
PAPER 8 : INDIRECT TAXES
NOVEMBER 1997

Questions 1 and 2 are compulsory.
Answer any five of the remaining questions

Question 1

- (a) Mere sale ability that is, the fact that an item is bought and sold does not necessarily constitute marketability for the purpose of charging Central Excise Duty.

Critically analyze the above statement giving reasons for your views.

(8 Marks)

- (b) ABC is a company engaged in the manufacture of batteries and torches. These boxes are packed in medium-sized cartons which are in turn packed in larger corrugated cartons called "7-ply corrugated cartons".

The dispute is in regard to the inclusion of the value of 7-ply corrugated cartons for the purpose of charging Central Excise Duty.

ABC has approached you for advice. Keeping in view various decisions of the Supreme Court, what advise would you give to ABC and for what reasons?

(7 Marks)

Question 2

(a)

- i. Explain the concept of taxable event and the significance of date of removal of goods in the context of levy and collection of Central Excise Duty.

(4 Marks)

- ii. Apply the above principles to the following fact-simulations to justify your answer regarding chargeability of duty:

(A) Goods were manufactured on 16.1.95, but were removed from the factory on 3.3.95. These goods were brought within the purview of Central Excise Tariff for the first time with effect from 1.3.95 with a rate of duty of 20% ad valorem.

(2 Marks)

(B) Goods were manufactured on 18.1.96 and were removed from the factory on 2.3.96. Prior to 1.3.96, the goods were chargeable to 'Nil' rate of duty as per Central Excise Tariff, but became chargeable to 15% ad valorem with effect from 1.3.96.

(2 Marks)

(b)

- i. Explain the significance of 'relevant date' as far as claim for refund of duty under the Central Excise Act is concerned.

(1 Marks)

- ii. What are the relevant dates in the context of issuing demand of duty in case of excisable goods on which duty of excise has not been paid.

(2+2+2= 6 Marks)

Question 3

(a)

- i. A company X procures duty-paid Kraft and then laminates it in its own factory with a coating of polyethelene resulting in polyethelene laminated Kraft paper. In reply to Show-cause-cum- Demand notice, X has challenged the demand of duty on the following two grounds:

(A) Lamination with polyethelene does not amount to 'manufacture'.

(B) Both un-laminated and laminated Kraft papers admittedly fall under the same entry under the Central Excise Tariff.

As the jurisdictional Assistant Commissioner of Central Excise, you have to give a reasoned decision on the sustainability or otherwise of the duty demand on X.

(5 Marks)

- ii. Give examples of the processes which are specified in relation to following goods in the section or chapter notes of the schedule to the Central Excise Tariff Act, 1985, as amounting to 'manufacture' :

(A) Tea including tea waste;

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- (B) Pan masala and
(C) Natural and artificial mineral waters

(3 Marks)

(b)

- i. A manufacturer has cleared the goods manufactured by it by paying Excise Duty at the rate of duty of 20% ad valorem. In the invoice for sale of the goods, the manufacturer however shows an amount which is 25% of the value of the goods representing duty of excise and collects it from the buyer as part of the total sale price. Can the department ask the manufacturer to pay the amount so collected by him to the credit of the Central Government? Explain the legal provisions in detail. **(5 Marks)**
- ii. Define 'Factory' as given in Central Excise Act. **(2 marks)**

Question 4

- (a) An assessee, who is a manufacturer of tyres, files a claim for refund of Excise Duty on the following ground:

Their price-list was approved on 14.5.93, but subsequent thereto, on account of consumer resistance, the Ministry of Commerce, Government of India, directed them, pursuant to the decision taken at the meeting with the tyre manufacturers, to reduce the prices to pre-14.5.93 level and it is on account of this reduction in prices that there came about a differential in the prices on the date of removal and the reduced price, on the basis of which the assessee claims refund of excise duty to that extent.

Do you think claim for refund of duty is sustainable? Give justifications for your answer. **(8 Marks)**

(b)

- i. Explain the terms 'first stage dealer' and 'second stage dealer' in the context of procedure laid down in the Central Excise Rules to be observed by a manufacturer intending to take modvat credit of duty paid on inputs under rules 57A. **(2+1=3 Marks)**
- ii. Explain the legal position under Central Excise Rules regarding the obligations cast on every registered person who issues invoices under rule 57G or rule 57T as the case may be, in the matter of maintenance of RG-23D register. **(4 Marks)**

Question 5

- (a) Write short notes (not exceeding ten lines) on :

(4+4=8 Marks)

- (i) Chapter X Procedures.
(ii) Daily Stock Account.

(b)

- i. In the context of the exemption notification applicable to the specified goods manufactured by a small scale industry unit, define the term "Brand name or Trade name". **(2 Marks)**
- ii. A Small Scale industry unit manufactures a particular component part of sewing machine with the brand name of a Famous Sewing Machine Manufacturer for use as original equipment in the manufacturer of sewing machine. Both the component part and sewing machine are specified goods for the purpose for SSI exemption notification.
Can the SSI unit claim the benefit of SSI exemption notification for the component part manufactured by it and so cleared? Give reasons for your answer. **(5 Marks)**

Question 6

- (a) The provisions of Customs Act, 1962 essentially aim at achieving its objective through two types of control – (i) Control through physical means and (ii) Control through documents.

Elucidate the above statement.

(8 Marks)

- (b) Briefly indicate the salient features of the relevant provision of Customs Tariff Act, 1975 dealing with levy of countervailing duty on subsidized articles. **(8 Marks)**

Question 7

- (a) Certain goods which have been imported into India and upon which duty has been paid on importation are to be exported as baggage.
Explain the conditions which are to be satisfied before the owner of the baggage can be paid drawback of duty claimed by him. **(6 Marks)**
- (b) What are the statutory obligations with which an importer gets bound through execution of a warehousing bond in respect of goods which have been entered for warehousing and assessed to duty? **(6 Marks)**

Question 8

- (a)
- i. Define "Stores" as per Customs Act, 1962. **(2 Marks)**
 - ii. Certain imported stores which were warehoused were subsequently cleared from warehouse for being taken on board a ship of the Indian Navy. Explain the procedure for clearance of such stores from the warehouse for aforesaid purpose. **(4 Marks)**
- (b)
- i. In respect of a particular article, the Central Government by notification in the official gazette imposed anti-dumping duty thereon under Customs Tariff Act, 1975 and consequently to this an order imposing duty was made on an importer. The importer of this article feels aggrieved by this order.
What remedy under the Customs Tariff Act does he have? Explain the provision. **(5 Marks)**
 - ii. Define "Margin of Dumping". **(1 Mark)**

Question 9

- (a) In a particular case of import of goods, the seller in USA and the Indian buyer were found to be together controlling a third company in India.
What are the conditions subject to which transaction value of such goods would be accepted for customs purpose? **(6 Marks)**
- (b)
- i. Name and authority competent to:
 - A. Make regulations in respect of baggage.
 - B. Specify the limits of any customs area.
 - C. Declare places to be warehousing station.
 - D. Appoint the Coastal ports.
 - ii. An aircraft was compelled to land at a place other than a customs airport due to stress of weather.
What are the statutory obligations cast on the person-in-charge of the aircraft in such a situation? **(4 Marks)**