
**Paper 8 : INDIRECT TAXES
MAY 2006**

Question Nos.1, 6 and 9 are compulsory.

In addition, thereto answer any two questions from Part – a and one question from Part - B

PART-A

Question 1

- (a) Briefly explain any two of the following with reference to the provisions of Central Excise Act, 1944: **(2×2=4 Marks)**
- (i) Wholesale dealer
 - (ii) Factory
 - (iii) Dutiability of Waster and Scrap.
- (b) With reference to Cenvat Credit Rules, 2004, discuss giving reasons whether the following statements are True or False:: **(3×2=6 Marks)**
- i. Credit of duties of excise on inputs will not be available if inputs are used in intermediate product, which is exempt from duty, even though the final product is dutiable.
 - ii. A manufacturer can sell the inputs on which Cenvat has already been availed of, as they are, provided he pays the amount equal to the credit availed.
 - iii. A manufactured is eligible for Cenvat Credit in the cases stated below:
 - (1) Inputs used in trail runs;
 - (2) Materials used for maintaining factory building.
- (c) With reference to Central Excise Act, 1944 and the rules thereunder, whether the following persons require registration or not? Explain briefly: **(3×2=6 Marks)**
- i. Persons, who manufacture excisable goods chargeable to 'nil' rate of duty;
 - ii. Central Government undertakings manufacturing excisable goods;
 - iii. 100% EOU.
- (d) ABC Company imported medicines in pallets with one big box containing assorted medicines in smaller units which were, then, repacked in thermocole boxes of different sizes which again were put into cardboard boxes. The cardboard boxes were in turn labelled containing, interalia, the name of the medicine, the name of the manufacturer, the quantity, batch no., manufacturing date, expiry date and name of the marketing agency. The department relying upon note 5 to chapter 30, claimed that the activities as aforesaid amounts to manufacture i.e. bulk pack to retail pack. **(4Marks)**
Decide whether the above activities tantamount to manufacture.

Question 2

- (a) The assessee was a manufacturer of I.C. Engine parts like piston and gudgeon pins. He used to procure from the market piston rings and circlips and supply along with the items that he had manufactured to the buyers. He was also selling these procured items separately. The department contended that those bought-out items and supplied along with the manufactured items were part of piston assembly and therefore, their value should be included with the value of the piston assemblies cleared by him. But, the assessee contended that the piston rings and circlips were all different part of I.C.Engine and therefore they are not to be considered as parts of another item. **(6 Marks)**
Decide whether the contention of the department is correct or not.
- (b) Explain whether an application from an NRI for advance ruling Under Sec. 23C regarding determination of whether a certain process would amount to manufacture is maintainable? **(4 Marks)**

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- (c) State the procedure for valuing excisable goods that are to be sold from Depot/branch or a consignment agent under Central Excise Valuation Rules, 2000. **(5 Marks)**

Question 3

- (a) Explain the provision regarding maintenance of daily stock account of stored goods under rule 10(1) of Central Excise Rules. **(4 Marks)**
- (b) Write a short note on the procedure in respect of reported goods subsequently re-imported and returned to factory. **(5 Marks)**
- (c) Comment on the following: **(4×1=4 Marks)**
- Excise department cannot challenge the responsibility of MRP printed on the package;
 - If any excisable goods are exempted from duty of excise absolutely, the manufacturer of such goods will be bound to avail of the exemption;
 - SSI units whose turnover exceeds Rupees 90 lakhs per annum have to give a declaration in the prescribed form;
 - Annual Financial Information Statement (ER-4) is required to be submitted by the assessee paying duty of Rs. 4 crores or above per annum through PLA;
- (d) What is CT-1 certificate? **(2 Marks)**

Question 4

- (a) A SSI unit has effected clearances of goods of the value of Rs. 475 lacs during the Financial Year 05-06. The said clearances include the following: **(5 Marks)**
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|---|-------------|
| (i) Clearance of excisable goods without payment of excise duty to a 100% EOU units | Rs.120 lacs |
| (ii) Job work in terms of notification no.214/86CE, which is exempt from duty | Rs.75 lacs |
| (iii) Export to Nepal and Bhutan | Rs.50 lacs |
| (iv) Goods manufactured in rural area with the brand name of the others | Rs.90 lacs |

Examine with reference to the notification governing SSI, under the Central Excise Act whether the benefit of exemption would be available to the unit for the Financial Year, 2006-07. **(2+3=5 Marks)**

- Whether provisional assessment can be initiated by the department of excise?
 - What is the remedy available with the department in case Assessing Officer does not find the self-assessment filed by the assessee in order?
- (b) State the provisions relating to confiscation and penalty under Cenvat Credit Rules, 2004. **(5 Marks)**

Question 5

- (a) Write a note on duty payment 'Under Protest' with reference to the Central Excise Act, 1944 and the Rules made thereunder. **(3 Marks)**
- (b) What are the orders that are appealable to Supreme Court under Central Excise Act, 1944? **(3 Marks)**
- (c) Explain briefly the provisions relating to 'Special Audit' in certain cases under Sec. 14A of the Central Excise Act, 1944. **(5 Marks)**
- (d) What is Consumer Welfare Fund? How is this fund utilized? **(4 Marks)**

PART – B

Question 6

- (a) Briefly explain with reference to the provision of the Customs Act, any two of the following: (2×2=4 Marks)
- (i) Indian customs waters
 - (ii) Person-in-charge
 - (iii) Foreign going vessel or aircraft.
- (b) M/s. AJ imported some inputs and paid Basic Customs Duty Rs. 5 lakhs, surcharge on customs duty Rs. 50,000 and CVD Rs. 1 lakh. Calculate the amount that he claim as Cenvat Credit. Would it make any difference, if the assessee is not a manufacturer, but a service provider? (3 Marks)
- (c) Explain the meaning of: (6 Marks)
- (i) Similar goods
 - (ii) Identical goods.
- (d) Briefly elucidate the meaning of “Importer” under the Customs Act. (2 Marks)
- (e)
- i. If the applicant does not co-operate or obtains order by fraud, whether the settlement Commission is empowered to send the case back to the officer for further action as per law? Answer in the light of amended provisions of Sec. 127 MA of Customs Act, 1962. (3 Marks)
 - ii. What is meant by ‘Boat notes’?.? (2 Marks)

Question 7

- (a) What is the purpose of Interpretation rule regarding Customs tariff? Do they form part of the tariff schedule? Explain the ‘Akin Rule’ of the interpretation. (4 Marks)
- (b) What do you understand by first appraisal and second appraisal systems under the Customs Act 1962? (4 Marks)
- (c) State the procedure for clearance of goods imported by post. (5 Marks)
- (d) Can the rate of drawback by exporter be determined provisionally? Briefly explain. (2 Marks)

Question 8

- (a) M/s. XYZ Ltd., were liable for the duty assessed and payable on certain import which, it paid under protest and filed a claim for refund of duty on the ground that duty had been wrongly levied. On rejection of claim for refunds, the assessee filed an appeal before Tribunal which was also dismissed on the ground that as no appeal had been filed against the assessment order, the refund claim was not maintainable. Assessee seeks your advice for remedy. Discuss whether the stand taken by the Tribunal is correct. (5 Marks)
- (b) Write a note on Warehousing period under Sec. 61 of the Customs Act, 1962. (4 Marks)
- (c) What is residual method of Valuation? Bring out your answer with reference to the Customs Valuation (determination of price of Imported goods) Rules, 1988. (6 Marks)

PART - C

Question 9

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- (a) Explain whether the following activities come under the service tax liability. **(3×2=6 Marks)**
- i. Reimbursement of expenses like Cess, Customs duty, port dues claimed by Customs Housing Agents;
 - ii. Surveillance fee collected by a Credit rating agency;
 - iii. Transporters who are rendering “Express Cargo Service” for door delivery.
- (b) **(4 Marks)**
- i. M/s. Renu Consultants are a labour contractor of manpower to M/s. Sanu reations. They charge to the principal employer for the wages of their labour which amounts to Rs.1,20,000 for arranging the labour. The issue is whether service tax is payable on the gross amount charged by them or only their charges for labour. Examine the case and advice suitably.
 - ii. For providing Beauty Treatment Services, a parlor uses materials such as cosmetics and toilet preparations. Whether the cost of such materials will be included in the value of taxable service? Whether any abatement is admissible on account of the value of materials consumed in providing the service?
- (c) **(3 Marks)**
- i. What is the limit under Rule 4A for raising/ issuing an Invoice for services?
 - ii. What is the due date for monthly/quarterly payment of Service tax?