

Series : September, 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) MNO Co. Ltd. procured the following inputs during the month of March 2012. Determine the amount of CENVAT credit available with necessary explanations for treatment of various items.

Items	Excise duty paid (₹)
Raw materials	52,000
Manufacturing machine	1,00,000
High Speed diesel oil	60,000
Greases	10,000
Office equipment	35,000
Paints	5,000

(Note: M/s. ABC Co. Ltd. is not eligible to avail exemption under a notification based on value of clearances in a financial year) (5 Marks)

- (b) The following information is provided in respect of manufacture of a product "Z" for the purpose of captive consumption in the same factory. You are required to determine the value for purpose of duty of excise in terms of Rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000:

	₹
Cost of direct materials (includes central excise duty ₹ 1,545)	16,545
Cost of direct employees	12,300
Works overheads	8,400
Quality control cost	4,300
Research & development cost	2,700
Administrative cost:	

Production related	3,000
Others	1,500
Selling and distribution cost	3,600
Scrap value realized	1,500

Make assumptions if required and provide suitable explanations. (5 Marks)

- (c) Mr. Mandeep, a Chartered Accountant, raised an invoice for ₹ 28,090 (25,000 + 3,090 service tax) to a client on 10.04.2012. The client, however, has paid a lump-sum of ₹ 26,000 on 15.04.2012 for full and final settlement.

- (i) How much service tax Mr. Mandeep has to pay ?
(ii) What will be his liability, if the client refuses to pay service tax and pays only ₹ 25,000 in total? (5 Marks)

- (d) Calculate the VAT liability for the period March 1, 2012 to March 31, 2012 from the following particulars:

Inputs worth ₹ 1,00,000 were purchased within the State. ₹ 2,00,000 worth of finished goods were sold within the State and ₹ 1,00,000 worth of goods were sold in the course of inter-State trade. VAT paid on procurement of capital goods worth ₹ 1,00,000 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) Compute the assessable value of the machine imported by M/s. Fair India Pvt. Ltd., under the Customs Act, 1962.

	US\$
FOB price of the machine	10,000
Air freight paid	2,500
Insurance for transit of machine	Not Ascertainable
Cost of development work in India	₹ 40,000
Local agent's commission	₹ 10,000
Cost of local transport	₹ 5,000

Exchange rate applicable US \$ 1 = ₹ 45

Provide explanation for your answer. (5 Marks)

2. (a) Examine the validity of the following statements, with reference to the CENVAT Credit Rules, 2004:-
 - (i) As per Rule 6 of CENVAT Credit Rules, 2004, the manufacturer of goods opting not to maintain separate accounts, has the option to pay an amount equal to 5% of the value of exempted goods.
 - (ii) Rule 4 of CENVAT Credit Rules, 2004 allows credit of capital goods without bringing them into the premises of output service provider subject to due documentation regarding their delivery and location. (3 x 2 = 6 Marks)
 - (b) Mr. X wishes to claim refund of service tax paid on services used for export of goods, electronically through ICES scheme. State the procedure to be followed by Mr. X for electronic refund through ICES system. (6 Marks)
 - (c) Mr. Mayank, a 9 year old Indian has gone to Switzerland for attending his cousin's marriage for five days. On 26.04.2012, while returning from Switzerland, he has brought apparels worth Rs. 10,000 and other articles worth Rs. 7,000 with him. On account of studies, 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. Mayank. (3 Marks)
3. (a) ABC & Co. is engaged in the business of fabrication and erection of structures of various types on contract basis. They entered into a contract with M/s. MNO Co. for fabrication, assembly and erection on turn key basis of a waste water treatment plant. This activity involved procurement, supply, fabrication, transportation of various duty paid components and finally putting up a civil construction and erection of the waste water treatment plant and commissioning the same. The entire fabrication is done at site. The pressure testing was carried out as such until it was wholly built. The excise department has issued a show cause notice that the fabrication at site amounted to manufacture of excisable goods since the plant came into existence in an unassembled form, as per drawings and designs approved by the client, M/s. MNO Co. before the fabrication activity was undertaken. Therefore, according to the department, excise duty was payable on the value of the plant excluding the value of the civil work. Briefly discuss with reference to case law whether the show cause notice is sustainable in law. (6 Marks)
 - (b) M/s. Shipra Consultants are a labour contractor of manpower to M/s. Shiv Creations. They charge to the principal employer for the wages of their labour which amounts to ₹ 1,70,000 plus their service charge of ₹ 15,000 for arranging the labour. The issue is whether service tax is payable on the gross amount charged by them or only on their charges for labour. Examine the case and advise suitably. (6 Marks)

- (c) M/s Accent IT Co. imported laptops with Hard Disc Drives (HDD) preloaded with operating software like Windows XP, XP home etc. The department has claimed that the said laptop along with the operating software was classifiable and assessable as a single unit. It is the claim of the assessee that the software loaded HDD should be classified and assessed separately as an exemption is available as per notification issued under section 25(1) of the Customs Act, 1962. Decide with a brief note whether the action proposed by the department is correct in law. (3 Marks)
4. (a) Examine, with the help of a decided case law, whether for the purpose of computing interest on delayed refunds under section 11BB of the Central Excise Act, 1944, the period commences with the date of receipt of application for refund or date on which the order of refund is made? (6 Marks)
- (b) 'Andrewphone' is in the business of providing mobile telephone service. The assessee sells 'SIMCARDS' to its mobile telephone subscribers for a price. 'Andrewphone' pays service tax on the activation and other charges. On the 'SIMCARDS' sold to the customers, VAT under the applicable State law is paid. The Department's view is that the 'SIMCARDS' is used for provision of mobile services and is a part of the service and therefore the value of the 'SIMCARDS' has to be included in the category of 'telecommunication services' for purpose of service tax. Explain with a brief note and reference to decided case law whether the view taken by the department is correct in law. (6 Marks)
- (c) PQR Company Ltd. has imported brine shrimp eggs. This was classified as "prawn feed" for customs duty purposes under chapter heading No. 2309 of the Customs Tariff schedule which includes use as animal feed. The department's view was that this should be classified under chapter heading No. 051199 as non-edible animal products unfit for human consumption. M/s. PQR Co. provided literature to support their contention that the imported material contained little organisms/embryos which later became larva that were fed to the prawns. Therefore, according to the importers, the nature and character of the product was not changed or altered by nurturing or incubation. Hence, the classification should be as prawn feed under chapter heading No. 2309.
- Decide with the help of case law, if any, whether the contention of the assessee, M/s. PQR Co. is correct in law. (3 Marks)
5. (a) (i) Differentiate between "non-excisable goods" and "non-dutiable goods".
- (ii) Briefly explain the following expression under the Central Excise Act, 1944:- "Place of removal". (3 x 2 = 6 Marks)
- (b) (i) State briefly the provision regarding rejection of value and determination of value by central excise officer under Rule 4 of the Service Tax (Determination of Value) Rules, 2006.
- (ii) What is VAT invoice? What are the mandatory provisions to be complied with

- while issuing a VAT invoice by a registered dealer? (3x2=6 Marks)
- (c) Explain briefly with reference to the Customs Act, 1962 the significance of "Indian Customs Waters". (3 Marks)
6. (a) Write a brief note on the warehousing procedure for goods removed from the factory under the Central Excise Act, 1944 and Rules made thereunder. (6 Marks)
- or*
- (a) (i) Explain briefly "Annual Financial Information Statement" under the Central Excise Rules, 2002.
- (ii) Write a brief note under the Central Excise Act, 1944 in the context of provisions relating to 'payment of duty under protest'. (3 x 2 = 6 Marks)
6. (b) (i) Mention the issues on which an advance ruling can be sought in service tax matters.
- (ii) What are the circumstances under which VAT registration could be cancelled? Write a brief note. (3 x 2 = 6 Marks)
- (c) Mention the circumstances under which goods are considered to have been removed improperly from a warehouse under the Customs Act. (3 Marks)
7. (a) (i) Write a brief note on the classification of incomplete/unfinished articles with reference to Rule 2(a) of the Interpretative Rules to the First Schedule of the Central Excise Tariff.
- (ii) Briefly discuss the provisions in respect of waiver of physical warehousing in case of exigency. (3 x 2 = 6 Marks)
- (b) (i) What is the time limit under Rule 4A for raising/issuing an invoice for services? What are the essential particulars to be specified on an invoice/bill/challan?
- (ii) Explain briefly the mandatory provisions under VAT with respect to the records to be maintained by the assessee. (3 x 2 = 6 Marks)
- (c) What do you understand by first appraisement and second appraisement systems under the Customs Act, 1962? (3 Marks)