

Roll No. ....

Total No. of Questions – 7

NOV 2011

Total No. of Printed Pages – 8

Time Allowed – 3 Hours

Maximum Marks – 100

## URL

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi medium, his answers in Hindi will not be valued.

Working notes should form part of answer.

Question No. 1 is compulsory.

Attempt any five from the remaining six questions.

**(Wherever appropriate, suitable assumption/s should be made and indicated in the answer by the candidate)**

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1. (a) MNO Ltd. is in the manufacture of both excisable and non-excisable goods in their factory building rented by them from October 1, 2010 and have been occupying the same as a tenant. From the following particulars for the period Oct. 1, 2010 to March 31, 2011 state briefly with suitable explanations whether MNO Ltd. could claim the benefit of exemption in terms of Notification No. 8/2003- CE dated 1-3-2003 for the financial year 2011-12. 5
- |  | ₹ in lakhs |
|--|------------|
| (i) Clearances of branded goods  | 60         |
| (ii) Export Sales to Nepal   | 80         |
| (iii) Export Sales to USA and Canada   | 120        |
| (iv) Clearances of goods (duty paid based on Annual capacity of production under Sec. 3A of the Central Excise Act, 1944)  | 70         |
| (v) Clearances of goods subject to valuation based on retail sale price under See 4A of the Central Excise Act, 1944 (said goods are eligible for 30% abatement) | 200        |
| (vi) Job work under Notification No. 214/86-CE. dated 25-3-86  | 60         |

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During the period April 1, 2010 to Sept 30, 2010 the previous tenant of the building presently occupied by MNO Ltd. had cleared excisable goods of the aggregate value of ₹ 120 lakhs.

- (b) The following information is provided in respect of manufacture of a product "X" for the purpose of captive consumption in the same factory. You are required to determine the value for purpose of duty of excise in terms of Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000

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	₹
Cost of direct materials (includes central excise duty ₹ 1,545)	16,545
Cost of direct employees	12,300
Works overheads	8,400
Quality control cost	4,300
Research & development cost	2,700
Administrative cost :	
Production related	3,000
Others	1,500
Selling and distribution cost	3,600
Scrap value realised	1,500

Make assumptions if required and provide suitable explanations.

- (c) Raj & Co. provide the following details in respect of the services provided and the payments thereagainst received by them for the month of March 2011. Compute the value of taxable service under 'Business Auxiliary Service' falling under Sec. 65(105)(zzb) of the Finance Act, 1994 and the service tax payable thereon :

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	₹ Lakhs
(i) Commission for procurement of services for their client M/s Shraddha & Co.	10
(ii) Commission on distribution of UTI Mutual Fund products	16
(iii) Customer care service provided on behalf of M/s Sweta & Co. Ltd.	8

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(iv) Commission on purchase and sale of food grains	20
(v) Commission on procurement of advertisements for publications company (No other service is provided)	4
(vi) Charges for processing parts and accessories in the manufacture of cycles for use by the client (client has supplied inputs valued at ₹ 2 lakhs)	10

Make assumptions where required and provide suitable explanations.

- (d) From the following information provided by M/s RA Ltd., registered under the VAT law in the State of Gujarat as dealer in consumer goods, compute the amount of VAT payable for the month of July 2011 :

5

**Purchase of raw material (within the State)**

Item	Amount ₹	Rate of VAT
Goods 'X'	7,50,000	Exempt
Goods 'Y'	25,00,000	1%
Goods 'Z'	35,00,000	12.5%

**Sales**

Particulars of finished goods sold	State in which goods are sold	Value ₹	VAT/CST Rate %
(i) Produced from goods 'X'	Gujarat :	5,00,000	12.5% VAT
	Interstate sales to Maharashtra :	6,00,000	2% CST
(ii) Produced from goods 'Y'	Gujarat :	30,00,000	Exempt
(iii) Produced from goods 'Z'	Gujarat :	40,00,000	4% VAT

Raw materials valued at ₹ 5 lakhs of goods 'Z' have been transferred to the branch in Madhya Pradesh during the month. Assume 2% reduction in input credit on account of such transfer.

Make assumptions where required and provide suitable explanations.

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- (e) Determine the assessable value for the purpose of Customs Act, 1962 from the following information in respect of import of a machine from UK : 5

(i) FOB Value	£ 6,000
(ii) Air Freight	£ 1,500
(iii) Design and development charges paid in UK	£ 500
(iv) Design and development charges paid in India	₹ 10,000
(v) Commission paid to local agents 1% of FOB Value	
(vi) Date of Bill of Entry 10-4-2011	
(Exchange rate notified by CBEC £ 1 = ₹ 70)	
(vii) Date of entry Inward 20-4-11	
(Exchange rate notified by CBEC £ 1 = ₹ 65)	

Insurance charges are not ascertainable.

Make assumptions where required and provide suitable explanations.

- 2 (a) Discuss with a brief note the validity of the following statements with reference to the Cenvat Credit Rules, 2004 3×3  
=6
- (i) Credit of input services used in the repairs or renovation of factory or office is not available
  - (ii) Credit of capital goods can be availed where such capital goods are exclusively used in the manufacture of dutiable goods with respect to which benefit under Notification No. 1/2011-CE dated 1-3-2011 is availed.
  - (iii) Cenvat Credit of duty paid on capital goods used outside the factory of manufacture for generation of electricity for captive use within the factory is allowed.
- (b) With reference to the provisions of the Finance Act, 1994 relating to service tax write a brief note on the following : 2×3  
=6
- (i) Vacant land given on lease or license for construction of a building or temporary structure at a later stage to be used for furtherance of business or commerce.
  - (ii) Activities relating to promotion of a brand of goods, events, business entity.
  - (iii) Air transport of crew members on board the air craft.

- (c) Write a brief note with reference to the provisions of the Customs Act, 1962 on the assessment of "Packaged Software" where affixation of Retail Sale Price (RSP) is : (i) mandatory and (ii) not required under the Standards of Weights and Measures Act, 1976. 3
- (a) M/s. XYZ Co. Ltd. is engaged in the manufacture and sale of machine parts for sugar machinery. The goods were sold at certain prices on the basis of which excise duty was paid at the time of removal from the factory. Following certain negotiations with the customers the price of goods already cleared were retrospectively revised upward. Consequently M/s. XYZ Co. Ltd. issued supplementary invoices to its customers and realized the differential price as per the said invoices. Differential excise duty consequent upon the said revision in prices was also calculated and remitted to the Government account. A show cause notice has been issued on M/s XYZ Co. Ltd. by the excise department demanding interest on delayed payment of duty under Sec. 11 AB of the Central Excise Act, 1944. Discuss with a brief note whether the stand taken by the central excise department is correct in law. You may refer to decided case law if any in support of your answer. 6
- (b) "Efficient Collections" (EC) entered into a license agreement with the Airport authority in terms of which EC were granted the right to collect entrance fee from visitors to the airport. The central excise department has issued a show cause notice on EC claiming service tax on the collections made by EC on the ground that these are services provided to a customer in the Airport and hence taxable under the Finance Act, 1994. Discuss with reference to decided case law if any whether the stand taken by the central excise department is correct in law. 6
- (c) PQR Ltd. imported certain machine parts and filed a Bill of Entry in the usual course. The said machine parts are entitled for concessional rate in terms of a notification. The assessee PQR Ltd. omitted to claim the benefit of the aforesaid notification at the time of filing and assessment of the Bill of Entry. Later when PQR Ltd., discovered about the benefit under the notification as aforesaid they filed a refund claim for the excess amount paid as customs duty under Sec. 27 of the Customs Act, 1962. There was no assessment order since the duty was paid on the basis of the Bill of Entry filed in the usual course. The refund claim was rejected on the ground that Sec 27 of the Customs Act, 1962 could be invoked only if an assessment order has been passed and duty payment made pursuant thereto. Discuss with a brief note and decided case law if any whether the stand of the department is correct in law. 3

4. (a) The assessee M/s. T & Co. Ltd. were engaged in the manufacture of 'tarpaulin made ups'. This was nothing but tarpaulin cloth prepared by making a solution of wax, aluminium stearate and pigments that were mixed. The solution was heated in a vessel and was transferred to a tank. Grey cotton canvas fabric was then dipped into the solution and passed through two rollers, whereafter the canvas was dried by exposure to sun. The tarpaulin made ups were prepared by cutting the cloth into various sizes and stitched and eyelets were fitted. The central excise department has issued a show cause notice to M/s. T & Co. Ltd. that the tarpaulin made ups prepared by means of cutting, stitching and fixing eyelets amounts to manufacture under the Central Excise Act, 1944. Write a brief note with reference to decided case law if any whether the department's view in the matter is legally sustainable. 6
- (b) M/s. Sure shot are in the business of providing photography services. These services involved besides shooting photographs activities such as developing and printing the exposed films. M/s Sure shot availed the benefit of Notification No. 12/2003-ST dated 20-6-2003 which provides exemption for materials that are sold by the service provider to the extent of the value of such materials from the value of taxable services. The department has issued a show cause notice that the value of materials actually consumed during the processing of exposed films cannot be excluded from the gross value of the services. M/s. Sure shot had paid VAT on the materials consumed in providing the photography services to its customers. Discuss with a brief note and decided case law if any whether the stand taken by the department is correct in law for purposes of levy of service tax in terms of the Finance Act, 1994. 6
- (c) M/s. SRT Ltd. had imported certain goods and got them cleared for home consumption. Later the customs department found that the goods have been improperly imported and are liable for confiscation under Sec. 111 of the Customs Act, 1962 even though the same are cleared and not available for seizure. Consequently the goods were confiscated under Sec. 111(d) of the Customs Act, 1962 and a penalty under Sec. 112(a) was levied. The authority has also imposed redemption fine under Sec. 125 of the Customs Act, 1962. Discuss with a brief note whether the penal action and redemption fine can be legally upheld in the facts of the case. 3

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5. (a) (i) Write a brief note on who could be considered as a “related person” under Sec. 4(3)(b) of the Central Excise Act, 1944. **3×2 =6**
- (ii) Briefly explain the following expression under the Central Excise Act, 1944 :- “Place of removal”
- (b) (i) State briefly the provision regarding rejection of value and determination of value by central excise officer under Rule 4 of the Service Tax (Determination of Value) Rules, 2006. **3×2 =6**
- (ii) Explain briefly the invoice method for computation of VAT.
- (c) Explain with a brief note with reference to the Customs Act, 1962 how duty ought to be determined where the imported goods consist of articles liable to different rates of duty and imported as a “set of articles”. **3**
6. (a) Write a brief note with reference to the Central Excise (removal of goods at concessional rate of duty for manufacture of excisable goods) Rules 2001 on the provisions relating to the following cases : **6**
- (i) Consequence of goods not being used for intended purposes.
- (ii) Defective, damaged, unsuitable, surplus goods returned to manufacturer ;
- (iii) Goods lost or destroyed by natural causes or unavoidable accident and not used for intended purpose.

**OR**

- (a) (i) Write a brief note under the Central Excise Act, 1944 in the context of provisions relating to ‘payment of duty under protest’. **3×2 =6**
- (ii) Briefly state the provisions under the Central Excise Rules, 2002 with respect to filing of ‘Annual Installed Capacity Statement’.
- (b) (i) Briefly explain whether the provisions of ‘deemed registration’ under rule 4(5) of the Service Tax Rules, 1994 are applicable in case of centralized registration. **3×2 =6**
- (ii) What are the circumstances under which VAT registration could be cancelled ? Write a brief note.
- (c) Explain briefly the powers of review to the Commissioner of Customs under Sec. 129D(2) of the Customs Act, 1962 in respect of decisions taken by adjudicating authority subordinate to him. **3**

7. (a) (i) Write a brief note on the classification of incomplete/unfinished articles with reference to Rule 2(a) of the Interpretative Rules to the First Schedule of the Central Excise tariff. 3×2  
=6
- (ii) Write a brief note on the matters with respect to which an appeal does not lie before the Customs Excise Service Tax Appellate Tribunal against any order passed by Commissioner (Appeals) under Sec. 35B of the Central Excise Act, 1944.
- (b) (i) Briefly state the charges/services that are specifically excluded from the category of special services provided by builder to the prospective buyer of a residential/commercial complex under Sec. 65(105) (zzzu) of the Finance Act, 1994. 3×2  
=6
- (ii) State briefly the key principles adopted by the States under the VAT laws with regard to incentive schemes.
- (c) Explain briefly how the terms 'warehouse', 'warehoused goods' and 'warehousing station' are defined in the Customs Act, 1962. 3