

Test Series: February, 2016

MOCK TEST PAPER – 1
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) How will the assessable value, under the subject transaction, be determined under section 4 of the Central Excise Act, 1944?

Contracted sale price for delivery at depot Rs. 9,00,000

The contracted sale price includes the following elements of cost:

		Rs.
(i)	Cost of moulds and dies used in production of the goods, supplied by buyer	4,000
(ii)	Cost of primary packing	3,000
(iii)	Cost of packing at buyer's request for safety during transport	7,000
(iv)	Excise duty	1,11,200
(v)	VAT (Sales tax)	37,000
(vi)	Octroi	9,500
(vii)	Freight and insurance charges paid from factory to depot	20,000
(viii)	Actual freight and insurance from depot to buyer's premises	42,300

(5 Marks)

- (b) Healthy Agro Industries Ltd. furnishes the details of various services provided by it in the month of September, 20XX as under:

Sl. No.	Particulars	Amount (Rs.)
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.	Giving trucks on hire (without transferring the right to use) 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 on job work basis	32,000

Compute the service tax liability of the company for the month of September, 20XX. Company had paid service tax of Rs. 3,18,000 during the preceding Financial Year. Service tax @ 14% has been charged separately, wherever applicable. (10 Marks)

- (c) Compute the assessable value of the imported goods under the Customs Act, 1962 from the following information:

	US \$
Cost of the machine at the factory of the exporter	10,000
Transport charges from the factory of exporter to the port for shipment	500
Handling charges paid for loading the machine in the ship	50
Buying commission paid by the importer	50
Freight charges from exporting country to India	1,000
Exchange rate to be considered: 1\$ = Rs. 60	
Actual insurance charges paid are not ascertainable	

(5 Marks)

2. (a) Mr. X, a service provider, has provided services valuing Rs. 1,00,00,000. Out of this, Rs. 70,00,000 are taxable output services and Rs. 30,00,000 are exempt output services. Mr. X has opted not to maintain separate inventory and accounts for dutiable and exempt services. Instead, he has decided to pay prescribed amount on value of exempt output services as per rule 6(3)(i) of CCR, 2004.

Service tax paid on his input services is Rs. 6,00,000. Calculate the total amount payable including service tax by Mr. X in cash. (4 Marks)

- (b) PQR Services Ltd. was liable to make e-payment of service tax of Rs. 6,00,000 for the month of January, 20XX. However, it deposited the tax on 15.08.20XX. Compute the amount of interest payable by PQR Services Ltd. under section 75 of the Finance Act, 1994. The value of taxable services provided by it during the preceding financial year was Rs. 55.40 lakh.

What would be the amount of interest payable by PQR Services Ltd. if the value of services provided by it during the last financial year was Rs. 80.90 lakh? (8 Marks)

- (c) With reference to section 61 of the Customs Act, 1962, comment on the validity of the following statements:
- (i) Goods, other than capital goods, intended for use in any hundred per cent

export-oriented undertaking, can be warehoused till the expiry of five years.

- (ii) Interest free period of ninety (90) days under section 61(2)(ii) in respect of warehoused goods (not intended for being used in 100% EOU) commences from the date on which an into-bond bill of entry in respect of such goods is presented. *(4 Marks)*

3. (a) Sentik Ltd. manufactures a product known as "MICEL" which is used for killing lice in human hair. Sentik Ltd classifies their product under Tariff sub-heading 3808.10 as an insecticide. However, the Central Excise Officer is of the view that the product is classifiable under Tariff subheading 3003.10 as a medicament as it has therapeutic and prophylactic properties.

Sentik Ltd.'s claim is supported by the reports of chemical examiners and the Department of Dermatology & Venereology, which confirm that "MICEL" is an insecticide. Further, various statements of dealers also confirm that in the market, the product is considered to be an insecticide. The claim of the central excise officer is substantiated by the fact that Chapter Note 1(c) of Chapter 38 indicates that Chapter 38 would not cover "Medicaments under Heading No. 3003 or 3004". Chapter Heading 2(i) of Chapter 30 defines "Medicament", inter alia, as a product comprising of two or more constituents which have been mixed or compounded together for therapeutic or prophylactic use.

Give your opinion on the issue with the help of decided case laws, if any. *(4 Marks)*

- (b) Karam Constructions was a construction company rendering services under the category of "construction of residential complex service" and was paying the service tax in accordance with the Finance Act, 1994. They undertook certain construction work on behalf of a trust and paid the service tax, but did not collect such service tax from the trust. 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.

Although Department did not dispute the fact that service tax was exempted in the instant case, it nevertheless rejected the refund claim on the ground that the refund application filed by the assessee was beyond the limitation period as stated in section 11B of the Central Excise Act, 1944.

Is the Department correct in rejecting the refund claim? Substantiate your answer with the help of a decided case law, if any. *(8 Marks)*

- (c) Two trucks are intercepted by the Customs Department. The officers of the Customs Department conduct search of the vehicle in the presence of witnesses and it is found that one of the trucks has a secret compartment and 175 Kgs. of heroine and 39 Kgs. of opium of foreign origin are concealed in that chamber. During the course of investigation, the statement of 'M', the registered owner of the vehicle, is taken under section 108 of the Customs Act and 15 witnesses are examined. However, 'M' completely denies his culpability in the crime. He contends that though the

vehicle is registered in his name but he has sold the truck much before the contraband goods are recovered therefrom.

You are required to examine the situation with the help of case law, if any. (4 Marks)

4. (a) State briefly as to who can make an application for "advance ruling" under section 23A of the Central Excise Act, 1944? (4 Marks)
- (b) Comment on the applicability of service tax in the following independent cases:
- (i) Service provided by way of repair or maintenance of an aircraft owned by a State Government.
 - (ii) Transport of milk, agricultural produce, chemical fertilizers and newspaper registered with the Registrar of Newspapers by a goods transport agency in a goods carriage.
 - (iii) Transportation of petroleum and petroleum products and household effects by railways.
 - (iv) Transportation of postal mails and mail bags by a vessel. (8 Marks)
- (c) An importer imports goods from USA, but does not clear such goods from the port within the prescribed period of 30 days. Resultantly, the imported goods are sold under the Customs Act, 1962 and sale proceeds applied for specified purposes as per section 150 of the Customs Act. Explain how will the balance of sale proceeds (left after being applied for the specified purposes) be disposed? (4 Marks)
5. (a) What is the criteria for selection of assessee under Excise Audit 2000? (4 Marks)
- (b) With reference to Place of Provision of Service (PoPS) Rules, answer the following question:
- (i) A movie-on-demand is provided as on-board entertainment during the Bangalore-Delhi leg of a Singapore-Bangalore-Delhi flight against a charge of Rs. 500 per passenger in addition to the fare of Rs. 25,000 per passenger. What will be the place of provision of service in this case? Will your answer change, if the above service is provided on a Delhi-Bangalore-Singapore-Malaysia flight during the Singapore-Malaysia leg?
 - (ii) Mr. Samir has a permanent residence at Ahmedabad. He has a savings bank account with Ahmedabad Branch of Safe and Sound Bank. On April 1, 2013, Mr. Samir opened a safe deposit locker with the Ahmedabad Branch of Safe and Sound Bank. Mr. Samir went to USA for official work in December, 2013 and has been residing there since then. Mr. Samir contends that since he is a non-resident during the year 2014-15 in terms of the Income-tax Act, service tax cannot be levied on the locker fee charged by Safe and Sound Bank for the year 2014-15.
Examine the correctness of the contention of Mr. Samir. (8 Marks)

- (c) Mr. Ravan and his wife (non-tourist Indian passengers) are returning from Dubai to India after staying there for a period of two years. They wish to bring gold jewellery purchased from Dubai. Please enumerate provisions of Customs Laws for jewellery allowance in their case. (4 Marks)
6. (a) Records seized by Department during investigation but not relied upon in the show cause notice should be returned within 30 days of issue of show cause notice. Explain the validity of the said statement with reference to the Central Excise Law, as amended. (4 Marks)

Or

Which exporters are eligible for the facility of export warehousing under the central excise law? (4 Marks)

- (b) Aman Life Insurance Company Ltd. (ALICL) has started its operations in the year 2014-15. During the year 2014-15, Aman Life Insurance Company Ltd. (ALICL) has charged gross premium of Rs. 180 lakh from policy holders with respect to life insurance policies; out of which Rs. 100 lakh have been allocated for investment on behalf of the policy holders.

Compute the service tax liability of ALICL for the year 2014-15 under rule 6(7A) of the Service Tax Rules, 1994:

- (i) if the amount allocated for investment has been intimated by ALICL to policy holders at the time of providing service.
- (ii) if the amount allocated for investment has not been intimated by ALICL to policy holders at the time of providing of service.
- (iii) if the gross premium charged by ALICL from policy holders is only towards risk cover.

Note: ALICL has not opted for small service provider's exemption available under Notification No. 33/2012 ST dated 20.06.2012. (8 Marks)

- (c) Mention the reward scheme provided under FTP which aims to compensate infrastructural inefficiencies and associated costs involved in the export of products produced in India. Discuss the basis of computation of reward under said scheme. How can the duty scrips issued under the Scheme be utilized? (4 Marks)
7. (a) Board circulars are binding on the Supreme Court and High Court. Discuss the validity of the statement. (4 Marks)
- (b) (i) XYZ Ltd. failed to discharge its service tax on due date, but paid both service tax and interest for delayed payment under section 73(3) of Finance Act, 1994 before issue of show cause notice. Subsequently, the Department initiated penal proceedings against XYZ Ltd. for recovery of penalty under section 76 for failure to pay service tax.

Discuss whether the penal proceeding initiated by the Department is justified.

(4 Marks)

- (ii) Maan Ltd. did not pay its service tax dues of Rs. 40 lakh for the quarter ended 30th September, 20XX. Does the Department have first charge on the property of Maan Ltd.? If your answer is affirmative, whether there are any limitations in respect of such first charge of the Department? *(4 Marks)*
- (c) What are the salient features of Duty-Free Import Authorization Scheme (DFIA)? Which duties are exempted under this scheme? *(4 Marks)*