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SUGGESTED SOLUTION
IPCC NOVEMBER 2016 EXAM

IDT

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BRANCH - (Multiple) (Date : 17.07.2016)

Head Office : Shraddha, 3rd Floor, Near Chinai College, Andheri (E), Mumbai – 69.

Tel : (022) 26836666

Answer-1 (a) :

- (a) The taxable services which are exempt from whole of the service tax leviable thereon are exempted services. Accordingly, since services provided to United Nations are exempt from service tax *vide* Mega Exemption Notification No. 25/2012-ST dated 20.06.2012, such services are exempted services. **(1 Mark)**
- (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 in economy class 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 Marks)**
- (c) 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 a radio taxi is that CENVAT credit on **inputs, capital goods and input services** has not been taken. Consequently, such services are exempted services. **(2 Marks)**

Answer-1 (b) :**Computation of CENVAT credit available with Arihant Manufacturing Ltd.**

Particulars	Rs.
Raw materials used in the factory of Arihant Manufacturing Ltd.	72,000
Goods used in the guest house primarily for the temporary stay of the newly recruited employees. [Note 1]	Nil
Inputs used for making structures for support of capital goods [Note 1]	Nil
Capital goods used as parts and components in the manufacture of final product [Note 2]	40,000
Total CENVAT credit available	1,12,000

(2 Marks)**Notes:**

- As per the definition of inputs, there is specific exclusion with regard to the following: -
 - goods used in a guest house when the same are used primarily for personal use or consumption of any employee.
 - goods used for making of structures for support of capital goods.
 Thus, CENVAT credit cannot be claimed in respect of the above goods.
- Though definition of inputs specifically excludes capital goods, capital goods used as parts or components in the manufacture of a final product are included therein. Thus, CENVAT credit will be available on the same. **(1 Mark)**

Answer-1 (c) :

- In case where the taxable services are provided by any person located in a non-taxable territory and are received by any person located in the taxable territory, person liable to pay service tax is the recipient of such service under reverse charge mechanism. Thus, in the given case, X Techies Ltd. is liable to pay service tax on the taxable service imported by it. **(1 Mark)**
- As per the Point of Taxation Rules, 2011, the point of taxation in respect of the persons required to pay tax under reverse charge mechanism is the date on which payment is made provided payment is made within a period of 3 months of the date of invoice. However, if the payment is not made within a period of three months of the date of invoice, point of taxation will be the first day that occurs immediately after the expiry of said three months. Since in the given case, X Techies Ltd. has made the payment within 3 months from the date of the invoice, the point of taxation is the date of payment i.e., 28.09.20XX. **(1 Mark)**
- The amount of R&D cess payable is allowed as a deduction from the service tax payable on the taxable service involving the import of technology provided: -

- (i) said amount of R&D cess is paid at the time or before the payment for the service subject to a maximum of 6 months from the date of invoice and
- (ii) records of R&D cess are maintained for establishing the linkage between the invoice and the R&D cess payment challan.

Since both the aforesaid conditions are fulfilled, X Techies Ltd. is eligible for said exemption. Therefore, service tax payable by X Techies Ltd. would be computed as under:

Particulars	(Rs.)
Service tax (Rs. 12,00,000 × 14%)	1,68,000
Less: Research and development cess paid	60,000
Net service tax liability	1,08,000

(2 Marks)

Answer-2 (a) :

As per rule 3 of the POTR, in case the invoice is issued within the prescribed period of 30 days from the date of completion of provision of service, point of taxation is:-

- (i) date of invoice
or
- (ii) date of payment
whichever is earlier.

However, in case the invoice is not issued within 30 days of the completion of the provision of the service, point of taxation is:-

- (i) date of completion of service
or
- (ii) date of payment
whichever is earlier.

(2 Marks)

Further, advances received are taxable at the time when such advances are received. Accordingly, the point of taxation in each of the given cases is as follows:

S.No.	Date of completion of service	Date of Invoice	Date on which payment is received	Point of taxation
1.	16.07.20XX	11.08.20XX	26.08.20XX	11.08.20XX
2.	16.07.20XX	11.08.20XX	01.08.20XX	01.08.20XX
3.	16.07.20XX	11.08.20XX	Part payment on 01.08.20XX and remaining on 26.08.20XX	01.08.20XX for the part payment and 11.08.20XX for the remaining amount
4.	16.07.20XX	11.08.20XX	Part payment on 12.07.20XX and remaining on 15.07.20XX	12.07.20XX for the part payment and 15.07.20XX for the remaining amount

(2 Marks)

Answer-2 (b) :

Computation of taxable service and service tax liability of Royal Security Agency

Particulars	Rs.
Advance received by an account payee cheque (Note 1)	2,00,000
Amount received through credit card (Note 1)	5,00,000
Amount received by a pay order (Note 2)	4,00,000
Value of taxable service	11,00,000
Service tax payable @ 14% on Rs. 11,00,000	1,54,000

Notes:

1. Gross amount charged, inter-alia, includes payment by cheque and through credit card.
2. Money, inter alia, means pay order.

(2 Marks)**Answer-2 (c) :**

Rule 2B of the Service Tax (Determination of Value) Rules, 2006 provides the manner of determination of the value of taxable service so far as it pertains to purchase or sale of foreign currency, including money changing. The value of service for a currency, when exchanged from, or to, Indian Rupees (INR), shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, the value of taxable service = (RBI reference rate for \$ – Selling rate for \$) × Total units

= Rs. (60.50 - 60) × 35,000

= Rs. 0.50 × 35,000

The taxable value shall be Rs. 17,500.

(2 Marks)**Answer-3 (a) :**

Total bills raised	8,75,000
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Less: Bill raised for a Diplomatic Mission (not liable to service tax)	<u>75,000</u>
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	8,00,000
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Add : Amount received in advance	<u>50,000</u>
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Taxable value of services provided	<u>8,50,000</u>
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Service tax payable @ 14% on Rs.8,50,000	<u>1,19,000</u>
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(a) Service tax is payable as per Point of Taxation Rules, hence it will be payable even if the payment is received later on. Date of payment of service tax shall 6th October, 2015.

(b) Since the services provided in the preceding financial year did not exceed Rs.50,00,000, the liability to make payment of service tax shall arise on the basis of receipt of payment.

Hence, the service tax shall be payable as under:

Amount received against the bill raised	7,75,000
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Less: Bill raised for diplomatic mission	<u>75,000</u>
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	7,00,000
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Add: Amount received in advance	<u>50,000</u>
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Total amount received for taxable services provided or agreed to be provided	<u>7,50,000</u>
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Service tax payable @ 14% on Rs.7,50,000	Rs. 1,05,000
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Due date of payment 6th October	(4 Marks)
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Answer-3 (b) :

Date of levy of service-tax 1.1.2016:

1. Invoice issued before 1.1.2016 and payment also received before 1.1.2016. Hence, Rs.2,40,000 is not taxable.

2. Invoice issued before 1.1.2016 for Rs.3,00,000 but payment received before 1.1.2016 is Rs.2,60,000. Hence, Rs.2,60,000 shall not be taxable but Rs.40,000 shall be taxable.

3. Invoice issued before 1.1.2016 is only Rs.2,20,000 but the payment received before 1.1.2016 is Rs.3,00,000. Hence, Rs.2,20,000 shall not be taxable.

As regards Rs.80,000 payment received before 1.1.2016, the position of taxability of Rs.80,000 shall be as under:

(a) if the invoice is issued by 14.1.2016. Nothing shall be taxable.

(b) If the invoice of Rs.80,000 is issued after 14.1.2016 Rs.80,000 shall be taxable.

4. Amount of Rs.3,40,000 is received before 1.1.2016 and invoice has also been issued on 31.12.2015 which is before 14.1.2016. Hence, nothing is taxable.

5. Amount of Rs.4,20,000 is received before 1.1.2016 and the invoice has been issued on 12.1.2016 which is before 1.1.2016. Hence, it shall not be taxable.

6. Although the payment is received before 1.1.2016 but invoice has not been issued before 14.1.2016, hence it shall be taxable.

(1 x 6 = 6 Marks)

Answer-4 (a) :

As per charging section 3 of the Central Excise Act, 1944, excise duty is levied on all excisable goods which are produced or manufactured in India. However, as per rule 5 of the Central Excise Rules, 2002, the rate of duty applicable to any excisable goods is the rate in force on the date when such goods are removed from the factory.

In the given case, the goods were non-excisable at the time of manufacture. Hence, excise duty liability will not arise even though such goods have been made excisable by bringing them under Tariff prior to their removal. **(2 Marks)**

Answer-4 (b) :**Computation of assessable value of the machine and excise duty payable thereon**

Particulars	Rs.
Total invoice price (inclusive of VAT and excise duty)	7,50,000
Less: Cash discount @ 2% of invoice price [Rs. 7,50,000 × 2%]	15,000
Erection charges [Note 1]	50,000
Insurance charges [Note 2]	8,000
Outward freight charges [Note 2]	<u>17,000</u>
Price-cum-duty	6,60,000
Less : State VAT @ 12.5% [Rs. 6,60,000 x 12.5/112.5]	<u>73,333</u>
Price cum duty deemed to be inclusive of duty payable on such goods	5,86,667
Less: Excise duty @ 12.5% [Rs. 5,86,667 x 12.5/112.5] rounded off	65,185
Assessable value	5,21,482

Notes :**(4 Marks)**

- Erection charges have not been included in the assessable value as the same results in permanent affixation of the machinery to earth, thereby resulting in an immovable property.
- Insurance charges and outward freight charges are allowed as deduction as the same are incurred after the place of removal.
- Packing charges and designing charges are includible in the assessable value and thus, not deducted from the invoice price.
- Cash discount has been allowed as deduction as it has been passed on to the buyer. **(2 Marks)**

Answer-4 (c) :

Person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, has an option to pay an amount at the following rates instead of paying service tax at the rate of 14%:-

For an amount	Service tax shall be calculated at the rate of
Upto Rs. 1,00,000	0.14 % of the gross amount of currency exchanged or Rs. 35 whichever is higher
Exceeding Rs. 1,00,000 and upto Rs. 10,00,000	Rs. 140 + 0.07 % of the (gross amount of currency exchanged - Rs. 1,00,000)
Exceeding Rs. 10,00,000	Rs. 770 + 0.014 % of the (gross amount of currency exchanged - Rs. 10,00,000) or Rs. 7,000 whichever is lower

However, the person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Therefore, Mr. M, being a money changer, has an option to pay service tax at the aforementioned rates. **(2 Marks)**

Answer-5 (a) :**Computation of customs duty payable**

Particulars	Duty %	Rs.	Duty Rs.
Assessable value		1,00,000	
Basic customs duty	10	10,000.00	10,000.00
Sub-Total for calculating CVD		1,10,000.00	
CVD (Rs.1,10,000 x excise duty rate)	12.5	13,750.00	13,750.00
Sub-total for education cess on customs (Rs. 10,000 + Rs. 13,750)		23,750.00	
Education cess of customs	2	475.00	475.00
Secondary and Higher Education cess of customs	1	237.50	237.50
Sub-total for Special CVD (Rs. 1,00,000 + Rs. 10,000 Rs. 13,750 + Rs. 475 + Rs. 237.50)		1,24,462.50	
Special CVD u/s 3(5)	4	4,978.50	<u>4,978.50</u>
Total customs duty			<u>29,441.00</u>
Customs duty payable			29,441

Since importer is a service provider, he can avail CENVAT credit of only CVD i.e. only of Rs.13,750 and not of special CVD.

Note: The provisions relating to CENVAT credit have been discussed in detail under Chapter-7: CENVAT credit. **(4 Marks)**

Answer-5 (b) :

If a tax has been levied on sale or purchase of any declared goods inside a State and the same goods are subsequently sold in the course of inter -state trade or commerce and is subjected to tax under the CST Act, sales tax paid has to be reimbursed to the dealer. However, sales tax paid within the state can be reimbursed only when the CST has been paid subsequently and not otherwise.

Hence, in this case, Mr. Y can claim refund of tax paid within the State after payment of central sales tax in respect of such declared goods. **(2 Marks)**

Answer-5 (c) :

Under works contract, VAT is imposed on the sale price of the goods in which there is a transfer of property. Labour and other charges incurred for such execution are deductible.

Computation of the taxable turnover, input tax credit and net VAT payable

Particulars	Rs.	Rs.
Total contract price		1,80,00,000
Less : Deductions admissible		
Labour charges paid for executing the contract	40,00,000	
Service charges paid for execution of contract	20,00,000	
Cost of consumables not involving transfer of property in goods	<u>10,00,000</u>	<u>70,00,000</u>
Taxable turnover		<u>1,10,00,000</u>
Output VAT payable @ 12.5%		13,75,000
Less : <u>Input tax credit admissible</u>		
On the material purchased Rs. $\left[33,75,000 \times \frac{12.5}{112.5} \right]$	3,75,000	
On the plant purchased Rs. $\left[20,80,000 \times \frac{4}{104} \right]$	<u>80,000</u>	
Total input tax credit		<u>4,55,000</u>
Net VAT payable		<u>9,20,000</u>

(4 Marks)