
PAPER 8: INDIRECT TAXES
MAY 2005

Question Nos. 1, 6, 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 Cenvat Credit Rules, 2002: **(2×2=4 Marks)**
- i. Exempted goods
 - ii. Final Products
 - iii. First stage dealer
- (b) What are the situations where transaction value under section 4 of the Central Excise Act does not apply? **(4 Marks)**
- (c) A trader supplies fabrics to independent processor. Cost of fabrics is Rs. 1,150. The processor charges Rs. 450 which includes Rs. 350 as processing charges and Rs. 100 as his profit. After processing, the goods are sent back to the trader, who sells them at Rs. 1,800. Transport charges for receiving goods at the premises of the processor is Rs. 50 and the transport charges for sending goods after processing is Rs. 60. Determine the value assessable value of the goods under Section 4 of the Central Excise Act. **(6 Marks)**
- (d) Before 01.03.2003, light diesel oil was one of the input as per the definition of input given in Cenvat Credit Rules. M/s Rim purchased duty paid light diesel oil in January, 2003 and availed Cenvat Credit. On 04.01.2003, when input definition was amended to exclude LDO, department asked the Company Rim to reserve the amount of Cenvat Credit in respect of the stock of LDO with them as on 01.03.2003. Advice M/s Rim as to whether they have to reverse the credit? **(6 Marks)**

Question 2

- (a) Explain briefly with reference to the provisions of the Central Excise Act the term “Deemed Manufacture”. **(3 Marks)**
- (b) Discuss the provisions of the Central Excise Act relating to collection of amount by a person from his buyer in excess of the duty assessed or determined and paid on any excisable goods. **(4 Marks)**
- (c) When a person shall be deemed to be related person for the purpose of valuation under the central Excise Act. **(4 Marks)**
- (d) Describe the powers to summon persons under the Central Excise Act. **(4 Marks)**

Question 3

- (a) Is there any exception to the rule that Central excise Duty is payable by a producer or manufacturer of goods on removal thereof from the factory and duty is payable by someone else? **(2 Marks)**
- (b) What are the dates for determination of rate of Central Excise duty under Central Excise Rules, 2002? **(3 Marks)**
- (c) Discuss the manner of payment of duty under Central Excise Rules, 2002. [Rule 8 only] **(4 Marks)**
- (d) M/s SYL purchase film from the manufacturer thereof on payment of appropriate Central Excise Duty. They undertake the processes of Lamination/ metallization of the said film. The department directs them

to pay Central Excise Duty as the processes undertaken by them amounts to manufacturer. Offer your comments with the help of decided case law. **(6 Marks)**

Question 4

- (a) Does the Maxim “Latter the Better” apply in classifying the excisable goods? **(3 Marks)**
- (b) Mention briefly the provisions regarding export under bond to Nepal where payment of duty is in freely convertible currency. **(6 Marks)**
- (c) Deputy Commissioner Central Excise passes an adjudication order classifying the goods manufactured by MTZ under heading 85.42 and charges duty @ 16% Ad. Valorem. MTZ pays the duty without challenging the adjudication order. After 4 months they realize that partial exemption under a notification was available to goods manufactured by them. They file a claim for refund of duty paid in excess on the ground that benefit of exemption can be claimed at any time. Are MTZ entitled to the refund of duty claimed in time? **(6 Marks)**
(Note: Presume that principle of unjust enrichment does not apply).

Question 5

- (a) In what circumstances additional evidence can be produced by an appellant before the Commissioner appeals (Central Excise)? **(5 Marks)**
- (b) M/s RKR Manufacture footwear bearing the brand name “Lotus” which is owned by M/s Lotus Industries Ltd. for manufacture of detergent powder. When the department disallowed the benefit of Small Scale exemption under the Notification No. 9/2003 – C.E. on the ground that their goods are bearing brand name of another person, M/s RKR contended that M/s Lotus Industries owns brand name “Lotus” only for detergent powder and not for footwear. Decide the case with reasons and mention case law, if any. **(5 Marks)**
- (c) “Mere selling of a commodity does not mean it is marketable”? Elucidate. **(5 Marks)**

PART - B

Question 6

- (a) Briefly explain with reference to the provisions of the Customs Act any two of the following: **(2×2=4Marks)**
- i. Entry
 - ii. Prohibited Goods
 - iii. Warehouses
- (b) A material was imported by air at CIF price of 5,000 US\$. Freight paid was 1500 US\$ and insurance cost was 500 US\$. The banker realized the payment from the importer at the exchange rate of Rs. 45 per dollar. Central Board of Excise and Customs notified the exchange rate as Rs. 44.50 per US\$. Find the value of the material for the purpose of levying duty. **(4 Marks)**
- (c) Discuss the provisions regarding ‘Transit of goods’ and ‘Transshipment of Goods’ without payment of duty under the customs Act. **(4 Marks)**
- (d) State the circumstances under which a revision petition can be filed before the Central Government under the Customs Act. **(4 Marks)**
- (e) Write a note on project import and mention eligible projects. **(4 Marks)**

Question 7

- (a) Explain with reference to the customs Act.
- i. Conditions for filing application to settlement commission **(3 Marks)**
 - ii. Service of order etc. under Section 153 of the customs Act. **(2 Marks)**
- (b) Mention the orders against which appeal lies to the Supreme Court under Section 130E of the Customs Act. **(5 Marks)**
- (c) Briefly explain the time limit for issuing show cause notice for demanding customs duty short paid. **(5 Marks)**

Question 8

- (a) When the ship on its arrival from Dubai was searched by the Customs Officer, they found 2000 biscuits of gold kept concealed in the ceiling of one of the unoccupied cabin. The chief cook of the ship admitted the concealing of the gold. The Captain of the ship disposed in his statement that he alongwith Chief Engineer and Chief Officer had inspected the vessel for contraband and inspection did not reveal anything. No evidence was also found that captain was involved in the smuggling of Gold. Discuss whether the ship is liable to confiscation under the Customs Act. **(5 Marks)**
- (b) M/s XYZ, a 100% export oriented undertaking (100% E.O.U. in short) imported DG sets and furnace oil duty free for setting up captive power plant for its power requirements for export production. They used the power so generated for export production but sold surplus power in domestic tariff area. Is customs department justified in demanding duty on DG sets and furnace oil surplus power has been sold in Domestic tariff area. **(5 Marks)**
- (c) Mention the circumstances under which goods are considered to have been removed improperly from a warehouse under the Customs Act. **(5 Marks)**

PART-C**Question 9**

- (a) Whether Service Tax under the provisions of Finance Act,1994 is chargeable on the following services:
- i. Use of the precincts of a Religious place as a Mandap
 - ii. Payment of service is rendered is received in India in convertible Foreign exchange
 - iii. An interior decorator provides service of beautification of spaces in Srinagar
 - iv. Services provided by a sub-broker to an investor. **(2x4=8 Marks)**
- (b)
- i. Mention the issues on which advance ruling on Service Tax matter **(5 Marks)**
 - ii. When does an advantage ruling on service Tax become void – ab – initio. **(2 Marks)**