

Roll No.

MAY 2014

Total No. of Questions – 7

**FINAL
GROUP-II PAPER-8
INDIRECT TAX LAWS**

Total No. of Printed Pages – 11

Time Allowed – 3 Hours

Maximum Marks – 100

URX

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 remaining **six** questions.

Wherever appropriate, suitable assumption(s) should be made and indicated in the answer by the candidate.

Working notes should form part of the answer.

Marks

1. (a) M/s. Veena Ltd. has two factories and supplies you the following information : **5**

Particulars	Factory 'A'	Factory 'B'
(i) Assessable value of clearances upto 31-12-2013	₹ 90 lac	₹ 60 lac
(ii) Assessable value of clearances from 01-01-2014 to 31-03-2014	₹ 60 lac	₹ 40 lac
(iii) Inputs purchased during the year 2013-14 (including excise duty)	₹ 112.36 lac	₹ 55.15 lac
(iv) Capital goods purchased on 14-09-2013 (including excise duty)	–	₹ 11.03 lac
(v) Effective rate of excise duty on inputs and capitals goods purchased and output sold.	12.36%	10.3%

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P.T.O.

M/s. Veena Ltd. is availing SSI exemption under Notification No. 8/2003-C.E. and inputs are used evenly throughout the year. There is neither any processing loss nor any inventory of input and output. You are required to calculate the amount of excise duty payable by M/s. Veena Ltd. in cash, if any, for the Financial Year 2013-14.

- (b) M/s. Vipin Ltd. purchased raw material 'A' 10,000 kg @ ₹ 80 per kg. plus excise duty. The said raw material was used to manufacture intermediate product 'P'. The said intermediate product was captively used for the manufacture of finished product 'Z', which was exempt from excise duty. The other informations are as under : 5
- (i) Processing loss : 2% of inputs in manufacture of 'P'
 - (ii) Assessable value of 'P' : ₹ 100 per kg.
 - (iii) Assessable value of 'Z' : ₹ 20 lac (for total output)
 - (iv) Other material 'M' used in the manufacture of 'Z' : ₹ 2 lac plus excise duty.
 - (v) Duty on capital goods imported during the period and used in the manufacture of 'P' :
 - Basic customs duty ₹ 20,000;
 - Additional duty of customs under section 3(1) of the Customs Tariff Act, 1975 ₹ 10,000; and
 - Additional duty of customs under section 3(5) of the Customs Tariff Act, 1975 ₹ 4,000.
 - (vi) Rate of Central excise duty on 'A', 'M' and 'P' : 12.36% (including education cess as applicable)

M/s. Vipin Ltd. is not eligible for SSI exemption under Notification No. 8/2003-C.E.

- Compute : (i) Amount of CENVAT credit available, and
(ii) Central excise duty payable by M/s. Vipin Ltd.

- (c) Reliable Agro Industries furnishes the details of its activities undertaken in the month of May, 2013 as under : 5

S. No.	Particulars	Amount (₹)
1.	Supply of farm labour	55,000
2.	Warehousing of refined vegetable oil	1,25,000
3.	Sale of wheat on commission basis	60,000
4.	Hiring of trucks for transport of minerals	2,50,000
5.	Leasing of vacant land to a stud farm	30,000
6.	Renting of farmhouse for marriage and birthday parties	45,000
7.	Dehusking of paddy in rice mill	32,000

Compute the service tax liability of company for the month of May, 2013. Assume that the point of taxation in respect of all the activities falls in the month of May, 2013 itself. Company had paid service tax of ₹ 3,18,000 during the Financial Year 2012-13. Give working notes as may be suitable. (Rate of service tax is 12% + education cess as applicable).

- (d) M/s. Virat Productions is manufacturing two products – 'R' and 'T' and provides you the following particulars : 5

	Amount (₹)
(i) Cost of raw material purchased (including VAT @ 12.5%)	2,25,000
(ii) Cost of other material purchased	
(a) Intra-State purchases (including VAT @ 12.5%)	45,000
(b) Inter-State purchases (including CST @ 2%)	81,600
(iii) Wages and other manufacturing expenses (for product 'R' and 'T' in ratio 3 : 1)	78,400
(iv) Profit margin on sales value 20%.	

M/s. Virat Productions utilized inputs and manufactured 75% of production as 'R' and 25% of production as 'T'. While 'R' is subject to 12.5% VAT, 'T' is exempt from VAT.

All the materials were used in production and there was no opening or closing stock of any material. Compute the invoice value of sales and net VAT liability, if all the sales were made within the State.

- (e) Vipul imported certain goods in December, 2013. An 'into Bond' bill of entry was presented on 14th December, 2013 and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for four months was issued on 21st December, 2013. Vipul deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 20th April, 2014.

A notice was issued under section 72 of the Customs Act, 1962, demanding duty, interest and other charges. Vipul cleared the goods on 14th May, 2014. Compute the amount of duty and interest payable by Vipul while removing the goods on the basis of following information :

Particulars	14-12-2013	20-04-2014	14-05-2014
Rate of exchange per US \$ (as notified by Central Board of Excise & Customs)	₹ 65.20	₹ 65.40	₹ 65.50
Basic Customs Duty	15%	10%	12%

No other customs duty is payable except basic customs duty.

2. (a) (i) What are the powers of the Tribunal (CESTAT) to grant extension of stay under section 35 C (2A) of the Central Excise Act, 1944 ? 3
- (ii) How can a decision, order, summon or notice be served to the intended person under section 37C(1)(a) of the Central Excise Act, 1944 ? 3

- (b) Discuss the liability under service tax in the following cases during the month of July, 2013 :
- (i) Transport facility provided by a School to its students through a fleet of buses owned by the School. 2
 - (ii) Service provided by a private transport operator to a School in relation to transportation of students to and from the School. 2
 - (iii) Exhibiting movies on television channels. 2
- (c) (i) What is interest free period allowed under section 47(2) of the Customs Act, 1962 for payment of duty ? 1×3=3
- (ii) What is the maximum period of storage allowed for warehousing without warehousing under section 49 of the Customs Act, 1962 ?
- (iii) What is the minimum monetary limit prescribed in the Customs law below which no refund shall be granted ?
3. (a) (i) M/s. Healthcare Ltd. is manufacturer of patent and proprietary medicines. Physician samples were distributed to medical practitioners as free samples. The Central Excise Department raised the demand of excise duty on such samples. 3
- The assessee contended that since the sale of the physician samples was prohibited under the Drugs and Cosmetics Act, 1940 and the rules made thereunder, the same could not be considered to be marketable and hence were not liable to excise duty.
- Examine with the help of a decided case law whether the contention of the assessee is valid in law.

- (ii) M/s. A Ltd. was a manufacturer of two products 'X' & 'Y' falling under Chapter heading 32 and 84 of the first schedule to the Central Excise Tariff Act, 1985, respectively. 3

The goods 'X' were dutiable but the goods 'Y' falling under Chapter heading 84 were fully exempt from duty vide an exemption notification, but the manufacturer, M/s. A Ltd., paid the excise duty on 'Y' by mistake and did not even claim refund of the same.

For goods 'X' falling under Chapter heading 32, being eligible for SSI exemption, the manufacturer wished to claim the same.

For the purpose of computing the value of clearances for SSI exemption, the manufacturer excluded the turnover of goods 'Y' which was exempt although duty was paid mistakenly on them. However, the department contended that the clearance of such goods should be included while computing the value of clearance for SSI exemption purposes.

With reference to a decided case law, you are required to find out whether the contention of the department is correct or not.

- (b) (i) The petitioner, a charitable society is engaged in running internationally renowned schools. It allowed other schools to use its name, logo and motto and as a consideration thereof received collaboration fees from such schools which comprised of a non-refundable amount and annual fee. The schools were required to observe certain obligations / terms and un-impeachable confidentiality. 3

Department contended that the petitioner was engaged in providing franchise service and accordingly issued show cause notice proposing to recover service tax along with interest and penalty.

Examine the validity of the departmental action with reference to a decided case if any.

- (ii) The assessee received some taxable services from Ramesh. A formal contract was entered into between them. As per the terms of the contract, Ramesh had to bear all the taxes, duties and other liabilities in connection with discharge of his obligations. 3

Subsequently, liability to pay service tax in case of such taxable services was shifted from service provider to service receiver retrospectively, owing to an amendment in law. Therefore, the assessee deducted service tax in the bills raised by Ramesh. Ramesh refused to accept the said deduction saying that the contractual clause could not alter the liability placed on the service recipient (i.e. the assessee) by law.

Discuss, whether the contention of Ramesh stands to reason, with help of a decided case law, if any.

- (c) The assessee, an importer, filed a refund application under section 27 of the Customs Act, 1962. In support of the refund claim, the assessee submitted a Chartered Accountant's certificate giving the various facts ruling out unjust enrichment under the Customs Act. The department denied the refund on the grounds being insufficient evidence. 3

Examine the validity of departmental action citing a decided case, if any.

4. (a) (i) M/s. Vinay Industries is engaged in manufacture of a product 'B' which is obtained by certain process. The adjudicating authority concluding that the process amounts to manufacture, levied excise duty on it. Aggrieved by the order, the assessee carried an appeal before the Commissioner (Appeals), who accepted the assessee's stand and held that the above process did not amount to manufacture. Department did not appeal against it and the above order of the appellate authority attained finality. 3

For subsequent period, the assessee took the same stand but the department issued demand notice to the assessee to pay the duty, but for a time period different from the period covered in the said appeal.

Discuss with the help of a decided case law, whether the Revenue could contend this issue further on the same grounds when the appellate order for earlier period was not challenged by the department ?

- (ii) The respondent assessee was carrying on construction of metro railway. He manufactured pre-fabricated components of metro rail at one site to be used at different inter-connected metro construction sites. The assessee claimed exemption under Notification No. 1/2011-C.E.(N.T.) dated 17-2-2011 which exempts the goods covered under specified chapter headings for a specified period, manufactured at the site of construction for use in construction work at such site. 3

Department contended that the assessee was not entitled to exemption as he did not fulfil the condition of manufacture at the site of the construction.

Examine the validity of the departmental contention citing a decided case, if any.

- (b) A co-operative society rendered rent-a-cab service to M/s. JITO. The members of the society were essentially agriculturists who formed the society after they lost their land when JITO plant was being set up and the society was operating without any profit model. 6

When the society started rendering the service to JITO, there was no service tax levy on rent-a-cab service. However, service tax was imposed on it subsequently. A show cause notice was issued to the society proposing to recover service tax with applicable penalty.

The society paid the entire disputed amount of service tax and thereafter regularly paid the service tax but did not pay the penalty contending that it was a case of new levy and also, there were divergent views of different Benches of Tribunal, which had added to the confusion. The issue was debated also with JITO, the service receiver, who denied to pay the amount of tax first.

Decide, with the help of a case law, whether the contention of the assessee is acceptable in law. Discuss in brief the various observations, which can be made on the issue.

- (c) M/s. Vijay Exports, an EOU, is purchasing electricity generated by the captive power plant of its sister unit. The furnace oil required for running the captive power plant was imported by the assessee (M/s. Vijay Exports) and supplied to sister unit for generation of electricity. The assessee also claimed exemption on import of furnace oil under a relevant exemption notification. 3

However, the assessee sought a clarification from the Development Commissioner seeking as to whether import of furnace oil and receipt of electricity would be liable to duty. The Development Commissioner replied in favour of the assessee and thereafter, the assessee claimed the exemption.

A show cause notice demanding duty was issued on the assessee invoking extended period of limitation of 5 years on grounds that the entitlement of duty free import of fuel for its captive power plant lies with the owner of the captive power plant, and not the consumer of electricity, generated from that power plant.

Is the action of the department justified in light of the provisions of the Customs Act, 1962 ? Discuss with the help of a decided case law.

5. (a) In Central Excise Law briefly explain the following terms : 2×3
=6
- (i) Specific duty
 - (ii) Tariff value
 - (iii) Ad-hoc exemption

- (b) (i) With reference to the Finance Act, 1994, discuss the taxability of following activities relating to a bank : 1×3
=3
- (a) Bank extended housing loan of ₹ 50 lac to Mr. A.
- (b) Bank received ₹ 50,000 as loan processing fee from Mr. A.
- (c) Bank received ₹ 6 lac as interest on loan from Mr. A.
- (ii) Explain briefly whether VAT is leviable on sale of leased asset after lease period ? If yes, in which State, it will be exigible to tax ? 3
- (c) Write a short note on applicability of penal provisions in Customs Law on attempt of improper exportation of goods. 3
6. (a) An assessee is barred from making an application for settlement of cases under section 32E of Central Excise Act, 1944 in certain circumstances. Briefly enumerate these circumstances. 6

OR

- Briefly explain the procedure to be followed by the Authority for Advance Rulings on receipt of application for Advance Ruling under the Central Excise Act. 1944. 6
- (b) (i) What is the time limit for issuance of show cause notice for demand of service tax under section 73 of the Finance Act, 1994 ? 3
- (ii) What is VAT invoice ? What are the mandatory provisions to be complied with while issuing a VAT invoice by a registered dealer ? 3
- (c) What is the relevant date for determining the rate of duty and tariff valuation in respect of goods imported or exported by post ? 3

- (a) Which are the different types of bonds in vogue and executed for various purposes under Central Excise Act, 1944 ? 6
- (b) (i) On the basis of following information, determine the 'Point of Taxation' as per Rule 3 of Point of Taxation Rules, 2011 :- 3
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|------------------------------------------------------------|------------|
| (1) Commencement of providing of service on | 05-06-2013 |
| (2) Completion of service on | 10-10-2013 |
| (3) Invoice issued on | 20-10-2013 |
| (4) Payment received by cheque and entered in the books on | 15-10-2013 |
| (5) Amount credited in Bank A/c on | 25-10-2013 |
| (6) Service became taxable for the first time on | 01-07-2013 |
- (ii) Explain how do sales tax incentives cause problems for VAT system. 3
- (c) Explain briefly the meaning of Entry Inward and Entry Outward in the Customs Law. 3
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