

Roll No. ....

**NOV 2014**

Total No. of Questions – 7

**FINAL**

Total No. of Printed Pages – 11

Time Allowed – 3 Hours

**GROUP II PAPER-8**

**INDIRECT TAX LAWS**

Maximum Marks – 100

## **NRO**

Answer 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.

**Marks**

1. (a) From the following particulars for the financial year 2013-14, find out whether M/s. Smart Manufacturing Co. is eligible for small scale exemption under Notification No. 8/2003-C.E., dated 01-03-2003 for the financial year 2014-15. 5

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Sr. No.	Particulars	₹ (in Lakhs)
1.	Clearance of excisable goods exempted from payment under a Notification other than 8/2003-C.E.	100.00
2.	Clearance of account books bearing brand name of another person, falling under Heading 4820 of First Schedule to the Central Excise Tariff.	100.00
3.	Clearance of goods to United Nations exempted under Notification No. 108/95-C.E.	50.00
4.	Total Exports [including export to Bhutan ₹ 50 Lakh]. Other exports are to USA & UK	250.00
5.	Clearance of goods (duty paid based on annual capacity of production under section 3A of the Central Excise Act, 1944).	190.00

– Show your calculations, workings and explanations clearly, wherever required.

(b) Hemang Ltd. carried out following works, all of which are liable to State Sales-tax/VAT as transfer of property is involved in the execution of works contract (the amount charged given below are exclusive of all taxes) :-

- (i) New constructions : ₹ 60 Lakh;
- (ii) Additions and alterations to damaged structures on land to make them workable : ₹ 40 Lakh;
- (iii) Maintenance and servicing of goods : ₹ 20 Lakh;

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- (iv) Maintenance and repairs of immovable property : ₹ 25 Lakh;  
(v) Glazing and plastering of an immovable property : ₹ 30 Lakh.

Compute the taxable value of services involved in the execution of works-contract.

- (c) Heena Ltd. is engaged in providing taxable services. It received following amounts in the month of September, 2014. Compute the value of taxable services and the service tax payable by it :

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Particulars of Receipts	Amount (₹)
(i) Advances received from clients for which no service has been rendered so far.	10,00,000
(ii) Demurrage charges recovered from the provision of services beyond the agreed period.	25,000
(iii) Security deposits forfeited for damages done by service receiver owing to his negligence in the course of receiving a service (Not due to unforeseen actions)	35,000
(iv) Payment received from a client (including ₹ 25,000 paid extra by mistake). However, Heena Ltd. refused to return the excess payment received.	2,00,000

Note : Heena Ltd. is not eligible for small service provider's exemption under Notification No. 33/2012-S.T., dated 20.06.2012 and service tax has not been charged separately. Rate of service tax is 12.36% (including cess).

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- (d) A machine was originally imported from Japan at ₹ 250 lakh in August, 2013 on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in January, 2014 and re-imported without any re-manufacturing or re-processing in October, 2014 after repairs. Since the machine was under warranty period, the repairs were carried out free of cost.

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However, the fair cost of repairs carried out (including cost of material ₹ 6 lakh) would have been ₹ 9 lakh. Actual insurance and freight charges (to and fro) were ₹ 3 lakh. The rate of basic customs duty is 10% and rate of excise duty in India on like article is 12%. Additional duty of customs under section 3(5) of the Customs Tariff Act, 1975 is Nil.

Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period.

2. (a) Happy Ltd. sold 1,000 units of excisable goods manufactured by it @ ₹ 1,200 per unit. It had received interest-free advance of ₹ 5,00,000 from the buyer against delivery for the whole of the year. Compute the assessable value of 1,000 units sold in following independent cases :-

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- (i) The normal price charged from other buyers is ₹ 1,150 per unit.  
(ii) The normal price charged from other buyers is ₹ 1,280 per unit.

The normal rate of interest is 12% per annum.

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- (b) M/s. Hatim Ltd., having SEZ unit/s as well as DTA unit/s. furnishes the following data for the quarter, July to September. It has opted for refund route under Notification No. 12/2013-ST, dated 01-07-2013. Determine the amount of refund under the said notification :- 4
- (i) Service tax paid on services exclusively used for authorized operations within SEZ : ₹ 8 lakh.
- (ii) Service tax paid on services exclusively used for operations within DTA (Domestic Tariff Area) : ₹ 4 lakh.
- (iii) Service tax paid on services commonly used for SEZ and DTA units : ₹ 16 lakh. (The turnover of SEZ units is ₹ 400 lakh, while that of DTA units is ₹ 1200 lakh.)
- (c) Service Tax of ₹ 4,000 for the month of March, 2014 was paid on 24<sup>th</sup> April, 2014 by an HUF. The value of taxable services provided by it during the preceding financial year was ₹ 12 lakh. Determine the amount of interest and penalty payable under section 75 and 76 respectively of the Finance Act, 1994. 4
- (d) Calculate the amount of duty drawback (if any) allowable under the Customs Act, 1962 and the rules made thereunder in the following independent cases : 4
- (i) Hema Ltd. has exported goods worth ₹ 80,000 (FOB value). Rate of duty drawback on such export of goods is 0.8%.
- (ii) High Value Ltd. exported 1,000 kgs. of goods of FOB value of ₹ 1,50,000. Rate of duty drawback on such export is 50 per kg. Market price of goods is ₹ 48,000 (in wholesale market).

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3. (a) M/s. Surbhi Textile Ltd. (the assessee) is manufacturer of synthetic yarn and is availing benefit of Sales Tax Incentive Scheme of State Government wherein it is allowed to retain 75% of sales tax amount collected from its customers and pay balance 25% to the State Government. The Central Excise department has demanded inclusion of 75% portion of sales tax collected from customers and retained by the assessee, in transaction value of the goods. Whereas the assessee is contending that 75% portion of sales tax amount is an incentive to promote the industries and it has nothing to do with 'Transaction value'. Examine with the help of a case law (if any), whether M/s. Surbhi Textile Ltd. is liable to include 75% amount of sales tax in transaction value of the goods.

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(b) (i) M/s. Paper Ltd. manufactures paper and paper boards in a remote area and the nearest town with a railway station is at a distance of 35 kms. As the factory works round the clock, M/s. Paper Ltd. has provided residential accommodation to its employees in the vicinity of the factory.

**4**

Discuss with the help of a decided case law (if any), whether M/s. Paper Ltd. is eligible to avail of CENVAT credit of service tax paid on the input services pertaining to maintenance of staff colony.

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(ii) Suraksha Services, a proprietorship firm was engaged in providing security services to its customers. A show cause notice for demanding service tax was issued to the firm and the demand was confirmed. The order was challenged in appeal before the Commissioner, Central Excise (Appeals). The Commissioner (Appeals) denied the raising of the following three additional legal grounds by Suraksha Services during the course of personal hearing :

- (i) Being a proprietary firm, it cannot be considered as Security Agency;
- (ii) Issue involved being interpretation of law, penalty is not imposable; and
- (iii) As per decisions, staff salary is to be excluded from the gross amount received for security services.

Discuss with the help of a decided case law (if any), whether the Commissioner (Appeals) was justified in not allowing the raising of the additional grounds.

(c) M/s. Duplicate Photocopier Ltd. imported old and used main frames of digital copy printers assemblies. The Commissioner assessed the goods and imposed penalty and redemption fine. The importer got the goods released by depositing the amount of duty, fine and penalty with a view to save cost of detention and demurrage as also to save goods from deterioration in value and quality.

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The CESTAT dismissed the appeal, filed by the importer for reducing the quantum of fine and penalty, on the ground that the importer had already got the goods released on payment of redemption fine and penalty.

Discuss, whether the CESTAT was justified in dismissing the appeal with the help of a decided case law (if any).

4. (a) Mention the facilities which may be withdrawn and restrictions which may be imposed on a manufacturer of excisable goods under Rule 12CCC of the Central Excise Rules, 2002 and Rule 12AAA of the CENVAT Credit Rules, 2004. **4**
- (b) (i) M/s. A One Restaurant is having air-conditioned as well as non-air-conditioned restaurants in a single complex. The food is sourced from the common kitchen. Discuss, whether the service tax will be leviable in respect of service provided in the non-air-conditioned restaurant. Explain briefly with reasons. **4**
- (ii) Mention the output services for which refund of unutilised CENVAT credit shall be allowed under Rule 5B of the CENVAT Credit Rules, 2004. **4**

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- (c) (i) Mr. Anil and his wife (non-tourist Indian passengers) are returning from Dubai to India after staying there for a period of two years. They wish to bring gold jewellery purchased from Dubai. Pl. enumerate provisions of Customs Laws for jewellery allowance in their case. 2
- (ii) Mention the new nomenclature of Customs House Agent and the need for such change. 2
5. (a) Specify the persons liable to pay excise duty in case of readymade garments and made up articles of textiles manufactured on job work basis under the provisions of Central Excise Rules, 2002. Explain the provisions in brief. 4
- (b) (i) Define "Governmental Authority" in relation to Mega Exemption Notification No. 25/2012-S.T. dated 20.06.2012. 4
- (ii) Discuss whether an option is available to an air travel agent to not to pay service tax @ 12%, but at a lower rate? If yes, mention the rates of service tax in such case. 4
- (c) Explain briefly the following with reference to the provisions of the Customs Act, 1962 :-
- (1) Conveyance 2
- (2) India 2

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6. (a) Please specify the circumstances in which clearances of two or more units shall be clubbed under the Central Excise Law. **4**

**OR**

Mention the exporters who are eligible to have the facility of export warehousing under the Central Excise law. **4**

- (b) (i) Mention the procedure for obtaining electronic rebate of service tax paid on specified services used in the export of goods, through ICES system. **4**
- (ii) Specify the circumstances under which the Commissioner of Central Excise may order special audit under Section 72A of the Finance Act, 1994. **4**
- (c) (i) Define 'Activity' in respect of advance ruling as per Section 28E (a) of the Customs Act, 1962. **2**
- (ii) Mr. Hasmukh is eligible for reward under 'Served From India Scheme' (SFIS). He has earned foreign exchange (net) of ₹ 6 lakh during the financial year 2013-14. Discuss the limit of his duty credit scrip entitlement. **2**

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- Marks**
7. (a) M/s. Cold Beverages Ltd. has removed the aerated water bottles without declaring the retail sale price under section 4A of the Central Excise Act, 1944. Discuss briefly how the retail sale price of these goods shall be ascertained. 4
- (b) (i) M/s. Pure Drugs Ltd. manufactures medicines which are liable to excise duty only under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. The Assistant Commissioner of Central Excise has directed it to pay the service tax as it is not covered by Negative List [Section 66D(f) of the Finance Act, 1994] since the Central Excise duty under Section 3 of the Central Excise Act, 1944 is not payable on the medicines manufactured by it. 4
- Examine whether M/s. Pure Drugs Ltd. is liable to pay service tax for the year 2014-15. Give reasons in support of your answer.
- (ii) Mention the services specified in Rule 9 of the Place of Provision of Service Rules, 2012 in respect of which, the place of provision shall be the location of the service provider. 4
- (c) What is the basic difference between 'Duty Exemption Schemes' and 'Duty Remission Schemes' under Foreign Trade Policy (FTP)? Name the schemes available under these two schemes for FTP 2009-14. 4

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