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**PAPER 8: INDIRECT TAXES**  
**MAY 2003**

Question 1,6 and 9 are compulsory.

Answer any two questions from Part-A and any one question from Part-B.

**PART - A**

**Question 1**

- (a)
- i. What types of duties are levied U/s. 3 of the Central Excise Act, 1944? **(2 Marks)**
  - ii. What are the basic conditions for levy of duty U/s. 3 of Central Excise Act, 1944? **(3 Marks)**
- (b) “The manufacture and production of goods is the event attracting the levy of excise duty”. Briefly examine whether a change in Tariff Headings/sub-heading under the Central Excise Tariff Act, 1985 is also required between the input material and the resultant finished product so as to render such finished products liable to duty. **(5Marks)**
- (c) Briefly state whether the duty payable on the “inputs” or “capital goods” on which CENVAT credit has been taken could be removed from the factory “as such” under Rule 3 Sub-rules (4) and (5) of the CENVAT credit Rules, 2002 upon availing the facility of fortnightly payment of duty as prescribed under Rule 8 of the Central Excise Rules, 2002. **(5 Mark)**
- (d) Agricultural Implements Ltd., sold farm equipments to the agriculturists on ex-factory basis upon payment made before despatch of the goods. Agricultural Implements Ltd., at the request of their customers arrange for payment of freight and transit insurance and for the despatch of the goods to the destination. The Department’s view is that since freight and transit insurance has been paid by Agricultural Implements Ltd., and since they have also arranged for the transport of goods there is no ex-factory delivery of goods and the cost of insurance and freight has to be included to the price for purposes of determination of value and excise duty should be payable on such basis. Briefly examine whether the contention of the department is correct in a law. **(5 Mark)**

**Question 2**

- (a)
- i. Explain briefly the obligation of manufacturer of dutiable and exempted goods under Rule 6 of the CENVAT Rules, 2002. **(5 Marks)**
  - ii. Explain briefly the conditions upon which transfer of credit from one factory to another is permitted under Rule 7 of the CENVAT Rules, 2002. **(5 Marks)**
- (b) State briefly with reference to the Central Excise Act, 1944 and the Rules whether the following category of persons require registration or not: **(5 Marks)**
- i. Central Government undertaking manufacturing goods liable to Excise duty;
  - ii. Second stage Dealer;
  - iii. 100% Export oriented undertaking;
  - iv. Persons, who manufacture excisable goods chargeable to nil rate of duty;
  - v. Persons holding private warehouses.

**Question 3**

- (a) How are the following goods classified under the Central Excise Tariff Act, 1985? **(2 Marks)**
- i. Incomplete or unfinished goods having the essential characteristics of finished goods.
  - ii. Finished goods that are removed in an unassembled condition or in a disassembled condition such as semi-knocked down or completely knocked down condition.

- (b) Briefly discuss the provisions of the Central Excise Act, 1944 and the Rules regarding ordering of Provisional Assessment and finalization of such assessment. **(5 Marks)**
- (c) Explain briefly the provisions of Rule 19 of the Central Excise Rules, 2002 regarding Exports without payment of duty other than to Nepal and Bhutan. **(5 Marks)**

#### Question 4

- (a)
- i. Write a brief note on the orders passed that are appealable to the Supreme Court of India U/s.35L of the Central Excise Act, 1944. **(2 Marks)**
  - ii. State briefly the powers of the Central Government U/s. 37 of the Central Excise Act, 1944 to make Rules under the Act. **(4 Marks)**
- (b) Briefly explain the provisions of Rule 21 of the Central Excise Rules, 2002 regarding Remission of Duty. **(4 Marks)**
- (c)
- i. Explain the provisions of Rule 25 of the Central Excise Rules, 2002 regarding confiscation of goods. **(3 Marks)**
  - ii. Briefly state the powers of the Central Government U/s. 35EE of the Central Excise Act, 1944 relating to Revision of orders passed. **(2 Marks)**

#### Question 5

- (a) Briefly explain whether the following units are eligible for the benefits under Notification No.8/2002-Central Excise Act, 1944, dated 1.3.2002 and Notification No.9/2002 – Central Excise Act, 1944, dated 1.3.2002 during the financial year 2002-03 as Small Scale Industry :
- i. ABC Ltd., had registered a turnover for the purposes of the above Notifications of Rs.3.2 crores in the financial year 2001-2002. Due to recession in the industry, they anticipate a fall in turnover of 20% in 2002-03, when compared to the year 2001-02. **(2 Marks)**
  - ii. XYZ Ltd., has started its manufacturing operations in the year 2002-03 with an investment of Rs.3.5 crores in plant and machinery and hope to achieve a sales turnover of Rs.2 crores in 2002-03. **(2 Marks)**
- (b) Write short notes on any **two** of the following : **(3×2=6 Marks)**
- i. Scope of Excise Audit 2000.
  - ii. Binding nature of the circulars issued by the Central Board of Excise and Customs.
  - iii. Advance ruling under the Central Excise Act, 1944.
- (c) Briefly explain the concept of “unjust enrichment” as it occurs U/s. 11B of the Central Excise Act, 1944 and the state exceptions to this concept contained in section 11B(2) of the Central Excise Act, 1944. **(5Marks)**

### PART – B

#### Question 6

- (a)
- i. Gujarat Dry Fruits Ltd., imported dry fruits and declared the value as under:

Date of imports	Quantity	Value declared (Rs.)	Country of import
Nov.2002	250 M.T	25,000 per M.T	Egypt
--Do--	150 M.T	--Do--	--Do--

It was found that imports were also made by some other dealers as indicated below:

Date of imports	Quantity	Value declared (Rs.)	Country of import
Sept. 2002			
By importer Mumbai International	50 M.T	35,000 per M.T	Dubai
Oct. 2002			
By importer Chennai Fruits Ltd.,	20 M.T.	40,000 per M.T	Persia.

The Customs Department has sought to assess the imports made by Gujarat Dry Fruits Ltd., as “Contemporaneous imports” U/s. 14 read with Rule 5 of the Customs Valuation Rules, 1988. Briefly examine whether the action proposed by the department is correct.

- ii. RI is an indenting agent of an Italian Company. The agreement provides for payment of 20% commission on the imported equipments supplied by RI to users in India. However in respect of RI’s own requirements of the equipment supplied by the Italian company no commission was payable as there was to be no value addition by the indenting agent. The department wants to enhance the value of the imports by 205 as according to them the Indenting Agent is a “Related person”. Examine briefly whether the stand taken by the department is correct with reference to section 14 of the Customs Act, 1962 and Rule 9 of the Customs Valuation Rules, 1988 regarding “Costs and Services” and Rule 2(2) regarding “Related persons”.

- (b) State briefly the provisions relating to confiscation of conveyances U/s. 115 of the Customs Act, 1962. **(5 Marks)**
- (c) Explain briefly the provisions relating to “Baggages” under the Customs Act, 1962 and the Rules framed there under. **(5 Marks)**

### Question 7

- (a) Write short notes with reference to the Customs Act, 1962: **(3×3=9 Marks)**
- Product specific safeguard duties.
  - Special Economic Zone
  - Duty deferment.
- (b) Explain the provisions of section 67 and section 69 of the Customs Act, 1962 with respect to the following : **(3×2=6 Marks)**
- Transfer from one warehouse to another.
  - Clearance for exportation.

### Question 8

- (a) Explain briefly the provisions of section 74 and section 75 of the Customs Act, 1962 relating to duty drawback. **(5 Marks)**
- (b) Write short notes on any **two** of the following with reference to the Customs Act, 1962. **(3×2=6 Marks)**
- Stores
  - Import manifest
  - Postal Articles.
- (c) Briefly explain the powers of the settlement commission under the Customs Act, 1962. **(4 Marks)**

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**PART - C**

**Question 9**

- (a) 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)**
- i. Jobbing transactions entered into on principal basis between members of the same stock exchange.
  - ii. Service to a policyholder by an insurer carrying on Life Insurance business.
  - iii. Activity of printing and publishing Telephone Directories. Yellow pages or Business Directories.
  - iv. Services rendered in relation to merger and acquisition of a management consultant.
  - v. Services rendered regarding legal or taxation consultancy by a Chartered Accountant.
- (b) Answer any **two** of the following with reference to the provisions of the Finance Act, 1994 as amended relating to Service Tax : **(2×2=4 Marks)**
- i. Are services provided in the State of Jammu and Kashmir liable for Service Tax?
  - ii. What are the due dates for filing of returns under the Service Tax Law?
  - iii. Does the doctrine of “unjust enrichment” apply to payments under the Service Tax Law?
- (c) Briefly discuss the provisions of the Finance Act, 1994 as amended relating to Service Tax with respect to any **one** of the following taxable services: **(3 Marks)**
- i. Consulting Engineer
  - ii. Credit Rating Agency.