

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

PART II - PAPER X

PART A - STATUTORY LAW (WITH BOOKS)

PART B - ADMINISTRATIVE LAW (WITHOUT BOOKS)

Date: 29.04.2009

Maximum Marks: 100

Time: 1430 to 1730 hours

Pass Marks: 50

PLEASE READ THE NOTES BELOW CAREFULLY BEFORE ATTEMPTING THE ANSWERS:

- (i) Answer **SIX** questions.
- (ii) **Question No.1 is compulsory.** Apart from this, 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 sixteen marks each.
- (iv) Answers to these questions can be furnished either in Hindi or in English.

PART 'A' - STATUTORY LAW (WITH BOOKS)

- Q.1 (a) Article 265 of the Constitution of India lays down that no tax shall be levied or collected except by authority of law. Discuss the provisions of the Constitution relating to the levy and collection of Central Excise duty, Customs duty, Service Tax and Income Tax citing the relevant provisions of the Constitution.
- (b) Explain the constitution and functions of the Finance Commission as laid down in the Constitution of India citing the relevant provisions of the Constitution of India.
- Q.2 (a) What is the definition of 'goods' in the Sale of Goods Act, 1930? Does this differ from the definition of 'goods' in the Customs Act, 1962 and how? Please explain.
- (b) What are the definitions of "holding company" and "subsidiary company" in the Companies Act, 1956? Explain the distinction and relationship between the two types of companies.
- Q.3 The General Clauses Act, 1897, provides for the computation of a time period for any act or proceedings and for the calculation of the commencement and termination of a period of time. Please explain the applicable provisions in the context of the following:
- (i) Filing of an affidavit in a Court on a specified date as ordered by the Court;
- (ii) Serving of a Show Cause Notice on an assessee within a period of one year from the date of payment of duty.
- Q.4 (a) The provisions of the Code of Criminal Procedure, 1973 applies to searches conducted under Section 105 of the Customs Act, 1962. Please cite the relevant provisions of the Cr.PC and explain the steps to be taken while conducting such searches.

- (b) The Code of Criminal Procedure, 1973 provides that whenever a female is to be searched, the search shall be conducted by another female with strict regard to decency. Cite the specific provision in this regard.
- Q.5 (a) In terms of Section 104 of the Customs Act, notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence under the said Act shall not be cognizable. Define what is a cognizable act in terms of specific provisions of the Code of Criminal Procedure and discuss the relevance of the same for a Customs Officer.
- (b) Section 108 of the Customs Act, 1962 contains a reference to Section 132 of the Civil Procedure Code, 1908. What is the implication of this section when summons are issued under the Customs Act?
- Q.6 Write short notes on **any two** of the topics given below:
- (i) The liabilities of a partner and the firm of which he is a partner under the provisions of the Partnership Act, 1932.
- (ii) Mens Rea
- (iii) Burden of Proof.

PART B - ADMINISTRATIVE LAW (WITHOUT BOOKS)

- Q.7 In disciplinary action initiated against an officer, it is essential that the principles of natural justice be followed. What are the minimum requirements of natural justice that you would follow as a disciplinary authority in any such proceedings?
- Q.8 What is the justification for creation of Tribunals such as CESTAT? Explain the differences between a Tribunal and a Court of Law.
- Q.9 Article 300 of the Constitution of India, 1950, enumerates the liability of the Union or State in tortious act of the Government. Explain this provision and discuss liability of the government in injuries caused while carrying out sovereign functions as against non-sovereign functions.
- Q.10 Discuss the impact of the Right to Information Act on administration functions.
- Q.11 What is 'Subordinate Legislation'? What is the mechanism by which Parliament scrutinizes and ensures that the delegated powers have been properly exercised?
- Q.12 Write short notes on any two of the following:
- (i) Quasi judicial functions.
- (ii) Doctrine of Separation of Powers.

(iii) Judicial Review.
