

Test Series: September, 2016

**MOCK TEST PAPER – 2**  
**FINAL COURSE: GROUP – II**  
**PAPER – 8: INDIRECT TAX LAWS**

**Question No. 1 is compulsory.**

**Attempt any five questions from the remaining six Questions.**

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

**Time Allowed – 3 Hours**

**Maximum Marks – 100**

1. (a) Dev & Company is a manufacturing company. In the preceding financial year, the details of its clearances of excisable goods are as follows:-

	Particulars	Rs. (Lakhs)
(i)	Total exports (including for export to Bhutan Rs. 50 lakhs)	600
(ii)	Clearances of excisable goods without payment of duty to a 100% EOU	10
(iii)	Job work under <i>Notification No. 84/94-CE dated 11.4.94</i>	50
(iv)	Job work under <i>Notification No. 214/86-CE dated 25.3.86</i>	50
(v)	Clearances of goods bearing brand name of National Small Industries Corporation	100
(vi)	Clearances of corrugated boxes bearing the brand name of Sugar & Spice Confectioners. Sugar & Spice Confectioners use these corrugated boxes for packing the bakery products produced by them.	200

On the basis of above information, you are required to ascertain the eligibility of Dev and Company for exemption based on value of clearances in terms of *Notification No. 8/2003-CE dated 1.3.2003* for the current financial year. (5 Marks)

- (b) Shiv Pvt. Ltd. was awarded a contract for providing floor and wall tiling services in respect of a building located in Delhi, by Nanak Ltd. As per the terms of contract, Shiv Pvt. Ltd. was to provide all the required material for execution of the contract. However, a portion of the material was also provided by Nanak Ltd.

Whether the services provided by Shiv Pvt. Ltd. are subject to service tax? If yes, determine the service tax liability of Shiv Pvt. Ltd. from the following particulars –

Particulars	(Rs.)
Gross amount (excluding all taxes) charged by the Shiv Pvt. Ltd. for the contract	6,00,000
Fair market value of the material supplied by Nanak Ltd. (determined in accordance with the generally accepted accounting principles)	1,00,000
Amount charged by Nanak Ltd. for the material (inclusive of VAT)	60,000
Excise duty paid on inputs	12,750
Service tax paid on input services	6,000
Excise duty paid on capital goods, purchased during the year, used in the contract	4,000

**Note:** Rate of service tax is 14.5% (including Swachh Bharat Cess). (10 Marks)

- (c) A consignment of 800 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US\$ 10 per metric tonne was charged for the consignment to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment there were following imports of edible oil of Malaysian origin:

S. No.	Quantity imported in metric tonnes	Unit price in US \$ (CIF)
1.	20	260
2.	100	220
3.	500	200
4.	900	175
5.	400	180
6.	780	160

The rate of exchange on the relevant date was 1 US \$ = Rs. 60.00 and the rate of basic customs duty was 10% ad valorem. There is no countervailing duty or special additional duty. Calculate the amount of duty leviable on the consignment under the Customs Act, 1962 with appropriate assumptions and explanations, where required.

(5 Marks)

2. (a) Pure Beverages Ltd. has removed the aerated water bottles without declaring the retail sale price under section 4A of the Central Excise Act, 1944. Discuss briefly how the retail sale price of these goods shall be ascertained. (4 Marks)
- (b) The CESTAT passed an order in case of Mr. Shyam holding that the activity carried out by Mr. Shyam is liable to service tax. Aggrieved by the said order, Mr. Shyam

wishes to file an appeal against the said order. You are required to advise him as to whether he can file an appeal to High Court on the question of levy of service tax on a particular activity. (8 Marks)

- (c) State the difference between transit and transshipment of goods under the provisions of the Customs Act. (4 Marks)

3. (a) The assessee M/s X & Co. Ltd. were engaged in the manufacture of 'tarpaulin made ups'. This was nothing but tarpaulin cloth prepared by making a solution of wax, aluminum stearate and pigments that were mixed. The solution was heated in a vessel and was transferred to a tank. Grey cotton canvas fabric was then dipped into the solution and passed through two rollers, whereafter the canvas was dried by exposure to sun. The tarpaulin made ups were prepared by cutting the cloth into various sizes and stitched and eyelets were fitted.

The Central Excise Department has issued a show cause notice to M/s X & Co. Ltd. that the process of preparing tarpaulin made ups by means of cutting, stitching and fixing eyelets amounts to manufacture under the Central Excise Act, 1944.

Write a brief note with reference to decided case law, if any, whether the Department's view in the matter is legally sustainable. (4 Marks)

- (b) Narayan (P) Ltd., a service provider, has availed and utilized credit of excise duty without actual receipt of excisable goods. A personal penalty of Rs. 1,90,000 has been imposed on Mr. Gopal, Manager of Narayan (P) Ltd. and Rs. 72,000 on Miss Shanu, an officer of Narayan (P) Ltd. who were in charge of, and were responsible to, Narayan (P) Ltd. for the conduct of its business at the time of such availment and utilization of the credit.

Discuss whether such penalty can be imposed on Mr. Gopal and Miss Shanu under section 78A of Finance Act, 1994. Can penalty be imposed on manager or officer of a company in any other case? Explain. (8 Marks)

- (c) Tirupati & Co. had smuggled rough diamonds into the country clandestinely without payment of duty. The Department issued a notice to Tirupati & Co. proposing confiscation of the diamonds under clause (d) of section 111 of the Customs Act, 1962 and imposing penalties on various persons concerned.

However, the said goods were unconditionally exempted from payment of import duty vide an exemption notification. So, Tirupati & Co. claimed the benefit of the said exemption notification. The Department, however, refused to grant the benefit of exemption meant for imported goods to smuggled goods.

Do you think that Department's action is valid in law? (4 Marks)

4. (a) How are the 'incomplete or unfinished goods having the essential characteristics of finished goods' classified under the Central Excise Tariff Act, 1985? (4 Marks)

- (b) (i) The assessee received some taxable services from Ram. A formal contract was entered into between them. As per the terms of the contract, Ram had to bear all the taxes, duties and other liabilities in connection with discharge of his obligations.
- 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 Ram. Ram 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 Ram stands to reason with the help of a decided case law, if any. (4 Marks)
- (ii) M/s. Royal-One Restaurant has an air-conditioned and a non air-conditioned restaurant in a single complex. The air-conditioned and non air-conditioned restaurants of M/s Royal -One Restaurant are clearly demarcated and separately named. However, the food is sourced from the common kitchen. Discuss, whether the service tax will be leviable in respect of service provided in relation of serving of food in the non air-conditioned restaurant. Explain briefly with reasons. (4 Marks)
- (c) Write a brief note on "remission of duty in case of volatile goods" under section 70 of the Customs Act, 1962. (4 Marks)
5. (a) What is the remedy available with the Department when the Central Excise Officer does not find the self assessment by the assessee in order? (4 Marks)
- (b) What is the place of provision of service in the following independent cases?
- (i) AB Trade Links of Hyderabad are appointed as commission agent by a foreign company for sale of its goods to Indian customers. In lieu of their services, AB Trade Links receive a fixed percentage of commission from the concerned foreign company.
- (ii) YZ Fabricators of Mysore has temporarily imported certain goods from its customer located in Egypt for repairs. The said goods have been re-exported to Egypt after carrying out the necessary repairs without being put to any use in Mysore. (8 Marks)
- (c) Explain the doctrine of unjust enrichment with respect to refund of duty. (4 Marks)
6. (a) What are the various methods of making verification of sureties? (4 Marks)

Or

How can a decision, order, summon or notice be served on the intended person under section 37C(1)(a) of the Central Excise Act, 1944? (4 Marks)

- (b) Determine whether the following services amount to continuous supply of service in the following independent cases:-
- (i) MNO & Co., a firm of interior decorators, enters in to a contract with Mr. Kanha on 01.02.2016 for doing up the interiors of his newly constructed home for a total consideration of Rs. 60 lakh. As per the terms of the contract, MNO & Co. will complete the work by 31.07.2016 and consideration will be paid in six equal instalments on the first day of each month covered during the period of contract.
  - (ii) Mr. Keshav has taken a mobile connection from Cell Free, a telecom service provider, on 10.01.2016. However, on account of poor service, he discontinued the services of Cell Free on 15.03.2016. (8 Marks)
- (c) List some supplies which are 'deemed exports' for purpose of benefits under Foreign Trade Policy 2015-2020. (4 Marks)
7. (a) Enlist the amounts that are credited to the Consumer Welfare Fund set up under section 12C of the Central Excise Act, 1944. (4 Marks)
- (b) With reference to the Finance Act, 1994 and the rules made thereunder relating to service tax, state whether registration is required in case of the following persons or class of persons and if it is so required, what is the last date of applying for the registration:
- (i) An input service distributor who commenced business with effect from 01.09.2015.
  - (ii) Mr. Vaibhav started providing non-taxable services under an unregistered brand name of another person on 01.01.2015. With effect from 01.04.2015, service tax was levied on the services provided by him owing to an amendment in law. His aggregate value of taxable services exceeded Rs. 9,00,000 on 31<sup>st</sup> March, 2016. (8 Marks)
- (c) Briefly explain as to how FTP is linked with excise and customs laws. (4 Marks)