

Paper-11 Indirect Taxation

Time Allowed: 3 hours

Full Marks: 100

Working notes should form part of the answers.

Group-A

(Answer Question 1 which is compulsory)

Question 1.

Answer the following questions with suitable reasons:

- (a) What is the condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act?
- (b) Under Central Excise Tariff Act goods are classified using 8-digit system as headings under 'Harmonised System of Nomenclature' — Justify.
- (c) If an importer sold 75 units of imported goods @ ₹ 80, 65 units @ ₹ 75 and 50 units @ ₹ 55 in India, then what will be the basis of valuation of those imported goods? Provided, all the imported goods are identical or similar in nature.
- (d) Whether an unsecured debt is transferred to a third person for a consideration will come under the purview of service tax or not?
- (e) Define 'Business' as per section 2(aa) of the CST Act, 1956.
- (f) AB & Co., a proprietary firm provides service relating to security of building to PK & Co, a partnership firm, for ₹ 10 lakhs. State the persons liable to pay service tax and amount of tax payable by them.
- (g) State the requirement of Space Availability Certificate.
- (h) By whom Central Excise Revenue Audit is conducted? Also state his responsibility regarding this audit.
- (i) State the distinction between 'Zero Rated Sale' and 'Exempted Sale'.
- (j) State the functional areas of Settlement Commission.

[10 × 2]

Answer:

- (a) Condition for levy of Specific Safeguard Duty u/s 8C of Customs Tariff Act — If Central Government conducting such enquiry as it deems fit, is satisfied that any article is imported into India from People's Republic of China:
 - in such increased quantity, and
 - so as to cause or threatening to cause, market disruption to domestic industry.
- (b) In case of harmonised system of nomenclature under Central Excise Tariff Act, goods are classified using 4 digit system as 'headings'. Further 2 digits are added for sub-classification, called 'sub-headings' and further 2 digits are added for sub-sub-classification, which is termed as 'tariff item'. Thus Goods are classified under Central Excise Tariff Act under the "Harmonized System of Nomenclature" having eight digit classifications. Rate of duty is indicated against each 'tariff item' and not against heading or sub-heading.
- (c) Rule 7 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 specify that while considering selling price of imported goods in India, unit price at which greatest aggregate quantity of identical or similar goods are sold to unrelated persons in India should be the basis of valuation. Here the greatest aggregate quantity is 75 units which are sold @ ₹ 80 per unit, which will be the basis for valuation.

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- (d) No, the transaction cannot be regarded as service. Since unsecured debt is an actionable claim, a transaction only in such actionable claim is outside the ambit of service. However if a service fee or processing fee or any other charge is collected in the course of transfer or assignment of a debt then the same would be chargeable to service tax.
- (e) As per section 2(aa) of the CST Act, 1956, 'Business' includes:
- a. Any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture,
 - i. whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and
 - ii. whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern;
 - b. Any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.
- (f) Here the security services are provided by an individual to partnership firm hence the person liable to pay service tax is service provider i.e. AB & Co.
- Service tax payable — ₹ 10 lakhs × 12.36% = ₹ 1,23,600.
- (g) In the context of customs, if the goods are to be despatched to public bonded warehouse, a 'Space Availability Certificate' is required, before movement of goods. However, in case of private warehouses, 100% EOU, STP, EHTP etc., such certificate is not necessary.
- (h) Central Excise Revenue Audit is conducted by the Comptroller and Auditor General of India (C & A G). C & A G submits the report to the President of India, who causes these to be laid before each House of Parliament.
- (i) Distinction between 'Zero Rated Sale' and 'Exempt Sale' is that in case of 'Zero Rated Sale', credit is available on tax paid on inputs, while in case of exempt sale, credit of tax paid on inputs is not available.
- (j) The settlement Commission is constituted under section 32 of the Central Excise Act, 1944 in order to settle easily the tax disputes of Customs and Central Excise involving high revenue stake and thereby save time and energy of both the applicant and the department.

Group-B

(Answer any eight questions out of the ten questions given)

Question 2.

- (a) List out the items which will appear on the Concurrent List (list III) given in Schedule Seven of the Constitution.**

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- (b) Robot Ltd., which is engaged in the manufacture of excisable goods started its business in May, 2013. It availed small scale exemption in terms of Notification No. 8/2003-C.E. dated 01-03-2003. The following details are provided (₹) :

| | |
|--|-------------|
| 15,000 kg of inputs purchased @ ₹ 992.70 per kg. (inclusive of excise duty @ 12.36%) | 1,48,90,500 |
| Capital goods purchased on 25-06-2013 (inclusive of excise duty at 12.36%) | 44,12,000 |
| Finished goods sold (at uniform transaction value throughout the year) | 2,50,00,000 |

Calculate excise duty payable by M/s. Robot Ltd. in cash, if any, during year 2013-14. Rate of duty on finished goods sold may be taken at 12.36% and you may assume that selling price is exclusive of central excise duty. There is neither any processing loss nor any inventory of input and output. Show your workings and notes with suitable assumptions as required.

- (c) "SEZ are like a separate island within country." — describe SEZ (Special Economic Zone) in relation to taxation issues.

[2+6+2]

Answer:

- (a) Concurrent List (List-III) given in Schedule Seven of constitution:

Both union and State Government can exercise power in respect of —

Entry No.17A – Forest Income

Entry No. 25 – Education Income

- (b) **Computation of duty payable by Robot Ltd. during financial year 2013-14**

| Particulars | Units | ₹/unit | ₹ |
|--|--------|---------------|------------------|
| Total value of all finished goods | 15,000 | 1,666.67 | 2,50,00,000 |
| Less: Exemption of ₹150 lakhs | 9,000 | 1,666.67 | 1,50,00,000 |
| Dutiable clearances (60% clearances are exempt and 40% dutiable) | 6,000 | 1,666.67 | 1,00,00,000 |
| Duty @ 12.36% on final product | | 206.00 | 12,36,000 |
| Total Credit on inputs [Duty = ₹ 992.70 x 12.36 ÷ 112.36] | 15,000 | 109.20 | 16,38,000 |
| Less: 60% credit relating to exempted clearances [Reversal under Rule 6 of the CENVAT CREDIT Rules, 2004] | 9,000 | 109.20 | 9,82,800 |
| Credit relating to dutiable clearances | 6,000 | 109.20 | 6,55,200 |
| Add: Credit relating to capital goods [100% credit available in first year to SSI- units] [₹44,12,000 x 12.36 ÷ 112.36] | | | 4,85,336 |
| Total CENVAT Credit | | | 11,40,536 |
| Duty payable in cash [Duty on Final Product – CENVAT Credit] | | | 95,464 |

- (c) SEZ is as if it is a separate island as if outside India, where inputs, capital goods and input services can be obtained without duty and service tax. SEZ are governed by Special Economic Zones Act and SEZ Rules.

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Goods can be brought in SEZ without payment of customs duty or excise duty. Supplies to SEZ from other parts of India are treated as 'exports' and are entitled to all export benefits. On the other hand, supplies from SEZ unit to any person outside SEZ is treated as 'import' by that person and normal customs duty is payable.

Question 3.

(a) Following transactions took place in the factory of Arvind Ltd. —

- (i) An imported consignment of Raw Materials was received vide Bill of Entry dated 2nd Dec, showing the following Customs Duty payments —
- | | |
|-------------------------|----------|
| Basic Customs Duty | ₹ 23,000 |
| Additional Duty (CVD) | ₹ 20,000 |
| Special Additional Duty | ₹ 5,800 |
- (ii) A consignment of 1,000 kgs of inputs was received. The Excise Duty paid as per the invoice was ₹ 10,000. While the input was being unloaded 50 kgs were damaged, and were found to be not usable.
- (iii) Some inputs for final product were received. These were accompanied by a certified Xerox Copy (photo copy) of Invoice No. 356 dated 23rd Dec. indicating the Excise duty of ₹ 6,400 has been paid on inputs. The original for duplicate copy of invoice are not traceable.

Indicate the eligibility of CENVAT Credit under the CENVAT Credit Rules, 2004 with explanations where necessary.

(b) State the procedures for duty drawback on Re-Export as per Sec. 74 of the Customs Act, 1962.

(c) "The recovery from buyer is an essential condition for levy of indirect taxes" — Critically examine.

[6+3+1]

Answer:

(a) Eligibility of Cenvat credit

| Situation | Eligible Amount | Reasoning |
|----------------------|-----------------|---|
| Imported Consignment | ₹ 25,800 | Countervailing Duty for Excise Duty and VAT Equivalent will be eligible for credit under CENVAT Credit Rules. Basic Customs Duty of ₹ 23,000 is not eligible. |
| Loss of Inputs | ₹ 9,500 | <ul style="list-style-type: none"> • Inputs used in the manufacture of dutiable finished products alone are eligible for CENVAT Credit. • When inputs are damaged irretrievably before usage in the manufacturing process, duty attributable to such goods cannot be claimed as CENVAT Credit. • Therefore, duty for 950 Kgs alone is eligible for CENVAT Credit = ₹ 10,000 x 950 Kgs used / 1,000 Kgs received. |

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| | | |
|--|-----------------|--|
| Inputs received under Photocopy of Invoice | ₹ 6,400 | <ul style="list-style-type: none">Duty can be claimed only if inputs have been received and documents evidencing payment of duty is available.CENVAT Credit is allowable on Photostat copies of authenticated invoices. [Kothari General Foods Corpn Ltd 144 ELT 338 (Tri.)] |
| Total Credit | ₹ 53,700 | |

- (b) Section 74 of Customs Act, 1962 provide for drawback if the goods are re-exported as such or after use. This may happen in cases like import for exhibitions, goods rejected or wrong shipment etc. The re-exported goods should be identifiable as having been imported and should be re-exported within two years from date of payment of duty when they were imported.

This period (of two years) can be extended by CBE&C on sufficient cause being shown. These should be declared and inspected by Customs Officer. Original shipping bill under which the goods were imported should be produced. The goods can be exported as cargo by air or sea, or as baggage or by post. After inspection, export and submission of application with full details, 98% of the customs duty paid while importing the goods is repaid as drawback.

Section 74 is applicable when imported goods are re-exported as it is and article is easily identifiable, while section 75 is applicable when imported materials are used in the manufacture of goods which are then exported.

- (c) In general, indirect taxes are recovered from buyer, but it is not an essential feature of indirect taxes. Tax on goods or services will be valid even if it is not recovered or recoverable from buyer.

Question 4.

- (a) An interior decorator charges ₹ 6,50,000 from a client for providing professional services. The breakup of the bill is as follows:-

- (i) Value of furniture sold to the client – ₹ 3,00,000
 - (ii) Labour and facility charges – ₹ 2,00,000
 - (iii) Value of materials consumed in providing the service – ₹ 1,50,000
- Compute the amount of service tax to be charged from the client.

- (b) What are the essential ingredients of a sale under CST Act?

[5+5]

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Answer:

(a) Computation of service tax payable (amounts assumed exclusive of service tax)

| | (₹) |
|---|-------------------|
| Value of furniture sold to the client [Sale of furniture is 'sale of goods', which cannot be regarded as a service. Though sale is in course of providing the service, however, it constitutes a separate sale, because the parties intend to have separate rights arising out of sale. Such sale cannot be charged to service tax.] | Sale, not service |
| Add: Labour and facility charges [They are for provision of interior decoration service; hence, includible in value] | 2,00,000 |
| Add: Value of materials consumed in providing the service [Materials consumed viz. consumables, etc. in providing services are a part of the value of the service, because service cannot be provided without them.] | 1,50,000 |
| Value of service | 3,50,000 |
| Service Tax @ 12.36% | 43,260 |

(b) Essential ingredients of a sale under CST Act:

- i. There must be two parties to the contract of sale (i.e.) the buyer & the seller.
- ii. There must be valid consent of both the above parties.
- iii. There must be an actual transfer of property in goods (i.e. agreement to sell is not a sale).
- iv. There must be a consideration in cash or in deferred payment or any other valuable consideration in money or money's worth.
- v. Sale includes deemed sales but it does not include a mortgage or hypothecation of or a charge or pledge on goods.

Question 5.

(a) Determine the Taxable Turnover, Input Tax Credit and net VAT payable by a Works Contractor from the details given below on the assumption that the Contractor maintains sufficient records to quantify the labour charges. Output VAT at 12.5%:

| Particulars | (₹ in Lakhs) |
|--|--------------|
| Total Contract Price (excluding VAT) | 105 |
| Labour Charges paid for execution of the contract | 40 |
| Cost of Consumables used not involving transfer of property in goods | 5 |
| Material purchased and used for the Contract, taxable at 12.5% VAT (VAT included) | 45 |

Contractor also purchased a Plant for use in the contract for ₹ 10.4 lakhs. In the VAT Invoice, VAT was charged at 4% separately, and the said amount of ₹ 10.4 Lakhs is inclusive of VAT.

(b) One of the methods for determining Arm's Length Price is Resale Price Method (RPM). State the applicability of RPM.

[4+6]

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Answer:

(a) Computation of Taxable Turnover, Input Tax Credit and net VAT liability

| Particulars | ₹ Lakhs |
|---|------------|
| Total Contract Value (excluding VAT) | 105 |
| Less: Labour Charges paid for execution of the contract | (40) |
| Less: Cost of Consumables used not involving transfer of property in goods | (5) |
| Taxable Turnover, i.e. | 60 |
| Output VAT Payable [₹ 60 lakhs x 12.5%] | 7.5 |
| Less: Input Tax Credit | |
| • On Materials Purchased Inclusive of VAT $\left[\frac{12.5}{112.5} \times ₹ 45 \text{ lakhs} \right]$ | (5) |
| • On Plant purchased $\left[\frac{4}{104} \times ₹ 10.4 \text{ lakhs} \right]$ | (0.4) |
| Net VAT Liability | 2.1 |

(b) This method is ideally suited to measure the value of the services performed by a buyer or seller of goods who generally acts as a distributor and does not add a significant value to goods sold. It is applicable even with differences in products, as long as the functions performed are similar. However, it is less useful where goods are further processed or in nature of raw material.

RPM is applied in a backward process. From the sale price to an unrelated third party, appropriate adjustments to the gross margin are made by comparing the transaction to other, third party transactions.

- (1) This method can be applied when there are no comparable uncontrolled sales and an applicable resale price is available within a reasonable time before or after the controlled sale.
- (2) Where the reseller does not add substantial value to the goods through physical modification. Limited enhancements such as packaging, repackaging, labeling or minor assembly ordinarily do not generally affect the use of RPM. Hence, RPM may not be applicable if the reseller performs value added functions.
- (3) RPM is more accurate where it is realized within a short time of the reseller's purchase of goods.
- (4) RPM is ordinarily used when the controlled reseller does not use intangible property to add substantial value to the products.
- (5) RPM is applied when the reseller does not alter the physical characteristics of the product.
- (6) Where the reseller has the exclusive right to resell the goods, the gross margin would be affected by factors like size of market, existence of substitute goods, and level of activity undertaken by the reseller.

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Question 6.

(a) M/s. Mili Pvt. Ltd., not an SSI unit, purchased fibre 10,000 kg @ ₹ 50 per kg plus excise duty. The said fibre was used to manufacture intermediate product yarn. The said yarn was captively used for the manufacture of fabrics. The said fabric was exempt from duty. The other information are as follows:

- (i) Normal processing loss: 2% of inputs in manufacture of yarn
- (ii) Rate of excise duty on all products is 12.36%;
- (iii) Assessable Value of yarn: ₹ 80 per Kg.;
- (iv) Assessable Value of Fabric (Total): ₹ 13 lakhs;
- (v) Colouring Dyes used in the manufacture of Fabric: ₹ 2 lakhs plus excise duty.
- (vi) Duty on Capital Goods imported during the period and used in the manufacture of yarn: Basic Customs Duty ₹ 20,000; Additional duty of customs under section 3(1) of the Customs Tariff ₹ 30,000; Additional duty of customs under section 3(5) of the Customs Tariff Act ₹ 10,000.

Compute - (i) CENVAT Credit available; (ii) Duty payable.

(b) RVI Ltd. enters into a contract with PQR Ltd. for construction of a new building primarily for the purpose of commerce or industry for a total consideration of ₹450 lakhs on 03-07-2013. The relevant details are given as under –

| Stage | Date [Expected] | Date of issuance of invoice | Date of Payment | Amount of Payment (₹) |
|--|-----------------|-----------------------------|-----------------|-----------------------|
| Initial/Booking | 03-07-2013 | 03-07-2013 | 03-07-2013 | 45 lakhs |
| 50% completion of building [after getting certificate from the stipulated Chartered Engineer] | 15-03-2014 | 22-03-2014 | 29-03-2014 | 170 lakhs |
| 75% completion of building [after getting certificate from the stipulated Chartered Engineer] | 20-06-2014 | 21-07-2014 | 25-07-2014 | 115 lakhs |
| 100% completion of building [after getting certificate from the stipulated Chartered Engineer] | 30-09-2014 | 20-10-2014 | 07-10-2014 | 120 lakhs |

Determine the Point of Taxation in respect of each of above stage of completion.

[6+4]

Answer:

(a) Since the final product 'fabrics' is exempt from duty, hence, the intermediate product 'yarn' shall be liable to excise duty. Thus, the CENVAT Credit of raw material fibre shall be available.

The relevant computations are as follows–

| | (Amounts in ₹) |
|--|----------------|
| (1) Excise duty on yarn : (10,000 kg - 2% Normal Loss = 9,800 kg) x ₹ 80 per kg x 12.36% | 96,902 |
| (2) CENVAT Credit: | |

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| | |
|--|--------|
| (a) On raw material fibre 10,000 kg x ₹ 50 per kg x 12.36% [WN-1] | 61,800 |
| (b) Colouring Dyes [WN-2] | --- |
| (c) Capital goods used in the manufacture of yarn are eligible for 50% credit as follows - | |
| Basic Customs Duty is not eligible for Cenvat credit. | --- |
| Additional Customs Duty u/s 3(1) of CTA - Eligible for 50% credit in the current year and the balance in subsequent year | 15,000 |
| Additional duty of customs u/s 3(5) of CTA - Eligible for 100% credit in current year | 10,000 |
| Total Credit [2(a) + 2(b) + 2(c)] | 86,800 |
| (3) Duty payable in cash [1 - 2] | 10,102 |

Working Notes:

- Normal loss of inputs is incurred in factory and in relation to manufacture; hence the same shall also be eligible for Cenvat Credit.
- Colouring Dyes used in the manufacture of fabric shall not be eligible for credit as fabric is exempt from duty.

(b) The above case falls under continuous supply of service and the point of taxation shall be determined as under-

| Stage of Completion | Deemed date of completion of provision of service as per Explanation 1 to Rule 6 | Point of Taxation | Reason/Remarks |
|---------------------|--|-------------------|---|
| Initial/ Booking | 03-07-2013 | 03-07-2013 | Date of issuance of invoice as well as Date of Payment is same i.e. 03-07-2013. |
| 50% | 15-03-2014 | 22-03-2014 | Since invoice has been issued on 22-03-2014 i.e. within 30 days from the date of completion of provision of service [which is 15-03-2014], comparison has been made between Date of issuance of invoice [22-03-2014] and Date of Payment [29-03-2014]. Accordingly, Point of Taxation will be 22 - 03- 2014. |
| 75% | 20-06-2014 | 20-06-2014 | Since invoice has been issued on 21-07-2014 i.e. after 30 days from the date of completion of provision of service [which is 20-06-2014], comparison has been made between Date of Completion of Provision of Service [20-06-2014] and Date of Payment [25-07-2014]. Accordingly, Point to Taxation will be 20-06-2014. |

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| | | | |
|------|------------|------------|---|
| 100% | 30-09-2014 | 07-10-2014 | Since invoice has been issued on 20-10-2014 i.e. within 30 days from the date of completion of provision of service [which is 30-09-2014], comparison has been made between Date of issuance of Invoice [20-10-2014] and Date of Payment [07-10-2014]. Accordingly, Point of Taxation will be 07-10-2014. |
|------|------------|------------|---|

Question 7.

(a) Grid Energy Ltd. imported a lift from England at an invoice price of ₹ 20,00,000. The assessee had supplied raw material worth ₹ 5,00,000 to the supplier for manufacture of said lift. Due to safety reasons, the lift was not taken to the jetty in the port but was unloaded at outer anchorage. The charges incurred for such unloading amounted to ₹ 30,000 and the cost incurred on transport of the lift from outer anchorage to the jetty was ₹ 45,000. The importer was also required to pay ship demurrage charges ₹ 10,000. The lift was imported at actual cost of transport ₹ 45,000 and insurance charges ₹ 20,000. Compute its assessable value.

(b) Describe the taxability of 'bundled services'.

(c) How the selection of companies is made to compare in Transfer Pricing study?

[4+4+2]

Answer:

(a) Computation of Assessable Value

| | ₹ |
|--|---------------------|
| FoB price in Indian ₹ | 20,00,000.00 |
| Add: Material supplied by assessee (free of charge) [Includible under Rule 10(1)(b)] | 5,00,000.00 |
| Add: Cost of transport under Rule 10(2)(a) comprising of - | |
| 1. Barging and lighterage charges i.e. unloading at outer anchorage and transport to jetty viz. ₹ 30,000 + ₹ 45,000 = ₹ 75,000 | 75,000.00 |
| 2. Ship Demurrage Charges | 10,000.00 |
| 3. Other costs on actual basis | 45,000.00 |
| Add: Insurance under Rule 10(2)(c) | 20,000.00 |
| CIF | 26,50,000.00 |
| Add: Loading, unloading and handling charges under Rule 10(2)(b) @ 1% of CIF | 26,500.00 |
| Assessable Value | 26,76,500.00 |

(b) 'Bundled service' means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services. An example of 'bundled service' would be air transport services provided by airlines wherein an element of transportation of passenger by air is combined with an element of provision of catering service on board. Each service involves differential

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treatment as a manner of determination of value of two services for the purpose of charging service tax is different.

Example - A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.

- (c) The Selection of Comparable Companies can be done in the following ways —
- (i) Industry-wise selection
 - (ii) Product-wise selection
 - (iii) NIC Code-wise selection
 - (iv) Segment-wise selection

Question 8.

- (a) A commodity is imported into India from a country covered by a notification issued by the Central Government under section 9A of the Customs Tariff Act, 1975. Following particulars are made available :

CIF value of the consignment: US\$ 25,000

Quantity imported: 550 kgs.

Exchange rate applicable: ₹ 50=US\$ 1

Basic customs duty: 20%.

Education and secondary and higher education cess as applicable.

As per the notification, the anti-dumping duty will be equal to the difference between the costs of commodity calculated @ US\$70 per kg. and the landed value of the commodity as imported.

Appraise the liability on account of normal duties, cess and the anti-dumping duty.

Assume that only 'Basic Customs Duty' (BCD) and education and secondary and higher education cess are payable.

- (b) Prediction Ltd. sold 100 units manufactured by it for ₹ 12,000 per unit. It had received interest-free advance of ₹ 6,00,000 from the buyer for the whole of the year. Compute the assessable value of 100 units sold in following independent case:

(i) The price charged from other buyers is ₹ 11,500 per unit.

(ii) The price charged from other buyers is ₹ 12,800 per unit.

(iii) The normal rate of interest is 12% per annum and the price charged from other buyers is ₹ 12,800 per unit.

[5+5]

Answer:

- (a) The following points are to be taken note of –

- (1) The question clearly states that only basic customs duty, EC and SHEC thereon and anti-dumping duty are leviable on the goods in question and no other duty viz. additional duty of customs u/s 3(1) or special additional duty of customs u/s 3(5) is leviable.
- (2) For the purposes of the notifications imposing anti-dumping duty, "landed value" means

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the assessable value as determined under the Customs Act, 1962 and includes all duties of customs except duties levied under sections 3, 8B, 9 and 9A of the said Customs Tariff Act, 1975.

(3) No EC and SHEC is imposable on anti-dumping duty.

Keeping in mind the aforesaid, the relevant computations are as under

| | (Amounts in ₹) |
|--|-----------------|
| CIF Value of the consignment (in Indian ₹) [US \$ 25,000 x ₹ 50] | 12,50,000 |
| Add: Landing Charges @ 1% | 12,500 |
| Assessable Value | 12,62,500 |
| Add: Basic Customs Duty @ 20% | 2,52,500 |
| Add: EC and SHEC @ 3% on Basic Customs Duty | 7,575 |
| Landed Value/Cost of the goods [A] | 15,22,575 |
| Cost of commodity for the purposes of anti-dumping notification [B] [550 Kg. x US\$ 70 per Kg. x ₹ 50 per dollar] | 19,25,000 |
| Anti-dumping duty [B - A] | 4,02,425 |

(b) Computation of Assessable Value of Prediction Ltd.: As per the explanation 2 to Rule 6 of the Central Excise Valuation Rules, 2000, where an assessee receives any advance payment from the buyer against delivery of any excisable goods, no notional interest on such advance shall be added to the value unless the Central Excise Officer has evidence to the effect that the advance received has influenced the fixation of the price of the goods. Hence, the assessable value shall be determined as under:

(i) Assessable value = ₹ 12,000 x 100 = ₹ 12,00,000.

No notional interest shall be added as advance received has not influenced the price.

(ii) Assessable value = (₹ 12,000 + ₹ 800) x 100 = ₹ 12,80,000.

₹ 800 shall be added as notional interest (₹ 12,800 - ₹ 12,000) as the price charged is influenced due to the receipt of advance.

(iii) Assessable value = (₹ 12,000 + ₹ 800) x 100 = ₹ 12,80,000.

Rate of interest is irrelevant, however, ₹ 800 shall be added as notional interest (₹ 12,800 - ₹ 12,000) as the price charged is influenced due to the receipt of advance.

Question 9.

(a) Ascertain the Assessable Value in respect of each of the clearances given below –

| Removed to | Price at Depot as on | | Actual Sale Price at Depot on 01/02/2014 |
|----------------|----------------------|------------|--|
| | 01/01/2014 | 31/01/2014 | |
| Mysore Depot | ₹ 210/unit | ₹ 205/unit | ₹ 215/unit |
| Patna Depot | ₹ 220/unit | ₹ 215/unit | ₹ 225/unit |
| Tirupati Depot | ₹ 230/unit | ₹ 225/unit | ₹ 235/unit |

The goods were cleared to respective Depots on 01/01/2014 and actually sold at the depots on 01/02/2014.

(b) State the conditions under which an EOU can clear its products to the DTA?

[3+7]

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Answer:

(a)

1. **Valuation for Depot Transfer:** Price prevailing at the Depot on the date of clearance from the factory will be the Assessable Value to pay Excise duty.
2. **Assessable Value:** Therefore Assessable Value for each of the clearances will be as under (based on price prevailing at the respective depot on the date of removal from factory i.e. 1.1.2014)

| Clearance from | Assessable Value |
|--------------------|------------------|
| (a) Mysore Depot | ₹ 210 |
| (b) Patna Depot | ₹ 220 |
| (c) Tirupati Depot | ₹ 230 |

Note: The actual sale price has no relevance for determining the value of above goods.

(b)

1. **Manufacturing Units:** Units, other than Gems and Jewellery Units may sell goods upto 50% of FOB Value of Exports, subject to fulfillment of positive NFE, on payment of concessional duties. Within entitlement of DTA Sale, a unit may sell in DTA, its products similar to goods which are exported or expected to be exported. However, units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 90% of FOB Value of Export of the specific products, subject to the condition that total DTA Sale does not exceed the overall entitlement of 50% of FOB Value of exports for the unit, as stipulated above.
2. **Sales to SEZ units:** Sales made to a unit in SEZ shall also be taken into account for purpose of arriving at FOB Value of Export by EOU, provided the payment for such sales are made from Foreign Exchange Account of SEZ Unit. Sale to DTA would also be subject to mandatory requirement of registration of pharmaceutical products (including bulk drugs).
3. **Duty on Import:** An amount equal to Anti Dumping Duty u/s 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.
4. **Service Units:** For services, including software units, sale in DTA in any mode, including on line data communication, shall also be permissible up to 50% of FOB Value of exports and/ or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.
5. **Gems and Jewellery:** Gems and Jewellery Units may sell upto 10% of FOB Value of exports of the preceding year in DTA, subject to fulfillment of positive NFE. In respect of sale of plain jewellery, the Recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.
6. **Sale of FG:** EOU/ EHTP/ STP/ BTP units may sell finished products, except pepper and pepper products and marble, which are freely importable under FTP in DTA, under intimation to DC, against payment of full duties, provided they have achieved positive NFE. An amount equal to Anti-Dumping Duty u/s 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.
7. **Advance DTA Sale:** In case of DTA sale of goods manufactured by EOU/ EHTP/ STP/ BTP, where Basic Duty and CVD is NIL, such goods may be considered as non-excisable for payment of duty. In case of new EOUs, Advance DTA Sale will be allowed not exceeding 50% of its estimated exports for first year, except pharmaceutical units where this will be

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based on its estimated exports for first two years.

Question 10.

(a) A hotel has provided bundled service of renting along with supply of food and catering for a marriage function of a celebrity. The total amount charged (exclusive of taxes) by the hotel was ₹ 100 lakh. The celebrity had supplied certain foreign beverages (FMV ₹ 10 lakh) free of cost. The excise duty paid on food items by the hotel is ₹ 2,25,480, while service tax paid on input services used in providing such services is ₹ 1,12,360. Determine the service tax liability assuming that assessee has opted for abatement available, if any.

(b) Compute the purchases eligible for availing input tax credit from the following particulars:

| Purchases | ₹ |
|--|--------|
| Goods for resale within the State | 10,000 |
| Capital goods required for the purpose of the manufacture or resale of taxable goods | 14,000 |
| Goods purchased from the unregistered dealer | 3,200 |
| Goods which are being utilized in the manufacture of exempted goods | 6,600 |
| High sea purchases | 2,700 |

(c) What is Non Injurious Price in Anti Dumping Duty?

[4+5+1]

Answer:

(a) Since it is a bundled service of renting and providing of food, facility, etc., hence, Rule 2C of the Service Tax (Determination of Value) Rules, 2006 is not applicable. However, abatement of 30% is admissible under Not. No. 26/2012-ST

| | Amounts in ₹ |
|--|-----------------|
| Amount charged by hotel | 1,00,00,000 |
| Add: Value of beverages supplied by celebrity free of cost | 10,00,000 |
| Total sum within the meaning of abatement notification | 1,10,00,000 |
| Taxable Value @ 70% | 77,00,000 |
| Service Tax @ 12% | 9,24,000 |
| Add: EC and SHEC @ 3% | 27,720 |
| Service tax liability | 9,51,720 |
| Less: Credit of excise duty on food items (Not allowed as condition of abatement) | Not allowed |
| Less : Credit of input services used in providing this service (Allowed, not barred) | 1,12,360 |
| Service tax payable in cash | 8,39,360 |

(b) Computation of purchases eligible for ITC

| | |
|--|------------|
| Goods for resale within State - Eligible | ₹ 10,000 |
| Capital goods required for manufacture or resale of taxable goods - Eligible | ₹ 14,000 |
| Goods purchased from unregistered dealer - They are not eligible for ITC | Ineligible |

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| | |
|---|-----------------|
| Goods used for manufacture of exempted goods - They are not eligible for ITC | Ineligible |
| High Seas purchases (i.e. imported from outside India)- They are not eligible for ITC | Ineligible |
| Purchases eligible for Input Credit | ₹ 24,000 |

- (c) Non Injurious Price is the sale price which is constructed (i.e. arrived at/ ascertained) for the domestic industry, which will give a reasonable return on investment and if Domestic Industry is able to sale its product at that price it will claim no injury.

Question 11.

- (a) Write a short note on the Place of Provision of Passenger Transportation Services.
(b) State the relationship between Warehousing Bond and Bonded Warehouse.
(c) Is transfer of property in goods without consideration chargeable to CST?

[4+4+2]

Answer:

- (a) The relevant provisions for the Place of Provision of Passenger Transportation Services are as under -
- (1) **Passenger Transportation Services [Rule 11 of Place of Provision of Services Rules, 2012]:**
The place of provision of a passenger transportation service is the place where the passenger embarks on the conveyance for a continuous journey.
- (2) **Continuous journey [Rule 2(d) of Place of Provision of Services Rules, 2012]:** Continuous journey means a journey for which, -
- a single ticket or invoice has been issued; or
 - more than one ticket or invoice has been issued at the same time,
 - either by -
 - by one service provider, or
 - through one agent acting on behalf of more than one service provider, and
 - which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.
- (3) **Leg of journey [Rule 2(g) of Place of Provision of Services Rules, 2012]:** Leg of journey means a part of the journey that begins -
- where passengers embark or disembark the conveyance, or
 - where it is stopped to allow for its servicing or refuelling, and
 - ends where it is next stopped for any of those purposes.
- (4) **Analysis:** For a journey to be regarded as continuous journey it is not necessary that a single tick invoice must be issued. However, the service provider or agent must be one person.
- In case the journey is not a continuous journey, each journey shall be regarded as separate journey an same shall be liable to be taxed accordingly.

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(b) Warehousing Bond — Since imported goods are kept in warehouse without payment of customs duty, importer has to execute a bond binding himself to (1) observe all provisions of Customs Act and rules/regulations in respect of the goods (2) pay on demand the (i) duties, interest (ii) warehousing rent and charges with interest (3) pay all penalties leviable for violations of provisions of Customs Act, rules and regulations. The bond amount is equal to twice the amount of duty assessed. Generally, part of bond amount is secured by way of a bank guarantee.

Bonded warehouse — Since goods are kept in warehouse under a 'bond', the warehouse is termed as 'bonded warehouse'. It does not necessarily mean that the warehouse is physically bonded. For example, in case of manufacture in warehouse, the manufacture is in 'bonded warehouse' but there is no physical supervision of customs officer. However, in case of goods stored in warehouse and cleared from warehouse on payment of duty, the warehouse is under physical control of customs officer and clearance can be only with his permission.

(c) Sale u/s 2(g) of the CST Act, means transfer of property for cash or deferred payment or for any other valuable consideration. Where there is transfer of property in goods without consideration, it does not amount to sale within the meaning of the definition under the act and therefore CST is not attracted.