

CENTRAL EXCISE

Contents:
Basic, Goods, Manufacture, Manufacturer, Collection of duty, Classification, Valuation – Rule 4A and Rule 4, SSI.

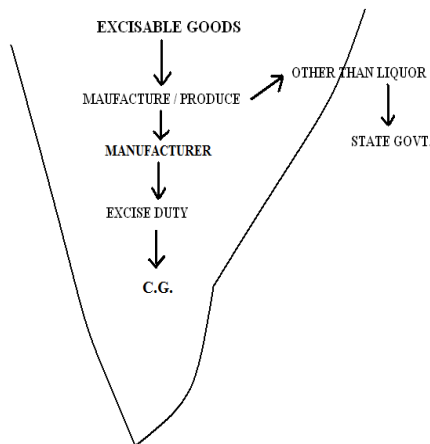
BASIC:

► Background of Central Excise:

Constitution of India	
↓	
Article 246 (1)	Article 246 (3)
↓	↓
Gives power to CG to make laws in respect of matters given in List-I in 7 th Schedule to the constitution. [Union List]	Gives power to SG to make laws in respect of matters given in List-II in 7 th Schedule to the constitution. [State List]

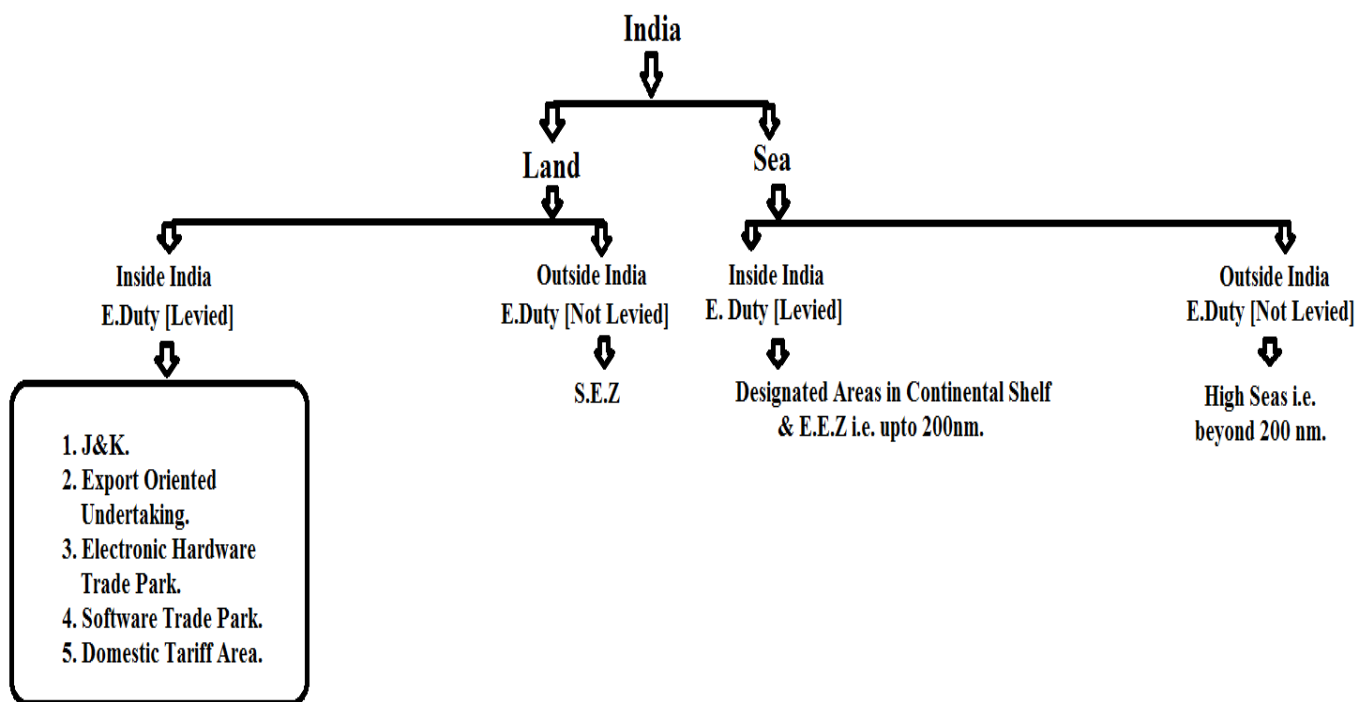
► Levy of Excise Duty:

Union List- Entry No. 84
↓
Empowers CG to levy excise duty on tobacco and other goods manufactured or processed in India
↓
Excluding: Alcoholic liquors for human consumption, opium, narcotics
↓
Including: Medical and toilet preparation containing alcohol, opium or narcotics.



► Extent and Commencement:

The Central Excise Act, 1944 extends to the whole of India.
 Further extended up-to designated areas in the Continental Shelf and EEZ [Exclusive Economic Zone] i.e. up-to 200 nautical miles in the sea.



► **Basic conditions for levy of excise duty:**

- There must be goods (*goods must be moveable and marketable*).
- Such goods must be excisable. (*Excisable goods means those goods which are specified in the First and Second schedule of Central Excise Tariff Act 1985*)
- Such goods must result out of production or manufacture.
- Such production or manufacture must take place in India (other than SEZ).
- No excisable goods on which duty is payable shall be removed without payment on duty from any place where they are produced or manufactured. Thus excise duty is payable on removal of excisable goods from factory or registered warehouse.
- A new product should come into existence having a distinct name, character or use.

CASE STUDY

Examine whether central excise duty is leviable in the following cases:

Case	Solution
Tibrewal builders have constructed an office building for M/s Dholakia & Co.	
Raj Maintenance Services Ltd. provided maintenance services for refrigerator and air conditions	

► **Laws relating to Central Excise:**

- I. Central Excise Act 1944. [Comprises Bare Act regarding charging of Duty, Valuation, Powers of officers, Provisions of arrest, Penalty etc].

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- II. Central Excise Tariff Act 1985. [Comprises 96 chapters with codes assigned for classification of goods]
- III. Central Excise Rules, 2002 [Comprises Procedural aspects]
- IV. Central Excise valuation (Determination of Price of Excisable Goods) Rules 2000 [Comprises Procedural aspects]
- V. Cenvat Credit Rules 2004 [Comprises provisions regarding CCR availability and utilization]

► **Rate of excise duty:** 12%, EC 2%, SHEC 1%.

GOODS:

Prerequisites:

- Includes moveable property other than actionable claims and money.
- Includes stocks and shares.
- Includes tangible and intangible items like drawings, designs IT Software etc.
- Basic aspects of goods are: moveable and marketable.

Doubt clearing:

- | |
|---|
| <ul style="list-style-type: none">1. Actual sale is necessary?
<i>Answer:</i>2. Centralized Air Condition – goods?
<i>Answer:</i>3. Commodities having short life – goods?
<i>Answer:</i>4. Goods given as free sample – goods?
<i>Answer:</i> |
|---|

MANUFACTURE:

Prerequisites:

- It includes any process which is incidental / ancillary to the completion of a manufactured product.
- Transformation into a new and different article / product having a **distinctive name, characteristics or use.**
- Manufacture includes deemed manufacture.

Question: Fantastic Hindusthan Motors Ltd. purchases raw material and supplies it to JKC Engineering Co. JKC Engineering Co. manufactures automobile components as per the design supplied by Fantastic Hindusthan Motors Ltd. Such components bear brand name of Fantastic Hindusthan Motors Ltd. namely 'Fantastic Hindusthan'. JKC Engineering Co. supplies these components to Fantastic Hindusthan Motors Ltd., who in turn sells them in market as spare parts of automobile. Who is liable to pay central excise duty?

Question: Avinash purchases cloth and gives it to Bishamvar Prasad, who is a tailor, to stitch a shirt as per measurement and requirement of Avinash. Bishamvar Prasad stitched the shirt and gave it to Avinash. In the given case, who is a manufacturer of shirt for the purpose of levy of central excise duty.

Deemed Manufacture: Examples:

- Dairy products (Milk, cream, butter)
- Audio video tape.
- Product of tariff item 2016 90 30, spices, menthol, tobacco.
- Building a body fabrication of structure of motor vehicles.
- Labeling / relabelling of containers / repacking.
- Preparation of meat, fish etc.

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Case	Solution
Akriti Ltd. is buying oil in drums of 200 liters. They pack these oil tins of 1 liter each. Put their level giving details of content. Volume and MRP.	

MANUFACTURER:

- A Person
- Carrying out manufacture
- u/s 2(f) of CEA is the manufacturer.

Following are also included in the definition of manufacturer:

- a manufacturer who manufactures through hired labour. (Ex: Job worker)
- a manufacturer who manufactures on his own account.

COLLECTION OF EXCISE DUTY:

Excisable goods cannot be removed from the place of manufacture or from warehouse without payment of duty whether for consumption/export/manufacture of any other commodity in or outside the place of manufacture until the E.Duty leviable thereon has been paid.

Person liable to pay duty: Every person who produces/manufactures any excisable goods or who stores such goods in a warehouse is liable to pay excise duty.

Exception: Where molasses are produced from Khandasi Sugar factory, the person who procures such molasses for use in the manufacture of any commodity is liable to pay duty on such molasses.

Relevant dates for determination of rate of duty:

For excisable goods other than Khandsari molasses -	Date when such goods are removed from the factory/warehouse.
For Khandsari molasses -	Date of receipt of such molasses.
Captive consumption-	Date when the goods are issued for such use.

- i. Physical control procedure: Applicable to cigarettes only. In this case, the assessment is prioritize regarding clearance which takes place under the supervision of C/E Officers.
- ii. Self removal procedure: Applicable for all other goods produced / manufactured in India as assessee himself determines the duty liability on the goods and clears the goods.

CLASSIFICATION:

- ▶ Goods are classified in proper heading or sub-heading of Central Excise Tariff Act 1985 to determine applicable rate of duty.
- ▶ Goods are classified at the time of removal from factory.
- ▶ Coding: 8 digit code:
 - First 4 digits denotes chapter heading
 - First 6 digits denotes chapter sub heading
 - 8 digits denotes tariff item no. to facilitate more items in the chapter.
- ▶ HSN Commodity description: it is an internationally accepted product coding system as per GAAT. (General Agreement on Tariff and Trade)
- ▶ Trade parlance theory – If a product is not adequately classified in CETA, it should be classified according to its popular meaning or meaning attached to it by those dealing with it i.e. commercial sense.

VALUATION:

- ▶ Assessable value or Transaction value:

It is the price actually paid or payable for the goods when sold, which includes in addition to the amount charged a price, any amount that the buyer is liable to pay to the assessee or to any other person on behalf of the assessee and includes-

- ✓ Advertisement or publicity
- ✓ Marketing

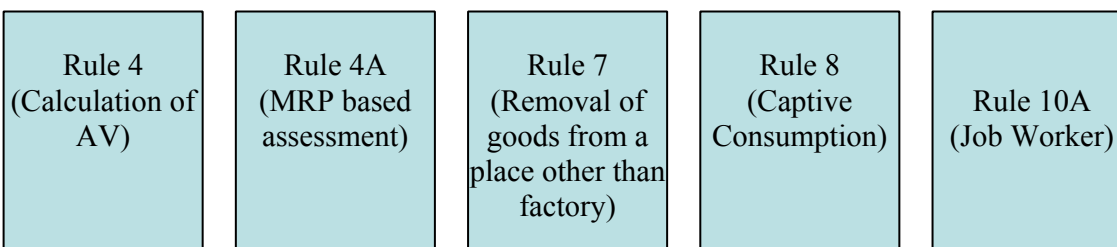
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- ✓ Selling
- ✓ Organization expenses
- ✓ Storage
- ✓ Outward handling
- ✓ Servicing
- ✓ Warranty
- ✓ Commission

But, does not include:

- ✓ Excise Duty,
- ✓ Sales Tax
- ✓ Other taxes actually paid or payable on such goods.

**Valuation
Rule**



As per Rule 4: Assessable value of the excisable goods shall be 'transaction value'.

Transaction value includes:	Transaction value includes:
Outward handling upto place of removal.	Durable/reusable packing as it is amortized and included in the cost of product itself.
All forms of packing [special, general, protective, etc.]	Optional bought out items and accessories.
Dharmada / Charity.	Independent testing done by the buyer himself or through a third party.
Design, development and engineering charges specific to goods produced.	All forms of discount if actual passed on to the buyers.
Bought out essential items if the same are fitted to the main article at the time of removal.	Notional interest on deposits advances unless it can be proved that price has been lowered on account of receipt of such advance from the buyer.
Consultancy charges relating to design, layout etc of final product done upto place of removal.	Interest on delayed payment of receivables.
Testing and Inspection charges	Bank charges for collection of sale proceeds.
Erecting, installation, commissioning charges resulting in moveable property.	Delayed payment charges.
Pre delivery inspection charges and after sale service charges collected by manufacturer.	Outward freight from factory/depot to place of customer.
Freight from factory to depot if sale is from depot.	Transmit insurance.

Problem 1: Determine the amount of excise duty payable under section 4 of the Central Excise Act, 1944:

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	Rs.
Price of machinery excluding taxes and duties	5,50,000
Installation and erection expenses	21,000
Packing charges (primary and secondary)	11,500
Design and engineering charges	2,000
Cost of material supplied by buyer free of charges	8,500
Pre delivery inspection charges	500

Other information:

- a. Cash discount @ 2% on price of machinery was allowed as per terms and conditions of contract since full payment was received before dispatch of machinery.
- b. Brought out accessories supplied along with machinery valued at Rs. 6,000
- c. Central Excise Duty rate 12% and EC, SHEC as applicable @ 3%.

Make suitable assumptions as are required and provide brief reasons.

RULE 4A:

As per Rule 4A, assessable value for RSP based assessment will be RSP or MRP less abatement.

Value = RSP Printed on the package – Abatement, if any notified by Govt.

Notes:

1. More than one RSP on package of excisable goods – Maximum of such price to be deemed as the RSP.
2. Different RSPs on different packages meant for sale in different areas – Each such RSP to be the RSP in the relevant area.
3. RSP increased after clearance from the place of manufacturer – increased RSP to be deemed as the RSP.
4. RSP declaration is not mandatory on wholesale packages, packaged commodities for institutional/industrial consumers, agro farm products.

Problem 2: Relaxo Footware is a leading manufacture of shoes. Legal Metrology Act, 2009 requires declaration of RSP on the package of shoes and shoes are also notified under section 4A of Central Excise Act, 1944 (RSP based valuation provisions).

From the following information, calculate excise duty payable on a pair of shoes.

Abatement available on shoes	40% RSP
MRP marked on the package	Rs. 2,000 per pair of shoes
Price at which Relaxo Footware sells the shoes to their wholesaler	Rs. 1,300 per pair of shoes
Price at which Relaxo Footware sells the shoes to their retail shop owners.	Rs. 1,500 per pair
Price at which shoes are sold by retailers to final consumers	Rs. 1,900 [Rs. 100 offered as discount on printed retail sale price]
Excise Duty	12%
E.Cess	2%
S.H.E.Cess	1%

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S.S.I

Any unit whose value of clearance of excisable goods for home consumption does not exceed Rs. 400 lakhs in the preceding FY is entitled for SSI exemption in the current year.

Effect of SSI exemption: Clearance of finished goods for home consumption up-to Rs. 150 lakhs and clearance of intermediate goods for captive consumption wholly exempt from excise duty.

Example:

FY	Turnover (Rs. in lakhs)	Status	Pay Duty on	E Duty @ 12.36%
2012-13	300	<i>1st Yr: SSI</i>	<i>Rs. 150 lakhs</i>	<i>18.54 Lakhs</i>
2013-14	450	<i>2nd Yr: SSI</i>	<i>Rs. [450-150] lakhs.</i>	<i>37.08 Lakhs</i>
2014-15	200	<i>3rd Yr: Not SSI</i>	<i>Rs. 200 Lakhs.</i>	<i>24.72 Lakhs</i>

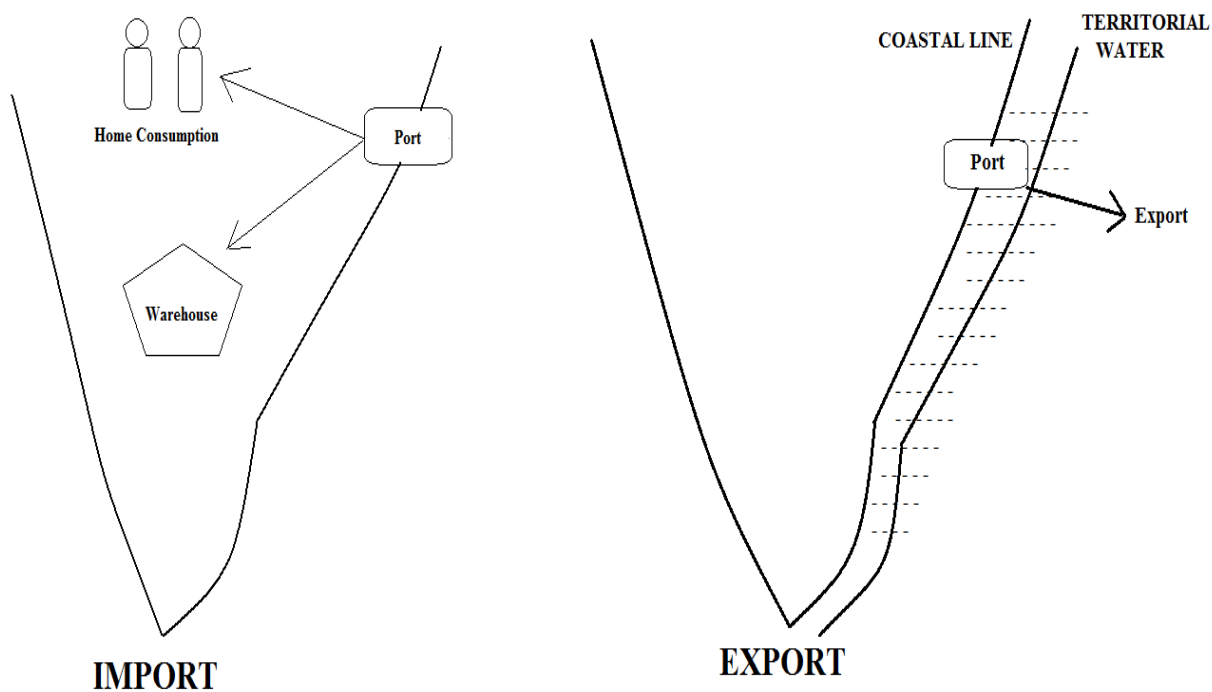
Notes:

1. Clearance to 100% EOU excluded for calculation purpose.
2. Clearance of goods which are exempted by any Notification: excluded for calculation purpose.
3. Export to Nepal and Bhutan: considered as home consumption so it is included for calculation purpose.
4. Turnover of goods manufactured in rural areas with the brand name of others: shall be included for computation purpose.

CUSTOMS

Contents:
 Basic, Classification & Types of Duty, Valuation.

BASIC



Taxable event in case of import / export:		
	In case of	Taxable event is
Imports	Goods cleared for home consumption	Time when the goods become part of the mass of goods within the country.

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	Goods cleared for warehousing	Time when the goods are cleared from the warehouse.
Exports	Exports of goods are complete when the goods cross the territorial waters of India.	

Derelict, Flotsam etc. Denatured goods:	
Levy of the customs duty on goods derelict [very poor condition], wreck [destruction of a ship in sea], and jetsam [unwanted material thrown from ship and washed ashore] etc. ↓ All goods derelict, jetsam, flotsam and wreck brought or coming into India, shall be dealt with as if they were imported into India and custom duty is payable on such goods. But, these goods will be entitled to be admitted duty-free and duty would not be levied provided it is shown to the satisfaction of the proper officer.	Power to make rules for denaturing [change the natural quality], or mutilation [severe injury] of goods ↓ An importer can request CG to denature or mutilate the imported goods, which are ordinarily used for more than one purpose, so as to render them unfit for one or more of such purpose. If the goods are denatured or mutilated, they are assessed as if the goods were imported in denatured or mutilated form. The CG has framed Denaturing of Spirit Rules, 1972 in this regard.

Exemption from Custom Duty:	
CG may grant exemption from custom duty if it is satisfied that is necessary in the public interest to do so.	
General Exemption ↓ CG may by notification in the official gazette, exempt generally either absolutely or subject to specified conditions.	Special Exemption ↓ CG may by special order, exempt from payment of duty, any goods on which duty is leviable only under circumstances of an exceptional nature to be stated in such order.

Customs Duty not leviable in certain cases:	
No duty on pilfered goods	If any imported goods are pilfered after unloading thereof but before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods. However, where such goods are restored to the importer after pilferage, the importer becomes liable to pay duty.
Remission of duty on goods lost or destroyed	Where it is shown to the satisfaction of AC/DC of Customs that, any imported goods have been lost [otherwise than as a result of pilferage] or destroyed, at any time before clearance for home consumption, the AC/DC shall remit the duty on such goods.
No duty in the case of relinquishment of the title to the goods	The owner of any imported goods may at any time - before an order for clearance of goods for home consumption - or - before an order for permitting the deposit of goods in a warehouse has been made, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon. Such relinquishment is not allowed in respect of such goods regarding which an offence appears to have been committed under this act. or any other law for the time being in force.

Abatement of duty on damaged or deteriorated goods	The goods are damaged or deteriorated under any of the following circumstances: <table border="1" data-bbox="537 281 1375 865"> <tr> <th colspan="2" data-bbox="537 281 1375 317">In case:</th></tr> <tr> <td data-bbox="537 317 1144 562">Any imported goods, other than warehoused goods, has been damaged on account of any accident, at any time after the unloading thereof in India but before their examination for assessment by the customs authorities</td><td data-bbox="1144 317 1375 562">Provided such accident is not due to any willful act, negligence or default of the importer, his employee / agent.</td></tr> <tr> <td data-bbox="537 562 1144 653">Any warehoused goods has been damaged on account of any accident, at any time before clearance for home consumption</td><td data-bbox="1144 562 1375 653"></td></tr> <tr> <td colspan="2" data-bbox="537 653 1375 865"> Valuation of the damaged / deteriorated goods: The value shall be- a. value ascertained by the proper officer or b. the proper officer may sell such goods by public auction / tender or if the importer agrees, in any other manner and the gross sale proceeds shall be deemed to be the value of such goods. </td></tr> </table>	In case:		Any imported goods, other than warehoused goods, has been damaged on account of any accident, at any time after the unloading thereof in India but before their examination for assessment by the customs authorities	Provided such accident is not due to any willful act, negligence or default of the importer, his employee / agent.	Any warehoused goods has been damaged on account of any accident, at any time before clearance for home consumption		Valuation of the damaged / deteriorated goods: The value shall be- a. value ascertained by the proper officer or b. the proper officer may sell such goods by public auction / tender or if the importer agrees, in any other manner and the gross sale proceeds shall be deemed to be the value of such goods.	
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► Body of Customs Laws comprises → The Customs Act 1962.

→ The Customs Tariff Act 1975.

► Rates of Custom Duty: The basic rates of custom duty are 5%, 7.5%, and 10 %. Highest rate of basic customs duty is 10% for non agricultural products, with some exceptions. On baggage, the general rate of duty is 35% and no additional duty of customs is leviable on baggage.

► The Customs Act 1962 → Deals with the following topics/provisions:

1. levy of import and export duties of customs on goods imported into or exported from India through sea, air or land.
2. levy and collection of duties.
3. importation or exportation.
4. transit and transshipment. (*in transit, goods remain in same vehicle, whereas in transshipment goods are transferred from one ship or form of transport to another*)
5. prohibitions.
6. warehousing.
7. duty drawback.
8. appeals.
9. settlement commission.
10. advance ruling.
11. offences and penalties.

► The Customs Tariff Act 1975→ This has been enacted for classification of goods. The various types of duties to be levied on the importation and exportation of the article are provided under this act. It contains schedule, the First Schedule is known as 'Import Tariff' [deals with goods liable to import duties of customs] and Second schedule is known as 'Export Tariff' [deals with goods liable to export duties of customs].

Self Assessment	Importer and exported both shall self-assess the duty, if any, leviable on such goods imported/exported.
Reassessment	When it is found on verification/examination/testing of the goods that self assessment is

	not done correctly, the proper officer may re assess the duty leviable on such goods. In this case, proper officer shall pass speaking order within 15 days from the date of reassessment of the bill of entry/shipping bill, as the case may be.
Provisional Assessment	Proper officer can direct for Provisional Assessment in the following cases: ➤ Where importer/exporter is unable to make self assessment and make request in writing to the proper officer for assessment. or ➤ Where proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test. or ➤ Where necessary documents are not produced or required information is not furnished to make further enquiry. ➤ Where the importer/exporter have produced all the necessary documents and furnished full information but proper officer deems it necessary to make further enquiry.

CLASSIFICATION AND TYPES OF DUTY

► **Basic Custom Duty:** It means the Duty which is levied under the charging sec 12 of the Customs Act 1962 on any imported/export goods at the rates specified in the First and Second Schedule of the Customs Tariff Act, 1975 on transaction value u/s 14(1) or tariff value determined u/s 14(2) of the Customs Act, 1962.

► **CVD/Countervailing Duty:** Any article which is **imported** into India shall be liable to an additional duty of customs equal to excise duty for the time being leviable on a **like article**, if produced or manufactured in India.

In case if a like article is not so produced or manufactured, then an additional duty of customs will be leviable equal to the excise duty for the time being leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest rate of excise duty shall be taken for calculating additional duty of customs.

Note:

1. In case of alcoholic liquor for human consumption, CVD is notified by CG.
2. EC and SHEC leviable on additional duty of customs are exempt.

► **Special CVD:** If CG is satisfied that it is necessary in public interest to levy on any imported article such additional duty as would counter – balance the sales tax, Vat. Local sales tax or any other charges on a like article on its sale, purchase, or transportation in India then it may, by notification direct that such imported article shall be liable to Special CVD at a rate not exceeding 4% of the value of the imported articles as specified by notification.

► **Calculation of Total Cost of imported goods, Custom Duty payable**

Assessable value or Tariff value of customs Act	A
+ Basic Duty of customs	B
Value for the purpose of levy of additional duty of customs	C= A+B
+ Additional duty of customs = Excise Duty	D
+ EC, SHEC on customs duty [2%+1% = 3% on B+D]	
Value for the purpose of levy of additional duty of customs	F=C+D+E
+ Additional duty of customs = Sales Tax, VAT etc.	G
Total cost of imported goods	H=F+G
Total customs Duty payable	B+D+E+G Or H-A

Problem 1: The assessable value of imported goods is Rs. 10 lakhs. The Basic Customs Duty is 10%. The Excise duty on like articles manufactured in India is 12%. Additional customs duty equals to sales tax, VAT etc is 4%. EC 2%, SHEC 1%. Compute total Customs duty and imported cost of the goods.

► **Calculation of Additional Duty of customs under Retail Sale Price (RSP) based excise duty:**

The value of imported article shall be deemed to be the:

Retail Sale Price declared on the imported article	***
Less: Abatement, if, any, from such retail sale price as allowed in the said notification	***
Value for the purpose of levy of additional duty of customs	***
Additional duty of customs 12% (No EC and SHEC in view of exemption in this regard)	***

Note: When More than one RSP declared, then highest to be taken: where on any imported article, more than one RSP is declared, the maximum of such retail sale price shall be deemed to be the retail sale price for the purposes of this section.

Question How Additional duty of customs has to be determined in respect of goods which are subject to excise duty on the basis of tariff value?

► **Anti Subsidy Duty and Anti Dumping Duty:**

Anti Subsidy Duty / countervailing duty on subsidized articles:

In case any foreign country or territory gives any subsidy, directly or indirectly, upon the manufacture or production, transportation or exportation of such article into India, then the CG on recommendation of anti subsidy authority, levy countervailing duty not exceeding the amount of such subsidy. This duty is known as Anti subsidy Duty.

Anti Dumping Duty:

The CG has the power to levy anti dumping duty on dumped articles. However, the amount of anti dumping duty cannot exceed the margin of dumping. Margin of dumping in relation to articles means the difference between its export price and its normal value. EC, SHEC is not payable on Anti Dumping duty.

Anti Dumping duty to be extended on articles imported by altering form/description: Where the CG on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty has taken place-

- Either by altering the description or name or composition of that article subject to such anti-dumping duty or
- By import of such articles in an unassembled or disassembled form or
- By changing the country of its origin or export or
- In any manner,

Whereby the anti dumping duty so imposed is rendered ineffective, it may extend the anti dumping duty to such article or an article originating in or exported from such country, as the case may be.

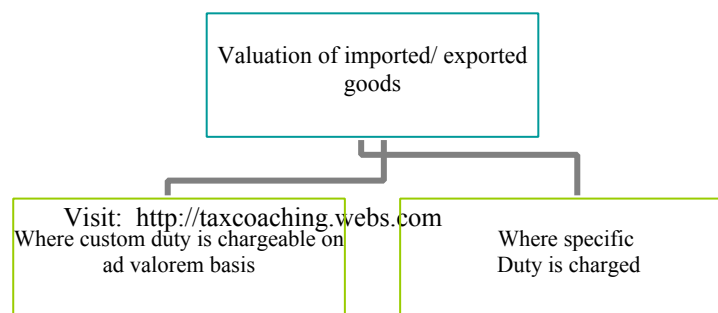
Non imposition of Anti Dumping duty: Unless specially provided, Anti Dumping duty shall not be imposed on goods imported by a –

- 100% EOU or
- Unit located in Free Trade Zone/ Special Economic Zone.

Question: Explain the situations when anti-subsidy and anti dumping duty can not be levied?

Question: What are the conditions required to be fulfilled by the importer to make the imported goods eligible for preferential rate of duty prescribed by CG by notification u/s 25 of the Customs Act 1962?

VALUATION



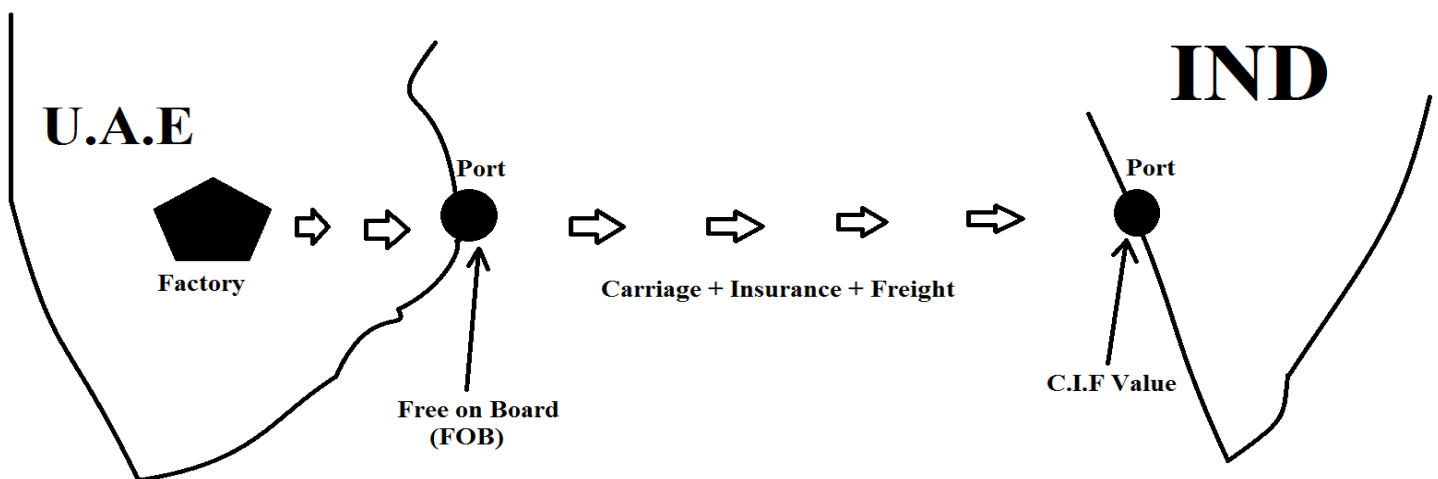
Transaction value, in case of imported/export goods shall be:

- The price actually paid/ payable for the goods
- When sold for export to / from India.
- For delivery at the time and place of importation/exportation.
- Where the buyer and seller of the goods are not related and
- Price is the sole consideration for the sale

Subject to such other conditions as may be specified in the rules made in this behalf.

Chart showing the calculation of assessable value for the purpose of calculating duties of customs:

Invoice price	✓
Add: Raw materials supplied by assessee	✓
FOB (Free on board)	✓
Add: Charges for cost and service (Excluding charges for post-importation activities)	✓
Transaction Value	✓
Add:	✓
a. Actual cost of transport [in case of air, it can not exceed 20% of FOB value of goods]	✓
b. Actual cost of insurance [if unascertainable then 1.125% of FOB value of goods]	✓
CIF Value (FOB + Cost of transport + cost of insurance)	✓
c. Landing charges [i.e. loading, unloading, handling charges associated with delivery of the imported goods in port] i.e. @ 1% of CIF value	✓
Assessable value for the purpose of calculating duties of customs	✓



Question: What are the items that are excluded for the purpose of computation of Assessable value?

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Answer: The items are:

- a. Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment.
- b. Cost of transport after importation. (Ex: Cost or road transport charges for carrying the goods to factory from port).
- c. Duties and taxes in India.

Doubt Clearing Regarding selection of dates of choosing assessable value and rate of duty:

1 Assessable value has to be calculated with reference to the rate of exchange notified by CBEC on the **date of presentation of shipping bill for export.**

2 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.

Doubt Clearing Regarding selection of date of For-Ex Conversion and date of selection of rate of basic custom duty:

Date of For-Ex Conversion	For imported goods: rate of exchange notified by CBEC as on the date of filing Bill of Entry. For export goods: rate of exchange, notified by CBEC as on the date of filing Shipping Bill [in case of export by vessel/aircraft) or bill of export (in case of export by vehicles).
Date of selection of rate of basic custom duty	- Date of Bill of Entry - Date of arrival Which ever is earlier.

Question: What are the methods of valuation for customs?

Ans: The methods are to be applied in sequential order, i.e. if method one cannot be applied, then method two comes into force, and so on. The only exception is that the 'Computed value which is based on cost of manufacturer of goods plus profits' method may be used before 'Deductive value which is based on identical/ similar imported goods sold in India', if AO is satisfied with the grounds/ reasons disclosed by importer.

Transaction value of Imported goods	As per rule 3(1), value of imported goods shall be transaction value adjusted in accordance with provisions of rule 10. Rule 10 of Customs Valuation Rules, 2007; states that various additions like sales commission, cost of containers, cost of packing, cost of material, components etc or services supplied by buyer, royalty payable, transport charges, insurance etc. are includible if these do not already form part of transaction value.
Transaction value of Identical goods	If valuation is not possible on the basis of 'Transaction value', then AO will instruct to do valuation on the basis of 'Transaction value of Identical goods' of the same level, time, substantially same quantity when identical goods are exported/imported.
Transaction value of Similar goods	If valuation is not possible in the above mentioned rules, then valuation is done as per 'Transaction value of Similar goods'. Similar goods means: ➤ Alike in all respect, have like characteristics and like components and perform same functions. These should be commercially inter-changeable with goods being valued as regards quality, reputation and trade mark. ➤ The goods should have been produced in the same country in which the goods being valued were produced. ➤ They should be produced by same manufacturer who has manufactured

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	goods under valuation – if price of such goods are not available, price of goods produced by another manufacturer in the same country can be considered.
Deductive value which is based on identical/ similar imported goods sold in India	This method should be applied if transaction values of the identical goods or similar goods are not available, but these products are sold in India. The assumption made in this method is that identical or similar imported goods are sold in India and its selling price in India is available. Assessable value is calculated by reducing post-importation costs and expenses from this selling price.
Computed value which is based on cost of manufacturer of goods plus profits	In this method, Assessable value is: Cost of value of material or fabrication or other processing employed in producing the imported goods + an amount for profit and general expenses equivalent to that usually reflected in sale of goods of the same class or kind, which are made in the country of exportation for export to India + value of all other expenses like transport, insurance, loading, unloading and handling charges.
Residual method based on reasonable means and data available	This is similar to 'best judgment method' and is used where Assessable value cannot be determined by any of the preceding methods. While deciding Assessable value under this method, reasonable basis and general valuation rules are followed.

Problem 2: Compute assessable value and customs duty payable from the following data-

- FOB value of machine 8000 UK Pound.
- Freight paid (air) 2500 UK Pound.
- Design and Development charges paid in UK 500 UK Pound.
- Commission payable to local agents @2% on FOB in Indian Rupees.
- Date of Bill of Entry: 24-10-2007(Rate of BCD 20%, Exchange Rate notified by CBEC Rs 68 per UK Pound.)
- Date of Entry Inward: 20-10-2007(Rate of BCD 18%, Exchange Rate notified by CBEC Rs 70 per UK Pound.)
- CVD is payable@10% plus EC as applicable.
- Special CVD as applicable.
- Insurance charges have actually been paid but details are not available.

Problem 3: Compute export duty from the following data:

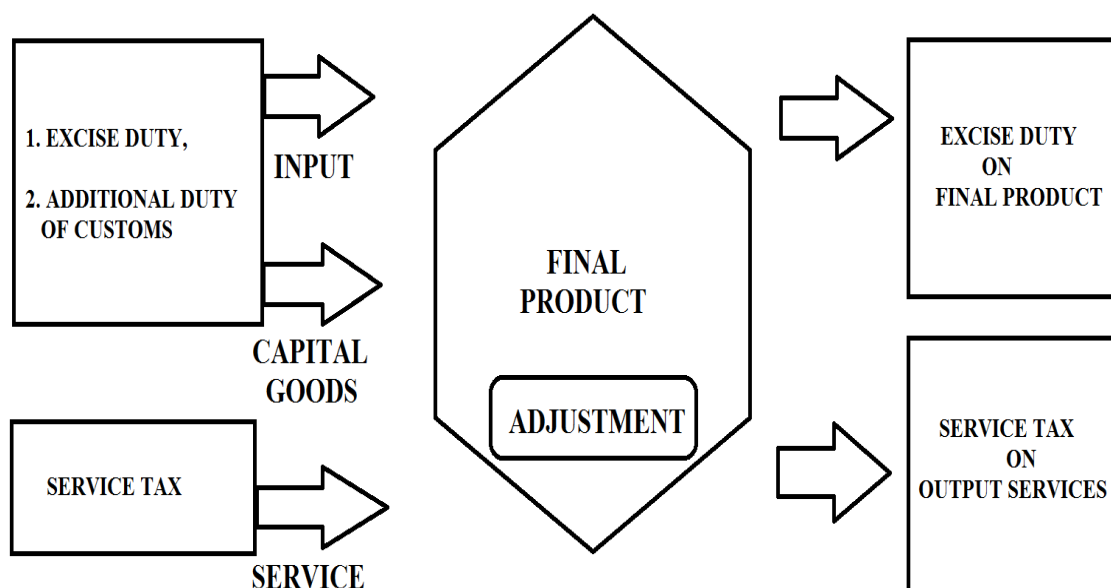
- FOB Price of goods US\$ 1,00,000.
- Shipping Bill presented electronically on 26.02.2013
- Proper officer passed order permitting clearance and loading of goods for export on 04.03.2013
- Rate of exchange and rate of export duty are as under:

	Rate of Exchange	Rate of Export Duty
On 26.02.2013	1 US\$ = Rs. 55	10%
On 04.03.2013	1 US\$ = Rs. 56	8%

- Rate of exchange is notified for export by Central Board of Excise and Customs.
(Make suitable assumptions wherever required and show workings)

CENVAT CREDIT [CRUX]

It is the abbreviated form of Central Value Added Tax, Under Cenvat scheme the credit of the excise duty, additional duty of customs paid on the inputs and capital goods and service tax paid on input service is allowed to be utilized for the payment of excise duty on the final products or service tax on output services in order to avoid cascading effect of the duty or tax.



The provision of CCR 2004 in relation to availment and utilization of credit of S.Tax apply to whole of India except Jammu and Kashmir. The said provisions do not apply to J&K as S.Tax law is not applicable to the State of J&K.

Input:

Basic Pre-requisite to claim CCR: If a ‘manufacturer of final product’ wants to avail CCR on inputs, then he has to **purchase inputs from a ‘First Stage Dealer’** and the First Stage Dealer should **issue an invoice** to the manufacturer of final product.

Case	Solution
MN Co. purchased 10 tons of steel bars from a manufacturer of steel bars. The manufacturer has charged excise duty of Rs. 1 lakh on the steel bars. MN Co. sells 2 tons of steel bars to XYZ Ltd., a manufacturer who uses the steel bars in his factory for the manufacture of the final product. XYZ Ltd. wishes to avail CCR on the steel bars. You are required to advise XYZ Ltd. whether it can claim CCR of excise duty paid on the steel bars. How much CCR it can avail, if allowable.	

Points to remember:

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1. CCR on Input used to manufacture the goods are 100% allowable.

Includes	Does NOT include
CCR on Inputs used for testing of quality control check are allowable.	CCR on goods used in a guest house when the same are used primarily for personal use or consumption of any employee is NOT allowed.
CCR on Inputs contained in waste are allowable.	CCR on goods used for making of structures for support of capital goods in NOT allowed.
CCR on Inputs which do not retain identify in the final product is allowable.	CCR on goods for construction or execution of works contract of a building or a civil structure or a part thereof is NOT allowed.
CCR on Materials used for repairs of capital goods are allowable.	CCR on inputs pilfered from the store room is NOT allowable.
CCR on Durable and returnable packing material is allowed.	CCR on light diesel oil, high speed diesel oil / motor spirit / petrol is NOT allowed.
CCR on inputs become waste and scrap is allowable.	CCR on goods used in a guest house when the same are used primarily for personal use or consumption of any employee is NOT allowed.
CCR on inputs on trial run is allowable.	CCR on goods used for making of structures for support of capital goods in NOT allowed.
CCR on Goods used for generation of electricity for captive consumption is allowed.	CCR on goods for construction or execution of works contract of a building or a civil structure or a part thereof is NOT allowed.
CCR on goods used for providing free warranty is allowed.	CCR on inputs pilfered from the store room is NOT allowable.
CCR on goods used in a guest house when the same are used primarily for personal	CCR on light diesel oil, high speed diesel oil / motor spirit / petrol is NOT allowed.
CCR on Inputs used for testing of quality control check are allowable.	
CCR on Inputs contained in waste are allowable.	
CCR on Inputs which do not retain identify in the final product is allowable.	
CCR on Materials used for repairs of capital goods are allowable.	
CCR on Durable and returnable packing material is allowed.	

Case	Solution
P & T Manufactures has a canteen for the workers in its factory, as per requirement of the Factories Act, 1948. It purchases a cooking gas range for use in the canteen. Supplier of cooking gas range has charged E.Duty of Rs. 5,000. Can P & T Manufactures avail the CCR of the E.Duty paid on cooking gas range.	As per the definition of the inputs, the cooking gas range in the canteen has no relation with manufacture of the final product. Hence P & T Manufactures cannot avail CCR of E. Duty on the cooking gas range used in the canteen.

Input Service:

Includes	Does NOT include
➤ Advertisement or sales promotion ➤ Procurement of inputs ➤ Financing ➤ Computer networking ➤ Security	➤ Construction service or works contract service. ➤ Service of renting motor vehicles ➤ Insurance services, servicing, Repair and maintenance of motor

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➤ Inward transportation of inputs or capital goods and outward transportation up-to the place of removal ➤ Market Research ➤ Accounting ➤ Recruitment and quality control ➤ Credit Rating ➤ Business exhibition ➤ Storage up-to the place of removal ➤ Auditing ➤ Coaching and Training ➤ Share registry ➤ Legal services. ➤ Used in relation to modernization, renovation or repairs of a factory, premises of provider of output service or an office relating to such factory or premises.	vehicles.
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Case	Solution
ST Ltd. procured Raw Material from RR Manufactures; It paid service tax on the freight charged, under RCM for bringing the goods from the factory of RR Manufactures to its manufacturing unit. Whether ST Ltd. is eligible for claiming CCR of the S.Tax paid by it.	

Case	Solution
LG 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 S.Tax in his invoice to LG Ltd. You are required to advice LG Ltd. if it can avail CCR of the S.Tax charged to it by the sub-contractor.	

Output Service:

It means any service provided by a provider of service located in the taxable territory but shall not include:

- A service specified in Sec 66D of the Finance Act or
- A service where the whole of service tax is liable to be paid by the recipient of service.

Capital Goods:

1. 50% CCR on capital goods are available in current year, balance on next FY.
2. CCR on capital goods used in factory is allowed but, capital goods / equipment / appliances used in office is NOT allowed.
3. CCR on Motor vehicles designed to carry passengers and office equipment is NOT allowed.
4. CCR is allowed on Pollution Control Equipment.
5. CCR on office equipment is NOT allowed.
6. CCR on Refractory is allowed.
7. CCR on moulds and dies are allowed.
8. CCR is allowed on Capital goods used outside the factory for generation of electricity for captive use within the factory.
9. CCR on Trucks used for the transport of raw material falling under tariff head 8704 – NOT allowed.
10. CCR on Dumpers used in the factory of the manufacture of the final product are allowed.
11. CCR on Storage Tank is allowed.
12. Capital goods in case of service provider: The eligible capital goods should be used for providing output service. There is no requirement that those should be brought into the premises or used within the premises of service provider himself.

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13. Components, spares and accessories of capital goods falling under specific chapter shall be regarded as capital goods.

14. Following motor vehicle are not eligible:

- Motor vehicles for transport of goods.
- Motor vehicles for transport of 10 or more persons including driver.
- Motor cycles (including mopeds) with or without side car.
- Motor cycle and Motor vehicles for transport of person (including racing car, station wagon).

As per Notification No 33/2012 dated 20.06.12, service provider shall NOT avail the CCR on capital goods received, during the period in which the service provider avails SSP exemption.

Case	Solution
A motor driving school has purchased motor vehicles for training of its students in FY 13-14. The E.Duty paid on motor vehicles is Rs. 60,000, it is availing SSP Exemption under Notification No 33/2012 dated 20.06.12 as the aggregate value of service provided by it in the preceding FY is less than Rs. 10 lakhs. Can it avail CCR of the Excise Duty that has been paid on the motor vehicles in FY 13-14?	

If any capital asset is sold as scrap, then the company is required to pay amount equal to E.Duty on transaction value of Scrap.

Case	Solution
A company purchases Pollution Control Equipment on 15.04.2008 for Rs. 10 lakh (including E.Duty Rs. 1,23,600). The co. took CCR of 50% of the E.Duty paid in the FY 2008-09 and balance in FY 2009-10. The co. sold the equipment as scrap on 30.09.2013 for Rs. 20,000 (excluding E.Duty). State – if the company needs to pay the amount of E.Duty earlier availed in the FY 2013-14?	

Job Work:

It means processing or working upon raw material or semi finished goods supplied to the job worker, so as to complete a part or whole of the process, resulting in the manufacture or finishing of an article or any operation which is essential for aforesaid process.

If any inputs are sent to job workers for further processing and received back in the factory within **180 days** of their being sent to a job worker, CCR in respect of such inputs is **ALLOWED** to the manufacturer. However, if inputs are NOT received back within 180 days, the manufacturer shall **PAY** an amount equivalent to CCR attributable to the inputs by debiting the CCR Credit, but manufacturer can take the CCR again when inputs are received back in his factory.

Case	Solution
A co. had received some inputs on 05.07.2013; E.Duty paid on those inputs was Rs. 1 lakhs. The Company sent those inputs to a job worker outside his factory for carrying out machining on the inputs on 31.07.2013. The job worker carried out the job work of machining and returned the inputs on 21.03.2014. Discuss whether the company is required to take any action.	

Rule 3 of CCR, 2004:

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If inputs before being put to use, on which CCR has been taken, any provision to write off fully or partially has been made in the books of accounts, and then the manufacturer shall pay an amount equivalent to the CCR taken in respect of the said inputs.

Case	Solution
A manufacturer had purchased raw materials for use in manufacturing process, on which E.Duty paid by the supplier of the RM was Rs. 1 lakhs. The manufacturer took CCR of Rs. 1 lakh. Due to change in production schedule, the RM was not used for 2 years. In compliance with AS, the manufacturer made provision to write off fully the value of the RM. However, the RM is in stock in the store room and the manufacture is hopeful that he will be able to utilize the material some day. Is he required to take any action in respect of CCR? What would happen if he later actually uses the material in manufacture.	

Discuss briefly the validity of the following statement with reference to Rule 3 of CCR, 2004:

Case	Solution
A manufacturer can sell the inputs on which CCR has already been availed of, as such, provided he pays the amount equal to CCR.	
CCR on basic E.Duty can be utilized for payment of E.Cess whereas vice versa is not possible.	
CCR can be utilized for payment of any duty of excise on goods in respect of which the benefit of an exemption under notification no 1/2011-CE dated 01.03.2011 is availed.	
CCR can be utilized for payment of the Clean Energy cess leviable under sec 83 of the Finance Act, 2010.	
Credit of duty paid @ 2% on inputs in pursuance of notification no 1/2011-CE dated 01.03.2011 is available to the manufacture as well as service provider who buys them.	

Rule 21 of CCR, 2002:

- Where on any goods manufactured by an assessee
- the payment of duty is ordered to be remitted under rule 21 of CCR 2002
- the credit taken on inputs used in the manufacture or production of said goods has to be reversed.
- However, there is no requirement for the reversal of CCR taken on input service used in the manufacture of such goods.

Application of the above rule: The goods manufactured by ABC Co. have been destroyed in fire. The payment of duty has been ordered to be remitted. Is the company required to reverse the CCR taken on input services used in manufacture of such destroyed goods?

A manufacture or service provider is required to pay an amount equal to CCR taken in respect of inputs or capital goods **when the value of such inputs or capital goods is written off fully or partially before being put to use.**

Case	Solution
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P Ltd. a manufacturer of excisable goods, purchased in the month of September 2013 inputs of Rs. 1 lakh on which it paid E.Duty of Rs. 12,360/-. The company utilized the aforementioned CCR of Rs. 12,360 while discharging its excise duty liability for the month of September 2013. In December 2013 before the said inputs are put to use, the co. has written off Rs. 20,000 against said inputs. What economic consequence has to face for writing off of Rs. 20,000. However, Subsequently in the month of March 2014, the company put to use the entire inputs of Rs. 1 lakh. Can the company get some economic benefit now?

CCR in case of Manufacturer, Service Provider:

Items	Manufacturer	Service Provider
Countervailing duty u/s 3(1) of Customs Tariff Act, 1975.	Allowed	Allowed
Special CVD u/s 3(5) of Customs Tariff Act, 1975.	Allowed	NOT Allowed

Problem 1: Tarun, a contractor is providing services of construction of bridges. He purchased the following items in May 2013,

Items	E.Duty Paid*
Dumper	1,00,000
Refrigerator fitted in office	10,000
Diesel for use in dumper	20,000
Car for use of employees for coming to site and going back	40,000

* including education cess.

You are required to compute CCR the contractor can avail.

Problem 2: Ramanuj, a manufacture of excisable goods, imported some inputs which were received by him in July 2013. Bill of Entry in respect of the said imported goods was duly filed and basic customs duty of Rs. 1,000, countervailing duty u/s 3(1) of Customs Tariff Act, 1975 of Rs. 1,320, E.Cess of Rs. 46.40, SHEC of Rs. 23.20, Special CVD u/s 3(5) of Customs Tariff Act, 1975 of Rs. 495.58 was paid by him. You are required to determine – How much CCR Ramanuj can avail? In case, Ramanuj is service provider and not manufacturer, how much CCR he can avail?

Problem 3: Compute CCR available in respect of following Services billed to Ramoji Services Ltd. in the month of February 2014.

Items	S.Tax Paid *
Accounting and auditing services	10,00,000
Legal Services	5,00,000
Security Services	50,000
Hiring of motor vehicles [Such Motor vehicles are not eligible as capital goods for the purpose of claiming CCR]	1,00,000

* including ES and SHEC.

Problem 4: Seetal Co. Ltd. engaged in the manufacture of excisable goods. It procured the following items during the month of January 2014. Determine the amount of CCR available by giving necessary explanations for treatment of various items:

Items	E.Duty Paid*
Electric transformers falling under chapter 85 of the Excise Tariff	52,000
Moulds and dies	1,00,000
Pollution Control Equipment	30,000
Trucks used for the transport of raw material falling under tariff heading 8704	10,000
Office equipment	20,000
Capital goods used outside the factory for generation of electricity for captive use within the factory	10,000
Refractory	5,000

* including EC, SHEC.

Problem 5: Compute the CENVAT credit available in respect of the following services billed to KM Ltd. in the month of January 2014:

Sl	Service billed	S.Tax paid *
1.	Sales promotion services	1,00,000
2.	Market research for the new car launched by KM Ltd.	2,00,000
3.	Quality control services	1,00,000
4.	Routine maintenance of the cars manufactured by KM Ltd.	50,000
5.	In transit insurance of the cars manufactured	70,000
6.	Outdoor catering services provided to the employees	1,00,000

* including EC, SHEC.

CENTRAL SALES TAX



- ▶ When sales are made from one state to another, then it is called inter-state sales and these are liable to CST. When sales are made within a state then it is called intra-state and these are liable to VAT.
- ▶ Every dealer shall be liable to pay tax under CST Act on:
 - sales of all goods
 - **other than electrical energy** effected by him in the course of inter-state trade or commerce.
- ▶ CST is **not leviable** on sale in course of export / import.
- ▶ There will be **no credit of CST** paid on inter state purchases

Rates of tax on sales in the course of inter-state trade or commerce, Concessional rate of CST:

- a. 2% of the turnover of the dealer
 - OR
 - b. Rate applicable to the sale or purchase of such goods inside the appropriate state under the sales tax law of that state
- Whichever is lower.

Conditions to be fulfilled for Concessional rate of CST:

- a. Sale is of goods eligible for concessional rate of CST [i.e. goods are described in sec 8(3)].
- b. Sale has been made to a registered dealer.
- c. Selling dealer has obtained a declaration Form C from the purchasing dealer and furnishes it to the prescribed authority.

Case where concessional rate of CST is not applicable –

In case any of the 3 conditions are not fulfilled, the rate of CST would be the rate applicable to the sale or purchase of such goods inside the appropriate state under the sales tax law of that state.

Objective:

It formulates and harmonises the inter-state purchase and sale of goods.

Collection of CST:

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Although it is levied by CG but collected by the SG from where the goods are sold. The tax so collected, given to the respective SG which collected the tax.

For Union Territories, the tax is collected is deposited in the consolidated fund of India.

Applicability:

Every dealer who is making inter state sale, must be a registered dealer and there is no exemption limit of turnover for levy of CST.

Doubt Clearing: If goods are sold within a state but while traveling through another state is not considered as inter state sales.

Classification of goods:

1. Declared goods. (Tax rate on declared goods are lower than other goods).
2. Other goods.

Submission of return

Payment of tax, appeals → not given in act.

Rules so adopted by states will be applicable for this purpose. SG have right to frame rules, subject to such notification and alteration as it deem fit.

Determination of Turnover

Turnover	***
Less: CST	(**)
Sale price of goods returned within 6 months	(**)
<u>Other items as the CG may notify.</u>	<u>(**)</u>
Effective Turnover	***

Registration of Dealer:

- i. Compulsory Registration
- ii. Voluntary Registration. [Details in Extra Theory Question No. 7]

Withdrawal of CST:

CST is proposed to be phased out in due course although it is continuing.

The summarized provisions in respect of CST are:

1. CST may go after decision in respect of loss of revenue to States is taken and comprehensive Taxation information System is put in place.
2. Present forms i.e. C, E-I/E-II and H will continue, Form no D has been abolished w.e.f. 01.04.07.
3. There will be no credit of CST paid on inter state purchases.
4. If goods are sent on stock transfer outside the state, input tax paid in excess of 2% will be allowed as credit. In other words, input tax to the extent of 2% will not be allowed as credit if goods are sent inter-state.

Exceptions to levy of CST:

1. No CST on penultimate (last but one) sales for export – a dealer shall not be liable to pay CST on the penultimate sales for export.

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2. No CST on subsequent sales: If the following conditions are satisfied, then exemption to subsequent inter-state sale of the goods are available:

- a. First sale should be an inter-state sale and subsequent sale should be affected by transfer of documentation of title to the goods during the movement of such goods in course of inter-state sales. Exemption to subsequent sale is available even if the first inter-state sale is exempt from CST.
- b. Subsequent inter-state sale is exempt only if –
 → purchaser is a registered dealer
 → the goods are of description referred to in sec 8(3)
- c. The dealer effecting the subsequent sale need to furnish following certificates / declaration:
 → Form E-I / E –II : obtained from the registered dealer from whom he has purchased the goods and
 → Form C: obtained from buying dealer if the subsequent sale is made to a registered dealer.

3. No CST on sale to foreign missions/UN etc - If the following conditions are satisfied, then exemption to inter-state sale of the goods are available:

- a. Such buyer has purchased such goods for himself or for the purpose of such mission, consulate, UN or other body.
- b. The dealer selling the goods furnishes to the prescribed authority Form J obtained from such buyer.

Some Definitions:

Declared Goods u/s 2(c)	It includes those goods which are considered to be of special importance in interstate Trade and Commerce u/s 14. Some of the goods are: - cereals - coal - cotton - crude oil - jute - oilseed - pulses - sugar.
Goods u/s 2(d)	This includes all material articles or commodities and all kind of movable property excluding newspaper, actionable claims, stocks, shares, securities. If newspapers are sold as scrap then, it will be chargeable to SCT if it is an inter-state sale.
Sale u/s 2(g)	It means transfer of property in goods by one person to another for cash or for deferred payment or for any valuable consideration. However, a mortgage, hypothecation of or a charge or pledge on goods is not included. Essential elements of sale: - Goods should be transferred. - General property in good should be transferred. - Price must be paid. - There must be a seller and a buyer. - There must be a valid consent of both buyer and seller.
Sale Price u/s 2(h)	It means amount payable to a dealer as consideration for the sale of any goods which includes the followings- - CST - Excise duty - Cost of packing material - Packing charges

	- Bonus given for effective additional sales. - Insurance charges, if goods are insured by seller. - Freight charges if not shown separately. - Any sum charged for anything done by the dealer in respect of goods at the times of or before delivery thereof. Sale price does not include the followings – - Freight or transport charges for delivery of goods if charged separately. - Cost of installation, if charged separately. - Cash discount for making timely payment. - Trade Discount. - Insurance charges of goods insured on behalf of the buyer. - Goods rejected. - Goods returned within 6 months of the date of sale.
Turnover u/s 2(j)	It is the aggregate of the sale prices received and receivable by the dealer in respect of sale of goods in the course of Inter state trade and commerce made during a prescribed period. Prescribed period is the period in which sales tax return is filed.
Customs frontier of India	Customs frontier means crossing the limits of the area of a customs station in which imported goods / export goods are ordinarily kept before clearance by customs authorities.

THEORY QUESTIONS & ANSWERS

Question 1: Is a sale by VPP liable to CST?

Question 2: Is transfer of the property in goods without consideration be chargeable to CST?

Question 3: Who are included within the meaning of Dealer?

Question 4: Are sale of bundles of old newspapers as waste papers exempt from CST?

Question 5: Is transfer of property in goods without consideration chargeable to CST?

Question 6: Is transfer by way of mortgage chargeable to CST?

Question 7: What do you mean by Compulsory Registration and Voluntary Registration in respect of CST?

Question 8: What are the benefits of certificate of Registration?

Question 9: When it is not necessary to furnish Form C in respect of a subsequent sale of goods?

CASE STUDY

Question 10: Briefly examine the validity of the following statements with reference to the CST Act:

- a. Place of business includes place of business of the agent.
- b. Profit motive is essential to call an activity a business.

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- c. CST is leviable on transactions of leasing / hiring of assets for a defined period.
- d. Cost of freight, separately charged in the invoice, shall be deducted from sale price.
- e. Subsidy given by Govt. to manufactures [selling the product at controlled price] to compensate cost of production will form part of sale price.
- f. Charity and Dharmada collected by dealer will not form part of sale price.
- g. Free of cost of material supplied by the customer will be added to the sale price.

CASE STUDY

Question 11: Xicomo on Kolkata sells goods to Yotoha of Chennai and hands over the goods to MKS Transport, Kolkata for transporting the same to Chennai. The lorry receipt is sent to Yotoha by post. While goods are in transit, Yotoha sells the goods to Zonotha of Vijayawada by endorsing the lorry receipt and goods are diverted to vijayawada. Xicomo, Yotoha and Zonotha are registered dealer. Is the second sale between Yotoha and Zonotha chargeable to CST?

CASE STUDY

Question 12: Dinanath Dhanuka sells his land with standing crops and trees for Rs. 25 lakhs. Sales tax officer wants to assess for CST, the value of standing crops and trees. Comment.

CASE STUDY

Question 13: Ms. Akansha Agnihotri of Chennai sent a consignment of goods to her branch at Bengaluru, without any prior contract of sale. When the goods were in transit, Ms. Bhumika Bhardwaj of Bengaluru bought the said goods from Ms. Akansha's branch office. Ms. Akansha's branch office endorsed the railway receipt in favour of Ms. Bhumika who took the delivery of goods. Is the transfer of goods by Ms. Akansha to her branch office an inter-state sale?

CASE STUDY

Question 14: Examine whether CST is leviable on the following transactions:

- a. Inter-state sale of the electric energy.
- b. Sakshi is a dealer of textile in Vapi. Meenakshi of Ludhiana approached her and purchased goods worth Rs. 1 lakhs. However, instead of taking delivery of the goods in Vapi, she directed to deliver said goods in her factory located at Surat.

CASE STUDY

Question 15: Examine whether following amount to inter-state sales:

- a. Deepika of Delhi comes to Hyderabad, purchases certain chemicals from Heena and Transports them in her own name to Delhi
- b. Ms. Monami of Mumbai sends goods by air to her branch office at London. Subsequently she transfers the documents of title of such goods to a buyer at Sydney after said goods have crossed the customs frontiers of India.
- c. Mr. Stuart Anderson, a London based entrepreneur enters into a contract of goods with Mr. Sameer Ambani of Gujrat and send the goods to India.

PRACTICAL PROBLEMS

Problem 1: Determine the CST liability from the following data when a sale is affected from Faridabad to Lucknow:

Invoice No: 00457898

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Basic price Rs. 3 lakhs
Excise Duty: 10% ad valorem
CST: as applicable in form C
Trade Discount: 8%.
Cash Discount: 2%
Quantity Supplied: 10,000 kgs
Quantity rejected by buyer within 3 days of delivery: 1000 kgs.
Quantity rejected by buyer after 6 months of dispatch: 1000 kgs.

Problem 2: Ms. Malavika, a first stage dealer of a machine in the State of Maharashtra, furnishes the following data:

i.	Total inter state sales during FY 2013-14 [CST not shown separately]	93,87,000
ii.	Above sales include:	
	Dharmada	9,00,000
	Freight	3,20,000
	[Rs. 1,20,000 is not shown separately in invoice]	
	Cost of corrugated boxes specially designed for packing of the machinery.	56,000
	Installation and commissioning charges shown separately.	
	Incentive on sales received from the manufacturer	52,000
		23,000

Determine CST payable assuming that all transactions were covered by valid C Form and sales tax rate within the state is 5%.

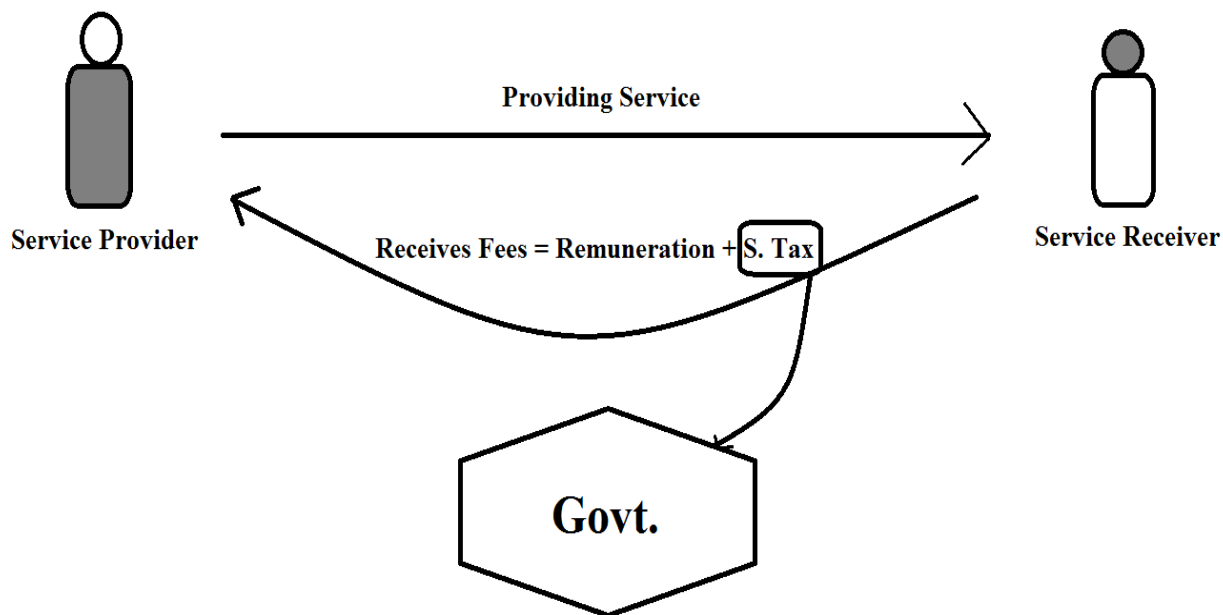
Problem 3: Nupur Ltd's total inter-state sales @ 4% for the FY 2013-14 is Rs. 150 lakhs [CST not shown separately]. In this regard, following additional information is available:

- Goods sold to Ayesha for Rs. 1.50 lakhs on 16.07.2013 were returned by her on 12.12.2013.
 - A buyer, Neetu to whom goods worth Rs. 55,000 were dispatched on 16.04.2013, rejected such goods. The said goods were received back on 15.11.2013.
 - Goods sold to Tina for Rs. 5 lakhs on 16.04.2013 were returned by her on 12.12.2013.
- Determine the amount of taxable turnover and tax liability of Nupur Ltd.

SERVICE TAX

Content:
 Basic Concept of Service tax, Service Tax procedure, Point of Taxation, Exemption and abatements,
 Valuation of taxable services

BASIC CONCEPTS OF SERVICE TAX



Definition of Service

Service means	→ Any activity → Carried by a person for another: → For consideration	→ do something or → not to do something/ → contract execution → Two persons must be distinct / separate persons, then only service tax is leviable. For example: Service provided between Branch and H.O of same entity is not considered as service, hence not liable to service tax. → it should be exist/certain at the time of execution → money / non monetary form.
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And includes	9 declared services.
But does not include	→ Sale / Deemed Sale/Gift etc of movable or immovable property. → Transaction in money & Actionable claim. → Employer employee relationship. → Court Fees.

CASE STUDY

Discuss whether any 'consideration' is involved in the following cases:

Case	Solution
Donation given to a charitable trust with the condition that such trust would display the name of donor in a fair organized by it.	
Tara agrees to construct a shopping mall for Sitara on land owned by Sitara, and in return, Sitara agrees to provide two shops in such mall to Tara.	
Fine imposed by Traffic police on over speeding vehicles on Jamuna Expressway	
Services are provided by Akbar to Birbal. However, payment for the service is made by Todormal, a debtor of Birbal, on the instruction of Birbal.	
Ms. Vasundhara has conducted a market survey for Ms. Subhalaxmi. However, Ms. Vasundhara has not charged any fee for such service as Ms. Subhalaxmi happens to be her best friend. Is service tax payable on such free service? Explain.	

The levy of Service Tax extends to the whole of India except J&K.

CASE STUDY

Siddiqui & Co. of Srinagar rendered taxable services both within and outside the state of J&K. It received Rs. 26.12 lakhs for the services rendered inside the state and Rs. 18 lakhs for the services rendered outside the state. Compute its taxable service.
In case, Siddiqui & Co. was situated in Kolkata, what would the value of its taxable services?

Exempted Service	In addition of 17 services as mentioned earlier, a mega exemption notification no 25/2012(ST) dated 20/06/2012 has been issued which states those services which are exempt from payment of service tax.
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Rate of Service tax	12% + Education. Cess 2% + Secondary and Higher Education Cess 1%.
---------------------	--

Registration	► Required Documents: →ST 1 →Copy of PAN. →Copy of Residence Proof. ► Prerequisite:
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	→ Aggregate value of taxable service exceeds Rs. 9 Lakhs		
Bill no and Date	Amount	Registration?	Service tax?
1 (30/06/14)	7.40 lakhs		
2 (20/07/14)	1.30 lakhs		
3 (17/07/14)	0.60 lakhs		
4 (29/07/14)	0.80 lakhs		
5 (10/08/14)	2.00 lakhs		
→ From the next financial year S.Tax is applicable from day one.			
→ Application for registration should be made within 30 days from the date of such person become liable to pay Service tax.			
→ Penalty for non registration → Rs. 10,000/- or Rs 2,000/- for every day during which such failure continues whichever is higher.			

Rule 3 of the Service Tax (Determination of Values) Rules, 2006 provides that where the value of taxable service is not ascertainable, the same shall be determined by the service provider in the following manner:

- a. The value of such taxable service would be equivalent to the gross amount charged by the service provider to provide similar service to any other person subject to fulfillment of the condition below:
 - i. Such service is in the ordinary course of trade.
 - ii. The gross amount charged is the sole consideration.
- b. Where the value cannot be determined in accordance with above (a) clause, the service provider will determine the equivalent money value of such consideration. However, such value should, in no case be less than the cost of provision of such taxable services.

E Payment	In the Preceding Financial Year, if Service tax payable (including utilization of CENVAT Credit) exceeds Rs. 10 lakhs or more then E Payment is necessary.
Others	GAR 7 Challan.
EASIEST Scheme	Electronic Accounting System in Excise and Service Tax Scheme has been developed to make payment of tax easy. This facility is available with 28 banks. The payment is made in GAR 7 Challan. Assessee had to make one single copy of challan and its counterfoil. If an assessee deposits the tax other than 28 banks where EASIEST scheme is not available, then the payment is made by TR Challan with 4 copies.

Due date of payment of Service Tax:			
Category	Periodicity of payment	Period	Due Date
Individual, Firm (Proprietorship), Partnership Firm, LLP.	Quarterly	April-June July-Sept Oct-Dec Jan-Mar	5 th of immediately following month. 6 th → E-payment. 31 st March.

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Others	Monthly	April-Feb March	5 th of immediately following month. 6 th → <u>E-payment.</u> 31 st March.
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Service Tax Return: <u>Half yearly</u> April to Sept → October to March →	25 th October. 25 th April.						
Return →	ST 3						
Revised Return →	Within 90 days from the date of submission of Original Return.						
Fees for delay in payment of S.Tax and Furnishing Return.	Delay in payment of S.Tax → Interest @ 18% p.a. and counting of days shall be done: from due date to date of payment. Delay in Furnishing Return of S.Tax → <table border="1"> <tr> <td>15 days from due date</td><td>Rs. 500</td></tr> <tr> <td>15-30days</td><td>Rs. 1,000</td></tr> <tr> <td>Above 30 days</td><td>Rs. 1,000 + Rs 100 per day maximum Rs. 20,000.</td></tr> </table>	15 days from due date	Rs. 500	15-30days	Rs. 1,000	Above 30 days	Rs. 1,000 + Rs 100 per day maximum Rs. 20,000.
15 days from due date	Rs. 500						
15-30days	Rs. 1,000						
Above 30 days	Rs. 1,000 + Rs 100 per day maximum Rs. 20,000.						

Service tax procedure

CASE STUDIES

Situation	Solution
Magma Group, a management consultancy firm, has to file its first service tax return. The firm wants to know if any other information is also required to be furnished by it at the time of filing its first return.	
Mr. Karan, a service provider wants to furnish consolidated details – lump sum amounts pertaining to the half year – relating to value of taxable service charged, amount realized against the same and service tax payable, in his half yearly service tax return. Explain whether he can do so.	
Ajrun & Co. wants to file a revised Service tax return. However, the original return was filed belatedly. You are required to advice Ajrun & Co. if it is valid to do so. Your answer must be supported with reason.	
Mr. Bharat is a multiple service provider and files only a single return. State with reasons whether he can do so.	
Mr. Laxman is a service provider rendering multiple services. After having filed the half yearly Service tax return, Mr. Laxman has approached you for your advice on this issue. Guide him.	

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Mr. Bhargav is a service tax assessee. His service tax liability for the quarter April-June was Rs. 35,000 but due to clerical error, he paid Rs. 3,50,000. He wants to adjust the excess payment in succeeding quarter. Can he do so?	
A tour operator booked a package tour for a client. He billed for his service but did not charge any service tax though he is liable to pay service tax under the relevant provisions. It is the contention of the operator that since he has not collected any service tax from the client, he will not deposit the same with the Govt. Explain.	
Ms. Heena, a service provider, has collected a sum of Rs. 15,000 as service tax from a client mistakenly, even though no service tax chargeable on the service rendered by her. Should the amount so collected be remitted to the credit of the CG? Explain.	

Composition scheme:

- a. Option to **air travel agent** to pay service tax = 0.6% of domestic fare, 1.2% of international fare.

Problem 1A: Mr. Vinod is an air travel agent, who discharges his service tax liability at special rates provided under Service Tax Rules, 1994. Compute his service tax liability for the quarter Oct-Dec 2013 with the help of following information:

Particulars	Basic fare as per rule 6(7) of Service Tax Rules, 1994	Other charges and fees	Taxes	Total value of tickets
Domestic bookings	1,00,900	9,510	4,990	1,15,400
International booking	3,16,800	20,930	15,670	3,53,480

Mr. Vinod wants to pay service tax at the general rate of 12% in respect of booking done by him during the quarter Jan-March 2014. Can he do so? Explain.

- b. An **insurer carrying on life insurance business** shall have the following option to pay Service tax –
- @ 12% on the risk premium (risk premium = gross premium charged from a policy holder less amount allocated for investment)
 - In all other cases: First Year @ 3% of the premium charged from policy holder. Subsequent year @ 1.5% of the premium charged from policy holder.
- c. Distributor and Selling Agent of **Lottery**:

Case	Service Tax
Guaranteed prize payout > 80%	Rs. 7,000 on every Rs. 10 Lakhs 'aggregate value of lottery tickets'.
Guaranteed prize payout < 80%	Rs. 11,000 on every Rs. 10 Lakhs 'aggregate value of lottery tickets'.

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Problem 1B: Calculate Service tax liability:

Details	Diwali Bumper	X-Mass Bumper
Total no of tickets printed	44,60,000	80,000
Actual no. of tickets sold	44,00,000	65,000
Face value of tickets	Rs. 10	Rs. 20
Guaranteed prize payout	60%	90%

► **1. Determination of Point of Taxation (POT) (Rule 3):**

As per Rule 3 of POT, in case the invoice is issued within the prescribed period of 30 days from the date of completion of provision of service, POT is:

- a. date of invoice
- OR
- b. b. date of payment
- whichever is earlier.

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

- a. date of completion of service
- OR
- b. date of payment
- whichever is earlier.

Advances received are taxable at the time when such advances are received.

i. Each Advance to be regarded as a separate POT: Wherever any advance, by whatever name called, is received by the service provider towards the provision of taxable service, the POT shall be the date of receipt of each such advance.

Example: 1. If service is rendered on 15th July, invoice is issued on 1st August, Payment is received on 15th September, then POT = 1st August. If in the example, invoice is issued on 31st August, then POT shall be Completion of provision of service i.e. 15th July.

Example: 2. If any advance payment is received on 1st August, but service is provided on 15th September, then POT is 1st August (to the extent advance received).

ii. Small Advance upto Rs. 1000 – option not to change POT. No separate invoice need to be issued to this extent.

Actual Provision of Service	Invoice Date	Payment Date	POT	Reason
10 th April	30 th April	15 th May		
10 th April	30 th April	15 th April		
10 th April	30 th April	15 th April (part) 10 th may (remaining)		
10 th April	30 th April	6 th April (part) 9 th April (remaining)		
10 th April	30 th April	6 th April (part) 16 th April		

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		(remaining)		
10 th April	12 th may	30 th April		
10 th April	12 th may	5 th April (part) 25 th April (remaining)		
10 th April	12 th may	12 th June		

► **2. Point of Taxation (POT):** in - payment of tax in cases of new service (Rule 5):

No tax is required to be pay if:

1. 'Invoice Date' and 'Date of payment Received' both falls before 'levy date of service tax'.
2. Date of payment Received is → before the levy date and
Invoice Date is → within 14 days of levy date.

Note: Date of provision of service is irrelevant in this case.

Example:					
Date of provision of service	Invoice Date	Date of payment	Value of taxable service	Date of service become taxable	Comment
30.06.14	14.07.14	30.06.14	Rs. 25 Lakhs.	01.07.14	
15.06.14	15.06.14	30.06.14 → Rs. 10 lakhs. 15.07.14 → Rs. 15 lakhs	Rs. 25 Lakhs.	01.07.14	

► **3. Point of Taxation (POT):** in case of change in effective rate of tax (Rule 4)

- a. If taxable service has been provided BEFORE the change in effective rate of tax:

Condition	POT
1. issued of invoice as well as receipt of payment after such change.	Earlier of: Date of receipt of payment or Invoice Date.
2. issue of invoice prior to such change but receipt of payment after such change.	Invoice Date.
3. receipt of payment before such change but issue of invoice after such change.	Date of receipt of payment.

Example :				
Invoice Date	Date of receipt of payment	Date of providing of service	Date of change in effective rate of tax	POT

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01.08.14	10.08.14	11.07.14	15.07.14	
01.07.14	30.07.14	11.07.14	15.07.14	
17.08.14	01.07.14	11.07.14	30.07.14	

b. If taxable service has been provided AFTER the change in effective rate of tax:

Condition	POT
1. issue of invoice prior to such change but receipt of payment after such change.	Date of receipt of payment.
2. issued of invoice as well as receipt of payment before such change.	Earlier of: Date of receipt of payment or Invoice Date.
3. receipt of payment before such change but issue of invoice after such change.	Invoice Date.

Example :

Invoice Date	Date of receipt of payment	Date of providing of service	Date of change in effective rate of tax	POT
01.07.14	10.08.14	18.07.14	15.07.14	
01.07.14	02.07.14	18.07.14	15.07.14	
17.08.14	01.07.14	11.08.14	30.07.14	

►4. POT in case: where recipient of service under reverse charge mechanism (Rule 7):

POT → date on which payment is made.

Exception of the rule – if payment not made within 6 months from the invoice date, then this rule will not apply and POT will be calculated as per Rule 3,4,5.

For Associate Enterprise where the service provider located outside India, POT will be:

- Date of Debit in the books of accounts of the recipient or
- Date of making the payment. Which ever is earlier.

►5. POT in case: Copyright/ Patent/ Trademark/ Royalty: (Rule 8):

POT →

- Date of issuance of invoice or
- Date of receipt of payment. Which ever is earlier.

Note: Here, whole amount of consideration is not calculated at the time of performance of service. E.g. For book sellers, royalty is given to the author in each year as per no. of copies sold.

Abatements (Summery):

Construction service:		
Details	Taxability part	Abatement
For a residential unit satisfying both the following conditions: a. carpet area of the unit is less than 2000 sq. ft. b. the amount charged for the unit is less than Rs. 1 crore.	25%	75%

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Other cases:		30%	70%
Transportation of goods→	By Road: 25%.	By Rail: 30%	By Vessel: 50%
Renting of passenger Motor vehicles: 40%			
Transport of passenger by Rail : 30%			
Transport of passenger by Air : 40%			
Tour operator:	Package Tour	Accommodation	Others
	25%	10%	40%
Hotel Accommodation: 60% (Room charges).			
Bundled Service: 70% [Food etc. + Renting of Space]			
Lease management Charges: 10% of Interest.			
Service provided in relation to CHIT: 70%.			

Mega Exemption Notification:

1. A clinical establishment in any recognized system of medicines in India is exempt from service tax vide Mega Exemption Notification No 25/2012 ST dated 20.06.2012.

RELATED CASE STUDIES

Problem: Fitness Centre, a clinical establishment, offers following services:

- a. Reiki healing treatments. Such therapy is not a recognized system of medicine in terms of sec 2(h) of Clinical Establishment Act, 2010.
- b. Plastic surgeries. One such surgery was conducted to repair cleft lip a new born baby.
- c. Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.
- d. Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. [Palliative care is given to improve the quality of life of patients who have a serious or life-threatening diseases but the goal of such care is not to cure the disease].
- e. Alternative medical treatment by way of Yoga.

Fitness Centre also operates a cord blood bank which provides services in relation to preservation of stem cells.

Fitness Centre is of the view that since it is a clinical establishment, all the service provided by it as well as all the services provided to it are exempt from payment of Service tax.

You are required to examine the situation in the light of relevant statutory provisions.

2. Service provided in sports organized by a Recognized sports body is exempt under mega exemption notification 25/2012.

RELATED CASE STUDIES

Case	Solution
Mr. Hariharan acts a referee in s football match organized by Sports Authority of India, ass well as in another charity football match organized by a local club. Discuss whether he is required to pay any service tax.	

3. Services provided by an artist in form of music, dance or theatre, excluding services provided by such artist as a brand ambassador are exempt from service tax vide mega exemption notification 25/2012.

RELATED CASE STUDIES

Case	Solution
TRP Ltd. manufactures beauty soap and Ms. Jojo (who is a leading film actress) is its brand ambassador. She has given a classical dance performance in a concert to promote its brand. The proceeds of the concert will be donated to a charitable organization. Explain if she will be required to pay any service tax?	

4. Services by way of renting of a campsite meant for residential or lodging purpose, having declared tariff value of a unit of accommodation below Rs. 1,000 per day or equivalent are exempt from service tax. Declared tariff includes charges for all amenities provided in the unit of accommodation like AC, Fridge etc but without excluding any discount offered on the published charges for such unit vide mega exemption notification 25/2012.

RELATED CASE STUDIES

Case	Solution
An adventure sports company organizes trekking tours in Janunotri basin and provides accommodation in camps during the trek. As per the brochure of the company, tariff for a single camp is Rs. 800 per day and in addition, Rs. 300 per day is also chargeable for special sleeping suits provided in Camp to keep the trackers warm during night. The co. is offering a discount of 20% on the tariff value of a single camp as published in brochure. Discuss whether S.Tax is payable on the services provided by the adventure sports company by way of renting camps.	

5. Transport of passengers, with or without accompanied belonging by a ropeway, cable car or aerial tramways is vide mega exemption notification 25/2012.

RELATED CASE STUDIES

Case	Solution
High Himalaya Cable Car Co. runs a cable car to transport pilgrims' uphill to a mountain top where a holy temple Kedarnath is situated. Examine whether High Himalaya Cable Car Co. is required to pay any service tax ?	

6. Services by way of giving on hire to a State Transport Undertaking, a motor vehicle means to carry more than 12 passengers is exempt from service tax vide mega exemption notification 25/2012.

VALUATION

Problem 1: Compute the interest payable on delayed payment of service tax by service providers in following cases:

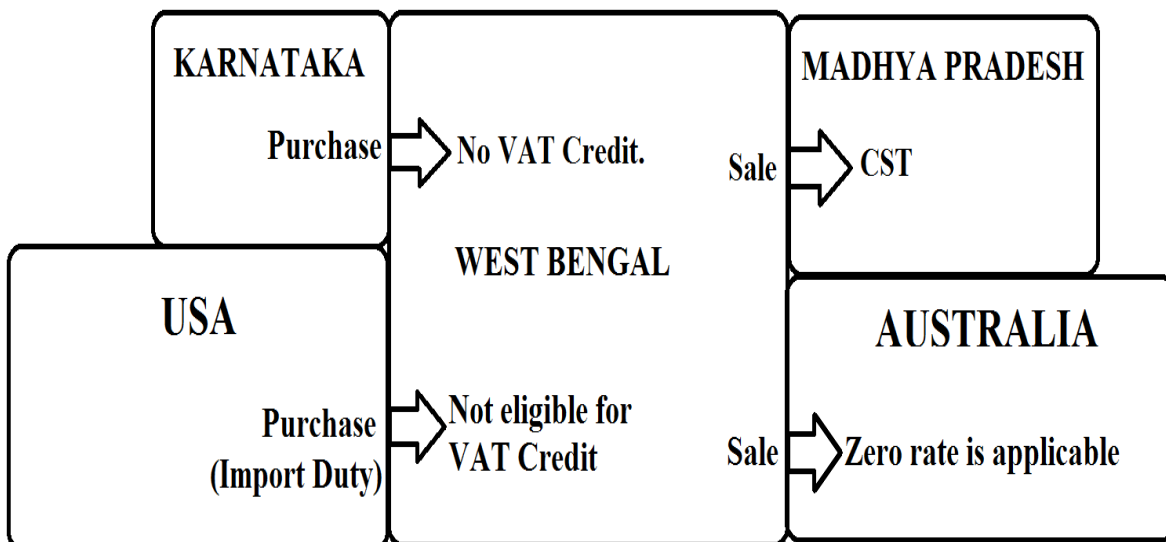
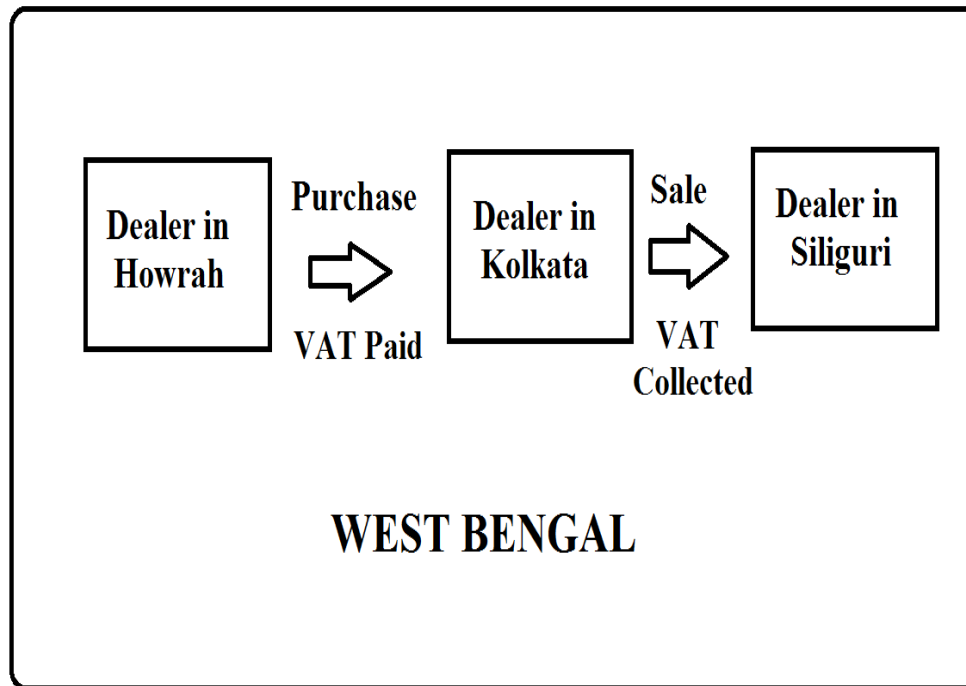
Name of service provider	Smile Ltd.	Ms. Smily
Service tax liability	Rs. 1,23,600	Rs. 2,16,000
Delay in payment of service tax	20 days	25 days

Aggregate value of taxable services rendered in previous FY 2012-13 by Smile Ltd. was Rs. 40 lakhs and Ms. Smily was Rs. 62 lakhs.

Assume that service tax liability and delay given above relates to a period in the financial year 2013-14.

Problem 2: Mr. Tarak Mehta is a money changer. He is finding it difficult to charge S.Tax @ 12% on the value of service provided by him. Can he pay service tax at a different rate? Explain.

VAT



1. Concept of VAT:

➤ It is a tax on the sale of goods
➤ which is imposed on intra-state sale (within the state) and
➤ This is known as value added tax where value addition = Sale Price – Purchase price.

Vat was introduced in India at Central Level in the form of MODVAT in 1986, which was replaced by CENVAT. Under CENVAT, manufacturer can avail set off excise duty paid on inputs or capital goods and service tax paid on input services against excise duty payable on manufactured final products.

Relevant terms used in this chapter:

Inter-state	Among different states. Example: M/s Alpha Ltd of Karnataka sold goods to M/s Gamma Ltd. of Gujrat.
Intra-state	Within the state. Example: M/s Prince Ltd of Kolkata sold goods to M/s Captain Ltd. of Siliguri.
Cascading Effect	Events that happens in series. Like tax on tax which has already been charged.

2. Names of goods on which VAT is not applicable:

Petrol, Diesel, Aviation turbine fuel, other motor spirit. Liquor Lottery tickets.	 ASSESSEE
--	--

These goods are covered under Sales tax Act or any other State Act.

3. Different rates under VAT system:

0% - Exempted category :	50 commodities fall in the group like: 1. Natural and Unprocessed products in unorganized sector (e.g.: unprocessed agricultural products). 2. Items which are legally barred from tax. 3. Items which have social implications.
1%	Precious Stones, bullion, Gold and Silver ornaments.
4%	Capital goods, Agricultural goods, Items of basic necessities as medicine and drugs.
5%	Applicable for declared goods w.e.f. 08/04/2011.
20%	Luxury goods.
12.5%	All goods other than the goods covered by the above category.

4. Merits / Demerits of VAT:

Merits	Demerits
No cascading effects	Maintenance of detailed accounting records
Reduces retail prices	Problems due to different VAT rates and concessions
Bring certainty	Difficulty in achieving matching requirement of purchase with sales.
Transparency	Increase in working capital requirement.
Involves self assessment of tax and less procedural	State VAT not integrated with Central VAT.

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formalities.	
Brings neutrality in various aspects.	Increase in administrative cost.
Leads to better revenue collection and stability	
Helps in better revenue collection and stability.	
Helps to tax consignment of goods.	
No Tax evasion	
Leads to effective audit.	

5. Input Tax, Output Tax:

Input Tax means the tax paid / payable by a dealer of a state on purchase and Output tax is the tax charged/chargeable by a registered dealer on sale of goods made by him in the course of his business.

Example: Mr Akram sells goods valuing Rs. 1 lakhs to Mr. Bikram. The VAT Rate is 4%. In this case, Mr Akram will collect Rs 4,000 from Mr. Bikram. This sum of Rs. 4,000 is output tax for Mr Akram.

Mr. Bikram will pay Rs. 1,04,000 to Mr Akram. Tax of Rs. 4,000 paid by Mr. Bikram is 'input tax' for him

6. Purchase eligible/ ineligible for input tax credit:

<u>Purchase eligible for input tax credit</u>	<u>Purchase ineligible for input tax credit</u>
For sale / resale within the state.	Purchase from unregistered dealer.
In course of inter state trade or commerce.	Purchase from dealers opting for composition scheme.
To be used as raw materials, container/packing materials, consumables stores, for manufacturing of taxable goods or in the packing of such manufactured goods intended for sale in the state.	Purchase of goods where invoice not available, or there is evidence to the effect that the invoice is not issued by the registered dealer from whom the goods are said to be purchased.
For being used in execution of works contract.	Purchase of notified goods.
To be used as capital goods required for manufacture or resale of goods.	Purchase of goods with an invoice not showing separately the tax charged.
To be used as raw materials, capital goods, container/packing materials, consumables stores, for manufacturing of packing goods to be sold in course of export out of the territory of India.	Purchase of goods unlisted for manufacturing exempted goods.
For making zero rated sales.	Inter state purchase.
	High seas purchase.

Notes:

1. Dealer having turnover up-to Rs. 50 lakhs during a FY may apply for composition scheme. If turnover exceeds Rs. 50 lakhs during a FY, then he has to shift to normal system. A dealer who opts for composition scheme is exempt from maintaining lengthy records required under VAT. However, if a dealer is covered under composition scheme, he must purchase goods from registered dealer only. The dealer opting for composition scheme cannot issue VAT invoice.

2. Zero rate is applicable if goods are
- exported outside India,
 - sold to an EOU and

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- to a dealer having business under SEZ, Software Technology Park, and Electronic Hardware Technology Park.

3. Exempted goods are those whose tax rate is zero but input tax credit will not be available.
 Example: Agro implements manually or animal driven, fresh milk, books, journals.

CASE STUDIES

Briefly explain whether the following purchases are eligible for availing input tax credit:

Cases	Solution
Rohon purchased goods from registered dealer. He claims to have paid VAT on the said goods but the invoice pertaining to said purchase has been lost on account of negligence of a clerk in his office.	
Kakkar & Co. purchased goods from Makkar Enterprise. Makkar Enterprise is an unregistered dealer.	
Partiv purchased some capital goods. The final product manufactured by Partiv using these capital goods is exported.	
Mohonlal purchased goods for being used in execution of a works contract.	
Singam & Co. purchased goods from Dabang & Co., a registered dealer. Dabang & Co. has opted for composition scheme under the provision of respective State VAT Act.	
Avani purchased goods Vidya. Vidya has not shown VAT Charged on the purchase value separately in the invoice.	

7. Variants of VAT / modes of allowing input tax credit:

Gross Product Variant	Tax is levied on all sales but credit/set off can be availed only of VAT paid on raw materials and inputs other than capital goods. <i>My Interpretation:</i> <table> <tr> <td>Raw materials</td><td></td></tr> <tr> <td>Inputs</td><td></td></tr> <tr> <td>Capital goods</td><td></td></tr> </table>	Raw materials		Inputs		Capital goods	
Raw materials							
Inputs							
Capital goods							
Income Variant	VAT is levied on all sales effected and credit/set off is allowed of VAT paid on all raw materials and components and for capital goods - VAT credit is allowed in the ratio of depreciation allowed on them. VAT credit on capital goods can be availed of fully but can be utilized in a pro rata manner. <i>My Interpretation:</i> <table> <tr> <td>Raw materials</td><td></td></tr> <tr> <td>Inputs</td><td></td></tr> <tr> <td>Capital goods</td><td></td></tr> </table>	Raw materials		Inputs		Capital goods	
Raw materials							
Inputs							
Capital goods							
Consumption Variant	Vat is levied on all sales and 100% credit/set off is allowed of VAT paid on all raw materials and components as well as capital goods. <i>My Interpretation:</i> <table> <tr> <td>Raw materials</td><td></td></tr> <tr> <td>Inputs</td><td></td></tr> <tr> <td>Capital goods</td><td></td></tr> </table>	Raw materials		Inputs		Capital goods	
Raw materials							
Inputs							
Capital goods							

Notes:

1. Raw Materials = Direct material.
 Input = Indirect Material

8. Methods of computation of VAT:

Addition method	Value added = All factor payments + profits.
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	Vat liability = Value added x Rate of tax.
Invoice method / Tax credit method / Voucher Method	Vat payable = Vat on sales – Vat on inputs.
Subtraction Method	Value added = Sales – Purchase. This method is generally followed when tax is not charged separately in the invoice i.e. the sales invoice shows sale price inclusive of tax. In such cases, the VAT liability is computed as follows: VAT liability at each stage = $\frac{\text{Rate of VAT} \times \text{Taxable Turnover}}{100 + \text{Rate of VAT}}$

9. Registration under VAT:

Registration is a process of obtaining certificate of registration (RC) from the VAT Authorities. A dealer registered under the VAT Act is called registered dealer. As per the policy laid down in white paper, the VAT registration is compulsory for the dealers having their gross annual turnover up-to Rs. 5 lakhs (or increased limit of Rs. 10 lakhs). All existing dealers under the Sales-tax laws will be automatically registered under the Act.
Every Dealer engaged in purchase and sale of goods are liable to pay tax under the VAT Act is required to get him registered and obtain a registration certificate under the Act. The dealer has to obtain registration within 30 days from the date he is liable to get registered and for this, he has to apply to Commissioner in prescribed form with prescribed fees.
<u>Compulsory Registration:</u> In case of dealer required to obtain the registration fails to obtain the same and then he will be compulsorily registered under the Act by the Commissioner. The commissioner may assess the tax due from such person on the basis of evidence available with him and thereafter the concerned assessee is bound to pay such amount of tax. Further, failure to get registered shall result in attracting default penalty and forfeiture of eligibility to set off all input tax credit related to the period prior to the compulsory registration.
<u>Voluntary Registration:</u> A dealer not required to get registered may also obtain registration if the commissioner is satisfied that the business of the dealer requires registration. At the time of granting voluntary registration, the commissioner may impose certain terms and conditions if he thinks it necessary to do so.
Circumstances under which registration can be cancelled: - Discontinuance of business. - Disposal of business. - Transfer of business to a new location. - Annual turnover of a manufacturer or a trader dealing with designated goods or services falling below the specified amount. - Dealer has failed to furnish requisite security or has committed fraud/misrepresentation of facts.

10. Discussion on: Vat Invoice and the mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer

VAT invoice is a document listing:

- goods sold with price,

- tax charged and
- other details as may be prescribed and issued by a dealer authorized under the Act.

White Paper policy with regard to invoice: The White Paper provides for the following mandatory provisions, the failure of which will attract penalty:

- i. Every registered dealer whose turnover of sales exceeds the specified amount shall issue to the purchaser a serially numbered tax invoice, cash memo or bill with the prescribed particulars,
- ii. The tax invoice shall be dated and signed by the dealer or his regular employee, showing the required particulars.
- iii. The dealer shall keep a counterfoil / duplicate of such tax invoice duly signed and dated.

Note: The dealer opting for composition scheme cannot issue VAT invoice.

11. Records to be maintained under VAT system by a registered dealer:

- i. Records of purchase.
- ii. Records of sales.
- iii. VAT Account.
- iv. Separate record in case there is any exempt sale.
- v. Copies of all invoice issued, in serial number.
- vi. Copies of all credit and debit notes issued, in chronological order.
- vii. All purchase invoices, copies of customs entries, receipts evidencing payment of customs duty or tax, and credit and debit notes received, to be filled in a chronological order either by date of receipt or under each supplier's name.
- viii. Details of the amount of tax charged on each sale or purchase.

12. Role of Auditor under VAT system:

Chartered Accountants can check the tax compliances by:

Helping the client in maintenance of systematic records.
Helping in interpretation of various provisions of VAT laws.
Performing audit of VAT accounts.
Reporting the under statement, if any, or any dealer demanding additional payment.
Reporting any excess payment of tax providing refund to the assesses.

13. Vat Regime:

It means methods or system of governance of VAT. Each state has its own VAT Act, Rules, Schedules and Forms etc, so there is obvious some differences and such difference continues even in definitions also. However, it is possible to keep harmony in: a. rates of taxes, b. listing for exempted goods and c. classification of goods under 4% category.

14. Incentives under VAT:

Tax incentive schemes have been devised to contribute to the industrial developments of the state.

Principles laid down in white paper:

- Continuance of the existing scheme in the manner the SG thinks it appropriate.
- Ensuring that the VAT chain is not affected.
- No extension of the time period allowed for the availment of incentives and no increase in the quantum of incentives allowed.

White Paper provides a optional composition scheme for small registered dealers where tax is paid at a small percentage (composition rate) of the gross turnover. Composition rate can be reduced to as low as 0.25%.

White paper consists of 3 parts:

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Part 1: Justification of VAT and background.

Part 2: Main Design of VAT, Basis of consensus/ harmony among states,

Part 3: Other related issues relating to effective implementation of VAT.

Schemes under VAT:

- a. Exemption from tax. b. Deferment of tax liability. c. Remission of tax.

15. TIN:

TIN or Tax Payer's Identification Number is a 11-digit numerical code which represents the registration number of a dealer and hence, is used to identify a tax-payer. Out of 11-digits, first 2 digits represent the State Code as used by the Union Ministry of Home Affairs, and next 9 codes are allotted by each state to the registrant, so different in different states.

16. Filing of Return under VAT:

- i. Returns are to be filled monthly/quarterly/annually in the prescribed form within prescribed time as per provisions of the State Acts/ Rules.
- ii. The returns shall be accompanied by the challan showing payment of tax. In some states, there are return cum challans, so in such cases, the return along with payments can be filled with the treasury.
- iii. In some states opportunity may be given to revise a return in case, the assessee discovers any mistake or omission in the return filled by him.
- iv. The department shall carry out scrutiny of the returns filled within the prescribed time period so as to ensure that the information given as per the requirement is correct. In case there is any technical or other mistake in the return, then the same is to be corrected by the assessee and pay the deficit amount if any.

17. Relationship between VAT and Sales Tax Incentives:

Any exemption from tax is against the principles of VAT as it breaks the VAT Chain. SG, therefore stopped giving incentives to new industries after January 2000 and incentives already given to industries set up prior to January 2000 were continued under VAT regime by converting them to deferral schemes so that such industries could pass on the benefits of VAT to their buyers.

By and large, sales tax incentives were given in 3 modes as:

- a. Exemption from Tax – It means: Neither tax charged nor tax collected by eligible industry. Input Tax also not payable on purchase of raw materials. Exemption ceases either with the expiry of exemption period or the exemption amount, whichever occurs first.
- b. Deferment of tax liability – It means: Tax collected from buyers but payment thereof to the Govt deferred. After expiry of prescribed period, liability to be paid in specified installments.
- c. Remission of tax – It means: tax collected from buyers but payment thereof remitted. Input tax paid on purchase by the unit to be refunded.

18. Relationship between VAT and Works Contract:

Works Contract is a deemed sale [composite contract of goods and services] and is thus liable to VAT.

While VAT is leviable on goods involved in the execution of works contract, S.Tax is levied on value of services.

Where labour and other service charges are quantifiable, taxable turnover would be contract price less labour and other service charges.

Where labour and other service charges are not quantifiable, taxable turnover can be cost of goods plus cost of transfer/conversion and profit margin

OR

Standard rate of deduction provided in State VAT laws can be used for deducting labour and other like charges in the contract to arrive at the taxable turnover.

Tax Rate:

1. Schedule Rate – This rate is taken if value of each item of material transferred in the course of execution of a contract is identifiable. Tax is charged on value of individual items of materials as provided under the schedules to the concerned State VAT legislation.
2. Revenue neutral rate [RNR] – This rate is taken if values of individual goods are not identifiable. Contractor can pay tax at Revenue Neutral Rate generally (RNR - generally 12.5% / 13.5%) after deducting the value attributable towards labour and other like charges.

19. Relationship between VAT and Lease transaction:

≠ Under a lease:

- a party owning the asset / Lessor
- provides an asset for use over a certain period of time to another party / Lessee
- for consideration / lease rental.
- However, legal ownership of the asset remains with the lessor,
- But the lessee retains the possession and uses the asset over the period of lease.

≠ Lease is a deemed sale and thus liable to VAT.

≠ If complete possession and control is not handed over in respect of an asset given on rent, transaction is not a deemed sale as it is not a transfer of right to use, but a service and is thus, liable to service tax.

≠ Sub lease of an asset too can be taxed, unless the state VAT law has provided for the levy of tax only at one stage.

≠ Taxable event is transfer of the right to use any goods for any purpose [whether or not for a specified period] for cash, deferred payment or other valuable consideration.

≠ Taxable turnover is the amount of valuable consideration paid or payable for any sale during the given period. Certain states provide deduction of interest or financial charges for determining taxable turnover.

≠ ITC is allowed to lessor on purchase of the asset which is to be leased. Since, these assets are generally capitalized in the books of lessor, provisions relating to ITC on capital goods apply in this case also.

≠ Maintenance of the leased asset involving supply of consumables by the lessor is not a works contract [as there is no transfer of property in such materials to the lessee] and is thus, not liable to VAT. It is a service contract liable to S.Tax. If parts are also supplied during maintenance, such contract becomes a works liable to VAT.

≠ Sale of a leased asset after the lease period is over is taxable in the same manner in which normal sale of such asset would have been taxed.

20. Relationship between VAT and Sale of food articles:

Sale of food in a hotel is a deemed sale liable to VAT. Service portion in such a sale is declared to be a service liable to S.Tax.

21. Relationship between VAT and Hire Purchase:

Under HP,

- Hirer acquires the goods immediately on signing the HP agreement
- But ownership of the same is transferred only when last installment is paid.
- Under, installment payment system, buyer gets ownership of the goods with the payment of first installment.

≠ Since HP transaction are deemed sale, they are liable to VAT.

≠ Transactions which are purely of a financial nature between the financier and the hirer are not liable to VAT.

≠ Taxable event is the actual or physical delivery of goods on hire purchase or under any system of payment by installments.

≠ Some states provides for deduction of interest or finance charges included in the installment in arriving at the taxable turnover while some do not provide any such consideration.

≠ Provision relating to ITC in case of a normal sale applies in case of HP also. However, some states provide for pro rata credit.

≠ Tax may not be payable when transaction fructifies (effective) into a concluded sale as tax has been paid on installments.

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- ≠ Goods returned are treated as normal sale return and thus refund of tax can be claimed as per the provisions of respective state VAT laws if goods are returned within the prescribed period.
- ≠ When transaction of hire purchase fails, vendor takes possession of the goods and normally installments received for the intervening period for forfeited.

BEST OF LUCK FOR YOUR UPCOMING EXAM
