
PAPER 8 : INDIRECT TAXES
MAY 1999

Question Nos. 1 and six are compulsory.

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

Question 1

- (a) XYZ Co. Ltd. avails MODVAT credit on inputs used in the manufacture of their final product viz, insulated wires and cables. On 30th January, 1999, 10,000 metres duly packed and lying in Bonded Store Room inside the factory were destroyed by fire. Excise duty involved on the above is Rs.22,000. Discuss the following propositions giving reasons:
- i. The company can avoid payment of excise duty liability of Rs.22,000 on the quantity of wires and cables lost in fire.
 - ii. The company would be required to reverse MODVAT credit availed on the inputs contained in the above final product. **(4×2=8 Marks)**
- (b) Discuss the circumstances under which and by whom 'Special Audit' under Section 14AA of the Central Excise Act, 1944 may be ordered.
How is this different from the Special Audit under Section 14A of the Act?

(4+3=7 Marks)

Question 2

- (a) Discuss the statement :
"Excisable goods should be goods which are 'movables' and 'marketable' to attract levy of Central Excise Duty under the Central Excise Act, 1944." **(8 Marks)**
- (b)
- i. Explain the concept under the proviso to Section 11A of the Central Excise Act, 1944 that:
"Intention to evade payment of duty is not mere failure to pay duty. It must be something more i.e. the assessee must be aware that the duty was leviable and he must have deliberately avoided payment of duty." **(3 Marks)**
 - ii. Write short notes on:
 - (a) Registration of Manufacturers.
 - (b) Payment of duty under Protest. **(2+2=4 Marks)**

Question 3

- (a) Explain the concept ambit and scope of 'manufacture' under the Central Excise Act, 1944. **(7 Marks)**
- (b)
- (i) What is the legal status or otherwise of the Explanatory Notes to HSN for the purposes of classification of goods under the Central Excise Tariff Act, 1985? **(3 Marks)**
 - (ii) Company X manufactures copper bolts and nuts specially made for fitment in a die casting machine and claims classification of such bolts and nuts as parts of 'die casting machine' under Chapter 84 of the Central Excise Tariff covering 'Machinery'. However, it is the contention of the Excise Department that such bolts and nuts are classifiable under Chapter 74 as 'Copper Bolts and Nuts' as Parts of General Use'. How would you decide upon the correct classification? **(5 Marks)**

Question 4

- (a) A Ltd., a manufacturer of tyres was extending a warranty discount on any tyres that were defective. The scheme of warranty discount operated thus: the customers lodged their claim with regard to any defects in the tyres. Such claims were then scrutinized by a Technical Committee of A Ltd., which would decide the amount of refund due to the customer on the basis of the reduction in the normal life of tyre attributable to the defect. This practice was being followed by A Ltd. for the last 15 years. A Ltd. claimed the warranty discount as a Trade discount which is deductible in computing the assessable value of the

tyres. Is this correct? Discuss in the light of the provisions under Section 4 of the Central Excise Act, 1944 with respect to Trade Discount. **(8 Marks)**

- (b) Discuss the includibility or otherwise of the following amount for purposes of valuation under Section 4 of the Central Excise Act, 1944:
- i. Cost of packing materials supplied by customers. **(2 Marks)**
 - ii. Interest on delayed payments. **(2 Marks)**
 - iii. Cost of transportation from the factory to the depots. **(3 Marks)**

Question 5

- (a) Discuss in detail the difference between Rule 12 and Rule 13 of the Central Excise Rules, 1944 pertaining to export of excisable goods. **(8 Marks)**
- (b) Explain the provisions of Rules 173H and 173L of the Central Excise Rules, 1944 regarding re-entry or retention of duty paid goods into the factory of manufacture and refund of duty on goods returned to the factory. **(7 Marks)**

Question 6

- (a) Discuss the includibility or otherwise to the assessable value under the Customs Act, 1962 of the following payments made by an importer to the overseas supplier of a second hand plant in India:
- (i) Dismantling charges for removing the second hand plant at the supplier's place and shipping to the Indian importer.
 - (ii) Fees for supervision of erection and commissioning of plant in India. For this purpose the foreign supplier deputed their technicians in India.
 - (iii) Payments for tools, dies and moulds (imported along with the plant) for use in connection with the manufacture of excisable goods on successful commissioning of the plant.
 - (iv) Lump sum payment and annual royalty for transfer of technical know-how for manufacturing goods. **(4×2=8 Marks)**
- (b) Briefly describe the assessment and clearance procedure under the Customs Act, 1962. **(8 Marks)**

Question 7

- (a) Write a short note on 'draw back' under Section 74 and Section 75 of the Customs Act, 1962 and the essential difference between the two provisions. **(6 Marks)**
- (b) State the provisions relating to licensing of private bonded warehouses under the Customs Act, 1962. **(6 Marks)**

Question 8

- (a)
- i. Discuss the significance of 'Burden of Proof' under the Customs Act, 1962.
 - ii. Explain with reference to the relevant provisions under the Customs Act, 1962 as to how to calculate the duty where imported goods consist of articles liable to different rates of duty. **(3+3=6 Marks)**
- (b) What are the provisions under Section 54 of the Customs Act, 1962 regarding transshipment of imported goods? Explain briefly with reference to the regulations framed under that Section. **(6 Marks)**

Question 9

- a. Write short notes on:
- (i) Warehousing without warehousing under the Customs Act, 1962.
 - (ii) Redemption fine and Penalty.
 - (iii) Indian customs waters. **(3×2=6 Marks)**

b. Explain the following:

- (i) Power to take samples under Section 144 of the Customs Act, 1962.
- (ii) Person in charge under the Customs Act, 1962.

(3+3=6 Marks)