

PAPER 8 : INDIRECT TAXES
MAY 2004

Question 1,6 and 9 are compulsory.
Answer any two questions from Part – A and one question from Part-B

PART - A

Question 1

- (a) Briefly explain the following with reference to the provisions of the Central Excise Act, 1944/Central Excise Tariff Act, 1985.
- i. Dutiability of site related activities and immovable property. **(3 Marks)**
 - ii. Emergency power of the Central Government to increase duty of Excise. **(3 Marks)**
- (b) Determine the cost of production on manufacture of the under mentioned product for purpose of captive consumption in terms of Rule 8 of the Central Excise Valuation (DPE) Rules, 2000. **(5 Marks)**

	Rs.
Direct Material	11,600
Direct Wages & Salaries	8,400
Works Overheads	6,200
Quality Control Costs	3,500
Research and Development Costs	2,400
Administrative Overheads	4,100
Selling and Distribution Costs	1,600
Realizable Value of Scrap	1,200

Administrative overheads are in relation to production activities. Material cost includes Excise Duty Rs.1,600/-.

- (c) A small Scale Unit (SSI) has effected clearances of goods of the value of Rs.360 lakhs during the financial year 2003-04. The said clearances include the following : **(5 Marks)**
- i. Clearance of excisable goods without payment of Excise duty to a 100% EOU unit: Rs.40 lakhs.
 - ii. Export to Nepal AND Bhutan : Rs.50 lakhs.
 - iii. Job work in terms of Notification No.214/86C.E., which is exempt from duty: Rs.60 lakhs.
 - iv. Goods manufactured in rural area with the brand name of others: Rs.70 lakhs.

Write a brief note with reference to the Notifications governing SSI under the Central Excise Act whether the benefit of exemption would be available to the unit for the financial year 2004-05.

- (d) State briefly with reasons whether credit under the CENVAT RULES, 2002 would be available in any **two** of the following cases: **(2×2=4 Marks)**
- i. Inputs are pilfered from the store-room.
 - ii. Inputs used in intermediate product, which is exempt from duty, but the final product is dutiable.
 - iii. Final product is cleared in durable and returnable packing material.

Question 2

- (a) Explain briefly the expression “Place of Removal” with reference to the Central Excise Act, 1944. **(3 Marks)**
- (b) Write a short note on the “Rule for the Interpretation” of the schedule to the Central Excise Tariff Act, 1985. **(5 Marks)**
- (c) Explain the penal provisions under the Central Excise Act, 1944 and the Central Excise Rules, 2002 in the following cases:
- i. Rule 25 of the Central Excise Rules, 2002. **(3 Marks)**
 - ii. Sec.11AC of the Central Excise Act, 1944. **(4 Marks)**

Question 3

- (a) "Issue of Show Cause Notice (SCN) within the prescribed time limit is a mandatory requirement to sustain any demand of Central Excise Duty". Write a brief note on this statement and explain whether there are any circumstances under Central Excise Act, 1944, when the issue of SCN is not required. **(4 Marks)**
- (b) Explain the meaning of the expression "Bond" as it is understood in Central Excise Law and enumerate when a bond is required to be executed. **(6 Marks)**
- (c) Write a short note on the obligations of the person, who has collected Excise duty from the buyer U/s. 11D of the Central Excise Act, 1944. **(5 Marks)**

Question 4

- (a) State briefly the procedure for Warehousing of Excisable goods removed from a factory or warehouse. **(6 Marks)**
- (b) A manufacturer who exports goods gets his inputs without payment of duty under Notification No.43/2001 –Central Excise Act, 1944(NT) 26-06-2001. Briefly state with reasons whether the manufacturer could export the goods under claim of rebate of duty under Rule 18 of the Central Excise Rules, 2002. **(4 Marks)**
- (c) Sec.35F of the Central Excise Act, 1944 stipulates that duty and penalty will have to be paid unless an appropriate stay is obtained. Briefly state the criteria required to be satisfied for grant of stay / waiver of pre-deposit and admission of appeal. **(5 Marks)**

Question 5

- (a) Explain briefly the effect of "Explanation" to Sec.4(1) of the Central Excise Act, 1944 added by the Finance Act, 2003. **(3 Marks)**
- (b) Write a brief note detailing the circumstances under which an assessee can approach the settlement commission under the Central Excise Act. **(6 Marks)**
- (c) XYZ Co. is the manufacturer of Product A and has been effecting clearances on payment of duty while availing MODVAT/CENVAT credit on the inputs used in the manufacture of Product A. An exemption Notification was issued on June, 4 1996 purporting to exempt Product A from excise duty. However till 31-12-1996 XYZ Co., continued to pay duty on its clearances and availed MODVAT credit on the inputs. Subsequently XYZ Co. decided to take the benefit of the exemption Notification and refrained from taking MODVAT credit on the inputs.
- A Show Cause Notice (SCN) was issued on 1-1-97 requiring XYZ Co., to reverse the MODVAT credit availed on the clearances effected between 4-9-96 and 31-12-96 on payment of duty. The reasons for this according to the SCN was that no MODVAT credit on inputs is available when the final product is exempt from duty. Certain changes were effected to the said exemption Notification on 1-3-97 purporting to limit the exemption and correspondence ensued between the Department and XYZ Co. Whileso, and when the SCN issued on 1-1-1997 was still pending adjudication a second SCN was issued on 1-6-2001 demanding duty from 1-1-97 to 31-5-2001 on the clearances of product A pursuant to the Proviso to Sec.11A of the Central Excise Act invoking the extended period of limitation. The second SCN alleged fraud and suppression on the part of XYZ Co.
- Briefly examine with reasons:
- (i) Whether the departmental stand in the SCN issued on 1-1-97 is sustainable in law; **(3 Marks)**
- (ii) Whether the department could invoke the extended period of limitation in respect of the second SCN issued on 1-6-2001 in the facts and circumstances. **(3 Marks)**

PART – B

Question 6

- (a) Explain briefly with reference to the provisions of the Customs Act, 1962 any **two** of the following:
- Ad hoc exemptions
 - Entry outward

iii. Warehousing stations.

(2×2=4 Marks)

- (b) A person makes an unauthorized import of goods liable to confiscation. After adjudication, Assistant Commissioner provides an option to the importer to pay fine in lieu of confiscation. It is proposed to impose a fine (in lieu of confiscation) equal to 50% of margin of profit. From the following particulars calculate the maximum amount of fine that can be imposed: (6 Marks)

	Rs.
Assessable value	50,000
Total duty payable	20,000
Market value	1,00,000

Also calculate the amount of fine and the total payment to be made by the importer to clear the consignment.

- (c) State in brief the provisions of the Customs Act, 1962 relating to filing of “Import Manifest/Report”. (5 Marks)
- (d) Explain briefly with respect to the provisions of the Customs Act, 1962:
- Denaturing / Mutilation of imported goods. (2 Marks)
 - Declaration by owner of Baggage. (3 Marks)

Question 7

- (a) Explain with reference to the provisions of Sec.50 of the Customs Act, 1962 and the Shipping Bill and Bill of Export (Form) Regulations, 1991 as to what is meant by a “Shipping Bill”. (3 Marks)
- (b) State with reference to the provisions of the Customs Act, 1962 the procedure for disposal of goods not cleared within a specified period. (4 Marks)
- (c) Briefly explain the time limit for purposes of filing a refund claim under the provisions of Sec.27 of the Customs Act, 1962. (4 Marks)
- (d) Briefly discuss the provisions of Sec.130 of the Customs Act, 1962 with regard to filing of Appeal before the High court. (4 Marks)

Question 8

- (a) An exporter obtained inputs on payment of Customs duty and has availed CENVAT credit. Advise whether he could avail Duty Draw Back also under Sec.75 of the Customs Act, 1962, if imported inputs are used in the manufacture of goods which are then exported. (4 Marks)
- (b) An importer has imported certain goods which are not eligible for import as per Import Policy. The offending goods have been confiscated. The importer wishes to re-export the goods. Can permission be given for re-export? State briefly what are the other consequences of such import. (6 Marks)
- (c)
- Explain whether the costs and services as given in Rule 9 of the Customs Valuation Rules, 1988 are to be added to the value of the identical goods or similar imported goods under Rule 5 & 6 respectively. (3 Marks)
 - Explain briefly: (2 Marks)
Every detention is not seizure, but seizure always includes detention in Customs Law.

PART – C

Question 9

- (b) Answer any **four** of the following with reference to the Finance Act, 1994 as amended relating to applicability of Service Tax: (4×2=8 Marks)
- Retired lone Professor running individually a private coaching centre.

-
- ii. Labour contractor supplying unskilled labour for doing work on temporary basis.
 - iii. Speed Post Services provided by Post Office.
 - iv. Technical Consultancy Services provided by foreign technician visiting India.
 - v. Information Technology Services.
- (c) Explain in brief the provisions of the Service Tax Credit Rules, 2002, if input service is partly used for taxable service and partly for exempt or non-taxable service. **(4 Marks)**
- (d) Briefly discuss the provisions of the Finance Act, 1994 as amended relating to service tax with respect to any **one** of the following services : **(3 Marks)**
- i. Courier Agency
 - ii. Real Estate Agent.