

New syllabus of ICWAI final is effective from December 2008. The name of paper is 'Indirect and Direct Tax Management'. Questions relating to indirect taxes are given below.

ICWAI – FINAL EXAMINATION New Syllabus – December 2010

(Only questions relating to indirect tax covered)

Answer Question No. 1 which is compulsory and any five questions from the rest.

Q 1(a) (iv) A service provider, whether registered or not, providing taxable services under brand name//trade name of others _____ (will/will not) be eligible for availing threshold limit of Rs. 10 lakhs available to small service providers. (v) Where excise duty has been paid on provisional basis, refund claim should be filed within _____ (one year/two years) after duty has been adjusted in final assessment (vi) A sale or purchase of goods is deemed to be in the course of import, *inter alia*, if such sale or purchase _____ the import of such goods (occasions/follows) (vii) Certificate of registration under Central Sales Tax Act is to be issued by the registration authority in the prescribed Form _____ (B/G). (viii) An EOU is required to execute a bond in form _____ (B22/B17) for issue of a certificate on strength of which goods will be cleared from Customs without payment of duty. (ix) If raw material is supplied to a job worker on principal to principal basis the supplier is _____ (manufacturer/not manufacturer) under Central Excise Law (xi) Anti dumping and countervailing duties are imposed under the _____ Act (Customs/Central Sales Tax). (xii) The form for bill of entry for _____ (warehousing/home consumption) is printed on yellow paper. (xiii) The demand of duty can be raised within _____ (one/five) years, in case of fraud, collusion, willful misstatement and suppression of facts or contravention of any provision of Central Excise Act or Rules with intent to evade payment of duty made by a manufacturer (xiv) An importer importing under an authorization or EPCG is required to execute _____ (a bond/a bond with guarantee), when he has export obligation. (xv) Transaction Value _____ (includes/does not include) receipts/recoveries or charges incurred or expenses provided for in connection with manufacturing, marketing, selling of excisable goods to be part of the price payable for goods sold (1 mark each)

Q1(b) Answer the following questions in brief : (i) What is a Large Tax Payer Unit? (ii) What is the basic distinction between VAT & Sales Tax? (iii) Is *mens rea* essential for imposing penalty under Central Excise Act/Customs Act? (2 marks each)

Q 2(d) TRAI EXPORTERS imported some goods in January 2010 and the goods were cleared from Paradeep Port for warehousing on 8th January, 2010 after assessment. Assessment was completed at the exchange rate \$ 1 = Rs. 47.50. The rate of duty on that date was 20% (no other additional duty is payable). The goods were warehoused at Cuttack and were cleared from Cuttack warehouse on 5th March, 2010 when rate of duty was 15% and exchange rate was \$1 = 47.00. What is the rate of duty and exchange rate applicable on the date of removal of goods from Cuttack warehouse (4 marks)

Q3(c) What will be the Central sales Tax leviable to registered and unregistered dealer in following situations? Rate of CST applicable is 2%. (i) If local VAT is 1%. (ii) If VAT is 2%. (iii) If VAT is 4%. (iv) If VAT is 12.5% (4 marks) (d) M/s Link Ltd. a service provider engaged in providing advertising agency services deposited Rs. 2 lakhs as service tax for the month of April, 2009 on 5th May, 2009 with a designated bank by cheque. The check was cleared on 10th May, 2009. The department alleging that the service tax for the month of April, 2009 has not been deposited in due rate for which interest @ 13% p.a. would be levied. (i) Is the action of the department right on levy of interest? Give reasons in support of your answer. (ii) Will the situation be different if the cheque deposited could not be realized due to insufficient funds (3 marks)

Q4 (a) State briefly whether the following services are taxable services under the Service Tax: (i) Services provided in the State of Rajasthan by a person having a place of business in Jammu and Kashmir (ii) Service provided from outside India and received in India by an individual otherwise than for the purpose of use in business or commerce (6 marks) (b) M/s. Y Consultants are engaged in the

business of supply of manpower to M/s Z Enterprises. They charge to the principal employer for the wages of their labour which amounts to Rs. 1,50,000 plus their service charges of Rs. 30,000, What is the amount of service Tax payable? (2 marks) (c) (i) is e-filing of service tax return permitted? (ii) Should service tax be paid even if not collected from the client or service receiver? (4 marks) (d) M/s Y rendered taxable service to a client. A bill for Rs. 40,000 was raised. No service tax was separately charged in the bill. What is the value of taxable service and the service tax payable? (3 marks)

Q5 (a) State the objectives of Central Sales Tax Act (b) State whether the following are goods under CST Act: (i) Patent (ii) Lottery Tickets (iii) Old newspapers (iv) Cheque (4 marks) (c) State whether the following are includible in 'Sale Price'- (i) Excise Duty (ii) Packing materials and Packing charges (iii) Insurance charges (iv) Weighment charges paid for goods (2 marks) (d) A registered dealer of Bikaner (Rajasthan) sold goods worth Rs. 4,36,000 (including tax @ 9%) to an unregistered dealer in Gujarat. Calculate the amount of Central Sale Tax payable, if the sales tax rate on such goods in Rajasthan is 9% and surcharge @ 15% is also payable on it (4 marks)

Q8. (a) What are the essential ingredients of interstate sale - Elucidate (6 marks) (b) State whether sale by VPP is liable to CST (3 marks) (c) What are the exceptions to section 3 of CST Act? (4 marks) (d) Give four instances of Goods of special importance in Interstate Trade or Commerce u/s 14 of CST Act (2 marks)

ICWAI FINAL EXAMINATION June 2010 (New Syllabus)

Indirect and Direct Tax Management

Answer Question No. 1 which is compulsory and any five questions from the rest.

(Only questions relating to indirect tax covered)

Q1 (a) Fill up the blanks: (1 mark each)

(ii) A unit is entitled to SSI concessions under excise provisions if its turnover in the earlier year does not exceed Rupees

(iii) Parts used during warranty period for repairs or replacement (are/are not) excisable.

(iv) CVD (is/is not) payable on anti-dumping duty.

(v) Customs value of excisable goods is determined, *inter alia*, under section of the Customs Act, 1962.

(vi) Section 18 of the Customs Act, 1962 provides for of duty.

(vii) All items other than those which are restricted/prohibited can be imported (freely/subject to nominal import duty of 10% on assessable value).

(viii) Where advance authorization has been obtained, export obligation should be fulfilled within from the date of

(ix) Forms received from branches for stock transfers should be submitted to CST authorities on basis.

(x) Under the Central Sales Tax Act, 1956, sale price means the amount payable to dealer as consideration for sale of goods and (includes/does not include) CST whether shown separately or not.

(xv) In service tax matters, an eligible appeal should be filed within from the date of receipt of order appealed against.

Q1(b) State with reasons, whether the following statements are True or False (mere conclusion will not deserve any credit; for a 'True' conclusion, the question should not be merely repeated, but reasoning should be given): (2 marks each) - (ii) Import manifest is required to be submitted at the customs station within twelve hours of arrival of aircraft or vessel. (v) Where taxable services are provided by a person not residing in India and are utilized in India, the agent of the non-resident residing on India is liable to collect and pay the service tax on behalf of the non-resident.

Q2.(a) Is it correct to say that mandatory levy of penalty under section 11 AC of the Central Excise Act, 1944 is not applicable to every case of non-payment or short-payment of duty? (5 marks) (b) LMN Aluminium Ltd. is engaged in manufacture of aluminium sheets and allied products. The assessee noticed

some difference at the time of physical verification of stock, as compared to book records, due to several reasons like rain seepage, weight differences, accounting method employed, etc. The assessee applied under Rule 21 of the Central Excise Rules, 2002, seeking remission of duty. This claim is resisted by the Department on the ground that the reasons for the differences were neither due to natural causes, nor due to unavoidable accident. The assessee's request was hence turned down, though there was clear evidence to the effect that the assessee has suffered loss of stock. Is the action of the Department justified? Advise the assessee suitably (6 marks) (c) Who are the persons not eligible for compounding of offence as per the provisions of the Central Excise Act, 1944? (4 marks)

Q3.(a) VSK Motors manufactures Light Motor Vehicles (LMV). The practice followed is that the chassis of the LCV is sent to Nathan Ltd. for building the body as per design and specifications furnished. The LCV chassis is not sold but is transferred after payment of excise duty on stock transfer basis. Nathan Ltd. avails CENVAT credit on the excise duty on chassis; after completing the body building, Nathan Ltd. discharges the duty on the assessable value comprising the value of chassis and the job charges. After receipt of the body-built LMV from Nathan Ltd., VSK Motors sells the same at a higher price. You are required to examine whether the practice followed is correct in terms of Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 (4 marks) (b) What is the quantum of CENVAT credit that can be availed in respect of inputs and capital goods cleared on or after 07.09.2009 from an EOU or by a unit in electronic hardware technology park or in a software technology park? (5 marks) (c) State the cases under which the Central Government is empowered under Rule 12CC of the Central Excise Rules, 2002 to withdraw facilities or impose restrictions on a manufacturer, first stage or second stage dealer, or an exporter (6 marks)

Q4(a) State the cases where the import duty shall be refunded to the person who has paid such duty, as laid down in section 26A of the Customs Act, 1962 (5 marks) (b) Mr. Bhar imported goods on 14.1.2010, Bill of entry was presented on 15.1.2010, Assessable value (in Euro) 50,000. Goods were removed to warehouse. Order permitting the deposit of goods in bonded warehouse issued on 19.1.2010. Mr. Bhar neither obtained permission of time for the warehousing period, nor cleared the goods within the permitted warehousing period of 18.4.2010. Only after a notice was issued under section 72 demanding duty and other charges, Mr. Bhar removed the goods from the warehouse, on 15th May, 2010. Assuming that no additional duty or SAD is payable, on the basis of following information, compute the amount of duty payable by Mr. Bhar while removing the goods (i) Rate of exchange (1 Euro =) 65 (on 15.1.2010), 66 (on 18.4.2010) and 67 (on 15.5.2010) (ii) Basic customs duty 12% (on 15.1.2010), 15% (on 18.4.2010) and 18% (on 15.5.2010) (5 marks).

Q4(c) M/s. Nigamanth Cables are engaged in the business of providing cable TV and high speed internet services in Salem, Tamil Nadu. For their business requirements, they imported Optic Fibre Cables (OFC) and classified them under Heading 85-44 of the Customs Tariff. This was not accepted by the Revenue and according to them, the goods should be classified under Heading 9001. The assessee's stand was accepted by Commissioner of Customs (Appeals). The matter was carried in appeal before CESTAT against the said order, which has yet not been decided. Meanwhile, the customs authorities (DRI officers) had seized the consignment of OFC imported and permitted Nigamanth Cables to clear the goods on payment of duty assessed under Heading 9001 and forced Nigamanth Cables to pay the differential duty between Headings 85-44 and 9001 by threat and coercion. You are required to consider the validity of the aforesaid action of the customs authorities in the light of judicial pronouncements (5 marks)

Q5(a) M/s. DPC & Co., a consulting engineering firm, has provided consulting engineering services to NFD Ltd. in connection with construction of power plant during the financial year 2009-10, for a value of Rs. 50 lacs, excluding service tax. While providing the services, DPC & Co. appointed Mr. X, sub-consultant, to provide services to the extent of Rs. 11 lacs, inclusive of all expenses and taxes, if any. A show cause notice has been served on Mr. X, requiring them to pay services of Rs. 11 lacs rendered by it to DPC & Co., who have utilised the same in providing the services to NFD Ltd. Mr. X is of the opinion that he is not liable to service tax since DPC & Co. have paid the service tax on the entire contract of Rs. 50 lacs. In the light of these facts, state (i) Whether the ground taken by Mr. X for non-payment of service tax is correct. (ii) If the answer is in the negative, what is the service tax payable, assuming that Mr. X has crossed threshold limit, (iii) How payment of service tax by Mr. X is beneficial to DPC & Co. (4 marks) (b) With

reference to business auxiliary services, examine whether service tax liability is attracted in following cases - (i) Manufacture of an excisable goods on behalf of the client, which is exempt from duty, (ii) Business auxiliary service provided by a service provider to any other person (service receiver) during the course of manufacture or processing of alcoholic beverages by the service provider, for or on behalf of the service receiver (6 marks) (c) Compute the net VAT liability of Janak from the under-mentioned information: (i) Raw material purchased from foreign market (including duty paid on imports @ 20%) - Rs 47,000 (ii) Raw material purchased from local market (including VAT charged on the material @ 1 %) – Rs 10,100 (iii) Raw material purchased from another State (excluding CST) – Rs 20,000 (iv) Storage, transportation cost and insurance – Rs 3,000 (v) Other manufacturing expenses incurred – Rs 600. - - Janak sold the goods to Prem adding margin of profit @ 10% on the selling price. VAT rate on sale of such goods is 10% (5 marks)

Q6(a) What are the reasons for setting up of Export Promotion Councils? Write a brief note on their responsibilities and types of Councils in India in the context of foreign trade policy. Should an exporter compulsorily register himself as a member of such Export Promotion Council? (5 marks) (b) Briefly explain the different types of Drawback rates (7 marks) (c) While importing goods under Duty Free Import Authorisation (DFIA), should any customs duty be paid? Is the DFIA transferable? (3 marks)

December 2009

Indirect and Direct Tax Management

(Only questions relating to indirect tax covered)

Q1 (a) Fill up the blanks: (ii) Ownership of raw materials is _____ (relevant/not relevant) for excise duty. (iii) Customs duty is levied under section _____ of the Customs Act, 1962 (iv) Stock transfer to branch is not treated as inter-state sale when Form _____ is submitted (v) An authorized dealer in foreign exchange has the option to pay service tax at _____ % of the gross amount of currency exchanged, instead of paying service tax at the usual rate (vi) Duty drawback _____ (is/is not) available in respect of goods manufactured by EOU/SEZ unit. (vii) Application for IEC number must be made to _____. (One mark each)

Q1(b) State with reasons, whether the following statements are true or false (answer without any reasoning will not deserve any credit): (i)Waste and scrap are always treated as excisable goods (ii) Importers can store imported goods without payment of duty in public warehouse or private warehouse (iii) Security demanded from dealer under the Central Sales Tax Act, 1956 can be satisfied in the form of surety bond (v) Duty drawback rate is fixed by the Central Government in consultation with the Board (2 marks each)

Q1(c) Provide brief answers - (i) On 18.06.2009, Mr. Sakti discovers a mistake in the service tax refund pertain up to the half year ended 31.03.2009, filed on 23.04.2009. Can he rectify the mistake? (ii) As per the White Paper on State-level VAT, is a trader eligible for refund if VAT credit of input tax available cannot be utilized for any reason (iii) Enumerate any four matters covered by Foreign Trade Policy (2 marks each).

Q2 (a) State the transactions which have been excluded from levy of central sales tax and those in respect of which central sales tax leviable is Nil (b) You have been appointed as Cost Auditor to conduct special audit of Cenvat credit under section 14AA of Central Excise Act, 1944. Discuss major areas where you will concentrate while conducting your audit (c) Question on income tax (8+5+2 = 13 marks)

Q3 (a) State the basic principle of VAT (b) Question on income tax (c) Mr. and Mrs. Bose visited Canada and brought following goods while returning to India on 9th February, 2009 (i) Their personal effects like cloths, etc., valued at Rs. 40,000/- (ii) A personal computer bought for Rs. 36,000/- (iii) A laptop computer bought for Rs. 98,000/- (iv) Two litres of liquor bought for Rs. 2,000/- (v) A new camera bought for Rs. 38,000/-. What is the amount of customs duty payable by Mr. Bose? (6+6+3 = 15 marks)

Q4(a) (i) Is 'Duty Free Import Authorization (DFIA)' transferable? (ii) Is any value addition required for the same? (iii) What are the conditions relating to issue of DFIA? (b) State the provisions relating to best judgment assessment in the context of service tax (c) Examine the validity of the following statements with regard to service tax - (i) The service provided by a consulting engineer engaged in providing consultancy in the discipline of computer software engineering shall be exempt under the category "Consulting engineer's service". (ii) Some transporters undertake door-to-door transportation of goods or articles and they have made special arrangements for speedy transportation and timely delivery of such goods or articles. Such services are known as 'Express Cargo Service' with assurance of timely delivery. Such 'Express Cargo Service' is covered under 'courier agency service.' (7+4+4 = 15 marks)

Q5(a) Durga Steel Industries imported certain goods and kept them in warehouse. However, the goods were not removed from the warehouse at the expiration of statutory time period during which such goods were permitted under section 61 to remain in a warehouse. Durga Steel Industries sought to relinquish the title to such goods under the *proviso* to section 68 of the Customs Act, 1962. However, the Department contended that since the goods were deemed to be improperly removed from the warehouse (considering the over-stay of such goods in the warehouse) under section 73(1)(b), the case would not fall under section 68 and thus *proviso* to section 68 could not be invoked. It was submitted that before invoking the *proviso* to section 68, the conditions of section 68 must be fulfilled which was not done in the instant case. The Department further contended that the relinquishment is subject to discretion of proper officer and the same cannot be done where the importer has the ability to pay the impugned duty. Durga Steels contends that this relinquishment absolves the importer from total liability. Examine the correctness of the rival contentions (b) Illustrate the points of differences between pilferage of goods under section 13 and loss/destruction of goods under section 23 of the Customs Act, 1962 (c) The value of clearance from four units of Janak Corporation Limited (JCL) during 2008-09 are as follows: (in Rs lakhs) - Units situated at - Noida-110, Kolkata-90, Salem-120, Chennai-140. JCL sought your advice as a consultant whether benefit under Excise Notification No. 8/2003 shall be available to JCL during 2009-10. You are required to indicate your advice in this context (6+5+4 = 15 marks)

Q7 (b) M/s ABC Services Ltd. a service provider for the first time made an agreement on 22nd May, 2008 with XYZ Ltd. to provide different services covered under Business Auxillary Services at a price of Rs. 80 lakhs (inclusive of service tax) per annum. They are not providing any other services except as above. As per terms of contract executed by ABC Services Ltd., an advance of 15% of contract price has been received for the services to be provided which would be adjusted against final bill in the end of the year. The bills raised and amount received (in Rs lakhs) are given as follows – (1) Advance 15% of Contract price for service to be provided - Bill dated 01.06.2008 for Rs 12 lakhs – Amount received Rs 12 lakhs on 01.06.2008 - 12 lakhs (2) 1st Bill for June 2008 for service provided - Bill dated 08.07.2008 for Rs 25 lakhs. Amount received on 20.07.2008 Rs 12 lakhs (3) 2nd Bill for July 2008 for service provided – Bill dated 05.08.2008 – Rs 12 lakhs –Amount received on 18.08.2008 – Rs 25 lakhs. Service tax due as per provision has been deposited in due time. Total gross value of services provided was Rs. 37 lakhs after which the contract was terminated with mutual consent. On closure of the contract amount of advance of Rs. 12 lakhs has been refunded to M/s XYZ Ltd. Please explain the following assuming service tax payable is 10.3% (and figures are expressed in Rs. in lakhs)

-(i) What action should be taken by ABC Services Ltd. on execution of agreement on dated 22nd May, 2008? (ii) Can ABC Services Ltd. avail threshold limit for the year 2008-09, if so what is the amount? (iii) Service tax payable on the advance of Rs. 12 lakhs for which no service has been provided. How much advance is taken for computation of service tax? (iv) What is the value of services taken for computation and the amount of service tax paid through designated branches and on which dates? (v) What will happen to the service tax, if any, excess deposited for which no service was provided due to termination of contract and refund of the amount thereof? (9 marks)

Q7(c) Please specify the relevant date for determination of rate of customs duty in respect of following goods imported/exported: (i) In the case of entry for export under section 50 of the Customs Act, 1962. (ii) If bill of entry is presented before the date of entry inward of Vessel. (iii) In case of goods imported by Postal Parcel (3 marks)

Q8(a) M/s XYZ Ltd. sold machinery to Mr. K at a price of Rs. 5 lakhs on 15th June, 2008 and the same was removed from the factory at Kolkata. The rate of excise duty applicable is 10.3% on the date of removal. Mr. K. refused to take delivery of the machine when it reached his destination. In the meantime, M/s. XYZ Ltd. increased the prices of the similar type of machinery to Rs. 6 lakhs with effect from 16th June, 2008. The machinery as refused by Mr. K. has been sold on 20th June 2008 to Mr. L at the revised price of Rs. 6 lakhs. The excise duty including education cess is 12.36% applicable with effect from 10th June, 2008. Explain the following with reasons: (i) What is the value to be taken as assessable value? (ii) What is the rate of excise duty applicable and duty payable on above transaction? (iii) The Central Excise Officer is demanding duty on the price of Rs. 6 lakhs at the time of sale to Mr. L. Is he right in his approach? (iv) Does cost of production have any bearing on the assessable value? (8 marks)

INDIRECT AND DIRECT TAX MANAGEMENT June 2009 Final

Question No. 1 is compulsory. Answer any five from the rest. (Portion relating to indirect taxes)

Q 1(a) Fill up the blanks (iv) Where a service provider renders taxable as well as exempt service and some input services are used partially for the taxable services, one of the options available to the service provider is that he pays an amount equal to _____% value of exempted services (v) Simple labeling or relabeling without any repacking _____ (is/is not) "deemed manufacture" for central excise purposes (vi) The term "excisable goods" for central excise purposes _____ (will/will not) include articles capable of being sold (vii) The customs duty payable on project imports is _____%. (viii) The maximum amount of penalty leviable under section 117 of the Customs Act, 1962 is Rs. _____. (ix) In the bill raised on the client, the service provider _____ (is/is not) bound to show the service tax separately (1 each)

Q 1(b) State with reasons, whether the following statements are true or false (mere conclusion will not deserve any credit): (iii) Service tax on GTA will have to be paid by cash/cheque/e-payment only, and not through Cenvat Credit (iv) The Central Government is authorized to issue notification specifying that excise duty in respect of certain notified products is leviable on the basis of production capacity of the factory (v) No anti-dumping duty is payable by EOUs under the Customs Act, 1962, even where the goods imported are used for manufacture of goods sold in India. (vi) As per section 8(2) of the Central Sales Tax Act, 1956 in respect of inter-State of goods not falling under section 8(1), the CST rate applicable is the State Sales tax (or VAT) rate. (vii) Abatement of 30% is allowed from the gross amount charged in case of services provided in relation to chit, by whatever named called. (viii) There is no scheme for furnishing a service tax return through Service Tax Return Preparers (2 marks each).

Q 3 (a) M/s. Abanti Associates is a registered dealer engaged in the manufacturing of steel in the State of Maharashtra. During the year 2008-09 the firm has procured raw materials of Rs. 25,50,320 (VAT @ 4%) and purchased plant and machinery of Rs. 20,00,000 (VAT @ 4%) and Rs. 5,00,000 (CST @ 2%) for use in the manufacturing of steel. Sales of steel materials made during the year is Rs. 40,00,000/- (VAT @ 4%) and inter-State sale is Rs. 5,29,000 (@ 2% CST). Besides above, branch transfer of Rs. 3,20,000 was made to Kolkata. Calculate the following as per White Paper on VAT Law in India. (i) Output tax (ii) Input tax credit to be availed during the year: (iii) Balance tax payable; and (iv) Input tax credit, if any, to be carried forward (b) Is a single declaration form in Form C sufficient to cover all the transactions between two dealers in a financial year under the Central Sales Tax Act, 1956? (c) Can PQR Ltd., providing taxable services from different locations and billing the clients from each location, opt for a centralized service tax registration? Explain. (d) State briefly the provisions relating to rate of exchange applicable for customs valuation [6+2+2+5 = 15 marks]

Q 4 (a) M/s Akshaya Processors Ltd. supplies raw material to a job worker B Ltd. After completing the job work, the finished products of 5,000 packets are returned to M/s Akshaya Processors Ltd., putting the retail price as Rs. 20 in each packet. The product in the packet is covered under MRP provisions and 40% abatement is available on it. Determine the assessable value under Central Excise law from the following details: Cost of raw material supplied – Rs. 30,000/- , Payment made to job workers including profit – Rs. 10,000/- , Transportation charges for sending the raw material to B Ltd. – Rs. 5,000/- Transportation charges for returning the finished products factory – Rs. 5,000/- Who is liable to pay excise duty in the above situation? (b) Briefly explain: (i) What is the date of removal of excisable goods in case of captive consumption? (ii) Is it required to issue invoice for removal of goods even for captive consumption? If so, why? (c) XYZ Ltd. has availed Cenvat Credit as soon as goods enter the factory premises during 2007-08. The same has been written off fully in the books of accounts during the year 2008-09 due to obsolescence - (i) What would be the impact of such write off of inputs? (ii) What will happen if goods are subsequently used in the manufacturing of goods? (d) Discuss briefly about Cenvat Credit on exempted final products/output services. (5+3+3+4 = 15 mark)

Q 5 (a) M/s Khusub, a SSI unit, can avail full benefit of exemption from payment of duty up to turnover of Rs. 150 lakhs and exercised the option to get the benefit of exemption for the year 2008-09 on 15th August, 2008. You are required to answer the following. (i) To get exemption benefit, the turnover of what will be taken? (ii) What will happen if M/s. Khusub has more than one factory? (iii) M/s. Khusub cleared goods of Rs. 90 lakhs up to 15th August, 2008. On 16th August, 2008, they cleared goods and issued invoice of Rs. 100 lakhs. Can they claim exemption of balance amount Rs. 60 lakh as a part of invoice? (b) How is the value of goods supplied by the buyer treated in customs valuation for customs duty? (c) XYZ Ltd. supplied tools, dies and moulds costing Rs. 2,00,000 to M/s Hooks Ltd., China for issue in the manufacture of goods imported. The tools, dies and moulds etc. are expected to produce 10,000 units of goods. First shipment is made for 5,000 units. How will the same be treated while arriving at transaction value for arriving at value for imposition of duty? (d) Mr. Nirvan Ltd. has imported 10,000 units of materials through Kolkata Port. The ship arrived on 15th January, 2009. After completion of customs formalities, goods were cleared for home consumption. It is found that: (i) 500 units are pilfered when they are in custody of port authorities (ii) 200 units are found deteriorated in such a condition that the goods are abandoned and right relinquished. Explain with provisions, how the above attract customs duty [5+4+2+4 = 15 marks]

Q 6 (a) Discuss in brief about the options available to an exporter to procure goods from indigenous source against advance release order or back to back inland letter of credit (b) Can the valuation of goods manufactured and cleared as free samples be done on the basis of MRP for excise purpose? If Not, how should they be valued? (c) - (d) - (5+4+3+3 = 15 marks)

Q 7 (a) Write a brief note on Import/Export Authorisation (b) Under the Foreign Trade Policy of India, state the restriction on exports relating to : (i) Export of warranty spares, and (ii) SCOMET items. (c) Thilagam Turbines Ltd. manufactured a steam turbine for Mr. Prem, who supplied special steel purchased by him from wholesale market (Cost Rs. 10,00,000 plus Central Excise Rs. 1,33,000). The normal price of such material is Rs. 12,00,000 plus Central Excise Rs. 1,48,320. Mr. Prem is eligible to claim Cenvat Credit. Janak Turbines Ltd. incurred manufacturing cost of Rs. 23,00,000. What is assessable value of the turbine? Briefly touch upon the issues involved (7+4+4 = 15 marks)

Q 8 (a) What type of goods are eligible for purchase at concessional rate in inter-State sales? Should any document be submitted in this regard? (b) What are the various bonds which are required to be executed for Central Excise purposes? State briefly the purpose of each bond. (c) M/s. Niran & Associates, a firm of Cost Accountants, raised an invoice for Rs. 39,326 (Rs. 35,000 + service tax of Rs. 4,326) on 12th February, 2008. The client paid lump sum of Rs. 36,000 on dated 2nd April, 2008 in full and final settlement: (i) How much service tax M/s. Niran & Associates have to pay and what is the due date for payment of service tax? (ii) What will be the liability if the client refuses to pay service tax and pays only Rs. 35,000? (4+6+5 = 15 marks)

INDIRECT AND DIRECT TAX MANAGEMENT Dec 2008 Final

Question No. 1 is compulsory. Answer any five from the rest.

Q 1 (a) Provide brief answers to the following : (i) Hema Polymers Pvt. Ltd. has paid excise duty of Rs. 45 lakhs during the year ended 31.03.2008. During the current year, duty payments are expected to be Rs. 70 lakhs. Should the company make only e-payment of duty during the current year i.e. financial year 2008-09? (ii) Can the valuation of goods manufactured and cleared as free samples be done on the basis of MRP for excise purposes? If not, how should they be valued? (iii) Vasudha Spinners Ltd., supplies yarn to a job worker for dyeing. The cost of yarn is Rs. 2,000. Dyeing charges are Rs. 300/- After receipt of dyed yarn from job worker, the finished product is sold at Rs. 2,500/- excluding VAT. The rate of duty is 14%. Find out the assessable value and duty payable. (iv) Vivitha Telecom Ltd. imported an equipment, which reached Indian territorial waters on 20.02.2008. The rate of customs duty on imports was 10% then. The equipment was cleared from bonded warehouse on 28.03.2008. The customs duty on the said date is 12%. What is the rate of customs duty payable? (v) On 18.06.2008, Vasudevan discovers a mistake in the service-tax return pertaining to the half-year ended 31st March, 2008 filed on 23.04.2008. Can he rectify the mistake? (vi) Hema Transformers Ltd. has imported 12,000 units of raw material under Advance Authorization. 11,000 units of the same were consumed to manufacture 14,000 units of finished products. 13,200 units of finished goods were exported to meet the export obligation. Can the 1,000 units of raw materials and 800 units of finished goods remaining after export, be disposed off? (vii) to (x) – questions on direct taxes [2 marks each]

Q 1(b) Fill up the blanks - (iii) For delay in payment of service tax, interest is chargeable at ___ % , for the period for which payment is delayed. (iv) Application for CST registration should be furnished within ___ days from the date when the dealer ___. (vii) If Central Excise duty is short paid or not paid or erroneously refunded, show cause notice can be issued under section 11A(1) of Central Excise Act within ___ from relevant date. (viii) "Exclusive economic Zone" extends to ___ nautical miles from the base line under the Customs Act. (ix) SSI unit availing concession on the basis of annual turnover has to file return on quarterly basis within ___ days from the close of quarter in Form ER-3. (x) Where subsequent to the provisional assessment, higher amount of customs duty is

found payable in final assessment, interest on differential amount will be payable at the rate prescribed under section ____ of the Customs Act [1 mark each]

Q 2(a) Durga Steel is denied the benefit of a notification under which excise duty exemption is granted to steel rod manufacturers (subject to monetary limit), if no Cenvat Credit of duty paid on inputs is taken. Durga Steel erroneously took Cenvat Credit on inputs first, but prior to utilization, reversed the same. Is the action of Department justified? Can penalty be levied? (b) For certain taxable services rendered by Prem, VAT as well as service tax is leviable. The following bill was raised by Prem on Vignesh (service receiver) on 20-3-2008 - Amount of bill - Rs. 40,000, Vat – Rs. 400. Total - Rs. 40,400. On 31.03.2008, Prem received a sum of Rs. 30,000 in full settlement. What is the service tax payable? You are informed that Vignesh has incurred hotel bills of Rs. 3708/- on behalf of Prem. Clearly indicate the provisions considered in arriving at the service tax payable (c) Direct tax question [4+6+4 = 14 marks]

Q 3(a) Enumerate the cases where Cenvat Credit will have to be reversed. (b) Direct tax question (c) Is the material imported under Duty Free Import Authorization (DFIA) transferable? Is value addition required in respect of DFIA? Is Cenvat Credit available in respect of the inputs? (d) At the last minute, Pankaj, an Indian resident, cancels his journey from Singapore to Chennai. However, his baggage is allowed to be sent to Chennai without him accompanying it. Is general free allowance under the Customs Act available in respect of this baggage at Chennai? [6+ - +3+2 marks]

Q 4(a) Direct tax question (b) Kimanshu Inc. of Tokyo operates through an agency at Chennai. ERP implementation support services are provided to Chennai unit. Is the Chennai agency liable to pay service tax? (c) Prem Granites Ltd. appealed against excess levy of customs duty on a machinery imported and used for captive use, after paying the disputed amount under protest. Though appeal was decided in its favour, the Department refuses to grant refund on the ground that doctrine of unjust enrichment applies. Is the Department correct? Will your answer be different if the assessee reverses Cenvat Credit taken on input and agitates the matter? (d) Briefly discuss about provisions applicable to EOU for available credit of excise duty paid on inputs and service tax paid on input services [- +4+4+3 marks]

Q 5(a) What are the items of turnover which are required to be included while calculating the excise duty exemption limits for SSI units? (b) Examine the liability of principal and agent under the Customs Act, 1962 (c) and (d) – direct tax questions [5+4 marks]

Q 6(a) A SSI manufacturer may like to pay full duty even when he is eligible for SSI exemption. (i) Can he do so? (ii) Why he would like to pay full duty? (iii) What is the duty payable? (b) and (c) direct tax questions (d) Can an exporter replace free of cost and without any authorization, spares related to a product exported earlier and found to be defective, within the warranty period? Can the entire product exported earlier be replaced? Can it be so done after the warranty period also? [4+4 marks]

Q 7(a) Hema Pipes Ltd. a manufacturer of PVC pipes, removed goods from its factory from 01.06.2007 onwards after payment of excise duty under protest. Raghu Pipes, a sole trader and a customer of Hema Pipes Ltd. had purchased goods on 15.06.2007; in the sale bill issued to Raghu Pipes excise duty was charged. Hema Pipes Ltd., have appealed against the levy of excise duty on 25.06.2007 on 1st June, 2007. Hema Pipes Ltd. informs Raghu Pipes about the factum of their having filed appeal. On the same day, Raghu Pipes seek your advice relating to filing of refund claim and want to know whether the same can be filed after 3 months, by which time the appeal of Hema Pipes Ltd., will be decided. Advise Raghu Pipes as to the period of limitation and documents to be adduced in proof relating to the refund claim. (c) Briefly list the distinctions between 'Zero rate sale' and 'exempt sale' as per White Paper on VAT laws in India [4+5 marks]

Q 8(a) Where from bulk packing, repacking of small packets is done for being marketed, is there “manufacture” as per Central Excise Act? Can it be said that there is ‘deemed manufacture’, where in respect of ready to market imported packs, affixing a sticker containing importer’s details. MRP, etc. is done? (b) Mr. Datey, Cost Accountant rendered taxable service to Vishwa Cement Ltd. In this regard the company sent 200 cement bags free of cost, for the house construction of Mr. Datey. Explain how the value of the taxable service will be determined in this case. Will your answer be different if the service had been rendered free of charge? (c) direct tax question [3+5 marks]

Old Syllabus

Final ICWAI

ICWA Final December 2007 – Strategic Tax Management

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered. *Only questions relating to Indirect Taxes are given below -*

Q 1 (a) State with reasons, where necessary, if the following are True or False: (iv) S.T. is leviable on sale of stocks, shares and securities traded by a dealer in shares. (v) Hides and skins are “declared goods”. (2 marks each) (b) Fill in the gaps. (iii) The State from which _____ commences shall be the ____ State empowered to assess, collect and enforce payment of CST. (iv) Clearance in relation to any imported goods (cargo) means _____. (2 marks each)

Q 2(a) State some important factors affecting management decisions in regard to making a product (part of a component), or buy it from manufacturers, for its existing unit (8 marks)

Q 4 Write short notes on the following (a) Computerization of invoices for central excise purposes (b) Supplementary invoice for differential central excise duty (c) Value of goods and tooling supplied by buyer under the Customs Act (4 marks each).

Q 6 (a) Big Ltd., supplies raw material to a job worker Small Ltd. After completing the job-work, the finished product of 5,000 packets are returned by Small Ltd. to Big Ltd. putting the retail sale price as Rs. 20 on each packet. The product in the packet is covered under MRP provisions and 40% abatement is available on it. Determine the assessable value under Central excise law from the following details: * Cost of Raw material supplied Rs. 30,000/- * Job worker’s charges including profit Rs. 10,000/- * Transportation charges for sending the raw material to the job worker Rs. 3,000/- * Transportation charges for returning the finished packets to Big Ltd. Rs. 4,000/- (b) List the ‘capital goods’ which are eligible for purpose of availment of Cenvat credit (c) Explain restrictions on availing depreciation in respect of capital goods on which Cenvat credit has been availed (6+7+3 = 16 marks)

Q 7 An importer has imported a machine from UK at FOB cost of 10,000 UK Pounds. Other details are as follows: (a) Freight from UK to Indian port was 700 pounds. (b) Insurance was paid to insurer in India: Rs. 6,000. (c) Design and development charges of 2,000 UK pounds were paid to a consultancy firm in UK. (d) The importer also spent an amount of Rs. 50,000 in India for development work connected with the machinery. (e) Rs. 10,000 were spent in transporting the machinery from Indian port to the factory of importer. (f) Rate of exchange as announced by RBI was : Rs. 68.82 = one UK pound. (g) Rate of exchange as announced by CBE&C (Board) by notification under section 14(3)(a)(i): Rs. 68.70 = One UK pound. (h) Rate at which bank recovered the amount from importer Rs. 68.35 = One UK pound. (i) Foreign exporter have an Agent in India. Commission is payable to the agent in Indian Rupees @ 5% of FOB price. Customs duty payable was 10%. If similar goods were produced in India, excise duty payable as per tariff is 24%. There is an excise exemption notification which exempts the duty as is in excess of 16%. Education cess is 2% and Secondary and Higher Education Cess is 1%. Find customs duty payable. How much Cenvat can be availed by importer, if he is manufacturer? (16 marks)

Q 8 (a) What are the goods eligible for registration by a dealer under Central Sales Tax. A certificate in prescribed form is required to be given by registered dealer to avail the concessional rate of CST. Name any two such forms (b) A registered dealer was eligible to purchase certain goods at concessional rate of CST. However, through oversight, the goods were not included in his registration certificate. He issued C form for purchase of the goods. State the consequences. (7+3 = 10 marks)

ICWA Final June 2007 – Strategic Tax Management

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered. *Only questions relating to Indirect Taxes are given below -*

Q 1(b) Specify the correct answer: (i) Sale under CST Act includes a transaction in the nature of delivery of goods on _____. (A) job work (B) hypothecation (C) hire purchase (D) pledge (ii) CST is not chargeable on the following as it is not sale of goods _____. (A) business (B) copyright (C) trade mark (D) advance license (iii) The following item is normally included (not excluded) in determining assessable value under central excise : (A) erection charges (B) notional interest on security deposit (C) transport charges after place of removal (D) optional after sales service charges. (iv) A SEZ (Special Economic Zone) unit has to submit the following forms to the manufacturer to obtain goods without CST from him _____. (A) Z form (B) S form (C) H form (D) I form (v) In case of sale to registered dealers and Government agencies which issue C/D forms the maximum rate of CST tax is _____. (A) 0% (B) 1% (C) 4% (D) 12%. (2 x 5 = 10 marks)

Q 4(a) Prithvi Computer Ltd., sells computers to its customers, with a branded operating system software pre-loaded therein. The Department contends that in ascertaining the transaction value for excise duty purposes, cost of operating system software should also be added, since a computer cannot function without an operating system. Is this contention correct? (b) XYZ Pharma Ltd. wishes to distribute free samples of medicines routinely manufactured to leading hospitals. How should they be valued? What will be the case if it is a newly developed produce? (c) X receives raw materials from Y, an outsider merchant manufacturer, on which job work is done. How should valuation be done for excise purposes? Will the answer differ if X and Y are related persons? (6+4+6 = 16 marks)

Q 7(a) Explain briefly the procedure for fixing anti-dumping duty on a product. (b) Explain in brief the procedure for assessment and clearance of imported goods from customs port (8+8 = 16 marks)

Q 8. (a) Discuss the binding nature of a Court's decision "*sub silentio*" and judgment "*per incuriam*". (b) Write a note on 'Declared Goods' under CST Act (8+8 = 16 marks)

ICWA Final December, 2006 – Strategic Tax Management

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered. *Only questions relating to Indirect Taxes are given below -*

Q 1.(b) Specify the Correct Answer: (i) Immovable property located in the border areas is treated under the CST Act as (a) goods, (b) not goods, (c) declared goods, (d) prohibited goods.

(ii) The unutilised CENVAT credit can be carried forward (a) upto 6 years, (b) upto 8 years, (c) without any time limit, (d) up to 16 years.

(iii) A manufacturer availed himself of input services for his business – (1) Mobile phones used by sales executives, (2) Audit fees paid to Auditors. Cenvat credit of service tax is available in respect of the excise duty on the final product (a) on mobile phones, (b) on Audit fees, (c) on all these, (d) on none of these.

(iv) CST is not payable on (a) sale of lottery tickets, (b) sale of newspaper, (c) lease of machinery, (d) sale of steel goods.

(v) Goods returned are not liable to CST if they are returned (a) at any time during the financial year in which these were sold, (b) within 6 months from the end of the said financial year, (c) within 6 months of sale, (d) none of these. (2 x 5 = 10 marks)

Q 2. (b) Mr. Gupta, a practising cost accountant has been appointed Cost Auditor of X Ltd. for a fee of Rs. 6 lakh, out of which he received an advance of Rs. 4 lakh on 18th February, 2006 and the balance fees on 16th August, 2006. What are the service tax implications for both the payments? (4 marks)

Q 3. (a) B, a trader, buys artsilk yarn and gives it to C, a job work contractor for further processing. The cost of the artsilk yarn supplied to C is Rs 12,000. C bills B at Rs. 3,000 which comprises of process charges Rs. 2,500 and profit Rs. 500. Cost of carriage for moving goods to C's place is Rs. 100 and for moving these back to B, after processing, is Rs. 90. B sells the final product for Rs. 16,200. What is the assessable value of the goods under section 4 of the CE Act? (b) Under the CE Act, when can two persons be said to be inter-related? (c) What is the assessable value of goods under section 4 of the Central Excise Act? (7+4+5 = 16 marks).

Q 6. (a) VP Ltd. purchases edible groundnut oil and deodorises the same and refines it. The company is advised that there is no manufacture, as the item comes under Chapter 15 of the First Schedule to CE Tariff, there being no Section note or Chapter Note to the effect that refining of vegetable oil amounts to manufacture. Give your opinion. (b) PX Ltd. manufactures coffee makers at their plant in Bangalore from where these are moved to various depots. The goods are packed in plain white cartons at the factory as a protection during transit. At the depots these cartons are discarded and replaced by printed cartons before effecting sales. The company claims that the cost of the plain white cartons is not includible in the assessable value under the CE Act, 1944. Whether the company's claim is tenable? (c) X availed of Cenvat Credit of Rs. 42,000 for manufacture of dutiable goods, which were lying in the factory till 28.2.2006. From 1.3.2006, the final product was made exempt from duty. How would you deal with the Cenvat credit? (6+5+5 = 16 marks).

Q 7 B cleared his manufactured final product in July 2005. The duty payable was - Basic Rs. 49,000, NCCD Rs. 1,000 and other duties and education cess were payable as applicable. During the month, B received various inputs on which the suppliers had paid duty as bellow: Basic Rs. 40,000, SED Rs. 4,000, Education cess Rs. 880, Service Tax Rs. 8,000 plus education cess. How much duty will B have to pay through account current for the month of July, 2005? (16 marks)

June 2006

Strategic Tax Management [Portion relating to indirect taxes]

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered. *Only questions relating to Indirect Taxes are given below -*

Q 1 Specify the correct answer giving brief reasons where necessary (2 marks each).

(f) In order to attract CE duty, the goods must be - - (i) excisable, movable and marketable (ii) manufactured or produced in India (iii) all of these (iv) none of the above.

(g) The amounts not includible in the transaction value for the purpose of CED are - - (i) packing charges (ii) design and engineering charges (iii) loading and handling charges within the factory (iv) none of the above.

(h) Tourists visiting India have been defined in the Baggage Rules as persons coming to India for legitimate - - (i) non-immigration purpose like touring, recreation, study etc. (ii) immigration purpose such as settling down in India (iii) non-immigration purpose other than religious pilgrimage (iv) non-immigration purpose other than health reasons.

(i) Inter-State sale is defined in Section 3 of CST Act as a sale or purchase that occasions movement of goods from - - (i) One State to another (ii) one country to another (iii) One State Government to another (iv) One district in one State to another district in the same State through another State.

(j) Which one of the following is incorrect? - - (i) Form C can be issued by a registered dealer (ii) CST is collected in the State in which the goods are delivered (iii) Sale in the course of export are exempt from CST (iv) Electricity is chargeable to CST.

Q 5 B Ltd. manufactures two products, viz. Eye Ointment E and Skin Ointment S. S is a specified product u/s 4A of the CE Act, 1944. The sales prices of E and S are Rs. 43 and Rs. 33 per unit. These prices include 16% excise duty as BED, 8% excise duty as SED and education cess of 2%, as also CST of 4%. Additional information available - Units cleared: E- 1,00,000 units, S - 1,50,000 units;

Deduction permissible u/s 4A: 40%. Calculate the total excise duty liability on each products (16 marks).

Q 6 (a) (i) M/s. A Ltd., Mumbai sells iron rods to M/s B Ltd. in Vijaywada, both being registered dealers, for a value of Rs. 10,00,000 including 4% CST. The local sales tax on iron rods in Mumbai is 3%. Ascertain the CST payable. (ii) If B Ltd. is unable to submit form 'C' being an unregistered dealer, what will be the CST liability, if the local sales tax rate is 12%? N.B. – Iron rods are not declared goods (b) Explain what are the essentials of a valid sale. What is a deemed sale? [5+5+6 = 16 marks]

Q 7 An importer imported raw materials @ 25,000 US \$ FOB. The goods were packed for which packing charges of 600 US \$ were charged extra. Goods were stuffed in a returnable container, the price of which is 2,000 US dollars. Insurance and sea freight were 250 US \$ and 800 US \$. Brokerage paid by importer is 500 US dollars. Customs duty is 20%, Education Cess is 2%. Excise duty on similar goods in India is 16%. Find the duty payable (1 US \$ = Rs 42.38). How much Cenvat can be availed of by importer, if he is manufacturer? (16 marks).

December 2005

Strategic Tax Management [Portion relating to indirect taxes]

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered.

Q 1 (c) In order to attract excise duty under the Central Excise Act, 1944 goods must be (i) Movable (ii) Movable or immovable (iii) Immovable (iv) Neither (d) Notional interest on security deposit/advance received by manufacturer from buyer is includible in the transaction value if (i) Price is the sole consideration for sale (ii) If there is evidence that selling price is lowered due to such advance/deposit (iii) The transaction is at arms length (iv) In all cases (h) Which of the following is not liable to sales tax under CST Act? (i) Lottery tickets (ii) Newspapers (iii) Sim Cards (iv) Trade Licenses (i) Goods returned are not liable to sales tax if they are (i) Returned by the buyer at any time in the financial year in which sale takes place (ii) within six months of the end of the financial year in which sale takes place (iii) Within six months of sale (iv) Within six months of sale but not later than three months from end of the relevant financial year in which sale took place (2 marks each)

Q 2 (b) Mr. Bhargava had filed an appeal against higher collection of provisional antidumping duty and the issue is decided in his favour on 12-04-2004, the amount levied in excess being Rs. 2.3 lacs. The refund is issued after ten months from the date of finalization of duty. The authorities refuse to grant interest on the ground that the claim for refund was filed belatedly. Discuss.(c) Nayandhara Granites Ltd. obtained a chemical in Netherlands for an exceptionally low price. Whilst the market price was an equivalent of INR 200 per kg., they got it at a low price of INR 160 per kg. In determining the customs valuation, the authorities contend that price to be adopted should be INR 160 (should be 200) per kg, even though the purchase is *bona fide* and supported by genuine purchase bill. Is this correct? (3+4 = 7 marks)

Q 4. Briefly discuss in 3-4 sentences about the validity of the following statements: (c) X Ltd., having its head office at Raipur, dispatched goods to its branch in Chennai for Rs. 10 lacs. Sales Tax authority under the CST Act contends that since Form F is not received, CST of 10% is payable. (d) Mr. A has imported an equipment from Poland for 20,000 USD (CIF value). The rates prevailing on the date of presentation of bill of entry are (a) Bank realisation rate of the bill Rs. 46.50 (b) Rate notified by the Government under section 14(3) Rs. 46.70 (c) R.B.I. floor rate Rs. 46.30. The assessable value for customs purposes is taken as Rs. 93,400. (e) Ram imports machinery. He pays fee for transfer of technology to the importer, and also training charges. These items are includible in ascertainment of "price" for purposes of section 14(1) of the Customs Act. (f) 1000 units of Rs. 50 each raw material are purchased by Ram on which duty at 16% i.e. Rs. 8,000 has been paid. Ram avails Cenvat credit thereafter. Since these inputs are subsequently not required, he sells them for Rs. 55 each. On the date of clearance, the duty rate is 10%. The excise authorities contend that Rs. 8,000, being the duty at the first instance, should be paid. (g) 2,000 units of raw material were purchased on which duty paid was Rs. 32,000. 20 units were damaged during the course of

unloading, rendering them unfit for consumption or sale. Cenvat credit can be claimed in respect of all the units (2 marks each).

Q 5. (a) Assessable Value of an imported machinery falling under chapter heading 84 is Rs. 2,00,000. Rate of customs duty is 20%. Excise duty payable on the machinery, if manufactured in India, is 16%. There is an exemption notification, which provides that if the manufacturer does not avail Cenvat credit of inputs, the excise duty payable will be 8%. Education cess is 2%. Calculate the customs duty payable, if machinery is imported by a manufacturer for his own use. How much Cenvat credit will be available to the manufacturer? What are the restriction on availment of the Cenvat credit? (12 marks)

Q 6. (a) A major step was initiated in Budget 2004 for integration of goods and service tax. Explain highlights of the provisions (10 marks)

Q 7 (a) Explain distinguishing features between provisions of 'pilferage' and 'loss or destruction of goods' under Customs Act (b) What is 'captive consumption' under Central Excise? How the goods are valued in case of captive consumption? (8+8 = 16 marks)

Q 8 (a) Explain provisions of valuation for excise purposes on basis of MRP printed on the product. (b) Discuss provisions for classification of Mixture or Combinations in Central Excise Tariff (10+6 = 16 marks).

ICWA Final

June 2005

Strategic Tax Management [Portion relating to indirect taxes]

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered.

Q 1 Answer any ten of the following, giving brief reasons not exceeding 3 or 4 sentences. [2 x 10 = 20 marks] (f) SSI units are exempt from excise duty, if their turnover is less than Rs 100 lakhs. While calculating the limit, state whether following turnover is includible or not includible – (i) Goods manufactured with other's brand name (ii) Export through merchant exporter under bond. (g) Explain provisions regarding depreciation on capital goods when Cenvat credit is availed on excise duty paid on capital goods. Illustrate with an example. (h) Fill in the blanks :– A single member bench of CESTAT can hear the case when duty or penalty involved does not exceed Rs _____ lakhs. However, a single member bench cannot decide an issue if the dispute is relating to _____

(i) State correct or wrong :– (i) CST is not payable if goods are supplied to a unit in Special Economic Zone (ii) Countervailing duty is payable on Assessable Value plus basic customs duty plus anti-dumping duty. (j) X had dispatched goods from UP to Haryana. While goods were moving from one UP to Haryana, X made a sale to Y by transfer of documents. Later, Y sold the goods to Z by endorsing documents in favour of Z. Now, Y is claiming that the subsequent sale is exempt from CST. State which forms are required to be submitted by him to substantiate his claim and which form he will have to submit to Z and X ? (k) Fill in blanks - Imported goods can be kept in customs bonded warehouse upto _____ days without payment of any interest. Beyond that period, interest payable is _____ %. Interest upto Rs 2 crores can be waived by _____

Q 2 (a) You have been appointed as Cost Auditor to conduct special audit of Cenvat credit under section 14AA of Central Excise Act. Discuss major areas where you will concentrate while conducting your audit [8 marks]

Q. 3 (a) Goods can be cleared from factory for export without payment of duty. However, it is possible to clear goods on payment of duty and then claim refund of duty. State when the procedure of paying duty and claiming refund may be beneficial to assessee (b) (Income tax question) (c) A manufacturer of cement was excavating limestone from mines and using it for manufacture of cement. The mine was located 10 kilometers away from factory. The limestone excavated was brought in the factory by ropeway, which was connecting mine and the factory. Manufacturer was using explosives for blasting in mines. Manufacturer intends to claim Cenvat credit of excise duty paid on the explosives. Advise him about eligibility of Cenvat credit [6+5+5 = 16 marks]

Q 4 (a) Income Tax question (b) Prestige Internationals Ltd. manufacture coffee makers, from their plant at Bangalore from where the products are moved to various depots. The company packs them in plain white carton from the factory, for protecting the goods during transportation. At the depots, the plain cartons are discarded and put inside a printed carton before effecting sales. The company includes the value of printed carton in the assessable value, but not the cost of plain white cartons. Is the same correct under the Central Excise Act, 1944? (c) X availed Cenvat credit of Rs. 42,000 for manufacture of an item chargeable to duty. These goods were lying in his factory till 28-02-2005, from 1.3.2005, the final product was made exempt from duty. Now, when the final goods are cleared, should the Cenvat credit of Rs. 42,000 availed earlier be reversed? (8+5+3 = 16 marks)

Q 5. (a) Mr. Ram furnishes the following information pertaining to inter-state sales effected by him:

	Products		
	L	M	N
Local State Sales tax	12%	8%	3%
Total sales value	7,84,000	5,40,000	4,12,000

Additional information (i) In respect of product L sold in May, 2004, goods of total sales value of Rs. 67,200 were returned in July, 2004 and Rs. 44,800 in December, 2004: Rs. 56,000 were rejected and returned in January, 2005. (ii) Buyer of product N did not produce C forms. (iii) Buyer of product M for total sale value Rs. 43,200 did not furnish C form as the product was not covered in his registration certificate. - - Compute the taxable turnover and the sales tax liability of the three products L, M and N, for the financial year 2004-05 (b) Income Tax Question (c) Discuss whether inter-State sales of computer readable floppy discs containing standard computer software attract CST. Will your answer be different if the floppy contains customized software developed for a customer specifically? (9+3+4 = 16 marks)

Q 6. (a) M/s Srivastava Heavy Electricals Ltd. manufactures industrial boilers, which are normally loaded openly on a containerised truck. A company having a unit in Kodaikanal Hills has ordered a boiler with special plastic packing as a safeguard to boiler during hazardous mountain climbing. Briefly discuss whether the cost of plastic packing should be included in the assessable value under section 4 of the Central Excise 1944. (b) An importer realised that he had paid excess customs duty at the time of import. These goods were not sold to customers but had been used for manufacture of other goods. Is his claim for refund of the excess duty paid, valid under the Customs Act? (c) Discuss the provisions relating to claim of refund under the Central Excise Act, where the refund arises due to Cenvat credit being in excess. (5+3+8 = 16 marks)

December 2004

Strategic Tax Management [Portion relating to indirect taxes]

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered.

Final ICWAI

Q 1 Answer any ten of the following, giving brief reasons not exceeding 3 or 4 sentences [2 x 10 = 20 marks]

Q. 1(c) – State whether there is manufacture in the following process for the purpose of Central Excise – (i) Adding water, perfume and colour to liquid soap (ii) Pineapple fruit is canned, removing the inedible portion, slicing edible portion and adding sugar to preserve it.

Q. 1(d) – State correct or wrong – (i) Trees when severed from earth are ‘goods’ under the Central Sales Tax (ii) A person who manufactures gold ornaments with the gold supplied by the customer is not a dealer under CST Act.

Q. 1(g) – Some inputs were brought on which duty paid was Rs 8,000. These were used in the manufacture of final products. Discuss the eligibility of Cenvat Credit if – (i) Final product is exempt from duty (ii) Final product is dutiable, but duty payable on it is only Rs 3,000.

Q. 1(h) – An Indian resident comes back to India after visiting Germany. He brings on return – (i) Personal effects valued at Rs 20,000 (ii) 1 litre liquor of value Rs 1,500. What is the customs duty payable?

Q. 1(i) – S Mills Ltd., Salem, Tamil Nadu, has its own depot at Ichalkaranji in Maharashtra. Yarn is dispatched to that depot and then it is sold from there. Is there any liability to CST? State reason for your answer.

Q 2 (a) Distinguish between tax planning and tax management (b) Discuss tax considerations with reference to specific management decision regarding 'make' or 'buy'. [8+8 = 16 marks]

Q 4 (c) A Ltd. is engaged in the activity of conversion of grey cloth into embroidered dyed cloth. In the course of the various activities, it gets the sizing done by S and dyeing by D. The cost of gray cloth is Rs 40 per metre. S charged Rs 5 per metre for sizing and D charges Rs 20 per metre. The finished product is sold by A Ltd. for Rs 75 per metre. In the context of C. E. Act, 1944, is there any manufacture involved? Who will be regarded as the manufacturer in this situation? (d) Mr. Bhattacharjee purchased some raw materials from X Ltd., a SSI unit. The duty paid was at a concessional rate (70% of normal rate of 20%). The assessable value was Rs 20,000. Due to technical reasons, he had to sell the goods for Rs 19,000. What is the duty payable? [5+2 = 7]

Q 6 (a) - (b) ABC Co. Ltd. wanted a stainless steel tank for their manufacturing process. Since the tank was huge size, they decided to fabricate the same in their own factory to save problems of transportation. The contract of fabrication was given to XYZ Co. Ltd. who are experts in specialized stainless steel tank designing, manufacture and welding. The tank was fabricated at site as designed by XYZ Co. Ltd. Stainless steel sheets required for manufacture of tank were supplied by ABC Co. Ltd. The tank was affixed to ground with bolts but could be removed without dismantling. No excise duty was paid on the tank. Excise department wants to issue show cause notice demanding duty. Whether duty is payable? If duty is found to be payable, whether demand notice should be issued to ABC Co. Ltd. or XYZ Co. Ltd.? [6 marks]

Q. 7(a) Central Sales Tax Act provides that in respect of certain aspects, provisions of General Sales Tax Law of each State will apply to persons liable under CST Act. What are those aspects where provisions of local tax laws apply to persons liable under CST Act. (b) A demand of duty was raised on an assessee for previous five years, alleging suppression of facts with intention to evade duty. Assessee stated that there was no reason for him to avoid payment of duty as the buyer was in a position to avail Cenvat credit. There was no loss to him, even if he had paid higher duty. Hence, charge of suppression of facts with intention to evade duty is not sustainable. Is his stand sustainable? (c) A manufacturer purchased a machinery falling under chapter heading 84 from supplier 'X Co'. The invoice was for Rs 23,200, comprising of price of goods as Rs 20,000 and Rs 3,200 as excise duty. Pass journal entry in accounts book to record the purchase transaction. Explain how the balance will appear in Balance Sheet. [6+4+6 = 16 marks]

Q. 8 (a) A manufacturer in Gujarat has a depot in Bangalore. His factory gate price is Rs 9,000. Transport charges from Gujarat to Bangalore are Rs 500 per piece. The manufacturer's Karnataka depot price is Rs 10,000 exclusive of excise duty and Karnataka Sales Tax. Karnataka Sales Tax on the goods is 10%. As per Karnataka Sales Tax Law, sales tax is payable on selling price plus excise duty. The manufacturer is planning to make direct sale to Bangalore buyers from his Gujarat factory, instead of selling from depot. Bangalore dealers want that their present cum-duty invoice price (excluding Karnataka Sales Tax) should remain unaffected even if goods are sold from Gujarat. The reason they are giving is that if goods are directly sold to them from Gujarat, they will have to pay Karnataka Sales Tax. The Bangalore dealers are registered under CST Act and are in a position to issue C form for their purchases. The manufacturer has agreed to the request of dealers. You are required to calculate the assessable value and excise duty and CST payable if goods are sold directly from Gujarat, assuming that dealers' request is accepted. The product is leviable to excise duty @ 16%. If the product is sold in Gujarat State, the sales tax rate is 8%. (b) State provision in respect of 'burden of proof' in respect of goods covered under section 123 of Customs Act. [12+4 = 16 marks]

June 2004

[Portion relating to indirect taxes]

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered.

Q 1 Answer any ten of the following, giving brief reasons not exceeding 3 to 4 sentences.
[2 x 10 = 20 marks]

- (a) State where the following forms are used – (i) EA-1 (ii) ER-2 (iii) Form H (iv) SC(C)-1
- (b) State true or false – (i) If inputs are written off in books of account as obsolete, Cenvat credit will be reversed even if the inputs are lying in store room (ii) Credit of Additional Excise Duty (Goods of Special Importance) can be utilized only for payment of Additional Excise Duty (Goods of Special Importance).
- (c) An assessee had procured machinery in April 2000 for Rs 10 lakhs. Duty paid on machinery was Rs 1,60,000. It was commissioned in June 2000. Assessee had availed 50% Cenvat credit of Rs 80,000 in 2000-01, and Rs 80,000 (balance 50% credit) in 2001-02. He sold the capital goods after use, in May 2004 as second hand goods for Rs 3,00,000. How much excise duty or 'amount' is payable while clearing the machinery ?
- (d) A product which is covered under section 4A provisions has MRP of Rs 25 printed on the carton. It is cancelled by drawing two lines across the price, but the price is easily readable. Below that price, MRP price of Rs 21 is shown to indicate the saving which will be made by buyer. The abatement available is 40% on MRP. Excise duty rate is 16%. Calculate the excise duty payable.
- (e) State whether following processes would be 'manufacture' for purpose of Central Excise – (i) Recording of cassette (ii) Making wire from wire rod (iii) Changing of MRP on product (iv) Printing of colour and logo on glass bottle
- (f) State true or false – (i) While classifying goods, if there is conflict between title of chapter and a chapter note, the title of chapter prevails (ii) If an article equally merits classification under two headings in Customs Tariff, the heading that appears later in the Tariff prevails.
- (g) Fill in the blanks – Method of calculating the Assessable Value in case of job work is based on decision of Supreme Court in _____. While calculating assessable value in case of job work, inward transport charges of raw material are _____. (includible/not includible) and Notional profit of 10% is _____. (includible/not includible).

Q 2 (a) What is 'slump sale' ? Explain provisions in Income Tax Act relating to slump sale (b) Would the slump sale be liable for sales tax ? (c) How the buyer can avail Cenvat credit of capital goods and stock as on date of sale ? [8+4+4 = 16 marks]

Q 3 (a) A company manufacturing consumer durables has factory in Tamilnadu. It has a depot in Maharashtra. Its product 'A' is dispatched to its depots in Maharashtra and sold from the depot to its dealers in Maharashtra. The depot administration expenses are Rs eight lakhs per annum. These do not include transport charges from Tamilnadu to Maharashtra. The dealers in Maharashtra are registered under CST Act. The present price for sale from Maharashtra Depot is Rs 22,500, inclusive of transport charges from Tamilnadu to Maharashtra. Actual transportation charges from Tamilnadu to Maharashtra are Rs 1,000 per piece. The depot price is inclusive of applicable excise duty @ 16%, but exclusive of Maharashtra sales tax. Sale from Maharashtra depot of product A are 2,000 pieces per annum. As an economy measure, it is proposed to close the depot in Maharashtra and make direct sale from Tamilnadu to dealers in Maharashtra. Marketing department has stated that if goods are sold from Tamilnadu, total amount payable by dealers in Maharashtra should remain unaltered. Otherwise, sales will be badly affected. Taxation department argues that this will reduce the profitability of the product, as the CST payable will have to be borne by the company. Finance department is of the view that this extra tax burden will get offset by reduction in depot expenses and slight reduction in excise duty. Evaluate the financial implications to decide whether it will be economical to close the depot in Maharashtra and advise Management about desirability or otherwise of closing the depot. Ignore effect of Maharashtra Sales Tax, if any. (b) Name the Cost Accounting Standard which is to be used while calculating cost of production for valuation for captive consumption under Central Excise. Is the standard mandatory ? As per that standard, which of the following costs are includible/not includible in 'cost of production' – (i) Research & Development Cost (ii) Interest on capital borrowed (iii) Lay off wages to workmen (iv) Packing cost [12+4 = 16 marks]

Final ICWAI
December 2003

[Portion relating to indirect taxes]

Answer Question No. 1 which is compulsory and any five from the rest. Total six questions are to be answered.

Q 1 Answer any ten of the following, giving brief reasons not exceeding 3 to 4 sentences. [2 x 10 = 20 marks] (a) Assessee manufacturing cement had mines 20 kms away from factory. He was using explosives in mines. Use of explosives is necessary for manufacture of his final product i.e. cement. Can he avail Cenvat credit of duty paid on the explosives (b) An exemption notification stated that the exemption is available only if manufacturer uses inputs on which appropriate duty has already been paid. The inputs were exempt from duty. Assessee claimed that Nil duty is also a duty and hence he is entitled to exemption, as he has paid required duty. Is he entitled to exemption ? (c) An assessee was under impression that his product is exempt from excise duty and hence sold the goods @ Rs 100 per piece without charging excise duty. Later, it was found that actually, the product was dutiable @ 16%. Department claimed that since goods were removed without duty, assessable value should be Rs 100 and duty is payable accordingly. Assessee contended that price of Rs 100 should be taken as cum-duty price and actual duty payable should be calculated by back calculations. Determine the correct duty payable per piece. (d) State correct or wrong – (i) Settlement Commission cannot entertain cases pending with the appellate Tribunal or any Court. (ii) Settlement Commission cannot entertain application involving classification of excisable goods (iii) No CST is payable if goods are supplied to an EOU unit (iv) Countervailing duty is payable on safeguard duty also. (e) A manufacturer purchased inputs from supplier 'ABC Co'. The invoice was for Rs 11,000, comprising of price of goods as Rs 10,000 and Rs 1,000 as excise duty, which is available as Cenvat credit to the manufacturer. Pass journal entry for the purchase of goods. (f) State whether following are includible in Value for purpose of levy of customs duty – (i) Technical know how related to imported machinery (ii) Erection charges for erecting machinery in India (iii) Special introductory high discount offered to new buyer in India by foreign supplier

Q 2 (a) Explain the meaning of 'normal value', 'margin of dumping' and 'injury margin'. How would you determine 'normal value' in case of import from non-market economy countries? What are the restrictions on levy of dumping duty in respect of imports from WTO countries. (b) State the conditions for accepting 'transaction value' as 'assessable value' for purpose of Valuation under Central Excise [10+6 = 16 marks]

Q 3 (a) - An assessee availed Cenvat credit of duty paid on all the inputs. His clearances comprised of following – (i) Part of his final products was exported directly without payment of excise duty (ii) Part of his final products were sold to another manufacturer. The manufacturer used them in his manufacture and then exported his final product. The goods were cleared under bond without payment of duty. (iii) Some of the inputs were used in manufacture of final products which were exempt from duty. Assessee has not maintained separate account of inputs used in such exempted final products. (iv) Balance quantity of his final products was used for home consumption on payment of excise duty at normal rates. - - Discuss provisions in respect of Cenvat credit which he had availed on inputs used in final products which were exported [8 marks] (b) Question relates to Income Tax and hence not reproduced here

Q 4 (a) State the doctrine of unjust enrichment in case of refunds under Central Excise and Customs. Discuss applicability of this doctrine in case of (i) Goods captively consumed by importer and not sold (ii) Goods cleared under Provisional Assessment. [8 marks] (b) Question relates to Income Tax and hence not reproduced here

Q 5 (a) Distinguish between tax avoidance and tax evasion (b) State the main ingredients which make tax planning a legitimate exercise [4+4 = 8 marks]

Final ICWAI
June 2003

[Portion relating to indirect taxes]

Q 1 Reproduce the correct answer in the following cases. Give reasons for your answer in 3-4 sentences. (i) Sales tax payable on product 'A' if sold within State of Punjab is 2%. If the product is sold in inter-State sale, what will be the Central Sales Tax payable if (a) Buyer furnishes C form (b) Buyer does not furnish any form (c) Buyer furnishes H form (d) Buyer furnishes D form. (j) An exemption notification under Customs Act was issued on 2nd January, 2003, published in Official Gazette on 3rd January and was made available for sale on 4th January. State the date when the notification will be effective.

Q 6 (a) - A small scale industry is not eligible for exemption from duty if it manufactures goods bearing brand name of other person. Discuss the provisions in respect to (i) Original Equipment (OE) parts manufactured by SSI with 'BHEL' mark for use by BHEL (Bharat Heavy Electricals) in their equipment (ii) Soap manufactured bearing brand name of 'Hotel Tajmahal' to be kept in hotel rooms for use by occupants (iii) Foreign Brand name (iv) Goods manufactured in rural area (b) What are the offenses in Central Excise for which penalty can be imposed under rule 25(1) of Central Excise Rules. What is the maximum penalty that can be imposed under this rule [10+6 = 16 marks]

Q 7(a) What are the essential requirements of 'penultimate sale for export' under Central Sales Tax Law ? Can packing material be purchased without payment of CST for packing goods to be exported ? [10 marks]

Q 8(a) - A consignment is imported by air. CIF price is 2,000 Euro. Air freight is 550 Euro and Insurance cost is Euro 50. Exchange rate announced by CBE&C as per customs notification is 1 Euro = Rs 47.10. Basic Customs duty payable is 30%. Excise duty on similar goods produced in India is 16%. Special Additional Duty (SAD) is payable at normal rates. Find Value for customs purposes and total customs duty payable. (b) State briefly provisions of EPCG scheme. [10+6 = 16 marks]