

CA Final New Syllabus November 2010

Answer Q No. 1 and 5 out of remaining six questions.

Q1(a) Determine the assessable value for purpose of excise duty under the Central Excise Act, 1944 in the following cases: (i) An assessee sells his excisable goods for Rs. 120 per piece and does not charge any duty of excise in his invoice. Subsequently it was found that the goods were not exempted from excise duty but were liable at 20% ad valorem. (ii) Certain excisable goods were sold for Rs. 120 per piece and 20% ad valorem is the rate of excise duty. Subsequently it was found that the price cum duty was in fact Rs. 140 per piece as the assessee had collected Rs. 20 per piece separately. (iii) The cum duty price per piece was Rs. 120 and the assessee had paid duty at 20% *ad valorem*. Subsequently it was found that the rate of duty was 30% *ad valorem* and the assessee had not collected anything over and above Rs.120 per piece (5 marks)

Q1(b) T Ltd. imported some goods from LMP Inc. of United States by air freight. You are required to compute the value for purposes of customs duty under the Customs Act, 1962 from the following particulars: CIF value – US \$ 6,000, Freight paid – US \$ 2,000, Insurance cost – US \$ 700. The bank had received payment from the importer at the exchange rate of US \$ 1 = Rs. 46 while the CBEC notified exchange rate on the relevant date was US \$ 1 = Rs. 45.50 (Make suitable assumptions where required and provide brief explanations to your answer.) (5 marks)

Q1(c) From the following particulars arrive at the VAT liability for the month of January 2010 and also determine the amount of input tax credit to be carried forward for the next month: (i) Input tax rate 5% and output tax rate is 15% in the State. (ii) Inputs purchased in the month from within the State- Rs. 48,00,000. (iii) Output sold to buyers within the State during the month – Rs 15,00,000. (iv) Output sold during the month to buyers as interstate sales – Rs. 3,00,000. (CST rate 2% against C Form) (v) Inputs purchased from other States as interstate purchases against C Form @2% - Rs. 2,00,000. (Provide suitable explanations where required with appropriate assumptions if necessary.) (5 marks)

Q1(d) X Bank Ltd., furnishes the following information relating to services provided and the gross amount received : (Figures in Rs lakhs) * Merchant Banking Services 8 * Asset Management (including portfolio management) 3 * Service charges for services to the Government of India 1.5 * Interest on overdraft and cash credits 2 * Banker to the issue 5 * Locker rent 2. Repayment of financial lease made by the customer to the bank Rs. 80 lakhs which includes a principal amount of Rs. 50 lakhs. Compute the value of taxable service under “Banking and other financial services” under the Finance Act, 1994 and the service tax liability of X Bank Ltd., considering the rate of service tax at 10.3% (5 marks)

Q2(a) XYZ Co. engaged in the service of over burden removal in mines had acquired some tipper trucks and taken CENVAT credit to the extent of the excise duty paid on the said trucks acquired by them. Subsequently on becoming aware that the said trucks do not qualify as capital goods or inputs under the CENVAT Credit Rules, 2004, the said XYZ Co. reversed the credit taken, all of which had remained unutilized. The Department has issued a show cause notice that interest under Section 11AB on the amount of credit taken but not utilized should be paid. Write a note whether the action of the Department is correct in law (2 marks)

Q2(b) “Pure & Lovely” are manufacturers of ‘hair oil’ falling under Chapter 33 of the Central Excise Tariff (CET). Disputes arose in respect of two other categories ‘edible oil’ or ‘coconut oil’. The Department contends that the coconut oil falling under these two categories are meant for sale as hair oil and should be classified under Chapter 33 of CET. The manufacturers contend that they are not printing the specific use of such oil as ‘hair oil’ and this should be classified as vegetable oil under Chapter 15 of the CET irrespective of its use by the consumer. Chapter Note 2 of Chapter 33 prescribes a condition that Heading No. 3305 (which covers hair oil) applies to products put up in packing of a kind sold by retail for such use. Section Note 2 to Section VI provides that goods falling in Heading 3305 by reason of being put up for retail sales are to be classified in the said Heading.

Briefly discuss whether coconut oil packed in larger packs generally used by consumers for edible purposes would merit classification under Chapter 15 (4 marks)

Q2(c) Sona Ltd. purchased a lathe machine at a cum-duty price of Rs. 18,63,680. The excise duty rate charged on the said machine was 16% plus education cess 2% plus secondary and higher education cess 1%. The machine was purchased on 1-7-2007 and was disposed of on 30-09-2009 for a price of Rs. 10,00,000 in working condition as second hand machine. Calculate the amount of CENVAT credit allowable for the financial years 2007-08 and 2008-09 and also specify the amount payable towards CENVAT credit already taken at the time of disposal of the machinery in the year 2009-10 (5 marks).

Q2(d) Y Ltd. (raw material supplier) supplies raw material to a job worker (manufacturer) Z Ltd. The job worker after completion of the job delivers 5,000 packets of finished goods to Y Ltd. In all these packets retail sale price (maximum) of Rs. 30 per packet is marked. The product in packaged form is subject to excise duty on the basis of MRP under Section 4A of the Central Excise Act, 1944 and in respect of the same 30% abatement has been prescribed. Determine the assessable value for purpose of excise duty after considering the following particulars : Cost of raw material supplied Rs. 45,000, Job charges including profit Rs. 15,000, Transport charges for dispatch to job worker Rs. 4,000, Transport Charges for return of finished product Rs. 4,000 (Provide brief explanation and make assumptions where required) (5 marks)

Q3(a) Write a brief note on whether input tax credit of the VAT paid on purchases of goods that are stock transferred is available (2 marks)

Q3(b) X Ltd. is having a manufacturing unit at Faridabad. In the financial year 2008-09 the value of total clearances from the unit was Rs. 850 lakhs as per the following details: (i) Exports to USA : Rs. 100 lakhs; to Nepal: Rs. 50 Lakhs (ii) Clearances to a 100% export oriented unit : Rs. 75 lakhs (iii) Clearances as loan licensee of goods carrying the brand name of another upon full payment of duty: Rs. 200 lakhs (iv) Clearances exempted *vide* Notification No. 214/86-C.E. dated 25-3-86 : Rs. 125 lakhs. (v) Balance clearances of goods in the normal course: Rs. 300 lakhs. You are required to state with reasons whether the unit is entitled to the benefit of exemption under Notification No.8/2003-C.E.dated 1-3-2003 as amended for the financial year 2009-10 (4 marks)

Q3(c) Briefly explain the documents required for filing claim of rebate of duty on export of goods under Rule 18 of the Central Excise Rules, 2002 (5 marks)

Q3(d) An assessee had cleared goods without payment of excise duty. However on coming to know from his sources that a show cause notice demanding duty on such clearances is likely to be issued but before actual issue of such notice the assessee made full payment of excise duty with interest. A show cause notice was issued subsequently as to why the assessee should not be subject to mandatory penalty equal to the excise duty sought to be evaded under Section 11AC of the Central Excise Act, 1944. Briefly examine with a note the conditions for levy of penalty under Section 11AC and state whether there is any discretion to reduce such penalty (5 marks)

Q4(a) D & Co. is engaged in the services of site preparation and clearance, excavation earth moving and demolition services. The gross amount received during the quarter ended 30-06-2009 for the services provided by them are given below : (Figures in Rs) - Core extraction services for construction 1,80,000, Land reclamation work 80,000, Services in relation to agriculture 2,00,000, Renovating or restoring water sources 3,50,000, Horizontal drilling of passage of cables or drain pipes 1,00,000, Soil stabilization 90,000, Construction of transport terminals 55,000. Calculate the value of taxable services under "Site preparation and clearance, excavation, earth moving and demolition services" under the Finance Act, 1994 and the service tax payable at 10.3%. (Provide brief explanations where required.) (4 marks)

Q4(b) State with reference to the provisions of the Finance Act, 1994 whether service tax is leviable in the following cases: (i) Taxable services rendered in the Special Economic Zone and consumed therein. (ii) Services provided in the Continental Shelf of India and Exclusive Economic Zone of India (4 marks)

Q4(c) Write a brief note with reference to the Service Tax Rules, 1994 in the following cases : (i) Advance payment of service tax . (ii) Time limit for preservation of records (4 marks)

Q4(d) S Ltd. provides management consultancy services that are subject to service tax under the Finance Act, 1994. In respect of the services rendered during the month of December, 2009 the service tax of Rs. 15 lakhs was remitted to Government treasury on January 20, 2010. Arrive at the penalty under Section 76 of the Finance Act, 1994 which is leviable in this case (4 marks)

Q5(a) Write a brief note on the deficiencies of the VAT system (4 marks)

Q5(b) A private agency has built a canal system on build-own-operate-transfer basis under a contract with the State Government. User charges at commercial rates are levied by the private agency and the revenue so generated is utilized for servicing and repayment of the capital investment. Briefly write a note with reference to 'commercial or industrial construction service' under the Finance Act, 1994 whether the user charges collected by the private agency is liable to service tax (4 marks)

Q5(c) Briefly explain the provisions under the Service Tax Rules, 1994 regarding late fee for delayed filing of returns (4 marks)

Q5(d) State briefly with reference to Section 66A of the Finance Act, 1994 who is liable to pay service tax for services provided from outside India (4 marks)

Q6 Answer any four of the following :

Q6(a) Discuss with a brief note the provisions of Section 129E of the Customs Act, 1962 regarding deposit of duty and interest or penalty levied pending appeal (4 marks)

Q6(b) Write a brief note on sanctioning of refund of customs duty under Section 27(2) of the Customs Act, 1962 under which refunds will not be credited to the consumer welfare fund (4 marks)

Q6(c) Write a brief note with specific reference to Rule 1 of the Rules of Interpretation of the First Schedule to Customs Tariff Act, 1975 (4 marks)

Q6(d) Certain goods were brought to the export shed on 5-10-2009. The goods were examined and 'let export order' was issued on the same day by noting of the shipping bill. Computer processed shipping bill was issued on 6-10-2009. DEPB rate was lowered on 6-10-09 and the Department allowed DEPB at the rate prevailing on 6-10-2009. The goods were permitted for clearance and loading on 5-10-2009. It is assessee's case that under the Customs Act, 1962 they are entitled for the higher rate of DEPB prevailing on 5-10-2009. Write a brief note whether the assessee's stand is correct in law (4 marks)

Q6(e) Briefly explain the provisions relating to transshipment of goods without payment of duty under Section 54 of the Customs Act, 1962 (4 marks)

Q7(a) UPT Ltd., are manufacturers of electrical transformers, switch gears falling under Chapter Heading 85042200 and Chapter Heading 85352121 of the Central Excise Tariff. The manufacturers cleared excisable goods valued at Rs. 30 lakhs against Served from India Scheme Certificate (SFIS) at nil rate of duty availing the exemption by way of debit to SFIS under Notification No. 34/2006-CE dated 14-06-2006. As separate accounts for purpose of sub-rule (3) of Rule 6 of the Cenvat Credit Rules, 2004 were not maintained by the assessee (M/s UPT Ltd.) they were required to pay 5% of the value of the exempted goods of Rs. 1.5 lakhs (Rs. 30 lakhs @ 5%) on the basis that the goods cleared under SFIS scheme are to be treated as exempted goods. Discuss with reference to the definition of exempted goods under Rule 2(d) of the Cenvat Credit Rules, whether the stand taken by the Department is correct. (Assume that debit to SFIS is a method of payment of appropriate duty.) (4 marks)

Q7(b) Briefly state the provisions of the Central Excise Rules, 2002 relating to electronic payment of excise duty and electronic filing of returns (4 marks)

Q7(c) Hand blender manufactured by the assessee was cleared as gift along with each unit of juicer, mixer and grinder (JMG). The MRP of Rs. 750 though printed on the 'hand blender box' contains clear indication that it is supplied free of cost. The package of JMG also shows this. The hand blender is not sold separately. The Department has issued a show cause notice that duty should be paid on the hand blender. Write a brief note with reference to Section 4A of the Central Excise Act, 1944 whether the notice is sustainable in law (4 marks)

Q7(d) State briefly with reference to the provisions of the Finance Act, 1994 whether the following services are liable to tax: (i) Permanent transfer of intellectual property rights. (ii) Services provided in relation to handling storage and warehousing of empty containers under storage and warehousing service (4 marks)

CA Final New syllabus May 2010

SECTION – A

Q1(a) Compute the assessable value and amount of excise duty payable under the Central Excise Act, 1944 and rules made there under from the following information (i) Goods transferred from factory to depot on 8th February - 1,000 Nos. On that day, price at factory was Rs 200 per unit and price at depot was Rs 220 per unit. Rate of duty was 10% *ad valorem* (ii) Goods actually sold at depot on 18th February -750 Nos. On that day, price at factory was Rs 225 per unit and price at depot was Rs 250 per unit. Rate of duty was 8% *ad valorem*. (5 marks)

Q1(b) M/s Royal Industries started its production activities on 15th March, 2010. In the month of March, 2010, 1,000 units of raw material were purchased at Rs. 150 per unit, paying excise duty @ 8%. 800 units of raw material were consumed in manufacturing process and finished output was sold for Rs. 1,40,000 (excluding excise duty @ 8%). For simplification, you may ignore the conversion cost and assume the rates of excise duty to be inclusive of education cess. Pass the Journal entries in the books of the assessee and show the balances in Balance Sheet as on 31.3.2010 (5 marks).

Q1(c) Mahesh Ltd., which is engaged in manufacturing of excisable goods started its business on 1st June, 2009. It availed SSI exemption during the financial year 2009-10. The following are the details available to you : (i) 12,500 kg of inputs purchased @ Rs. 1,190.64 per kg (inclusive of Central excise duty @ 8.24%) – Rs 1,48,83,000 (ii) Capital goods purchased on 31-5-2009 (inclusive of Excise duty @ 14.42%) – Rs 80,09,400 (iii) Finished goods sold (at uniform transaction value throughout the year) – Rs 3,00,00,000. – - You are required to calculate the amount of excise duty payable by M/s Mahesh Ltd. in cash, if any, during the year 2009-10. Rate of duty on finished goods sold may be taken @12.36% for the year and you may assume the selling price exclusive of central excise duty. There is neither any processing loss nor any inventory of input and output. Output input ratio may be taken as 2 : 1 (5 marks).

Q2.(a) An assessee classified his product as per Central Excise Tariff subject to nil rate of duty. The Department contended that when the entries in the Harmonised System of Nomenclature (HSN) and the Central Excise Tariff are not aligned, reliance should be placed upon HSN for the purpose of classification of goods under the said Tariff. Relying upon the HSN for the purpose of classification of the impugned product, the Department classified it under another heading attracting 8% duty. Do you think that Department's plea is valid in law? Discuss briefly, with reference to a decided case law, if any (5 marks).

Q2(b) M/s Evasions Unlimited, manufacturing excisable goods, paid the differential duty, *suo motu*, to the Department as the prices of the said goods were revised with retrospective effect. The Revenue took the view that the assessee was liable to pay interest on differential duty under Section 11AB of the Central Excise Act, 1944 and penalty thereof. The assessee replied that there was no question of charging interest and penalty as the payment of differential duty was made by it at the time of issuing supplementary invoices to the customers. Discuss, with reference to a decided case law, if any, whether the view taken by the Revenue is justifiable (5 marks).

Q2(c) An assessee made an application under Section 32E of the Central Excise Act, 1944 to the Settlement Commission. The settlement commission was not satisfied saying that the applicant had not made a true and full disclosure of his duty liability and the manner in which same was arrived at was also not correct and rejected the application. The assessee contended that obligation to make truthful disclosure of duty liability would arise only after the application was admitted and not

before that. Is plea taken by the assessee acceptable in law? Explain in brief, with the help of a decided case law, if any (5 marks).

Q3(a) Differentiate between "non-excisable goods" and "non-dutiable goods" (3 marks).

Q3(b) Under Excise Audit, 2000, the selection of unit for audit is based on 'risk factors'. Explain in brief the term 'risk factors' giving any two examples (3 marks).

Q3(c) Explain the validity of the following statements with reference to Central Excise Laws, as amended : (i) Records seized by department during investigation but not relied upon in the show cause notice should be returned within 30 days of issue of show cause notice (ii) Special audit under Section 14A and 14AA can be done by a cost accountant only (iii) Authority of Advance Ruling under the Income-tax Act, 1961 will be authority for purposes of Central excise also (iv) High Court is empowered to condone delay in filing appeal and cross objection filed under Sections 35G and 35H of the Central Excise Act, 1944, beyond the prescribed period (4 marks).

SECTION – B

Q4(a) Mr. Happy, a service provider, has provided services of Rs. 1,00,00,000. Out of this, Rs. 70,00,000 are taxable output services and Rs. 30,00,000 are exempt output services. Mr. Happy has opted not to maintain separate inventory and accounts and pay prescribed amount on value of exempt output services. Service tax paid on his input services, excluding education cess and secondary and higher education cess (EC & SAHEC) is Rs. 6,00,000 which do not include any service specified in rule 6(5) of the CENVAT Credit Rules, 2004. Rate of service tax, excluding EC and SAHEC, is 10%. Calculate the total amount payable including Service tax, EC and SAHEC by Mr. Happy by GAR-7 challan (5 marks).

Q4(b) The particulars regarding sale, purchase etc. of Shubham Udyog for the last quarter of the year 2009-10 are as under : (1) Purchases of raw material within the state - (i) taxable @ 1% - Rs 40,00,000 (ii) taxable @ 4% - Rs 60,00,000 (iii) taxable @ 12.5% - Rs 10,00,000 (2) Sale of goods manufactured from raw material purchased @ 4% tax rate (i) Taxable sale within the State (tax rate 4%) – Rs 20,00,000 (ii) Exempted sale within the state – Rs 10,00,000 (iii) Sale in the course of Inter-State trade or Commerce (tax rate 4%) – Rs 10,00,000 (3) Sale of raw material purchased @ 1% tax rate – Rs 44,00,000 (4) Goods manufactured from the raw material purchased @ 12.5% tax rate were given on lease. The deemed sale Price of such goods is Rs. 12,00,000, taxable @ 12.5%. - - You may assume that input tax credit of tax on raw material used in manufacture of leased goods is available immediately. Compute the amount of Value Added Tax (VAT) payable by M/s Shubham Udyog for the relevant quarter. There was no opening or closing inventory. How can he utilise the balance of input tax credit available, if any? (5 marks).

Q5(a) The term 'business auxiliary service' was inserted by Finance Act, 2003 which came into force on 1.7.2003. The Parliament by Finance Act, 2008 inserted an *explanation* in the relevant sub-clause (ii) Section 65(19) stating that for the purpose of this sub-clause – "Service in relation to promotion or marketing of service provided by the client includes any service provided in relation to marketing of games of chance, organised, conducted or promoted by the client, in whatever form or by whatever name called, whether or not conducted online, including lottery, lotto, bingo." Discuss, whether the *explanation* appended to sub-clause (ii) of Section 65(19) is clarifactory in nature so as to be construed having retrospective effect and retroactive operation. You may take help of a decided case law, if any (5 marks).

Q5(b) Mr. Yes is the owner of a collection centre with facilities and trained employees for collection of human blood, urine and stool samples for biological testing. He sends the samples collected to its principal lab for actual test to be done. The assessee received 25% of the price charged by the principal lab. as commission for work of collection etc. The Revenue wants to charge service tax on such collection service as it amounts to promotion or marketing of services provided by its principal lab. Mr. Yes seeks your advise in this regard with reference to a decided case law, if any (5 marks).

Q6(a) State, with reasons in brief, whether the following services are taxable, under the provisions of the Finance Act, 1994 relating to Service Tax : (i) Services in relation to production of alcoholic

liquor on job work basis (ii) Service of transport of goods in container by Government Railway (4 marks).

Q6(b) Whether the value of material supplied by the contractee to the contractor for use in the execution of the works contract shall be included in the value of works contract for payment of Service tax under the composition scheme? What is the present rate of service tax under this scheme? Can the service provider avail CENVAT credit also? (4 marks).

Q6(c) What is the general exemption available to small service providers? Who are the persons excluded from this exemption? (4 marks).

Q6(d) Explain in brief the disadvantages of composition scheme available for small dealers under VAT system (4 marks).

Q6(e) What is VAT invoice ? What are the mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer? (4 marks).

SECTION – C

Q7(a) Miss Priya imported certain goods weighing 1,000 kgs. with CIF value US \$ 40,000. Exchange rate was 1 US \$ = Rs. 45 on the date of presentation of bill of entry. Basic customs duty is chargeable @ 10% and education cess as applicable. There is no excise duty payable on these goods, if manufactured in India. As per Notification issued by the Government of India, anti-dumping duty has been imposed on these goods. The anti-dumping duty will be equal to difference between amount calculated @ US \$ 60 per kg. and 'landed value' of goods. You are required to compute custom duty and anti-dumping duty payable by Miss Priya (5 marks).

Q7(b) M/s Marwar Industries imported finishing agents, dye-carriers, printing paste etc. to be used for manufacture of textile articles. The importer claimed exemption for Additional duty of customs (CVD) leviable under Section 3 of the Customs Tariff Act, 1975, on the ground that there was an exemption for excise duty in respect of said goods used in the 'same factory' for manufacture of textile articles. The Department contended that CVD is payable on the ground that the goods which were to be used must also be manufactured in the 'same factory'. You are requested to comment upon the contention of Department, with reference to a decided case law, if any (5 marks).

Q8(a) Explain in brief the duty exemption to baggage under Section 79(1) of the Customs Act, 1962 (3 marks).

Q8(b) Can an application be withdrawn in the following cases ? If yes, state the time limit for withdrawal of such application - (i) application for advance ruling (ii) application for settlement (3 marks).

Q8(c) Clearly mention the relevant date in the following cases of goods warehoused under bond - (i) Rate of exchange, when goods are removed for home consumption (ii) Rate of duty, when goods are removed for home consumption (iii) Rate of duty if the goods are not removed from warehouse within the permissible period (4 marks).

CA Final New Syllabus – November 2009

SECTION-A

Q1(a) Determine the total amount of excise duty payable under Section 4 of the Central Excise Act, 1944 from the following information: (I) Price of machinery excluding taxes and duties – Rs 5,50,000 (II) Installation and erection expenses – Rs 21,000 (III) Packing Charges (primary and secondary) – Rs 11,500 (IV) Design and engineering charges – Rs 2,000 (v) Cost of material supplied by buyer free of charge – Rs 8,500 (VI) Pre-delivery inspection charges – Rs 500. Other information: (a) Cash discount @2% on price of machinery was allowed as per terms of Contract since full payment was received before dispatch of machinery. (b) Bought out accessories supplied along with machinery

valued at Rs. 6,000. (c) Central Excise duty rate 16% and educational cess as applicable @3%. Make suitable assumptions as are required and provide brief reasons (5 marks).

Q1(b) XYZ Co. is engaged in the manufacture of water pipes. From the following details for the month of May, 2009 compute the available Cenvat credit under the Cenvat Credit Rules, 2004: Cenvat paid on purchases as detailed below: Raw steel – Rs 22,000 Water pipe making machine – Rs 18,000 Spare part for the above machine – Rs 7,500 Grease and oil – Rs 2,800 Office equipment – Rs 20,000 Diesel – Rs 12,000 Provide explanation for treatment of various items (5 marks).

Q1(c) Small and company a small scale industry provides the following details. Determine the eligibility for exemption based on value of clearances for the Financial year 2009-10 in terms of Notfn.No.8/2003-CE dated 1.3.2003 as (I) Total value of clearances during the financial Year 2008-09 (including VAT Rs. 50 lakhs) Rs 870 lakhs (II) Total exports (including for Nepal and Bhutan Rs. 200 lakhs) Rs 500 lakhs (III) Clearances of excisable goods without payment of duty to a Unit in software technology park Rs 20 lakhs (IV) Job work under Notfn.No.84/94-CE dated 11.4.94 50 Job work under Notfn.No.214/86-CE dated 25.3.86 Rs 50 lakhs (v) Clearances of excisable goods bearing brand name of Khadi and Village Industries board Rs 200 lakhs. Make suitable assumptions and provide brief reasons for your answers where necessary (5 marks).

Q2.(a) I Ltd. Is a manufacturer excisable goods such as polyester yarn. A ground Plan of the factory was provided by the assessee to the jurisdictional Central Excise officer and the same was approved. The ground plan showed the area In which the manufacturing is carried out as also the areas occupied for Purpose of storage. Godowns, cycle sheds, canteen as well as the housing Complex for staff and workers. The assessee had a captive power plant in the Approved area. The electricity generated was supplied to the housing complex as well as for use in the manufacturing activity. I Ltd. Claimed Cenvat credit on the duty paid on furnace oil used for generation of electricity as it was used with in the factory and was covered by the expression “for any other purpose” in Rule 2(K) of the Cenvat Credit Rules, 2004. The Central excise department wants to deny the Cenvat credit on the duty paid on furnace oil for generation of electricity which in turn is supplied to the housing complex on the ground that it is not used in relation to manufacture of the final product. Examine with the help of decided case Law if the stand of the department is correct I Law.

Q2(b) The assessee manufactured compressors and filters and removed them as “stand alone” items. He also manufactured and removed safety valves and Filters on payment of duty. The assessee also supplied bought out items like V belts, motor, pulley etc. to their buyers. The Excise department relying on Rule 2(a) of the general Interpretative rules for classification has decided to include the value of safety valves and filters together with value of bought out items in the value of compressors for purposes of duty under Section 4 of the Central Excise Act, 1944. Write a brief note with any decide case law whether the stand taken by the department is correct.

Q2(c) The assessee’s premises was searched by the Anti Evasion wing of the excise Department. A show cause notice was issued alleging that the assessee had Cleared goods without the cover of duty paid invoice and without accounting the same in the stock register. The assessee was required to pay the duty demanded with interest. The assessee filed an application before the Settlement Commission to put an end to the litigation and buy peace. The application was dismissed by the Settlement Commission on the ground that the petitioner in its petition had not admitted the entire duty liability. The assessee’s contention is that department is yet to substantiate the allegations made in the show Cause notice and the dismissal order is not correct in law. Briefly discuss with a note whether the action of the settlement commission is correct in law.

Q3(a) Explain briefly the concept of “excisable goods’ as amended by the Finance Act, 2008 (2 marks).

Q3(b) Explain briefly, how the value of goods will be ascertained for purpose of Excise duty where the assessee sells the goods partly to a related person and the balance to unrelated third parties (2 marks).

Q3(c) Write a brief note on Cenvat monthly return of information relating to principal Inputs in from ER-6 (2 marks).

Q3(d) Briefly mention any four categories of persons who are exempted from obtaining Registration under Rule 9(2) of the Central Excise Rules, 2002 (2 marks).

Q3 (e) Write a short note on the principle of “unjust enrichment” under Center Excise law (2 marks).

SECTION-B

Q4(a) Determine the taxable turnover, input tax credit and net VAT payable by a Works contractor from the details given below on the assumption that the Contractor maintains sufficient records to quantify the labour charges Assume Output VAT at 12.5%: (I) Total contract price (excluding VAT) Rs 100 lakhs (ii) Labour charges paid for execution of the contract Rs 35 lakhs (iii) Cost of consumables used not involving transfer of Property in goods Rs 5 lakhs (iv) Material purchased and used for the contract taxable at 12.5% VAT (VAT included) Rs 45 lakhs. The contractor also purchased a plant for use in the contract for Rs. 10.4 Lakhs. In the VAT invoice relating to the same VAT was charged at 4% separately and the said amount of Rs.10.4 lakhs in inclusive of VAT. Assume 100% input credit on capital goods. Make suitable assumption wherever required and show the working notes.

Q4(b) Calculate the value of taxable service under service under Cargo handling services of Cargo Ltd., providing brief reasons where required with suitable assumptions based on the following information for the months of April ,2009: (i) Total amount charged for all services Rs 40 lakhs (ii) Receipts for services in relation to export cargo and Handling of passenger baggage including in (i) above Rs 13 lakhs (iii) Charges for storage and cleaning of empty containers of Shipping lines included in (i) above Rs 10 lakhs (iv) Charges for packing and transport of Cargo included in (i) above Rs 3 lakhs (v) Charges for handling of agricultural produce included in (i) above Rs 2 lakhs (vi) Charges for transportation of Cargo included in (i) above Rs 5 lakhs (5 marks)

Q5(a) M/s M Construction Ltd. constructs builds and sells premises/flat in a building. During the cause of development and construction of building it enters into a flat purchases agreement in terms of which the buyers are allotted flats in the building. The buyers pay the consideration to M/s M Construction in Instalments. The said ‘flat purchases agreement’ reflects the entire consideration For the purchases of flat. This agreement is registered and advance payments in instalments are collected. The contention of M/s M Construction is that the consideration is for the purchase and sale for the entire flat/premises and the Company does not carry out any construction activity. Examine with a brief note whether the company is liable to pay service tax in terms of the finance Act, 1944.

Q5(b) Good Luck Agencies is engaged in the purchase of lottery tickets in bulk from the state government and sell them subsequently on behalf of the Government. However no service tax is paid on the said activity. The Department has sought to levy service tax under the category of ‘Business auxiliary service’ Section 65(19) as service in relation to promotion or marketing of

service Provided by the client. Discuss briefly with a note and decided case law if any, whether the action of the department is correct in law.

Q6(a) Briefly explain whether the following are chargeable to service tax under the provisions of the Finance Act, 1994: (i) Service provided by a person to another person in relation to information technology software for use in course or furtherance of business or commerce (ii) Transaction allowing another person to use goods without giving legal right of possession and control to the user of the goods (2 x 2 = 4 marks).

Q6(b) Write a brief note explaining to circumstances under which expenditure or Costs incurred by a service provider as a pure agents of the recipients of service Shall be excluded from the value of taxable services under the Service Tax (determination of value)Rules, 2005 (4 marks).

Q6(c) Briefly explain the provisions in the Service Tax Rule, 1994, relating to furnishing of list of records at the time of filling of return for the first time (4 marks).

Q6(d) Briefly explain the following with reference to the service Tax rule, 1944 and the Finance Act, 1994: (i) Gross amount charged (ii) e-payment of service tax (4 marks).

Q6(e) Briefly explain the importance of VAT invoice (4 marks).

SECTION-C

Q7 Compute the duty payable under the Customs Act, 1962 for an imported equipment Based on the following information: (i) Assessable value of the imported equipment US \$ 10,100. (ii) Date of Bill of Entry 25.4.2009 basic customs duty on this date 20% and exchange rate notified by the central Board of Excise and customs US \$ 1=Rs.65. (iii) Date of Entry inwards 21.4.2009 basic customs duty on this date 16% and exchange rate notified by the Central Board of Excise and Customs US \$ 1= Rs. 50. (iv) additional duty payable under Section 3(1) and (2) of the Customs Tariff Act, 1975: 15%. (v) Additional duty under Section 3(5) of the Customs Tariff Act, 1975: 4%. (vi) Educational cess @ 2% in terms of the Finance Act (No. 2), 2004 and secondary and higher educational cess @ 1% in terms of the Finance act, 2007. Make suitable assumptions where required and show the relevant working and round off your answer to the nearest Rupee (5 marks).

Q8. The assessee had imported capital goods under a licence with a condition to fulfill an export obligation within a certain time limit. The assessee failed to discharge the export obligation within the said time limit. Consequently the department invoked the bank guarantee and realized the amount. However, subsequently the assessee was able to fulfill the export obligation and the department cancelled the bank guarantee. The assessee thereafter filed a refund claim for the amount realized by invocation of the bank guarantee by the department. The department rejected the refund claim on the ground that it was barred in terms of section 27(1)(b) of the Customs Act, 1962 as the assessee had not been able to establish that the incidence of duty had not been passed on by him to any other person. Examine briefly with the help of any decided case law whether the stand taken by the department is correct in law (5 marks).

Q9(a) Explain briefly the expression 'person-in charge' under the Customs Act, 1962 (2 marks).

Q9(b) Explain briefly the provisions of the Customs Act, 1962 relating to the powers Vested in the customs officers to take samples (2 marks).

Q9(c) Explain with a brief note how the duty is arrived under the Customs Act, 1962 where the imported goods consist of articles liable to different rates of Duty (2 marks)

Q9(d) write a brief note on the 'residual method' of determination of value of imported goods under the Customs Valuation (determination of value of imported goods) Rules, 2007 (2 marks).

Q9(e) Briefly state the rights of the owner of warehoused goods under the Customs Act, 1962 (2 marks).

CA Final New Syllabus June 2009

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.

Section A (Excise)

Q1(a) Determine the total amount of Excise duty payable on a machine using the details given below : (i) Sale price of the machine excluding taxes and duties 2, 00,000 (ii) Sales tax 20,000 (iii) Cost of durable and returnable packing included in the sale price given at (i) above – Rs 5,000 (iv) Design and Development charges paid by buyer on behalf of seller to a third party Rs 20,000 (v) Warranty charges charged separately by the seller 5,000. Rate of Excise duty 16%. Education cess 3%. Calculations should be supported by notes wherever, required.

Q1(b) X, a manufacturer purchased 500 kgs of inputs' on 1.10.2007. Total assessable value of inputs was Rs. 10,000 and Excise duty of 16% and 3% of Excise duty as Education cess was paid on the inputs. On the day of receipt itself inputs were sent to the job worker. Job worker sent back 50% of the inputs on 1.4.2008 and balance 50% on 31.5.08. X received back the processed the inputs on the same day. Calculate the Cenvat credit required to be reversed or that can be availed on relevant dates and net availment and reversal in the financial years 2007-08 and 2008-09.

Q1(c) 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. in the year 2007-08. Determine the value of the first clearance and duty liability on the basis of data given below: (1) Total value of clearances of goods with own brand name – Rs 5,00,000 (2) Total value of clearances of goods with brand name of other parties – Rs 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) – Rs 35,00,000. Normal rate of Excise duty—16%. Education cess @ 3% of Excise duty. Calculations should be supported with appropriate notes. It may be assumed that the unit is eligible for exemption under Notification 8/2003.

Q2(a) M/s ABC Ltd. is a Cement manufacturer. The company used ropeway system for bringing crushed limestone from the mines located 4-5 kms away from the factory. A part of ropeway system was installed in the factory and the system was controlled from the factory. M/s ABC Ltd. availed Cenvat credit on parts of ropeway system treating the same as capital goods. The Central Excise Department denied Cenvat credit on the ground that ropeway is used for transporting raw materials from the mines to the factory and cannot be considered as material handling system within the factory premises. Examine with the help of decided case law, whether the stand taken by the department is correct in law.

Q2(b) A Port Trust used cement concrete armour units in the harbour for keeping water calm. Each unit weighed about 50 tons and is like a tripod and keeps water calm and tranquil. These units are essentially in prismoid form and were made to order. They are harbour or location specific. The Central Excise Department contended that the armour units are excisable goods and chargeable to duty. Examine the validity of the Department's contention in the light of decided case law.

Q2(c) Scream Ltd. is engaged in manufacture of ice-cream falling under sub-heading 2105 of the Central Excise Tariff Act, 1985. The company supplied the ice cream in four liters pack to catering industry or hotels, who sell the same in scoops. The pack contained a declaration that the pack was not meant for retail sale. The Department contended that packs have to be assessed on the basis of value arrived at as per the provision of Section 4-A of Central Excise Act, 1944, which provides for assessment based on M.R.P. and not under Section 4 of the Central Excise Act, 1944. Assessee contended that the ice-cream pack sold was a bulk pack of 4 liters which was not meant to be sold in retail and they were not required to print the Maximum Retail Price and hence the transaction was a wholesale transaction and assessment under Section 4 of the Central Excise Act, 1944 was correct. Further contention of the assessee was that they are entitled to exemption under Rule 34 of the Standard of Weights and Measures (PC) Rules, which exempts packs meant for industrial use. Examine whether the stand taken by the Department is correct in the light of decided case law.

Q3(a) Explain special procedure and facilities made available to Large Tax Payer (LTU) under Rule 12-BB of Central Excise Rules, 2002 in respect of intermediate goods.

Q3(b) What are the provisions relating to the payment of Excise Duty on used capital goods cleared by an assessee on which Cenvat credit has been availed?

Q3(c) What are the situations in which duty can be remitted under Rule 21 of Central Excise Rules, 2002.

Section B – Vat and Service tax

Q4(a) Purchases by S & Co. for the month of December are as follow: (1) Rs. 1,00,000 at 4% VAT (2) Rs. 5,00,000 at 12.5% VAT. Sales of S & Co. for the month of December are as follows – (1) Sales of Rs. 3,00,000 at 4% VAT (2) Sales of Rs. 3,00,000 at 12.5% VAT. Compute eligible input tax credit and VAT payable for the month.

Q 4(b) Calculate the value of taxable service of "X" Transport Company engaged in the business of transport of goods by road. Give reasons for taxability or exemption of each item. No freight is received from any of the specified category of Consignor/Consignee. Suitable assumptions may be made wherever required. X does not avail Cenvat credit. (1) Total freight charges received by 'X' during the year – Rs 13,50,000 (2) Freight charges received for transporting fruits - Rs 1,25,000 (3) Freight collected for transporting small consignment for persons who paid less than Rs. 750 for each consignment - Rs 75,000 (4) Freight collected for transporting goods in small vehicles for persons, who paid less than Rs 1500 per trip - Rs 1,50,000.

Q5(a) The assessee owned a collection centre, which was engaged in drawing of human blood, urine and stool samples on behalf of the principal Laboratory in a metro city for conducting pathological tests. The assessee sent the samples through courier and received commission for such service. Department demanded Service tax on the ground that the activity amounted to promotion or marketing of the service provided by the principal and hence, covered under business auxiliary service. With reference to legal provisions and case law, examine the stand taken by the department.

Q5(b) The assessee used to finance the purchase of vehicles manufactured by a leading automobile company which used to sell the vehicles through its distributors. Assessee financed part of the vehicle cost to the purchaser of vehicle after getting an agreement with the purchaser providing the right of repossession of the vehicle in case buyer of the vehicle defaulted in paying installment. Immediately on sale, purchaser of the vehicle became the owner and vehicle was registered in his name. The Department seeks to levy service tax in the category of "Banking and other Financial Services." Examine whether Department's stand is correct in terms of legal provisions and case law.

Q6(a) What are the purchases not eligible for input tax credit of VAT paid ?

Q6(b) What are the provisions relating to best judgment assessment under Service Tax Law?

Q6(c) State whether the following services are taxable under the provisions of the Finance Act, 1994 relating to Service tax: (i) A practicing Chartered Accountant representing a client before Income-Tax Officer in assessment proceeding. (ii) Royalty received from the publisher by an author of a text-book for printing and publishing his book.

Q6(d) Give FOUR ILLUSTRATIONS to explain the scope of service rendered by a consulting engineer.

Q6(e) List out ANY FOUR SERVICES brought under the Service tax net by the Finance Act, 2008.

Section C (Customs)

Q7 From the following particulars determine the ASSESSABLE VALUE of the imported equipment giving explanation for each item: (1) FOB cost of equipment (Japanese Yen) - 2,00,000 Yen (2) Freight charges in Japanese Yen - 20,000 Yen (3) Charges for development connected to equipment paid in India - Rs. 60,000 (4) Insurance charges paid in India for transportation from Japan Rs. 15,000 (5) Commission payable to agent in India - Rs. 15,000. - - Exchange rate as per RBI is 1 Yen = Rs. 0.45 Exchange rate as per CBEC is 1 Yen = Rs. 0.50. Landing charges: 1% of CIF cost.

Q8. ABC imported a vessel 'WATERLOO' for the purpose of breaking from XYZ Ltd. of U.K. A memorandum of understanding was signed between the buyer and seller on 2nd June, 1997 and ABC took delivery of the vessel on 4th June, 97. Vessel drifted and landed in the yard of B in a damaged condition on 9th June, 97. On 24th June, 97, ABC filed application to concerned Assistant Commissioner for extension of time to file bill of entry, which was granted on 12th Aug, 97. ABC paid Rs. 24 crores to XYZ Ltd. towards the purchase price of the vessel. Thereafter ABC sold the vessel to B for Rs. 12 crores (reduced price) and B filed bill of entry on 12th Sep, 97. Assessing authority assessed the ship taking the value as Rs. 24 crores and ship was taken over by B after assessment order was passed. 'B' argues during appellate proceedings that assessable value should be taken as Rs. 12 crores since the vessel was damaged because of the storm which made the vessel drift. No application for abatement of duty was made before the assessing authority by ABC or B. Examine whether benefit of relief under Section 22 of Customs Act, 1962 to reduce the value and thereby duty can be extended to B under the above circumstances. The assessment order in respect of bill of entry was passed on 23rd Dec. 1997.

Q9(a) Is a person entitled to inspect or obtain copies of report made by any Officer to the Settlement Commission? Can the settlement commission furnish copies of such report?

Q9(b) Under what circumstances provisional assessment under Section 18 of the Customs Act, 1962 can be made?

Q9(c) Explain briefly legal provisions relating to pilfered goods under Customs Act, 1962.

Q9(d) Explain briefly legal provisions relating to power to summon persons under Customs Act, 1962.

Q9(e) Define Customs Area.

Chapter 4 Indirect Tax Laws – CA Final New Syllabus, November, 2008

Answer all questions

PART - A

Question 1(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 (4 marks).

Q 1(b) Following transactions took place in the factory of JKA Ltd: (i) An imported consignment of raw materials was received vide bill of entry dated 2.12.07 showing the following customs duty payments: Basic customs duty Rs. 25,000; Additional duty (CVD) Rs. 20,000; Special additional duty Rs. 5,800. (ii) A consignment of 1,000 kg of inputs was received. The excise duty paid as per the invoice was Rs. 10,000. While the input was being unloaded, 50 kg were damaged and were found to be not usable. (iii) A vehicle containing machinery was received. The machinery was purchased through a dealer and not from the manufacturer. The dealer's invoice no. 925 dated 3.4.07 marked 'original for buyer' certified that the excise duty paid by the manufacturer of machinery was Rs. 24,000. The dealer is registered with the Central Excise Authorities. (iv) Some inputs for final product were received. These were accompanied by a certified Xerox copy (photo copy) of invoice no. 286 dated 15.1.08 indicating that excise duty of Rs. 6,400 had been paid on inputs. The original or duplicate copy of invoice was not traceable. Indicate the eligibility of CENVAT credit, in each case, under the CENVAT Credit Rules, 2004 with explanations where necessary (4 marks).

Q1 (c) CTL Ltd. has a manufacturing unit situated in Lucknow. In the financial year 2006-07, the total value of clearances from the unit was Rs. 450 lakh. The break up of clearances is as under: (i) Clearances worth Rs. 50 lakh of certain non-excisable goods manufactured by it (ii) Clearances worth Rs. 50 lakh exempted under specified job work notification (iii) Exports worth Rs. 100 lakh (Rs. 75 lakh to USA and Rs. 25 lakh to Nepal) (iv) Clearances worth Rs. 50 lakh which were used captively to manufacture finished products that are exempt under notifications other than Notification No. 8/2003-CE dated 1.3.2003 as amended. (v) Clearances worth Rs. 200 lakh of excisable goods in the normal course. Explain briefly, the treatment for various items and state, whether the unit will be eligible for the benefits of exemption under Notification No. 8/2003-CE dated 1.3.03 as amended for the year 2007-08 (7 marks).

Question 2(a) M/s Ganga Marketing supplies 12 bottles of mineral water in a single package to Speed Airways (airline company). Maximum retail price was printed on the package. However, individual bottle of 200 ml each did not carry such maximum retail price (M.R.P) as these were to be distributed to the passengers by the airline company and not intended for resale. M/s Ganga

Marketing pays duty of excise assessing the goods under section 4 of the Central Excise Act, 1944. The Department has taken a view that the package of 12 bottles is not a wholesale package. The airline company itself is the ultimate consumer. Hence, the package of 12 bottles itself is a 'retail package' and duty is payable on the basis of MRP under section 4A of the Central Excise Act, 1944. Examine briefly, with the help of decided case law, if any, whether the stand taken by the Department is correct in law (5 marks)

Q2 (b) M/s Om Processors, a job worker, was engaged in the processing of manmade fabrics received from the principal supplier. The job worker (assessee) had undertaken to discharge all the duty liabilities under the Central Excise Act, 1944. The assessee received manmade fabrics on declaration from the principal supplier that the said fabrics had polyester content below 70%; processed the same and cleared the processed fabrics claiming the benefit of concessional rate of duty available to manmade fabrics containing polyester below 70%. On the basis of chemical examination by the Department, it was found that the fabrics contained polyester in excess of 70% and thus would attract higher rate of duty. A show cause notice was issued invoking the extended period of limitation under section 11A of the Central Excise Act, 1944 demanding differential duty and penalties on the ground of mis-declaration on the part of the assessee. Briefly discuss, with reference to decided case law, whether the stand taken by the Department is correct in law. (5 Marks)

Q2(c) M/s Raj Fibres had filed an appeal to the High Court on Aug. 11, 2008 under section 35G of the Central Excise Act, 1944 aggrieved by an order passed by the Appellate Tribunal. The order appealed against was received by the assessee on Jan. 1, 2008. The High Court dismissed the appeal petition on the ground that the same had been filed beyond the period provided for filing an appeal under section 35G of the Act and the court had no power to condone the delay. M/s Raj Fibres urged before the High Court that the provisions of the Limitation Act, 1963 should be made available and the delay in presenting the appeal ought to be condoned. State briefly, with reference to decided case law, if any, whether the High Court could condone the delay in presenting the appeal pursuant to the provisions of the Limitation Act, 1963 as urged by M/s Raj Fibres. (5 Marks)

Question 3(a) Discuss briefly, whether excise duty is attracted on the excisable goods manufactured in the following cases (i) in the State of Jammu and Kashmir (ii) by or on behalf of the Government (b) What is the period of provisional attachment of property during the pendency of any proceeding under section 11A or section 11D of the Central Excise Act, 1944? (c) Under what circumstances, the rebate of excise duty paid on exported goods can be granted to the exporter in case of export of good to Nepal? Note - Rebate of excise duty paid on exported goods is granted to Government of Nepal (d) If a manufacturer manufactures various products, can he avail CENVAT credit on some products and exemption under Notification No. 8/2003-CE dated 1.3.03 on some other products? (e) Briefly discuss, the residual penalty under rule 27 of the Central Excise Rules, 2002 (2 x 5 = 10 marks)

PART - B

Q4 (b) Calculate the net service tax payable under the provision of rule 2A of the Service tax (Determination of Value) Rules, 2006 relating to determination of value of services in the execution of a works contract from the following particulars: (i) Gross amount for the works contract (excluding VAT) Rs 1,00,000 (ii) Value of goods and materials sold in the execution of works contract Rs. 70,000 (iii) CENVAT credit on (ii) above Rs. 1,000 (iv) Service tax paid on input services Rs. 1,000 (v) CENVAT credit on capital goods issued in the provision of works contract service – Rs 1,000 (vi) Service tax rate 12.36%. Make suitable assumptions and provide explanations where required (5 marks)

Question 5(a) XYZ Co. was involved in the services of unloading of coal from wagon tipping system, stacking/reclaiming of coal to stacker reclaimer system and feeding of coal to boiler bunkers through conveyer system. The Department had taken a view that the charges received by XYZ Co. for such activity were taxable under the category of 'cargo handling services' in terms of section 65(105) (zr) read with section 65(23) of the Finance Act, 1994. M/s XYZ Co. claimed that the services rendered by it cannot be brought under 'cargo handling service' as it is engaged only in the handling of coal from railway wagons to the required destination of the thermal power station wherein machines are used with the aid of some manpower. Briefly explain, with reference to relevant provisions and case law, if any, whether the stand taken is correct in law. (5 Marks)

Q5(b) M/s Krishna Computer Colour Lab. is in the business of developing and printing of colour photographic films. It develops the negatives supplied by the customer and provides positive prints as per the order placed by the customer. The Department has demanded service tax on the entire amount charged from the customers without deduction of any amount towards cost of materials. The assessee's contention is that no service tax could be charged on the material content since service tax is only a tax on services and not on goods. Therefore, the assessee has sought to bifurcate the gross receipts on account of processing of photographs into the portion attributable to goods and those attributable to services so that service tax could be paid with respect to the value of service alone in their case. Briefly explain, with regard to decided case law, if any, whether the stand taken by M/s Krishna Computer Colour Lab. is correct in law. (5 Marks)

Question 6 (a) State whether the following are taxable under the provisions of the Finance Act, 1994 relating to service tax:- (i) Services provided in connection with the management of an organization by a management consultant having no professional qualification. (ii) Advance payment received from the service recipient by a person rendering construction services under section 65(105) (zzzh) of the Act. (4 Marks)

Q 6(b) State briefly, whether the following persons are liable to apply for registration under the Finance Act, 1994 and the Service Tax (Registration of Special Category of Persons) Rules, 2005 and if so, from which date: (i) An input service distributor who starts his business with effect from 1st January, 2008. (ii) A provider of taxable service under an unregistered brand name of another person. Aggregate value of taxable services was Rs. 6,00,000 up to 31.3.08. (4 Marks)

Q6(c) Write a brief note to explain the impact of VAT on lease transactions. (4 Marks)

Q6 (d) Illustrate with an example, whether inter-State purchases liable to central sales tax are eligible for input credit and explain the effect of the same on inter-State transactions (4 Marks)

Q6(e) Who are not eligible for composition scheme under the VAT regime? Discuss briefly. (4 Marks)

PART - C

Question 7 A consignment of 800 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment there were following imports of edible oil of Malaysian origin: (1) Quantity imported (tonnes) 20 at Unit price 260 USD CIF (2) Quantity imported (tonnes) 100 at Unit price 220 USD CIF (3) Quantity imported (tonnes) 500 at Unit price 200 USD CIF (4) Quantity imported (tonnes) 900 at Unit price 175 USD CIF (5) Quantity imported (tonnes) 400 at Unit price

180 USD CIF (6) Quantity imported (tonnes) 780 at Unit price 160 USD CIF . The rate of exchange on the relevant date was 1 US \$ = Rs. 43.00 and the rate of basic customs duty was 15% ad valorem. There is no countervailing duty or special additional duty. Calculate the amount of duty leviable on the consignment under the Customs Act, 1962 with appropriate assumptions and explanations where required. (5 Marks)

Question 8 M/s IES Ltd. (assessee) imported certain goods at US \$ 20 per unit from an exporter who was holding 30% equity in the share capital of the importer company. Subsequently, the assessee entered into an agreement with the same exporter to import the said goods in bulk at US \$ 14 per unit. When imports at the reduced price were effected pursuant to this agreement, the Department rejected the transaction value stating that the price was influenced by the relationship and completed the assessment on the basis of transaction value of the earlier imports i.e. at US \$20 per unit under rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007, viz transaction value of identical goods. State briefly, whether the Department's action is sustainable in law, with reference to decided cases, if any.(5 Marks)

Question 9 (a) Explain briefly, the significance of Indian customs waters under the Customs Act, 1962. (b) Section 14 of the Customs Act, 1962, with effect from 10.10.2007, and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are now fully compatible. Explain with a brief note (c) Can warehoused goods be transferred from one warehouse to another under the Customs Act, 1962? (d) What is the minimum and maximum rate or amount of duty drawback prescribed under the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 made under section 75 of the Customs Act, 1962? Explain with a brief note. (e) Briefly discuss, the procedure for confiscation of goods or imposition of penalty under section 124 of the Customs Act, 1962. (2 x 5=10 Marks)