

**DEPARTMENTAL EXAMINATION OF THE INDIAN REVENUE SERVICE
(CUSTOMS AND CENTRAL EXCISE) GROUP -A PROBATIONERS**

PART II - PAPER X

PART A - STATUTORY LAW (WITH BOOKS)

PART B - ADMINISTRATIVE LAW (WITHOUT BOOKS)

DATE: 28.08.2009

TIME: 14-30 to 17-30 HRS

MINIMUM MARKS: 100

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 16 marks each.
- (iv) Answers to these questions can be furnished either in Hindi or in English.

PART A - STATUTORY LAW (WITH BOOKS)

Q1. (a) Article 265 of the Constitution of India lays down that no tax shall be levied or collected except by authority of law, 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 the Government in issuing such Notifications? Explain with example.

(b) What constitutes the "Consolidated Fund of India? Give the Constitutional provisions relating to the custody and payment of money into and out of the "Consolidated Fund of India".

(c) Difference between the evidentiary value of statements taken before the Central Excise officers/Customs Officers as against the evidentiary value of the statements taken before the police Officers by citing the provisions of Central Excise/customs Act and the Indian Evidence Act, 1872.

(d) Discuss the provisions of admissibility of digital signature in Indian Evidence Act, 1872. What are the provisions regarding electronic agreements in the Indian Evidence Act, 1872.

Q3. (a) Explain the terms "actus resus" and "mens rea" in relation to commission of a crime. What is the effect of mens rea in deciding the punishment for a crime? Explain by giving examples using Section 304 and 304A of the IPC, 1860.

(b) If a person does not respond to many summons issued under Customs/Central Excise Law, does remedy/relief exists in I.P.C. Discuss. Also discuss the provisions of IPC relating to non-production of documents before the Public servant legally empowered to collect such documents citing the relevant sections.

Q4. (a) Whether provisions of Limitation Act, 1897 are applicable for determining/deciding limitation/time bar aspects in Customs Act, 1962 and Central Excise Act, 1944? Is there any provision in general?

(b) Briefly explain & distinguish between the provisions of Acceptance, Communication and Revocation of proposals and valid contracts under the Indian Contract Act, 1872.

Q.5. (a) What are the Books of Account to be kept by a Company as envisaged in the Companies Act, 1956? Where these books are to be kept and what are the provisions regarding the keeping the books to other places?

(b) Under what circumstances the Central Government can order investigation into the affairs of a Company? Can the Central Government appoint any private person as inspector/s to investigate into the affairs of a company?

Q.6. Write short notes on any two of the following:

- (i) Burden of proof.
- (ii) Promissory Estoppels in taxation.
- (iii) Exemption from disclosure under Right to Information Act 2005.

PART B- ADMINISTRATIVE LAW (WITHOUT BOOKS)

Q.7. What is 'Subordinate Legislation'? Give an example of Subordinate Legislation under the tax statutes. What is the mechanism by which Parliament scrutinizes and ensures that the delegated powers have been properly exercised?

Q.8. 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?

Q.9. 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.10. What is Tribunal? Explain the difference between Tribunals created vide Article 323A, 323B of the Constitution and of Tribunals created under respective statutes. Please discuss with examples & applicability of appeals powers. In what way the National Tax Tribunal will be different from the CESTAT and ITAT?

Q.11. Article 300 of the Constitution of India, 1950, enumerates the liability of the Union or State in tortuous 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.12. Write short notes on any two of the following:

- (i) Contempt of Court.
- (ii) Preventive Detention under financial crimes.
- (iii) Public Interest Litigations.