

MAY 2011

FINAL
GROUP II PAPER-8
INDIRECT TAX LAWS

Roll No.

Total No. of Questions – 7

Total No. of Printed Pages – 8

Time Allowed – 3 Hours

Maximum Marks – 100

CEL

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 answers in Hindi will not be valued.

Working notes should form part of answer.

Question No. 1 is compulsory.

Attempt any **five** from the remaining **six** questions.

1. (a) ABC Co. Ltd., procured the following inputs during the month of Jan 2011. Marks
Determine the amount of CENVAT credit available with necessary explanation for the treatment of various items. 5

Items	Excise duty paid (₹)
Raw materials	52,000
Manufacturing machine	1,00,000
Light diesel oil	40,000
Greases	10,000
Office equipment	20,000
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)

CEL

P.T.O.

- (b) SSI & Co. is eligible for exemption in terms of Notfn No. 8/2003 – CE dated 1-3-2003 for the year 2010-11 and provide the following particulars with regard to the clearances of goods effected during the said year. Determine the duty payable in respect of the year 2010-11. 5

Aggregate :	₹ Lakhs
Value of domestic clearance of goods with own brand name	120
Value of clearance of goods with the brand name of others (including ₹ 30 lakhs in respect of goods manufactured in a rural area)	100
Value of clearances for exports	50
Value of clearances for captive consumption	40
Value of clearances of exempted goods	20

(Assume rate of excise duty at 12%)

Show your workings with explanations where required.

- (c) M/s. Commercial Goods Services, a goods transport agency furnishes the following information in respect of services provided for the year ending March 31, 2011. Determine the value of taxable services and tax thereon under 'transport of goods by road' falling under sec 65(105) (zzp) of the Finance Act, 1994. 5

	₹
(i) Service provided to M/s. XYZ Co. Ltd.	30,00,000
(ii) Freight for transport of food grains and pulses	1,50,000
(iii) Service to an unregistered firm	6,00,000
(iv) Service provided as a 'clearing and forwarding agent'	2,00,000
(v) Composite service provided which include packing/unpacking, loading, unloading in the course of transportation by road	2,00,000
(vi) Service tax paid on input services used for providing goods transport agency services	72,000

(Provide suitable explanations where required)

(3)

CEL

Marks

- (d) From the following particulars compute net VAT payable by M/s. TAB & Co. 5
for the period ending March 31, 2011.

Inputs procured :	₹
(i) Raw material at Nil VAT	10,00,000
(ii) Raw material at 4% VAT	40,00,000
(iii) Raw material at 12% VAT	20,00,000
Output	
(i) Intra state sale of finished goods at 4% VAT (these goods were produced entirely from raw material at NIL VAT rate procured as inputs)	15,00,000
(ii) Exempted sales (these goods were produced from raw material procured at 4% VAT to the extent of 50%)	20,00,000
(iii) Sale of finished goods intrastate at 12% VAT	20,00,000
(iv) Intrastate sale of raw material purchased at 4%	10,00,000
(v) 50% of the raw material procured at 12% VAT has been utilized to produce capital goods for the manufacturing process in TAB & Co's factory (Market Value) :	15,00,000

Provide explanations where necessary.

- (e) Compute the assessable value of the machine imported by M/s. Exports India Pvt. Ltd., under the Customs Act, 1962. 5

	<u>US \$</u>
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.

CEL

P.T.O.

2. (a) Briefly explain whether the following statements are correct with reference to the Central Excise Act, 1944 and the changes effected by the Finance Act, 2010. 3×2
=6
- (i) Penalty can be imposed under Sec 11 A(2B) in case where the assessee pays duty and interest voluntarily before issue of show cause notice.
- (ii) Time limit for passing of the settlement order in terms of Sec 32 F(6) is nine months from the last day of the month in which the application was made and no extension of this period is permissible.
- (iii) An assessee cannot apply for settlement more than once under Sec 32 (0).
- (b) Explain briefly the correctness of the following statements with reference to the Finance Act, 1994 relating to service tax and the changes effected by the Finance Act, 2010. 2×3
=6
- (i) With regard to residential complex service (Sec 65(105) (zzzh) unless the entire payment for the property is paid by the buyer after completion of construction, the activity of construction would be deemed to be a taxable service.
- (ii) The application of the rules in respect of classification of services under Sec 65A have been excluded in the case of specific taxable services.
- (c) Explain briefly with reference to the changes effected by the Finance Act, 2010 to the Customs Tariff Act, 1975 how additional customs duty has to be determined in respect of goods imported requiring MRP based assessment under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. 3

(5)

CEL

Marks

3. (a) PQR & 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. XYZ 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. XYZ 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. 5
- (b) Sweet Sugar Mills is engaged in the manufacture of sugar. Government of India had issued directions under the Sugar Control Order for sugar companies to maintain buffer stock of sugar of certain quantity for a specified period. In order to compensate the sugar mill the government had extended buffer stock subsidy towards storage, interest and insurance charges in respect of the buffer stock of sugar actually held by the sugar mill. The department has issued a show cause notice to the assessee raising a demand of service tax on the ground that the amount received by the sugar mill as buffer subsidy is covered under the taxable service of 'storage and warehousing'. Discuss briefly with reference to decided case law whether the action of the department is sustainable in law. 5

CEL

P.T.O.

- (c) The customs authorities had confiscated the gold carried by Mr. Lovegold from Bahrain. Mr. Lovegold informed the customs authorities that he was filing an appeal against the order of confiscation. The customs authorities informed Mr. Lovegold that the confiscated goods had been handed over to the warehouse of the custom house for disposal and consequently auctioned the confiscated goods. Discuss briefly the validity of the action taken by the customs authorities with the help of decided case law. Also discuss the validity of the claim of Mr. Lovegold in seeking market value of the confiscated goods and whether he is liable to pay the duty, fine and penalty imposed by the original authority. 5

4. (a) C & C Co. Ltd., manufactured non-alcoholic beverage bases known as concentrates. These were sold to bottling companies who in turn sold the aerated beverages manufactured from the concentrates to distributors. These were then sold to retailers and thereafter to the ultimate consumers. The advertisement and market research activities were undertaken by M/s. C & C Co. Ltd.. Input credit of service tax paid on the advertising service used for marketing of soft drinks removed by bottlers was claimed by M/s. C & C Co. Ltd. This credit was denied on the ground that advertisements did not relate to the concentrates manufactured by M/s. C & C Co Ltd. Discuss briefly with reference to decided case law whether M/s. C & C Co. Ltd. are eligible to avail cenvat credit paid on advertising services which were utilised towards payment of excise duty on concentrates. 5

- (b) 'Smartphone' is in the business of providing mobile telephone service. The assessee sells "SIMCARDS" to its mobile telephone subscribers for a price. 'Smartphone' pay 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 "SIMCARD" is used for provision of mobile services and is a part of the service and therefore the value of the "SIMCARD" 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. 5
- (c) ABC 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. ABC 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 importer 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. ABC Co. is correct in law. 5
5. (a) (i) Write a short note with reference to the Central Excise Act, 1944 and Cenvat Credit Rules 2004 on "goods" and "exempted goods". 2×3
=6
- (ii) Explain briefly the significance of "trade parlance test" with respect to classification of excisable goods under the Central Excise Act, 1944.
- (b) (i) Explain with a brief note with reference to the Finance Act, 1994 whether the business auxiliary service provided by a sub-broker to a stock-broker in relation to sale or purchase of securities listed on a registered stock exchange is liable to service tax. 2×3
=6

- (ii) Briefly explain the policy contained in the 'white paper' on introduction of VAT with regard to availment of input credit on capital goods.
- (c) Explain briefly with reference to the Customs Act, 1962 the significance of 'Indian Customs Waters'. 3
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
- OR**
- (i) Explain briefly "Annual Financial Information Statement" under the Central Excise Rules 2002. 3
- (ii) State briefly the procedure for adducing additional evidence in appeal proceedings before the Commissioner (Appeals) under Sec 35 of the Central Excise Act, 1944. 3
- (b) (i) Explain briefly the three variants of VAT. 2
- (ii) Briefly write a short note on the due dates for monthly and quarterly payment of service tax in respect of various classes of assessee. 4
- (c) State briefly the provisions under the Customs Act, 1962 relating to duty drawback on re-export of goods. 3
7. (a) (i) State briefly the circumstances under which a refund claim could be admitted under the proviso to sec 11 B(2) of the Central Excise Act, 1944. 3
- (ii) Explain briefly the significance of Rule 10A of the Central Excise Valuation (Determination of Price of Excisable goods) Rules, 2000 relating to goods produced or manufactured by a job worker. 3
- (b) (i) Briefly explain the provisions relating to export of services under the Export of Service Rules, 2005. 3
- (ii) Explain briefly the mandatory provisions under VAT with respect to the records to be maintained by the assessee. 3
- (c) Briefly explain "Prohibited goods" under the Customs Act, 1962. 3