
PAPER 8: INDIRECT TAXES
NOVEMBER 2003

Question Nos.1,6 and 9 are compulsory.
Answer any two questions from PART - A and one question from PART -B

PART – A

Question 1

- (a) Explain any two of the following terms with reference to the Central Excise Act, 1944 / Central Excise Tariff Act, 1985: **(2×2=4 Marks)**
- (i) Adjudicating Authority.
 - (ii) Factory
 - (iii) Manufacture under Central Excise Tariff Act, 1985.
- (b) Briefly describe whether “Assembly” would tantamount to “Manufacture” under the Central Excise Act, 1944 **(5 Marks)**
- (c)
- i. Explain briefly with reference to the provisions of the Central Excise Act, 1944 and the Central Excise Valuation (DPE) Rules, 2000 as to how assessable value is determined in a case where the raw material is provided by the customer. **(2 Marks)**
 - ii. State whether the following items are includible in the assessable value U/s. 4 of the Central Excise Act, 1944 and the Central Excise Valuation (DPE) Rules, 2000: **(2 × 2=4 Marks)**
 - a. Optional Sales Service / Warranty charges
 - b. Installation erection and Commissioning expenses
- (d) Briefly state whether the classification of goods could be altered by the Central Excise Department. **(5 Marks)**

Question 2

- (a) Describe the procedure for removal of excisable goods on payment of duty under the “Self Removal Procedure”. **(5 Marks)**
- (b)
- i. A R & D Unit (Research and Development Unit) that enjoyed exemption from payment of Customs Duty, acting under a bonafide belief that it need not pay Central Excise Duty marketed some of the equipments manufactured by it during the year 2000-2001. The Central Excise Department has issued a Notice to show cause in Aug., 2003 as to why duty should not be demanded on the equipments cleared by the R&D Unit during the year 2000-01. The said Notice has invoked the extended period of limitation U/s. 11A of the Central Excise Act, 1944.
Examine briefly the validity of the Notice issued by the Central Excise Department. **(3 Marks)**
 - ii. State the provisions of the Central Excise Act, 1944 relating to payment of interest on delayed payment of refunds. **(2 Marks)**
- (c)
- i. What is the period of validity of the Registration Certificate granted by the Appropriate Excise Authority? **(2 Marks)**
 - ii. Mention in brief the penal provisions under the Central Excise Act, 1944, if a manufacturer of excisable goods does not apply for Registration. **(3 Marks)**

Question 3

- (a) What are the requirements of “Dealers Invoice” as per the Central Excise Rules, 2002 and the Cenvat Credit Rules, 2002? **(8 Marks)**
- (b) Explain briefly what is meant by “CT-1 Certificate” **(2 Marks)**
- (c) On march 15, 2003, XYZ Co., Ltd., who are manufacturers of industrial needles cleared a consignment on payment of appropriate duty of excise from its factory in Tiruvottiyer. The said consignment cleared from the factory as they were found to be defective. Upon receipt of the defective needles as inputs in their factory at Tiruvottiyer. XYZ Co., Ltd., took credit of the duty already paid at the time of clearance of the goods on March 15, 2003. On March 25, 2003 XYZ Co., Ltd., were able to rectify the defects and dispatch the goods by utilizing the credit available in the Cenvat Account of an amount equal to the CENVAT Credit taken at the time, when the defective goods were received in the factory on March 20, 2003. When the goods were returned back on March 25, 2003 to PQR Ltd., under cover of excise invoice showing payment of duty by XYZ Co., Ltd., the excise authority raised two objections:
- (i) That since no manufacturing activity was involved in the rectification of the defective needles the amount paid by XYZ Co., Ltd., at the time of clearance of the rectified needles, which was the same amount taken as input credit cannot be considered as duty of Excise levied under the Central Excise Tariff Act, 1985.
 - (ii) XYZ Co., Ltd., should have made actual payment of duty in cash and was not entitled to pay excise duty by adjustment from their CENVAT Credit Account on March 25, 2003.
- Briefly discuss with reference to the provisions of the Central Excise Rules, 2002 and CENVAT Credit Rules, 2002 whether the stand taken by the Central Excise Authority is correct in law. **(5 Marks)**

Question 4

- (a) Discuss whether remission of Central Excise Duty will be granted in the following cases under the Central Excise Rules, 2002: **(3×2=6 Marks)**
- (i) Goods were not fully manufactured and lost by natural causes before entry in the “Daily Stock Account”
 - (ii) Goods (Fully manufactured) were lost during transportation of the same to the customer’s business premises due to unavoidable accident.
 - (iii) Goods (Fully manufactured) were lost by fire before removal from the factory and the assessee has received a claim from the insurance company.
- (b) What are the documents required for filing claim of rebate of Central Excise Duty by an Exported of goods? **(6 Marks)**
- (c) Write short notes on “Submission of Records” under Rule 22 of the Central Excise Rules, 2002. **(3 Marks)**

Question 5

- (a) Write a short note on production of Additional Evidence before the Commissioner (Appeals) under the Central Excise Act, 1944. **(6 Marks)**
- (b) Briefly explain the power of Arrest U/s. 13 and sec.18 of the Central Excise Act, 1944. **(4 Marks)**
- (c) M/s.Bharat Soap Company, a small scale unit manufacture soaps and supply the same to “Thar Hotel”. The soaps bear the brand name of the hotel and also its logo. The soaps are kept in the living rooms, kitchen etc., in the Hotel. M/s.Bharat Soap have approached you as their consultant whether their Small Scale Unit will be eligible for the concession provided under the Central Excise Act, 1944. Write a brief note explaining the relevant provisions and whether the unit is eligible for the concession. **(5 Marks)**

PART – B**Question 6**

(a) Briefly explain with reference to the provisions of the Customs Act, 1962 any two of the following:
(2×2=4 Marks)

- (i) Coastal goods
- (ii) Customs Area
- (iii) Derelict, Jetsam, Flotsam and Wreck

(b) M/s. Agarwal Industries imported by Air from USA certain goods at CIF value \$6,500. Air freight US \$1,400 and insurance charges US \$100 were also paid. Bill of Entry was presented on 28-2-2003. But the Entry Inward was granted on 10-03-2002. Other relevant information is as follows: (7 Marks)

	As on 28-02-2003	As on 10-03-2003
Rate of exchange	Rs.46.80	Rs.46.60
As announced by CBEC US \$ 1 =		
As announced by RBI US \$ 1 =	Rs.46.70	Rs.46.50
Rates of Customs Duty		
Basic Customs Duty	30%	25%
Additional Customs Duty	16%	16%
Special Additional Duty	4%	4%

The same goods are exempt from excise duty in India, if manufactured without the aid of power. Compute the Assessable Value and give the rates of Basic, Additional and Special Additional Duty to be adopted in this case, as also the basis for arriving at the Basic, Additional and Special Additional Duty (Actual duty calculation need not be given)
Clearly show your assumptions.

(c) Explain briefly the meaning of any two of the following with reference to the Customs Act, 1962:
(i) Rules and Regulations
(ii) Dutiable goods and Imported goods
(iii) Protective duty and Safeguard duty (2×2=4 Marks)

(d) When can the “transaction value” be accepted under the Customs Act, 1962 and the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 even if the buyer and seller are related persons? Write a brief note. (5 Marks)

Question 7

- (a) Explain the terms “First Check Procedure” and “Second Check Procedure” under the Customs Act, 1962 (4 Marks)
- (b) State the provisions of transshipment of goods without payment of duty under section 54 of the Customs Act, 1962 (5 Marks)
- (c) Write a brief note on the owner’s right to deal with the warehoused goods U/s. 64 of the Customs Act, 1962. (6 Marks)

Question 8

- (a) (4 Marks)
- (i) What is export for the purpose of “Duty drawback” under the Customs Act, 1962?
 - (ii) State the cases in which refund of Customs Duty is available U/s. 26 of the Customs Act, 1962
- (b) Explain briefly the provisions of sec.122 of the Customs Act, 1962 regarding adjudication for purposes of confiscation and penalties. (4 Marks)

-
- (c) P, a non-resident intends to import certain goods, but has entertained some doubts about their classification. P's friend has obtained an "Advance Ruling" under chapter VB of the Customs Act, 1962 from the Authority for Advance Rulings on an identical point. P proposes to adopt the same ruling in his cases. P has bought your advice as his consultant whether he could adopt the said ruling in the case of P's friend. Explain with reasons. **(3 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: **(4×2=8 Marks)**
- (i) Services rendered by a broker of the Delhi Stock Exchange to a broker of the Chennai Stock Exchange.
 - (ii) A practicing Chartered Accountant also provides manpower recruitment services to his client.
 - (iii) Initial deposit made by a subscriber at the time of application for a telephone connection.
 - (iv) Cargo handling services in relation to Agricultural Produce and Cold Storage.
 - (v) Services by a consulting Engineer relating to Computer Software.
- (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) Is Service Tax payable as services provided to a developer or an unit in the Special Economic Zone (SEZ) ?
 - (ii) When could an assessee surrender his Certificate of Registration under Service Tax?
 - (iii) Whether an assessee could claim refund of the input service tax credit under Rule 4 of the Service Tax Credit Rules, 2002?
- (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) Convention.