
PAPER 8: INDIRECT TAXES
NOVEMBER 2006

Answers to 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 the CENVAT Credit Rules, 2004: **(2×2=4 Marks)**
- i. Job work
 - ii. Principal inputs
 - iii. Deemed CENVAT Credit.
- (b) Briefly examine the correctness or otherwise of any **two** of the following statements with reference to the Central Excise Act, 1944 giving reasons to support your answers : **(3×2=6 Marks)**
- i. Parts used for repair or replacement during warranty period are excisable.
 - ii. In case of samples distributed free, valuation should be adopted on the basis of Rule 8 of the Central Excise Valuation (determination of Price of Excisable goods) Rules, 2000 i.e. cost of production plus 10%.
 - iii. Exemption from duty does not mean exemption from registration.
- (c) M/s. Super Pipes Ltd., is engaged in the manufacture of m.s.galvanized pipes. The excise department has required the assessee to include the cost of galvanization in the assessable value of the m.s. galvanized pipes for the purposes of determination of excise duty. The assessee claim that as the process of galvanization does not amount to manufacture, the cost of galvanization is not includible in the assessable value of the said pipes made form H.R.Coils.
Briefly discuss whether the stand taken by the assessee is correct with reference to the provisions of the Central Excise Act, 1944.
- (d) “Everything that is sold is not necessarily a marketable commodity chargeable to excise duty under the provisions of the Central Excise Act, 1944”. **(5 Marks)**

Question 2

- (a) Answer in brief the following questions relating to provisions made under Rule 6 of the Central Excise (Removal of Goods at Concessional Rate of Duty for manufacture of Excisable Goods) Rules, 2001: **(2×3=6 Marks)**
- i. What will be the consequences in case the goods received at concessional rate are not used for the intended purpose?
 - ii. Whether a manufacturer receiving the subject goods can return such goods to the original manufacturer.
 - iii. When will the subject goods be deemed as not having been used for the intended purpose.
- (b) Discuss briefly whether refund effected by the Central Excise Department pursuant to orders of Court in respect of a Bank guarantee towards disputed excise duty encashed by the department, would be subject to the provisions of Sec.11B of the Central Excise Act, 1944 relating to “unjust enrichment”.
- (c) A manufacturer of cameras sells leather cases / soft cases and instruction manuals along with the cameras. The cost of such and manuals were being charged separately apart from the cost of the camera. The excise department has claimed that the cost of such cases and manuals should be included in the assessable value of the camera. According to the excise department as per Rule 5 of the interpretative

Rules for Central Excise Tariff brought into force from 28-2-2005, cases for camera, musical instruments, drawing instruments, neckless etc., specially shaped for that article, suitable for long term use will be classified along with that article, if such articles are normally sold along with such cases. Examine briefly with the help of decided case law, if any, whether the stand taken by the department is correct in law.

Question 3

- (a) Briefly explain the provisions relating to compounding of offences with reference to section 9A of the Central Excise Act, 1944 and Rule 6 of the Central Excise (Compounding of Offences) Rules, 2005 dealing with the power of the compounding authority. **(3 Marks)**
- (b) M/s. Solid Cement Ltd., is engaged in the manufacture of cement. Explosives are used for blasting the mines in order to excavate limestone, which is used in the manufacture of Cement/clinkers in the factory situated at some distance away from time. **(4 Marks)**
CENVAT Credit on explosives has been denied by the excise department on the ground that the explosives are not used as inputs "within the factory of production". You are required to advise with reference to the CENVAT Credit Rules, 2004 whether the stand taken by the department is correct.
- (c) A Small Scale Industrial unit (SSI) is required to pay the following Central Excise duties by January 15, 2006 for clearances effected from its factory in respect of final products manufactured during the month of December, 2005. **(8 Marks)**
- | | | |
|---|---|-----------|
| Basic Excise Duty (B.E.D) | : | Rs.36,000 |
| Special Excise Duty (S.E.D) | : | Rs.18,000 |
| National Calamity Contingent Duty (N.C.C.D) | : | Rs.1,000 |

Balance available as credit at the beginning of the month i.e., December 2005 were as follows:

B.E.D : Rs.24,000 , N.C.C.D. Rs.2,00, E.C. Rs.600

No inputs were received during the month. However, certain inputs were received on January 1, 2006 on which total duty paid by the suppliers of input was as follows:

B.E.D.: Rs.16,000, E.C:Rs.320

Excise duty paid on Capital goods received during the month was as follows:

B.E.D.: Rs.40,000, E.C:Rs.800

For the month of December, 2005 you are required to determine:

- (i) the credit available for utilization; **(4 Marks)**
- (ii) the permissible extent to which such credit available may be utilized against payments of B.E.D, S.E.D, N.C.C.D and E.C. and **(2 Marks)**
- (iii) the B.E.D , S.E.D and E.C. payable through account current (P.L.A.). **(2 Marks)**

Question 4

- (a) Write a brief note on the powers of review to be exercised by Committee of Chief Commissioner U/s. 35B and section 35E of the Central Excise Act, 1944. **(3 Marks)**
- (b) With regard to exports under the Central Excise Act, 1944 write a brief note on: **(2×2=4 Marks)**
- Who is authorized to sanction rebate claim.
 - The time limit for the filing of such rebate claim.
- (c) Write short note on "submission of list of records" under Rule 22(2) of the Central Excise Rules, 2002. **(4 Marks)**
- (d) With reference to Rule 8(3) and Rule 8(3A) of the Central Excise Rules, 2002 explain in brief the consequences, if duty is not paid fully on the due date or within 30 days after the due date. **(4 Marks)**

Question 5

- (a) Briefly comment with the reason on any **two** of the following statements: **(3×2=6 Marks)**
- Section 35C(2A) of the Central Excise Act, 1944 curtails the power of the Appellate Tribunal to grant stay beyond six months.
 - Two factories located in the same premises are to be considered as one factory for the purpose of arriving at the “aggregate value of clearances” in terms of Small Scale Exemption Notification No.8/2003-C.E. dated 1-3-2003.
 - The Central Excise Officer in-charge of a warehouse may permit export without physical storage of the goods in the warehouse.
- (b) (i) Briefly explain with reference to Sec.11A of the Central Excise Act, 1944 as to who is authorized to issue a show cause Notice. **(2 Marks)**
- (ii) A show cause notice U/s. 11A of the Central Excise Act, 1944 was issued by Superintendent of Central Excise and the case was adjudicated by a Deputy Commissioner. This was inspite of their being in existence a circular of the Central Board of Excise and Customs to the effect that the same ought to be done by a Commissioner. Explain briefly whether the action in the present case is sustainable in law. **(3 Marks)**
- (c) Explain briefly the provisions relating to charging of interest U/s. 11DD of the Central Excise Act, 1944. **(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)**
- Customs port
 - Goods
 - Stores.
- (b) Examine briefly the powers of the department, if it is not satisfied with an order made U/s. 47 of the Customs Act, 1962 pursuant to which goods have been cleared. **(3 Marks)**
- (c) An importer imported certain inputs for manufacture of final product. A small part of the imported inputs were damaged in transit and could not be used in the manufacture of the final products. An exemption notification was in force providing exemption in respect of specified raw materials imported into India for use in manufacture of specified goods, which was applicable to the imports made by the importer in the present case. Briefly examine whether the importer could claim the benefit of the aforesaid notification in respect of the entire lot of the inputs imported including those that were damaged in transit. **(3 Marks)**
- (d) Write short notes on the following with reference to the provisions of the Customs Act, 1962: **(3×2=6 Marks)**
- Relevant dates for submission of refund application.
 - Prohibition and regulation of drawback.
- (e) State briefly the provisions of sec.17 of the Customs Act, 1962 relating to assessment of goods. **(4 Marks)**

Question 7

- (a) What will be the dates of commencement of the definitive anti-dumping duty in the following cases U/s. 9A of the Customs Tariff Act, 1975 and the Rules made thereunder: **(2×3=6 Marks)**
- Where no provisional duty is imposed;
 - Where provisional duty is imposed;

-
- iii. Where anti-dumping duty is imposed retrospectively from a date prior to the date of it of provisional duty.
- (b) M/s. Pure Energy Ltd., is engaged in oil exploration and has imported software containing seismic data. The importer is entitled to exemption from Customs duty subject to the condition that an “essentiality certificate” granted by the Director general of Hydrocarbons is produced at the time of importation of the goods. The certificate was not made available to the importer within a reasonable time by the Director General of Hydrocarbons. The Customs department rejected the importers claim for exemption. Examine briefly whether the department’s action is sustainable in law. **(4 Marks)**
- (c) (i) Briefly explain the powers of officers of Customs U/s. 5 of the Customs Act, 1962 **(2 Marks)**
(ii) With reference to sec.6 of the Customs Act, 1962 examine briefly whether the Central Government could entrust any functions of the Central Board of Excise and Customs or any officer of Customs to any officer of any other department. **(3 Marks)**

Question 8

- (a) Write a brief note on any **two** of the following with reference to the Customs Act, 1962: **(3×2=6 Marks)**
- Find and penalty
 - Rules and Regulations
 - Power to search persons U/s. 100 and sec.101.
- (b) Explain briefly if the Authority for Advance Ruling could entertain applications from residents with specific reference to sec.28E(C) of the Customs Act, 1962. **(3 Marks)**
- (c) Write a brief note on “remission of duty in case of volatile goods” U/s. 70 of the Customs Act, 1962. **(3 Marks)**
- (d) Briefly explain “standard unit of quantity” with reference to the First Schedule to the Customs Tariff Act, 1975. **(3 Marks)**

PART – C

Question 9

- (a) Export of Services Rules, 2005 were made effective from March 15, 2005. **(3×2=6 Marks)**
- What are the three categories of taxable services dealt with under Rule 3?
 - What are the three options available to exporter of taxable services under these Rules for claiming exemption or rebate of service tax?
- (b) With reference to the Finance Act, 1994 as amended and the Rules made there under relating to service tax, state whether registration is required or not in the case of the following persons or class of persons: **(1×3=3 Marks)**
- Input service distributor.
 - Small service provider whose aggregate value of taxable service is Rs.3,50,000 per annum.
 - Indian based recipient of taxable services provided from abroad by a non-resident not having any place of business in India.
- (c) Answer any **three** of the following with reference to the Finance Act, 1994 as amended relating to applicability of Service Tax : **(2×3=6 Marks)**
- Entrance fee and life membership fee paid by members of a club providing various services and facilities and organizing get together and functions for its members.
 - Construction of residential complex having ten bungalows.

-
- iii. Selling SIM (subscribers Identification Module) card and the process of activation thereof by mobile cellular telephone companies.
 - iv. Study material or written test provided by Commercial Training and Coaching Centre.