

Series: August, 2012

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.*

(Wherever appropriate, suitable assumption/s should be made and indicated in the answer by the candidate)

Time Allowed – 3 Hours

Maximum Marks – 100

*** Pursuant to the Examination Committee's decision regarding non-applicability of taxable services for November 2012 examinations, the said questions are not relevant.**

1. (a) Shreya Ltd. supplies raw material to a job worker Pratibha Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Shreya Ltd. putting the retail sale price as ₹ 20 on each packet. The product in the packet is covered under MRP provisions and 40% abatement is available on it. Determine the assessable value under Central Excise law from the following details:

	₹
Cost of raw material supplied	40,000
Job worker's charges including profit	15,000
Transportation charges for sending the raw material to the job worker	3,200
Transportation charges for returning the finished packets to Shreya Ltd.	3,200

(5 Marks)

- (b) Malhotra & Company is a manufacturing company. In the financial year 2011-12, the details of its clearances of excisable goods are as follows:-

	Particulars	₹.(Lakhs)
(i)	Total exports (including export to Bhutan ₹ 50 lakhs)	600
(ii)	Clearances of excisable goods without payment of duty to a 100% EOU	10
(iii)	Job work under Notification No. 84/94-CE dated 11.4.94	50
(iv)	Job work under Notification No. 214/86-CE dated 25.3.86	50
(v)	Clearances of goods bearing brand name of National Small Industries Corporation	100

(vi)	Clearances of corrugated boxes bearing the brand name of Sugar & Spice Confectioners. Sugar & Spice Confectioners use these corrugated boxes for packing the bakery products produced by them.	200
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On the basis of above information, you are required to ascertain the eligibility of Malhotra and Company for exemption based on value of clearances in terms of Notification No. 8/2003-CE dated 1.3.2003 as amended for the financial year 2012-13. (5 Marks)

- *(c) Calculate the value of taxable service of Cargo Ltd. providing brief reasons where required with suitable assumptions based on the following information for the month of April, 2012:

	Particulars	₹ (in lakh)
(i)	Total amount charged for all services	40
(ii)	Receipts for services in relation to export cargo and handling of passenger baggage included in (i) above	13
(iii)	Charges for packing and transport of cargo included in (i) above	3
(iv)	Charges for handling of agricultural produce included in (i) above	2
(v)	Charges for transportation of cargo included in (i) above	5

(5 Marks)

- (d) A material was imported by air at CIF price of 5,000 US\$. Freight paid was 1,500 US\$ and insurance cost was 500 US\$. The banker realized the payment from importer at the exchange rate of ₹ 49 per dollar. Central Board of Excise and Customs notified the exchange rate as ₹ 50 per US\$. Find the value of the material for the purpose of levying duty. (5 Marks)
- (e) Mr. Manmohan, a dealer in Punjab dealing in consumer goods, submits the following information pertaining to the month of January, 2012:

Details of purchases of goods:-

Particulars (raw material purchased from within the State)	Amount (₹)	Rate of VAT
Goods 'A'	10,00,000	Exempt
Goods 'B'	20,00,000	1%
Goods 'C'	30,00,000	12.5%

Details of sales of goods:-

Particulars (Sale of finished goods)	State in which goods are sold	Amount (₹)	Rate of VAT
Produced from Goods 'A'	Punjab	5,00,000	12.5%
	Delhi	7,00,000	1%

Produced from Goods 'B'	Punjab	24,00,000	Exempt
Produced from Goods 'C'	Punjab	35,00,000	4%

Compute the amount of Value Added Tax (VAT) payable by Mr. Manmohan for the relevant month. There was no opening or closing inventory. (5 Marks)

2. (a) Examine the validity of the following statements, with reference to the CENVAT Credit Rules, 2004:-

- (i) CENVAT Credit can be utilised for payment of the Clean Energy Cess leviable under section 83 of the Finance Act, 2010.
- (ii) The credit of input services used for repair or renovation of factory or office is available. (3x2=6 Marks)

*(b) State, with reasons, whether service tax is payable in the following cases:-

- (i) Construction of complex service in relation to Jawaharlal Nehru National Urban Renewal Mission and Rajiv Awaas Yojana.
- (ii) Air transport of crew members on board the aircraft. (3x2=6 Marks)

- (c) Mr. Abhishek, a 21 years old Indian is very fond of travelling to international locates. He has gone to Singapore for a vacation. On 25.04.2012, while returning from Singapore, he has brought apparels worth Rs. 50,000 and other articles worth Rs. 26,000 with him. On account of financial crunch, he is not planning to visit any other country for the remaining part of the year. Discuss the duty implications in respect of the articles brought by Mr. Abhishek. (3 Marks)

- 3 (a) V & S 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, V & S 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 service provided by way of "advice, consultancy or technical assistance" in the case of turnkey contracts will attract service tax and can these turnkey contracts be vivisected? (6 Marks)

- (c) Nanda & Co. had smuggled rough diamonds into the country clandestinely without payment of duty. The Department issued a notice to Nanda & Co. proposing

confiscation of the diamonds under clause (d) of section 111 of the Customs Act, 1962 and imposing penalties on various persons concerned.

However, the said goods were unconditionally exempted from the payment of the import duty vide an exemption notification. So, Nanda & Co. contended the benefit of the said exemption notification. However, the Department denied to give the benefit of exemption meant for imported goods to be given to the smuggled goods.

Do you think that Department's action is valid in law? (3 Marks)

4. (a) Sahil Manufacturers was a manufacturer of cigarettes. It used duty paid paperback aluminum foil in the roll form for the purpose of packing cigarettes. In the process, the roll of aluminum foil was cut horizontally to make separate pieces of the foil and word 'PULL' was embossed on it. Thereafter, fixed number cigarettes were wrapped in it. An aluminium foil being resistant to moisture was used as a protector for the cigarettes and to keep them dry.

Revenue issued a show cause notice to Sahil Manufacturers alleging that the process of cutting and embossing aluminum foil amounted to manufacture. Since the aluminum foil was used as a shell for cigarettes to protect from them moisture; the nature, form and purpose of foil were changed.

Briefly discuss, with reference to case law, whether the show cause notice is sustainable in law. (6 Marks)

- (b) Suhaan Securities Ltd. (SSL) collected late payment charges of ₹ 3,00,000 in the month of January 2012 from its clients as they did not make the required payments for their share purchases. SSL was ambiguous regarding the levability of service tax on such payments. It referred to the practice being followed in other similar segments and found that an amount collected for delayed payment of a telephone bill did not form part of the value of taxable service. Consequently, SSL also did not deduct service tax on the said amount. The Department issued a show cause notice on SSL raising a demand of service tax on the said late charges collected by it. You are required to examine whether the show cause notice issued by Department is valid in law or not.

Note: The delayed payment charges were indicated separately in the invoices raised by SSL. (6 Marks)

- (c) Harbhajan India imported various components in different consignments separately on the basis of valid import licences. The Department has taken a stand that in view of the provision in Rule 2(a) of the Interpretative Rules, the goods will attract import duty as if they were finished goods and the benefit of an exemption notification exempting only the components will not be available. Write a brief note with reference to decided case law whether the stand taken by the Department is correct in law. (3 Marks)

5. (a) (i) Does the maxim "Latter the Better" apply in classifying the excisable goods?

- (ii) Briefly explain the term 'large taxpayer' with reference to the Central Excise Rules, 2002. (3x2=6 Marks)
- (b) (i) What are the provisions relating to best judgement assessment under Service Tax Law?
- (ii) Briefly discuss the different variants of VAT. (3x2=6 Marks)
- (c) Write a brief note on "Remission of duty on imported goods lost" with reference to the Customs Act, 1962. (3 Marks)
- 6. (a) Can a document which is relevant for a proceeding under the Central Excise Act, 1944 be searched by a Central Excise Officer? Explain the relevant provisions. (6 Marks)

or

- 6. (a) Answer in brief the following questions relating to export without payment of duty to any country other than Bhutan under rule 19 of the Central Excise Rules, 2002:
 - (i) What is the type of bond to be executed? Who is exempted from furnishing such bond?
 - (ii) What is the export document for export clearance? How many copies are required to be prepared for it?
 - (iii) Is it necessary to prepare an invoice also? If yes, how should it be prepared? (2x3=6 Marks)
- (b) (i) Rohini Consultants Ltd. paid service tax of ₹ 9.8 lakh in cash in the financial year 2011-12. For the half year ended September 30, 2012, it did not file its return electronically. You are required to examine whether, in the instant case, Rohini Consultants Ltd. is required to file its return electronically. (3 Marks)
- (ii) Briefly explain the importance of VAT invoice. (3 Marks)
- (c) What are the provisions made under the Customs Act, 1962 regarding control of customs over the warehoused goods? (3 Marks)
- 7. (a) Which reasons shall not be considered as special and adequate for awarding sentence of imprisonment for a term of less than six months as per section 9(3) of the Central Excise Act, 1944? (6 Marks)
- (b) (i) Mention the issues on which an advance ruling can be sought in service tax matters. (3 Marks)
- (ii) Under what circumstances registration can be cancelled under VAT? (3 Marks)
- (c) Discuss the provisions regarding "Transshipment of goods" without payment of duty under the Customs Act. (3 Marks)