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**PAPER 8 : INDIRECT TAXES**  
**NOVEMBER 2000**

Question Nos. 1 and 6 are compulsory.

The candidates are required to attempt three questions out of  
Question Nos. 2, 3, 4 and 5 and two questions out of Question Nos. 7, 8 and 9.

**Question 1**

- (a) M/s. KLM gets their grey cloth processed from M/s. ABC. M/s. ABC carried out the processes of bleaching, dyeing, sizing, finishing etc. on the grey cloth and return the same to M/s. KLM. The cloth is supplied by M/s. KLM and the ownership of the goods vests with M/s. KLM all the time. M/s. KLM sells the processed cloth at the rate of Rs. 100 per meter. The cost of the grey cloth in the hands of M/s. ABC is Rs. 50 per meter and M/s. ABC charge Rs. 20 per meter as job charges (which includes M/s. ABC's profits) and the job charges recovered from M/s. KLM.

Upon the above facts, discuss briefly with reference to the relevant provisions of the Central Excise Act, 1944 and the Rules made there under the following questions that arise:

- (i) Does the process of bleaching, dyeing, sizing, finishing, etc. in the above context amount to manufacture within the meaning of section 2(f) of the Central Excise Act, 1944? **(3 Marks)**
- (ii) In the facts and circumstances of the above case, who will be regarded as a 'manufacturer' for the purposes of Central Excise Act, 1944- M/s. KLM or M/s. ABC or both? **(2 Marks)**
- (iii) How will the assessable value of the processed cloth for purposes of section 4 of the Central Excise Act, 1944 and the Rules made there under be arrived? **(3 Marks)**
- (b) A manufacturer manufactures a product "C", which is chargeable to excise duty. He avails MODVAT credit of the duty on the inputs, which are used in or in relation to manufacture of product "C". The product is an intermediate product and is consumed in captivity in the factory for manufacture of the final product. The final product is what exempts from the payment of duty under the Central Excise Act, 1944. While determining assessable value under Rule 6 (b)(ii) of the Central Excise (valuation) Rules, 1975. Manufacturer does not include the element duty paid on the inputs. The reason advanced by the manufacturer is that since credit has been taken of the duty paid on the inputs, the cost of the manufacture automatically stands reduced to that extent. Explain briefly with reference to the case laws if any, whether the stand taken by the manufacturer in including the duty paid on the inputs for the purpose of valuation is correct? **(4 Marks)**
- (c) Radar systems of a given type, after assembly in the factory are loaded normally in a containerized truck, five at a time, for being dispatched to the wholesale buyer (industry buyer). Each assembled system is fixed by nuts and bolts in the containerized truck. X Ltd., manufactures the aforesaid type of Radar systems. They have orders from a larger public sector organization, which requires delivery of the Radar systems directly in sites which are in hilly or forest areas. The order therefore specified special packing for each radar system to protect it en route and before installation at the respective sites. With reference to the relevant provisions of the Central Excise Act, 1944 and decided cases, if any, briefly discuss whether the cost of such wooden packing must be included in the value under section 4 of the Act, even if the said packing is not durable and returnable by the buyer to the assessee? **(3 Marks)**

**Question 2**

- (a)
- i. State briefly the question on which an "Advance Ruling" under section 23C of the Central Excise Act, 1944 may be sought? **(3 marks)**
- ii. An assessee is barred from making an application for settlement of cases under section 32E of the Central Excise Act, 1944 in certain "Circumstances". Briefly enumerate these circumstances. **(4 marks)**

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(b)

- i. M/s.NML, a unit registered as a small scale unit, manufactures colored televisions sets under the brand name "SONY" in India, which brand name is owned by a foreign company M/s.NML has the exclusive right to use the brand name "SONY" in India.

Explain briefly with reference to Notifications governing Small Scale Industrial Undertakings under the Central Excise Act, 1944 and the Rules, whether the manufacturer in this case M/s.NML is entitled to the benefit of the exemption as applicable to Small Scale Industrial Undertakings.

**(4 Marks)**

- ii. M/s.RPL has three units situated in Bangalore, Delhi and Pune, the total clearances from all these three small scale units of Excisable Goods was rs.3,50,000/- during the financial year 1999 – 2000. However, the value of individual clearances of excisable goods from each of the said units was:

Bangalore unit Rs.1.50 lakhs; Delhi units Rs.100 lakhs; and Pune unit Rs.100 lakhs. Discuss briefly with reference to the Notifications governing Small Scale Industrial Undertakings under the Central Excise Act, 1944, whether the benefit of exemption would be available to M/s.RPL for the financial year 2000-01.

**(4Marks)**

### Question 3

- (a) Write a note with reference to decided case law on the statement that:

"The goods enumerated in the schedules to the Central Excise Tariff Act, 1985 will not attract duty unless they are marketable or capable of being marketed."

**(7 Marks)**

(b)

**(4 Marks)**

- i. Explain briefly the provisions relating to chargeability of excise duty on the basis of capacity under section 3A of the Central Excise Act, 1944.
- ii. Briefly explain with reference to section 11AC of the Central Excise Act, 1944 the circumstances under which penalty equal to the duty of excise has to be imposed.

### Question 4

- (a) Briefly discuss the provisions of section 11A(1) of the Central Excise Act, 1944 with respect to the period of limitation specified therein for recovery by the Excise Department from the assessee of duty short paid. Also state the circumstances when the extended period of limitation becomes applicable under the proviso to section 11A(1) of the Central Excise Act, 1944.

**(5 Marks)**

- (b) With reference to the provisions of the Central Excise Act and Rules briefly discuss whether a partner of a firm could be prosecuted for evasion of Central Excise Duty.

**(5 Marks)**

- (c) What offences are punishable under the Central Excise Act, 1944? Briefly discuss.

**(5 Marks)**

### Question 5

- (a) Enumerate the various duty paying documents specified in Rule 57G of the Central Excise Act, 1944 on the strength of which an assessee is permitted to avail MODVAT credit.

- (b) Write short notes on **any three** of the following with reference to the provisions of the Central Excise Act, 1944 and the Rules:

(i) Wholesale dealer

(ii) Assessee

(iii) Invoice

(iv) Wholesale trade

(v) Refund.

**(3 × 3 = 9 marks)**

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### Question 6

- (a) A ship carrying the goods for XYZ entered the territorial waters of India from a foreign country on February 25, 1999. The goods were exempted from payment of Customs Duty under the Customs Act, 1962 on that day under a notification issued in terms of the said Act of the Customs Act, 1962 on February 26, 1999. The goods were removed from the warehouse on March 15, 1999 by which time the earlier notification exempting the goods from payment of customs duty stood rescinded. The importer has sought your advice whether he could resist the claim for duty on the goods made upon him by the department on the ground that when the goods entered the territorial waters on February 25, 1999 no duty was payable and the taxable event has occurred in terms of section 12 of the Customs Act, 1962. Write a note explaining the position with reference to the Customs Act, 1962 and decided case law if any, whether the contention advanced by the importer could be supported. **(6 marks)**
- (b) Discuss briefly with reference to decided case law whether landing charges imposed after the landing of the goods, but prior to their clearance for customs purposes are to be included for determining the value under section 1 of the Customs Act, 1962 and arriving at the Customs Duty payable. **(4 Marks)**
- (c) Triveni Alloys imported during June, 1999 by sea, a consignment of metal scrap weighing 3,000 metric tonnes from U.K. They filed a Bill of Entry for Home Consumption and the Assistant Commissioner passed an order for clearance of goods and applicable duty was also paid. The importer thereafter found on taking delivery from the Port Trust Authorities, that only 2,500 metric tonnes of scrap were available at the docks although they had paid duty for the entire 3,000 metric tonnes since there was no short landing of cargo. The short delivery of 500 metric tonnes was also substantiated by the Port Trust Authorities, who gave a weighment certificate to the importer to that effect. Upon a representation to the Customs Department the importer has been directed in writing to justify as to which provision of the Customs Act, 1962 governs the importer's claim for restoration of duty paid on the quantity of 500 metric tonnes scrap not delivered by the Port Trust. Examine the issues involved and briefly discuss the same with reference to the provisions of the Customs Act, 1962 giving reasons. **(6 marks)**

### Question 7

- (a) Who is empowered to make an arrest under the provisions of the Customs Act, 1962 and on what grounds? Briefly discuss. **(4 Marks)**
- (b) What is the liability of the owner of a conveyance under the Customs Act, 1962 in case goods loaded for importation are not accounted for properly or are short delivered? Discuss briefly. **(4 Marks)**
- (c) Explain briefly any one of the following terms with reference to the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988:
- Related Persons
  - Residual Method of Valuation. **(4 Marks)**

### Question 8

- (a) State briefly, how the Assessable value and the rate of duty is determined under the Customs Act, 1962 and Rules made there under. **(6 Marks)**
- (b)
- State briefly the procedures for claiming drawback on goods exported by post. **(3 Marks)**
  - ABC Ltd. Who is an exporter finds that the amount of drawback refunded it is less than what it is entitled to on the basis of the rates of drawback announced by the Central Government. Briefly discuss whether ABC Ltd. Can claim the difference of drawback short refunded and the procedure to be followed on this regard. **(3 Marks)**

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**Question 9**

- (a) Write short notes on any three of the following with reference to the Customs Act, 1962: **(3×2=6 Marks)**
- (i) Goods
  - (ii) Imported Goods
  - (iii) Dutiable Goods
  - (iv) Person – in –charge

- (b) Explain, briefly with reference to the provisions of the Customs Act, 1962 the power conferred on the customs authorities to screen of X-ray of suspected persons. **(2 Marks)**

- (c) INFOTECH has imported five main frame computer systems from USA in December, 1998 paying customs duty of Rs. 60 lakhs.

Due to some technical snags that developed in the system in March, 1999, the supplier sent his technicians to India to resolve the same. No solution was found. In July, 1999 INFOTECH decided to reship/return the goods to the foreign supplier.

You are the Finance Minister of INFOTECH and have been approached for advice whether import duty already paid can be got back from the Central Government, when the goods are reshipped / returned.

Briefly examine with reference to the provisions of Customs Act, 1962. **(4 Marks)**