

Roll No..... 91

Total No. of Questions—9]

[Total No. of Printed Pages—7

Time Allowed—3 Hours

Maximum Marks—100

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Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi medium. If a candidate who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Answer to Question Nos. 1, 6 and 9 are compulsory. In addition thereto, answer any two questions from Part-A and any one question from Part-B.

PART—A

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1. (a) Briefly explain the following with reference to the provisions of the Central Excise Act, 1944 as amended by the Finance Act, 2008 :
 - (i) Deposit of duty of excise duty collected from the buyer under Section 11DD(1).
 - (ii) Payment of interest on pre-deposit made by an appellant under section 35FF.
- (b) Explain the provisions of section 3A of the Central Excise Act, 1944 regarding duty payable on the basis of capacity of production in respect of notified goods. 5
- (c) X Ltd. of Kanpur was receiving goods in semi-finished condition from its sister concern based at Mumbai. After carrying out some operations, it cleared the goods at lower value than the landing cost of semi-finished goods received from the supplier. After verification of company's records, Revenue Department alleged that the value of the intermediate goods had been inflated by the supplier to pass on excess cenvat credit and hence, department wanted to disallow the excess credit so availed as per the provisions of rule 14 of the Cenvat Credit Rules, 2004. Explain whether the contention of the Department is correct, giving reference to decided case law, if any. 5

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- (d) Discuss the validity or otherwise of the following statements giving reasons $2 \times 3 = 6$ to support your answer :

(i) Erroneous claim made by the assessee earlier precludes him from subsequently making a claim for correct classification.

(ii) Omission to give correct information be construed as 'suppression of facts' for the purpose of the proviso to section 11A of the Central Excise Act, 1944.

2. (a) Assessee purchased duty paid M.S. tubes from its manufacturers and cut into requisite length and were put into the swaging machine for undertaking swaging process whereby dies fitted in the machine imparted 'folds' to flat surface of M.S. Tube/Pipe. Department's view is that 'swaging process' amounts to manufacture whereas assessee denies. Discuss whether the Department's contention is correct by referring to section 2(f) of the Central Excise Act, 1944. You can take the help of decided case law, if any. 5
- (b) Briefly explain the provisions relating to re-entry of the goods cleared for export under bond but not actually exported, in the factory of manufacturer as per notification issued under rule 19 of the Central Excise Rules, 2002. 4
- (c) Raj & Co. furnish the following expenditure incurred by them and want you to find the assessable value for the purpose of paying excise duty on captive consumption. Determine the cost of production in terms of rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 and as per CAS-4 (cost accounting standard) : 6

(i) Direct material cost per unit inclusive of excise duty at 10%	Rs. 880
(ii) Direct wages	Rs. 250
(iii) Other direct expenses	Rs. 100
(iv) Indirect materials	Rs. 75
(v) Factory overheads	Rs. 200
(vi) Administrative overhead (25% relating to production capacity)	Rs. 100
(vii) Selling and distribution expenses	Rs. 150
(viii) Quality control	Rs. 25
(ix) Sale of scrap realised	Rs. 20
(x) Actual profit margin	15%

3. (a) Is there any discretion under section 11AC of the Central Excise Act, 1944 to impose penalty less than the amount equal to duty evaded ? Briefly explain based on case law, if any. 3
- (b) Explain eligibility of cenvat credit in each of the following occurrences during the month of January, 2008 for an assessee : $3 \times 2 = 6$
- (i) Assessee received a consignment of inputs on which excise duty paid was Rs. 12,000. The invoice is dated 10th January, 2008. The transporters delivered the goods on 1st February, 2008.
- (ii) Inputs on which cenvat credit availed earlier Rs. 5,000, were sent to production centre and on its way, the inputs were completely damaged due to careless handling. Inputs have become unfit for use. S
- (iii) Cenvat credit of Rs. 20,000 was taken on certain inputs. Due to long storage, they have become unfit and were sold as scrap for Rs. 5,000 and excise duty is 14.42%.
- (c) S & Co., a small scale unit, had cleared goods of the value of Rs. 750 lakhs during the financial year 2007-08. Records show that the following clearances were included in the total turnover of Rs. 750 lakhs : 6

	Rs. in lakhs
(i) Total exports during the year	200
(ii) Job-work in terms of Notification No. 214/86	50
(iii) Job-work in terms of Notification No. 83/94-E	50
(iv) Clearances of excisable goods without payment of duty to a 100% E.O.U.	20
(v) Goods manufactured in rural area with others brand	100

Find out whether the unit is eligible to avail concession for the year 2008-09, under Notification No. 8/2003 dated 1st March, 2003, giving reasons for your answer. 30% of total exports were to Nepal.

4. (a) Discuss with reference to the Central Excise Valuation (Determination of Price of Excisable goods) Rules, 2000, the following : $2 \times 3 = 6$
- (i) Goods sold only through inter-connected undertaking S
- (ii) Valuation in case of job worker.

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- (b) 'As per section 11B(2) of the Central Excise Act, 1944 refund shall be granted to the applicant only in specified cases otherwise shall be credited to Consumer Welfare Fund.' You are required to explain briefly such cases. 5
- (c) Rule 9(2) of the Central Excise Rules, 2002 provides for exemption from registration to specified categories of persons. Explain briefly those categories. 4
5. (a) State the categories of cases that cannot be settled as per Section 32E of the Central Excise Act, 1944. 5
- (b) Write a brief note on the following with reference to the Central Excise Act, 1944 : $2 \times 3 = 6$
- (i) Tampering or altering MRP after removal
- (ii) Remission of duty on lost/or destroyed goods.
- (c) Under which circumstances, the appellant shall be entitled to produce before the Commissioner of Central Excise (Appeals) additional evidence as per rule 5 of the Central Excise Appeal Rules, 2002. 4

PART—B

6. (a) As per Section 15 of the Customs Act, 1962, briefly discuss the date for determining the rate of duty and tariff valuation of imported goods. 3
- (b) Referring to Section 25 of the Customs Act, 1962 discuss the following : $2 \times 2 = 4$
- (i) General exemption
- (ii) Special exemption.
- (c) The assessee imported capital goods and deposited them in the warehouse. The said goods were not removed from the warehouse within the period permitted under Section 61(1)(a) i.e. five years. Subsequently, the assessee filed an application for relinquishment of title of such warehoused goods. The department contended that since the assessee did not file an application for extension of warehousing period before the expiration of five years period fixed under Section 61(1)(a), after expiration of the said period, the goods could no longer be termed as 'warehoused goods'. Therefore, the assessee lost its title to the same and consequently it lost its right to relinquish its title thereto. It was further claimed that the relinquishment of title to the said goods ought to have been made by the assessee before the expiration of the warehousing 5

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period and not thereafter and therefore the goods were 'deemed to have been improperly removed from the warehouse'. Consequently the assessee became liable to pay duty, penalty and interest with respect to the said goods as provided under Section 72(1)(b) of the Customs Act, 1962.

Discuss whether the contention of the department is correct, by referring to case law, if any.

- (d) K imported some old machinery from London claiming that the machinery was fully exempted from customs duty under a notification. Assistant Commissioner of Customs, the authority in original, differed and held that the machinery so imported was covered under different headings and attracted customs duty. Therefore, K had to furnish bank guarantee for duty payable and for release of machine. 5

Subsequently, the Assistant Commissioner of Customs ordered to encash the bank guarantee to realise the duty. This order was issued to K and immediately thereafter, the Custom Department invoked bank guarantee by sending request to bank for making payment to them. K contended that order of the Assistant Commissioner was appealable and the period of filing appeal was yet to expire, hence the action of the department was not correct. You are required to comment whether the action of Customs Department is correct in law based on decided case law, if any.

- (e) Whether the right of warehouse-keeper to recover the warehousing charges from the sale proceeds of the goods kept therein is superior to the right of the Revenue to recover Custom duty. Answer briefly by referring to Section 150(2)(b) of the Customs Act, 1962. 3

7. (a) Compute the assessable value and Custom duty payable from the following information : 6

(i) F.O.B. value of machine	8,000 UK Pounds
(ii) Freight paid (air)	2,500 UK Pounds
(iii) Design and development charges paid in UK	500 UK Pounds
(iv) Commission payable to local agent @ 2% of F.O.B., in Indian Rupees	

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- (v) Date of bill of entry 24.10.2007 (Rate BCD 20%; Exchange rate as notified by CBEC Rs. 68 per UK Pound)
- (vi) Date of entry inward 20.10.2007 (Rate of BCD 18%; Exchange rate as notified by CBEC Rs. 70 per UK Pound)
- (vii) C.V.D. payable @ 16% plus education cess as applicable
- (viii) Special C.V.D.—as applicable
- (ix) Insurance charges actually paid but details not available.
- (b) What is 'redemption fine' in lieu of confiscation? What is the limit for imposing redemption fine under Section 125(1) of the Customs Act, 1962? 4
- (c) Briefly explain the provisions of Section 28BA of the Customs Act, 1962 regarding provisional attachment of property pending adjudication. 5
8. (a) If any duty demanded or drawback paid is recoverable from a person, what is the procedure envisaged under Section 142 of the Customs Act, 1962? 5
- (b) Briefly discuss the provisions in relation to interest on drawback as per Section 75A of the Customs Act, 1962. 3
- (c) What is the time-limit provided for issuance of show-cause notice in section 28 of the Customs Act, 1962? 4
- (d) What are the orders of Commissioner (Appeals) not appealable to Appellate Tribunal as per section 129(A) of Customs Act, 1962? 3

PART—C

9. (a) State with reason whether Service tax liability arises in the following 3×2=6 cases :
- (i) Services provided by 'Angadia' in undertaking delivery of documents or goods received from a customer to another person for a consideration.
- (ii) Commission received by distributors for distribution of mutual fund units.
- (iii) Consultancy services in the field of Computer software engineering by Consulting Engineer.

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| (b) | (i) What is the exemption provided to practising Chartered Accountants under Notification No. 25/2006 ST dated 13.7.2006 ? | 2 |
| | (ii) Define the term 'Gross amount charged' as per Explanation (c) to Section 67 of Finance Act, 1994, as amended, with reference to associated enterprises. | 3 |
| | (iii) M, an assessee, fails to pay service tax of Rs. 15 lakhs payable by 5th January. He pays the amount on 16th January. What is the penalty payable by M ? | 4 |

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