

Test Series : February, 2013

MOCK TEST PAPER – 1

FINAL COURSE: GROUP – II

PAPER – 8: INDIRECT TAX LAWS

Question No. 1 is compulsory.

*Attempt any **five** questions from the remaining **six** questions.*

Working notes should form part of the answer.

Wherever necessary, suitable assumptions may be made by the candidates

Time Allowed – 3 Hours

Maximum Marks – 100

1. (a) Swagat Enterprises is engaged in the manufacture of excisable goods. In the financial year 2012-13, the value of total clearances from the unit was ₹ 550 lakh as per the following details:

S. No.	Particulars	Amount (₹ in lakh)
(i)	Goods subject to valuation based on retail sale price under section 4A of the Central Excise Act, 1944 (said goods are eligible for 40% abatement)	100
(ii)	Goods on which duty is paid based on annual capacity of production under section 3A of the Central Excise Act, 1944	100
(iii)	Clearances without payment of duty to a 100% export oriented unit	50
(iv)	Goods bearing brand name of National Small Industries Corporation	50
(v)	Exports to U.S.A.	90
(vi)	Exports to Bhutan	50
(vii)	Job work done under <i>Notification No. 214/86-C.E. and 84/94-CE</i>	50
(viii)	Goods manufactured in rural area with brand name of others	30
(ix)	Balance clearances of goods in the normal course	30

Swagat Enterprises has sought your advice as to whether it is eligible to claim the benefit of exemption under *Notification No. 8/2003 – C.E. dated 01.03.2003* in the financial year 2013-14. (10 Marks)

- (b) Bharatpur Post Office provided the following services to persons other than Government during the quarter ending 31.03.2013:-

<i>Services rendered</i>	<i>Amount (₹)</i>
Speed post services	6,50,000
Basic mail services	5,00,000
Issuance of postal orders	4,50,000
Distribution of mutual funds, bonds and passport applications	8,00,000
Transfer of money through money orders	5,00,000
Rural postal life insurance services	3,00,000
Collection of telephone and electricity bills	5,50,000
Pension payment services	1,50,000
Operation of saving accounts	5,50,000
Express parcel post services	7,00,000

Compute the service tax liability of Bharatpur Post Office for the quarter ending 31.03.2013.

Notes:

- Point of taxation in all the aforesaid cases falls during the quarter ending 31.03.2013.
 - All the charges stated above are exclusive of service tax.
 - Small Service Providers' exemption need not be taken into account while solving the aforesaid question. (5 Marks)
- (c) 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%

	Particulars	₹ (in lakh)
(i)	Total contract price (excluding VAT)	200
(ii)	Labour charges paid for execution of the contract	70
(iii)	Cost of consumables used not involving transfer of property in goods	10
(iv)	Material purchased and used for the contract taxable at 12.5% VAT (VAT included)	90

The contractor also purchased a plant for use in the contract for ₹ 20.8 lakhs (inclusive of VAT). In the VAT invoice relating to the same, VAT was charged at 4% separately. Assume 100% input tax credit is available on capital goods immediately. (5 Marks)

- (d) Indiana Industries has imported a machine from UK. Compute the assessable value and customs duty payable on the machine with the help of the information provided below:

(i)	F.O.B. value of machine	16,000 UK Pounds
(ii)	Freight paid (air)	5,000 UK Pounds
(iii)	Design and development charges paid in UK	1,000 UK Pounds
(iv)	Commission payable to local agent @ 2% of F.O.B. in Indian rupees	
(v)	Date of bill of entry	24.10.2012 (Rate BCD 20%; Exchange rate as notified by CBEC ₹ 80 per UK Pound)
(vi)	Date of entry inward	20.10.2012 (Rate of BCD 18%; Exchange rate as notified by CBEC ₹ 82 per cent UK Pound)
(vii)	C.V.D. is payable @ 12%	
(viii)	Special C.V.D. – as applicable	
(ix)	Insurance charges have been actually paid but details are not available.	

(5 Marks)

2. (a) With reference to amendments effected recently in the CENVAT Credit Rules, 2004, explain the following:
- Definition of exempted services under rule 2(e). (2 Marks)
 - Refund of CENVAT credit to service providers providing services taxed on reverse charge basis under rule 5B. (4 Marks)
- (b) With reference to amendments effected recently in the service tax, explain the following:
- Conditions to be fulfilled for service to be treated as export of service under rule 6A(1) of the Service Tax Rules, 1994. (4 Marks)
 - Definition of continuous supply of service under rule 2(c) of the Point of Taxation Rules, 2011. (2 Marks)
- (c) Mr. Kamal, aged 36 years, was sent to USA for 3 weeks for 'on the job training'. On his return, apart from used personal daily necessities of life, he brought a home theatre worth ₹ 32,000. Determine his duty liability, if any, under the Customs Act, 1962. (3 Marks)

3. (a) The Giant India Pvt. Ltd. (GIPL) was the manufacturer of motor cars. They were selling the cars below cost and were making losses in wholesale trade. The purpose was penetration of market and competing with other manufacturers of similar goods. The prices were not based on manufacturing cost and profit. This was happening over the period of five years. The Assistant Commissioner directed for the provisional assessment of the cars at a price which would include cost of production, selling expenses including transportation and landing charges, wherever necessary and profit margin, on the ground that the cars were not ordinarily sold in the course of wholesale trade as the cost of production is much more than their wholesale price, but were sold at loss for a consideration.

The Department disputed that as the extra commercial consideration was involved in this case, an additional consideration should be added to the price for the purpose of duty. Thus, the Department invoked Best Judgment Assessment.

You are required to discuss, with the help of a decided case law, if any, whether the Department's action was justified? (6 Marks)

- (b) BBP Constructions was a construction company rendering services under the category of "construction of residential complex service" and was paying the service tax in accordance with Finance Act, 1994. They undertook certain construction work on behalf of a trust and paid service tax accordingly. However, later they filed refund claim for the service tax so paid contending that they were not actually liable to pay service tax as it was exempt.

The Department rejected the refund claim on the ground that the refund application filed by BBP Constructions was beyond the limitation period as stated in section 11B of the Central Excise Act, 1944. However, in the instant case, Department did not dispute the fact that service tax was exempted.

Determine, with the help of a decided case law, if any, whether BBP Constructions is entitled to claim refund on service tax paid on construction activity so done by them. (6 Marks)

- (c) On 18th June 2012, Maurya Industries Ltd. (MIL) entered into a contract with foreign suppliers viz M/s. Jennifer Trading Pvt. Ltd., USA, for import of 1,000 metric tons of crude sunflower seed oil at the rate of US \$ 565 CIF/metric ton. Under the contract, the consignment was to be shipped in the month of July 2012. However, the mutually agreed time for shipment was extended to 'mid September 2012'. Thus, the goods were actually shipped on 5th September 2012 at the price prevailing at the contract date.

The Revenue contended that when actual shipment took place, after the expiry of the original shipment period, the international market price of crude sunflower seed oil had increased drastically and reached US \$ 900 CIF/metric ton. Therefore, the

contract price could not be accepted as the 'transaction value' and hence, the duty should be imposed on the increased prices.

Examine, with the help of a decided case law, if any, whether the contention of Revenue is correct. (3 Marks)

4. (a) Brahmdev Agrocure Ltd. (BAL) files an appeal in May 2012. The date of order is 31st March 2010. BAL contends that the copy of the order passed by the Commissioner of Central Excise (Appeals) is not served upon BAL. It is only when the recovery proceedings have been initiated, BAL sought a copy of the order dated 31st March 2010 and the same is made available to BAL on 26th February 2012. Immediately thereupon BAL has filed an appeal before the CESTAT on 17th May 2012. The Department contends that appeal is not filed within the stipulated time of 3 months from 31st March 2010, while the appellant contends that the appeal filed is within three months of the date of serving of the order i.e. 26th February 2012.

Examine the veracity of the Department's contention, with the help of a decided case law, if any. (6 Marks)

- (b) Ruby Workforce Solutions Ltd. –the assessee- had paid both the service tax and interest for delayed payment before issue of show cause notice under the Finance Act, 1994. Revenue authorities issued SCN to the assessee for delay in payment of service tax.

Assessee contended the issue of SCN on the ground that they had already paid the service tax along with interest for delayed payment of service tax.

Determine, with the help of a decided case law, if any, whether the assessee's contention is correct in law. (6 Marks)

- (c) Bonbon Synthetic Fibres (BSF) was an importer. It had imported one unit of the equipment which was declared as "Kari Mayer High Speed Draw Warping Machine with 1536 ends along with essential spares". BSF claimed that these goods were covered under an exemption notification.

Under the said notification, exemption was available in respect of the High Speed Warping Machine with yarn tensioning, pneumatic suction devices and accessories. BSF had imported High Speed Warping Machine, but instead of the pneumatic suction device, it had drawing unit.

The Customs authorities refused to accept the request of BSF and accordingly, had directed the assessee to pay the duty under the provisions of the Customs Act, 1962. Revenue contended that the machine imported by BSF was not in consonance with the exemption notification and, therefore, the benefit of exemption should not be available under the notification to BSF.

However, it may be noted that the textile commissioner, who was well conversant with these machines, had stated that the goods imported by BSF were covered

under the exemption notification. He further stated that drawing unit was just an essential accessory to the machines imported by BSF and, therefore, was covered under said notification.

Examiner, with the help of a decided case law, whether BSF is liable to pay custom duty. (3 Marks)

5. (a) (i) Mohan Enterprises is engaged in manufacturing the articles of jewellery falling under heading 7113 on job work basis for Haribhakti Jewellers. Haribhakti Jewellers is of the opinion that Mohan Enterprises is liable to obtain registration, maintain accounts, pay duty leviable on such goods and comply with all the relevant provisions of Central Excise Rules, 2002. You are required to determine whether Haribhakti Jewellers' opinion is correct in law.

(4 Marks)

- (ii) The maxim "Latter the Better" applies in classifying the excisable goods. Discuss. (2 Marks)

- (b) State with reasons whether the following are liable to service tax:-

- (i) Services by way of training or coaching in recreational activities relating to arts, culture or sports.

- (ii) Services provided by a player to a franchisee which is not a recognized sports body.

- (iii) Pre-school education and education up to higher secondary school or equivalent. (3 × 2 = 6 Marks)

- (c) An exporter who has been held guilty of exporting 'prohibited goods' is entitled to an option to pay fine in lieu of confiscation under section 125 of the Customs Act, 1962. Discuss the validity of the statement. (3 Marks)

6. (a) Mr. Arnav Gupta, manufactures electronic items for selling them within India as well as for export to USA. He has stored his goods in the warehouse for the purpose of exports. However, on account of certain unforeseen circumstances, goods cannot be exported to USA. Now, he wishes to divert the goods which were kept in the warehouse for the purpose of export, for home consumption. Explain briefly the procedure under Central Excise Act, 1944 to be adopted by Mr. Arnav Gupta for diverting the said goods kept in the warehouse for the purpose of export to USA for home consumption. (6 Marks)

OR

- (a) Briefly explain the procedure for Excise Audit, 2000. (6 Marks)

- (b) Determine the place of provision of service in accordance with the Place of Provision of Services Rules, 2012 in the following cases:-

- (i) Paul Adams, a well-known singer from Singapore, organises a Rock Concert in

Jaipur and Mumbai. It undertook the event management services from Beta Services Ltd.

- (ii) Malabar & Co., an Indian firm, provides 'technical inspection and certification service' for a newly developed product of an overseas firm (for a newly launched motorbike which has to meet emission standards in different States or countries). The testing is carried out in Gujarat (20%), Kerala (25%), and Colombo (55%). (3 × 2 = 6 Marks)
 - (c) New Horizons Exporters have exported some goods outside India. FOB value of 1,000 kg of goods exported is ₹ 2,30,000. Rate of duty drawback on such export is ₹ 100 per kg. Market price of goods is ₹ 75,000 (in wholesale market). You are required to ascertain whether New Horizons Exporters is entitled to duty drawback and if yes, what is the quantum of such duty drawback? (3 Marks)
7. (a) Briefly explain whether the following statements are correct with reference to the Central Excise Act, 1944:-
- (i) In terms of section 32F(6), time limit for passing of the settlement order is nine months from the last day of the month in which the application was made and no extension of this period is permissible.
 - (ii) As per section 32-O, an assessee cannot apply for settlement more than once. (3 × 2 = 6 Marks)
- (b) (i) Shubham Enterprises (SE) has entered into a contract for construction of a building with BCL. As per the agreement, the amount payable (excluding all taxes) by SE to BCL is ₹ 1,00,00,000 in addition to the steel and cement to be supplied by SE for which it charged ₹ 6,00,000 from BCL. Fair market value of the steel and cement (excluding VAT) is ₹ 12,00,000. Compute the 'total amount charged' pertaining to the said works contract for execution of 'original works'. (3 Marks)
- (ii) Explain briefly whether VAT is leviable on each of the following lease transactions:-
- (1) Inter State Leasing
 - (2) Sale of leased asset after lease period (3 Marks)
- (c) Soma Ltd. imported certain goods imported from Germany. Their assessable value is ₹ 20,00,000. The packet contains 20,000 pieces with maximum retail price of ₹ 400 each. The goods are assessable under section 4A of the Central Excise Act, 1944, after allowing an abatement of 40%. The excise duty rate is 12% ad valorem. Calculate the amount of additional duty of customs under section 3(1) of the Customs Tariff Act, 1975 assuming basic customs duty @ 10% ad valorem. (3 Marks)