

MAY 2010

FINAL (NEW COURSE)
GROUP-II PAPER-8
INDIRECT TAX LAWS

Roll No.....

Total No. of Questions—8]

[Total No. of Printed Pages—7

Time Allowed—3 Hours

Maximum Marks—100

KLM

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.

Wherever appropriate, suitable assumption/s should be made by the candidate.

Explanation should be given for treatment of various items, wherever required.

Answer **all** questions.

SECTION—A

Marks

1. (a) Compute the assessable value and amount of excise duty payable under the Central Excise Act, 1944 and rules made thereunder from the following information : 5

Particulars	No. of Units	Price at Factory Per Unit	Price at Depot Per Unit	Rate of Duty Advalorem
(i) Goods transferred from factory to depot on 8th February	1,000	Rs. 200	Rs. 220	10%
(ii) Goods actually sold at depot on 18th February	750	Rs. 225	Rs. 250	8%

- (b) M/s Royal Industries started its production activities on 15th March, 2010. In the month of March, 2010, 1,000 units of raw material were purchased at Rs. 150 per unit, paying excise duty @ 8%. 800 units of raw material were consumed in manufacturing process and finished output was sold for Rs. 1,40,000 (excluding excise duty @ 8%). For simplification, you may ignore the conversion cost and assume the rates of excise duty to be inclusive of education cess. 5

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Pass the Journal entries in the books of the assessee and show the balances in Balance Sheet as on 31.3.2010.

- (c) Mahesh Ltd., which is engaged in manufacturing of excisable goods started its business on 1st June, 2009. It availed SSI exemption during the financial year 2009-10. The following are the details available to you : 5

	Rs.
(i) 12,500 kg of inputs purchased @ Rs. 1,190.64 per kg (inclusive of Central excise duty @ 8.24%)	1,48,83,000
(ii) Capital goods purchased on 31.5.2009 (inclusive of Excise duty @ 14.42%)	80,09,400
(iii) Finished goods sold (at uniform transaction value throughout the year)	3,00,00,000

You are required to calculate the amount of excise duty payable by M/s Mahesh Ltd. in cash, if any, during the year 2009-10. Rate of duty on finished goods sold may be taken @ 12.36% for the year and you may assume the selling price exclusive of central excise duty.

There is neither any processing loss nor any inventory of input and output. Output input ratio may be taken as 2 : 1.

2. (a) An assessee classified his product as per Central Excise Tariff subject to nil rate of duty. The Department contended that when the entries in the Harmonised System of Nomenclature (HSN) and the Central Excise Tariff are not aligned, reliance should be placed upon HSN for the purpose of classification of goods under the said Tariff. Relying upon the HSN for the purpose of classification of the impugned product, the Department classified it under another heading attracting 8% duty. Do you think that Department's plea is valid in law ? Discuss briefly, with reference to a decided case law, if any. 5
- (b) M/s Evasions Unlimited, manufacturing excisable goods, paid the differential duty, suo motu, to the Department as the prices of the said goods were revised with retrospective effect. The Revenue took the view that the assessee was liable to pay interest on differential duty under Section 11AB of the Central Excise Act, 1944 and penalty thereof. The assessee replied that there was no question of charging interest and penalty as the payment of differential duty was made by it at the time of issuing supplementary invoices to the customers. 5

Discuss, with reference to a decided case law, if any, whether the view taken by the Revenue is justifiable.

- (c) An assessee made an application under Section 32E of the Central Excise Act, 1944 to the settlement commission. The settlement commission was not satisfied saying that the applicant had not made a true and full disclosure of his duty liability and the manner in which same was arrived at was also not correct and rejected the application. The assessee contended that obligation to make truthful disclosure of duty liability would arise only after the application was admitted and not before that. Is plea taken by the assessee acceptable in law ? Explain in brief, with the help of a decided case law, if any. 5
3. (a) Differentiate between “non-excisable goods” and “non-dutiable goods”. 3
- (b) 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. 3
- (c) Explain the validity of the following statements with reference to Central Excise Laws, as amended : 1×4
- (i) Records seized by department during investigation but not relied upon in the show cause notice should be returned within 30 days of issue of show cause notice.
- (ii) Special audit under Section 14A and 14AA can be done by a cost accountant only.
- (iii) Authority of Advance Ruling under the Income-tax Act, 1961 will be authority for purposes of Central excise also.
- (iv) High Court is empowered to condone delay in filing appeal and cross objection filed under Sections 35G and 35H of the Central Excise Act, 1944, beyond the prescribed period.

SECTION—B

4. (a) Mr. Happy, a service provider, has provided services of Rs. 1,00,00,000. Out of this, Rs. 70,00,000 are taxable output services and Rs. 30,00,000 are exempt output services. Mr. Happy has opted not to maintain separate inventory and accounts and pay prescribed amount on value of exempt output services. 5

Service tax paid on his input services, excluding education cess and secondary and higher education cess (EC & SAHEC) is Rs. 6,00,000 which do not include any service specified in rule 6(5) of the CENVAT Credit Rules, 2004. Rate of service tax, excluding EC and SAHEC, is 10%. Calculate the total amount payable including Service tax, EC and SAHEC by Mr. Happy by GAR-7 challan.

- (b) The particulars regarding sale, purchase etc. of Shubham Udyog for the last quarter of the year 2009-10 are as under : 5

	Rs.
(1) Purchases of raw material within the State	
(i) taxable @ 1%	40,00,000
(ii) taxable @ 4%	60,00,000
(iii) taxable @ 12.5%	10,00,000
(2) Sale of goods manufactured from raw material purchased @ 4% tax rate	
(i) Taxable sale within the State (tax rate 4%)	20,00,000
(ii) Exempted sale within the State	10,00,000
(iii) Sale in the course of Inter-State trade or Commerce (tax rate 4%)	10,00,000
(3) Sale of raw material purchased @ 1% tax rate	44,00,000
(4) Goods manufactured from the raw material purchased @ 12.5% tax rate were given on lease. The deemed sale price of such goods is Rs. 12,00,000, taxable @ 12.5%.	

You may assume that input tax credit of tax on raw material used in manufacture of leased goods is available immediately. Compute the amount of Value Added Tax (VAT) payable by M/s Shubham Udyog for the relevant quarter. There was no opening or closing inventory.

How can he utilise the balance of input tax credit available, if any ?

5. (a) The term 'business auxiliary service' was inserted by Finance Act, 2003 which came into force on 1.7.2003. The Parliament by Finance Act, 2008 inserted an explanation in the relevant sub-clause (ii) of Section 65(19) stating that for the purpose of this sub-clause —

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“Service in relation to promotion or marketing of service provided by the client includes any service provided in relation to marketing of games of chance, organised, conducted or promoted by the client, in whatever form or by whatever name called, whether or not conducted online, including lottery, lotto, bingo.”

Discuss, whether the explanation appended to sub-clause (ii) of Section 65(19) is clarifactory in nature so as to be construed having retrospective effect and retroactive operation. You may take help of a decided case law, if any.

- (b) Mr. Yes is the owner of a collection centre with facilities and trained employees for collection of human blood, urine and stool samples for biological testing. He sends the samples collected to its principal lab for actual test to be done. The assessee received 25% of the price charged by the principal lab. as commission for work of collection etc. The Revenue wants to charge service tax on such collection service as it amounts to promotion or marketing of services provided by its principal lab. Mr. Yes seeks your advise in this regard with reference to a decided case law, if any.
6. (a) State, with reasons in brief, whether the following services are taxable, under the provisions of the Finance Act, 1994 relating to Service tax :

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(i) Services in relation to production of alcoholic liquor on job work basis.

(ii) Service of transport of goods in container by Government Railway.

- (b) Whether the value of material supplied by the contractee to the contractor for use in the execution of the works contract shall be included in the value of works contract for payment of Service tax under the composition scheme ? What is the present rate of service tax under this scheme ? Can the service provider avail CENVAT credit also ?

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- (c) What is the general exemption available to small service providers ? Who are the persons excluded from this exemption ? 4
- (d) Explain in brief the disadvantages of composition scheme available for small dealers under VAT system. 4
- (e) What is VAT invoice ? What are the mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer ? 4

SECTION—C

7. (a) Miss Priya imported certain goods weighing 1,000 kgs. with CIF value US \$ 40,000. Exchange rate was 1 US \$ = Rs. 45 on the date of presentation of bill of entry. Basic customs duty is chargeable @ 10% and education cess as applicable. There is no excise duty payable on these goods, if manufactured in India. 5

As per Notification issued by the Government of India, anti-dumping duty has been imposed on these goods. The anti-dumping duty will be equal to difference between amount calculated @ US \$ 60 per kg. and 'landed value' of goods. You are required to compute custom duty and anti-dumping duty payable by Miss Priya.

- (b) M/s Marwar Industries imported finishing agents, dye-carriers, printing paste etc. to be used for manufacture of textile articles. The importer claimed exemption for Additional duty of customs (CVD) leviable under Section 3 of the Customs Tariff Act, 1975, on the ground that there was an exemption for excise duty in respect of said goods used in the 'same factory' for manufacture of textile articles. The Department contended that CVD is payable on the ground that the goods which were to be used must also be manufactured in the 'same factory'. You are requested to comment upon the contention of Department, with reference to a decided case law, if any. 5
8. (a) Explain in brief the duty exemption to baggages under Section 79(1) of the Customs Act, 1962. 3

- (b) Can an application be withdrawn in the following cases ? If yes, state the time limit for withdrawal of such application : 3
- (i) application for advance ruling
 - (ii) application for settlement.
- (c) Clearly mention the relevant date in the following cases of goods warehoused under bond : 4
- (i) Rate of exchange, when goods are removed for home consumption.
 - (ii) Rate of duty, when goods are removed for home consumption.
 - (iii) Rate of duty if the goods are not removed from warehouse within the permissible period.