

**DEPARTMENTAL EXAMINATION OF THE INDIAN REVENUE SERVICE (CUSTOMS
AND CENTRAL EXCISE) GROUP 'A' PROBATIONERS – SEPTEMBER, 2007**

PART II - PAPER X

PART A - STATUTORY LAW (WITH BOOKS)

PART B - ADMINISTRATIVE LAW (WITHOUT BOOKS)

Date: 13.05.2008

Maximum Marks: 100

Time: 1430 to 1730 hours

Pass Marks: 50

PLEASE CAREFULLY READ THE BELOW INDICATED NOTES:

- (i) Answer **SIX** questions.
- (ii) **Question No. 1 is compulsory and carries 20 Marks.** Apart from it, answer **ANY TWO** questions from **Part “A”** and **ANY THREE** questions from **Part “B”** of this question paper.
- (iii) Question No. 1 carries 20 Marks. Rest of the questions carry 16 marks each.
- (iv) Answers to the questions can be furnished either in Hindi or in English.

PART 'A' - STATUTORY LAW (WITH BOOKS)

- Q.1 (a) Which article of the Constitution provides for imposition of tax? Explain the term “Authority of Law” in this context. (5 Marks)
- (b) Trace out various provisions starting from Article 265 giving constitutional validity to issue of Central Excise or Customs Notification specifying particular rate of duty. What are limitations of govt. (Ministry) in issuing such Notifications? Explain with example. (5 Marks)
- (c) Can levy or taxing law be retrospective? Who is empowered to frame/issue retrospective taxing provisions? Discuss one example of such retrospective legislation under Central Excise. (10 Marks)
- Q.2 (a) Discuss the salient features of burden of proof in Indian Evidence Act, 1872. How you correlate these with burden of proof provisions in Central Excise and Customs Laws? (8 Marks)

- (b) Discuss the provisions of admissibility of digital signature in Indian Evidence Act, 1872. (4 Marks)
- (c) What are sections in Indian Evidence Act, 1872 which deal with evidentiary value of statements taken before Police? Compare these with the provisions under Central Excise and Customs Act. (4 Marks)
- Q.3 (a) If a person does not respond to many summons issued under Customs/Central Excise law, does remedy/relief exists in I.P.C. Discuss. (4 Marks)
- (b) Does Indian Penal Code deal with following situations? Discuss in short with relevant provision(s):
- (i) Giving, fabricating or using false evidence
 - (ii) Public servant disobeying directions of law
 - (iii) Public servant framing incorrect record or report
 - (iv) Contempt of Court (2 x 4 = 8 Marks)
- (c) Write your views with reference to I.P.C. provisions on – obstruction of a public servant in discharge of his bonafide official duties. (4 Marks)
- Q.4 (a) Which provision of General Clauses Act, 1897 deals with recovery of fines? Is it relevant to Central Excise/Customs Act provisions? (4 Marks)
- (b) If an assessee files civil suit for refund invoking provisions of Limitation Act (Discuss them), how you will defend under Central Excise Act, 1944 and Customs Act, 1962? (8 Marks)
- (c) Section 468 and 484 of Cr.P.C. and concept of Mensrea – How relevant it is in Central Excise Act, 1944 and Customs Act, 1962? (4 Marks)
- Q.5 (a) Briefly explain provisions of Acceptance, Communication and Revocation of Proposals under the Indian Contract Act, 1872. (8 Marks)
- (b) Explain following terms with reference to Indian Contract Act, 1872:
- (i) Principal and Agent
 - (ii) Contract of “Indemnity” and Contract of Guarantee
 - (iii) Surety and Surety’s Liability
 - (iv) Pledge and Pawner’s Right (2 x 4 = 8 Marks)

- Q.6 (a) Explain the term “Corporate Veil”. Discuss important case laws on lifting/piercing Corporate Veil in taxation matters. (8 Marks)
- (b) Explain the correlation of “Related Person” concept under Central Excise Act with the Companies Act, 1956 (8 Marks)

PART 'B' - ADMINISTRATIVE LAW (WITHOUT BOOKS)

- Q.7 Define “Administrative Law” and what is your understanding about it? How “Rule of Law” and “Doctrine of Separation of Powers” had impact on growth of administrative law? What you think about effect of Right to Information Act, 2005 on further functioning/growth of Administrative Law in India? (16 Marks)
- Q.8 Make a distinction between administrative and quasi-judicial functions. Briefly explain Principles of Natural Justice. (16 Marks)
- Q.9 Are instructions of C.B.E.C. binding on the field officers? Are there any provisions in this regard in Customs Act and Central Excise Act? Discuss important case laws in this regard. (16 Marks)
- Q.10 (a) Explain – “Writs are public law remedies”. What you understand by writ of Mandamus and Certiorari? (8 Marks)
- (b) Explain concept of “Preventive Detention”. Give example in relation to economic offences. Is it excessive? What is “Habeas Corpus”? (8 Marks)
- Q.11 Write short notes on the following:
- (a) Ombudsman
 - (b) Settlement Commission in Customs, Central Excise Laws
 - (c) Resjudicata
 - (d) Large Tax Payer Unit in Taxation (4 x 4 = 16 Marks)
- Q.12 What is Tribunal? Why are they required, when High Courts exist? Explain the difference between Tribunals created vide Article 323A, 323B of the Constitution and of Tribunals created under respective statutes. Whether

CESTAT has been useful in resolving taxation disputes in Central Excise, Customs and Service Tax? Do you advocate for early establishment of National Tax Tribunal? If formed, whether Writs can be filed in taxation matters?

(16 Marks)
