

PAPER 8: INDIRECT TAXES
NOVEMBER 2005

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)
- i. Discuss in brief the concept of “Deemed Manufacture.” **(4 Marks)**
 - ii. TCL purchases duty paid metal rods and draws them into wire of a thinner gauge. Both the items fall under different tariff headings. The assessee claims that the process undertaken by him does not amount to manufacture. You are required to advise with reference to the present position of law in this regard. **(4 Marks)**
- (b) With reference to CENVAT Credit Rules, 2004, discuss giving reason whether the following statements are **true** or **false**: **(2 × 2 = 8 Marks)**
- i. Credit of duties of excise on inputs can be availed irrespective of whether payment is made or not against the invoice, whereas credit of service tax on input services can be availed only after making payment of the invoice.
 - ii. An Input service distributor is comparable to dealers under the CENVAT Scheme of inputs and capital goods.
 - iii. The manufacturer shall not be allowed to transfer unutilized input credit in case of transfer of ownership of the factory by way of sale along with the inputs and capital goods.
 - iv. A manufacturer availing CENVAT Credit on inputs without ensuring that excise duty indicated in the invoice has been paid on such inputs, is liable to a penalty.
- (c) ABC, an assessee availing the SSI exemption scheme paid Central Excise duty of Rs. 10,000 for the goods cleared in the month of March, 2005 on April 15, 2005. Discuss whether any interest will be charged from ABC for late payment of duty. If yes, what will be the interest liability? **(4 Marks)**

Question 2

- (a)
- i. Define retail sale price in the light of provisions of Section 4(A) of Central Excise Act, 1944. **(4 Marks)**
 - ii. What are the conditions under which MRP based valuation shall apply under Central Excise? **(4 Marks)**
 - iii. What legal/penal actions can be taken in case the retail sale price is not mentioned or is unduly tampered after the removal? **(4 Marks)**
- (b) Asha Ltd. Supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished products of 5,000 packets are returned to Asha Ltd. Putting the retail sale price as Rs. 20 on each packet. The product in the packet is covered under MRP provisions and 40% abatement is available on it. Determine the assessable value under Central Excise law from the following details:

	Rs.
Cost of Raw material supplied	30,000
Job worker’s charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	3,000

Question 3

- (a) Answer in brief the following questions relating to export without payment of duty other than to Nepal and Bhutan under Rule 19 of the Central Excise Rules, 2002: **(4 × 2 = 8 Marks)**
- What is the type of bond to be executed? Who is exempted from furnishing such bond?
 - What is the export document for export clearance? How many copies are required to be prepared for it?
 - Is it necessary to prepare an invoice also? If yes, how should it be prepared?
 - What will be the duty payable, if goods are not exported within six months after clearance?
- (b) Does the bar of unjust enrichment apply to all types of refunds? Does the refund if penalty attract such bar? **(2 Marks)**
- (c) State the various circumstances when goods are liable for confiscation under the Central Excise Law. Can the assessee get back the confiscated goods and if so how? **(3 Marks)**

Question 4

- (a) Discuss whether remission of duty shall be granted or not, in the following cases, under the Central Excise Rules, 2002:
- Excisable goods manufactured in the factory are claimed by the manufacturer as unfit for consumption or for marketing.
 - Duty paid goods was damaged due to breakage in handling.
 - Finished goods entered in Daily Stock Account (DSA) were stolen from the factory.
- (3 × 2 = 6 Marks)**
- (b) With reference to Rule 12(2) of the Central Excise Rules, 2002 explain in brief the main provisions of the Return in form E.R.-4, to be filed with the Central Excise Department by an assessee. What is the maximum penalty leviable for non-submission or late submission of E.R.-4 return? **(4 Marks)**
- (c) Write a brief note on power of restriction of mistakes given to Appellate Tribunal under section 35C(2) of Central Excise Act. Whether the power of rectification includes power to review the order also? **(5 Marks)**

Question 5

- (a) Write short notes on the following: **(3 × 2 = 6 Marks)**
- Place of Removal
 - Interest u/s 11AB
- (b) What is Personal Ledger Account or PLA? How is it maintained? **(5 Marks)**
- (c) Briefly explain the procedure for removal of goods by a unit which is an 100% EOU for Domestic Tariff Area. **(4 Marks)**

PART-B

Question 6

- (a) Explain briefly with reference to the provisions of the Customs Act, 1962 any **two** of the following: **(2 × 2 = 4 Marks)**
- Adjudicating Authority
 - Customs Area
 - Smuggling
- (b) State briefly the provisions of refund on anti-dumping duty in certain cases. **(2 Marks)**

- (c) Assessable value of an item imported is Rs. 1,00,000. Basic Customs duty is 20% and Additional duty of customs is 16% education cess is 2% on duty. Compute the amount of total customs duty payable. Also state the amount of credit available to importer and how can it be utilized by him. **(4 Marks)**
- (d) Your client loaded a Machine on the vessel for export. He has paid import duty and central excise duty on the components used in the manufacture. The vessel set sail from Mumbai, but runs into trouble and sinks in the Indian territorial waters. The customs department refuses to grant duty drawback for the reason that the goods have not reached their destination. Advise your client citing case law, if any. **(4 Marks)**
- (e) India Car Co. is manufacturing passenger cars and has entered into a joint venture agreement and collaboration with Videshi Car Co. India Car Co. imported from Videshi Car Co. a shipment of 24 CKD packs (completely knocked down condition) of passenger car components. They filed Bill of Entry for clearing the goods, which were claimed to be components of motor cars. They also claimed benefit of a Notification exempting components, including components of motor cars in semi-knocked down packs and completely knocked down packs.
The Adjudicating Authority held that the imported components being complete cars in CKD packs had the essential character of the finished product and as such the consignment were to be treated as Motor Cars and not components. It was also held that India Car Co. was not entitled to the benefit of the notification as the notification was only for components.
The questions for consideration are:
(i) Whether the CKD packs imported into the country could be considered to be Motor Cars for the purpose of classification and clearance?
(ii) Whether India Car Co. was entitled to the benefit of exemption notification? **(2 × 3 = 6 Marks)**

Question 7

- (a) Explain the Doctrine of unjust enrichment with respect of duty. Are there any exemptions to it and if so enumerate them? **(5 Marks)**
- (b) When is Redemption fine imposed? Whether this fine under Section 125 of the Customs Act, once paid, be claimed as refund, in case the importer decides to abandon the goods? **(5 Marks)**
- (c) Explain briefly the provisions regarding drawback allowable on re-export of duty paid goods as such. **(5 Marks)**

Question 8

- (a) What is the crucial/relevant date for determination of rate of duty under Customs Act in following cases? **(3 × 2 = 6 Marks)**
- i. Clearance of Baggage
 - ii. Goods cleared for home consumption from a warehouse under Section 68 of the Customs Act
 - iii. Goods entered for export under Section 50.
- (b) Write short notes on the following with reference to the Customs Act, 1962: **(2 × 2 = 6 Marks)**
- i. Interest on drawback
 - ii. Power to arrest.
- (c) Briefly discuss the provisions of the Customs Act, 19262 regarding rejection of an application for Advance ruling. **(3 Marks)**

PART-C

Question 9

(a)

- i. Certain abatement/exemption of the gross amount charged, has been notified, for computing the value of some taxable services. What are the conditions to be fulfilled to avail such partial exemption? **(2 Marks)**
- ii. What is the percentage of abatement granted in the following cases? **(4 Marks)**
 - (i) Services provided by a tour operator
 - (ii) Services provided by an outdoor caterer supplying food also
 - (iii) A Commercial concern providing construction service where the gross amount charged includes the value of goods and material
 - (iv) Goods transport agency providing taxable service and paying service tax itself.

(b) Enumerate the specified services, other than accounting and auditing, provided by a practicing Chartered Accountant, liable to service tax.. **(6 Marks)**

(c) Hotel Marudhar Palace charges 10% of the bill amount as service charges and Department has asked them to pay Service tax on it. The assessee has submitted that the amount @ 10% collected from customers is subsequently disbursed among the staff; therefore it is not part of their income and cannot be included in the gross amount charged by them. Examine the case and advice suitably. **(3 Marks)**