

Roll No.

NOV 2012

FINAL
GROUP-II PAPER-8
INDIRECT TAX LAWS

Total No. of Questions – 7

Total No. of Printed Pages – 8

Time Allowed – 3 Hours

Maximum Marks – 100

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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/her answers in Hindi will not be valued.

Question No. 1 is compulsory.

Candidates are also required to answer any five questions from the remaining six questions. Wherever appropriate, suitable assumption(s) should be made and indicated in the answer by the candidate.

Working Notes should form part of the answer.

1. (a) Machine India Ltd. is engaged in the manufacture of machines. It has supplied one machine to M/s. Z & Co. with the following details. Determine the total amount of Central Excise Duty and Cess payable thereon. Marks 5

Particulars	Amount in ₹
(i) Price of machines excluding taxes and duties	8,50,000
(ii) Installation and erection expenses	30,000
(iii) Packing charges	12,500
(iv) Design and engineering charges	4,000
(v) Cost of material supplied free of charge by buyer	10,000
(vi) Pre-delivery inspection charges	1,000

Other necessary information is as under :

- (i) Cash discount @ 2% on price of machinery is allowed as per terms of contract because buyer made full payment in advance.
- (ii) Bought out accessories worth ₹ 8,000 supplied with machine.
- (iii) The rate of Central Excise Duty is 10%, Education Cess 2% and Secondary and Higher Education Cess is 1%.

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- (b) Robust Engineers Ltd. removed goods from their factory at Delhi on 20-02-2010 for sale from depot at Mumbai. On that date, the normal transaction value of goods at Delhi factory was ₹ 20,000 and the rate of duty was 8% Ad-valorem. The said goods were sold from Mumbai depot on 15-3-2010. On that date the normal transaction value at Mumbai depot was ₹ 22,000 and rate of duty was 10%. 5

The normal transaction value at Mumbai depot on 20-02-2010 was ₹ 19,000 and the rate of duty was 8%.

M/s. Robust Engineers Ltd. paid the duty on ₹ 20,000 at the rate of 8%. The Central Excise Department claimed Central Excise Duty @ 10% on the value of ₹ 22,000.

Examine whether department is correct.

- (c) (i) Mr. Singleton, an output service provider, deposited the service tax amounting to ₹ 20 lakh on 09-06-2011 for the quarter ending December, 2010. 3

Compute the amount of interest payable by Mr. Singleton assuming he deposits service tax electronically and his value of taxable service in 2009-10 was ₹ 80 lakh.

- (ii) Explain whether there would be any difference in the rate of interest if his value of taxable services was as follows : 2

2009 – 10 ₹ 59 lakhs

2010 – 11 ₹ 48 lakhs

2011 – 12 ₹ 54 lakhs

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(d) M/s. Evergreen Distributors have submitted the following particulars : **5**

- (i) Inputs worth ₹ 1,00,000 were purchased within the State.
- (ii) Finished goods worth ₹ 2,00,000 were sold within the state and finished goods worth ₹ 1,00,000 were sold in the course of inter-state trade.
- (iii) VAT @ 12.5% was paid on procurement of capital goods during the month.

The input and output tax rate in the State is 12.5% and 4% respectively. The Central Sales Tax Rate is 2%.

Calculate the VAT liability for the month.

(e) M/s. Foreign Trade International Ltd. have imported one machine from **5**
England. They have given the following particulars :

Particulars	Amount
(i) F.O.B. value of machine	£ 8000
(ii) Air freight paid	£ 2500
(iii) Design and development charges paid in England	£ 500
(iv) Commission @ 2% of F.O.B. value paid to local agent in Indian Currency.	
(v) Date of Bill of Entry is 24-10-2011 [rate of basic Customs Duty is 20%. Exchange rate as notified by C.B.E.C. is ₹ 68 per Sterling Pound]	
(vi) Date of arrival of aircraft is 20-10-2011 when rate of basic Customs Duty was 18%, exchange rate as notified by C.B.E.C. was ₹ 70 per Sterling Pound.	
(vii) CVD rate is 10% plus Education Cess 2% and Secondary and Higher Education Cess is 1%.	
(viii) Rate of special additional duty is 4%.	
(ix) Insurance charges, though actually paid, details are not available.	

Compute the assessable value and determine the Customs Duty payable by M/s. Foreign Trade International Ltd. Give brief notes also wherever necessary.

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2. (a) With reference to amendments effected recently in Cenvat Credit Rules, 2004, explain the following :
- (i) Manner of distribution of Cenvat credit by input service distributor. **4**
 - (ii) The amount payable in respect of capital goods, on which Cenvat credit has been availed and is removed as scrap or waste. **2**
- (b) Explain the following in relation to service tax : **2×3 =6**
- (i) Date of payment under Rule 2A of the Point of Taxation Rules, 2011.
 - (ii) Maximum time limit specified in Rule 4A(1) of the Service Tax Rules, 1994 for issuing an invoice by the person providing taxable service.
 - (iii) Conditions specified under Sub-Rule (4B) of Rule 6 of the Service Tax Rules, 1994 for adjustment of excess amount paid, under Sub-Rule (4A) of Rule 6.
- (c) Mention whether Education Cess and Secondary and Higher Education Cess is leviable on the goods imported into India under sub-section (1) of Section 3 of the Customs Tariff Act, 1975. **3**
3. (a) (i) M/s. Future Ltd. classified the goods manufactured by them under a particular tariff heading of Central Excise Tariff which attracts 'Nil' rate of duty. The said heading of the Central Excise tariff is not aligned with H.S.N. The Department, relying upon the H.S.N. for classification of the goods, has demanded Central Excise Duty. **3**
- Is the demand of duty by the department justified ? Discuss with the help of decided case.
- (ii) Discuss with the help of decided case, whether the re-appreciation of evidence on a debatable point by the Customs, Excise and Service Tax Appellate Tribunal can be considered as rectification of mistake apparent on record under section 35C(2) of the Central Excise Act. **3**

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- (b) (i) Discuss briefly whether a person who is not liable to pay service tax and has collected an amount representing service tax, is liable to pay the amount to department. **3**
- (ii) Mention the questions on which the advance ruling may be sought in relation to service tax from Authority for Advance Ruling. **3**
- (c) ₹ 50 lakh drawback was paid to M/s. Sun Export Ltd. Subsequently the Commissioner of Customs issued a show cause notice for recovery of the erroneously paid drawback. M/s. Sun Export Ltd. filed an application for settlement of case before the Settlement Commission. The Commissioner disputed the jurisdiction of the Settlement Commission by contending that recovery of drawback did not involve levy, assessment and collection of Customs Duty as envisaged under section 127A(b) of the Customs Act. Discuss with the help of decided case whether the stand taken by the Commissioner is correct. **3**
4. (a) M/s. Export & Sons filed a claim for rebate of Central Excise Duty between April and May, 2003. The Assistant Commissioner, Vide Order dated 23-06-2004 rejected the claim. On appeal, the Commissioner (Appeals) allowed the rebate claims vide order dated 30-09-2004. The rebate claims were sanctioned to M/s. Export & Sons within three months of receipt of order of the Commissioner (Appeals). The Assistant Commissioner, relying upon the Explanation to section 11BB of the Central Excise Act, rejected the claim for interest filed by M/s. Export & Sons. **6**
- Examine with the help of decided case whether the rejection of interest for delayed sanction of rebate claims is justified.

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- (b) M/s. Infrastructure Ltd. has entered into a works contract for a turnkey project. They paid the service tax to the department at the rate specified in section 66 of the Finance Act, 1994. Subsequently, they approached the department to allow them to pay the service tax under the Composition Scheme. **6**

Discuss with the help of decided case whether M/s. Infrastructure Ltd. are likely to be given the permission to pay the service tax under the Composition Scheme.

- (c) M/s. Fast Exporters Ltd. had setup a unit in export processing zone. They imported machines without payment of duty under exemption notification. The company did not run properly and went into liquidation. A show cause notice has been issued to the Managing Director, besides the company, for imposition of penalty under Section 112(a)(ii) of the Customs Act. **3**

Discuss whether the show cause notice for imposition of penalty on Managing Director is sustainable in law, with the help of decided case law.

5. (a) (i) Mention briefly the provisions relating to non-reversal of Cenvat credit under section 5B of the Central Excise Act. **3**

- (ii) Does the principle of "Latter the Better" applies in classifying the excisable goods ? **3**

- (b) (i) Mention the persons who are excluded from availing the general exemption available to small service provider under Notification No. 6/2005-S.T., dated 01-03-2005, as amended. **3**

- (ii) Explain briefly the Addition Method for computation of VAT. **3**

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- (c) Mention briefly the option available to an importer or exporter or their agent or employee under sub-section (5) of section 28 of the Customs Act. **3**
6. (a) Mention the circumstances where the goods are liable for confiscation under the provisions of Central Excise Rules, 2002. **6**

OR

- (a) Briefly answer the following questions relating to export of excisable goods without payment of duty except to Nepal and Bhutan : **6**
- (i) What is the type of bond required to be executed ?
- (ii) Who is exempted from execution of such Bond ?
- (iii) What is the document prescribed for clearance of goods for export ?
- (iv) How many copies are required to be prepared of such document ?
- (v) Is it necessary to prepare an Invoice ?
- (vi) What will be the duty payable, if excisable goods are not exported within six months from the date of clearance ?
- (b) (i) Under what circumstances the premises of an assessee may be searched and by whom under the Finance Act, 1994 relating to service tax ? **3**
- (ii) Mention briefly the different types of audit prescribed under VAT provisions. **3**
- (c) Mention briefly the provisions relating to remission of duty in case of volatile goods under the Customs Act. **3**
7. (a) (i) Briefly mention the categories of persons who are required to take registration under the Central Excise law. **3**
- (ii) Mention the power of Settlement Commission to grant immunity from prosecution and penalty. **3**

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- (b) (i) Mention the circumstances under which a Central Excise Officer may resort to "Best Judgement Assessment" under section 72 of the Finance Act, 1994. **3**
- (ii) Explain briefly the Compulsory Registration and Voluntary Registration under the VAT Act. **3**
- (c) Mention the relevant date in the following cases of goods warehoused under Bond under the Customs Act : **1×3 =3**
- (i) Rate of exchange, when goods are removed for home consumption.
- (ii) Rate of duty when goods are removed from warehouse for home consumption.
- (iii) Rate of duty if goods are not removed from warehouse within the permissible limit.