
**PAPER 8: INDIRECT TAXES
NOVEMBER 2002**

Question Nos.1,6 and 9 are compulsory.
Answer any two questions from Part “A” and any one question from Part “B”.

PART - A

Question 1

- (a)
- i. Explain Rule 7 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. **(3 Marks)**
 - ii. M/s.OTV Ltd., manufacture T.V.Sets. they had sent the T.V. sets from their plant to their depot at Jammu. The depot sold the same at Rs.12,000 on 1.8.2002 and at Rs.12,500 per set on 10.8.2002. please mention what would be the value of the T.V. Sets removed from the factory on 3.8.2002 and 10.8.2002. **(5 Marks)**
- (b)
- i. “Manufacture” implies a change, but every change is not manufacture. Elucidate this statement supported by at least one decided case. **(4 Marks)**
 - ii. M/s.XYZ Distillery purchased yeast from the market and mixed the same with molasses. The mixture called wash is used for production of alcohol. M/s.XYZ contends that “Wash” is not excisable as it has not shelf life of more than 8 hours. **(4 Marks)**
Please offer your considered views.
- (c)
- A public sector undertaking has given a turnkey contract to M/s. B.S.Ltd., for erection, installation and commissioning of a Central Air Conditioning plant.
The Central Excise Officer raises a demand for Central Excise duty on M/s.B.S.Ltd., in respect of the installed plant.
Please examine with the help of decided case laws as to whether the Duty of Excise is payable on the plant. **(4 Marks)**

Question 2

- (a)
- i. What are the various documents on the strength of WHICH CENVAT credit can be taken under CENVAT Credit Rules, 2002? **(5 Marks)**
 - ii. What is the restriction imposed on the CENVAT Credit in respect of inputs manufactured by a 100% E.O.U and used by a manufacturer in domestic tariff area under CENVAT Credit Rules, 2002. **(4 Marks)**
- (b) Briefly discuss with reasons whether in the following cases CENVAT Credit is available to an assessee and, if yes to what extent?
- i. An assessee purchased inputs weighing 1,000 kgs. The duty paid on the inputs was Rs.10,000. during transit, 500 kg. inputs were destroyed. **(3 Marks)**
 - ii. M/s.ABC imported inputs from abroad and got them cleared from customs on payment of Basic Customs duty Rs.25,000 , Additional Customs duty Rs.20,000 and Special Additional duty of Customs Rs.5,000 **(3 Marks)**

Question 3

- (a) Mention briefly the provisions of section 14A and section 14AA of the Central Excise Act relating to Special Audit. **(5 Marks)**
- (b)
- i. Which is the forum for obtaining stay of demand of duty of excise confirmed by a Commissioner of Excise and what are the grounds for obtaining a stay of demand of duty? **(5 Marks)**

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- ii. Under what circumstances refund of Central Excise duty will be made to the claimant instead of being deposited in Consumer Welfare Fund. **(5 Marks)**

Question 4

- (a) Write short notes on any two of the following under the Central Excise Act, 1944; **(3×2=6 Marks)**
- (i) Certificate Action
 - (ii) Presumption as to Documents
 - (iii) Settlement Commission
- (b) Explain briefly the provisions relating to duties of excise collected from the buyer to be deposited with the Central Government under section 11 D of the Central Excise Act, 1944. **(4 Marks)**
- (c) Examine briefly the following with reference to section 9 AA and Section 9 C of the Central Excise Act, 1944.
- i. Whether Criminal Prosecution would lie against a company before a Court of Law. **(2 Marks)**
 - ii. To what extent are Directors of the Company responsible for offences committed by the company? **(3 Marks)**

Question 5

- (a) Under what circumstances, the small scale exemption will be available to the Excisable Goods bearing the brand name of another person under Notification No.8/2001-C.E., dated 1.3.2001? **(5 Marks)**
- (b) What are various clearances, whose value shall not be taken into account for the purpose of determining the aggregate value of clearances for Home Consumption under Notification No.9/201-C.E., dated 1.3.2001? **(5 Marks)**
- (c)
- i. When penalty equal to the amount of duty can be imposed under the Central Excise Act? **(2 Marks)**
 - ii. Under what circumstances such penalty shall be reduced to twenty five percent statutorily? **(3 Marks)**

PART – B

Question 6

- (a) Infotech limited has imported a machine from Japan at an FOB cost of 50,000 yen (Japanese). The other expenses incurred are as follows:
- (i) Freight from Japan to Indian Port 5,000 yen
 - (ii) Insurance paid to insurer in India Rs.2,500
 - (iii) Designing charges paid to consultancy firm in Japan 7,500 yen.
 - (iv) M/s. Infotech spent Rs.25,000 in India for development work connected with the machine.
 - (v) Transportation cost from India Port to Factory Rs.7,500
 - (vi) Central Government had announced exchange rate of 1 yen = Rs.0.40 by Notification under Section 14(3) of the Customs Act, 1962. the exchange rate prevailing on that day in the market was = Rs.0.4052.
 - (vii) M/s. Infotech made payment to the Bank based on an exchange rate of 1 yen = Rs.0.4150.
 - (viii) The commission payable to the agent in India was at 5% of the FOB price in Indian Rupees.
- The rate of Customs duty is 35% . Similar goods are subject to 15% excise duty in India. Clearly showing your workings to arrive at the total Assessable value in Rupees for purposes of levy of customs duty. **(10 Marks)**
- (b) Briefly explain the provisions relating to claim for refund of Customs duty paid in excess under the Customs Act, 1962. **(5 Marks)**
- (c) Explain briefly the meaning of “first appraisalment” and “second appraisalment” systems under the Customs Act, 1962. **(5 Marks)**

Question 7

- (a) Write short notes with reference to Customs Act and Customs Tariff Act: **(3×3=9 Marks)**

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- (i) Protective duties
 - (ii) Identical goods
 - (iii) Classes of officers of customs.
- (b) Write briefly the procedure for getting permission for private warehouse **(6 Marks)**

Question 8

- (a) XYZ Company Limited exported a consignment of manufactured goods. The company has paid import duty and Central Excise duty on the components used in the manufacture. A duty drawback rate has been fixed for these goods. The ship carrying the consignment runs into trouble and sinks in the Indian territorial waters. The Customs Department has refused to grant drawback for the reason that the goods have not reached their destination.
As a consultant for M/s. XYZ Limited you are required to prepare a brief note with reasons whether the stand taken by the Customs Department is correct in law. **(5 Marks)**
- (b) Write short notes on any two of the following : **(3 × 2=6 Marks)**
- (i) Prohibited goods.
 - (ii) Bonded warehouse.
 - (iii) Transit of goods and transshipment of goods.
- (c) Write a short note on “relevant date for determining the duty rate and tariff valuation for imported goods” **(4 Marks)**

PART –C

Question 9

- (a) Answer the **four** of the following questions : **(1×4 = 4 Marks)**
- (i) Under which Act is the Service tax levied ?
 - (ii) At what rate is Service tax levied ?
 - (iii) When is Service tax payable?
 - (iv) Is service tax payable on advances received by Service provider?
 - (v) When was service provided by a practicing Chartered Accountant brought within the purview of Service Tax?
- (b) Answer any two of the following as to whether the same is to be included for purpose of determining the value of Taxable Service: **(2×2=4 Marks)**
- (i) The cost of parts or accessories sold to the customer during the course of repair of motor cars.
 - (ii) The aggregate of commission or brokerage charged by a broker on the sale or purchase of securities.
 - (iii) The cost of unrecorded magnetic tape or storage devices sold to the client during the course of providing the service.
- (c)
- i. Please briefly mention the provisions for issuing notice in respect of taxable service escaping assessment. **(5 Marks)**
 - ii. Define any **one** of the following terms in relation to Service Tax: **(2 Marks)**
 - (a) Mandap
 - (b) Facsimile (FAX)
 - (c) Practicing Chartered Accountant.