

Roll No.

NOV 2010

Total No. of Questions – 7

Total No. of Printed Pages – 8

Time Allowed – 3 Hours

Maximum Marks – 100

GDP

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.

Question No. 1 is compulsory.

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

Marks

1. (a) Determine the assessable value for purpose of excise duty under the Central Excise Act, 1944 in the following cases :
- (i) An assessee sells his excisable goods for ₹ 120 per piece and does not charge any duty of excise in his invoice. Subsequently it was found that the goods were not exempted from excise duty but were liable at 20% advalorem. **1**
- (ii) Certain excisable goods were sold for ₹ 120 per piece and 20% advalorem is the rate of excise duty. Subsequently it was found that the price cum duty was in fact ₹ 140 per piece as the assessee had collected ₹ 20 per piece separately. **2**
- (iii) The cum duty price per piece was ₹ 120 and the assessee had paid duty at 20% advalorem. Subsequently it was found that the rate of duty was 30% advalorem and the assessee had not collected anything over and above ₹ 120 per piece. **2**
- (b) T Ltd. imported some goods from LMP Inc. of United States by air freight. You are required to compute the value for purposes of customs duty under the Customs Act, 1962 from the following particulars : **5**
- | | |
|----------------|-------------|
| CIF value | US \$ 6,000 |
| Freight paid | US \$ 2,000 |
| Insurance cost | US \$ 700 |

The bank had received payment from the importer at the exchange rate of US \$ 1 = ₹ 46 while the CBEC notified exchange rate on the relevant date was US \$ 1 = ₹ 45.5

(Make suitable assumptions where required and provide brief explanations to your answer.)

- (c) From the following particulars arrive at the VAT liability for the month of January 2010 and also determine the amount of input tax credit to be carried forward for the next month : 5

- (i) Input tax rate 5% and output tax rate is 15% in the State.
- (ii) Inputs purchased in the month from within the State – ₹ 48,00,000.
- (iii) Output sold to buyers within the State during the month – ₹ 15,00,000.
- (iv) Output sold during the month to buyers as interstate sales – ₹ 3,00,000.
(CST rate 2% against C Form)
- (v) Inputs purchased from other States as interstate purchases against C Form @ 2% – ₹ 2,00,000.

(Provide suitable explanations where required with appropriate assumptions if necessary.)

- (d) X Bank Ltd., furnishes the following information relating to services provided and the gross amount received : 5

	₹ (lakhs)
Merchant Banking Services	8
Asset Management (including portfolio management)	3
Service charges for services to the Government of India	1.5
Interest on overdraft and cash credits	2
Banker to the issue	5
Locker rent	2

Repayment of financial lease made by the customer to the bank ₹ 80 lakhs which includes a principal amount of ₹ 50 lakhs.

Compute the value of taxable service under “Banking and other financial services” under the Finance Act, 1994 and the service tax liability of X Bank Ltd., considering the rate of service tax at 10.3%.

2. (a) XYZ Co. engaged in the service of over burden removal in mines had acquired some tipper trucks and taken CENVAT credit to the extent of the excise duty paid on the said trucks acquired by them. Subsequently on becoming aware that the said trucks do not qualify as capital goods or inputs under the CENVAT Credit Rules, 2004 the said XYZ Co. reversed the credit taken, all of which had remained unutilized. The Department has issued a show cause notice that interest under Section 11AB on the amount of credit taken but not utilised should be paid. Write a note whether the action of the Department is correct in law. 2
- (b) "Pure & Lovely" are manufacturers of 'hair oil' falling under Chapter 33 of the Central Excise Tariff (CET). Disputes arose in respect of two other categories 'edible oil' or 'coconut oil'. The Department contends that the coconut oil falling under these two categories are meant for sale as hair oil and should be classified under Chapter 33 of the CET. The manufacturers contend that they are not printing the specific use of such oil as 'hair oil' and this should be classified as vegetable oil under Chapter 15 of the CET irrespective of its use by the consumer. Chapter Note 2 of Chapter 33 prescribes a condition that Heading No. 3305 (which covers hair oil) applies to products put up in packing of a kind sold by retail for such use. Section Note 2 to Section VI provides that goods falling in Heading 3305 by reason of being put up for retail sales are to be classified in the said Heading. Briefly discuss whether coconut oil packed in larger packs generally used by consumers for edible purposes would merit classification under Chapter 15. 4
- (c) Sona Ltd., purchased a lathe machine at a cum-duty price of ₹ 18,63,680. The excise duty rate charged on the said machine was 16% plus education cess 2% plus secondary and higher education cess 1%. The machine was purchased on 1-7-2007 and was disposed of on 30-9-2009 for a price of ₹ 10,00,000 in working condition as second hand machine. Calculate the amount of CENVAT credit allowable for the financial years 2007-08 and 2008-09 and also specify the amount payable towards CENVAT credit already taken at the time of disposal of the machinery in the year 2009-10. 5

- (d) Y Ltd. (raw material supplier) supplies raw material to a job worker (manufacturer) Z Ltd. The job worker after completion of the job delivers 5000 packets of finished goods to Y Ltd. In all these packets retail sale price (maximum) of ₹ 30 per packet is marked. The product in packaged form is subject to excise duty on the basis of MRP under Section 4A of the Central Excise Act, 1944 and in respect of the same 30% abatement has been prescribed. Determine the assessable value for purpose of excise duty after considering the following particulars :

Cost of raw material supplied	₹ 45,000
Job charges including profit	₹ 15,000
Transport charges for dispatch to job worker	₹ 4,000
Transport charges for return of finished product	₹ 4,000

(Provide brief explanation and make assumptions where required.)

3. (a) Write a brief note on whether input tax credit of the VAT paid on purchases of goods that are stock transferred is available. 2
- (b) X Ltd. is having a manufacturing unit at Faridabad. In the financial year 2008-09 the value of total clearances from the unit was ₹ 850 lakhs as per the following details : 4
- (i) Exports to USA : ₹ 100 lakhs; to Nepal : ₹ 50 lakhs
 - (ii) Clearances to a 100% export oriented unit : ₹ 75 lakhs
 - (iii) Clearances as loan licensee of goods carrying the brand name of another upon full payment of duty : ₹ 200 lakhs
 - (iv) Clearances exempted vide Notification No. 214/86-C.E. dated 25-3-86 : ₹ 125 lakhs.
 - (v) Balance clearances of goods in the normal course : ₹ 300 lakhs.

You are required to state with reasons whether the unit is entitled to the benefit of exemption under Notification No. 8/2003-C.E. dated 1-3-2003 as amended for the financial year 2009-10.

- (c) Briefly explain the documents required for filing claim of rebate of duty on export of goods under Rule 18 of the Central Excise Rules, 2002. 5
- (d) An assessee had cleared goods without payment of excise duty. However on coming to know from his sources that a show cause notice demanding duty on such clearances is likely to be issued but before actual issue of such notice the assessee made full payment of excise duty with interest. A show cause notice was issued subsequently as to why the assessee should not be subject to mandatory penalty equal to the excise duty sought to be evaded under Section 11AC of the Central Excise Act, 1944. Briefly examine with a note the conditions for levy of penalty under Section 11AC and state whether there is any discretion to reduce such penalty. 5

4. (a) D & Co. is engaged in the services of site preparation and clearance, excavation earth moving and demolition services. The gross amount received during the quarter ended 30-6-2009 for the services provided by them are given below : 4

	₹
Core extraction services for construction	1,80,000
Land reclamation work	80,000
Services in relation to agriculture	2,00,000
Renovating or restoring water sources	3,50,000
Horizontal drilling of passage of cables or drain pipes	1,00,000
Soil stabilization	90,000
Construction of transport terminals	55,000

Calculate the value of taxable services under 'Site preparation and clearance, excavation, earth moving and demolition services' under the Finance Act, 1994 and the service tax payable at 10.3%. (Provide brief explanations where required.)

- (b) State with reference to the provisions of the Finance Act, 1994 whether service tax is leviable in the following cases : 2+2
=4
- (i) Taxable services rendered in the Special Economic Zone and consumed therein.
- (ii) Services provided in the Continental Shelf of India and Exclusive Economic Zone of India.

- (c) Write a brief note with reference to the Service Tax Rules, 1994 in the following cases : 4
- (i) Advance payment of service tax.
- (ii) Time limit for preservation of records.
- (d) S Ltd. provides management consultancy services that are subject to service tax under the Finance Act, 1994. In respect of the services rendered during the month of December, 2009 the service tax of ₹ 15 lakhs was remitted to Government treasury on January 20, 2010. Arrive at the penalty under Section 76 of the Finance Act, 1994 which is leviable in this case. 4
5. (a) Write a brief note on the deficiencies of the VAT system. 4
- (b) A private agency has built a canal system on build-own-operate-transfer basis under a contract with the State Government. User charges at commercial rates are levied by the private agency and the revenue so generated is utilised for servicing and repayment of the capital investment. 4
- Briefly write a note with reference to 'commercial or industrial construction service' under the Finance Act, 1994 whether the user charges collected by the private agency is liable to service tax.
- (c) Briefly explain the provisions under the Service Tax Rules, 1994 regarding late fee for delayed filing of returns. 4
- (d) State briefly with reference to Section 66A of the Finance Act, 1994 who is liable to pay service tax for services provided from outside India. 4
6. Answer any **four** of the following :
- (a) Discuss with a brief note the provisions of Section 129E of the Customs Act, 1962 regarding deposit of duty and interest or penalty levied pending appeal. 4

- (b) Write a brief note on sanctioning of refund of customs duty under Section 27(2) of the Customs Act, 1962 under which refunds will not be credited to the consumer welfare fund. 4
- (c) Write a brief note with specific reference to Rule 1 of the Rules of Interpretation of the First Schedule to Customs Tariff Act, 1975. 4
- (d) Certain goods were brought to the export shed on 5-10-2009. The goods were examined and 'let export order' was issued on the same day by noting of the shipping bill. Computer processed shipping bill was issued on 6-10-2009. DEPB rate was lowered on 6-10-09 and the Department allowed DEPB at the rate prevailing on 6-10-2009. The goods were permitted for clearance and loading on 5-10-2009. It is the assessee's case that under the Customs Act, 1962 they are entitled for the higher rate of DEPB prevailing on 5-10-2009. Write a brief note whether the assessee's stand is correct in law. 4
- (e) Briefly explain the provisions relating to transshipment of goods without payment of duty under Section 54 of the Customs Act, 1962. 4
7. (a) UPT Ltd., are manufacturers of electrical transformers, switch gears falling under Chapter Heading 85042200 and Chapter Heading 85352121 of the Central Excise Tariff. The manufacturers cleared excisable goods valued at ₹ 30 lakhs against Served from India Scheme Certificate (SFIS) at nil rate of duty availing the exemption by way of debit to SFIS under Notification No. 34/2006-CE dated 14-6-2006. As separate accounts for purpose of sub-rule (3) of Rule 6 of the Cenvat Credit Rules, 2004 were not maintained by the assessee (M/s UPT Ltd.) they were required to pay 5% of the value of the exempted goods of ₹ 1.5 lakhs (₹ 30 lakhs @ 5%) on the basis that the goods cleared under SFIS scheme are to be treated as exempted goods. Discuss with reference to the definition of exempted goods under Rule 2(d) of the Cenvat Credit Rules, whether the stand taken by the Department is correct. (Assume that debit to SFIS is a method of payment of appropriate duty.) 4

- (b) Briefly state the provisions of the Central Excise Rules, 2002 relating to electronic payment of excise duty and electronic filing of returns. 4
- (c) Hand blender manufactured by the assessee was cleared as gift along with each unit of juicer, mixer and grinder (JMG). The MRP of ₹ 750 though printed on the 'hand blender box' contains clear indication that it is supplied free of cost. The package of JMG also shows this. The hand blender is not sold separately. The Department has issued a show cause notice that duty should be paid on the hand blender. Write a brief note with reference to Section 4A of the Central Excise Act, 1944 whether the notice is sustainable in law. 4
- (d) State briefly with reference to the provisions of the Finance Act, 1994 whether the following services are liable to tax : 4
- (i) Permanent transfer of intellectual property rights.
 - (ii) Services provided in relation to handling storage and warehousing of empty containers under storage and warehousing service.
-