

Roll No.

FINAL
GROUP-II PAPER-8
INDIRECT TAX LAWS

NOV 2016

Total No. of Questions – 7

Total No. of Printed Pages – 12

Time Allowed – 3 Hours

Maximum Marks – 100

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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.

Question No. 1 is compulsory.

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

In case, any candidate answers extra question(s)/sub-question(s) over and above the required number, then only the requisite number of questions first answered in the answer book shall be valued and subsequent extra question(s) answered shall be ignored.

Working notes should form part of the respective answers.

Wherever necessary candidates are permitted to make suitable assumptions which should be disclosed by way of note.

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1. (a) AB Engineers are manufacturers of a product which is subject to Excise Duty. They are also eligible for exemption in terms of notification 8/2003 dt. 01.03.2003 for the current financial year 2016-17. The following are the details of clearance of goods effected during the year 2016-17. **5**

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Item No.	Particulars	Amount (₹ in lakh)
1.	Value of clearance of their goods "AB" (own brand)	500
2.	Value of clearance of goods produced with other brand names.	200
3.	Clearance for captive consumption	150
4.	Export clearance	200
5.	Clearance of goods exempted under other notification other than 8/2003.	100

Other information in respect of the above

- Item No. 2 value of clearance with other brand names includes goods manufactured in rural area ₹ 100 lakh.
- Item No. 3 value of clearance for captive consumption, final products are eligible for SSI Exemption.
- Rate of excise duty – 12.5%.
- Excise duty paid amounting ₹ 3 lakh on inputs consumed in exempted clearance. (Item No. 5).
- Excise duty paid amounting ₹ 5 lakh on inputs consumed in exempted clearance. (Item No. 1 No opening or closing stock of inputs)
- Excise duty paid amounting ₹ 7.5 lakh on capital goods purchased in the current financial year. (Exclusively for own brand Item No. 1)
- Exports made by AB Engineers are exempt from duty. (Item No. 4)

Calculate the total duty payable and duty payable in cash if any, by AB Engineers for the current financial year 2016-17. Make assumptions if required and show the working notes separately.

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- (b) New Bank of India Ltd provides the following information for the month of April, 2016. Compute the value of taxable services and service tax payable. (Rate of service tax including cess 14.5%) 5

S. No.	Particulars	Amount (₹ in lakh)
1	Interest Received on various loans including home loan	2,000
2	Administrative charges and folio charges collected.	120
3	Value of sale and purchase of forward contract.	100
4	Charges for credit card and debit card facilities extended	200
5	Charges for ATM card transaction	200
6	Commission received for DD, transfer and cheque collection	200
7	Margin earned on reverse repo transactions	400

- (c) You are required to compute the value of taxable services and service tax payable thereon from the gross amount charged in respect of the following transactions made available by A. Ltd dealing in agriculture related services in the month of December 2015 : 5

Particulars	₹ in lakh
(i) Renting of Agro-machinery	5.0
(ii) Cultivation of Ornamental flowers	2.5
(iii) Processing of Tomato ketchup	3.0
(iv) Plantation of Rubber	3.5
(v) Processing of Potato chips	1.5

This company is not entitled for small scale exemption in 2015-16. Assume the rate of service tax as 14.5% (Including Swachh Bharat Cess @ 0.5%) Explanation is to be given along with the working.

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(d) F. Ltd. imported a machine from UK. in May, 15. The details in this regard are as under : **5**

- (i) FOB value of the machine : 10000 UK Pound
- (ii) Freight (AIR) : 3000 UK Pound
- (iii) Licence fee, the buyer was required to pay in UK : 400 UK Pound
- (iv) Buying commission paid in India ₹ 20,000
- (v) Date of bill of entry 20.05.2015 and the rate of exchange notified by CBEC on this date was ₹ 99.00 per one pound. Rate of BCD was 7.5%.
- (vi) Date of arrival of aircraft was 25.05.2015 and the rate of exchange notified by CBEC on this date was ₹ 98.50 per pound and rate of BCD was 10%.
- (vii) Rate of additional customs duty was 12.5% and there was no special additional duty of customs.
- (viii) Insurance premium details were not available.

You are required to compute the assessable value of the machine for valuation of customs duty and the total duty payable. You may make suitable assumptions wherever required.

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2. (a) Z Ltd. is a manufacturer of excisable goods. From the following information made available regarding central excise duty paid on procurement of inputs etc., during January 2016, you are required to determine the amount of Cenvat credit available to this company giving explanations for the treatment of the given items : 4

Particulars	C. Ex. Duty Paid (₹)
(i) Inputs used in factory of manufacture	1,00,000
(ii) Goods for use in generation of electricity for self consumption	50,000
(iii) Cement for construction of a godown in the factory	15,000
(iv) Goods for laying of foundation for support of capital goods	25,000
(v) Goods primarily for personal use of employees in staff colony	20,000
(vi) Consumable stores for use in manufacture of goods	15,000

Z Ltd. is not eligible for SSI exemption under notification No. 8/2003. C.E. dated 01.03.2003.

- (b) Discuss whether Service Tax is chargeable in respect of goods transport agency service in each of the following independent cases : 4
- Transportation of organic manures ₹ 50,000.
 - Transportation of goods by a single goods carriage ₹ 1,800.
 - Transportation of military equipments ₹ 25,000.
 - Transportation of polyester fibre ₹ 15,000.

Necessary explanation is also to be given.

- (c) Y Ltd. provided works contract services in December, 2015 as per following details : 4

Particulars	Total Amount charged (₹)
(i) Installation of machinery	2,00,000
(ii) Completion and finishing service plastering (of a building)	1,00,000
(iii) Repairs of machinery	50,000
(iv) Additions to damaged structure	2,50,000
(v) Installation of electrical fittings of immovable property	75,000

You are required to compute the taxable value of services and service tax payable thereon for the month of Dec., 2015 assuming rate of service tax as 14% and Swachh Bharat Cess @ 0.5%. Y Ltd. is not eligible for small scale benefit under notification No. 33/2012-S.T. dated 20.06.2012. Explanation must be stated for the working.

- (d) A person makes an unauthorized import of goods liable to confiscation. After adjudication, Assistant commissioner provides an option to the importer to pay fine in lieu of confiscation. It is proposed to impose fine (in lieu of confiscation) equal to 50% of Margin of Profit. The following particulars are made available : 4

• Assessable value	₹ 3,00,000
• Total duty payable	₹ 1,20,000
• Market Value	₹ 5,00,000

You are required to calculate amount of fine and total payment to be made by importer to clear the consignment.

3. (a) H. Ltd is a manufacturer of goods. It clandestinely removed its goods for further sale, to a firm, named R. Traders, who is related to H Ltd. The Commissioner (Adjudication) imposed penalty on R. Traders under Rule 25 of Central Excise Rules, 2002. You are required to write a brief note on the legality of departmental action, based on a decided case law, if any. 4
- (b) In the case of A Ltd., wherein the Commissioner (Appeals) remanded the proceeding back to the Adjudicating Authority, the Department contended that by an amendment in law the powers of remand which were previously granted to the Commissioner (Appeals) were taken away in the Service Tax matters. You are required to write a brief note on the legality of the Department's contention with the help of a decided case law, if any. 4
- (c) In the case of K Ltd., which was the receiver of taxable service, appropriate Service Tax was paid by K Ltd. Later on there was downward revision of the charges for taxable service and as a result the question of refund for such Service Tax excess paid arose. Since the receiver of service had borne the incidence of service tax K. Ltd claimed for the refund of the tax so paid. The Department contended that recipient of service was not entitled to file a refund claim and also raised the issue of unjust enrichment. You are required to write a note on the Department's contention, with the help of a decided case law, if any. 4

- (d) Govias & Sons, steamer agents had filed import general manifest (IGM) and dealt with the goods at different stages of shipment including compliance requirements under the Customs Act, 1962. They had acted on behalf of the master of the vessel. 4

There was short landing of goods in the above case in which IGM was filed by Govias & Sons and a penalty under the Customs Act was levied on them. Write a brief note on the validity of levy of penalty in this case.

4. (a) With reference to the changes w.e.f. 1.3.2015, write a brief note on the following : 2×2
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- (i) Rule 11(7) of Central Excise Rules, 2002 regarding issuance of invoice.
- (ii) Rule 8(4) of the Central Excise Rules, 2002 regarding recovery of duty and penalty.
- (b) Show Cause Notice (SCN) was issued on 30.06.2015 in a fraud case. SCN was received by assessee on 10.07.2015. The adjudication order was received on 15-10-2015. The amount of Service Tax involved was ₹ two lakh. With reference to the changes w.e.f. 14-5-2015 write a brief note on the amount of penalty in the following cases, with explanation if any : 4
- (i) Assessee paid the Tax, interest and penalty on 30-07-2015.
- (ii) Assessee paid Tax, interest and penalty on 5-11-2015.
- (iii) Assessee paid Tax interest and penalty on 5-12-2015.

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- (c) With reference to Amendments w.e.f. 1-4-2015 in the notification on exemption of specified services briefly, write a note whether the following services are exempted or not :
- (i) Treatment of effluent by common effluent treatment plant operator.
- (ii) Intermediate production process of alcoholic liquor for home consumption on job work basis.
- (d) (i) With reference to the changes in the Customs Central Excise Duties and Service Tax Draw Back Rules 1995, briefly state whether an exporter who has already filed a duty draw back claim under all industry rates can file an application for fixation of special brand rate.
- (ii) Write a brief note on the changes effected with respect to levy of penalty under the Customs Act for improper exportation of non-prohibited dutiable goods.
5. (a) V Ltd. transferred goods from Surat factory to their sales depot at Chennai on 30-06-2015. On that date the ex-factory value of those goods were ₹ 12,000 and normal transaction value at Chennai depot was ₹ 10,000 the rate of Central Excise Duty was 15%. These goods were sold from Chennai on 25-07-2015. On this date the normal transaction value at the Chennai depot was ₹ 14,000 and the rate of Central Excise duty was 17.5%. V Ltd. paid duty on ₹ 10,000 at 15% for the clearance from factory on 30-06-2015. The Department contended that the duty must have been paid on ₹ 14,000 at 17.5%. You are required to write a brief note on the Department's claim with reasons.

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- (b) Swamy Ltd. of Chennai acquires the business of SA Ltd. at Johansberg, South Africa. Swamy Ltd. entered into a contract with M/s Krish & Krish Architects, Chennai to do the interiors of the building of new business at South Africa. The service tax department issued a notice demanding service tax based on the Place of Provision Rules. Discuss briefly the applicability of the Place of Provision Rules to M/s Krish & Krish as the work to be done is outside the taxable territory. 4
- (c) Write a brief note on the applicability of service tax in the following cases. 4
- (i) Whether the representation service provided by an Indian bank to a foreign MTSO (Money Transfer Service Operator) in relation to money transfer to a beneficiary in India falls in the category of intermediary service.
- (ii) Whether service tax is leviable on the services provided as mentioned in (i) above by an intermediary / agent located in India (in taxable territory) to MTSO's located outside in India.
- (d) M/s Impex imported some consignment of goods on 1-6-2016. A bill of entry for warehousing of goods was presented on 5-6-2016 and the materials were duly warehoused. The goods were subject to duty @ 50% advalorem. In the meanwhile on 1-7-2016 an exemption notification was issued reducing the effective customs duty @ 30%, advalorem. M/s Impex filed their bill of entry for home consumption on 1-8-2016 claiming duty @ 30% advalorem. However, customs department charged duty @ 50% advalorem being the rate on the date of clearance into the warehouse. 4

Explain with reference to the provisions of the Customs Act, 1962 :

- (i) The rate of duty applicable for clearance for home consumption in this case.
- (ii) Whether the rate of exchange on 1-8-2016 could be adopted for purpose of conversion of foreign currency into local currency.

6. (a) Explain briefly whether the following persons require registration under Central Excise Act, 1944. 4
- (i) 100% EOU
- (ii) State transport corporation manufacturing excisable goods.
- (iii) Persons who manufacture excisable goods chargeable to nil rate of duty.
- (iv) Importer who issues CENVATable invoice.

OR

P Ltd. failed to provide correct information to the excise department. Explain with reasons whether department can allege suppression of facts as provided in section 11(4) of Central Excise Act, 1944.

- (b) T Ltd. is engaged in some construction activity which is exempted by notification. There is a sub-contractor who provides interior decorator services which are used by T. Ltd. in relation to construction service provided by it. Write a brief note with reference to the Finance Act, 1994 and Notifications issued there under whether the interior decorator service so provided shall also be treated as exempted in terms of the said notification. 4
- (c) Mr. Foster who is the author and owner of the copy right of a book "Way to heaven" has entered into an agreement with "Sure Publishers" on 15-7-2015 for its publication. In terms of the agreement the copy right is transferred to "Sure Publishers" for a lump sum amount of ₹ 5 lakh. An invoice was issued by Mr. Foster on 15-7-2015 and payment was received on 27-12-2015. Determine with reasons by way of a brief note the point of taxation for purpose of service tax. Ignore any exemptions available in respect of the service and assume that the transaction is liable to Service Tax. 4
- (d) Explain the conditions for redeeming authorization under duty free import authorization scheme as per Foreign Trade Policy 2015-2020. 4

7. (a) Having accepted the orders on identical issues for the previous years in respect of the same assessee can the Central Excise department agitate the same matter in appeal for the subsequent years ? 4

Write a brief note on the above with reference to provisions of Central Excise Act, 1944 and decided case law if any.

- (b) Write a brief note with reference to section 96E of Finance Act, 1994 regarding applicability of advance ruling pronounced by the authority for advance ruling. 4
- (c) Write a brief note on the relaxation available to banking companies and financial institutions and goods transport agency "under Rule 4A of Service Tax Rules, 1994 regarding issue of invoice, Bills or Challan. 4
- (d) Explain the relevant dates as provided in section 26 (2) of Customs Act, 1962 for purpose of refund of duty under specified circumstances, namely : 4
- (i) goods exported out of India
 - (ii) relinquishment of title to goods
 - (iii) goods destroyed or rendered valueless.