

**May 2008**  
**Indirect Tax**  
**Part - A**

1. (a) Briefly explain any two of the following with reference to the Central Excise Rules, 2002: **(2×2=4 Marks)**
- i. Assessee
  - ii. Daily stock account
  - iii. Large tax payer.
- (b).M/s Khan Ltd., is a small scale unit, manufacturing plastic name plates for motor vehicles as per specifications provided to them by their customers, who are vehicle manufacturer. For purposes of classification under the first schedule to the Central Excise Tariff Act, 1985 the assessee has claimed that the plastic name plates are “parts and accessories of motor vehicles”. The Central Excise Department has proposed classification as “other plastic products” in respect of these plastic name plates. The department’s view is that the motor vehicle is complete without the affixation of name plates and cannot be treated as a part of the motor vehicle. Write a brief note on whether the stand taken by the department is correct in law. **(4 Marks)**
- (c) Discuss briefly the validity of the following statements with reference to the Cenvat Credit Rules, 2004: **(3×2=6 Marks)**
- (i) Basic Excise duty credit can be utilized both for payment of Basic Excise duty and Education Cess and Secondary and Higher Education Cess.
  - (ii) Cenvat Credit on inputs lying in stock or in process or contained in the final product shall be reversed when the final product is subsequently exempted unconditionally in terms of an exemption notification issued U/s. 5A of the Central Excise Act, 1944.
- (d) State briefly whether the following circumstance would constitute “manufacture” for purpose of section 2(f) of the Central Excise Act, 1944: **(3×2 =6 Marks)**
- (i) Both inputs and the final product fall under the same tariff heading under the first schedule to the Central Excise Tariff Act, 1985 (Tariff Act).
  - (ii) Inputs and final product fall under different tariff headings of the Tariff Act.
2. (a) Explain briefly with reference to Rule 21 of the Central Excise Rules, 2002 relating to remission of duty the following: **(2×2=4 Marks)**
- (i) Can remission of duty be granted on goods cleared from the factory after payment of duty, but which were destroyed by fire in transit.
  - (ii) Upon grant of remission of duty the Cenvat Credit on inputs used in final product has to be reversed.
- (b)An unit availing small scale exemption in terms of Notification No. 8/2003-C.E., dated 1.3.2003 as amended during the year 2006-07 found that it has exceeded the exemption limit by Rs.20 lakhs. Accordingly, appropriate duty was paid after obtaining registration and in accordance with the prescribed procedure. **(5 Marks)**
- In the year 2007-08 the unit estimates that the aggregate value of clearances for the purpose of the aforesaid notification would be Rs.140 lakhs. Write a brief note on the steps to be adopted for the purpose of due compliance with the requirements of the aforesaid notification and the requirements of the Central Excise Act, 1944 and the Rules made thereunder.

(c) Write a note on the valuation of goods on the basis of retail sale price Under Section 4a of Central Excise Act, 1944. **(6 Marks)**

3. (a) With reference to the Central Excise Act, 1944 and the Rules made thereunder write a brief note on the circumstances when personal penalty could be imposed on a director of a company or a partner of a firm or an employee or a transporter. **(4 Marks)**

(b) M/s. MM & Co., a machinery manufacturer effected clearances from its factory with effect from 1.4.2006 by payment of duty under protest and had also filed an appeal against the order for payment of duty. On 15.5.2006 one of its customers M/s.BB & Co., had purchased the machines from M/s.MM & Co., On 23.5.2007 the appeal filed by M/s.MM & Co., was decided in favour of Co., its customer M/s.BB & Co., filed a refund claim on 1.6.2007 claiming refund of duty suffered by M/s.BB & Co., This claim for refund of duty was rejected by the department on the ground of “unjust enrichment” as well as on the ground of “limitation”. Explain briefly with reference to Section 11B of the Central Excise Act, 1944 whether the action of the department is correct in law. **(5 Marks)**

(c) Explain briefly the following with reference to the provisions of the Central Excise Rules, 2002 and relevant notification issued thereunder with regard to e-payment of duty: **(2×3=6 Marks)**

- (i) The threshold limit for mandatory e-payment of duty;
- (ii) How and in what manner the time of payment would be reckoned under the e-payment system?
- (iii) The due date for payment of duty under the e-payment scheme in respect of an assessee.

4. (a) State briefly the procedure to be adopted for clearance of “prototypes” which are sent for trial or development test from the factory in terms of the Central Excise Rules, 2002. **(2 Marks)**

(b) Will omission on the part of the assessee to provide correct information constitute “suppression of facts” for purpose of the proviso to Section 11A of the Central Excise Act, 1944. Write a brief note with reasons. **(3 Marks)**

(c) Briefly examine the provisions relating to “Settlement Commission” under the Central Excise Act, 1944 with particular reference to the changes brought in by the Finance Act, 2007. **(5 Marks)**

(d) M/s. Smart Ltd., manufacture certain excisable goods that are exempt from duty in terms of a notification provided Cenvat Credit of duty paid on input is not taken by the manufacturer. M/s. Smart Ltd., had taken the credit of duty paid on inputs, but reversed the same before its utilization. The department denied the benefit of exemption on the ground that once the credit is taken it is immaterial whether the same is reversed before or after utilization of such credit. State briefly whether the action of the department is correct under the Central Excise Act and Rules made thereunder with reference to decided case law if any. **(5 Marks)**

5. (a) State briefly the provisions of the Central Excise Act, 1944 relating to arrest of a person. **(3 Marks)**

(b) Write short notes on the following: **(3×2=6 Marks)**

- (i) Desk review under Excise Audit, 2000.
- (ii) Duty drawback under section 37 of the Central Excise Act, 1944.

(c) Based on the following particulars arrive at the Cenvat Credit available on clearance of goods to Domestic Tariff Area (DTA) from an Export Oriented Unit (EOU): **(6 Marks)**

|                    |              |
|--------------------|--------------|
| Assessable value   | Rs. 20 lakhs |
| Basic customs duty | 10 %         |
| Excise duty        | 16 %         |
| Education Cess     | 2 %          |

|                                     |     |
|-------------------------------------|-----|
| Secondary and higher education Cess | 1 % |
| VAT payable under State VAT Law     | 4 % |

**Part-B**

6. (a) Explain briefly with reference to the provisions of the Customs Act, 1962 the following: **(2×2=4 Marks)**

- (i) Appointment of officers of customs
- (ii) Tariff value

(b) M/s.Hind T Co., imported laptops with Hard Disc Drivers (HDD) preloaded with operating software like Windows XP, XP home etc., The department has claimed that the said laptop along with the operating software was classifiable and assessable as a single unit. It is the claim of the assessee that the Software loaded HDD should be classified and assessed separately as an exemption is available as per notification issued U/s. 25(1) of the Customs Act, 1962. Decide with a brief note whether the action proposed by the department is correct in law. **(4 Marks)**

(c) Write a note on “Project Imports” under the Customs Tariff Act, 1975 enumerating the eligible projects and the minimum investment criteria if any. **(6 Marks)**

(d) XYZ Industries Ltd., has imported certain equipment from Japan at an FOB cost of 2,00,000 Yen (Japanese). The other expenses incurred by M/s. XYZ Industries in this connection are as follows: **(6 Marks)**

|   |            |
|---|------------|
| (i) Freight from Japan to Indian Port   | 20,000 Yen |
| (ii) Insurance paid to Insurer in India   | Rs.10,000  |
| (iii) Designing charges paid to Consultancy firm in Japan   | 30,000 Yen |
| (iv) M/s XYZ Industries had expended Rs.1,00,000 in India for certain development activities with respect to the imported equipment                 |            |
| (v) XYZ Industries had incurred road transport cost from Mumbai port to their factory in Karnataka  | Rs.30,000  |
| (vi) The Central Board of Excise and Customs had notified for purpose of Section 14(3) of the Customs Act, 1962 exchange rate of 1 yen = Rs.0.3948. |            |
| (vii) The commission payable to the agent in India was 5 % of FOB cost of the equipment in Indian Rupees  |            |

Arrive at the assessable value for purposes of Customs duty under the Customs Act, 1962 providing brief notes wherever required with appropriate assumptions.

7. (a) Explain briefly with reference to the provisions of the Customs Act, 1962 whether the owner of the warehoused goods has the right to relinquish his title to such goods after the expiration of the warehousing period or the extended warehousing period as the case maybe and also state whether any charges shall become payable upon such relinquishment. **(5 Marks)**

(b) State briefly any five illustrative cases under the Customs, Central Excise Duties and Service Tax Drawback Rules, 2006, where the All Industry Drawback rates will not apply. **(5 Marks)**

(c) State briefly the provisions of the Customs Act, 1962 relating to payment of interest in case of provisional assessment. **(5 Marks)**

8. (a) State briefly with reference to the provisions of Section, 27 of the Customs Act, 1962 whether the principle of “unjust enrichment” will apply in the following cases: **(2×3=6 Marks)**

- (i) Refund of wrongly encashed bank guarantee.
- (ii) Refund of excess interest paid by the assessee

(iii) Refund of duty on car imported for personal use.

(b) The Committee of Commissioners of Customs is empowered under the Customs Act, 1962 to direct the filing of an appeal before the Appellate Tribunal in certain cases while in certain others it may direct an application to be filed before the Appellate Tribunal for determination of such points arising out of the decision or order as may be specified by the said committee. Write a brief note on the powers of the Committee of Commissioners of Customs bringing out the difference in the exercise of such powers.

**(4 Marks)**

(c) State in brief the provisions under the Customs Act, 1962 that seek to prohibit the import of goods infringing intellectual property right (IPR)

**(5 Marks)**

### **Part – C**

9. (a) State briefly whether the following services under the Finance Act, 1994 relating to Service Tax are taxable services. (Answer any three) **(3×2=6 Marks)**

(i) Services provided in the State of Rajasthan by a person having a place of business in the State of Jammu and Kashmir.

(ii) Services provided from India for use outside India.

(iii) Service provided from outside India and received in India by an individual, otherwise than for purpose of use in business or commerce.

(iv) Service provided to an Export oriented unit.

(b) Briefly state the provisions under the Service Tax Rules, 1994 relating to filing of returns and also state any late fee payable for delay in filing of returns. **(3 Marks)**

(c) Answer the following with reference to the Finance Act, 1994 as amended relating to applicability of Service Tax: **(2×3=6 Marks)**

(i) Sale of lottery Tickets.

(ii) Depository services and Electronic Access to Securities Information Services (EASI) provided by the Central Depository Services India Ltd.,

(iii) Services provided by educational institutions like IIM's by charging a fee from prospective employers like corporate house regarding recruiting candidates through campus interviews.