

Total No. of Questions – 7

Total No. of Printed Pages – 16

Time Allowed – 3 Hours

Maximum Marks – 100

RES

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.

Wherever necessary, suitable assumptions may be made and disclosed by way of note. Working notes should form part of the respective answers.

Question No. 1 is compulsory.

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

Marks

1. (a) Shri Ramesh Babu has manufactured goods for captive consumption. 5
He has incurred the following expenses in producing them.

| Sl. No. | Particulars | Amount |
|---------|---|----------|
| 1. | Cost of raw material and components (inclusive of excise duty) | 2,24,720 |
| 2. | In-house manpower costs (includes admin. salary of ₹ 18,000) (not relating to production) | 48,000 |
| 3. | Design & Engineering Charges (inclusive of Service Tax) | 22,472 |
| 4. | Transportation-Cost of Components to job worker | 2,800 |
| 5. | Job work charges (Job-worker's invoice includes charges on job and cost of consumables of ₹ 2,000 and not charged separately) | 20,000 |
| 6. | Additional charges levied by job worker | |
| | – Transportation Charges | 2,800 |
| | – Wooden Boxes | 1,200 |

Determine the Assessable value and Excise duty payable by Shri Ramesh Babu.

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- (b) 15000 Chalices were imported for charitable distribution in India by XY Charitable Trust. The Trust did not pay either for the cost of goods or for the design and development charges, which was borne by the supplier. Customs officer computed its FOB value at USD 20,000 (including design and development charges), which was accepted by the Trust. Other details obtained were as follows :

| Sl. No. | Particulars | Amount |
|---------|---|--------|
| 1. | Freight paid (air) (in USD) | 4,500 |
| 2. | Design & Development charges paid in USA (in USD) | 2,500 |
| 3. | Commission payable to an agent in India (in ₹) | 12,500 |
| 4. | Exchange rate and rate of basic duty notified by CBEC is as follows : | |
| | Date of Bill of Entry BCD Exchange Rate in ₹ | |
| | 08-09-2015 20% 60 | |
| | Date of Entry Inward BCD Exchange Rate in ₹ | |
| | 30-09-2015 30% 62 | |
| | While the inter-bank rate was 1 USD = ₹ 63 | |
| 5. | Additional duty payable u/s 3(1) of the Customs Tariff Act, 1975 | 12% |
| 6. | Additional duty payable u/s 3(5) of the Customs Tariff Act, 1975 | 4% |
| 7. | Cess as applicable | |

Compute the Assessable value and amount of total customs duty payable under the Customs Act, 1962. Make suitable assumptions where required. Working notes should form part of your answer.

- (c) OPQ Ltd. purchased a pollution control equipment for ₹ 14,60,680 which is inclusive of excise duty at 12% plus education cess 2% plus secondary and higher education cess 1%. The equipment was purchased on 24-08-2012 and was disposed of as second hand equipment on 16-12-2014 for a price of ₹ 10,00,000. The excise duty rate on the date of disposal was 12% plus education cess @ 2% plus secondary and higher education cess 1%. 5

You are required to calculate the amount payable on disposal of the equipment

- (i) if the equipment is removed as waste/scrap.
- (ii) if the equipment is removed otherwise than as waste and scrap.

OPQ Ltd. is not eligible for SSI exemption and the pollution control equipment has been received in the factory on 24-08-2012. The disposal price of the equipment is the transaction value which is exclusive of excise duty.

(4)

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- (d) A Resident Welfare Association (RWA) collects the following amounts from its 100 members for the month of October 2014. Determine the taxability or otherwise of the following amounts and compute service tax payable by the RWA.

| Particulars | Amount in ₹ |
|--|------------------------|
| Contribution from 20 residents of ₹ 3,500 each | 70,000 |
| Contribution from 80 residents of ₹ 6,500 each | 5,20,000 |
| Collection towards payment of electricity bills of residents for 20 residents as per bills submitted | 76,000 |
| Collection in respect of electricity bill issued in the name of RWA towards electricity consumption for common use | 48,000 |
| RWA has purchased maintenance items from a factory which has suffered excise duty @ 12.36% on goods valued | 50,000 |
| Service provider has charged service tax separately on the value of his services billed at | 1,00,000 |

Provide brief notes and explanations for your answer.

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2. (a) M/s. S & Co., a Small Scale Industry (SSI), provides the total value of clearances during the financial year 2013-14 as ₹ 870 lakhs (including VAT ₹ 50 lakhs). Total value of clearances includes the following items :

| Sl. No. | Particulars | ₹ in Lakhs |
|---------|---|------------|
| 1. | Total exports (including for Nepal and Bhutan ₹ 200 Lakhs) | 500 |
| 2. | Clearances of excisable goods without payment of duty to a unit in Software Technology Park | 20 |
| 3. | Job work under Notification No. 84/94-CE dated 11-04-1994 | 50 |
| 4. | Job work under Notification No. 214/86-CE dated 25-03-1986 | 50 |
| 5. | Clearances of excisable goods bearing brand name of Khadi and Village Industries Commission | 200 |

Determine the eligibility for exemption based on value of clearances for the financial year 2014-15 in terms of Notification No. 8/2003-CE dated 01-03-2003 as amended. Make suitable assumptions and provide reasons for your answer.

- (b) (i) Madhuban Services (P) Ltd. is engaged in dealing and providing services on intellectual properties. During the month ended 31-03-2015, the company transacted with the following activities for consideration at arm's-length with its customers :

| Particulars | Amount in ₹ |
|---|----------------|
| Permanent transfer of designs to XYZ manufacturers | 1,20,000 |
| Allowing Srikant to use patents (for 6 months) that are registered in Indonesia | 60,000 |
| It acquires technology and skill from Sam Peters of England by paying an R & D cess of 5% on import consideration | 25,00,000 |
| It also temporarily transfers original dramatic works covered under clause (a) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 | 10,00,000 |

Determine the service tax payable on the above transactions, with appropriate notes to substantiate your stand.

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- (ii) In the following independent cases, find out taxable value of services provided by M/s. RS Sons, a partnership firm, which is registered service provider as Foreign Exchange Dealer (purchaser and seller of foreign currency) : 4
- (a) US \$ 2,000 are purchased from Mr. John on dated 02-01-2015 at the rate of ₹ 63 per US \$. The Reserve Bank of India reference rate for each US \$ is ₹ 65.50 for that day.
- (b) ₹ 1,40,000 is converted into Great Britain Pound (GBP) on dated 15-01-2015 and the exchange rate offered is ₹ 70 per GBP.
- (c) Mr. N has imported 1000 units of an article "ZEP", which has been valued at ₹ 1,150 per unit. The customs duty on this article has been assessed ₹ 250 per unit and paid by Mr. N. He adds his profit margin ₹ 350 per unit and sells the article for ₹ 1,750 per unit. 4
- After one month of sale of whole units of article "ZEP", Mr. N found that there was an error in assessment resulting in excess collection of duty by the Customs Department and such excess collection of ₹ 100 per unit is liable to be refunded by department. Mr. N files an application and demands refund.
- Calculate the amount of refund to be received by Mr. N. Also mention provisions of the Customs Act, 1962 related to refund in above-said situation.

3. (a) ABC Ltd. manufactured M.M. Yarn by using duty paid inputs and cleared the same for export on payment of duty. It claimed rebate of duty paid by it on inputs as well as of duty paid on finished goods under rule 18 of the Central Excise Rules, 2002. The Department rejected the rebate claims on the ground that rule 18 does not permit grant of rebate of duty paid on exported finished goods simultaneously with the rebate of duty paid on inputs.

Based on case law, if any, explain whether department's rejection of rebate claim is justified ?

- (b) (i) Determine the taxability or otherwise of the following services w.e.f. 11-07-2014 in view of the amendments vide Notification No. 6/2014 ST dated 11-07-2014 made by the Finance Act, 2014 and work out the service tax liability for the following services (SSI exemption is not available to any of the services) :

| Sl. No. | Particulars | Amount in ₹ |
|---------|---|----------------|
| A. | Premium collected on IRDA approved micro-insurance schemes with sum assured between ₹ 75,000 and ₹ 1,00,000 | 1,25,000 |

| | | |
|----|--|-----------|
| B. | Indian tour operators have received service fee for conducting tour outside India for Indian Tourists | 2,25,000 |
| C. | Consultancy services provided to Government for organising water supply and sanitation to people in a village | 4,00,000 |
| D. | RBI receives services from outside India in relation to management of foreign exchange services | 18,00,000 |
| E. | Tirupati Temple provides accommodation services, which has a declared tariff of a unit of accommodation of ₹ 1,200 per day for 100 units | 1,20,000 |
| F. | Radio taxis (non-air conditioned) for the purpose of other than tourism | 2,40,000 |

(ii) Explain with reference to Service Tax

1+1
=2

(1) EASIEST (Electronic Accounting System in Excise and Service Tax)

(2) CIN (Challan Identification Number)

- (c) KRY Logistics Ltd., a steamer agent authored Import General Manifest and acted on behalf of the master of the vessel (the person-in-charge) before Customs Authorities to conduct all affairs in compliance with the Customs Act, 1962. The steamer agent filed Import General Manifest, affixed the seal on the containers and took charge of the sealed containers. It also dealt with the Customs Department for appropriate orders that had to be passed in terms of section 42 of the Customs Act, 1962. Penalty under section 116 of the Customs Act, 1962 was imposed by the Department on the steamer agent for short landing of goods.
- Examine with the help of a decided case law, if any, whether the Department is justified in imposing a penalty on the steamer agent ?
4. (a) Central Government passed an order u/s 5A granting full exemption from payment of excise duty by issue of a Notification. AKS Co. (P) Ltd., acted upon it while the Central Government passed a subsequent Notification imposing certain conditions to avail the benefits of exemption Notification effective from a particular date. AKS Co. (P) Ltd., challenged the curtailment of benefits on the grounds that doctrine of promissory estoppel was applicable and the benefits could not be curtailed by the Government without the authority of the Parliament. Discuss the issue with a suitable case law.

- (b) (i) Narikela Services (P) Ltd., a developer of SEZ which is receiving services from another service provider for carrying out authorized operations in SEZ. Narikela Services (P) Ltd. seeks advice regarding exemption and refund of service tax while carrying out such activities. Provide the required professional advice in this regard referring to the appropriate provisions under the service tax law. 4
- (ii) Kalyani Hotels (P) Ltd. is of the opinion that the value of service provided in restaurants and those provided in outdoor catering should be the same and therefore valuing them differently at 40% and 60% of the total amount respectively is incorrect. Discuss with an appropriate case law. 4
- (c) Settlement Commission passed an order for release of seized goods of Mr. Banerjee. Since the goods were subject to deterioration, the Revenue informed the Commission that the seized goods had already been auctioned. The Commission, therefore, directed the Revenue to refund the amount remaining in balance after the application of sale proceeds as provided u/s 150(2) of the Customs Act, 1962. The Revenue refunded the principal amount of the sale proceeds without payment of interest for the delay, on the premise that it did not represent duty or interest as contemplated u/s 27 and 27-A of the Customs Act. Reason out the action of the Revenue by supporting it with case law. 4

5. (a) Briefly explain whether bagasse which is a marketable product but not a manufactured product can be subjected to excise duty ? You may take the help of decided case law, if any. 4

(b) (i) Discuss the procedure as specified under Rule 20 of Central Excise Rules, 2002, relating to packing, re-packing, labelling or re-labelling within the warehouse in respect of export warehousing. 4

(ii) AKB Construction Ltd. was a construction company rendering services under category of construction of residential complex service and were paying service tax in accordance with the provisions of the Finance Act, 1994. They undertook certain construction work on behalf of a trust and paid service tax accordingly. However, later they filed refund claim for the service tax so paid contending that they were not actually liable to pay service tax as it was exempt. Department also did not dispute the fact that service tax was exempted in the instant case. 4

However, the refund claim was rejected on the ground that same was filed beyond the limitations period provided in section 11-B of Central Excise Act, 1944.

Discuss whether the department is justified in rejecting the refund claim ? You may refer to decided case law, if any, in support of your answer.

- (c) (i) Is it correct that "Goods exempted from basic customs duty would automatically be exempt from additional duty of customs" ? 2+2
=4
Explain with reasons.
- (ii) Write a note on "Emergency power to impose or enhance import duties under Sec. 8A of the Customs Tariff Act".
6. (a) (i) Holding Company in USA having its subsidiary in India intends to make an application to Settlement Commission. Is it permissible ? 2+2
=4
- (ii) Settlement Commission, after having heard the applicant, intends to send the case back to the Central Excise Officer for re-adjudication. Under what circumstances can it be done, if so ?

OR

- (i) Assistant Commissioner exercises his power delegated to him under a Notification and the assessee is aggrieved and challenges the same through a writ petition. Explain whether the petition so made will be successful.
- (ii) Commissioner (Appeals) has taken additional evidence, from the assessee, without providing reasonable opportunity to the adjudicating authority or an officer authorized in this behalf as the said authority. What opportunity had to be provided as per law ?

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(b) (i) Sudarsan Ltd. was liable to make payment of service tax of ₹ 8,00,000 for the month of November 2014. However, it deposited it on 18-7-2015. Compute the amount of interest payable by Sudarsan Ltd. under section 75 of the Finance Act, 1994. Assuming;

(1) The value of taxable services provided by it during the preceding financial year was ₹ 52 lakhs.

(2) The value of taxable services provided by it during the preceding financial year was ₹ 85 lakhs.

(ii) State briefly, with reasons, whether the following transactions involve transfer of right to use goods for taxability as 'declared service' under section 66(E) of the Finance Act, 1994. 2+2
=4

(1) A car is given in hire by a person to a company along with a driver on payment of charges on per month/mileage basis.

(2) Hiring of bank lockers.

(c) M/s. X Ltd. has constructed a warehouse nearby notified custom station. It wants to get license for deposition of imported goods. Can X Ltd. get license for its warehouse for deposit of imported goods ? Answer with reasons. 4

Also, if once license is granted to M/s. X Ltd, will it be renewed automatically after expiry of notified period ?

7. (a) (i) Write short note on Audit objection and Audit para under the procedure of Excise Audit, 2000. 2+2
=4
- (ii) Explain the procedures to be followed for waiver of ware-housing.
- (b) (i) Explain briefly the recent amendments relating to recovery of service tax dues of the predecessor from the assets of the successor purchased from the predecessor under section 87(c) of the Finance Act, 1994. 2
- (ii) Who can apply for Advance Ruling under section 96-A in respect of a question of law or fact regarding the liability to pay service tax in relation to a proposed service ? 2
- (c) (i) (1) What do you mean by "Deemed Exports" under Foreign Trade Policy ? 4
- (2) Mr. A, manufactured goods in India and got a contract to supply capital goods within India to M/s. Z Export Ltd. (holding license under Export Promotion Capital Goods Scheme). Due to some operational problem, Mr. A sub-contracted supply of capital goods to Mr. M with proper authorization from M/s. Z Export Ltd. and included name of Mr. M in main contract of supply before he started supply of goods. Can Mr. M claim benefit of deemed export for supplies made to Mr. A ? Explain with reasons.

- (ii) Sham Lal Advertisers have obtained centralized registration under Service tax law for the purpose of paying its taxes on services rendered. By virtue of this, it has obtained service tax input credit from different locations where the services are being rendered. Service tax officer is denying the credits obtained from different locations, while Sham Lal argues that he is eligible to do so, on account of centralized registration. Comment on the action of Sham Lal.
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