Paper 8: Indirect Tax laws

Q.1 *is compulsory. Answer any* ***five*** *questions from remaining.*
Working notes and suitable assumptions (wherever appropriate) should form part of your answer.

Question 1 ***(5 x 5 = 25 marks)***

(a) *Following information relates to Vishwanath Manufacturing Co. for the month of June, 2013 :*

Particulars	**Amount**
Machines imported from Japan by vessel	8,000 J ¥
Accessories imported along with machines(included above)	4,000 J ¥
Freight charges	3,000 J ¥
Cost of transportation incurred while delivery at port	5,000 J ¥
Royalties paid on importation	` 500
Local agents commission	` 7,500
Insurance charges	Not ascertainable
Landing charges	Information not available

Additional information:

(i)

	Date	**BCD applicable to machines**	**Rate notified by CBEC**
Presentation of bill of entry	15.06.2013	15%	1 J ¥ = ` 45.50
Arrival of machines in India	25.06.2013	20%	1 J ¥ = ` 48.20

(ii) *Additional Customs Duty : 10%*
(iii) *Machines are imported from Japan at FOB price*

Compute assessable value of and total custom duty on machines and accessories as per Customs (Determination of Value of Imported Goods) Rules, 2007 and Accessories (Condition) Rules, 1963.

(b) *Ragini Ltd. of Maharashtra submits following information relating to sales and purchase during quarter ended March, 2013:*

(i) *Raw materials purchased from Surat worth ` 1,56,000 (incl. VAT @ 4%).*
(ii) *Raw materials purchased from Mumbai taxable @ 1% : ` 6,00,000.*
(iii) *Intra state purchase of raw materials worth ` 2,00,000 taxable @ 12.5%.*
(iv) *Goods manufactured from raw materials purchased @ 12.5% rate were given on lease and sale price of such goods taxable @ 12.5% is assumed to be ` 4,00,000.*
(v) *Sale of materials purchased @ 4%: ` 7,50,000.*
(vi) *Sale of goods manufactured from raw materials purchased @ 1% tax rate:*

	`
Exempted sale within the state	*5,00,000*
Sale during the course of interstate trade and commerce (tax rate 5%)	*2,50,000*

Calculate total tax liability under the State VAT law and under the Central Sales Tax Act. (Provide necessary explanations and assumptions).

(c) ***(i)*** *GTL Constructions (Pvt.) Ltd. entered into a contract with Sarthak Ltd. (SL) for construction of premises in Kerala. As per the terms of contract, the amount payable (excl. all taxes) by GTL to SL is ` 1,00,000 in addition to the goods to be supplied by GTL for which it charged ` 11,250 (incl. VAT @ 12.5%). However fair market value of goods is ` 70,000 (excl. VAT). Calculate total amount charged on execution of 'original works'.*
(3 marks)

(ii) *A service tax assessee filed his return for the half year ending 30th Sept, 2012 on 14.12.2012.You are required to:*

1. *Explain whether there is any delay in submission of return.* ***(1 mark)***
2. *Compute penalty as per Rule 7C of Service Tax Rules, 1994, if any.* ***(1 mark)***

(d) *From the following information, ascertain the amount of CENVAT Credit available to Surya Manufacturers (not eligible for SSI exemption) applying CENVAT Credit Rules, 2004 :*

Capital goods and inputs	Excise Duty paid (incl. Education Cess @ 3%) [`]
Raw materials	20,000
Motor vehicles:	
(i) falling under tariff heading 8704 used for providing output services	65,000
(ii) used within the factory for transport of goods	1,25,000
(iii) including dumpers and trippers used within the factory	1,00,000
Spare parts of goods falling under Chapter 90	55,000
Light diesel oil	29,500
Goods for providing free warranty	15,000
Office equipments	20,000
Goods used in execution of works contract of building	50,720
Refractory materials	28,000

(e) *Calculate the assessable value and excise duty payable by KIRTI Marketing under Central Excise Law using following information :*

Sr. No	**Details of goods**	**Factory price**	**Depot price**
1.	1,200 units transferred from factory to depot on 15th March taxable @ 10% of basic duty	` 125 per unit	` 175 per unit
2.	800 units sold at depot on 20th March (duty Ad Valorem: 12%)	` 150 per unit	` 200 per unit

(It is assumed that price at depot on 15th March is the normal transaction value for sale to independent buyers)

Question 2

(a) *Answer the following questions according to CENVAT Credit Rules, 2004 as amended vide Finance Act, 2012:* ***(3 x 2 = 6 marks)***

(i) *What are the types of motor vehicles not eligible as capital goods as per rule 2(a)?*
(ii) *Define "Exempted Services" as per rule 2(e).*

(b) *What are the classes of importers liable to pay customs duty electronically?* ***(2 marks)***

(c) *Enlist advantages/benefits accruing out of VAT Invoice.* ***(3 marks)***

(d) *Mention the proportion of service tax liability to be paid by the provider of service and the recipient of service in respect of following services vide Notification No. 30/2012 dated 20.06.2012 :* ***(4 marks)***

(i) *Services received by STEEL Udhyog Ltd. from its director Mr. X*
(ii) *Security services received by ABC Ltd. (Delhi) from PQR, an unregistered partnership firm located in Patna.*
(iii) *Services provided by a Goods Transport Agency to a Society registered under Societies Registration Act, 1860.*
(iv) *Supply of manpower by Mumbai based HUF to a body corporate located in China.*

Question 3

(a) *Answer the following as per VAT laws applicable to India :* ***(4 marks)***

(i) *What are the circumstances under which subtraction method for computation of VAT can be applied normally?*

(ii) *Mr. Bharat of Gujarat is a manufacturer of steel products having a gross annual turnover of ` 45 lakhs for the quarter ending 31st March, 2013. He purchases goods within the state and makes sales to Newyork. Whether he is eligible for opting composition scheme under the VAT regime?*

(b) *What are the due dates for payment of excise duty and of filling of returns by small scale industrial units?* ***(4 marks)***

(c) *Explain in brief the provisions of refund on anti – dumping duty in certain cases.* ***(3 marks)***

(d) *Examine the correctness of following statements in accordance with Service Tax Law and rules made there under :* ***(4 marks)***

- **(i)** *Services provided by Indian railways in respect of transportation of goods are taxable @ 12.36%.*
- **(ii)** *Mr. K, an assessee whose value of taxable services provided being ` 85,00,000 makes default in payment of service tax to the government. Hence he shall be liable to pay interest on delayed payment @ 15% p.a.*
- **(iii)** *Penalty payable by a service tax assessee u/s 76 on late deposition of service tax shall be subject to maximum of 50% of such service tax deposited.*
- **(iv)** *The term 'service' as defined u/s 65B (33) of the Finance Act, 1994 includes the word 'consideration'. Consideration thereby means monetary as well as non - monetary consideration.*

Question 4

(a) *With reference to the decided case law, answer* ***any four*** *of the following :* ***(3 x 4 = 12 marks)***

(i) *An assessee is engaged in the manufacture of cigarettes used duty paid paperback aluminum foil in the roll form to pack cigarettes. During the process, a roll of aluminum foil was cut horizontally to make separate pieces of the foil and word 'PULL' was embossed on it. Thereafter fixed number of cigarettes were wrapped in it. Aluminum foil was used as a protector for cigarettes and to keep them dry since it being resistant to moisture. Revenue issued a show cause notice contending that since the aluminum foil was used as a shell for cigarettes to protect them from moisture, the process of cutting and embossing aluminum foil amounts to manufacture owing to the change in nature, form and purpose of the foil. Discuss whether the show cause notice is sustainable in law.*

(ii) *ABC & Co. imported certain smuggled goods into India. ABC & Co. is getting the benefit of the exemption notification applicable to imported goods and proposes that the smuggled goods imported into the country should be considered as 'imported goods' for the purpose of availing the benefit of the exemption notification. Decide the correctness of the proposal of the assessee.*

(iii) *Mr. Z entered into a contract with Ludhiana Municipal Corporation where by the later has provided rooms on rent to the former. There after Mr. Z was called by municipality to pay service tax on rented rooms. Mr. Z primarily contends that since there was no provision for payment of service tax under the agreement and that the Municipality has no such authority to order him for payment; he is not liable for the same. Mr. Z also contends that since he is a small tenant, the Municipality must be treated as units of Ludhiana within the meaning of Article 289 of the Constitution of India and hence levy of tax on the property or on the income derived from room rent by the Municipality was unsustainable. Discuss.*

(iv) *Shubham Fabrications imports equipment declared as 'Kari Mayer High Speed Draw Wrapping Machine' alongwith its necessary spares parts. The textile manager opined that the drawing unit of equipment imported is just an essential accessory to the machine and since such exemption being available to High Speed Wrapping Machine with yarn tensioning, pneumatic suction devices and accessories, the goods imported are covered under the exemption notification. Whereas the Commissioner of Customs (Import) refuses to consider the request of assessee being of the opinion that the machine imported by assessee is not eligible for exemption under the said notification and hence called upon the assessee for payment of duty on such imports.*

(v) *Freezi Food Products Pvt. Ltd. had filed an appeal before Appellate Tribunal on 15.09.2012 in response to the order dated 30.09.2011. The assessee contended that the copy of the order passed by Commissioner of Central Excise (Appeals) was received only after request on 25.06.2012 when the commissioner initiated the recovery proceedings against it and that after receiving the copy of order dated 30.09.2011 on 25.06.2012, it had filed an appeal before the Central Excise & Service Tax Appellate Tribunal (CESTAT) and hence there was no delay. However the department is of the view that appeal was not filed by 31.12.2011 (i.e. within three months from 30.09.2011), and hence there was a delay.*

(b) *Explain how are the 'incomplete/ unfinished goods having the essential characteristics of finished goods' classified under the Central Excise Tariff Act, 1985.* ***(3 marks)***

Question 5

(a) State the relevant date for determination of the rate of duty under the Customs Act, 1962 for the following cases : **(2 marks)**

- **(i)** Goods entered for export u/s 50
- **(ii)** Clearance of Baggage

(b) Certain duty credit scripts were issued to the agent of importer utilizing such instrument. However, later on the department realized that the said instrument was obtained by agent by means of willful mis – statement. In accordance with the provisions of section 28AAA of the Customs Act, 1962 answer the following questions :**(2 marks)**

- **(i)** What is the time limit within which the person concerned in **sub-section (1)** of the said section shall repay the duty or interest specified in the notice, to the department?
- **(ii)** Under what circumstance(s) the provisions of section 28AAA are not applicable?

(c) As per Excise Audit Manual 2000, what is the frequency for conducting audit under Excise? **(3 marks)**

(d) Enumerate the circumstances under which the assessee is barred from making an application for settlement of cases u/s 32E of Central Excise Act, 1994. **(4 marks)**

(e) Determine the point of taxation under the following questions in accordance with POT Rules, 2011: **(2 x 2 = 4 marks)**

(i) Date of completion of provision of services for DENA Bank : 17.06.2012
Date of issuance of invoice : 05.08.2012
Date of receipt of advance in respect of 40% of services : 10.06.2012
Date of receipt of payment on behalf of balance of services : 02.08.2012

(iii) Rajeev Ltd. imports Business Support Services from Eco Ltd. of United States for $ 2,00,000.
Date on which the services are imported : 07.12.2012
Date on which Eco. Ltd issued invoice for $ 2 lakhs : 02.01.2013
Date on which the payment is made by Rajeev Ltd. : 28.05.2013

Question 6

(a) What are the provisions of the Customs Act, 1962 regarding rejection of an application for advance ruling? **(3 marks)**

(b) Ascertain the taxability of following services under Finance Act, 1994 : **(3 marks)**

- **(i)** Services by way of slaughtering of livestock
- **(ii)** Services by way of transfer of a unit of a discontinued entity
- **(iii)** Services provided by a mutual fund agent to an asset management company.

(c) Mr. R provides taxable service under an unregistered brand name of Mr. S. As on 31st March, 2013 the aggregate value of taxable services provided by Mr. R to Mr. S was ` 9,50,000. You are required to explain whether Mr. R is liable to apply for registration and if so, what is the time limit for making such application? **(4 marks)**

(d) Explain the duty payment "under protest" with reference to Central Excise Law. What procedures are to be performed by an assessee who desires to pay duty "under protest"? **(1 + 4 = 5 marks)**

Question 7

(a) Sanjay Kapoor manufactures PVC and plastic products for selling them within India and to China. He wishes to divert the goods kept in warehouse for export to China as 'export for home consumption' due to inadequacy of export on account of certain unforeseen circumstances. What procedure under Central Excise Act, 1944 does Mr. Sanjay shall adopt for diverting the said goods for the purpose of export to China for home consumption? **(3 marks)**

(b) DTA, a sugar manufacturing industry received compensation from the Government in the form of an extended buffer subsidy for storage, interest and insurance charges in respect of direction given by the Government for maintenance of buffer stock of free sale sugar for certain period. Department issued SCN raising the demand of service tax contending that such amount received was for the services covered within the definition of 'storage and warehousing services'. With the help of a decided case law, discuss the validity of department's contention. **(4 marks)**

(c) *Mr. Q sold certain goods to ZED CO. Ltd. for ` 50,000 on 13.10.2012. ZED is a related person as defined u/s 4(3)(b) of the Central Excise Act, 1944 and it used the goods purchased from Mr. Q as intermediary products. The cost of production of the goods was ` 32,000. You are required to determine :* **(4 marks)**

- **(i)** *Assessable value of goods sold to ZED CO. Ltd.*
- **(ii)** *Assessable value, if the same goods were sold to the unrelated person for ` 50,000, who also used such goods as intermediary product.*

(d) *Determine the place of provision of service alongwith the rule applicable for following cases in accordance with Place of Provision of Service Rules, 2012 :* **(4 marks)**

- **(i)** *Indian Overseas Bank (IOB), Pune branch provides internet banking and electronic fund transfer facility to Mr.Varun, CC account holder of IOB.*

- **(ii)** *ABC Ltd. has a steel plant in Africa. DEF Ltd. deputes some of its engineers to undertake inspection, repair and maintenance functions on account of technical problems developed by ABC Ltd's plant. Both ABC Ltd. and DEF Ltd. are located in Kanpur.*

- **(iii)** *KANZUO, a Japanese Co. wants to launch a Sport Car which has to meet certain emission standards in different states or countries. ACRON, an Indian firm provides technical inspection service to KANZUO in respect of the said product. The testing carried out in different states is as under :*

Place	***% of testing***
Delhi	*15*
Karnataka	*25*
Kerala	*30*
Israel	*30*

- **(iv)** *Lorean, a well known US singer organizes a concert in Madhya Pradesh in three different dates during the month of August, 2012*
