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**PAPER 8: INDIRECT TAXES**  
**NOVEMBER 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) State briefly the provisions of the CENVAT Credit Rules, 2002 in respect of removal of inputs and capital goods on which CENVAT credit has been availed in any two of the following cases: **(2×2=4 Marks)**
- (i) Capital goods removed in good condition after being put to use for a period of two years in
  - (ii) An input becomes a waste and is sold as scrap;
  - (iii) Sale of the factory along with the said inputs and capital goods.
- (b) Briefly explain the provisions of the Central Excise Act, 1944 pertaining to “Related Persons”. **(4 Marks)**
- (c) Write a brief note on the following with reference to Notification Nos. 8/2003-CE and dated 1.03.2003 relating to small scale units: **(1+2+3=6 Marks)**
- (i) determination of ‘value ‘ for the said notifications;
  - (ii) availability of CENVAT Credit on capital goods under the said notifications;
  - (iii) treatment in respect of ‘Clearance of excisable goods without payment of duty’ as specified in the said notifications.
- (d)
- (i) Discuss briefly with reference to the provisions of the Central Excise Act, 1944 whether the Following process would amount to ‘manufacture’: **(3×2=6 Marks)**  
XYZ Corporation is engaged in the process of mixing aluminium paste, metal lacquer and thinner resulting in the production of aluminium paint having shelf life of 8-10 hours.
  - (ii) Explain briefly whether duty liability under the Central Excise Act,1944 will be attracted in the following case :  
MN & Co. engaged in the manufacture of Vanaspati oil used activated clay for deodorizing, bleaching and decolouring of oil. As a result of this processing the activated clay was transformed into “spent earth” which was nothing but residue of activated clay. The activated clay residue has lost its absorbent character during the course of refining and bleaching of oil. Excise Department was sought to classify he “spent earth” under Central Excise tariff chapter Heading No.: 1507, which reads as: “residues resulting from treatment of fatty substances or animal or vegetable waxes”.

**Question 2**

- (a)
- i. PQR Ltd., who are in the manufacture of excisable goods had the practice of providing full reimbursement to all its dealers towards the value of damaged goods. the company used to charge a certain sum towards the cost of freight in the return of the damaged goods to it. No other consideration was received by the company. The Central Excise Department has issued a show cause notice that the return freight in respect of damaged goods has to be included in the assessable value for the purpose of duty. Examine briefly the correctness in law of the show cause notice. **(2 Marks)**

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- ii. State briefly whether “damaged discount” is permissible as a deduction for purpose of arriving at the assessable value U/s. 4 of the Central Excise Act, 1944. **(2 Marks)**
- (b) Write a brief note on the following exemption notifications issued under the Central Excise Act, 1944. **(2+3=5 Marks)**
- i. Power not to recover duty of excise not levied or short-levied as a result of general practice, under Section 11C;
- ii. Power to grant exemption from duty of excise under Section 5A.
- (c) Briefly explain the procedure with respect to provisional Assessment” under the Central Rules, 2002 from obtaining registration under section 6 of the Central Excise Act, 1944. **(6 Marks)**

### Question 3

- (a) Briefly explain the procedure with respect to “Provisional Assessment” under the Central Excise Rules, 2002. **(4 Marks)**
- (b) Write a brief note on : “Export under bond to Nepal where payment is in freely convertible foreign currency” with reference to the Central Excise Act, 1944 and the Rules. **(5 Marks)**
- (c) With reference to Rules 12 and 17(3) of the Central Excise Rules, 2002 and Rule 7(5) of the CENVAT Credit Rules 2002 explain in brief the main contents of the Returns to be filed with the Central Excise Department by an assessee in Form E.R.-1, E.R.-2 and E.R.-3. **(6 Marks)**

### Question 4

- (a) State briefly against whom prosecution may be launched in the case of “offences by companies” U/s. 9AA of the Central Excise Act, 1944. **(3 Marks)**
- (b) Write short notes on the following with reference to the Central Excise Act, 1944 and the Rules made there under: **(3×2=6 Marks)**
- i. Duty payment “Under Protest”
- ii. “Refund claim” U/s. 11B.
- (c) State in brief the provisions relating to “Invoice” under Rule 11 of the Central Excise Rules, 2002. **(6 Marks)**

### Question 5

- (a) State briefly as to who can make an application for “Advance Ruling” U/s. 23A of the Central Excise Act, 1944. **(3 Marks)**
- (b) Discuss briefly the power of the Appellate Tribunal to order “Rectification of mistake” U/s. 35C of the Central Excise Act, 1944. **(3 Marks)**
- (c) Explain briefly the provisions relating to “Special Audit” in certain cases U/s. 14A of the Central Excise Act, 1944. **(4 Marks)**
- (d) State the provisions of Rule 17 of the Central Excise Rules regarding removal of goods by a 100% Export oriented undertaking for Domestic Tariff Area. **(5 Marks)**

## PART - B

### Question 6

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

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**(2×2=4 Marks)**

- i. Goods
- ii. Person in charge
- iii. Foreign Control vessel.

(b) **(3×2=6 Marks)**

- i. C & Co. imported second hand machinery and declared the transaction value in the Bill of Entry filed for purposes of assessment to import duty. The Assistant Commissioner of Customs ignored the transaction value and based on Chartered Engineer's certificate showing that the machinery was in working condition and had a residual life of 10 years he completed the assessment under Rule 8 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 after allowing maximum depreciation of 70%.

Discuss briefly giving reasons whether the action of the Assistant Commissioner is valid in law.

- ii. Due to congestion in the ports or non-availability of deep draught all ports are not navigable upto the jetty. Goods have to be discharged or transshipped at the outer anchorage with the help of barges. The charges associated with the delivery of cargo at outer anchorage are called "barging / lighterage charges". State giving reasons whether such charges have to be included for purposes of determination of assessable value under the Customs Valuation (Determination of price of imported Goods) Rules, 1988.

(c) Explain briefly the provisions of Rule 3 of the General Rules for the interpretation of the first schedule to the Customs Tariff Act, 1975. **(4 Marks)**

(d) State briefly the provisions of the Customs Act, 1962 relating to filing of "Import Bill of Entry". **(6 Marks)**

### Question 7

(a) State whether the principles of "Unjust enrichment" applies to refund of export duty under the Customs Act, 1962. **(2 Marks)**

(b) Write short notes on the following with reference to the Customs Act, 1962: **(2×2=4 Marks)**

- i. Duty on pilfered goods.
- ii. Re-importation of goods.

(c) XYZ Co., the assessee has claimed before the Customs Authority that since the exports of goods in its case attracted no duty, the value for purposes of Customs Act, 1962 to be declared shall be the value of the goods, which he expects to receive on sale of goods in the overseas market.

Briefly discuss giving reasons whether the stand taken by XYZ Co. is correct. **(3 Marks)**

(d) State in brief the features of "Special Economic Zone" with reference to the Customs Act, 1962. **(3 Marks)**

### Question 8

(a) Explain briefly the procedure for clearance of warehoused goods for home consumption U/s. 68 of the Customs Act, 1962. **(3 Marks)**

(b) State in brief with reference to the provisions of Section 129A of the Customs Act, 1962 the matters relating to which no appeal shall lie before the Appellate Tribunal. **(3 Marks)**

(c) Enumerate briefly the penalties U/s. 114 of the Customs Act, 1962 for attempt to export goods improperly. **(4 Marks)**

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- (d) Explain the manner of filing drawback claim under the Duty Drawback Rules pursuant to Section 74 of the Customs Act, 1962. **(5 Marks)**

**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: **(2×4=8 Marks)**
- i. One professionally qualified engineer one non-professionally qualified engineer rendering engineering consultancy services under the name and style of ABC Consultancy Pvt. Ltd.,
  - ii. Business Auxiliary services provided by a Commission Agent.
  - iii. An institute providing pre-school coaching and training.
  - iv. Ship repair services including dry docking within port premises.
  - v. Blood test and analysis services provided by a Commercial pathology laboratory.
- (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. Services rendered after 1.7.2003 under a maintenance contract of machinery entered into prior to the effective date i.e., 1.7.2003 and in respect of which the bill has been raised and the value in full received from the customer prior to 1.7.2003.
  - ii. What is the date of payment of service tax where the amount of service tax is paid by cheque and is presented to the designated Bank on April 25, 2004 and realized by the Bank on April 27,2004. Whether any interest and penalty is attracted in this case.
  - iii. Whether service tax credit availed on input services during the period April 1, 2004 to April 24, 2004 can be utilized for the payment of service tax on the output services proved for the month / quarter ended March, 2004, which is due for payment on April 25, 2004.
- (c) Briefly discuss the provision of the Finance Act, 1994 as amended relating to Service tax with respect to any **one** of the following taxable services: **(3 Marks)**
- i. Event Management
  - ii. Video Tape Production Services.