Indirect Tax Case laws summary for May 2013 Exams

S.no	Issue	Case laws
1	Does the process of removal of foreign materials from iron ore for concentration of such ore amount to manufacture?	Steel Authority of India Ltd.
2	Whether the addition and mixing of polymers and additives to base bitumen results in the manufacture of a new marketable commodity and as such exigible to Excise duty?	Osnar Chemical Pvt Ltd.
3	Whether the metal scrap or waste generated during the repair of his worn out machineries/parts of cement manufacturing plant by a cement manufacturer amounts to manufacture?	Grasim Industries Ltd.
4	Are the physician samples excisable goods in view of the fact that they are statutorily prohibited from being sold?	Medley Pharmaceuticals Ltd
5	Whether assembling of the testing equipments for testing the final product in the factory amounts to manufacture?	Usha Rectifier Corpn.
6	Does the process of cutting and embossing aluminium foil for packing the cigarettes amount to manufacture?	GTC Industries Ltd.
7	Does a product with short shelf-life satisfy the test of marketability?	Nicholas Piramal India Ltd
8	Whether the theoretical possibility of product being sold is sufficient to establish the marketability of a product?	Bata India Ltd
9	Whether the machine which is not assimilated in permanent structure would be considered to be moveable so as to be dutiable under the Central Excise Act?	Solid & Correct Engineering Works
10	Does the activity of packing of imported compact discs in a jewel box along with inlay card amount to manufacture?	Sony Music Entertainment Pvt. Ltd.
11	Does the process of preparation of tarpaulin made-ups after cutting and stitching the tarpaulin fabric and fixing the eye-lets amount to manufacture?	Tarpaulin international
12	In case of specific classification viz-a-viz classification based on material used/composition of goods, which one should be adopted?	Minwool Rock Fibres Ltd.
13	In case of a specific entry viz-a-viz a residuary entry, which one should be preferred for classification ?	Wockhardt Life Sciences Ltd
14	Whether the price used for selling of a product below the cost price for penetration of market can be considered as transaction value?	Fiat India Pvt.Ltd.
15	Whether the charges towards pre-delivery inspection and after-sale-service recovered by dealers from buyers of the cars would be included in the assessable value of cars?	Maruti Suzuki India Ltd.
16	In case the testing is critical to ensure marketability of manufactured product i.e. the manufacture is not complete without testing; is CENVAT credit of the testing material allowed?	Flex Engineering Ltd.
17	The assessee claimed the CENVAT credit on the duty paid on capital goods which were later destroyed by fire. The Insurance Company reimbursed the amount inclusive of excise duty. Is the CENVAT credit availed by the assessee required to be reversed?	Tata Advanced Materials Ltd
18	In case of combo-pack of bought out tooth brush sold alongwith tooth paste manufactured by assessee; is tooth brush eligible as input under the CENVAT Credit Rules, 2004?	Prime Health Care Products
19	Whether CENVAT credit can be denied on the ground that the weight of the inputs recorded on receipt in the premises of the manufacturer of the final products shows a shortage as compared to the weight recorded in the relevant invoice?	Bhuwalka Steel Industries Ltd
20	Whether penalty can be imposed on the directors of the company for the wrong CENVAT credit availed by the company?	Ashok Kumar H. Fulwadhya
21	Can CENVAT credit be taken on the basis of private challans?	Stelko Strips Ltd
22	Whether Additional Director General, Directorate General of Central Excise Intelligence can be considered a central excise officer for the purpose of issuing SCN?	Raghunath International Ltd
23	Is the copy of the order mandatory to be served via "registered post" or a speed post would also suffice?	Amidev Agro Care Pvt. Ltd.
24	If Revenue accepts judgment of the Commissioner (Appeals) on an issue for one period, can it be precluded to make an appeal on the same issue for another period?	Tikitar Industries
25	Whether time-limit under section 11A of the Central Excise Act, 1944 is applicable to recovery of dues under compounded levy scheme?	Hans Steel Rolling Mill
26	Whether non-disclosure of a statutory requirement under law would amount to suppression for invoking the larger period of limitation under section 11A?	Accrapac (India) Pvt. Ltd.
27	Whether the interest on delayed refund under section 11BB would be payable from the date of deposit of tax or from the date of receipt of application for refund?	Kanyaka Parameshwari Engineering Ltd.
28	What is the date of commencement of the period for the purpose of computing interest on delayed refunds under section 11BB- the date of receipt of application for refund or date on which the order of refund is made?	Ranbaxy Laboratories Ltd.
29	Can the excess duty paid by the seller be refunded on the basis of the debit note issued by the buyer?	Techno Rubber Pvt Ltd.
30	Merely because assessee has sustained loss more than the refund claim, is it justifiable to hold that it is not a case of unjust enrichment even though the assessee failed to establish non-inclusion of duty in the cost of production?	Gem Properties (P) Ltd.
31	Whether doctrine of merger is applicable when appeal dismissed on the grounds of limitation and not on merits?	Raja Mechanical Co.(P) Ltd.
32	Whether the construction of pre-fabricated components at one site to be used at different inter-connected metro construction sites in Delhi would get covered under exemption Notification No. 112011-C.E.(N.T.) dated 17-2-2011 exempting the 'goods manufactured at the site of construction for use in construction work at such site' ?	Rajendra Narayan
33	Can re-appreciation of evidence by CESTAT be considered to be rectification of mistake apparent on record under section 35C(2) of the Central Excise Act, 1944?	RDC Concrete (India) Pvt. Ltd
34	Is the CESTAT order disposing appeal on a totally new ground sustainable?	Gujchem Distillers
35	Whether an assessee can claim the benefit of SSI exemption on the brand name of another firm if its proprietor is also a partner in such other firm?	Elex Knitting Machinery Co.
36	Whether the exempted goods on which duty has been paid by mistake by the assessee and refund thereof has also not been claimed would be excluded while computing turnover for preceding year for claiming SSI exemption?	Bonanzo Engg. & Chemical P. Ltd.

37	Whether the clearances of two firms having common brand name, goods being manufactured in the same factory premises, having common management and accounts etc. can be clubbed for the purposes of SSI exemption?	Deora Engineering Works
38	Can the Settlement Commission decline to grant immunity from prosecution after confirming the demand and imposing the penalty?	Maruthi Tex Print & Pr ocessors P. Ltd.
39	Whether a consolidated return filed by the assessee after obtaining registration, but for the period prior to obtaining registration, could be treated as a return under clause (a) of first proviso to section 32E(1)?	Icon Industries
40	Is the Settlement Commission empowered to grant the benefit under the proviso to section 11AC in cases of settlement?	Ashwani Tobacco Co. Pvt. Ltd.
41	In case no statutory definition is provided under law, can the opinion of expert in trade who deals in those goods be considered?	Konkan Synthetic Fibres
42	Are the clearance of goods from DTA to Special Economic Zone chargeable to export duty under the SEZ Act, 2005 or the Customs Act, 1962?	Tirupati Udyog Ltd.
43	Whether remission of duty is permissible under section 23 of the Customs Act when the remission application is filed after the expiry ofwarehousing period (including extended warehousing period)?	Decorative Laminates
44	Where a classification (under a Customs Tariff head) is recognized by the Government in a notification any point of time, can the same be made applicable in a previous classification in the absence of any conscious modification in the Tariff?	Keihin Penalfa Ltd.
45	Whether classification of the imported product changes if it undergoes a change after importation and before being actually used?	Atherton Engineering Co. Pvt. Ltd.
46	Will the description of the goods as per the documents submitted along with the Shipping Bill be a relevant criterion for the purpose of classification, if not otherwise disputed on the basis of any technical opinion or test? Whether a separate notice is required to be issued for payment of interest which is mandatory and automatically applies for recovery of excess drawback?	CPS Textiles P Ltd.
47	Whether subsequent increase in the market price of the imported goods due to inflation would lead to increase in customs duty although the contract price between the parties has not increased accordingly?	Aggarwal Industries Ltd.
48	Whether the issue of the imported goods warehoused in the premises of 100% EOU for manufacture/production/processing in 100% EOU would amount to clearance for home consumption?	Paras Fab International
49	Whether Revenue can prefer an appeal in case of a consent order?	Trilux Electronics
50	Whether Chartered Accountant's certificate alone is sufficient evidence to rule out the unjust enrichment under customs?	BPL Ltd.
51	Can a refund claim be filed under section 27 of the Customs Act, 1962 if the payment of duty has not been made pursuant to an assessment order?	Aman Medical products Ltd.
52	Can the assessee be denied the refund claim only on the basis of contention that he had produced the attested copy of TR-6 challan* and not the original of the TR-6 challan*?	Narayan Nambiar Meloths
53	Whether discharge of liability on indicated value would still make the assesse liable for confiscation of goods if he has initially made a mis-declaration of the value thereof?	Wringley India Pvt.Ltd.
54	Whether the smuggled goods can be re-exported from the customs area without formally getting them release from confiscation?	Hemal K. Shah
55	Can the goods be detained indefinitely without any formal order under section 110 of the Customs Act, 1962?	S.J. Fabrics Pvt. Ltd.
56	Is it mandatory for the Revenue officers to make available the copies of the seized documents to the person from whose custody such documents were seized?	Manish Lalit Kumar Bavishi
57	Under what circumstances can the penalty be imposed in terms of section 112(a)(ii) of the Customs Act, 1962?	O. T. Enasu
58	Can separate penalty under section 112 of the Customs Act be imposed on the partners when the same has already been imposed on partnership firm?	Textoplast Industries
59	Is the want of evidence from foreign supplier enough to cancel the confiscation order of goods undervalued?	Jaya Singh Vijaya Jhaveri
60	Whether the benefit of exemption meant for imported goods can also be given to the smuggled goods?	M. Ambalal & Co.
61	In case of a Settlement Commission's order, can the assessee be permitted to accept what is favourable to them and reject what is not?	Sanghvi Reconditioners Pvt. Ltd.
62	Can the order of the Settlement Commission be considered to be a judicial proceeding?	East & West Shipping Agency
63	Does the Settlement Commission have jurisdiction to settle cases relating to the recovery of drawback erroneously paid by the Revenue?	Union of India
64	Whether the service tax liability created under law can be shifted by a clause entered in the contract?	Dewan Chand Ram Saran
65	Will service tax paid mistakenly arouse service tax liability?	KVR Construction
66	Is the service tax and excise liability mutually exclusive?	Lincoln Helios (India) Ltd.
67	In case where rooms have been rented out by Municipality, can it pass the burden of service tax to the service receivers i.e. tenants?	Kishore K.S.
68	Were services provided to the pilgrims taxable under short term accommodation service?	Tirumala Tirupati Devasthanams, Tirupati
69	Can a software be treated as goods and if so, whether its supply to a customer as per an "End User Licence Agreement" (EULA) would be treated as sale or service?	Infotech Software Dealers Association
70	Whether service tax is chargeable on the buffer subsidy provided by the Government for storage of free sale sugar, under the category of 'storage and warehousing services'?	Nahar industrial Enterprises Ltd
71	Whether the penalty is payable even when service tax and interest has been paid before issue of show cause notice?	Adecco Flexione Workforce Solutions Ltd.
72	Can appeal be filed to High Court for deciding the question relating to the taxability of service tax?	Volvo India Ltd

Do read the case law (ICAI booklet) before reading it. Use this only for last minute revision. Do compare with Booklet and scribble the decision of the court.
It will be helpful to you as you will need to learn only 2 pages for the case laws carrying 30 marks

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