

Test Series: March, 2012

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.*

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

Time Allowed – 3 Hours

Maximum Marks – 100

- 1 (a) Pasco Ltd. is a small scale industrial unit which is producing 'Zoom', a tonic for growing children. Under the Annual Report for the year 2010-11, the SSI unit shows a gross sales turnover of ₹ 1,95,10,000. The product 'Zoom' attracts excise duty @ of 10% and sales tax @ 2%. Calculate the duty liability under *Notification No. 8/2003*. (5 Marks)
- (b) ABC Co. is engaged in the manufacture of Plastic pipes. From the following details for the month of November, 2011, compute the available CENVAT credit under the CENVAT Credit Rules, 2004:

Duty (including the education cesses) paid on purchases as detailed below:

Particulars	₹
Raw steel	47,000
Plastic pipe making machine	19,000
Grease and oil	2,800
Spare parts for the above machine	9,500
High Speed Diesel Oil	22,000
Office equipment	30,000

ABC Co. is not eligible for SSI exemption

Provide explanation for treatment of various items. (5 Marks)

- (c) Andrew Consultants is engaged in providing manpower recruitment and supply agency's services. For the financial year 2010-11, its receipts are as follows:-

Particulars	Amount (₹)
Pre-recruitment screening of the prospective candidates	10,00,000
Manpower recruitment services provided to Banshi Transporters-a goods transport agency	4,75,000
Supply of contractual employees to big business houses	15,00,000
Verification of the credentials of the candidates	9,00,000

On the basis of the above information, compute the service tax payable by Andrew Consultants under the category of 'manpower recruitment and supply agency's services for the financial year 2010-11.

Note: Andrew Consultants enjoys a good reputation among its clients. Resultantly, its aggregate value of taxable services amounted to ₹ 27 lakh in the financial year 2009-10. Further, the amount of service tax has been charged separately. (5 Marks)

- (d) Kaavya Ltd. of West Bengal made a total purchases of input and capital goods of ₹ 65,00,000 during the month of February, 2011. The following further information is available:
- Goods worth ₹ 20,00,000 were purchased from Gujarat on which C.S.T. @ 2% was paid.
 - The purchases made in February, 2011 include goods purchased from unregistered dealers amounting to ₹ 20,50,000.
 - It purchased capital goods (not eligible for input credit) worth ₹ 9,50,000 and those eligible for input credit for ₹ 9,00,000.
 - Sales made in West Bengal during the month of February, 2011 is ₹ 10,00,000 on which VAT @ 12.5% is payable.

Assuming that all purchases given are exclusive of tax and VAT @ 4% is paid on them, calculate

- the amount of input tax credit available for the month of February, 2011
- VAT payable for the month of February, 2011 and
- input tax credit carried forward.

Note: The input VAT credit on eligible capital goods is available in 36 equal monthly installments. (5 Marks)

- (e) Nice Corporation Limited imported some goods from US. The details of the transaction are as follows:-

Authority	Rate of exchange
CBEC	1 US \$=Rs 45
RBI	1 US \$=Rs 46.10

CIF value of the goods is \$ 1,20,000

Rate of basic custom duty is 10%

Rate of education cess is 3%

If similar goods were manufactured in India, excise duty payable as per Tariff is 8%.

Calculate assessable value and total duty payable thereon. (5 Marks)

- 2 (a) Discuss briefly the validity of the following statements with reference to the CENVAT Credit Rules, 2004:
- Credit of duties of excise on inputs can be availed irrespective of whether payment is made or not against the invoice, whereas credit of service tax on input services can be availed only after making payment of the invoice.
 - Materials used by a manufacturer for maintaining factory building are eligible for CENVAT credit.
 - CENVAT Credit can not be utilised for payment of the Clean Energy Cess leviable under section 83 of the Finance Act, 2010. (2x3=6 Marks)
- (b) Answer the following with reference to the Finance Act, 1994 as amended relating to applicability of service tax:
- Operational or administrative assistance in any manner.
 - Services provided by a club or association to its non-members.
 - A practicing Chartered Accountant representing a client before Income Tax Officer in assessment proceeding. (2x3=6 Marks)
- (c) Briefly explain the provisions relating to creation of first charge on the property of the assessee (3 Marks)
- 3 (a) Jayant Manufacturers, is engaged in the manufacture of animal feed supplements with the brand name 'Rovimix' and 'Rovibe'. During the intermediate stage of manufacture of vitamin A, "Vitamin A Acetate Crude" and "Vitamin A Palmitate" (hereinafter referred to as the product in question) or Vitamin A in its crude form emerges. The crude Vitamin A acetate is subjected to further process of crystallization using Methanol and the crystals centrifuged and dried to obtain finished Vitamin A. The show cause notice was issued to the appellant demanding

excise duty on the product in question consumed by the appellant in the manufacture of animal feed supplements . In the instant case, the product had a shelf-life of 2 to 3 days. The appellant contended that since the product did not have shelf-life, it did not satisfy the test of marketability.

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

- (b) M/S Shubham Enterprises Limited was engaged in the manufacture of sugar. The Central Government directed him to maintain buffer stock of free sale sugar for the specified period. In order to compensate the assessee, the Government of India extended buffer subsidy towards storage, interest and insurance charges for the said buffer stock of sugar.

Revenue issued a show cause notice to the assessee raising the demand of service tax alleging that amount received by the assessee as buffer subsidy was for the services covered within the definition of 'storage and warehousing services'.

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

- (c) Mr. Shanky was the managing director of a company, which had set up a unit in the Cochin Export Processing Zone for manufacture of certain equipments for cent percent export. On the basis of the relevant notifications, the company was entitled to import capital goods and claim benefit of duty exemption on proof of total export. With the passage of time, the business of the company fell and it went into liquidation. In the mean while, the customs authorities issued a notice to show cause against confiscation, in terms of Section 111(o) of the Customs Act, 1962, and in terms of the bond executed by them and also against imposition of penalty, on the company and its directors under Section 112 of the Act. This was on the premise that the Assistant Commissioner of Customs had reported that neither the capital goods nor the raw materials and other goods were used in the production of goods for export in terms of Notification No. 340/86, dated 13-6-1986 and in terms of the bond executed by the company.

Briefly discuss, with reference to case law, whether the show cause notice imposing penalty under section 112 is sustainable in law. (3 Marks)

- 4 (a) Jagannath Internationals Limited (JIL) cleared the goods to Vaibhav Enterprises (VE) paying higher rate of excise duty @ 18.3% in the month of March 2012, although the rate of duty on the said goods had been reduced to 10.3% in the budget of the same financial year. However, the VE refused to pay the higher duty which the JIL had paid by mistake. The VE raised a debit note in his name in the month of June of the same year. The JIL applied for the refund of excess excise duty paid. Revenue rejected his claim on the ground that incidence of the duty had been passed by him to the buyer.

While claiming refund, the JIL relied on the debit note raised by the VE in his name

in the month of June to demonstrate that his VE had not paid the excess duty to him. The adjudicating authority argued that since the debit note was issued in the month of June and not March, it could not be the basis for refund.

Explain the veracity of the Department's contention with reference to a decided case law. (6 Marks)

- (b) Examine, with the help of a decided case law, whether the option for composition scheme under works contract service can be exercised after payment of service tax on a particular works contract. (6 Marks)
 - (c) Examine, with the help of a decided case law, whether separate penalty under section 112 of the Customs Act can be imposed on the partners when the same has already been imposed on partnership firm. (3 Marks)
- 5 (a) (i) Briefly explain the situations where transaction value does not apply?
(ii) Does the maxim "Latter the Better" apply in classifying the excisable goods?
(3 x 2 = 6 Marks)
- (b) (i) Briefly state the concept of export of taxable services under rule 3 of the Export of Services Rules, 2005.
(ii) Briefly describe the broad principles considered by the States while framing various sales-tax incentive schemes in VAT regime. (3 x 2 = 6 Marks)
 - (c) What are the provisions made under the Customs Act, 1962 regarding control of customs over the warehoused goods? (3 Marks)
- 6 (a) Explain briefly, with reference to rule 21 of the Central Excise Rules, 2002 relating to remission of duty, the following:
- (i) Can remission of duty be granted on goods cleared from the factory after payment of duty, but which were destroyed by fire in transit?
 - (ii) Upon grant of remission of duty, the CENVAT credit on inputs used in final product has to be reversed. (6 Marks)

OR

- (a) (i) Under what circumstances it may be beneficial to pay duty and claim rebate under Rule 18 of Central Excise Rules, 2002.
(ii) What are the orders that are appealable to Supreme Court under the Central Excise Act 1944? (3 x 2 = 6 Marks)
- (b) (i) Mention the issues on which an advance ruling can be sought in service tax matters.
(ii) Briefly explain the three commonly used methods for computation of VAT. (3 x 2 = 6 Marks)

- (c) Enumerate the penalties in respect of improper exportation of goods under section 114 of the Customs Act. *(3 Marks)*
- 7 (a) (i) State briefly as to who can make an application for "Advance Ruling" under section 23A of the Central Excise Act, 1944?
- (ii) State the various circumstances where goods are liable for confiscation under the Central Excise Law. Can the assessee get back the confiscated goods and if so how? *(3 x 2 = 6 Marks)*
- (b) (i) Briefly explain the "Due Date of Filing Service Tax Return by Input Service Distributor" with reference to the Service Tax Rules, 1994 and the Finance Act, 1994
- (ii) Differentiate between Compulsory Registration and Voluntary Registration under VAT Act. *(3 x 2 = 6 Marks)*
- (c) Explain briefly the expression 'person-in-charge' under the Customs Act, 1962. *(3 Marks)*