs worth Rs. 20 lacs. During the process of cutting of iron rods they used duty paid consumables worth Rs. 10 lacs for the purpose of polishing such iron rods. The consumables were consumed during the process and were not present in the final product. Determine the credit, if any, available with PQR Ltd. assuming all values are exclusive of duties</p> <ul style="list-style-type: none"> (a) Nil (b) Rs. 2, 50,000 (c) Rs. 3, 75, 000 (d) Rs. 1, 95,000 	(a)
13.	<p>Mr. Rakesh sold certain goods to Charan Ltd. for 30,000 on 19.12.2015. The buyer, Charan Ltd., is related to Mr. Rakesh in terms of section 4(3)(b) of the Central Excise Act, 1944. It did not sell the goods, but used the same as intermediary product for the manufacture of final product. The cost of production of the said goods determined as per CAS-4 was ` 25,000. The assessable value in the given case?</p> <ul style="list-style-type: none"> (a) Rs. 25,000 (b) Rs. 27,500 (c) Rs. 30,000 (d) Rs. 33,000 	(b)

14.	<p>BT Ltd. provides education services as a part of an approved vocational training to its members. There are about 1500 members and fees collected is Rs. 5000/- per member. BT Ltd. has taken registration under service tax and are not eligible for small scale service providers' exemption. Determine the amount of Service Tax Payable by Tiny Tods Ltd. for the month ended 31st December 2015 assuming tax rate including SBC is 14.5%.</p> <p>(a) Nil, as covered in Negative List (b) Nil, as covered under Mega Exemption Notification (c) Rs. 5,43,750 (d) Rs. 10,87,500</p>	(a)
15.	<p>Mr. Ram, Central Excise Officer passed an order demanding service tax of Rs. 10 lacs from Mr. Prakash on 1st January 2016. Upon reviewing the records provided by Mr. Prakash, he found that there has been an error in calculating the demand amount and wishes to rectify the same. Mr. Ram can rectify such mistake within of the date on which such order was passed.</p> <p>(a) 1 Year (b) 2 Years (c) 3 years (d) 4 years</p>	(b)
16.	<p>Mr. Alex from Pune hired a yacht from Mr. Peter in Mumbai for 25 days for travelling from Goa to Cochin and back. In the given scenario place of provision of service would be:</p> <p>(a) Cochin (b) Goa (c) Mumbai (d) Pune</p>	(c)
17.	<p>Ms. Riti is a mutual fund agent who provides services to Sunshine Ltd., an asset management company. For the month ended 31st December 2015, Ms. Riti raised an invoice on 09.01.2016 for which she received the payment on 27th January 2016. The point of Taxation in the given scenario would be:</p> <p>(a) 31.12.2015 (b) 09.01.2016 (c) 27.01.2016 (d) 05.02.2016</p>	(c)

18.	<p>Mr. Karan converted US \$ 1000 to € Euros for Mr. Anuj and provided him with € 900 and charged a fees of Rs. 500 for the same. Reference Rate provided by RBI for US \$ & EURO € are Rs. 68 and Rs. 75 respectively. The Taxable Value of Services in the given case would be:</p> <p>(a) Rs. 500 (b) Rs. 675 (c) Rs. 680 (d) Rs. 750</p>	(b)
19.	<p>Mr. Louis, an advocate practising in London provides legal consultancy to Mr. Anil Kumar of Bhuj, Gujarat in connection with his legal matter. Who is liable to pay service tax, if any, under Finance Act, 1994?</p> <p>(a) Mr. Louis being the provider of service. (b) Mr. Anil, under reverse charge (c) 50% by Mr. Anil and 50% by Mr. Louis. (d) No Service Tax as transaction is covered under Mega Exemption Notification.</p>	(b)
20.	<p>Determine the Service tax payable from following information:</p> <p>Property tax paid for April to September 2015 : Rs. 12,000/- Rent received for June 2015 : Rs. 1, 00,000/- Service tax Rate is 14%.</p> <p>(a) Rs. 12,320 (b) Rs. 13,720 (c) Rs. 13, 860 (d) Rs. 14,000</p>	(b)
21.	<p>M/s Dream Destination are tour operators providing tour services only by arranging and booking hotels, guest houses, hostels etc. for the travellers on a tour. Determine the amount of Service Tax payable if they charge Rs. 15000/ head for arranging a tour of 40 people in the month of January 2016.</p> <p>(a) Rs. 8, 700 (b) Rs. 21,750 (c) Rs. 34,800 (d) Nil as exempted / Covered under Negative List</p>	(a)

22.	<p>Mr. Arpit has collected Rs. 1 crore as Service Tax for the quarter ended December 2015 but has not paid the amount to the credit of Central Government till date. As per the provisions of Finance Act 1994 he may be entitled to imprisonment for a term which may extend to?</p> <p>(a) 6 months (b) 1 year (c) 3 years (d) 7 years</p>	(d)
23.	<p>Mr. A remitted the service tax amount for the quarter ending on December 2015 through presentation of cheque dated 31st December 2015 to designated bank on 5th January 2016 and entered the payment in the books of accounts on the same date. However, due to bank holiday and Sunday cheque got cleared on 9th January 2016. Which date will be considered as date of payment under service tax provisions?</p> <p>(a) 31st December 2015 (b) 5th January 2016 (c) 8th January 2016 (d) 9th January 2016</p>	(b)
24.	<p>For which of the following situation Rule 7A of CENVAT Credit Rule, 2004 is applicable?</p> <p>(a) To Distribute duty paid on inputs and capital goods for use in providing output service (b) To Distribute duty paid on inputs and capital goods for use in manufacture of goods (c) To Distribute Service tax paid on input service for use in providing output service (d) To Distribute Service tax paid on input service for use in manufacture of goods</p>	(a)
25.	<p>Amy Ltd has provided Business Class Air Ticket services for the month of January 2016 of Rs. 25, 00,000. For providing these services they utilize the services of Fresh Food Ltd. on which service tax paid is Rs. 2, 35, 000 on which credit is available. Determine the amount of service tax (including SBC) payable, if any by Amy Ltd. for the month of January 2016.</p> <p>(a) Nil (b) Rs. 7,500 (c) Rs. 1,27,500 (d) Rs. 2,17,500</p>	(b)

26.	<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>(i) Service provider & service recipient both are corporate entities (ii) Service provider is a corporate entity and service recipient is non-corporate entity (iii) Service provider is Individual & service recipient is a Charitable Trust (iv) Service provider & service recipient both are individuals.</p> <p>(a) (i) only (b) (ii), (iii) & (iv) (c) (i) & (ii) (d) (iv) only</p>	(a)
27.	<p>Determine which of the following payments account for as a Consideration for Service:</p> <p>(i) Advances forfeited for cancellation of an agreement to provide a service (ii) Security Deposit that is returnable on completion of provision of service.</p> <p>(a) (i) only (b) (ii) only (c) (i) & (ii) both (d) None</p>	(a)
28.	<p>Telcom Ltd. plans to organise an offsite training for its employees for which it rents "Natures Hub" a campsite with lodging facilities. The % of Service Tax payable by Telcom Ltd. wherein no CENVAT credit is taken would be:</p> <p>(a) 10% (b) 40% (c) 60% (d) 100%</p>	(c)
29.	<p>Who is liable to pay service tax in the following cases:</p> <p>(i) Case I – Public Welfare Department (PWD) rents out a hall in its premises to Mr. Raj (ii) Case II - Mr. Arthur from Paris provides fashion consultancy to Ms. Sonam in India</p> <p>(a) Case-I - PWD and Case-II - Mr. Arthur (b) Case-I - PWD and Case-II - Ms. Sonam (c) Case-I - Mr. Raj and Case-II - Mr. Arthur (d) Case-I - Mr. Raj. and Case-II - Ms. Sonam</p>	(b)

30.	<p>State whether the following statements are true or false:</p> <p>(i) A standalone ride set up in a mall is also categorised as an amusement facility.</p> <p>(ii) Future Contracts in Commodities are also covered under trading of goods.</p> <p>Choose from options below:</p> <p>(a) True, True (b) True, False (c) False, True (d) False, False</p>	(a)
31.	<p>Date of Determination of rate of duty in case of goods entered for home consumption under section 46 of Customs Act 1962 would be:</p> <p>(a) the date of payment of duty (b) the date on which the proper officer makes an order permitting clearance (c) the date on which bill of entry is presented (d) the date of entry inwards of the vessel or the arrival of the aircraft</p>	(c)
32.	<p>Who has the power to declare places to be warehousing stations under Customs Act, 1962:</p> <p>(a) Principle Commissioner/ Commissioner of Customs (b) Central Board of Excise & Customs (c) Director General of Foreign Trade (d) State Government of the place where warehousing station is located</p>	(b)
33.	<p>Ascertain the quantum of duty drawback in the following case:</p> <p>FOB value of 2,000 kgs goods exported is Rs. 2, 00,000. Rate of duty drawback on such export is Rs. 30 per kg. Market price of goods is 50,000 (in wholesale market)</p> <p>(a) Nil (b) Rs. 30,000 (c) Rs. 50,000 (d) Rs. 60,000</p>	(a)

34.	<p>Determine whether True or False:</p> <p>(i) Provisions of Article 246A aim to delete the existing provisions of Article 246 of the Constitution</p> <p>(ii) An additional tax on supply of goods not exceeding 1% in course of regular trade and commerce would be levied and collected by Government of India for a specified period of time.</p> <p>(a) True, True (b) True, False (c) False, True (d) False, False</p>	(d)
35.	<p>What would be the quorum for meetings of the GST Council</p> <p>(a) 1/3rd of the total number of members (b) ½ of the total number of members (c) 2/3rd of the total number of members (d) 3/4th of the total number of members</p>	(b)

PART - B

[Answers 6 questions in brief]

1. What do you mean by Input Services as per CENVAT Credit Rules, 2004? Mangalam Builders Ltd. gets a contract for construction of a commercial complex. It has given a part of the construction work to a sub-contractor. The sub-contractor charges service tax in his invoice to Mangalam Builders Ltd. You are required to advise Mangalam Builders Ltd. if it can avail CENVAT credit of the service tax charged to it by the sub-contractor using relevant provisions of the law.

(4 marks)

Answer

As per Rule 2 (l) of CENVAT Credit rules "input service" means any service, -

- (i) used by a provider of output service for providing an output service; or*
- (ii) used by a manufacturer, whether directly or indirectly, in or in relation to the manufacture of final products and clearance of final products upto the place of removal,*

and includes services used in relation to modernisation, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises, advertisement or sales promotion, market research, storage upto the place of removal, procurement of inputs, accounting, auditing, financing, recruitment and quality control, coaching and training, computer networking, credit rating, share registry, security, business exhibition, legal services, inward transportation of inputs or capital goods and outward transportation upto the place of removal;

but excludes, -

- (i) service portion in the execution of a works contract and construction services including service listed under clause (b) of section 66E of the Finance Act (hereinafter referred as specified services) in so far as they are used for -*

- construction or execution of works contract of a building or a civil structure or a part thereof; or*
- laying of foundation or making of structures for support of capital goods,*

except for the provision of one or more of the specified services; or

-*

The definition of the input service, inter alia, excludes services used for construction or execution of works contract of a building or a civil structure or a part thereof or laying of foundation or making of structures for support of capital goods. However, construction services provided for the provision of the construction service are included in the said definition.

In the given case, the services of the sub-contractor have been used by the builder for provision of construction service. Hence, Manglam Builders Ltd. can avail the CENVAT credit of the service tax charged by the sub-contractor.

OR

1. (a) What do you mean by Exempted Services as per CENVAT Credit Rules, 2004?

(b) Determine whether the following services are exempted services:

Services of transport of passengers by air (economy class) in respect of which an abatement of 60% of the gross amount has been availed and necessary conditions for availing abatement have been fulfilled.

(4 marks)

Answer:

(a) *As per Rule 2 (e) of CENVAT Credit Rules, 2004 "exempted service" means a –*

- (a) *taxable service which is exempt from the whole of the service tax leviable thereon; or*
- (b) *service, on which no service tax is leviable under section 66B of the Finance Act; or*
- (c) *taxable service whose part of value is exempted on the condition that no credit of inputs and input services, used for providing such taxable service, shall be taken;*

but shall not include a service which is exported in terms of rule 6A of the Service Tax Rules, 1994

- (b) *Exempted services, inter alia, means a taxable service whose part of value is exempted on the condition that no credit of inputs AND input services, used for providing such taxable service, shall be taken. The condition for availing abatement in respect of services of transport of passengers by air is that CENVAT credit on inputs and capital goods has not been taken. However, there is no restriction on taking credit of the input services used for providing such services. Consequently, such services are not exempted services.*

2. What will be the dates of commencement of definitive anti-dumping duty in the following cases under section 9A of Customs Tariff Act, 1975 and the rules made thereunder:
- Where no provisional duty is imposed
 - Where provisional duty is imposed
 - Where anti-dumping duty is imposed retrospectively from a date prior to date of imposition of provisional duty

(4 marks)

Answer:

The Central Government has power to levy anti-dumping duty on dumped articles in accordance with the provisions of section 9A of the Customs Tariff Act, 1975 and the rules framed thereunder.

- In a case where no provisional duty is imposed, the date of commencement of anti-dumping duty will be the date of publication of notification, imposing antidumping duty under section 9A(1), in the Official Gazette.*
- In a case where provisional duty is imposed under section 9A(2), the date of commencement of anti-dumping duty will be the date of publication of notification, imposing provisional duty under section 9A(2), in the Official Gazette.*
- In a case where anti-dumping duty is imposed retrospectively under section 9A(3) from a date prior to the date of imposition of provisional duty, the date of commencement of anti-dumping duty will be such prior date as may be notified in the notification imposing anti-dumping duty retrospectively, but not beyond 90 days from the date of such notification of provisional duty.*

OR

2. Sandy Ltd. has exported some goods by aircraft. The FOB price of the goods exported is US \$ 4, 00,000. The shipping bill is presented electronically on 12.01.2016 and Let Export Order is passed on 25.01.2016. The rates of exchange notified by CBEC on 12.01.2016 and 25.01.2016 are 1 US \$ = ₹ 65 and 1 US \$ = ₹ 67.5 respectively.

You are required to compute export duty with the help of the following details provided by Sandy Ltd.:-

Particulars	Date	Rate of Export Duty
Presentation of Shipping Bill	12.01.2016	10%
Let Export Order	25.01.2016	8%

Will your answer change, if the goods are exported by a vehicle, date of filing of bill of export is 17.01.2016, rate of export duty prevalent on 17.01.2016 is 12%, rate of exchange notified by CBEC on 17.01.2016 is 1 US \$ = ₹ 66 and the particulars relating to Let Export

Order remain the same?

(4 marks)

Answer:

Computation of export duty payable by Sandy Ltd.

Particulars	Amount
<i>Assessable value of the export goods (FOB price) [Note i]</i>	<i>15, 00, 000 \$</i>
<i>Value in Indian currency (US \$ 4,00,000 x Rs. 65) [Note ii]</i>	<i>Rs. 260,00,000</i>
<i>Export duty @ 8% [Note iii]</i>	<i>Rs. 20,80,000</i>

Notes:

- i) 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.*
- ii) 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 if goods are exported by aircraft.*
- iii) 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.*

As per section 16(1)(a) of the Customs Act, 1962, when goods are entered for export under section 50 - which includes all three modes of export namely, vessel, aircraft and vehicle - 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. Further, as per third proviso to section 14(1) of the Customs Act, 1962, rate of exchange notified by the CBEC on the date of presentation of bill of export (in case of export by vehicle) has to be considered for computing assessable value of export goods.

Since the rate of exchange prevalent on 17.01.2016 (date of presentation of bill of export) is the same as on 12.01.2016 (date of presentation of shipping bill) and rate of duty also does not change (8% duty will be applicable for both export by aircraft and export by vehicle as rate of duty prevalent on the date of Let Export Order will only be considered in both the cases), the amount of export duty will remain same. Therefore, the answer will not change in the second case and the duty payable will be Rs. 20, 80,000.

3. Suman Manufacturers, a non-SSI unit, purchased some inputs and a machine (eligible as capital goods for CENVAT purpose) on first day of a month. The inputs required some further processing and the machine required re-conditioning. Therefore, on the same day, Suman Manufacturers gave the direction to its suppliers to send the inputs and the machine directly to the premises of the job workers - Mr. A and Mr. B respectively. The goods were received in the premises of job worker on the same day. Suman Manufacturers immediately availed CENVAT credit of the entire excise duty paid on those inputs and 50% of the excise duty paid on the capital goods on the same day. Mr. A and Mr. B carried out the job work and returned the inputs and capital goods to Suman Manufacturers after 200 days from the date of receipt of such goods by them.

You are required to determine:

- a) Whether Suman Manufacturers was justified in availing the CENVAT credit on inputs and capital goods, although it had not received the same in its factory?
- b) Whether Suman Manufacturers is required to take any further action with respect to the CENVAT credit availed by it?

(4 marks)

Answer:

- a) *Suman Manufacturers was justified in availing the CENVAT credit on inputs and capital goods even though it had not received the same in its factory. With effect from 01.03.2015, CENVAT credit in respect of inputs or capital goods can be availed immediately on receipt of the same in the premises of job worker where inputs and/or capital goods are sent directly to the job worker on the direction of the manufacturer or the provider of output service, as the case may be [Rule 4(1) and rule 4(2)(a) of CENVAT Credit Rules, 2004].*
- b) *With effect from 01.03.2015, rule 4(5)(a) inter alia provides that if the inputs or capital goods are not received back within 180 days and 2 years respectively, from the date of receipt of such goods by job worker, the manufacturer will have to pay an amount equivalent to the CENVAT credit attributable to the inputs or capital goods by debiting the CENVAT credit or otherwise. However, such credit may be retaken once the inputs or capital goods are received back in the factory.*

In the given case, since the inputs have not been received back within 180 days, Suman Manufacturers will have to pay an amount equivalent to the CENVAT credit attributable to the inputs by debiting the CENVAT credit or otherwise. However, it can re-take such credit after 200 days when such inputs are received back by it.

CENVAT credit attributable to the capital goods, however, need not be reversed as the same have been received in the factory of the manufacturer within 2 years of the receipt of the same by job worker.

OR

3. X Ltd. was a manufacturer of polyester yarn. A ground plan of the factory was provided by the assessee to the jurisdictional Central Excise Officer and the same was approved. The ground plan showed the area in which the manufacturing is carried out as also the areas occupied for purpose of storage godowns, cycle sheds, canteen as well as the housing complex for staff and workers. The assessee had a captive power plant in the approved area. The electricity generated was supplied to the housing complex as well as for use in the manufacturing activity. X Ltd. claimed CENVAT credit of the duty paid on furnace oil consumed in generation of electricity supplied to housing complex on the ground that the same was used captively within the factory (housing complex being part of the factory). However, the Central Excise Department refused to allow such credit.

Examine whether the Department's action is correct in law.

(4 marks)

Answer

The definition of input under rule 2(k) of CCR, 2004 specifically excludes any goods such as food items, goods used in a guest house, residential colony, club or a recreation facility when such goods are used primarily for personal use or consumption of any employee. Since, in the given case, the electricity generated captively is used in the housing complex of the employees of X Ltd., the furnace oil consumed therefor will not be an eligible input. Thus, Department's action in denying CENVAT credit on the duty paid on furnace oil consumed in generation of electricity supplied to housing complex of employees is correct in law.

Furthermore, the definition of input also specifically excludes any goods which have no relationship whatsoever with the manufacture of a final product. In the given case, furnace oil used for generation of electricity which is supplied to the housing complex of employees of the factory has no relationship whatsoever with the manufacture of a final product. Thus, due to this specific exclusion also, furnace oil would not fall within the scope of term input and thus, credit cannot be availed of the duty paid thereon.

However, CENVAT credit will be available in respect of furnace oil used for generation of electricity supplied within the factory, on proportionate basis.

4. George Inc., a US based company, sought architectural services from ABC India Pvt. Ltd. with regard to its newly established business in New York in January, 2016 ABC India Pvt. Ltd. charged US \$ 1, 00,000 as a consideration for the architectural services provided to George Inc. In addition, ABC India Pvt. Ltd. also exported goods worth US \$ 30,000 to George Inc. and received the entire consideration of US \$ 1, 30,000 on 28.01.2016. Discuss the eligibility of ABC India Pvt. Ltd. for duty credit scrip entitlement under the Service Exports from India Scheme (SEIS).

Notes:

- (i) ABC India Pvt. Ltd. has an active Importer Exporter Code (IEC) at the time of rendering such services.
- (ii) Net Foreign Exchange earnings of ABC India Pvt. Ltd. in the financial year 2015-16 is US \$ 32,000.
- (iii) Notified rate of reward for architectural services is 5%.

Will your answer be different if ABC India Pvt. Ltd. had provided telecom services to George Inc.?

(6 marks)

Answer

In order to be eligible for duty credit scrip entitlement under SEIS:

- (a) Service provider must be located in India.*
- (b) It must provide only notified services in the specified manner.*
- (c) A service provider other than individual/sole proprietorship should have minimum net free foreign exchange earnings of US \$30,000 in preceding financial year to be eligible for duty credit scrip.*
- (d) Service provider shall have to have an active IEC at the time of rendering such services for which rewards are claimed.*

Since all the above conditions are fulfilled in the given case, ABC India Pvt. Ltd. Is eligible for duty credit scrip entitlement under the Service Exports from India Scheme. However, while computing the duty credit scrip entitlement under said scheme, where the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and total expenses / payment / remittances shall be taken into account for service sector only. Therefore, export receipts of US \$ 30,000 will not be taken into consideration while computing the duty credit scrip entitlement under the said scheme.

Thus, duty credit scrip entitlement of ABC India Pvt. Ltd. is 5% of US \$ 1,00,000 i.e., US \$ 5,000. Further, if ABC India Pvt. Ltd. had provided telecom services to George Inc., it would not have been eligible for the duty credit scrip entitlement under said scheme as service providers in telecom sector are not eligible for the SEIS.

OR

4. What is the objective of Merchandise Export from India Scheme (MEIS)? Which export categories/ sectors are ineligible for rewards under this scheme and also explain the basis of calculation of reward?

(6 marks)

Answer

Merchandise Exports From India Scheme (MEIS)

The objective of MEIS scheme is to compensate infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially goods having high export intensity, employment potential and thereby enhancing India's export competitiveness.

(i) Ineligible categories under MEIS: Some exports categories/sectors ineligible for Duty Credit Scrip entitlement under MEIS are listed below:

- (1) EOUs / EHTPs / BTPs/ STPs who are availing direct tax benefits / exemption*
- (2) Supplies made from DTA units to SEZ units*
- (3) Exports through trans-shipment, i.e., exports that are originating in third country but trans-shipped through India*
- (4) Deemed Exports*
- (5) SEZ/EOU/EHTP/BPT/FTWZ products exported through DTA units*
- (6) Export products which are subject to Minimum export price or export duty*
- (7) Ores and concentrates of all types and in all formations*
- (8) Cereals of all types*
- (9) Sugar of all types and all forms unless specifically notified.*
- (10) Crude / petroleum oil and crude / primary and base products of all types and all formulations*
- (11) Export of milk and milk products and meat and meat products unless specifically notified.*

(ii) Reward under the scheme: Under MEIS, exports of notified goods/products to notified markets shall be eligible for reward at the specified rate(s). Unless otherwise specified, the basis of calculation of reward would be:

(i) on realised FOB value of exports in free foreign exchange,

or

(ii) on FOB value of exports as given in the Shipping Bills in free foreign exchange,

whichever is less.

5. Determine the taxable turnover, input tax credit and net VAT payable by a works contractor from the details given below on the assumption that the contractor maintains sufficient records to quantify the labour charges. Assume output VAT at 12.5%

Particulars	Amount (in `)
Total contract price (excluding VAT)	2,00,00,000/-
Labour charges paid for execution of the contract	85,00,000/-
Cost of consumables used not involving transfer of property in goods	15,00,000/-
Material purchased and used for the contract taxable at 12.5% VAT (VAT included)	90,00,000/-

The contractor also purchased a plant for use in the contract for ` 20,80,000/- (inclusive of VAT). In the VAT invoice relating to the same, VAT was charged at 4%. Assume 100% input tax credit is available on capital goods immediately.

Make suitable assumption wherever required and show the working notes.

(6 marks)

Answer:

Under the works contract, the turnover for imposition of VAT is the sale price of the goods in which there is a transfer of property. The amount representing the labour and other charges incurred for such execution is deductible.

Computation of the taxable turnover, input tax credit and net VAT payable by the works contractor:

Particulars		Amount (in Rs.)
Total Contract Price		2,00,00,000
Less : Deduction Admissible		
Labour charges paid for execution of the contract	85,00,000	
Cost of consumables used not involving transfer of property in goods	15,00,000	1,00,00,000
Taxable turnover		1,00,00,000
Output VAT payable @12.5% (on Rs. 1,00,00,000.00)		12,50,000
Less : Input VAT Credit admissible		
On Material Purchased (on Rs. 90,00,000 x 12.5/112.5)	10,00,000	
On purchase of Plant (on ` 20,80,000 x 4/104)	80,000	10,80,000
Net VAT Payable		1,70,000

OR

5. (i) Balaji enterprises, a registered dealer provide the following details of purchases, sales, etc. for the year ended 31st March, 2016 –
- Purchase of raw materials within State (1,500 units) inclusive of VAT @ 12.5% – Rs 4,05,000
 - Inter-State purchases of raw materials, inclusive of CST @ 2% – Rs 3,06,000
 - Import of raw materials, inclusive of custom duty of Rs 50,000 – Rs 4,50,000
 - Capital goods purchased on 15-6-2015, inclusive of VAT levy @ 10% (input credit to be spread over 3 financial years) – Rs 3,30,000
 - Manufacturing expenses – Rs 1,75,000
 - Sales of taxable goods within state, inclusive of VAT @ 4% – Rs 10,92,000
 - Sale of exempted goods within state (manufactured from Inter-State purchase of raw materials) – Rs 2,25,000
 - Closing Stock of 200 units of raw material purchased within State as on 31st March, 2016

Compute the net VAT liability of Balaji enterprises, for the year ended on 31st March, 2016.

(4 marks)

Answer:

- VAT paid on 1,500 units of raw material = Rs 45,000 [(4,05,000 x 12.50)/112.50].*
- No input tax credit of CST*
- No input tax credit of customs duty*
- VAT paid on capital goods = 30,000 [(3,30,000 x 10)/110]. Since credit is to be spread over three financial years, input tax credit of Rs 10,000 will be available during current financial year*
- Manufacturing expenses not relevant to determine tax payable*
- VAT payable on sale of taxable goods = Rs 42,000 [(10,92,000 x 4)/104]*
- VAT payable on exempted goods – Nil.*

It is stated that exempted goods are manufactured out of inter-state purchase of raw material. Thus, the taxable goods are manufactured out of raw material on which VAT has been paid and hence its entire input tax credit is available. In respect of capital goods, entire input tax credit is available, even if these are only partially used for manufacture of taxable goods. Thus, total VAT credit available = 55,000 [45,000 + 10,000].

Total VAT payable on sales = Rs 42,000. Hence, the dealer is not required to pay any VAT in cash. The excess VAT credit of Rs 13,000 can be carried forward and used in future for payment of VAT.

AND

- (ii) Calculate the VAT liability for the period December 1, 2015 to December 31, 2015 from the following particulars :

Input worth Rs. 1, 25,000 were purchased within the State. Rs. 1, 40,000 worth of the finished goods were sold within the State and Rs. 1, 50,000 worth of goods were sold in the course of inter-State trade. VAT paid on procurement of capital goods worth Rs. 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 instalment and the central state tax rate is 2%, estimate the total tax liability.

(2 marks)

Answer

Computation of VAT liability for the month of December 2015

Particulars	Amount (Rs.)
VAT paid on Inputs purchased within the state (Rs. 1, 25,000 * 4%)	5, 000
VAT payable on goods sold within the State (1, 40,000 * 12.5%)	17, 500
CST payable on goods sold in the course of inter-State trade (1, 50, 000 * 2%) (no credit available)	3, 000
VAT paid on Capital Goods (Rs. 55, 000 * 12.5%)	6, 875
Total VAT payable	17, 500
Less: Input Credit of VAT paid on Inputs	5, 000
Less: Input Credit of VAT paid on Capital Goods (Rs. 6875/2)	3, 437
Net VAT Payable	9, 063
CST Payable	3, 000
Total Tax Liability	12, 063

6. Mr. X, the owner of a residential building in a commercial locality, furnishes the following information relating to the said building for the quarter October- December, 2015:-

S. No.	Area of the building	Particulars
(i)	Basement	Leased to Mr. B, a wholesaler for a monthly rent of ` 80,000. Mr. B uses one-fifth of the basement for his office and remaining portion as a godown for storing his merchandise.
(ii)	Ground Floor	Given on rent to Mr. C for a monthly rent of ` 60,000. Mr. C uses the same as his residence.
(iii)	1 st Floor	Occupied by Mr. X. and his family
(iv)	Large Vacant land in the backyard	Given on rent of ` 1,80,000 per month to a parking contractor, Mr. E who has set up a parking facility on the said land.
(v)	Terrace	Given on lease for quarterly rent of ` 5,20,000 to M/s. Universe Communications for erecting and maintaining a mobile communication tower.

Compute the service tax liability of Mr. X for the quarter October- December, 2015.

Notes:

- (i) Separate rent/lease deeds have been executed in respect of each floor of the building and vacant land given on rent/lease. Rent in respect of the various portions of the building, vacant land and the terrace is received on the first day of each month/quarter.
- (ii) Rate of Service tax (including SBC) is 14.5%
- (iii) Wherever applicable, service tax is included in the rent receipts.
- (iv) Mr. X is eligible for small service providers' exemption under Notification No. 33/2012 ST dated 20.06.2012.

(6 marks)

Answer:

Renting of immovable property (whether residential or commercial) is a declared service under section 66E(a) of Finance Act, 1994. However, services by way of renting of residential dwelling for use as residence are covered in negative list of services and are thus, not liable to service tax.

Since, Mr. X has let out different floors of his residential building to different tenants and separate rent/lease deeds have been executed in respect of each floor of such building and vacant land given on rent/lease, principle of bundled service will not apply. In this backdrop, the taxability of each of the floor of the building and vacant land owned by Mr. X is computed as under:

Computation of service tax liability of Mr. X for the quarter October- December, 2015

Particulars	Amount (Rs.)
Rent received for basement-commercial use [Note a]	2, 40, 000
Rent received for ground floor-residential use [Note b]	-
First floor occupied for personal use [Note c]	-
Rent received for large vacant land in the backyard used for parking facility [Note d]	5, 40,000
Rent received for terrace given on lease [Note e]	5, 20,000
Gross Value of Taxable Services	13, 00,000
Less: Small service providers exemption	10, 00,000
Value of taxable services (inclusive of service tax)	3, 00,000
Service tax liability (` 3,00,000x14.5/114.5) (rounded off)	37,991

Notes:

- a) As per section 65B(41) of the Act, renting includes letting, leasing, licensing or other similar arrangements in respect of immovable property. Therefore, leasing out of the basement of the building to Mr. B would not be covered under negative list of services as Mr. B uses the basement for commercial purpose. Thus, it would be liable to service tax as declared service.
- b) Renting of ground floor of the building to Mr. C for being used as a residence would not be chargeable to service tax as it is covered in negative list of services under section 66D(m) of Finance Act, 1994.
- c) Since Mr. X uses the first floor of the building himself, it would not be a service and thus, would not be liable to service tax.
- d) Renting of vacant land, an immovable property, to Mr. E, a parking contractor, would be liable to service tax as declared service since Mr. E uses it for commercial purpose.
- e) Leasing of terrace for erecting and maintaining a mobile communication tower is liable to service tax as a declared service.

OR

6. M/s. P Enterprises (sole proprietorship firm) entered into a contract with Skyline Builders (a partnership firm) on 05.01.2016 for construction of a building at a consideration of ` 47, 50,000 (excluding all taxes). M/s. P Enterprises supplied steel and cement to Skyline Builders at ` 2, 50,000 (excluding taxes). The fair market value of such steel and cement was ` 5, 00,000 (excluding taxes). Explain the relevant provision and determine the service tax liability of Skyline Builders.

Will your answer be different, if Skyline Builders has provided the said services to P Ltd. instead of M/s. P Enterprises assuming all other particulars remain the same?

(6 marks)

Answer:

Rule 2A(ii) of Service Tax (Determination of Value) Rules, 2006 inter alia provides that in case of works contracts entered into for execution of original works, service tax is payable on 40% of the total amount charged for the works contract. Further, as per Explanation 1(b) to rule 2A(ii), total amount means the sum total of the gross amount charged for the works contract and the fair market value of all goods and services supplied in or in relation to the execution of the works contract, whether or not supplied under the same contract or any other contract, after deducting –

- (i) the amount charged for such goods or services, if any; and
- (ii) the value added tax or sales tax, if any, levied thereon.

Thus, service tax liability of Skyline Builders would be computed in the following manner:-

Computation of service tax liability of Skyline Builders

Particulars	Amount (Rs.)
Gross amount received excluding taxes (A)	47, 50,000
Add: Fair market value of steel and cement supplied by M/s. P Enterprises (excluding taxes) (B)	5, 00,000
Less: Amount charged by M/s. P Enterprises for steel and cement (excluding taxes) (C)	2, 50,000
Total amount charged [(A) + (B) - (C)]	50,00,000
Value of service portion (40% of total amount charged in case of original works)	20,00,000
Service tax liability [20,00,000 × 14.5%]	2, 90,000

However, in case of services provided in execution of works contract, when the service is provided by any individual/ HUF/ partnership firm (whether registered or not) including association of persons to a business entity registered as body corporate, 50% of the service tax is payable by the service provider and balance 50% by the service receiver under partial reverse charge in terms of Notification No. 30/2012 ST dated 20.06.2012. Therefore, in the given case, when Skyline Builders provide services to P Ltd. (a company) 50% of the service tax will be payable by the service provider (Skyline Builders) and balance 50% by the service receiver (P Ltd.). In that case, service tax liability of Skyline Builders would be 50% of the total service tax liability as computed above i.e. ` 1,45,000 [50% of `2,90,000].