



## PAPER -INDIRECT TAX LAWS

Time Allowed – 3 Hours

Maximum Marks - 100

Question No. 1 is compulsory  
Answer any five from the remaining six questions

Q1:

- (a) How will the assessable value under the subject transaction be determined under section 4 of the Central Excise Act, 1944? Give reasons with suitable assumptions where necessary.

Contracted sale price for delivery at buyer's premises Rs. 9,00,000

The contracted sale price includes the following elements of cost:

(i) Cost of drawings and designs	Rs. 4,000
(ii) Cost of primary packing	Rs. 3,000
(iii) Cost of packing at buyer's request for safety during transport	Rs. 7,000
(iv) Excise duty	Rs. 1,11,200
(v) VAT (Sales tax)	Rs. 37,000
(vi) Octroi	Rs. 9,500
(vii) Freight and insurance charges paid from factory to 'place of removal'	Rs. 20,000
(viii) Actual freight and insurance from 'place of removal' to buyer's premises	Rs. 42,300

(5 Marks)

- (b) Assessee is carrying on the business of producing and selling 'tarpaulin made-ups'. The 'tarpaulin made-ups' are made from tarpaulin cloth by cutting the cloth into various sizes and stitched and eye-lets are fitted.

Department is contended that, the "made-ups" prepared by means of cutting, stitching and fixing of eye-lets amounts to manufacture and hence, they are exigible to duty under the Central Excise Act.

The Assessee states that the process of mere cutting, stitching and putting eyelets does not amount to manufacture and hence, the department cannot levy Excise Duty on tarpaulin made-ups. Decide with reference to recent case law, Whether the contention taken by department is correct in law?

(5 Marks)

- (c) Bonne Ltd. is engaged in providing erection, commissioning or installation services. Compute the value of taxable services under the category of 'erection, commissioning or installation services' for the month of October, 2011 with the help of the following particulars furnished by it:-

Receipt	Rs
Installation of thermal insulation	12,00,000
Commissioning of Mechanized Food Grain Handling Systems	5,50,000
Installation of transformer	15,50,000
Installation of street lights	4,00,000
Erection of fire proofing system in the airport	95,00,000

All the receipts are excluding service tax. Bonne Ltd. is not eligible for small service provider's exemption under Notification No. 6/2005 ST dated 01.03.2005.

(5 Marks)

- (d) Rosesh Ltd. of Gujarat made a total purchases of input and capital goods of Rs. 55,00,000 during the month of January, 2010. The following further information is available:

- Goods worth Rs. 15,00,000 were purchased from Assam on which C.S.T. @ 2% was paid
- The purchases made in January, 2010 include goods purchased from unregistered dealers amounting to Rs. 18,50,000.
- It purchased capital goods (not eligible for input credit) worth Rs. 6,50,000 and those eligible for input credit for Rs. 9,00,000.
- Sales made in Gujarat during the month of January, 2010 is Rs. 10,00,000 on which VAT @ 12.5% is payable. Assuming that all purchases given are exclusive of tax and VAT @ 4% is paid on them, calculate
  - the amount of input tax credit available for the month of January, 2010
  - VAT payable for the month of January, 2010 and
  - input tax credit carried forward.

Note: The input VAT credit on eligible capital goods is available in 36 equal monthly installments.

(5marks)

(e) Determine the assessable value and customs duty amount from the following data:

Name of the raw material Imported	Z
FOB value	\$ 1 million
Air freight	\$ 300000
Ocean Insurance	Actual data not available
Freight from sea port to godown paid in India	Rs. 10,000
Transit insurance in India	Rs. 2,000
Selling commission paid to agent in India	5% of FOB
Royalty on manufacturing process	5% of FOB
Interest payable on raw material imported at 180 days credit (on FOB value)	12% p.a
Dividend paid to the foreign supplier of raw material on their equity participation for the year 2001-02	Rs. 2 per share on 1 million shares of face value Rs. 10/ share.

Importer supplied design and drawings worth \$ 10,000 to the foreign raw material supplier. Bill of Entry was presented on 28-02-03, but the Entry Inward was granted on 10-03-03. Other relevant information is as follows: Rate of Exchange as announced by CBEC - US \$ 1 = Rs. 46.80 as on 28-02-03 and Rs. 46.60 as on 10-3-03. Rate of Exchange as announced by RBI US \$ 1 = Rs. 46.70 as on 28-02-03 and Rs. 46.50 as on 10-03-03. Rate of Custom Duty - \* Basic Customs Duty - 30% as on 28-02-03 and 25% as on 10-03-03 \* Additional Customs Duty - 16% as on 28-02-03 and 16% as on 10-03-03. \*

Compute the Assessable Value and Custom duty payable.

**( 5 marks)**

Q2 (a) Determine the amount of CENVAT credit available to Gangotri Manufacturing Ltd. In respect of the following items procured by them in the month of October, 2011:-

Items	Excise duty (Rs.) paid (including EC and SHEC)
Raw materials	52,000
Capital goods used for generation of electricity for captive use within the factory	1,00,000
Motor spirit	40,000
Inputs used for construction of a building	1,00,000
Dairy and bakery products consumed by the employees	5,000
Motor vehicle	4,50,000

(Note: The aggregate value of clearances of Gangotri Manufacturing Ltd. for the financial year 2010-11 is ` 450 lakh)

**(4 Marks)**

(b) Vibhuti Motors Ltd. was manufacturer of various types of motor vehicles chargeable to duty on ad valorem basis. Department observed that while selling the vehicles to the customers, the dealers added their own margin known as the dealer's margin to the price at which the vehicles were made available to them by Vibhuti Motors Ltd. This dealers margin contained provision for rendering pre-delivery inspection and three after sale services. Hence, the Department contended that the cost of pre-delivery inspection and after sale services would form part of the assessable value of the automobile while discharging the duty liability. You are required to examine the veracity of the Department's contention, with the help of a decided case law.

**(4 Marks)**

(c) The Assessee is engaged in the manufacture of iron and steel products. Assessee Co. has opted for compounded levy (under Rule 15). In a particular period, it failed to pay excise duty. Department issued SCN for recovery of duty under Section 11A.

Assessee argued that SCN issued by department under section 11A is invalid in law because recovery of duty under compounded levy scheme is governed by specific provision of scheme & not under Section 11A.

**(4 Marks)**

(d) State, with reasons, whether service tax is payable in the following cases:-

- Construction of complex service in relation to Jawaharlal Nehru National Urban Renewal Mission and Rajiv Awaas Yojana.
- Air transport of crew members on board the aircraft.

**(3 Marks)**

Q3 (a)

(i) The assessee has imported Xerox Regal 5799, Xerox Work Centre XD100 and Xerox work Centre XDI55df. The assessee contended that the imported machines were Multi-Functional Machines performing the functions of printers, fax machine, copier and/or scanner and therefore, required to be classified as Printers in Automatic Data Processing Machine (ADD) under Tariff Heading 8471.60.

The Department opined that aforesaid machines require to be classified under Heading 8479.79 (Residual Heading).  
Statutory provisions

Heading	Description of heading
84.71	Automatic data processing machines and units thereof. (magnetic or optical readers, machines for transcribing data on to data media in coded form and machines for processing such data not elsewhere specified or included.) ➤ 8471.60. Inputs or output units whether or not containing storage units in the same housing,
84.79	Machines and mechanical appliances having individual functions not specified or included elsewhere in this Chapter.

You are required to examine the veracity of the Department's contention, with the help of a decided case law.

**(4 Marks)**

(ii) Write a short note with reference to the Central Excise Act, 1944 and CENVAT Credit Rules 2004 on "goods" and "exempted goods". **(2 Marks)**

(b) Whether following services taxable or not?

- i) Any service provided from any other country in Exclusive Economic Zone related to Erection, Installation & vessels
- ii) Central Railway provided the service of transportation of goods by Rail.
- iii) Service in relation to management, maintenance or repair of roads.

**(6 marks)**

(c) Lucrative Laminates imported resin impregnated paper and plywood for the purpose of manufacture of furniture. The said goods were warehoused from the date of its import. Lucrative Laminates sought an extension of the warehousing period which was granted by the authorities. However, even after the expiry of the said date, it did not remove the goods from the warehouse. Subsequently, Lucrative Laminates applied for remission of duty under section 23 of the Customs Act, 1962 on the ground that the said goods had lost their shelf life and had become unfit for use on account of non-availability of orders for clearance.

Explain, with the help of a decided case law, if any, whether the application for remission of duty filed by the Lucrative Laminates is valid in law? **(3 marks)**

Q4 (a)

(i) Y & Co. is a small scale unit located in a rural area and is availing the benefit of small scale exemption under Notification No. 8/2003-C.E. during the year 2007- 08. Determine the value of the first clearances of the unit and duty liability on the basis of data given below:-

	Rs.
(1) Total value of clearances of goods with own brand name	75,00,000
(2) Total value of clearances of goods with brand name of other parties	90,00,000
(3) Clearances of goods which are totally exempt under another notification (other than an exemption based on quantity or value of clearances)	35,00,000

**(4 marks)**

(ii) Whether manufacturer can avail cenvat credit of duty paid by supplier under notification 1/2011?

**(2 marks)**

(b) (i) Examine, with the help of a decided case law, whether the service provided by way of "advice, consultancy or technical assistance" in the case of turnkey contracts will attract service tax and can these turnkey contracts be vivisected?

(ii) Under what circumstances registration can be cancelled under VAT? **(3x2=6 marks)**

(c) Define briefly, the following with reference to section 2 of the Customs Act, 1962:-

- (a) Foreign going vessel
- (b) Adjudicating authority

**(3 Marks)**

Q5 (a)

(i) What is a Consumer Welfare Fund? How is this fund utilized? **(3 Marks)**

(ii) Is the Settlement Commission empowered to grant the benefit under the proviso to section 11AC in cases of settlement? **(3 marks)**

(b) Mr. Ram, a dealer in Tamil Nadu dealing in consumer goods, submits the following information pertaining to the month of October, 2011:

Details of purchases of goods

Particulars (raw material purchased from within the State)	Rs.	Vat rate
Goods A	10,00,000	Exempt
Goods B	20,00,000	1%
Goods C	10,00,000	12.5%

Details of sales of goods:-

Particulars (Sale of finished goods)	State in which goods are sold	Rs.	Vat Rate
Produced from goods 'A'	Tamil Nadu	5,00,000	12.5%
	Gujarat	7,00,000	1%
Produced from goods 'B'	Tamil Nadu	24,00,000	Exempt
Produced from goods 'C'	Tamil Nadu	35,00,000	4%

Compute the amount of Value Added Tax (VAT) payable by Mr. Ram for the relevant month. There was no opening or closing inventory. **(6 Marks)**

- (c) Flextonics Private Limited imported artemia cyst (brine shrimp eggs). It classified it as 'prawn feed' under the heading 2309 which includes products used as animal feed. However, the Department contended that this product was classifiable under the heading 0511.99 which refers to other products in the category of non edible animal products. In reply, the importer pleaded that these imported cysts contained little organisms/embryos which later became larva that prawns feed on.

Therefore, according to them, the nature and character of this product was not changed by nurturing or incubation.

You are required to examine whether the contention of the Department is justified in law. **(3 marks)**

Q6 (a)

- (i) A show cause notice was issued against 'P' on 12.08.2009 asking him to pay Rs.3,50,000 which was short paid by him with an intent to evade payment of excise duty. The adjudication order confirming the demand was communicated to 'P' on 15.11.2009. 'P' filed an appeal against the order with the Commissioner of Central Excise (Appeals). The appeal was decided in favour of the revenue. The order of the Commissioner of Central Excise (Appeals) asking 'P' to pay the duty, interest under section 11AB and penalty equal to duty demanded under section 11AC was communicated to 'P' on 02.01.2010. 'P' plans to pay the full duty and interest within 30 days from 02.01.2010 and avail the benefit of reduced penalty (25% of duty) under the first proviso to section 11AC. Can 'P' avail the benefit of reduced penalty? Discuss. **(3 Marks)**

- (ii) What is a Consumer Welfare Fund? How is this fund utilized? **(3 Marks)**

(b)

- (i) Whether trading is an exempted service & Explain briefly the treatment under cenvat if input commonly used for exempted service as well as trading? **(4 marks)**

- (ii) What is the time period for making an application for registration under Service Tax? What are the Consequences in case of failure to take registration? **(2 Marks)**

- (c) Baidnath Medicals filed a Bill of Entry and paid the higher duty in ignorance of a notification which allowed him the payment of duty at a concessional rate. No assessment order was passed because the assessee simply filed Bill of entry and paid the duty.

Baidnath Medicals filed a refund claim under section 27, of the excess duty paid by it. The Revenue contended that a refund in appeal could be asked for under section 27 of the Customs Act, 1962 only if the payment of duty had been made pursuant to an assessment order which was not so in the instant case.

Do you think that Revenue's contention is valid in law? **(3 marks)**

- Q7 (a) M/s ABC & Co., a provider of taxable service, purchased computers and computer peripherals on 01.03.2010 at Rs.11,03,000 (inclusive of excise duty of Rs.1,03,000) for use in providing taxable service. Assuming that rate of excise duty is 10.3% and that the cenvat credit attributable on such computers was duly accounted for on the same day, you are required to compute the amount of Cenvat credit to be reversed in the following cases-

- (a) If the computers are removed, after being used, on 2.4.2011 at Rs.7 lakhs (all inclusive);  
 (b) If the computers are removed, after being used, on 2.8.2014 at Rs.3 lakhs (all inclusive);  
 (c) If the computers are removed, after being used, on 02.03.2015 for Rs.80,000. **(6 Marks)**

- (b) (i) Briefly explain the provisions relating to export of services under the Export of Service Rules, 2005. **(3 Marks)**

(ii) Explain briefly the mandatory provisions under VAT with respect to the records to be maintained by the assessee. **(3 Marks)**

- (c) Write a note on project import and mention eligible projects. **(3 marks)**