

IPC, TAXATION

Indirect Taxes - Suggested Answers for May, 2016 Exam

Q1.(b) Dharmendra Ltd. gives the following particulars relating to the services provided by it to its various clients for the month of January, 2016:

- (i) Total bills raised for ₹17,50,000, out of which bill for ₹1,50,000 was raised on a SEZ unit for services rendered in the said unit and payment for bills for ₹ 2,00,000 were not received until 31-01-2016. Service tax is separately charged on the bills raised, wherever applicable.
- (ii) Amount of ₹1,14,500 (including service tax) was received as an advance from Ramotar Ltd. on 25-01-2016 to whom the services were provided in March, 2016.

Compute:

- (i) Value of taxable service.
- (ii) Amount of service tax payable.
- (iii) Last date for service tax payment.

Assume that service tax is separately charged in the bills as well as for advance payment, wherever applicable. Assessee is not a small service provider. (6 marks)

Answer 1.(b)

Computational value and service tax of Dharmendra Ltd.

(i) Value of bills raised	17,50,000
Less: Value of bills Raised against SEZ (-)	1,50,000
(ii) Value of Advance received for services	16,00,000
=	17,00,000

ST @ 14.5% = `2,46,500

(i) Value of taxable services	= `17,00,000
(ii) Amount of service tax @ 14.5%	= `2,46,500
$114500 \times \frac{100}{114.5} = 100000$	<u>1,00,000</u>

- (iii) Last date for payment is 6th Feb, 2016

Working notes:

- (i) Service Tax has been calculated at 14.5% including SB Cess
- (ii) Since the service provider is a limited company service tax is payable monthly, i.e. by Feb 2016.
- (iii) Service provided to SEZ are exempt on the assumption that the service provider has availed exemption.
- (iv) Bills for ₹2,00,000 have been included as tax which is not dependent on actual receipts.

Comment:

The question was framed on the basis of service tax at 14.5% whereas the applicable rate for May, 2016 is 14%. This has caused a lot of confusion to the examinees who entered the exam hall with a mind set of 14%

Q1.(c) Compute net VAT liability of Rohan from the following information for the month of February, 2016:

Particulars	₹	₹
Raw material from foreign market (including duty paid on imports @ 20%)		1,50,000
Raw material purchased from local market:		
Cost of raw material	3,00,000	
Add: Excise duty @ 12.5%	37,500	
	3,37,500	
Add: VAT @4%	13,500	3,51,000
Raw Material purchased from neighbouring state (Including CST @2%)		51,000
Storage and Transportation costs		11,000
Manufacturing expenses		25,000

Rohan sold goods to Arya and earned profit @12% on the cost of production. VAT rate on sale of such goods is 4%.

There were no opening and closing stocks. (4 marks)

Answer to Question No.1 (c)**Computation of Sale price of Rohan**

Raw material	1,50,000
Local material cost	3,37,500
Inter State Purchase	51,000
Storage, Transport Costs	11,000
Manufacturing costs	<u>25,000</u>
Total Cost:	5,74,500
Add: 12% Profit margin	<u>68,940</u>
PBT	6,43,440
	VAT @ 4%
	$\frac{25,737.6}{25,738}$ (Rounded off)

	25,738
Less ITC	<u>13,500</u>
Net VAT Payable	12,238

Working Notes:

Customs duty and CST are part of cost and hence not deducted.

Comment:

This is a simple question with plain language.

Q2.(b) Mandi & Co. is providing taxable information technology software service. The firm furnishes the following information relating to the services rendered, bills raised, amount received pertaining to the services, for the quarter ending 31-03-2016 as under:

Particulars	Amount
Amount received being 10% of the assignment fees on 31-03-2016 for the upgradation and enhancement of the software services (including service tax)	7,00,000
Services provided to UNICEF, an international organization in Delhi, for design and programming of IT services.	4,00,000
Services provided to A Ltd. for IT services. Service Tax was not received from the client due to some dispute.	3,00,000
Services provided to B Ltd. for providing software services. However, Mandi & Co. failed to recover the service tax amount from B Ltd. due to insolvency of client. Summary of the bills (all issued in January, 2016) is as under:	
Charges for Software service	5,00,000
Services tax @ 14.50%	<u>72,500</u>
Amount received from other clients during January to March, 2016 including service tax	70,00,000

Compute the value of total taxable services and service tax payable thereon for the quarter ending 31-03-2016 by Mandi & Co.

The assessee had rendered taxable services of `110 lacs during the year ended 31-03-2015. (4 marks)

Answer No. 2(b)

Computation of taxable value and service tax

Upgradation and enhancement services	7,00,000
Services to A Ltd.	3,00,000
Services to B Ltd.	5,72,500
Others	70,00,000
Value including tax	85,72,500

$$\text{Value} = 85,72,500 \times \frac{100}{114.5} = 74,86,900$$

$$\text{ST} = 85,72,500 \times \frac{14.5}{114.5} = 10,85,600$$

Working Notes:

- Services provided to UNICEF are exempt under exemption Notification 25/2012 – vide Entry No. 1.
- Services provided to A Ltd. are subject to service tax though service tax was not received due to dispute. Hence the amount of 300000 has been taken as inclusive of service tax as per S67(2) of Finance Act, 1994
- Service tax is payable on services provided to B Ltd.; the insolvency of service receiver not withstanding.

Mandi & Co. is not eligible for paying service tax on cash basis as its previous years turnover was above ₹ 50 lac.

Comment:

Marks should be awarded to those who have taken 85,00,000 as inclusive of tax.

Q2.(c) Madhav Enterprises imported some goods from USA. The assessable value of the imported goods is ` 20,00,000. Compute the custom duty payable from the following additional information:

Date of Bill of entry 30-09-2015 (Rate of BCD is 10%)
 Date of entry inward 25-09-2015 (Rate of BCD is 8%)
 C.V.D. is payable @12.5%
 Special C.V.D.

(4 marks)

Answer No. 2 (c)**Computation of customs duties from Madhav Enterprises**

Value		Duty
Assessable value	20,00,000	
Add: BCD @10%	2,00,000	2,00,000
	22,00,000	
Add: CVD @12.5%	2,75,000	2,75,000
	24,75,000	4,75,000
Add: Cess at 3% on 4,75,000 = 14250		14,250
	24,89,250	4,89,250
Add Spl. CVD @ 4% on 24,89,250 =	99,570	99,570
Total	25,88,820	5,88,820

Working Notes:

- Rate of duty is 10% as per section 15(1) of Customs Act.
- Education Cess @ 3% has been added on customs duty before S Cap. CVD

Comment:

Simple and easy question

Q3.(b) Yahoo Pvt. Ltd. a manufacturer furnishes the following information: (4 marks)

Bill No.	Particulars	Date of Bill	Excise duty/Service Tax Paid ()
801	Input Goods "A"	15-01-2015	15,000
802	Input Goods "B"	15-05-2015	24,000
810	Input Goods "C"	12-03-2016	30,000
757	Machinery, (eligible capital goods under Chapter 82)	11-03-2015	2,00,000

All the input goods and the machinery were received on the dates of Bills. Bill No.810 is missing.

Yahoo Pvt. Ltd. is not a SSI unit. Determine the CENVAT credit that can be availed by Yahoo Pvt. Ltd. during the month of March, 2016. (4 marks)

Answer No. 3(b)**Computation of Cenvat Credit for the F.Y. ending March 2016**

Input A.	(relates to F.Y. 2014-15)
Input B.	24,000	
Input C.	(not eligible since invoice is missing)
Capital goods 50%	1,00,000	(50% was supposedly taken in previous financial year)

Comments:

1. This question has drafting error. If we take the literal meaning of the last two lines of the question, the answer is 'nil' because "during the month of March, 2016". There was only one transaction, for which the invoice is missing, hence no credit.
2. It was therefore, logically presumed that the intention of the examiner was to find out the CENVAT credit exclusively for the year ending March, 2016

Q3.(c) Determine the transaction value and the Central Excise Duty payable of M/s. Rajiv Enterprise from the following particulars: (4 marks)

	Particulars	
1.	Price of machinery, excluding taxes and duties	6,00,000
2.	Installation and erection expenses (Machinery has been fixed to the earth)	35,000
3.	Packing charges (Primary and secondary)	12,000
4.	Design and engineering charges	4,500

Additional information:

- Cash discount @2% on price of machinery (not considered in 1 above) was allowed as per terms of contract, since full payment was received within 15 days of the dispatch of machinery.
- Bought out accessories valued at `7,000. The accessories are optional and provide ease of use of the machinery.
- Central Excise Duty @12.5%.

Brief note is to be appended for treatment of each item.

Answer No. 3 (c)

Determination of value and excise duty of M/s. Rajiv Enterprises

Price excluding taxes and duties	6,00,000
Less: Discount 2%	<u>12,000</u>
	5,88,000
Add:	
Packing	12,000
Design & Engg.	<u>4,500</u>
Assessable value	6,04,500
Duty @ 12.5%	75,562.5
	75,563 (Rounded off)

Working Notes:

- (i) Installation & erection charges are not in connection with sale, hence not included.
- (ii) Bought out accessories cost not included as they are not essential parts of the product.

Comment:

This is simple and easy question. Similar question was asked in CA Final, 2009. But the paper setter has been very considerate and sensitive enough to adapt this question to the understanding levels of an IPC student.

Q4.(b) When can an assessee avail the benefit of Small Service Provider (SSP) exemption for the purpose of service tax? Name two situations in which such SSP exemption is not available. (4 marks)

Answer No. 4(b)

When the aggregate value of services from one or more of the premises in the PY was not above 10 lac, the service provider is eligible to claim exemption upto 10 lac turnover in current year.

However, in the following two situations SSP exemption is not available

- (i) Service tax paid under reverse charge
- (ii) Service provided by using the brand name or trade name of others

Aggregate value of services has been defined under/notification No.33/2012

Q4.(c) State with reason, whether the following transactions are true or false, as per the provisions of the Central Sales Tax Act, 1956: (4 marks)

- (i) CST is not leviable on inter-state sale of electrical energy.
- (ii) Cost of freight, though not separately shown in the invoice, will not form part of sale price.

Answer to Question No. 4(c)

- (i) The statement is true. Electrical energy is goods but as per S 6, which is a charging section, CST is not leviable on electrical energy.
- (ii) False. Cost of freight forms part of value if it is not shown separately S 2(h) of CST Act, 1956.

Q5.(b) Briefly explain the concessional /composition rates of service tax applicable to Air travel agents. (4 marks)

Answer to Question No. 5(b)

As per Rule 6(7) of Service Tax Rules, 1994. Service on domestic Air Tickets is 0.7% and on international travels its 1.4%. This is calculated on basic air fare.

Basic fare has been explained as that part of the air fare on which commission is normally paid to the air travel agent by the airline. The rates have been revised recently with effect from 1st June, 2015. Earlier they were 0.6 and 1.2% respectively.

Comment:

The answer can be as precise as given above. The student may add more information but it should be relevant.

Q5.(c) Discuss whether the following services are chargeable to service tax or not; in March 2016: (4 marks)

- (i) An Indian tour operator provided the service to Mr. Yuhan, a Japanese national, for a tour in Sri Lanka.
- (ii) Mr. Amit, an organizer, provided services to Mr. Kumar in respect of a business exhibition held in Patna.
- (iii) Mr. Chandra Bhusan provided the services by conducting religious rites at the birth ceremony of a child.
- (iv) Sunita provided consultancy services to Government directly connected with solid waste management.

Answer No. 5(c)

- (i) Service tax is chargeable but exempt under Entry No 42 of Mega exemption Notification No. 25/2012
- (ii) Taxable as both service provider and service receiver are in India and service was also provided in India. Moreover, it is not covered under mega exemption.
- (iii) Services by way of conduct of any religious ceremony is exempt under Entry No. 5(b) of Mega Exemption. Hence religious rites at the birth ceremony is governed by the exemption notification
- (iv) Services by way of solid waste management are exempt under Entry No. 25(a). But the service is a Consultancy service and hence chargeable to service tax.

Q6.(b) Briefly touch upon the provisions relating to interest payable for delayed payment of service tax. (4 marks)

Answer No. 6(b)

Interest payable on delayed payments is governed by section 75 of Finance Act, 1994. S75 enables the Central Govt. to determine the rates of interest between 10% and 36%.

3% concession is available to service providers whose turnover during notice period or previous financial year doesn't exceed ₹60 lakh.

The interest rates are as given below:

	Normal	Concessional Rate
For the first 6 months	18%	15%
After 6 months upto 1 year	24%	21%
Beyond 1 year	30%	27%

Note: For IPC & CA Final students appearing in 2017, May onwards – the interest rates applicable are as follows:

- 1. Service Tax collected but not paid – 24%
- 2. Other Cases – 15%

Concessional rates will be 21% and 12% respectively.

Notification No. 13/2016 Dt. 1-3-2016 effective from the date the Finance Act, 2016 became effective.

Q6.(c) What are the due dates for filing of service tax returns? Is there any late fee payable for any delay in filing of service tax returns? (4 marks)

Answer to Question No. 6(c)

As per Rule 7 of STR, 1944, service tax Return in ST-3 form has to be filed half yearly by 25th of the close of half year. Thus, it has to be filed yearly twice by 25th April and 25th October every year. Rule 7(c) prescribes late fee for late submission of returns as given below:

Delay	Late Fees
Upto 15 days	₹500
After 15 days upto 1 month	₹1000

After one month `1000 + `100 per day subject to maximum of `20,000

Late fee can be waived partially or totally in case of nil return and the assessee has sufficient cause.

Q7.(b) How is the value of taxable service, whose value is not ascertainable determined?
(4 marks)

Answer to Question No. 7(b)

Rules 2A, 2B & 2C and Rule 3 of Service Tax (determination of Value) Rules, 2006 in which value is determined where value is not ascertained under Section 67.

Rules 2A, 2B & 2C deal with specific situations – works contract service, money changing services and service portion involved in supply of food or any other article of human consumption etc., respectively.

Rule 3 deals with general cases

Under Rule 3, where value is not ascertainable, value of the similar service provided to other persons shall be taken

If no such similar service is provided, the assessee has to self-determine the value which, in any case, shall not be less than the cost of providing such service.

Q7.(c) A manufacturer wishing to avail CENVAT credit in respect of certain eligible inputs, wants to store them outside the factory where he carries on manufacture. Briefly state the relevant provisions concerned for storage of inputs outside the factory. (4 marks)

Answer No. 7(c)

As per Rule 8 of Cenvat Credit Rules, 2004, a manufacturer is allowed to store inputs outside the factory to meet the exigency. This is permitted only in special circumstances by AC/DC of Central Excise with conditions where the inputs are not used as per the provisions under the Rules, the Manufacturer is liable to pay the amount equal to the CENVAT Credit taken on such inputs.

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