

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

APRIL-MAY, 2010

PART II - PAPER VII

CUSTOMS LAW, TARIFF AND PROCEDURE (WITHOUT BOOKS)

Date: 06.05.2010

Time: 10-15 to 13-15 HRS.

Maximum Marks: 150

Pass Marks: 100

PLEASE CAREFULLY READ THE BELOW INDICATED NOTES:

1. There are a total of six questions
2. All questions are compulsory.
3. All questions have internal choices.
4. Marking scheme is given against each question.
5. Please cite legal provisions/case laws wherever applicable, failing which marks will be deducted.
6. Answers can be furnished either in Hindi or in English.

Q1. Write short notes on any five of the following:

(Marks 5x5==25)

- (a) SCOMET
- (b) ODS
- (e) Advisory Board under COFEPOSA.
- (d) CITES
- (e) Volatile goods
- (f) Goods of perishable or hazardous nature

(g) Accessories (Condition) Rules 1963

(h) Kimberley Process Certification Scheme.

Q2. Please discuss briefly and differentiate between any five of the following

(Marks 5x5=25)

(a) Section 74 Drawback and Refund.

(b) Abatement of duty and Remission of duty.

(c) Transit and Transshipment of goods.

(d) Appeal and Revision.

(e) Deductive Value and Computed Value.

(f) Detention, Seizure and Attachment.

(g) Bonded Stores and Warehoused Goods.

(h) Private Bonded Warehouse and Privately Owned Public Bonded Warehouse.

Q3. State the provisions of the Statute (Allied Acts) that have been violated in any five of the following cases.

(Marks 5x4 =20)

(a) Import of packaged confectionary wherein the package bears the name of a fictitious company as the manufacturer.

(b) Import of Mobile Handsets without International Mobile Equipment Identity

Number (IMEI).

(e) Export of Mustard Gas

(d) Import of "Revlon" Lipsticks through Visakhapatnam Port.

(e) Import of Sex Determination & Gender Testing Kits.

(l) Import of Non-standard Tapes/Measuring Instruments.

(g) Import of cigarettes where the packets do not contain pictorial representations of ill effects of tobacco use.

(h) Import of unshredded scrap from the port of Bandar Abbas, Iran.

Q4. Answer any five of the following:

(a) What are the categories of imports excluded from the Purview of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007?

(b) Which are the goods that can be unloaded from a vessel even before grant of "Entry Inwards" permission?

(c) What is the recourse for an exporter who is aggrieved by an order of Commissioner (Appeals) rejecting his claim for higher drawback?

(d) What is the difference between Ship Ullage Report and Shore Tank Receipt?

(e) What is the mode of disposal for goods that infringe Intellectual Property Rights?

(f) What is "Substantial Expansion" for the purpose of Project Imports?

(g) What is the recourse for an importer who is aggrieved by an order of CESTAT on the subject of rate of duty?

(h) What is "Civil Imprisonment"?

(Marks 5x4=20)

Q5. Answer any three of the following questions. Please substantiate your answer in terms of statutory provisions and Case Laws.

(Marks 3x10=30)

(a) An oil rig of the ONGC is engaged in the extraction of mineral oil in the Exclusive Economic Zone of India falling outside the territorial waters of India. Is it a foreign going vessel as defined by Section 2(21) of the Customs Act, 1962? Is it eligible to consume imported stores thereon without payment of customs duty in terms of Section 87 of the Customs Act, 1962?

(b) A Rolls Royce Car was imported in the year 1996. However, there was a delay of nine years in assessment and assessment was completed only in

2005. Can the depreciation in the value of the car between 1996-2005 be taken into account while fixing the assessable value?

(e) Under section 164(2) of the Code of Criminal Procedure, 1973, a Magistrate who records a confession statement has to explain to the person making the confession that he is not bound to make a confession and that, if he does so, it may be used as evidence against him. Does a Customs Officer recording a statement under section 108 of the Customs Act, 1962 have to follow a similar procedure? If this procedure is not followed, will the statement recorded by him not be admissible as evidence in a court of law?

(d) A consignment of goods imported by an importer X was seized by the Department for violation of section 111 (d) of the Customs Act 1962 (goods imported contrary to prohibition imposed under Export - Import policy). After adjudication and after payment of fine and penalty, the goods were released and X sold the consignment to a buyer Y. The Department later came to know that apart from violating section 111 (d), the impugned goods had also violated section 111 (m) of the Act as they had been grossly undervalued. Now the Department seized the goods again under section 111 (m) of the Customs Act, 1962 and sought to recover the duty short paid from Y, without recourse to X. Is the Department's action sustainable in law?

(e) A manufacturer A has obtained a loan from a bank to the tune of Rs. 50,00,000 by mortgaging his land, plant and machinery. After some time, he defaults on the repayment of the loan. He also owes Customs duty to the tune of Rs 60,00,000 for which the Department has resorted to Certificate action and is seeking to realize its dues as arrears of land revenue. He has no other assets except his land, plant and machinery which is now valued at Rs. 40,00,000. Both the Department and the Bank are fighting over these assets to realize their claims. Whose claim has priority?

Q6 Answer any two of the following questions

(Marks 2x15 = 30)

(a) With respect to Customs Valuation Rules discuss the following. Quote relevant Sections / Case laws where applicable.

- Landing Charges
- Barging & Lighterage charges
- Ship demurrage charges

- High Sea Sale charges
- Royalty and License Fees

(b) What is Unjust Enrichment? Whether it would apply in the following cases. Quote relevant Sections / Case laws where applicable.

- Refund of tax collected under an unconstitutional provision of law.
- Refund of import duty on raw material consumed in the manufacture of a final product.
- Where refund arises due to finalization of provisional assessment.
- Where the duty is paid under protest.
- Refund of excess duty paid on car imported under Transfer of Residence.

(c) In the context of Rule 2(a) of the General Rules for Interpretation under First Schedule of Import Tariff, discuss the following decisions of the Supreme Court:

Commissioner of Customs New Delhi vs M/s Phoenix International Ltd & Another dated 20/09/2007

Commissioner of Customs New Delhi vs Sony India Ltd dated 23/09/2008.

(d) Name the new Export Promotion Schemes introduced in Foreign Trade Policy 2009-2014 and give their salient features in brief.
