

Test Series : March, 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) Mintu & 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) Jayprakash Ltd., dealing in all activities relating to Real estate business furnishes the following information pertaining to services provided :

Particulars	Amount (₹)
Repair and maintenance of Hari Nagar Railway Station	15,00,000
Construction of residential complex meant for use of member of parliament	95,00,000
Construction services provided to International Labour Organisation	35,00,000
Construction of Private clinic for Dr. Arihaan Bansal	50,00,000
Renovation service provided to Government relating to plant for sewerage treatment	45,00,000
Construction of roads in a factory	20,00,000
Renting of residential dwelling for use as residence	3,00,000

Compute the value of taxable service and the service tax liability of ASB Ltd. considering the rate of service tax at 12% assuming that it is not eligible for small service providers' exemption under Notification No. 33/2012 – ST dated 20.06.2012.

(5 Marks)

- (d) Calculate the VAT liability for the period December 1, 2012 to December 31, 2012 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) Mr. Pankaj, an importer has imported an equipment from US to be used in its manufacturing unit. Compute the duty payable by Mr. Pankaj under the Customs Act, 1962 for an imported equipment based on the following information:

- (i) Assessable value of the imported equipment US \$ 8,000

- (ii) Date of bill of entry is 28.4.2012. Basic customs duty on this date is 10% and exchange rate notified by the Central Board of Excise and Customs is US \$ 1 = ₹ 60.
- (iii) Date of entry inwards is 22.4.2012. Basic customs duty on this date is 16% and exchange rate notified by the Central Board of Excise and Customs is US \$ 1 = ₹ 55.
- (iv) Additional duty payable under section 3(1) and (2) of the Customs Tariff Act, 1975: 12%
- (v) Additional duty under section 3(5) of the Customs Tariff Act, 1975: 4%.
- (vi) Educational cess @ 2% in terms of the Finance Act (No.2), 2004 and secondary and higher educational cess @ 1% in terms of the Finance Act, 2007.

Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest rupee. (5 Marks)

- 2 (a) Discuss briefly the validity of the following statements with reference to the CENVAT Credit Rules, 2004:
 - (i) Interest under rule 14 is payable in case where the CENVAT credit has been taken wrongly but has not been utilized.
 - (ii) Mr. Prince 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:
 - (i) Services by a veterinary clinic in relation to health care of animals or birds .
 - (ii) Services by way of public conveniences such as provision of facilities of washrooms. . (3 x 2=6 Marks)
- (c) Briefly describe the provisions in customs relating to service of order and decision by the commissioner. (3 Marks)
3. (a) Mr. Sanjay Chhabra was engaged in the manufacture of electronic transformers, semi-conductor devices and other electrical and electronics equipments. During the course of such manufacture, Mr. Sanjay Chhabra also manufactured machinery in the nature of testing equipments to test their final products.

Mr. Sanjay Chhabra 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. Sanjay Chhabra 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. Sanjay Chhabra 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) Mr. Ashish 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 service tax is chargeable on the buffer subsidy provided by the Government for storage of free sale sugar, under the category of 'storage and warehousing services'? (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) A & 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, A & 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 appeal can be filed to High Court for deciding the question relating to the taxability of service tax?

(6 Marks)

- (c) The Custom House Agent License of Mr. Abhi, Custom House Agent (CHA) was suspended on the ground that authorised agent of Mr. Abhi had committed misconduct by taking active part in the act of smuggling and had thus violated the Custom House Agent Licensing Regulations, 2004. During pendency of the misconduct proceedings, Mr. Abhi approached Settlement Commission. The Settlement Commission after hearing all the parties held that Revenue had failed to prove that the authorised agent of the Mr. Abhi Custom House Agent (CHA) had a conscious knowledge of mis-declaration of goods. On the basis of said order of the Settlement Commission, Tribunal decided the case in favour of the Mr. Abhi and dropped the misconduct proceedings against them. The appellants challenged the Tribunal's order alleging that the order passed by the Settlement Commission was ab-initio, null and void being without jurisdiction. Examine with the help of a decided case law whether the order of the settlement commission can be considered to be a judicial proceeding?

(3 Marks)

- 5 (a) (i) Explain the circumstances when an Advance Ruling will be void under Central Excise Act, 1944 ?
- (ii) Explain briefly the significance of "trade parlance test" with respect to classification of excisable goods under the Central Excise Act, 1944.

(3 × 2 = 6 Marks)

- (b) (i) Whether in each of the following independent cases, the relevant assessee will be punishable:
- (a) Mr. Mayank provides Consulting Engineer's Services of ₹60 lakhs during the month of July, 2012 and knowingly evades the payment of service tax.
- (b) Mr. Bittoo avails and utilizes credit of taxes of ₹45 lakhs during the quarter ending September, 2012 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 importer filed bill of entry after 60 days of filing Import General Manifest. The Deputy Commissioner of Customs imposed a penalty of Rs. 20,000 by endorsement on the bill of entry. Since importer wanted to clear the goods he paid the penalty. Can penalty be imposed for late filing of bill of entry? Examine the issue in the light of relevant statutory provisions.

(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 Excise Audit, 2000, the selection of unit for audit is based on 'risk factors'. Explain in brief the term 'risk factors' giving any two examples.
 - (ii) 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. (3 x 2 = 6 Marks)
 - (b) Determine the place of provision of services as well as their taxability in each of the following independent cases:
 - (i) Mr. Rohan, a Delhi based Interior Decorator provides his professional services in respect of property which is intended to be located in Chandigarh.
 - (ii) A U.S.A. based company possessing specialization in mineral exploration has been awarded a contract for mineral exploration in respect of specific sites in Canada by Mumbai based Mrs. Priya Kapoor. (3 x 2 = 6 Marks)
 - (c) When is redemption fine imposed? Whether this fine under Section 125 of the Customs Act, once paid, be claimed as refund, in case the importer decides to abandon the goods? (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.	16.07.2012
Date on which invoice is sent by Aggarwal Ltd.	19.07.2012

Date of debit in the books of account of Bansal Ltd.	31.07.2012
Date on which payment is made by Bansal Ltd.	23.10.2012

Determine Point of Taxation for Bansal Ltd.

- (ii) What is the significance of Registration under VAT? Under what circumstances Registration can be cancelled under VAT? (3 x 2 = 6 Marks)
- (c) What will be the dates of commencement of the definitive anti-dumping duty in the following cases under section 9A of the Customs Tariff Act, 1975 and the rules made thereunder:
 - (i) where no provisional duty is imposed;
 - (ii) where provisional duty is imposed;
 - (iii) where anti-dumping duty is imposed retrospectively from a date prior to the date of imposition of provisional duty. (3 Marks)