

**DEPARTMENTAL EXAMINATION OF THE INDIAN REVENUE SERVICE (CUSTOMS
AND CENTRAL EXCISE) GROUP 'A' PROBATIONERS - APRIL-MAY, 2009**

PART-I PAPER-II
CENTRAL EXCISE LAW, TARIFF AND PROCEDURE (WITH BOOKS)

Date: 23-04-2009

Maximum Marks: 150

Time: 1430 Hrs. to 1730 Hours

Pass Marks: 100

NOTE:

1. In all you have to answer **SIX** questions. **Two questions from Part – B are compulsory.** All questions carry equal marks. Part-wise division of marks to questions or parts thereof has been indicated against each part.
2. Please cite relevant sections, rules, regulations, instructions, notifications and case law, if any, in support of your answer. **Marks will be deducted if these are not cited.**
3. Please answer precisely and to the point. No credit will be given for verbose and irrelevant answers.
4. You can answer either in Hindi or in English.
5. For Questions No. 6(b), 7(b), 8(d), 9(d) and 12(c), apart from indicating TRUE or FALSE, reasons for the answer and relevant Section/Rule of Central Excise Act/Allied Acts/or Rules made thereunder, should be cited, **without which marks will not be given.**

PART – A

- Q.1.(a) What is “Advance Ruling”? Cite the relevant provisions for ‘Advance Ruling’ in the Central Excise Act, 1944 and/or Rules made thereunder. **(5 marks)**
- (b) Which of the following persons are eligible to make an application to Advance Ruling? **(4 marks each)**
- (i) A non-resident Indian setting up a joint venture in India in collaboration with another non-resident Indian.
 - (ii) A resident Indian setting up a joint venture in Maldives in collaboration with another non-resident

Indian.

(iii) A wholly owned subsidiary Indian company, of which the holding company is a foreign company, proposing to undertake business activity of trading of petroleum products.

(c) State whether Advance Ruling pronounced by authority under Section 23 is binding on following cases. Cite reasons for your answer and cite statutory provisions wherever necessary. **(4 marks each)**

(i) Ruling obtained by. BMW India in respect of classification of Series 3 model car whether binding in respect of car of similar engine capacity proposed to be manufactured by Mercedes. India.

(ii) Ruling pronounced in respect of Google India, assessed in Commissionerate of Central Excise, Bangalore, whether binding on all Commissioners of Central Excise throughout the country.

Q.2.(a) Who is a “large tax payer”, for the purposes of the Central Excise Act, 1944, and Rules made thereunder. **(5 marks)**

(b) What are the criteria for a person to be eligible to opt as large tax payer? **(8 marks)**

(c) Which of the following benefits accrue to an eligible person who opts as a large tax payer? Cite reasons for your answer and cite statutory provisions wherever necessary **(4 marks each)**

(i) He can transfer Cenvat credit available from any one of his manufacturing premises to any of his other constituent registered manufacturing units.

(ii) No tax liability on goods manufactured and cleared up to a value of Rs.500 lakhs in a financial year.

(iii) He can remove intermediate goods for further use to any other large tax payer, under cover of a transfer challan, without payment of duty.

Q.3. (a) What are the statutory provisions enabling recovery of duty collected by a manufacturer but not paid to the credit of Central Government? **(5 marks)**

(b) What are the statutory provisions enabling recovery of the **(5 marks)**

excise duty collected by a person other than a manufacturer but not paid to the credit of Central Government?

- (c) An order was passed by an Assistant Commissioner of Central Excise demanding duty under Section 11A of the Central Excise Act, 1944 and also imposing equal amount of duty as penalty under Section 11AC ibid by an Order dated 03/11/2008. The assessee filed an appeal before Commissioner (Appeals), who upheld the Order of lower authority on 30/01/2009. The Assessee accepted the order of Commissioner (Appeals) and on 31/01/2009 paid duty, interest and 25% of the penalty imposed, claiming benefit of reduced penalty under second proviso to Section 11AC. Is the action of the assessee correct? Cite reasons for your answer and cite statutory provisions wherever necessary: **(7 ½ marks)**

- (d) A manufacturer who is manufacturing both exempted and dutiable finished goods is availing Cenvat credit of Service tax paid on common input services, viz., Architect, Consulting Engineer, Intellectual Property, Erection, Commissioning and Installation services. Will the manufacturer have to reverse an amount equivalent to CENVAT credit attributable to the manufacture of exempted goods? Give reasons for your answer and cite statutory provisions wherever necessary: **(7 ½ marks)**

- Q.4. (a) Expand the following: **(2 marks each)**

- (i) SEZ
- (ii) EASIEST
- (iii) CESTAT
- (iv) STPI
- (v) CENVAT

- Q.4. (b) Define the following, citing the relevant Section/Rule of Central Excise Act/Allied Acts or Rules made thereunder: **(3 marks each)**

- (i) Tea Seed
- (ii) Assessee
- (iii) Factory
- (iv) Warehouse
- (v) Input Service Distributor

- Q.5. (a) In which of the following cases can a claim for refund of **(4 marks each)**

duty be filed? Give reasons for your answer and cite statutory provisions wherever necessary:

(i) Duty of excise paid by the manufacturer if he has not passed on the incidence of such duty to any other person.

(ii) The duty of excise on goods purchased by a family in rural areas, provided the annual family income does not exceed Rs. 12,000/-

(iii) Duty of excise paid by a pharmaceutical manufacturer, on medicines which have been given away free of cost to the recipients.

(iv) Duty of excise paid by manufacturer under protest but claims for refund made after two years.

(v) Rebate of duty of excise on excisable goods exported out of India where the incidence of such duty has been passed on to the foreign buyer.

Q.5. (b) In what situation is interest also payable to the claimant along with the refunded amount? **(5 marks)**

Q.6. (a) What are the due dates for payment of excise duty in respect of the following situations, in 2009-10, as per statutory provisions currently in force? Give reasons for your answer and cite statutory provisions wherever necessary. **(2 ½ marks each)**

(ii) SSI manufacturer in respect of goods cleared during March 2010.

Q.6. (b) State whether True or False, giving reasons for your answer and citing statutory provisions, wherever necessary. **(5 marks each)**

(i) In case of payment by cheque, duty liability is deemed to be discharged only on realisation of the cheque.

(ii) Assessee failing to pay the amount of duty by due date is liable to pay outstanding amount along with interest till the date of actual payment.

(iii) If an assessee defaults in payment of duty beyond 30 days from the due date, he will have to discharge duty liability only by utilizing CENVAT Credit.

(iv) Assessee who is a large taxpayer is permitted to discharge consolidated duty for once in a quarter, provided such duty discharged by the 6th day of the following quarter.

Q.7. (a) List the duties, taxes and cesses, etc., that are allowed to be taken as Cenvat Credit **(5 marks)**

(b) State whether True or False, giving reasons for your answer and citing statutory provisions in support of your answers wherever necessary **(4 marks each)**

(i) Motor vehicle is considered as capital goods in certain cases.

(ii) Service Tax amounts paid by the Head office of the manufacturer can be distributed as Cenvat credit to its various manufacturing units.

(iii) Cenvat credit taken in respect of National Calamity Contingent Duty (NCCD) shall be utilized only towards payment of NCCD leviable under Section 136 of Finance Act, 2001.

(iv) Cenvat credit in respect of capital goods is allowed in full, if the goods are cleared as such in the same financial year.

(v) Cenvat credit can be availed even if the final products are cleared to a unit in a Special Economic Zone without payment of duty.

PART - B

- Q.8. (a) What is “Transaction Value”. Cite the relevant provisions for Transaction Value in Central Excise Act, 1944? **(5 marks)**
- (b) Identify the notification issued under Section 4A of Central Excise Act 1944, regarding assessment of goods on the basis of retail sale price. **(4 marks)**
- (c) Indicate whether the following clearances would fall under Section 4 or Section 4A assessments. Support your answer with reasons. **(4 marks each)**
- (i) Tyres cleared to automobile manufacturers as original equipments.
- (ii) Tyres cleared to tyre dealers for replacement sales.
- (d) State whether true or false giving reasons for your answer and citing statutory provisions in support of your answers wherever necessary: **(4 marks each)**
- (i) Where goods are sold from the factory gate, the cost of transportation from the place of removal upto the place of delivery is excluded from the valuation of goods for the purpose of charging duty of excise.
- (ii) Step son and step daughter are not “related” for the purpose of Section 4 of Central Excise Act., 1944.
- 9 (a) What are the types of cases where the CESTAT does not have jurisdiction to decide the appeals against orders passed by sub-ordinate adjudicating or appellate authorities? **(5 marks)**
- (b) What type of orders of the Appellate Tribunal cannot be ordinarily appealed to the High Court? **(5 marks)**

(c) What are the eligibility criteria for filing of an application to the Settlement Commission to enable settlement of a dispute? **(5 marks)**

(d) State whether true or false giving reasons for your answer and citing statutory provisions in support of your answers wherever necessary: **(5 marks each)**

(i) A person who was a member of Indian Revenue Service (Customs and Central Excise) - Group -A cannot appear as an authorized representative before a Central Excise Officer or the Appellate Tribunal in connection with any proceedings under the Central Excise Act, 1944, at least for a period of 2 years from the date of his resignation.

(ii) Commissioner (Appeals) can enhance any penalty or fine ordered by a sub-ordinate Adjudicating Authority, even when the appeal is filed by aggrieved assessee.

Q.10. (a) What are the statutory provisions governing classification of goods which are classifiable under two or more headings of the Schedule to the Central Excise Tariff Act 1985? **(5 marks)**

(b) Identify the classification of the following items as per the first Schedule to the Central Excise Tariff Act, 1985 **(2 marks each)**

- (a) Furnace Oil
- (b) Cotton Hand Kerchiefs
- (c) Moisturizing Lotion
- (d) Cardiac Catheters
- (e) Railway Passenger Coaches
- (f) Ball point pen with liquid ink
- (g) Bleaching Powder
- (h) Natural Honey
- (i) Basmati Rice
- (j) Nano Car

Q.11. (a) What are the situations in which special audit of a manufacturer of any excisable goods can be conducted? **(5 marks)**

(b) What is the manner of conducting such special audit? **(5 marks)**

- (c) Which Central Excise officers are empowered by the Central Government to summon persons and to give evidence and produce documents in enquiries under the Central Excise Act, 1944? **(5 marks)**
- (d) Which Central Excise officers are empowered to arrest any person under the Central Excise Act, 1944? **(5 marks)**
- (e) Which are the situations where notice for recovery of duties can be issued by the Central Excise officer beyond one year from the relevant date? **(5 marks)**
- Q.12.(a) Notifications extending exemption to goods produced in specified areas like North East J&K, Uttarakhand had been issued by the Central Government. Discuss the statutory provision in the Central Excise Act 1944 which empowers the Central Government to issue such notifications? **(5 marks)**
- (b) Discuss the statutory provision in the Central Excise Act, 1944 which empowers Central Government to make rules to prohibit absolutely the transit of excisable goods from any part of India to any part thereof? **(5 marks)**
- (c) State whether True or False giving reasons, and citing provisions of statute/rules/notification, in support of your answer wherever necessary: **(7 ½ marks each)**
- (i) M/s. Acme Limited is a small scale manufacturer of detergents which he sells under the brand name "SAFED". However he has not registered his brand name. The aggregate value of his clearances for home consumption was Rs.490 lakhs in the year 2008-09 (April to March). M/s Acme is eligible for small scale exemption under Notification 8/2003-CE dated 1.3.2003, as amended, in 2009-10.
- (ii) Mr. O.K.Kumar resigned from the Indian Revenue Service (Customs and Central Excise) and started a manufacturing unit in a designated rural area for manufacture of branded shampoo for a multi-national. His value of clearances in the first nine months of the financial year was Rs.110 lakhs.

Mr. O.K.Kumar is eligible to claim nil-duty exemption under Notification No.8/2003-CE, as amended, for clearances upto Rs.150 lakhs in the financial year.
