Analysis of CA Final   IDT QuestionIaper May 2014

- First question was compulsory, for 25 marks. This question usually consists of five numerical problems each carrying 5 marks.
- Four problems were asked, one each from excise, service tax, VAT and customs. One more problem was asked from central excise.
- Among the remaining six questions, one choice was provided. In addition one internal choice is usually given for a plain Central excise theory question. Each question carried 15 marks. The questions were divided into 3 sub-questions: Central excise - 6 marks, Service tax and VAT - 6 marks, and Customs - 3 marks.

Analysis of the CA Final May 2014 - Paper 8 - Indirect Taxes

I. Type of question and marks allocation

Type of question	Central Excise	Service tax	Value added tax	Customs	Total
Plain Theory	24 marks	3 marks	9 marks	9 marks	45 marks
Practical theory / Application of law	NIL	12 marks	-	3 marks	15 marks
Practical problems	10 marks	5 marks	5 marks	5 marks	25 marks
Case laws (to be decided with the help of case law,)	**12 marks**	**12 marks**		**6 marks**	**30 marks**
Sub Total	46 marks	32 marks	14 marks	23 marks	115 marks
Less: Choice - question	6 marks	6 marks		3 marks	15 marks
Maximum marks	40 marks	26 marks	14 marks	20 marks	100 marks

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II. General Analysis:

Question 1: Compulsory question.
This question usually consists of five numerical problems each carrying 5 marks. Four problems were asked, one each from excise, service tax, VAT and customs. One more problem was asked from central excise.
All the 5 numeral problems are very simple and very easy based on the concepts. There is no repetition of any question from study material or compilation,. All the questions were newly set by examiner. Only Service tax question was repetition from practice manual and it is modified by adding some new adjustments.

Students who are good in concepts can do very well this question.

Question 2- Question is on

(a) (i) Powers of tribunal to grant stay under excise and (ii) serving of notice under excise
Both the questions were asked on the recent amendments in excise FA 2013 for 6 marks

(b) Practical application of law in Service tax on Negative list and exempted services- for 6 marks. Out of 6 marks, 2 marks questions on amendment FA 2013

(c) (i) interest free period for duty payment of customs (ii) warehousing period and (iii) monetary limit for refund for 3 marks All 3 questions were asked on the recent amendments in Customs FA 2013.

Question No 3 for 15 marks '**Question is on**

a(i)	Recent case laws in excise -2011 SC	3 marks	Reproduced from ICAI publication
a(ii)	Recent case laws in excise -2012 SC	3 marks	Reproduced from ICAI publication
b(i)	Recent case laws in Service tax -2012 HC	3 marks	Reproduced from ICAI publication
b(ii)	Recent case laws in Service tax-2012 SC	3 marks	Reproduced from ICAI publication
c	Recent case laws in Customs-2010 HC	3 marks	Reproduced from ICAI publication

Question No 4 for 15 marks. **Question is on**

a(i)	Recent case laws in excise	3 marks	Reproduced from ICAI publication
a(ii)	Recent case laws in excise	3 marks	Reproduced from ICAI publication
b	Recent case laws in Service tax	6 marks	Reproduced from ICAI publication
c	Recent case laws in Customs	3 marks	Reproduced from ICAI publication

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Question 5. **Question is on**

(a) Notes on specific duty, tariff value and Adhoc exemption, Easy and simple question for 6 marks. Most of the students not aware about the meaning of Adhoc exemption.

(b) (i)Taxability of service of financial sector. It is a Practical application of law on negative list of services for 3 marks

(ii) Vat in case of special transaction on lease asset. It is plain theory, simple and easy to answer for 3 marks

(c) Penalty for improper importation/exportation of goods. It is plain theory, simple and easy to answer for 3 marks

Question 6. **Question is on**

a) Assessee eligible to make an application to Settlement commission / Procedure of AAR after receipt of application. It is plain theory, simple and easy to answer for 6 marks

(b) (i) Time limit to issue show cause notice u/s 73 in case of Service tax- It is 3 marks questions on amendment FA 2013

(ii) Vat invoice particulars - It is plain theory, simple and easy to answer for 6 marks.

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(c) Rate of duty and Tariff valuation in case of import/export of goods by post. It is plain theory, simple and easy to answer for 3 marks

Question 7. Question is on

(a) Types of bonds under Central excise- It is plain theory, simple and easy to answer for 6 marks.

(b) (i) Practical application theory question on Point of taxation Easy to answer of 3 marks.

(ii) Sales tax incentives cause problems for vat – New question many students could not answer – it is for 3 marks.

(c) Meaning of entry inward and entry outwards in customs. Many students could not answer – it is for 3 marks.

III Marks Weightage

S No	Subject	Amendments	Recent case laws	Practical Problems	Application of theory	Plain theory /other	Total
1	Central Excise	6	12	10	-	12	40
2	Service tax	6	12	5	3		26
3	Vat			5		9	14
4	Customs	3	6	5		6	20
	Total	15	30	25	3	27	100

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The same the above pattern can be followed for Nov 2014 examination. However, there is no questions from the vat, as it is excluded from syllabus.

The total marks and allocation for November 2014 is Service tax – 50 marks, Excise-25 marks, Customs & FTP -25 marks

The Distribution of marks from May to Nov 2014 is as follows.

Subject	Reduction in marks	Addition of marks
Central excise	15	
Vat	14	
Allocation to		
Service tax		24
Customs		5
Total	29	29

3

Attached:

1. May 2014 IDT QP
2. Answers to May 2014 IDT QP.

Coming soon

Expected new model question paper pattern for under new syllabus for November 2014.

Good wishes

Feel free to contact

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Roll No. .... **MAY 2014**

Total No. of Questions – **7** FINAL GROUP-II PAPER-8 INDIRECT TAX LAWS Total No. of Printed Pages – **11**

Time Allowed – **3** Hours Maximum Marks – **100**

URX

Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be valued.

Question No. **1** is compulsory.

Candidates are also required to answer any **five** questions from remaining **six** questions.

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

Working notes should form part of the answer.

Marks

1. (a) M/s. Veena Ltd. has two factories and supplies you the following information : **5**

Particulars	**Factory 'A'**	**Factory 'B'**
(i) Assessable value of clearances upto 31-12-2013	₹ 90 lac	₹ 60 lac
(ii) Assessable value of clearances from 01-01-2014 to 31-03-2014	₹ 60 lac	₹ 40 lac
(iii) Inputs purchased during the year 2013-14 (including excise duty)	₹ 112.36 lac	₹ 55.15 lac
(iv) Capital goods purchased on 14-09-2013 (including excise duty)	–	₹ 11.03 lac
(v) Effective rate of excise duty on inputs and capitals goods purchased and output sold.	12.36%	10.3%

Marks

M/s. Veena Ltd. is availing SSI exemption under Notification No. 8/2003-C.E. and inputs are used evenly throughout the year. There is neither any processing loss nor any inventory of input and output. You are required to calculate the amount of excise duty payable by M/s. Veena Ltd. in cash, if any, for the Financial Year 2013-14.

(b) M/s. Vipin Ltd. purchased raw material 'A' 10,000 kg @ ₹ 80 per kg. plus excise duty. The said raw material was used to manufacture intermediate product 'P'. The said intermediate product was captively used for the manufacture of finished product 'Z', which was exempt from excise duty. The other informations are as under : 5

(i) Processing loss : 2% of inputs in manufacture of 'P'

(ii) Assessable value of 'P' : ₹ 100 per kg.

(iii) Assessable value of 'Z' : ₹ 20 lac (for total output)

(iv) Other material 'M' used in the manufacture of 'Z' : ₹ 2 lac plus excise duty.

(v) Duty on capital goods imported during the period and used in the manufacture of 'P' :

- Basic customs duty ₹ 20,000;
- Additional duty of customs under section 3(1) of the Customs Tariff Act, 1975 ₹ 10,000; and
- Additional duty of customs under section 3(5) of the Customs Tariff Act, 1975 ₹ 4,000.

(vi) Rate of Central excise duty on 'A', 'M' and 'P' : 12.36% (including education cess as applicable)

M/s. Vipin Ltd. is not eligible for SSI exemption under Notification No. 8/2003-C.E.

Compute : (i) Amount of CENVAT credit available, and

(ii) Central excise duty payable by M/s. Vipin Ltd.

Marks

(c) Reliable Agro Industries furnishes the details of its activities undertaken in the month of May, 2013 as under : **5**

S. No.	Particulars	Amount (₹)
1.	Supply of farm labour	55,000
2.	Warehousing of refined vegetable oil	1,25,000
3.	Sale of wheat on commission basis	60,000
4.	Hiring of trucks for transport of minerals	2,50,000
5.	Leasing of vacant land to a stud farm	30,000
6.	Renting of farmhouse for marriage and birthday parties	45,000
7.	Dehusking of paddy in rice mill	32,000

Compute the service tax liability of company for the month of May, 2013. Assume that the point of taxation in respect of all the activities falls in the month of May, 2013 itself. Company had paid service tax of ₹ 3,18,000 during the Financial Year 2012-13. Give working notes as may be suitable. (Rate of service tax is 12% + education cess as applicable).

(d) M/s. Virat Productions is manufacturing two products – 'R' and 'T' and provides you the following particulars : **5**

		Amount (₹)
(i)	Cost of raw material purchased (including VAT @ 12.5%)	2,25,000
(ii)	Cost of other material purchased	
	(a) Intra-State purchases (including VAT @ 12.5%)	45,000
	(b) Inter-State purchases (including CST @ 2%)	81,600
(iii)	Wages and other manufacturing expenses (for product 'R' and 'T' in ratio 3 : 1)	78,400
(iv)	Profit margin on sales value 20%.	

M/s. Virat Productions utilized inputs and manufactured 75% of production as 'R' and 25% of production as 'T'. While 'R' is subject to 12.5% VAT, 'T' is exempt from VAT.

All the materials were used in production and there was no opening or closing stock of any material. Compute the invoice value of sales and net VAT liability, if all the sales were made within the State.

Marks

(e) Vipul imported certain goods in December, 2013. An 'into Bond' bill of entry was presented on 14th December, 2013 and goods were cleared from the port for warehousing. Assessable value on that date was US $ 1,00,000. The order permitting the deposit of goods in warehouse for four months was issued on 21st December, 2013. Vipul deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 20th April, 2014. **5**

A notice was issued under section 72 of the Customs Act, 1962, demanding duty, interest and other charges. Vipul cleared the goods on 14th May, 2014. Compute the amount of duty and interest payable by Vipul while removing the goods on the basis of following information :

Particulars	**14-12-2013**	**20-04-2014**	**14-05-2014**
Rate of exchange per US $ (as notified by Central Board of Excise & Customs)	₹ 65.20	₹ 65.40	₹ 65.50
Basic Customs Duty	15%	10%	12%

No other customs duty is payable except basic customs duty.

2. (a) (i) What are the powers of the Tribunal (CESTAT) to grant extension of stay under section 35 C (2A) of the Central Excise Act, 1944 ? **3**

(ii) How can a decision, order, summon or notice be served to the intended person under section 37C(1)(a) of the Central Excise Act, 1944 ? **3**

Marks

(b) Discuss the liability under service tax in the following cases during the month of July, 2013 :

(i) Transport facility provided by a School to its students through a fleet of buses owned by the School. 2

(ii) Service provided by a private transport operator to a School in relation to transportation of students to and from the School. 2

(iii) Exhibiting movies on television channels. 2

(c) (i) What is interest free period allowed under section 47(2) of the Customs Act, 1962 for payment of duty ? 1×3 =3

(ii) What is the maximum period of storage allowed for warehousing without warehousing under section 49 of the Customs Act, 1962 ?

(iii) What is the minimum monetary limit prescribed in the Customs law below which no refund shall be granted ?

3. (a) (i) M/s. Healthcare Ltd. is manufacturer of patent and proprietary medicines. Physician samples were distributed to medical practitioners as free samples. The Central Excise Department raised the demand of excise duty on such samples. 3

The assessee contended that since the sale of the physician samples was prohibited under the Drugs and Cosmetics Act, 1940 and the rules made thereunder, the same could not be considered to be marketable and hence were not liable to excise duty.

Examine with the help of a decided case law whether the contention of the assessee is valid in law.

Marks

(ii) M/s. A Ltd. was a manufacturer of two products 'X' & 'Y' falling under Chapter heading 32 and 84 of the first schedule to the Central Excise Tariff Act, 1985, respectively. 3

The goods 'X' were dutiable but the goods 'Y' falling under Chapter heading 84 were fully exempt from duty vide an exemption notification, but the manufacturer, M/s. A Ltd., paid the excise duty on 'Y' by mistake and did not even claim refund of the same.

For goods 'X' falling under Chapter heading 32, being eligible for SSI exemption, the manufacturer wished to claim the same.

For the purpose of computing the value of clearances for SSI exemption, the manufacturer excluded the turnover of goods 'Y' which was exempt although duty was paid mistakenly on them. However, the department contended that the clearance of such goods should be included while computing the value of clearance for SSI exemption purposes.

With reference to a decided case law, you are required to find out whether the contention of the department is correct or not.

(b) (i) The petitioner, a charitable society is engaged in running internationally renowned schools. It allowed other schools to use its name, logo and motto and as a consideration thereof received collaboration fees from such schools which comprised of a non-refundable amount and annual fee. The schools were required to observe certain obligations / terms and un-impeachable confidentiality. 3

Department contended that the petitioner was engaged in providing franchise service and accordingly issued show cause notice proposing to recover service tax along with interest and penalty.

Examine the validity of the departmental action with reference to a decided case if any.

(ii) The assessee received some taxable services from Ramesh. A formal contract was entered into between them. As per the terms of the contract, Ramesh had to bear all the taxes, duties and other liabilities in connection with discharge of his obligations. 3

Subsequently, liability to pay service tax in case of such taxable services was shifted from service provider to service receiver retrospectively, owing to an amendment in law. Therefore, the assessee deducted service tax in the bills raised by Ramesh. Ramesh refused to accept the said deduction saying that the contractual clause could not alter the liability placed on the service recipient (i.e. the assessee) by law.

Discuss, whether the contention of Ramesh stands to reason, with help of a decided case law, if any.

(c) The assessee, an importer, filed a refund application under section 27 of the Customs Act, 1962. In support of the refund claim, the assessee submitted a Chartered Accountant's certificate giving the various facts ruling out unjust enrichment under the Customs Act. The department denied the refund on the grounds being insufficient evidence. 3

Examine the validity of departmental action citing a decided case, if any.

4. (a) (i) M/s. Vinay Industries is engaged in manufacture of a product 'B' which is obtained by certain process. The adjudicating authority concluding that the process amounts to manufacture, levied excise duty on it. Aggrieved by the order, the assessee carried an appeal before the Commissioner (Appeals), who accepted the assessee's stand and held that the above process did not amount to manufacture. Department did not appeal against it and the above order of the appellate authority attained finality. 3

For subsequent period, the assessee took the same stand but the department issued demand notice to the assessee to pay the duty, but for a time period different from the period covered in the said appeal.

Discuss with the help of a decided case law, whether the Revenue could contend this issue further on the same grounds when the appellate order for earlier period was not challenged by the department ?

Marks

(ii) The respondent assessee was carrying on construction of metro railway. He manufactured pre-fabricated components of metro rail at one site to be used at different inter-connected metro construction sites. The assessee claimed exemption under Notification No. 1/2011-C.E.(N.T.) dated 17-2-2011 which exempts the goods covered under specified chapter headings for a specified period, manufactured at the site of construction for use in construction work at such site. 3

Department contended that the assessee was not entitled to exemption as he did not fulfil the condition of manufacture at the site of the construction.

Examine the validity of the departmental contention citing a decided case, if any.

(b) A co-operative society rendered rent-a-cab service to M/s. JITO. The members of the society were essentially agriculturists who formed the society after they lost their land when JITO plant was being set up and the society was operating without any profit model. 6

When the society started rendering the service to JITO, there was no service tax levy on rent-a-cab service. However, service tax was imposed on it subsequently. A show cause notice was issued to the society proposing to recover service tax with applicable penalty.

The society paid the entire disputed amount of service tax and thereafter regularly paid the service tax but did not pay the penalty contending that it was a case of new levy and also, there were divergent views of different Benches of Tribunal, which had added to the confusion. The issue was debated also with JITO, the service receiver, who denied to pay the amount of tax first.

Decide, with the help of a case law, whether the contention of the assessee is acceptable in law. Discuss in brief the various observations, which can be made on the issue.

Marks

(c) M/s. Vijay Exports, an EOU, is purchasing electricity generated by the captive power plant of its sister unit. The furnace oil required for running the captive power plant was imported by the assessee (M/s. Vijay Exports) and supplied to sister unit for generation of electricity. The assessee also claimed exemption on import of furnace oil under a relevant exemption notification. **3**

However, the assessee sought a clarification from the Development Commissioner seeking as to whether import of furnace oil and receipt of electricity would be liable to duty. The Development Commissioner replied in favour of the assessee and thereafter, the assessee claimed the exemption.

A show cause notice demanding duty was issued on the assessee invoking extended period of limitation of 5 years on grounds that the entitlement of duty free import of fuel for its captive power plant lies with the owner of the captive power plant, and not the consumer of electricity, generated from that power plant.

Is the action of the department justified in light of the provisions of the Customs Act, 1962 ? Discuss with the help of a decided case law.

5. (a) In Central Excise Law briefly explain the following terms : **2×3 =6**

(i) Specific duty

(ii) Tariff value

(iii) Ad-hoc exemption

Marks

(b) (i) With reference to the Finance Act, 1994, discuss the taxability of following activities relating to a bank : 1×3 =3

(a) Bank extended housing loan of ₹ 50 lac to Mr. A.

(b) Bank received ₹ 50,000 as loan processing fee from Mr. A.

(c) Bank received ₹ 6 lac as interest on loan from Mr. A.

(ii) Explain briefly whether VAT is leviable on sale of leased asset after lease period ? If yes, in which State, it will be exigible to tax ? 3

(c) Write a short note on applicability of penal provisions in Customs Law on attempt of improper exportation of goods. 3

6. (a) An assessee is barred from making an application for settlement of cases under section 32E of Central Excise Act, 1944 in certain circumstances. Briefly enumerate these circumstances. 6

OR

Briefly explain the procedure to be followed by the Authority for Advance Rulings on receipt of application for Advance Ruling under the Central Excise Act. 1944. 6

(b) (i) What is the time limit for issuance of show cause notice for demand of service tax under section 73 of the Finance Act, 1994 ? 3

(ii) What is VAT invoice ? What are the mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer ? 3

(c) What is the relevant date for determining the rate of duty and tariff valuation in respect of goods imported or exported by post ? 3

Marks

(a) Which are the different types of bonds in vogue and executed for various purposes under Central Excise Act, 1944 ? **6**

(b) (i) On the basis of following information, determine the 'Point of Taxation' as per Rule 3 of Point of Taxation Rules, 2011 :- **3**

(1)	Commencement of providing of service on	05-06-2013
(2)	Completion of service on	10-10-2013
(3)	Invoice issued on	20-10-2013
(4)	Payment received by cheque and entered in the books on	15-10-2013
(5)	Amount credited in Bank A/c on	25-10-2013
(6)	Service became taxable for the first time on	01-07-2013

(ii) Explain how do sales tax incentives cause problems for VAT system. **3**

(c) Explain briefly the meaning of Entry Inward and Entry Outward in the Customs Law. **3**

Q1(a)

Computation of excise duty payable by Veena Ltd for the year ended 31.03.2014

Particulars	Factory A	Factory B	Total
		Rs in lakhs	
Turnover up to 31.12.2013	90.00	60.00	150.00
Turnover from 01.01.2014 to 31.03.2014	60.00	40.00	100.00
Total Turnover	150.00	100.00	250.00
Less: Basic exemption for SSI	90.00	60.00	150.00
Taxable Turnover	60.00	40.00	100.00
Excise duty A- 12.36% and B 10.3%	7.416	4.12	11.536
Less Cenvat Credit (Working Note1)	4.944	3.09	8.034
Excise duty payable in cash	2.472	1.03	3.502

Working note 1		
Excise duty paid on inputs		
A- 112.36 x12.36/112.36	12.36	
B- 55.15 x 10.3/110.3		5.15
Excise duty paid on capital goods		
B- 11.03 x 10.3/110.3		1.03
Cenvat Creddit available Proportionate		
Inputs A- 12.36 x60/150	4.944	
Inputs b- 5.15 x40/100		2.06
Cenvat credit on Capital goods -100% in 1st year		1.03
Total Cenvat Credit available	4.944	3.09

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Q1(b)

computation of amount of Cenvat Credit available and Excise duty payable by Vipin Ltd

Amount of Cenvat Credit available

Particulars	Rs.	Rs.
(a).When duty payable on intermediate product P		
Rawmaterial A- 10000 x80 x12.36%		98,880
On Capital goods		
Counter vailing duty-10000+ Ec 3%	10,300	
Special CVD	4,000	
	14,300	
Available 50% on above in the first year		7,150
Total Cenvat Credit available		106,030
(b) Cenvat Credit not availlale in the respect of inputs p and M used in the manufacturer of Z which is exempt from excise duty		
Amout of Excise duty payable on Product P		
Assessable value of P- 10000 kg*98%*Rs.100		980,000
Excise duty @12.36% on above	121,128	
Less Cemvat Credit on inputs and Capital goods	106,030	
Excise duty payable in cash		15,098
No excise duty payable on product Z as it is exempt from excise duty		

Q1(c)

Service Tax Payable by Reliable Agro Industrties

Particulars	Rs.
Supply of farm labour	Negative list. Not taxable
ware housing of refimed vegitable oil	125,000
Sale of wheat on commission basis	Negative list. Not taxable
(Assume it it commission received)	
Hiring of truck for tranport of minerals	250,000
(Reverse charge)	
Leasing of vacant land for stud farm	
(Stud farm will not cover under agricultural hece taxable	30,000
Reniting of farmhouse for marriage and birthday	45,000
(not covered by negative list and taxable	
Dehusking of paddy in Rice mill	32,000
(not covered by negative list and taxable	
Total value of taxable service	482,000
Service tax @12.36%	59,575

Note: The service tax paid by Company during the year is Rs.3,18,000 and Corresponding taxable value of service is 318000*100/12.36=25,72,815 and hence SSP rcrmption not available

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Q1(d)

Computation of Sales value and Vat payable by M/s Virat Productions

Particulars	R-75%		T-25%		Total	
Cost of rawmaterial including vat	168,750		56,250		225,000	
Less: Vat included in above	18,750		-		18,750	
		150,000		56,250		206,250
Cost of other material						
Local state purchases including vat	33,750		11,250		45,000	
Less: Vat included in above	3,750	30,000	-	11,250	3,750	41,250
Outside state Purchases inclduing CST		61,200		20,400		81,600
Wages and Other manufacturing exp		58,800		19,600		78,400
Cost of Production		300,000		107,500		407,500
Add Profit 20% on sales or 25% on cost		75,000		26,875		101,875
Sale price		375,000		134,375		509,375
Out put tax- Vat @12.5% on above		46,875		Nil		46,875
Less: input tax		22,500		Nil		22,500
for R- (18750+3750)						
Net Val liability		24,375		Nil		24,375

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Q1(e)

Amount of Customs duty interest payable by Vipul

Particulars	Rs
Assessable Value	
$ 1,00,000 @ Rs. 65.20 rate on date of presentation of BOE	6,520,000
Basic Customs duty- 10% + EC 3% (Note 1)	671,560
Interest - -652000 x15% x24/365(Note 2)	6,624
Other charges (note 3)	NIL
Total amount payable	678,184

Note 1

Rate on the date of in case of clearance of goods from ware house is rate on the date of presentation of bill of entry for home conssumption from ware house u/s 15 (b). It is assumed BOE filed on 20.04.2014

Note 2

Interest is payable on duty@15% p.a. after expiry of warehousing period till the date of payment of duty ie from 21.04.2014 to 14.05.2014

Note No.3. It is assumed that ware rent, stoarage charges has been paid

It is assumed,Penality for improper removal u/s 72 may be waived

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All the questions including case laws given in the exam questions are already covered beautifully in my book.

"Simplified approach to indirect taxes 5th edition. References also given to the answers from my book

Question 2

(a) (i)

Power to Grant Stay Sec 35 C(2A) (My book page No.4.161)

The Tribunal can grant stay for recovery of duty and penalty pending appeal***.***

- Where an order of stay is made in any proceedings relating to an appeal filed the Appellate Tribunal shall dispose of the appeal within a period of 180 eighty days from the date of such order:
- **Extension of Period of Stay: (Finance Act 2013**)
  - Where such appeal is not disposed of within 180 days, the Appellate Tribunal may, on an application made in this behalf by a party and on being satisfied that the delay in disposing of the appeal is not attributable to such party, extend the period of stay to such further period, as it thinks fit, not exceeding 185 days,
  - Where appeal is not so disposed of within the total period of 365 days from the date of stay order l, on the stay stand vacated after the expiry of the said period

a (ii)

Serving of SCN 37 C ((My book page No xxiv in Amendments)

- By registered post (acknowledgement due) to the assessee's address.
- By Speed post with proof of delivery
- By courier mode approved by CBEC

(b) (i)

Transport facility provided by a School to its students through a fleet of buses owned by the School.

Is taxable service. With effect from 01.04.2013, the exemption is withdrawn for services provided by exempted educational service namely a) auxiliary educational services; or renting of immovable property.

(b) (ii)

Exemption is available only for these services when provided to exempted educational institute by other person. Notification No. 3/2013 dated 01.03.2013. **(Chapter 5 Page N0 4.51 in the my book)**

(b) (ii)

Service provided by a private transport operator to a School in relation to transportation of students to from the School is exempted. Exemption is available only for these services when provided to exempted educational institute by other person. Notification No. 3/2013 dated 01.03.2013.

(iii) Exhibiting movies on television channels. Is a taxable service It is not cover under negative list of exempts services. **(Page N0 4.31 in the my book)**

(c) **(i)**

2 days. Where the importer fails to pay the import duty within two days(Finance Act 2013) from the date of order for clearance excluding holidays from the date on which the bill of entry is returned to him for payment of duty, he shall pay interest @18% per annum on such duty till the date of payment of the said duty Page N0 2.41 in the my book)

(ii)

30.days. **Page N0 2.41 in the my book**)

(iii)

Sec 27 and 28: Amount less than Rs.100 will not be refunded and showcase notice for amount less Rs.100/- will not be issued **(Recent amendment in customs point 1 my book page No xxiii**

Question 3

1(a)(i)

Physician samples excisable goods in view of the fact that they are statutorily prohibited from being sold Medley Pharmaceuticals Ltd. v. CCE & C., Daman 2011 (263) E.L.T. 641 (S.C.) **Recent Caselaws in excise point 14 my book page No xxvii)**

(ii)

Exempted goods on which duty has been paid by mistake by the assessee and refund thereof has also not been claimed would be excluded while computing turnover for preceding year for claiming SSI exemption Bonanzo Engg. & Chemical P. Ltd. v. CCEx. 2012 (277) E.L.T. 145 (S.C.) **Recent Caselaws in excise point 25 my book page No xxvii)**

1(b) (i)

A society, running renowned schools, allows other schools to use a specific name, its logo and motto and receives a non-refundable amount and annual fee as a consideration. Held that it tantamounttoproviding'franchiseservice'tothesaidschoolsandifthepetitionerrealizedthe'franchise'or'collaborationfees'fromthefranchiseschools,thepetitionerwasdutyboundtopayservicetaxtothedepartment.*Mayo College General Council v. CCEx. (Appeals)* 2012 (28) STR 225 (Raj Recent Case laws in Service tax point 2 my book page No xxviii)

(ii)

Service tax liability created under law is shifted by virtue of a clause in the contract entered into between the service provider and the service recipient. The service is liable to pay service tax under the law, has shifted his liability by clause in the agreement. Supreme Court held that service tax is an indirect tax which may be passed on. Thus, assessee can contract to shift its liability. *RashtriyaIspat Nigam Ltd. v. Dewan Chand Ram Saran* 2012 (26) S.T.R. 289 (S.C.) **Recent Case laws in Service tax point 1 my book page No xxviii)**

(c)

the respondent could not be granted refund merely on the basis of Chartered Accountant's certificate acknowledging certain facts as it did not rule out the unjust enrichment. CCus., Chennai v. BPL Ltd. 2010 (259) E.L.T. 526 (Mad.)

Question 4

(a)(i)

Revenue accepts judgment of the Commissioner (Appeals) on an issue for one period, it can be precluded to make an appeal on the same issue for another period Commissioner of C. Ex., Mumbai-III v. Tikitar Industries, 2012 (277) E.L.T. 149 (S.C.) **Recent Case laws in excise point 8my book page No xxvii)**

(ii)

construction of pre-fabricated components at one site to be used at different inter-connected metro construction sites in Delhi would get covered under exemption Notification No. 1/2011-C.E.(N.T.) dated 17-2-2011 which exempts 'goods manufactured at the site of construction for use in construction work at such site Commissioner of Central Excise v. Rajendra Narayan 2012 (281) E.L.T. 38 (Del.)

(b)

Where the assessee has acted bonafide, penalty cannot be imposed for the delay in payment of service tax a rising on account of confusion regarding tax liability and divergent views due to conflicting court decisions The High Court held that even if the appellants were aware of the levy of service tax and were not paying the amount on the ground of dispute with the ONGC, there could be no justification in levying the penalty in absence of any fraud, misrepresentation, collusion or wilful mis-statement or suppression. Moreover, when the entire issue for levying of the tax was debatable, that also would surely provide legitimate ground not to impose the penalty. Ankleshwar Taluka ONGC Land Loosers Travellers Co. OP. v. C.C.E., Surat-II 2013 (29)STR 352 (Guj.) **Recent Case laws in Service tax point 5 my book page No xxviii)**

(c)

Extended period of limitation for demand of customs duty can't be invoked in a case where the assessee had sought a clarification about exemption from a wrong authority. The Supreme Court held that mere non-payment of duties could not be equated with collusion or willful misstatement or suppression of facts as then there would be no form of non-payment which would amount to ordinary default. The Apex Court opined that something more must be shown to construe the acts of the assessee as fit for the applicability of the proviso. Uniworth Textiles Ltd. vs. CCEx. 2013 (288) ELT 161 (SC**). Recent Case laws in Customs point 4 my book page No xxix)**

Question 5

(a) (page no 1.41 in my book)

Specific Duty

- It is the duty payable on the basis of certain units like weight, length, volume, etc., of a product
- The disadvantage of this duty is that even if selling price of the product increases, revenue earned by Government does not increase correspondingly.
- The Government will keep on revising the rates
- Valuation disputes will be less

Presently, specific rates have been provided for:

- Cigarettes - on the basis of length
- Matches - per 100 boxes or packs
- Sugar - on the basis of quintal

Tariff Value

- Government, from time to time, fixes the tariff value. This is a "notional value" for purpose of calculating the duty payable.
- Once tariff value for a commodity is fixed, duty is payable as percentage of this 'tariff value' and not the Assessable Value fixed under section 4.

Adhoc exemption

Any exemptions which are notified for specific purpose with specific directions are known as Adhoc exemptions. These exemptions are may also contains conditions regarding the exemptions. CBEC has powers to notify exemptions under excise, customs and Service tax

(b)(i) Page no 4.34 in my book

Service relating grant of loan, advance and interest on such loan/advance negative list of service not taxable

Loan processing fees Rs.50,000/- is not covered under negative list. Service is taxable.

ii) Sale of leased asset after the lease period **(page no 3.20 in my book)**

Sale of a leased asset after the lease period is over is taxable in the same manner in which a normal sale of such asset would have been taxed.

(c)) page no 2.83 in my book

Section 114: Penalty for attempt to export goods improperly, etc.

Any person who, in relation to any goods, does or omits to do any act or omission, which would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable as below:

Quantum of Penalty leviable for Attempt to improperly export

S No	Nature of goods	Quantum of Penalty
1	Prohibited Goods under the Customs Act or any other law	Value of goods or Rs. 5,000, whichever is greater
2	Dutiable goods, which are not prohibited goods	Duty sought to be evaded in case of or Rs. 5,000, whichever is greater
3	In case of Other goods (inflation value etc.)	Value of goods, as declared by the exporter, or value as determined under the Customs Act, whichever is greater.

Question 6
page no 4.167 in my book
(a)

Who can make application to settlement commission?

- As per sec 32E(1) any person who is liable to pay excise duty assessed and includes any manufacturer or producer or a registered person of a private warehouse.
- Section 32E(4) provides that an application once made for settlement cannot be withdrawn.
- Assessee can make application to settlement commission more than once if the application made on or after 01.06.2007.

Conditions to be fulfilled for making an application

- An assessee can make an application to the Settlement Commission only when the case is pending before the adjudicating authority as on the date of application. It can only be approached when the original adjudication is pending.
- The assessee shall be eligible to file an application only in respect of the goods for which he admits short levy on account of misclassification, undervaluation, and non-applicability of exemption notification or CENVAT credit.
- The applicant has filed returns showing the production, clearance and payment of Central Excise duty in the prescribed manner.
- A show cause notice for the recovery of duty issued by the Central Excise Officer has been received by the applicant.
- The additional amount of duty accepted by the applicant in his application exceeds Rs. 3 lakh
- The applicant shall deposit the additional amount of excise duty accepted by him along with the interest due under section 11AA at the time of filing of applications.

- Where any excisable goods, books of account, and other documents have been seized, the assessee is entitled to make an application only after the expiry of 180 days from the date of seizure.

If any of the conditions are not fulfilled he cannot make application to SC

2nd Alternative (page no 4.172 in my book)

Procedure on Receipt of Application

- Authority shall send a copy thereof to be forwarded to the Commissioner and, if necessary, call upon him to furnish the relevant records.
- Authority may admit or reject the application.
- Authority may reject the application if the case is already pending before an appellate authority or court, or a court /Tribunal has already decided the case.
- If an application is admitted, the authority will examine the material submitted by the applicant or obtained by the authority.
- On a request received from the applicant, personal hearing will be entertained.
- Authority will then pronounce its advance ruling within 90 days of receipt of application.
- Copy of the order, signed by members of Authority, will be sent to the party and Commissioner

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(b) (i) Time limit for issue of notice for service tax u/s 73 (page no 4.129 in my book)

Normal-18 months from relevant date

5 years, from relevant date in case of fraud, collusion, wilful misstatement, suppression of facts, violation of law with intention to evade duty,

If Extended period notice is sustainable in appeal, the notice is treated as notice for normal period.(FA 2013)

(ii)

VAT invoice (page no 3.14 in my book)

- Invoice is a document listing the goods sold with details of price, tax charged and other details as may be prescribed and issued by a dealer authorised under the Act.
- The whole structure of the VAT with input tax credit is founded on the documentation of a tax invoice, a cash memo or a bill.
- The White Paper mainly provides for the following provisions, which are mandatory, and failure to comply with these attracts penalty:
  - Every registered dealer, the turnover of whose business exceeds the specified amount, shall issue to the purchaser a serially numbered tax invoice, cash memo or bill with the prescribed particulars.
  - The tax invoice shall be dated and signed by the dealer or his regular employee, showing the required particulars.
  - The dealer shall keep a counterfoil or duplicate of such a tax invoice duly signed and dated.

(C) (Page no 2.46 in my book)

Rate of duty and tariff value for goods arriving by post

A. In case of imports

1	In case of goods arriving by air/road	The rate of duty and valuation as on date on which postal authorities submit the list to Customs Officer
2	In case of goods arriving by vessel	The rate of duty and valuation as on date on which postal authorities submit the list to Customs Officer or date of arrival of vessel, whichever is later.

B. In case of exports

The rate and tariff valuation as applicable on the date on which the exporter has handed over the goods to the postal authorities for verification will be considered.

Question 7

(a) Page no 1.135 in my book)

Bonds

'Bond' means an undertaking given by the assessee to Government for due fulfillment of certain obligations. Bonds are of two types - surety bond and security bond. Bond should be accepted by CEO

Acceptance of Bonds

Bonds may be accepted by any of the following officers:

i. Assistant/Deputy Commissioner of Central Excise having jurisdiction over the factory or warehouse or any other premises approved by the Commissioner for storing non-duty paid goods
ii. Jurisdictional Maritime Commissioner in case of exports or
iii. Deputy/Assistant Commissioner of Central Excise (Export) as officers authorized by the Board for this purpose.

Exporters are required to indicate on the ARE-1 the complete address of the authority before whom the bond is executed and to whom the documents are to be submitted for admission of proof of export.

Types of Bonds

Bonds can be surety bonds or security bonds as below

Surety Bonds

- Surety bonds are covered under the Indian Contract Act, 1872.
- In surety bond, another person stands as surety to guarantee the performance.
- Surety should be for full value of bond. Surety should be solvent to the extent of bond amount.
- The department is at liberty to enforce the recovery of dues either from the obligor or from the surety.

Security Bonds

- These are executed where security is offered instead of guarantee.
- Security can be in nature of post office saving deposit, NSC, bank deposits, Govt. securities, etc.
- Bank guarantee can also be accepted as surety/security.

Particulars of Bonds

- Name, address, registration no. of assessee
- Declaration about compliance of rules, regulations
- Surety liability clause, damages, etc.

Forms/ kinds of Bonds executed for central excise purposes

Bonds are of different nature and for various purposes. Forms of bond, etc., have been standardized. The main kinds of bonds are as follows:

B-1 - general bond

- This bond is for due dispatch of excisable goods removed for export without payment of duty.
- It can be with surety or security.

B-2 bond

- This is a General Bond for provisional assessment.
- It can be with security or surety.

B-4 bond

- The bond is for provisional release of seized goods.
- It can only be a security bond.
- This bond should be for whole value of seized goods.
- Amount of security will be as determined by adjudicating authority taking into consideration of gravity of offence (normally 25%).

B-8 bond

This bond is for obtaining goods at Nil or concessional rate of duty under Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules.

B-11 bond

- This is not prescribed under new rules.
- However, it has been clarified that the old B-11 form should be used to clear seized goods on provisional basis.

B-17 bond

- This is a general surety / security bond to be executed by EOU, EHTP/ STP units.
- It is for provisional assessment of goods for export to foreign countries without payment of duty and for account / disposal of excisable goods procured without payment of duty.

(b)

Calculation of Point of taxation	
Date of Completion of Service	10.10.2013
Date of invoice	20.10.2013
Date of record in books	15.10.2013
Date of credit in bank	25.10.2013
Since the amount credited in the bank after 4 days of entry in the books, date of entry in the books is considered as date of payment	15.10.2013

Point of taxation-is the date of invoice ie., 20.10.2013 ,since the invoice is issued within 30 days from the date of completion of service .

(ii)

Problems of sales tax incentive in vat system (hint)

Subsidies, incentives and exemptions in sales tax will affect and disrupt vat chain system.
Unhealthy completion among dealers and industries
Demand for incentives and exemptions from other states

(c) Entry inward and entry outward in customs (page no 2.41 in my book)

Entry inwards is a term used to denote colloquially that the ship's entry papers like arrival report, manifest etc have been received and they have been found to be in order, the person in charge of the conveyance can commence further import operations namely unloading of the cargo and disembarking **of the passengers.** Imported goods not to be unloaded from vessel until entry inwards granted *[*Section 31*]. Date of entry inward is the date on which the vessel found a berthing place for discharge of cargo*

Entry outward

- Permission to be granted by the Customs authorities to leave the vessel from the port is known as "Entry Outwards". The vessel should be granted 'entry outward'.
- Loading can start only after entry outward is granted.
- Loading should be done with the permission of the Proper Officer.

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