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Marks

- (b) 'Smartphone' is in the business of providing mobile telephone service. The assessee sells "SIMCARDS" to its mobile telephone subscribers for a price. 'Smartphone' pay service tax on the activation and other charges. On the 'SIMCARDS' sold to the customers VAT under the applicable State law is paid. The Department's view is that the "SIMCARD" is used for provision of mobile services and is a part of the service and therefore the value of the "SIMCARD" has to be included in the category of 'telecommunication services' for purpose of service tax. Explain with a brief note and reference to decided case law whether the view taken by the department is correct in law. 5
- (c) ABC Company Ltd., has imported brine shrimp eggs. This was classified as "Prawn feed" for customs duty purposes under chapter heading No. 2309 of the Customs Tariff schedule which includes use as animal feed. The department's view was that this should be classified under chapter heading No. 051199 as non-edible animal products unfit for human consumption. M/s. ABC Co. provided literature to support their contention that the imported material contained little organisms/embryos which later became larva that were fed to the prawns. Therefore according to the importer the nature and character of the product was not changed or altered by nurturing or incubation. Hence the classification should be as prawn feed under chapter heading No. 2309. Decide with the help of case law if any whether the contention of the assessee, M/s. ABC Co. is correct in law. 5
5. (a) (i) Write a short note with reference to the Central Excise Act, 1944 and Cenvat Credit Rules 2004 on "goods" and "exempted goods". 2×3
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- (ii) Explain briefly the significance of "trade parlance test" with respect to classification of excisable goods under the Central Excise Act, 1944.
- (b) (i) Explain with a brief note with reference to the Finance Act, 1994 whether the business auxiliary service provided by a sub-broker to a stock-broker in relation to sale or purchase of securities listed on a registered stock exchange is liable to service tax. 2×3
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P.T.O.