Gurukripa's Guideline Answers to May 2015 Exam Questions CA Final – Indirect Taxes

Question No.1 is compulsory **(4 × 5 = 20 Marks).**
Answer **any five** questions from the **remaining six** questions **(16 × 5 = 80 Marks).** [Internal Choice in Qn.6(a)]
Note: References are from **"Padhuka's Students' Referencer on Indirect Taxes"**

Question 1 (a): 5 Marks

Arvin Ltd (not availing Small Scale Exemption benefits) sold a Machine to Isha Ltd for ₹ 4,00,000 (excluding Tax & Duties). A Cash Discount of 3% was allowed since Isha Ltd had made full payment in advance. Additional details are given below:

	Particulars	Amount (₹)
1.	Expenses pertaining to Installation and Erection of the Machine at Isha Ltd.'s Premises (Machine was permanently fixed to earth)	20,000
2.	Cost of durable & returnable packing (such cost has been amortised & included in the Cost of the Machine)	5,000
3.	Actual Freight and Insurance from Factory to Buyer's Premises	25,000

Determine the total amount of Excise Duty payable on the Machine. Assume transaction is on Principal to Principal basis. Assume Excise Duty at 12.36% and show working notes.

Solution: Computation of Assessable Value of the Machine u/s 4 of the Central Excise Act, 1944

Particulars	Amount	Reasons
Price of Machine	4,00,000	Given that it is exclusive of duties and taxes. Assumed that given price is without considering the adjustments.
Cash discount	–	Since the Price is influenced due to receipt in advance, such Special Discount is not eligible for deduction. (u/r 6)
Expenses pertaining to installation	–	Since the expense relates to Post Removal Activity, it is excluded from Transaction Value.
Cost of durable and returnable packing	–	To be included as it is an activity before place of removal. As it is already included, no adjustment is needed.
Actual Freight and Insurance from Factory to Buyer's Premises	–	As it is an expense after the place of removal, it is specifically excluded from Assessable Value.
Assessable Value	**4,00,000**	
Add: Excise Duty @ 12% of ₹ 4,00,000	48,000	
Education Cess @ 2% of ₹ 48,000	960	
SHEC @ 1% of ₹ 48,000	480	
Total Excise Duty Payable	**49,440**	

Notes: If the Price is already adjusted for given adjustments, then the Assessable Value shall be Sale price ₹ 4,00,000 + Cash discount (₹ 4,00,000 × 3/97) 12,371 – Actual Freight and Insurance (25,000) = ₹ 3,67,371 & ED shall be ₹ 45,407.

Question 1 (b): 5 Marks

From the following information, compute the value of Taxable Service provided by Ganga Limited assuming that it is not eligible for Small Service Providers' Exemption under Notification No. 33/2012–ST dated 20–06–2012.

Particulars	Amount (₹)
Construction Service provided to International Labour Organization	7,00,000
Construction of Private Clinic for Dr. Ramesh Garg	15,00,000
Renovation Service provided to Government relating to Plant for Sewerage Treatment	30,00,000
Construction of Roads in a Factory	25,00,000
Construction of Residential complex meant for use of Member of Parliament	1,20,00,000
Renting of Residential dwelling for use as residence	22,00,000
Repair and maintenance of Railway Station	13,00,000

Provide brief notes and explanation for your answer.

Solution: Computation of Taxable Services
Assessee: Ganga Limited

Particulars	Amount	Reasons
Construction Service provided to International Labour Organization	Nil	Service provided to international organization are exempt from Service Tax. **[Notfn. 16/2002]**

Particulars	Amount	Reasons
Construction of Private Clinic for Dr. Ramesh Garg	Nil	Since Private Clinic satisfies the definition of Clinical Establishment, it is not taxable. **[Notfn. 25/2012]**
Renovation Service provided to Government relating to Plant for Sewerage treatment	Nil	Specifically exempt as per Notification 25/2012.
Construction of Roads in a Factory	25,00,000	Factory Roads are not specifically exempt.
Construction of Residential complex meant for use of Member of Parliament	Nil	Specifically exempt as per Notification no. 25/2012.
Renting of Resi. dwelling for Residence	Nil	Specifically exempt as per Notification no. 25/2012.
Repair and Maintenance of Railway Station	9,10,000	Taxable as only Construction Services alone are exempt in relation to Railways. Abatement 30% is available. (₹ 13,00,000 × 70%)
Taxable Value	**34,10,000**	

Question 1 (c): 5 Marks

Compute independently in each of the following cases the Taxable Value of Service provided by an Authorized Dealer in Foreign Exchange to its customers. Show working notes as may be required.

(i) 2,500 US $ are sold by Mr. Adani to the 'Sewak Cook', an Authorized Dealer @ ₹ 62.50 per US $. The RBI Reference Rate is ₹ 63.00 for that day.

(ii) ₹ 80,00,000 is changed into Canadian $ and the Exchange Rate offered is ₹ 50 per Canadian $. RBI Reference Rate for conversion of INR into Canadian $ is not available.

(iii) On 01–05–2015 Mr. Exchange gets 1,00,000 Euro converted into 5,00,000 Dirham. As on 01–05–2015 RBI Reference Rate is 1 Euro = ₹ 70, 1 Dirham = ₹ 16.

Solution:

Case	Principle	Computation	Amount
(i)	Taxable Value = No. of Currencies Exchanged × (RBI Reference Rate – Brokerage Rate)	2,500 USD × (63.00 – 62.50)	₹ 1,250
(ii)	Since RBI Reference Rate is not available, Value shall be 1% of the Gross Rupee Exchanged.	1% of ₹ 80,00,000	₹ 80,000
(iii)	If both Currencies Exchanged are not Indian Rupees, the Value shall be 1% of the lesser of the two amounts, the Money Exchanger would have received by converting any of the two Currencies into Indian Rupees at the RBI Rate existing at that time.	Money received by converting – (a) Euros = 1,00,000 × 70 = ₹ 70 Lakhs (b) Dirham = 5,00,000 × 16 = ₹ 80 Lakhs 1% of ₹ 70 Lakhs [Lower of (a) or (b)]	₹ 70,000

Question 1 (d): 5 Marks

1. **Vishal Industries imported goods from USA. CIF Value bearing US $ 2,600. Air freight 500 US $, Insurance Cost 100 US $, Landing Charges are not ascertainable.**
2. **Date of Bill of Entry is 25–09–2014 and Basic Custom Duty on this date is 10% and Exchange Rate notified by Central Board of Excise and Customs is US $ 1 = ₹ 62.**
3. **Date of Entry Inward is 21–10–2014. Basic Customs Duty on this date is 20% and Exchange Rate notified by Central Board of Excise and Customs is US $ 1 = ₹ 60.**
4. **Additional Duty Payable u/s 3(1) of the Customs Tariff Act is 12%, Education Cess is 3% on Duty. Additional Duty Payable u/s 3(5) of the Customs Tariff Act is exempt. Compute the Assessable Value and amount of Total Customs Duty payable under the Customs Act, 1962. Make suitable assumptions, where required. Working notes should form part of your answer.**

Solution:

	Particulars	Computation	Amount	Amount
	CIF Value			$ 2,600
Less:	Insurance		($ 100)	
	Freight		($ 500)	($ 600)
	FOB Value			**$ 2,000**
Add:	20% of FOB or actual Freight whichever is less		$ 400	
	Insurance		$ 100	$ 500
	Revised CIF Value			**$ 2,500**
	CIF in Indian Rupee (Note 1)	**₹ 60 × $ 2500**		**1,50,000**
Add:	1% Handling Charges	1% of ₹ 1,50,000		1,500

Particulars		Computation	Amount	Amount
	Assessable value			**1,51,500**
	Basic Customs duty	20% of ₹ 1,51,500		30,300
	Additional Customs duty	12% of (AV + BCD)		18,180
	Customs duty			**48,480**
Add:	Education Cess at 2% + SHEC @ 1%	3% of ₹ 48,480		1455
	Total Customs duty Payable			**49,935**

Notes: 1. Exchange Rate shall be based on the rate notified by CBEC for the month in which the Bill of Entry is filed.
2. Relevant Date for determination of Rate of Duty shall be the Date of Filing Bill of Entry or the Date of arrival of the Aircraft, whichever is later.

Question 2 (a): 4 Marks

Dev Ltd a Manufacturer, has furnished the following information regarding Inputs received in the Factory and Input Service used for manufacture:–

Sr. No	Particulars		Excise Duty / Service Tax (₹)
(1)	Raw Material	Invoice dated 14–09–2014	31,500
(2)	Grease and Oil	Invoice dated 10–04–2015	5,000
(3)	Input Service	Invoice dated 22–10–2014	19,500
(4)	Office Equipment	Invoice dated 25–11–2014	7,250
(5)	Light Diesel Oil	Invoice dated 02–04–2015	22,000
(6)	Paints	Invoice is missing	3,000

Including Education Cess and Secondary Higher Education Cess. Determine the Total CENVAT Credit that can be availed during the month of April, 2015. Show working notes with suitable assumptions as may be required. The Company is not entitled to SSI Exemption under Notfn. 8/2003 CE dated 01–03–2003.

Solution: Refer Principles and Practical Questions in Chapter 18

Particulars	Amount	Reasons/ Explanations
1. Raw material	NIL	Since the Time Period of 6 months has elapsed from DOI, Credit is ineligible.
2. Grease and Oil	5,000	Covered in the definition of Input, as it is used in Factory of Manufacturer.
3. Input Service	19,500	Eligible for Credit, if it is availed within 6 Months from Date of Invoice
4. Office Equipment	NIL	Excluded as it is not used in Factory and not used in relation to manufacture.
5. Light Diesel Oil	NIL	Specifically excluded from Inputs
6. Paints	NIL	Invoice is the base document for claiming the CENVAT. However, the Assessee can claim CENVAT if Duplicate Invoice available.
Credit that can be availed	**24,500**	

Question 2 (b)(i): 4 Marks

Bombay Media Agency provided the following Services during the quarter ended 31–03–2015:

Services Rendered	Amount (₹)
Advertising through Mobile SMS and E–Mails	**10,00,000**
Sale of space for Advertisement in Newspaper	**6,50,000**
Sale of space for Advertisement in Doon Yellow pages (including ₹ 40,000 for Advertisement in Business Directories)	**90,000**
Advertisement by means of Banner at public places	**75,000**
Advertisement on cover and back pages of 'Books'	**1,20,000**

Compute the Service Tax Liabilities for the quarter ended on 31–03–2015 assuming that the Agency is not eligible for small Services Providers' Exemption and Service Tax at 12.36%. Assume: 1. Point of Taxation for all the aforesaid cases falls during the quarter ended on 31–03–2015. 2. All the charges stated above are exclusive of Service Tax. Provide suitable notes to your answer.

Solution:

Particulars	Reason	Amount (₹)
Advertising through Mobile SMS and E–Mails	Not specifically excluded, Hence taxable.	10,00,000
Sale of space for advertisement in Newspaper	Advertisement in Print Media is not taxable.	Nil
Sale of space for advertisement in Doon Yellow pages (including ₹ 40,000 for advertisement in Business Directories)	Taxableas Print Media excludes Yellow Pages	90,000
Advertisement by means of banner at public places	Taxableas there is no specific exemption.	75,000
Advertisement on cover and back pages of 'Books'	Advertisement in Print Media is not taxable.	Nil

Particulars	Reason	Amount (₹)
Total Taxable Value (exclusive of Service tax)		**11,65,000**
Service Tax	**11,65,000 × 12.36%**	**1,43,994**

Question 2 (b)(ii): 4 Marks

Mark Agro Products Ltd. furnishes the following details of various Service provided by it in the month of August, 2014:

Sr. No.	Particulars	Amount (₹)		Amount (₹)
1.	Rearing of Silkworm and Horticulture.	2,50,000	4. Sale of wheat on commission basis	50,000
2.	Plantation of Tea and Coffee	2,00,000	5. Sale of rice on commission basis	2,00,000
3.	Renting of Vacant Land for performing Marriage Ceremony	4,50,000		

Compute the value of Taxable Service and the Service Tax Liability of Mark Agro Products Ltd. for the month of August, 2014. Assume that Point of Taxation in respect of all activities mentioned above falls in the month of August 2014 itself. Company has paid ₹ 4,00,000 as Service Tax during the Financial Year 2013–2014. Service Tax has been charged separately where applicable. Rate of Service Tax 12.36%. Give reasons by way of short notes to your answer.

Solution:

Particulars	Reason	Amount (₹)
Rearing of Silkworm and Horticulture	Animal Husbandary not taxable	Nil
Plantation of Tea and Coffee	Agricultural Activities not taxable	Nil
Renting of Vacant Land for performing Marriage Ceremony	Taxable	4,50,000
Sale of wheat on commission basis	Taxable	50,000
Sale of rice on commission basis	Taxable	2,00,000
Total Taxable Value (Assumed inclusive of Service Tax)		**7,00,000**
Service tax payable	7,00,000 × 12.36÷112.36	**77,002**

Question 2 (c) (1): 4 Marks

Answer the following with reference to the provisions of the Customs Act, 1962 and Rules made there under:

1. **Mr. A filed a claim for Payment of Duty Drawback amounting to ₹ 50,000 on 30–07–2014. But the amount was received on 28–10–2014. You are required to calculate the amount of Interest payable to Mr. A on the amount of Duty Drawback claimed.**
2. **Mr. X was erroneously refunded a sum of ₹ 20,000 in excess of actual Drawback on 20–06–2014. The same was returned to the Department on 20–10–2014. You are required to calculate the amount of Interest chargeable form Mr. X.**

Solution: **Refer Principles in Page 20.44, Para 20.3.18**

Assessee	Interest Rate	Time Period	Computation	Interest Amount
Mr. A	6% p.a.	30.08.2014 to 28.10.2014 = 59 Days	₹50,000 × 6% × $\frac{59}{365}$	₹ 485
Mr. X	18% p.a.	20.06.2014 to 20.10.2014	₹20,000 × 18% × $\frac{122}{365}$	₹ 1,203

Question 3 (a): 4 Marks

Skincure Ltd manufactured a Cream which was prescribed by Doctors for treating dry Skin Conditions. The said product was also available in Pharmacies without prescription of a Medical Doctor. The composition of the Cream included Urea (10%), Lactic Acid (10%) and Propylene Glycol (10%). The Assessee Skincure Ltd claimed classification as a Medicament under Central Excise Tariff Heading (CETH) 30.03 while the Excise Department was of the view that the same should fall under CETH 33.04 as Cosmetic or Toilet Preparations (Preparations for Care of Skin other than Medicaments). Briefly explain four key tests laid down by the Apex Court in this regard to decide whether a given product should be classified as a Medicament or a Cosmetic or Toilet Preparation (Preparations for Care of Skin other than Medicaments).

Solution: **Refer CCE Vs CIENS Laboratories, CCE Vs Time Pharma Case Law in Page 3.11**

Hint Answer: The Cream Manufactured will be classified as Medicaments.

Question 3 (b) (i): 4 Marks

Fifty persons, each contributing ₹ 2,000 per month, have come together to organize a Chit for a period of 50 Months. At the end of each months, an amount of ₹ 1,00,000 (2,000 × 50) is available in the kitty of the Chit Fund. ₹ 1,00,000 is put to Auction and Subscribers who are interested in drawing the money early because of their needs may participate in the Auction.

The Auction is organized by a 'Key Member' who manages and conducts the proceedings, the successful bidder who is normally the person who offers the highest discount is given the Chit amount. From this discount amount, after deducting a fixed amount representing the Commission payable to the 'Key Member', balance becomes the dividend which is distributed among all the subscribes. The Auction is repeated in the subsequent months and the same procedure is followed. The Subscriber who delays the bidding or does not bid at all stands to gain the maximum discount. The Department vide Notification No. 26/2012–ST dated 20–06–2012, grants an Abatement of 30% to such Services. Explain briefly based on decide case law if Service Tax could be levied on the Services rendered in connection with the Chit Fund Business.

Solution: **Refer UOI Vs. Delhi Chit Fund Association Case Law in Page 12.12**

Hint Answer: Services of Chit Fund were transaction in money, and hence not liable to Service Tax. Providing Partial exemption or abatement is not valid, as the entire activity itself is not a service

Question 3 (b) (ii): **4 Marks**

Whether expenditure like travel, hotel stay, transportation and the like incurred by the Service provider in the course of providing Taxable Service may be treated as consideration for Taxable Service and included in value of charging Service Tax? Explain briefly with reference to decided case law.

Solution: **Refer Intercontinental Consultants and Technocrats Pvt. Ltd. Case Law in Page 16.9**

Hint Answer: They are not Consideration and hence, not included in the Value of Taxable Service

Question 3 (c): **4 Marks**

The Assessee was dealing in Smuggled Goods though no Smuggled Goods were seized from the Assessee. Duty was demanded from the Assessee u/s 28 and 125(2) of the Custom Act.

The Tribunal in this case held that duty can be demanded u/s 28 only from the person who is the Importer u/s 2(26) of the Act. Further duty u/s 125(2) of the Act can be demanded only if the Smuggled Goods are seized, confiscated and an option to pay fine is given to the person from whose possession the goods were seized or to the owner of the goods. Based on Case Law, if any, explain whether Department's contention to Demand Duty u/s 28 and 125(2) of the Customs Act is justifiable.

Solution:

1. **Principle:** Refer Principles relating to the Smuggled goods and Confiscation in Chapter 21.
2. **Analysis:** The Assessee did not import the goods but was only a dealer of the Smuggled Goods. Therefore, there was no obligation cast on him under the Act to pay Duty. Thus, the Notice issued u/s 28 of the Act to the Assessee is unsustainable, as he is not the person who is chargeable to duty under the Act. Since no goods were seized, there could not be any confiscation and in the absence of a confiscation, question of payment of duty by the person who is the owner of the goods or from whose possession the goods are seized does not arise.
3. **Conclusion:** Based on the above observations, the High Court held that no duty is leviable against the Assessee as he is neither the importer of the goods not was in possession of any goods. **[CCus Vs Dinesh Chhajer 2014 (300) ELT 498 (Kar.)]**

Question 4 (a): **4 Marks**

AK & Co deposits the required amount of ₹ 1,00,000 as pre–deposit on 30–09–2014 and files an appeal before the CESTAT. The said appeal is decided in favour of AK & Co on 30–11–2014. AK & Co forwards a letter seeking refund of pre–deposit on 7–12–2014 and the same was refunded on 15–12–2014. Based on the amendments made by the Finance (No. 2) Act, 2014 explain whether AK & Co. is entitled to payment of Interest and compute the amount of Interest payable on refund of such pre–deposit.

Solution: **Refer Principles in Page 23.12, Para 23.2.11**

Interest Rate	Date of Payment	Date of Refund	Time Period	Computation	Amount
6% p.a.	30.09.2014	15.12.2014	76 Days	₹ 1,00,000 × 6% × 76÷365	₹ 1,249

Question 4 (b): **4 Marks**

With reference to Recent Amendments made by the Finance (No.2) Act, 2014 and Budget Notifications briefly explain the following:

(i)	"Intermediary Services" under the Place of Provision of Service Rules, 2012.	**Refer Principles in Page no. 15.7 & 15.8 Para 15.1.13 & 15.1.16.** **Hint Answer:** Location of the Service Provider
(ii)	Manner of Determination of Rate of Exchange for Purpose of Payment of Service Tax.	**Refer Principles in Page no. 16.4 Para no. 16.2A.1 Point 6** **Hint Answer:** As per generally accepted Accounting Principles

Question 4 (c): **4 Marks**

With reference to the changes made in the Finance (No. 2) Act, 2014 and Budget Notifications briefly explain:

(i)	POT under Reverse Charge with respect to payment date.	**Refer Page No. 13.19 Para 13.3D.1.**
(ii)	Place of provision of Service of hiring of all means of transport.	**Refer Page no. 15.7 Para 15.1.13.**

Question 4 (d) (i): 2 Marks

Briefly explain with reference to the provisions of the Customs Act the Relevant Date for Determination of Rate of Duty and Tariff Valuation for Imports through a Vehicle where Bill of Entry is filed prior to the Arrival of the Vehicle.

Solution: **Refer Principles in Page 8.30, Para 8.3A.1**

Hint Answer: Relevant Date is the Date of Arrival of the Vehicle.

Question 4 (d) (ii): 2 Marks

Write a short note on the applicability of Safeguard Duty under the Customs Tariff Act, 1975 on articles imported by EOU / SEZ Unit and cleared as such into Domestic Tariff Area (DTA).

Solution: **Refer Principles in Page 7.10, Para 7.15, Point No.4**

Hint Answer: Safeguard Duty shall be applicable.

Question 5 (a): 4 Marks

KPG Ltd are Manufacturers of Machinery for Paper Plant and parts thereof which are liable to Excise Duty under Central Excise Act, 1944. KPG Ltd entered into a contract for setting–up of a Paper Mill in Cambodia. KPG Ltd manufactured certain Machines in its own Factory and also purchased certain other Machinery form other Dealers. Both the Machineries (manufactured and bought–out) were then put into a Container and transported to Cambodia for setting–up the Paper Plant. The Assessee availed CENVAT Credit on bought–out Machinery describing them as eligible Capital Goods. The Department, however, contends that the bought–out machinery is not eligible Capital Goods as the same has not been used by the Assessee in its Factory Premises. Write a brief not on whether the stand taken by the Department is correct in law.

Solution: **Refer KCP Ltd Vs CCE Case Law in Page 18.7**

Hint Answer: Assessee shall not be eligible for CENVAT Credit.

Question 5 (b) (i): 4 Marks

Discuss, in brief, whether the following payments constitute a consideration for provision of service.

(i)	**Imposition of fine or penalty for breaking of law**	Not a Consideration, as there is no activity from one person to another.
(ii)	**Advance forfeited for cancellation of an agreement to provide a Service.**	**Refer Page 12.10 Illustration.** **Hint Answer:** Consideration
(iii)	**Security Deposits forfeited for damages caused by Service Receiver in the course of receiving a Service.**	**Refer Page 12.10 Illustration.** **Hint Answer:** Consideration
(iv)	**Demurrages payable for use of service beyond the period initially agreed upon: E.g. retention of containers beyond the normal period.**	**Refer Page 16.9 Illustration.** **Hint Answer:** Consideration

Question 5 (b) (ii): 4 Marks

Surbhi Limited entered into a contract with Meena Limited for construction of a new building to be used primarily for the purpose of Commerce or Industry for a Total Consideration of ₹ 500 lakhs on October 01, 2014. The said services fall within the purview of 'Works Contract Services'. The initial booking amount of ₹ 100 lakhs was billed and received on the Date of Contact itself. It was further agreed that ₹ 170 Lakhs, ₹ 140 Lakh, ₹ 90 Lakhs respectively would be received on Completion of 50%, 75% and 100% of the construction work of the Building. Determine the Point of Taxation respect of each of following stages of completion with the help of relevant details furnished as under:

Stage	% of Completion of the Building	Date of Completion	Date of Issuance of Invoice	Date of Payment of Stipulated amount
I	50%	November 20, 2014	November 30, 2014	January 25, 2015
II	75%	December 30, 2014	February 25, 2015	January 30, 2015
III	100%	February 25, 2015	March 03, 2015	March 01, 2015

A Certificate from Chartered Engineer registered with Institution of Engineers has been obtained for each stage of completion of the Building. Give brief reasons for your answer.

Solution: **Refer Rule 3 in Page 13.12, and Continuous supply of service in Page 13.16**

Stage	Amount (₹ in Lakhs)	Date of Completion (DOC)	Point of Taxation (POT)	Reason
Initial Amount	100	NA	01.10.2014	In case of receipt of advance, POT shall be the date of receipt of advance.
I	170	20.11.2014	30.11.2014	Since DOI is within 30 days from DOC, POT shall be the DOI or DOP whichever is earlier.

Stage	Amount (₹ in Lakhs)	Date of Completion (DOC)	Point of Taxation (POT)	Reason
II	140	30.12.2014	30.12.2014	Since DOI is beyond 30 days from DOC, POT shall be DOC or DOP whichever is earlier.

Question 5 (c): 4 Marks

Explain briefly with respect to the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 the chief reasons for which the Proper Officer could raise doubts on the truth or accuracy of the declared value.

Solution: **Refer Principles in Page 8.25, Para 8.1M.2, Point No. 4**

Question 6 (a): 4 Marks

State briefly the amounts that are credited to the Consumer Welfare Fund set up under Section 12 C of the Central Excise Act, 1944.	**Refer Page 20.25, Para 20.2.7**
OR	
(i) Who is required to submit quarterly return under Rule 9(8) of CENVAT Credit Rules, 2004? Explain briefly.	**Refer Page 18.52, Para 18.5A.1.** **Hint Answer:** First and Second stage dealer.
(ii) M/s. Enterprises Pvt. Ltd paid excise duty of ₹ 90,000 in the financial year 2013–2014. Its Excise Duty liability for the month of October 2014 is 25,000. M/s. Enterprises has availed SSI exemption under Notification No. 8/2003–CE dated 1–3–2003 in the financial year 2013–2014 and 2014–2015. What is the due date for payment of Excise Duty? Briefly state with reasons.	**Refer Page 5.8, Para 5A.3.2.** **Hint Answer:** 6th January 2015 in case of E–Payment. 5th January 2015 in other Cases.

Question 6 (b)(i): 2 Marks

Harman Enterprises fails to pay service tax of ₹ 5,000 payable on 6th October, 2013. It actually deposited the same on 6th October, 2014. Compute the amount of penalty under section 76 of the Finance Act, 1994 that can be imposed on Harman Enterprises in this case.

Solution: **Refer Principles in Page 13.10, Para 13.3D.1**

Particulars	Computation	₹
Minimum Penalty – Higher of (a) and (b) **(1)** (a) ₹ 100 for every day of failure to pay Service Tax – 06.10.2013 to 06.10.2014 (b) 1% of Service Tax per month	 365 Days × ₹ 100 = 36,500 1% × ₹ 5,000 × 12 = 600	36,500
Maximum Penalty – 50% of Service Tax that the Assessee failed to pay **(2)**	50% of ₹ 5,000	2,500
Penalty u/s 76 – Lower of (1) or (2)		**2,500**

Question 6 (b)(ii): 2 Marks

What is the maximum penalty leviable under the Finance Act, 1994 and Rules in the following cases?

(a) Failure to make e–payment.
(b) Issue of invoice with incorrect or incomplete details.
(c) Failure to account for an invoice in the books of accounts.
(d) Failure to keep, maintain or retain books of accounts and other documents as required as per the provisions of law.

Briefly explain with reference to the provisions of law.

Solution: **Refer Principles in Page 17.4, Para 17.1.5** **Hint Answer:** Maximum Penalty – Upto ₹ 10,000 in all cases.

Question 6 (c): 4 Marks

An Assessee collected ₹ 1 Crore as Service Tax during the period between Financial Year 2011–2012 to 2013–2014 but deposited only ₹ 20 Lakhs with the Government till 10–05–2013. He was arrested on 22–02–2014 on the ground that he had not deposited Service Tax exceeding ₹ 50 Lakhs within a period of 6 months from the date on which payment became due.

The Assessee did not dispute the liability to pay the service tax to the Government but he submitted that only the amount collected between 10–05–2013 and 21–08–2013 i.e. (6 months prior to his arrest) should be considered while calculating the amount of ₹ 50 Lakhs for applying the Penal Provision u/s 89(1)(ii). But Revenue contended that since failure to deposit Service Tax with Central Government after collecting it from the Customers was continuing offence, entire amount of Arrears of Service Tax was required to be taken as liable to be deposited. Discuss with the help of decided case law (if any) whether the contention of Assessee is maintainable.

Solution:

1. **Principles: Refer principles relating to Service Tax Offences in Page 22.3**
2. **Analysis & Conclusion:** The High Court held that since the said offence is a continuing offence, entire amount of service tax outstanding which is required to be deposited with the Central Government as on 10.05.2013, would be taken into consideration while calculating the amount of ₹ 50 lakh as contemplated by Sec.89(1)(ii). **[Kandra Rameshbabu Naidu v. Superintendent].** Hence, Assessee's contention is not valid.

Question 6 (d): 4 Marks

Briefly explain the salient features of the Duty Free Import Authorization Scheme under Foreign Trade Policy.

Solution: **Refer Principles in Page 11.6, Para 11.2.3**

Question 7 (a): 4 Marks

State briefly with reasons whether Registration under the Central Excise Act, 1944 and Rules made thereunder is required:

Solution:

(i)	**Importer who issues an invoice**	Required	**Refer Page 5.2, Para 5A.1.6**
(ii)	**Godown or Duty Free Outlet of Duty free shop**	Exempt	**Refer Page 5.52, Notfn. 09/2013**
(iii)	**Mine engaged in production of specified goods.**	Exempt	**Refer Page 5.3, Para 5A.1.7**
(iv)	**Premises used for affixing Prices on Pharmaceutical Products.**	Exempt	**Refer Page 5.3, Para 5A.1.7**

Question 7 (b): 4 Marks

Determine the Place of Provision of Service as well as their Taxability in each of the following case with brief reasons:

(a) XY Ltd agrees to provide 'technical inspection and certification service' in respect of newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different states or countries). The overseas firm had provided its newly developed products to XY Ltd for the purpose of testing. The testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).

(b) A movie on demand is provided as on–board entertainment during the Kolkata–Delhi leg of a Bangkok–Kolkata–Delhi Flight.

Solution:

Case	**Relevant Rule**	**Place of Provision**	**Reason**
(a)	Service Provided at Multiple Location **(Rule 7)**	Assam	**Refer Page 15.6, Para 15.1.11.**
(b)	Service provided on–board a Conveyance **(Rule 12)**	Bangkok	**Refer Page 15.10, Para 15.1.21.**

Question 7 (b)(ii): 4 Marks

With reference to the Finance Act, 1994 and the Rules made thereunder state whether Registration is required in the following cases and if so the date by which Registration ought to be obtained under the Rules:

(a) Mr. Sureshot was carrying on the business in providing Services under an unregistered brand name of another person from 1–7–2014. The Service during the period 1–7–2014 to 30–09–2014 were not taxable. However, from 1–10–2014 the said services were brought within the tax net. For the year ended 31–03–2015 the Taxable Value of Services has exceeded ₹ 9,00,000.

(b) An Input Service Distributor with branches located on pan–India basis having commenced business from 01–10–2014.

Solution: **Refer Principles in Page 13.1 & 13.2 , Para 13.1.1 & 13.1.2**

Assessee	**Registration**	**Due Date**	**Reason**
Mr. Sureshot	Required	31.10.2014	Within 30 days from the date on which the Service becomes taxable, since exemption limit does not apply to Assessee providing services under brand name of another person.
Input Service Distributor	Required	31.10.2014	Within 30 days from the date of commencement of business, since exemption limit does not apply Input Service Distributor.

Question 7 (c): State briefly 4 Marks

Which Reward Scheme provided under Foreign Trade Policy aims at compensating high transport cost and offset other disadvantages in the export of specified Agriculture Products? Who are Eligible Exporters under the Scheme and what is the Rate of Entitlement under this Scheme? How can the Duty Scrip's issued under this Scheme be utilized?

Solution: **Refer Principles in Page 11.9, Para 11.2.9**