Roll No. 448416 ....

Total No. of Questions – 7

Total No. of Printed Pages – 8

Time Allowed – 3 Hours

Maximum Marks – 100

TOP

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

Question No. 1 is compulsory.

Candidates are also required to answer any **five** questions from the remaining **six** questions.

Wherever necessary suitable assumptions may be made and disclosed by way of a note.

Working Notes should form part of the answer.

Marks

1. (a) Determine the amount of CENVAT Credit available to Devidayal Manufacturing Ltd., in respect of the following items procured by them in the month of September, 2012 : 5

Items	Excise Duty Paid (including EC and SHEC) ₹
(i) Raw materials	72,000
(ii) Capital goods used for generation of electricity for captive use within the factory	1,50,000
(iii) Inputs used for making structures for support of capital goods	1,00,000
(iv) Parts and components for use in the manufacture of final product	40,000
(v) Goods for providing free warranty	10,000
(vi) Special purpose motor vehicle for use in the factory of manufacturer	3,50,000
(vii) Goods used in the guest house primarily for personal use	20,000

Note : The aggregate value of clearances of Devidayal Manufacturing Ltd. for the financial year 2011-12 is ₹ 410 lakhs.

(Make suitable assumptions where required and show the workings.)

Marks

(b) Dhoni & Company, a small scale unit, provides the following details and seeks your advice whether they can claim exemption for the financial year 2012-13 in terms of Notification No. 8/2003-CE dated 1-3-2003 : 5

			₹ (in lakhs)
(i)	Total value of the clearance during the financial year 2011-12.		920
(ii)	The above amount includes the following :		
	(a) Total Exports (20% to Nepal)	300	
	(b) Clearances of non-excisable goods	50	
	(c) Clearances of excisable goods without payment of duty to a unit in Software Technology Park	100	
	(d) Clearances which were used captively to manufacture finished goods that are exempt under notification other than Notification No. 8/2003-CE d/-1-3-2003 as amended	100	
	(e) Job work under Notification No. 84/94-CE dated 11-4-94	50	
	(f) Clearance of excisable goods without payment of duty to a 100% EOU unit	50	
	(g) Clearances of excisable goods bearing brand name of Khadi and Village Industries Board	270	

Advise Dhoni & Company suitably with working notes and explanations wherever required.

(c) Mr. K.P. was liable to pay service tax of ₹ 6,00,000, for the quarter ending 30-6-2011. 5

He deposited abovesaid amount only on 15-9-2011.

Compute the interest amount payable by Mr. K.P. under section 75 of the Finance Act, 1994 on the assumption that the value of the taxable service provided by him during the last financial year was ₹ 47.50 lakhs. Would it make any difference if the value of taxable service provided by him during the last financial year was ₹ 67.50 lakhs ?

(Make suitable assumptions where required and show the workings.)

Marks

(d) Following are the particulars of purchases, sales etc. of Mr. Ramesh Yadav for the last quarter of the financial year 2011-12 : 5

(1) Purchases of raw-materials within the state : ₹

(i)	Taxable @ 2%	30,00,000
(ii)	Taxable @ 4%	60,00,000
(iii)	Taxable @ 12.5%	20,00,000

(2) Sales of goods purchased @ 4% tax rate : ₹

(i)	Taxable sale within the state (tax rate @ 4%)	15,00,000
(ii)	Exempted sale within the state	8,00,000
(iii)	Sale in the course of Inter-state Trade (CST @ 2%)	17,00,000

(3) Sale of raw materials purchased @ 2% Tax Rate 40,00,000

(4) Goods manufactured from raw-material purchased @ 12.5% tax rate were given on lease. The deemed sale price of such goods is ₹ 25,00,000, taxable @ 12.5%

Compute the amount of VAT payable by Mr. Ramesh Yadav for the relevant quarter. There was no opening or closing Inventory.

Consider that the input tax credit of tax paid on raw-material used in the manufacture of leased goods is available immediately.

(Make suitable assumptions where required and show the workings.)

(e) ABC Industries Ltd. had imported certain machineries from USA. For this purpose, the whole ship was chartered. From the following particulars, compute the assessable value for the purpose of customs duty : 5

(i)	F.O.B. value	20,000 US $
(ii)	Freight charges	2,500 US $
(iii)	Value of raw-materials supplied by ABC Industries Ltd. to the seller, free of cost	₹ 3,00,000
(iv)	Amount payable to the seller for post importation activities	₹ 5,00,000
(v)	Insurance charges not ascertainable.	
(vi)	Exchange Rate as per RBI is 1 $ = ₹ 48.50 Exchange Rate as per CBEC is 1 $ = ₹ 50.00	

Apart from the above charges, the importer has paid ₹ 7,500 towards ship demurrage charges and ₹ 15,000 towards lighterage and barge charges.

(Make suitable assumptions where required and show the workings.)

Marks

2. (a) Examine the validity of the following statements with reference to Cenvat Credit Rules, 2004 as amended : 2×3 = 6

(i) All motor vehicles are eligible as capital goods used in the factory of the manufacturer of the final products for availing Cenvat credit

(ii) If the capital goods are cleared as waste and scrap, the manufacturer has to pay an amount equal to the duty leviable on transaction value

(iii) Cenvat credit on inputs cannot be taken without bringing them into the premises of output service provider

(b) With reference to the amendment to the service Tax Rules, 1994 with effect from 1-4-2012, discuss the effect of changes in respect of the following : 2×3 = 6

(i) Exemption granted to the small service provider

(ii) Distribution of credit by input service distributor under rule 7

(iii) Payment of service tax by individuals and partnership firm under rule 6

(c) State whether an importer can make a request to the Customs Officer for provisional assessment if he is unable to make self-assessment under section 17(1) of the Customs Act, 1962 and if so, the conditions thereon. 3

3. (a) Jil was the manufacturer of the White Cement. He repaired his worn out machineries/parts of the cement manufacturing plant at its workshop such as damaged roller, shafts and coupling with the help of welding electrodes, mild steel, cutting tools, M.S. Angles, M.S. Channels, M.S. Beams, etc. In this process of repair, M.S. scrap and iron scrap were generated. Jil cleared this metal scrap and waste without paying any excise duty. The department issued a show cause notice demanding duty on the said waste contending that the process of generation of scrap and waste amounted to the manufacture in terms of section 2(f) of the Central Excise Act, 1944. 6

Briefly discuss with reference to any case law, whether the show-cause notice is sustainable in law.

Marks

(b) Mr. Rajan along with his family entered into agreement with a Municipality and had taken rooms on rent from it. The Municipality wanted to pass on the burden of Service Tax leviable on room rent to Mr. Rajan. However, Mr. Rajan challenged the validity of the demand for service tax. The primary contentions of Mr. Rajan were as follows : **6**

(i) Under the agreement, there was no provision of payment of service tax. Therefore, the demand for payment of service tax was illegal. Further, service tax was payable by the Municipality and there was no authority with which the Municipality could pass it on to Mr. Rajan.

(ii) Since they were small tenants, the Municipality must be treated as units of the state within the meaning of Article 289 of the Constitution of India and, therefore, levy of service tax on the property or on the income of the Municipality was unsustainable.

The Revenue contended that service tax was an indirect tax. Though primarily the person liable to pay the tax was Municipality, there was nothing in the law which prevented passing of the liability to Mr. Rajan.

You are required to examine whether liability to pay service tax can be passed on to Mr. Rajan in the instant case, with the help of a decided case law.

(c) Arora & Co. Ltd. imported certain parts of a machine and filed a Bill of Entry. Arora & Co. Ltd. paid the higher duty in ignorance of a notification which allowed him the payment of duty at a concessional rate. **3**

Later, Arora & Co. Ltd. filed a refund claim under section 27 of the Customs Act, 1962 by producing the certificate issued by the Chartered Accountant (CA) to establish that the amount of duty in relation to which such refund is claimed, has not been passed on by him to any other person. The refund claim was rejected by the department as there was no other evidence other than the certificate issued by CA.

Discuss with reference to decided case law if any whether the stand taken by the Department is correct in law.

Marks

4\. (a) M/s. Sainath got its unit 'Sainath Internations Limited (SIL) registered after few days of the search conducted in its unit. Thereafter, it filed consolidated return with the Department for the period prior to search. After that, it filed a settlement application in respect of the proceedings issued by the Commissioner. The settlement commission opined that the units were registered only after the search was conducted and prior to that there was no registration and no returns as mandated by clause (a) of the first proviso to section 32E(1) of the Central Excise Act, 1944 were filed. Consequently, the Commission rejected the settlement application on the ground that the application did not conform to the parameters as stipulated under Section 32E(1) of the Act. 6

Explain, with the help of a decided case law whether the rejection order passed by Settlement Commission is valid in law.

(b) X & Co. Ltd. are the manufacturers of parts and accessories of motor vehicles falling under chapter 8708 99 00 of the Central Excise Tariff Act, 1985. They avail Cenvat credit of duty on inputs, capital goods and service tax paid on services used in or in relation to manufacture of their final product. 6

By the scrutiny of records, the revenue found that the assessee had availed and utilized input service tax credit relating to canteen services. They also noticed that the assessee had availed and utilised input service tax credit relating to Rent-a-Cab service and on the Group Health Insurance services. Revenue issued a show-cause notice stating that input service credit availed in respect of Out-door-catering, Rent-a-Cab service and Group Health Insurance service should be treated as wrong availment and utilization of input service credit and the assessee is liable to refund the same with interest and penalty under Rule 14 of the Cenvat Credit Rules, 2004. The assessee contended that all those services were availed in or in relation to the manufacturing activity and therefore falls within the definition of "input service" and therefore they have rightly availed the benefit of Cenvat credit.

You are required to examine whether the show cause notice issued by the Revenue is valid or not, by referring to case law, if any.

Marks

(c) Explain with the help of decided case law if any, whether in case of goods liable to confiscation under section 111 of the Customs Act, 1962, issuing a notice to the owner-original importer of the goods is enough or a notice is also required to be issued to the person from whose custody the goods are seized. 3

5. (a) (i) State the various circumstances where goods are liable for confiscation under Central Excise Law. Can the assessee get back the confiscated goods and if so how ? 3×2 = 6

(ii) Briefly discuss on determination of "Taxable Event" for levy of excise duty under Central Excise Act, 1944.

(b) (i) Explain the action that can be taken by the department in case of misuse of service tax credit. 3×2 = 6

(ii) What are the different modes of incentives under VAT ?

(c) State the circumstances under which goods are considered to have been removed improperly from a warehouse under the Customs Act, 1962. 3

6. (a) (i) Briefly explain the procedure for removal of goods by a unit which is a 100% Export Oriented Unit (EOU) for Domestic Tariff Area (DTA). 3×2 = 6

(ii) Discuss in brief the power of settlement commission to grant immunity from prosecution.

OR

(a) (i) What do you understand by "residual method of valuation" ? Bring out your answer with reference to the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007. 4

(ii) Briefly discuss the date of determining the rate of duty and tariff valuation of imported goods as per section 15 of the Customs Act, 1962. 2

Marks

(b) (i) State the procedure to be followed by an exporter for electronic refund through ICES system where the exporter has used the General Insurance Services and Customs House Agent's services and paid service tax on the services used. 3×2 =6

(ii) What are the various types of Audit under VAT ?

(c) Explain briefly the provisions of section 28(5) of the Customs Act, 1962 in respect of a person who voluntarily deposits full duty with interest and the applicable penalty thereto. 3

7. (a) (i) State the provisions for determining the value of goods for sale at depot/consignment agent under Central Excise Valuation Rules, 2000. 3×2 =6

(ii) Explain briefly the provisions relating to special Audit in certain cases under section 14A of the Central Excise Act, 1944.

(b) (i) What is the implication of the amendment to the definition of "continuous supply service" as per rule 2(c) of Point of Taxation Rules, 2011 ? Mention any two services which have been notified as "continuous supply of service". 3×2 =6

(ii) Explain the importance of VAT Invoice.

(c) Elucidate by referring to decided case law, if any, the circumstances under which the penalty can be imposed under section 112(a)(ii) of the Customs Act, 1962. 3