MODEL QUESTION PAPER - C.A.FINAL FOR NOVEMBER-2008

INDIRECT TAXES
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Answer to Question NO.1, 6 and 9 are compulsory. In addition, thereto answer any **Two** Questions from Part A and any **One** Question from Part B.

Part - A - Central Excise

1. (a) Briefly explain any two of the following with reference to Central Excise Act/Rules.

   (i) Adjudicating Authority

   (ii) Large Tax Payer

   (iii) Assessee

   2 X 2 = 4

   (b) Manufacture and Production of goods is the point at which Central Excise duty gets attracted. Briefly analyse whether a change in the Tariff heading/subheading under the Central Excise Tariff Act, 1985 is also required between the input material and the resultant finished products so as to render such finished products liable to duty.

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   (c) An assessee manufacturing a product to be assessed u/s 4 A of the C.E. Act (R.S.P. - abatement %) removes the goods on payment of duty. After removal, he changes or alters or obliterates the R.S.P. to various higher amounts i.e. more than one R.S.P. and sells the goods in the market. The goods are confiscated by the C.E. department. Explain the provisions in this regard to be followed by the Central Excise Officer to determine the M.R.P. (R.S.P.) on which duty is to be recovered.

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   (d) Define 'related persons' under *S.4.* of C.E. Act. If the buyer and the seller are relatives as defined under the Companies Act, 1956 and have mutuality of business interest, then briefly explain how the valuation of the goods will be done as per Central Excise law.

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   (e) What should be done by a manufacturer in the following circumstances:-

   (i) The value of inputs, before being put to use, on which cenvat credit has been availed is written off fully.

   (ii) Capital goods are cleared as 'Waste and Scrap'.

   2 X 2 = 4

2. (a) State the conditions specified under the CENVAT Credit Rules, 2004 for allowing/availing CENVAT Credit on inputs and capital goods and input services by a manufacturer.

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   (b) State with reasons whether the following would constitute manufacture or not.

   (i) Inkjet Refill Kit obtained by repacking duty paid ink in a syringe for purpose of dispensing ink at the time of use on Printed ribbons and cartridges for computers.

   (ii) Separation of beach sand by magnetic, electrostatic and gravity process into mineral sand in concentrated ore form.

   3 X 2 = 6

(c) Explain briefly the provision in the C.E. Rules, 2002 for return of duty paid goods into the factory for purpose of repair, remaking, refining etc., and return.

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3. (a) What is meant by the term 'Tariff Value' as per the C.E. Act? Is it the same as 'Tariff rate'? Explain briefly with reference to the provisions.

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(b) Write the provision in the C.E. Act, 1944 for granting exemption from payment of duty through a Tariff notification.

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(c) Mention the persons who are not required to take registration from the department under Rule 9 of the Central Excise Rules, 2003.

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4. (a) State the conditions to be fulfilled by an applicant for the acceptance of his application for settlement in Central Excise matters.

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(b) State whether CENVAT Credit is available in the following cases:

(i) Plastic crates used for storing raw materials.

(ii) CENVAT availed capital goods were destroyed by fire, after use for some time.

(iii) Catering and Canteen services provided in a factory.

(iv) A factory avails CENVAT Credit based on the Bill of Lading.

(v) In respect of imported inputs, the bill of entry was misplaced and the factory, after informing customs and police availed CENVAT Credit based on photocopy of B/E certified by banker and notary public.

5 X l = 5

(c) (i) Two independent S.S.I. units are related persons U/S 4(3)(b) of C.E. Act. Is it necessary to club the value of clearances of both for purpose of eligibility criterion of Rs.400 Lakhs?

(ii) What are the transactions that are to be excluded for computing Rs.400 lakhs eligibility limit for an S.S.I. under notn., 8/2003 CE dt,01.03.2003 as amended?

(iii) In the middle of a financial year, a new firm takes over the business of the old firm. Is it eligible to avail the S.S.I. exemption separately?

2 X 3 = 6

5. (a) State the relevant date in the following cases mentioning the provision in the Act/Rules.

(i) for issue of a show cause notice U/S 11 A(I)

(ii) for rate of duty in respect of goods issued for captive consumption.

3 + 2 = 5

(b) State the procedure for making an appeal to the commissioner of Central Excise (Appeals) u/s 35(1) of the Central Excise Act.

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(c) Discuss the following as to liability to excise duty based on the concept of manufacture.

(i) Waste and Scrap

(ii) Packing

3 + 2 = 5

Part - B – Customs

6. (a) Explain briefly with reference to the provisions of the Customs Act, 1962, any two of the following:-

(i) Customs station and customs area.

(ii) Notified goods.

(iii) Indian customs waters

2 X 2 = 4

(b) Write the procedure for clearance of imported goods from a port for home consumption as contained in the Customs Act

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(c) Write as to who is competent to do the following:

(i) Appointment of a customs port.

(ii) Appointment of a Boarding station.

(iii) Framing of rules under the Customs Act

(iv) Issue of a show cause notice involving an amount of duty of Rs.2 lakhs and less

1 X 4 = 4

(d) What are the conditions to be fulfilled for accepting a transaction value under Rule 3 of Customs Valuation (DPIG) Rules, 2007.

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(e) Explain the term 'Entry Inwards' granted to a vessel.

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7. (a) Write a note on 'Additional customs Duty' (C.V.D.) changeable under S.3(I) of the Customs Tariff Act, 1975.

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(b) ABC imported a material by air from the U. S. at CIF price of 5000 US$. Actual freight paid was 1500 US$ and insurance paid as per insurance certificate is 500 US$. The importer paid the amount to his banker at the exchange rate of Rs.44.80 per dollar. The exchange rate as notified by the CBEC was Rs.44.50 per dollar. Find the assessable value of the material imported.

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(c) (i) Bring out the difference between drawback of duty u/s 74 and u/s 75 of the Customs Act, 1962.

(ii) What is 'Professional Equipment' under the baggage Rules, 1998?

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8. (a) State the provisions under the Customs Act, 1962 regarding 'warehousing period'

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(b) What are the questions on which an application can be made to the Authority for Advance Ruling in Customs?

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(c) Write short notes on any two of the following:-

(i) Transit and Transshipment of Goods.

(ii) Owner's right to deal with warehoused goods. (iii) Import Manifest.

3 X 2 = 6

Part - C - Service Tax

9. (a) Write the provision contained in the Service Tax Rules, 1994, for payment of Service Tax.

(b) Who is liable to pay Service Tax in the following cases?

(i) Service provided by Good Transport Agency to a factory, a consignee who receives inputs.

(ii) Business auxiliary service of distribution of mutual fund by a mutual fund distributor.

2 X 2 = 4

(c) Write the answer with reference to the Finance Act, 1994.

(i) Conditions to be fulfilled by a service Provider for construction of Complex availing 67% abatement as per notn.no.1/2006 dt. 01.03.2006, as amended.

(ii) Providing comprehensive service in regard to market development, marketing sales and other connected services.

(iii) Services provided or to be provided by a Practicing Chartered Accountant in his Professional capacity to a client representing the client before any statutory authority in the course of proceedings by way of show cause notice.

2 X 3 = 6

Tips for Suggested answers - Model paper November, 2008
Part-A

l. (a) (i) S.2 (a) CE Act

(ii) Rule 2 (ea) CE Rules, 2002

(iii) Rule 2 (c) CE Rules

(b) Sec.2(f) read with Tariff. Not necessary. (Gaurdian Plasticoat 1996 (T)

(c) S.4A read with the Central Excise (Determination of R.S.P. of excisable goods) Rules, 2008.

(d) S.4(3)(b) of C.E. Act read with R.9 of C.E. valuation Rules, 2000. (e) Rule 3(5)(b) and (a of CENVAT Credit Rules, 2004.

2. (a) Rule 4 of the CENVAT Credit Rules, 2004.

(b) (i) Yes. Different article. Abee-Info-Consumables Ltd 2007 (EL T 208-231) (T-Mumbai)

(ii) No. No new product. Kerala Minerals & Metals Ltd. 2007 (214) ELT 556 (T-Bang.)

(c) Rule 16 of C.E. Rules, 2002.

3. (a) S.3(2) of C.E. Act & C.E.T.A. Act, 1985 & Rule 5 of C.E. Rules, 2002

(b) S.5A of C.E. Act, 1944

(c) Rule 9 of C.E. Rules, 2002, CBEC Notn.No.36/2001 (CE) N.T. dt.26.06.200l.

4. (a) Sec.32E of C. E.Act. 1944

(b) (i) Yes. Essential for manufacture though not entering the goods. (G.K.N. Suiter Metals Ltd. 2008 (224) EL T 560 (T -M)

(ii) Yes. Biopac India Corporation Ltd 2008(224) EL T 548 (T -Ahmedabad)

(iii) No. Not used 8in relation to manufacture. Mahindra Sona Ltd. 2008 (10) STR.256 (T-M)

(iv) No. Rule 9(1) of CENVAT Credit Rules. Document not eligible.

(v) Yes. Vardhaman Aerylics Ltd. 2006 (204) ELT 321 (T-M)

(c) (i) Related person concept not a ban for S.S.L. concession. It is only for valuation of goods. Kiran Biscuits and Foods Ltd. 2005 (179) EL T 566 (T -Bang.)

(ii) Para 3A of Notn.8/2003 dtd.0l.03.2003.

(iii) Yes. Two different legal entities - special board Manfg.co. 2002 (146) ELT 85 (T-M)

5. (a) (i) S.IIA(I)

(ii) Rule 5 of C.E. Rules, 2002.

(b) S.36(1) CE Act

(c) (i) Generated, Excisable and marketable

(ii) Constitutes manufacture.

Part-B

6. (a) (i) S.2(11) and (13) of Customs Act.

(ii) S.11.B Customs Act

(iii) S.2(28) ibid.

(b) S.46 & 47 ibid

(c) (i) CBEC S.7

(ii) C.Cus.S.l 0

(iii) Government S.156

(iv) Assistant/Deputy Commissioner, S.122. ibid

(d) Rule 3 Cus valuation (DPIG) Rules, 2007.

(e) S.31 of Cus. Act.

7. (a) S.3(I) of Customs Tariff Act, 1075.

(b) Rs.l,84,274.50

(c) (i) Critical Study ofS.74 & 75. Sec.74.DBK of import duty. 98% of Import duty S.75 DBK of CED, CD or ST paid on inputs/input services. As per all Industry rates under DBK Schedule

(ii) Rule 2(5) of Baggage Rules.

8. (a) S.61 (b) S.28 G

(c) (i) S.53 and 54

(ii) S.64 (Hi) S.30

Part- C

9. (a) S.68 read with R 6 of the S.T. Rules

(b) Rule 2 (1) (d) of S.T. Rules (for kboth

(i) and (ii))

(c) (i) No CENV A T credit and no deduction towards goods and materials under notn.12/2003 dt.20.06.2003.

(ii) Business Auxilliary Service. Glaxo SmithKline Consumer Health care (P) Ltd 2007

(7) STR.334 (T -Delhi) (iii) Services provided are to be provided by a C.A. exempted ulNotn.25/2006-ST dt.I3.07.2006.

Wishing You Best Of Luck

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