

Test Series: October, 2013

MOCK TEST PAPER – 2
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) Determine the assessable value under the subject transaction under section 4 of the Central Excise Act, 1944? Give reasons with suitable assumptions where necessary.

Contracted sale price for delivery at buyer's premises ₹ 10,00,000

The contracted sale price includes the following elements of cost:

- | | |
|---|------------|
| (i) Cost of drawings and designs | ₹ 6,000 |
| (ii) Cost of primary packing | ₹ 4,000 |
| (iii) Cost of packing at buyer's request for safety during transport | ₹ 9,000 |
| (iv) Excise duty | ₹ 1,11,200 |
| (v) VAT (Sales tax) | ₹ 37,000 |
| (vi) Octroi | ₹ 9,500 |
| (vii) Freight and insurance charges paid from factory to 'place of removal' | ₹ 27,000 |
| (viii) Actual freight and insurance from 'place of removal' to buyer's premises | ₹ 42,300 |

(5 Marks)

- (b) Sahu & Co., a SSI unit, manufactures different products and the value of clearances for the financial year 2012-13 is given below:

(₹ in lakhs)

S. No.	Product	AB	SA	AS
(i)	Clearance for home consumption	55	40	60
(ii)	Captive consumption in the manufacture of excisable goods	120	90	70
(iii)	Export to U.S.A.	80	70	Nil

(iv)	Export to Nepal	50	40	39
(v)	Job work done under Notification No. 214/86-C.E.	65	40	70
(vi)	Goods manufactured in rural area with brand name of others	45	35	35

The unit seeks your advice as to whether they are eligible for SSI exemption for the year 2013-14.

Explain the basis for your conclusions. (5 Marks)

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

Services rendered	Amount (₹)
Speed post services	6,50,000
Basic mail services	7,00,000
Issuance of postal orders	5,50,000
Distribution of mutual funds, bonds and passport applications	8,00,000
Transfer of money through money orders	4,00,000
Rural postal life insurance services	3,00,000
Collection of telephone and electricity bills	5,50,000
Pension payment services	2,50,000
Operation of saving accounts	6,50,000
Express parcel post services	7,00,000

Compute the service tax liability of Rampur 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)
- (d) Calculate the VAT liability for the period March 1, 2013 to March 31, 2013 from the following particulars:

Inputs worth ₹ 2,00,000 were purchased within the State. ₹ 3,00,000 worth of finished goods were sold within the State and ₹ 2,00,000 worth of goods were sold in the course of inter-State trade. VAT paid on procurement of capital goods worth

₹ 2,00,000 during the month was at 12.5%. If the input and output tax rate in the State are 12.5% and 4% respectively and the central sales tax rate is 2%, show the total tax liability under the State VAT law and under the Central Sales Tax Act. (5 Marks)

- (e) Hind 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	24.02.2013 (Rate BCD 20%; Exchange rate as notified by CBEC ₹ 80 per UK Pound)
(vi)	Date of entry inward	20.02.2013 (Rate of BCD 18%; Exchange rate as notified by CBEC ₹ 84 per 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) Discuss briefly the validity of the following statements with reference to the CENVAT Credit Rules, 2004:
- Interest under rule 14 is payable in case where the CENVAT credit has been taken wrongly but has not been utilized.
 - Mr. Ajay Goel, a manufacturer of both dutiable and exempted goods, opting not to maintain separate accounts, has the option to pay an amount equal to 5% of the value of exempted goods. (3 x 2=6 Marks)
- (b) Answer the following with reference to the applicability of service tax as per the amended provisions of service tax:
- Services by a veterinary clinic in relation to health care of animals or birds .
 - Services by way of public conveniences such as provision of facilities of washrooms. . (3 x 2=6 Marks)

- (c) Mr. Anirudh, 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) Mr. Vicky Malhotra was engaged in the manufacture of electronic transformers, semi-conductor devices and other electrical and electronics equipments. During the course of such manufacture, Mr. Vicky Malhotra also manufactured machinery in the nature of testing equipments to test their final products.

Mr. Vicky Malhotra had stated in their balance sheet that the addition to the plant and machinery included testing equipments. The said position was further substantiated in the Director's report wherein it was mentioned that during the year, the company developed a large number of testing equipments on its own.

However, Mr. Vicky Malhotra contended that such items were assembled in the factory for purely research and development purposes, but research being unsuccessful, same were dismantled. Hence, it would not amount to manufacture.

Mr. Vicky Malhotra further submitted that the said project was undertaken only to avoid importing of such equipment from the developed countries with a view to save foreign exchange. Examine with the help of a decided case law, whether the duty is payable on such testing equipments. (6 Marks)

- (b) PSB 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 PSB 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 PSB Constructions is entitled to claim refund on service tax paid on construction activity so done by them. (6 Marks)

- (c) Landmark Laminates imported resin impregnated paper and plywood for the purpose of manufacture of furniture. The said goods were warehoused from the date of its import. Lucrative Laminates sought an extension of the warehousing period which was granted by the authorities. However, even after the expiry of the said date, it did not remove the goods from the warehouse. Subsequently, Landmark Laminates applied for remission of duty under section 23 of the Customs

Act, 1962 on the ground that the said goods had lost their shelf life and had become unfit for use on account of non-availability of orders for clearance.

Explain, with the help of a decided case law, if any, whether the application for remission of duty filed by the Landmark Laminates is valid in law? (3 Marks)

- 4 (a) S & N International was engaged in manufacture of 'tarpaulin made-ups'. For the purpose of preparing the tarpaulin made-ups, the tarpaulin cloth was cut into various sizes and stitched and then eye-lets were fitted. Department raised the plea that the "tarpaulin made-ups" prepared by means of cutting, stitching and fixing of eye-lets amounted to manufacture and, hence, they were exigible to duty. However, S & N International stated that the process of mere cutting, stitching and putting eyelets did not amount to manufacture and hence, the Department could not levy excise duty on tarpaulin made-ups.

Explain, with the help of a decided case law, whether Department's plea is justified in law. (6 Marks)

- (b) Examine with the help of a decided case law, whether the appeal can be filed to High Court for deciding the question relating to the taxability of service tax?

(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) Explain the circumstances when an Advance Ruling will be void under Central Excise Act, 1944 ?
- (ii) The maxim "Latter the Better" applies in classifying the excisable goods. Discuss. (3 × 2 = 6 Marks)
- (b) (i) Whether in each of the following independent cases, the relevant assessee will be punishable:
- (a) Mr. Mohit provides Consulting Engineer's Services of ₹ 60 lakhs during the month of January, 2013 and knowingly evades the payment of service tax.
- (b) Mr. Chintu avails and utilizes credit of taxes of ₹ 45 lakhs during the quarter ending March, 2013 without actual receipt of taxable service in violation of the rules made under the provisions of Chapter V of Finance Act, 1994.
- (ii) Briefly describe the broad principles considered by the States while framing various sales-tax incentive schemes in VAT regime. (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. Aarav 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. Aarav 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) Samuel, a well-known singer from Singapore, organises a Rock Concert in Delhi and Mumbai. It undertook the event management services from Beta Services Ltd.
- (ii) Laxmi & 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) Greenwood 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 Greenwood Exporters is entitled to duty drawback and if yes, what is the quantum of such duty drawback? (3 Marks)
7. (a) (i) Write a brief note on the matters with respect to which an appeal does not lie before the Customs Excise Service Tax Appellate Tribunal against any order passed by Commissioner (Appeals), under section 35B of the Central Excise Act, 1944
- (ii) When a person shall be deemed to be a related person for the purpose of valuation under the Central Excise Act? (3 x 2 = 6 Marks)
- (b) (i) Bansal Ltd. is located in India and holding 60% shares of Aggarwal Ltd., a U.K. based company. The latter company [Aggarwal Ltd.] provides public relation services to former company [Bansal Ltd.] The other relevant details are given in the following table:

Agreed Consideration	£ 2,00,000/-
Date on which services are provided by Aggarwal Ltd.	16.07.2013
Date on which invoice is sent by Aggarwal Ltd.	19.07.2013
Date of debit in the books of account of Bansal Ltd.	31.07.2013
Date on which payment is made by Bansal Ltd.	23.10.2013

Determine Point of Taxation for Bansal Ltd.

- (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 x 2 = 6 Marks)
- (c) Soma Ltd. imported certain goods 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)