Indirect Tax - Nov 08 - Final

Roll No...[redacted]...........

Total No. of Questions—9] [Total No. of Printed Pages—7

Time Allowed—3 Hours Maximum Marks—100

TIP

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 who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Answer to Question Nos. **1, 6** and **9** are compulsory. In addition, thereto, answer any **two** questions from PART—A and any **one** question from PART—B.

Marks

PART—A

1. (a) Briefly explain the following with reference to the provisions of the Central Excise Act, 1944 : 2×2 =4

   (i) Curing

   (ii) Broker or Commission agent.

   (b) SC Ltd. is a manufacturer of caustic soda, cement etc. it uses LSHS (Low Sulphur Heavy Stock) as fuel for generating electricity which in turn captively consumed for the manufacture of final products. It has claimed CENVAT credit on the reasoning that this is used 'in relation to manufacture of final products' and hence this is input. 4

   However the department did not allow the credit as LSHS has been used to generate electricity, which is not excisable and hence cannot be considered as input used as fuel. State with reasons whether the action taken by the department is covered by the CENVAT Credit Rules, 2004. You may take help of the decided case law(s), if any.

Marks

(c) Explain the term 'normal transaction value' under the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000. How the term is used for valuation of excisable goods ? 4

(d) A particular product of a manufacturer was exempt from duty. Subsequently, central excise duty was imposed on it. The manufacturer assessee continued to sell the product without any change in selling price. Later, he realised that he had paid higher quantum of duty. He filed a refund claim stating that there was no change in price before and after imposition of duty and hence the burden of duty has not been passed on to the buyer. Will his stand for refund claim be acceptable ? Discuss briefly. 4

(e) State in brief the penal provisions under the Central Excise Act, 1944 and rules made thereunder if a manufacturer of excisable goods does not apply for registration. 4

2. (a) P Ltd. manufacturers two products namely 'A' and 'B'. A is a specified product under Section 4A of the Central Excise Act, 1944. The sale prices of both the products are Rs. 50 per unit and Rs. 30 per unit respectively. The sale prices of both the products included 14% basic excise duty plus 2% education cess and 1% secondary and higher education cess. Central Sales tax @ 3% is also included in both the selling prices. 5

1,00,000 units each of the two products were removed from the factory for sale. Calculate the total excise duty liability of P Ltd. on both the products assuming that 40% abatement is permissible under section 4A on product A.

(b) What is the 'relevant date' for claiming refund under Section 11B of the Central Excise Act, 1944 ? 4

(c) What are the documents required to be submitted for filing claim of rebate by an exporter ? 4

Marks

(d) K Ltd. is a manufacturer of glass fibre reinforced plastics, which are used for roofing sheets and partitions. It is manufactured by impregnating plastics with glass to give stiffness and increase insulated capacity. Mention the relevant rule of 'General Interpretative Rules', which is applicable here for the classification of the product. 2

3. (a) Briefly explain the provisions of sub rule 5B of rule 3 of the CENVAT Credit Rules, 2004 regarding the value of input or capital goods, on which CENVAT credit has been taken, is written off fully, before being put to use. 4

(b) Discuss briefly the provisions of rule 4(4) of the Central Excise Rules, 2002 regarding storage of non-duty paid goods outside the factory. 4

(c) Mention any four important types of bonds with their purpose for use under the Central Excise laws. 4

(d) Write a note on publication of information in respect of certain persons in certain cases under the Central Excise Act, 1944. 3

4. (a) State the matters, which can be referred for advance ruling under Section 23C of the Central Excise Act, 1944. 5

(b) What are the goods bearing the brand name or trade name of others, eligible for exemption available to small-scale units ? 5

(c) A manufacturer purchased certain inputs from Z. The assessable value was Rs. 20,000 and the Central Excise duty was calculated at Rs. 3,296 making a total amount of invoice at Rs. 23,296. However, the buyer manufacturer paid only Rs. 20,800 to Z in full settlement of this bill. How much CENVAT credit can be availed by the manufacturer and why ? 3

(d) A merchant manufacturer gets the goods manufactured according to his design and specifications from a job worker. Who will be called as manufacturer under the Central Excise law ? 2

TIP

Marks

5. (a) Discuss whether remission of duty will be granted under the Central Excise Rules, 2002, in the following cases : 2×3 =6

(i) Loss of molasses due to auto combustion in Sugar factory.

(ii) Normal evaporation, storage and handling losses of petroleum products.

(iii) There was natural calamity in the factory, but the department was not intimated in time.

(b) What do you mean by Scrutiny of assessment in view of the self-assessment procedure under Central Excise ? 3

(c) SP Ltd. purchased capital goods worth Rs. 11,44,200, inclusive of excise duty @ 14.42%, on 1.4.2007. CENVAT credit attributable on such capital goods was duly accounted for. You are required to compute the amount of CENVAT credit to be reversed, if the capital goods were removed, after being used, on 2.11.2008. 3

(d) State the obligation of a Small-scale Unit to file declaration under the following circumstances : 3

Year	Turnover (Rs. in lakhs)
2006-07	45
2007-08	80
2008-09 (anticipated)	100

PART—B

6. (a) Explain briefly with reference to the provisions of the Customs Act, 1962 the following : 2×2 =4

(i) Bill of export

(ii) Import report.

TIP

Marks

(b) Answer the following with reference to the provisions of section 14 of the Customs Act, 1962 and the rules made thereunder : 2×3 =6

(i) What shall be the value if there is price rise between the date of contract and the date of actual importation ?

(ii) Whether the payment for post-importation process is includible if the same is related to imported goods and is a condition of the sale of the imported goods.

(iii) Bill of entry was filed on 27.10.2008. Will you apply the exchange rate notified by the Central Board of Excise and Customs on 25.9.2008 or notified on 25.10.2008 ?

(c) BL Ltd. imported Super Kerosene Oil (SKO) and stored in a warehouse. An ex-bond bill of entry for home consumption was filed and duty was paid as per rate prevalent as on the date of presentation of such bill of entry; and the order for clearance for home consumption was passed. On account of highly combustible nature of SKO, the importer made an application to permit the storage of such kerosene oil in the same warehouse until actual clearance for sale/use and the application was allowed. When the goods were actually removed from the warehouse, the rate of duty got increased. The department demanded the differential duty. The company challenged the demand. Whether it will succeed ? Discuss briefly taking support of decided case law(s), if any. 5

(d) What conditions are to be fulfilled by the importer to make the imported goods eligible for preferential rate of duty prescribed by the Central Government by notification under Section 25 of the Customs Act, 1962 ? 5

7. (a) Briefly explain the law relating to private warehouses. What are the guidelines for storage of sensitive goods in such warehouses ? 6

Marks

(b) Who has the powers to — 1×4=4

(i) appoint inland container depots;

(ii) appoint land customs stations;

(iii) specify limits of customs area; and

(iv) appoint public warehouse at places notified under the Customs Act, 1962 ?

(c) Explain the provisions of Section 146 of the Customs Act, 1962 regarding licensing of customs house agents. 5

8. (a) Explain the obligation cast on person-in-charge on arrival of vessels or aircrafts in India under Section 29 of the Customs Act, 1962. 5

(b) Explain the term 'joint venture in India' under the explanation to Section 28E(c) of the Customs Act, 1962 for the purpose of advance ruling. 5

(c) A show cause notice demanding customs duty was issued in case of clearances made by 100% Export Oriented Undertaking (EOU) to Domestic Tariff Area (DTA). Is the show-cause notice defective in law ? 3

(d) What do you mean by assessment of goods under the Customs Act, 1962 ? 2

PART—C

9. (a) Explain in brief the manner of determination of value as per rule 3 of Service tax (Determination of value) Rules, 2006. 4

(b) What action can be taken by the department in case of misuse of Service tax credit ? 3

(c) The value of service provided by a consulting engineer is Rs. 10,00,000. He has paid Rs. 50,000 as cess under Section 3 of the Research and Development Cess Act, 1986. What is the amount of Service tax payable by him ? 3

Marks

2 (d) Whether a manufacturer of excisable goods, who has paid Service tax on freight, can himself take credit of Service tax paid, if such transportation service is in relation to the manufacture and clearance of his final products ? 3 2

1 (e) The goods manufactured by a company got destroyed by fire. The payment of duty was ordered to be remitted. Is the company required to reverse the CENVAT credit taken on input services used in manufacture of such destroyed goods ? 2 1