



The Institute of Chartered Accountants of India
Indirect Taxes Committee

SUGGESTED ANSWERS

CERTIFICATE COURSE ON INDIRECT TAXES ASSESSMENT TEST

HELD ON 25TH JAN, 2014

PART – A

Write the correct alternative in the in the answer column

Q. No.	Question	Answer
1.	<p>Writ of Mandamus can be issued under Article 32 of the Constitution of India in which of the following case:</p> <p>(a) The writ is issued to produce a person who has been detained.</p> <p>(b) The writ is issued to order lower court or public authority to perform a public or statutory duty.</p> <p>(c) The writ is issued for quashing the order already passed by an inferior court, tribunal or quasi judicial authority.</p> <p>(d) The writ is issued to prohibit lower court to stop the proceeding , popularly known as ‘Stay Order’.</p>	(b)
2.	<p>According to proposed clause 12A of Article 366 of the Constitution, “Goods and Service Tax” means any tax on supply of goods or service or both except taxes on supply of following namely :</p> <p>(i) Aviation turbine fuel</p> <p>(ii) Natural gas</p> <p>(iii) Alcoholic liquor for human consumption</p> <p>(iv) Motor sprit</p> <p>(v) High Speed diesel oil</p> <p>(vi) Petroleum crude</p> <p>Which one of the following is correct ?</p> <p>(a) (i), (ii), and (iii)</p> <p>(b) (i), (ii) and (iv)</p> <p>(c) (iii)</p>	(d)

Q. No.	Question	Answer
	(d) All of the above	
3.	<p>Which one is true, for leviability of excise duty under Central Excise Act, 1944 on the manufacture of the excisable goods:</p> <p>(a) India extends upto 12 nautical miles except Continental shelf and Exclusive Economic Zone</p> <p>(b) India except Jammu and Kashmir</p> <p>(c) India except Sikkim</p> <p>(d) India except goods produced in SEZ</p>	(d)
4.	<p>Which of the following is true in respect of fiat currency system of the world :</p> <p>(i) Each currency is convertible into another based on its intrinsic worth (floating rate currency).</p> <p>(ii) Each currency is convertible into another based on its fixed rate currency.</p> <p>(iii) Reserve currency of the world convertible into gold at a fixed rate</p> <p>Which one of the following is correct?</p> <p>(a) (i) only</p> <p>(b) (i) and (ii) only</p> <p>(c) (i), (ii) and (iii) only</p> <p>(d) (iii) only</p>	(b)
5.	<p>“Manufacturing process” under the Factories Act, 1948 means any process for:</p> <p>i. Making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal or</p> <p>ii. Pumping oil, water, sewage or any other substance</p> <p>iii. Generating, transforming or transmitting power</p> <p>iv. Composing types for printing, printing by letter press, lithography, photogravure or other similar process of book binding or</p> <p>v. Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or</p> <p>vi. Preserving or storing any article in cold storage</p>	(d)

Q. No.	Question	Answer
	<p>Which of the following is correct?</p> <p>(a) (i), (ii), (iv) , (v) and (vi) (b) (i), (ii) , (iii), (iv) and (vi) (c) Only (i) (d) All of the above</p>	
6.	<p>CENVAT credit on _____is to be reversed, if duty is remitted on final products.</p> <p>(i) Capital Goods (ii) Inputs (iii) Input Services (iv) All of the above.</p> <p>Which one of the following is / are to be filled up in the fill in the blanks</p> <p>(a) (i) and (ii) only (b) (iii) only (c) (ii) and (iii) only (d) (iv)</p>	(c)
7.	<p>As per section 35C of the Central Excise Act, 1944, CESTAT is empowered to grant stay for a total period of ____ days.</p> <p>(a) 6 months (b) 180 days extendable to further 180 days (c) 180 days extendable to further 185 days (d) 180 days extendable to further 90 days</p>	(c)
8.	<p>When there is no specific entry appropriate to the excisable goods, classification of such goods shall be done according to -</p> <p>(i) Trade parlance theory (ii) Departmental circulars (iii) Akin Rule</p> <p>(a) (i) and (iii) only (b) (iii) only (c) (i) only</p>	(b)

Q. No.	Question	Answer								
	(d) All the above									
9.	<p>Merchant exporter is required to get a certificate called “ _____ ” from the jurisdictional Superintendent, Central Excise to procure excisable goods without payment duty.</p> <p>(a) CT-1 (b) UT-1 (c) ARE-1 (d) B-1</p>	(a)								
10.	<p>Chintoo Ltd., in Mumbai, is engaged in the manufacture of excisable goods started its business in June, 2013. It availed exemption in terms of Notification No. 8/2003 C.E. dated 1-3-2003 as amended for the financial year 2013-14. The following details are provided by Chintoo Ltd.:</p> <table border="1" data-bbox="386 894 1214 1230"> <thead> <tr> <th data-bbox="386 894 1045 947">Particulars</th> <th data-bbox="1045 894 1214 947">Amount(₹)</th> </tr> </thead> <tbody> <tr> <td data-bbox="386 947 1045 1045">18,000 kg of inputs purchased @ ₹ 985.60 per kg (inclusive of central excise duty @ 12.36%)</td> <td data-bbox="1045 947 1214 1045">1,77,40,800</td> </tr> <tr> <td data-bbox="386 1045 1045 1144">Capital goods purchased on 24.7.2013 (inclusive of excise duty at 12.36%)</td> <td data-bbox="1045 1045 1214 1144">45,15,000</td> </tr> <tr> <td data-bbox="386 1144 1045 1230">Finished goods sold [at uniform transaction value (exclusive of excise duty) throughout the year</td> <td data-bbox="1045 1144 1214 1230">3,00,00,000</td> </tr> </tbody> </table> <p>Rate of duty on finished goods sold may be taken at 12.36%. There is neither any processing loss nor any inventory of input and output.</p> <p>The amount of excise duty payable by Chintoo Ltd. in cash, if any, during the year 2013-14 is :</p> <p>(a) ₹ 6,29,891 (b) Nil, as CENVAT credit is available (c) ₹ 3,81,558 (d) None of the above</p>	Particulars	Amount(₹)	18,000 kg of inputs purchased @ ₹ 985.60 per kg (inclusive of central excise duty @ 12.36%)	1,77,40,800	Capital goods purchased on 24.7.2013 (inclusive of excise duty at 12.36%)	45,15,000	Finished goods sold [at uniform transaction value (exclusive of excise duty) throughout the year	3,00,00,000	(c)
Particulars	Amount(₹)									
18,000 kg of inputs purchased @ ₹ 985.60 per kg (inclusive of central excise duty @ 12.36%)	1,77,40,800									
Capital goods purchased on 24.7.2013 (inclusive of excise duty at 12.36%)	45,15,000									
Finished goods sold [at uniform transaction value (exclusive of excise duty) throughout the year	3,00,00,000									
11.	<p>Mr. Hanuman Prasad sold certain goods to Ram Ltd. for ₹ 28,090 (inclusive of excise duty @ 12.36%) on 19.08.2013. The buyer, Ram Ltd., is related to Mr. Hanuman Prasad in terms of section 4(3)(b) of the Central Excise Act, 1944. It did not sell the goods, but used the</p>	(b)								

Q. No.	Question	Answer
	<p>same as intermediary product for the manufacture of final product. The cost of production of the said goods determined as per CAS-4 was ₹ 20,000. The assessable value in the given case :</p> <p>(a) Rs. 25,000 (b) Rs. 22,000 (c) Rs. 27,500 (d) None of the above</p>	
12.	<p>Which of the following is NOT includible in the Transaction Value as per section 4(d) of the Central Excise Act, 1944:</p> <p>(i) Installation and Commissioning (ii) Non durable and non returnable packing (iii) Commission paid to Commission agents (iv) Warranty</p> <p>(a) (i) and (iii) only (b) (i) and (ii) only (c) (i) only (d) (i), (iii) and (iv) only</p>	(c)
13.	<p>Sales returns in the case of Inter State Sales should not be deducted from the sale price if the</p> <p>(a) Goods were returned after ten months from the date of the sale (b) Goods were returned after nine months from the date of the sale (c) Goods were returned after six months from the date of the sale (d) Goods were returned after one year from the date of the sale</p>	(c)
14.	<p>VAT includes :</p> <p>(i) Sales tax or output tax on sales including Deemed Sale within the State (ii) Purchase Tax (iii) Composition Tax (iv) Tax on Inter State Sales</p>	(b)

Q. No.	Question	Answer
	Which one of the following is correct (a) (i) and (iii) only (b) (i) , (ii) and (iii) only (c) (i) and (ii) only (d) All of the above	
15.	Levy of VAT in case of hire purchase transaction arises : (a) On First installment (b) On Last installment, when ownership is transferred (c) On Delivery of Goods (d) On Every instalment	(c)
16.	Service tax law prescribes personal penalty upto ₹____ on the director knowingly concerned with specified contraventions committed by the company. (a) ₹ 1 lakh (b) ₹ 2 lakh (c) ₹ 5 lakh (d) ₹ 10 lakh	(a)
17.	Mr. X provides security services to ABC Ltd. located in Hyderabad. ABC Ltd. is liable to pay ____% of service tax. (a) 100 (b) 25 (c) 50 (d) 75	(d)
18.	Services covered under negative list of services are_____ for the purpose of CENVAT Credit Rules , 2004 (a) Exempt services (b) Non-taxable services (c) Not services (d) Excluded taxable services	(a)
19.	The excess amount that can be adjusted under Service Tax Rules, 1994 towards service tax liability for the succeeding period is: (a) ₹ 1,00,000 (b) ₹ 2,00,000 (c) Unlimited amount	(c)

Q. No.	Question	Answer
	(d) None of the above	
20.	<p>As per section 78(1)(a) of the Finance Act, 1994, maximum penalty for failure to obtain registration is</p> <p>(a) ₹ 10,000 or ₹ 200 per day of default whichever is higher (b) Upto ₹ 10,000 (c) ₹ 200 per day of default (d) Upto ₹ 5,000</p>	(b)
21.	<p>S Ltd. imports business support services from G Ltd. of USA on 14.05.2013. The relevant invoice for \$ 1,40,000 is raised by G Ltd. on 19.06.2013. S Ltd. makes the payment against the said invoice as follows:</p> <p>Case I 23.09.2013 Case II 26.01.2014</p> <p>The point of taxation in each of the aforesaid cases will be as under :</p> <p>(a) Case-I -14.05.2013 and Case-II -14.05.2013 (b) Case-I -23.09.2013 and Case-II -19.06.2013 (c) Case-I -19.06.2013 and Case-II -19.06.2013 (d) Case-I -23.09.2013 and Case-II -14.05.2013</p>	(d)
22.	<p>Among the following which of document is not eligible for availing input credit.</p> <p>(i) Invoice of a trader not being First / Second stage dealer (ii) Invoice of a trader being First / Second stage dealer. (iii) Invoice of a manufacturer (iv) Invoice of a service provider.</p> <p>(a) (i) only (b) (ii) only (c) (i) and (ii) only (d) None of the above</p>	(a)
23.	<p>Under which circumstances will the limitation of one year not apply to an application for refund of service tax?</p> <p>(a) When the incidence of tax has been passed on by the assessee to his client/customer</p>	(c)

Q. No.	Question	Answer
	(b) When the assessee is unwilling to adjust the excess amount paid by him (c) When the tax is paid under protest (d) None of the above	
24.	What is quantum of the fee to be paid while making an application for refund? (a) There is no fee. (b) Between ₹ 200 and ₹ 5000 depending on the amount claimed. (c) ₹ 500 where the amount claimed is more than ₹ 10,000. (d) None of the above.	(a)
25.	Mohan fails to pay service tax of ₹ 15 lakh payable on 5th January, 2014. He pays it on 16 th January, 2014 Determine the penalty under Section 76 may be imposed in this case. (a) ₹ 1,100 (b) ₹ 5,323 (c) ₹ 7,500 (d) None of the above	(b)
26.	With regard to transportation of passengers, which of the following activities would be liable to service tax? (a) Transportation of passenger in a bus having Stage Carriage permit (b) Transportation of passenger in Air-conditioned coach by Indian Railways. (c) Transportation of passenger in a metro train in New Delhi. (d) Transportation of passengers in a metered cabs or radio taxi.	(b)
27.	Nishita provided interior decorator's services in the half year ended on 30th September, 2013. The due date of filing the return for the said half year was 25th October, 2013. Compute the amount of late fee payable by her, if any, in each of the following independent cases: (i) Case -I -01.11.2013 (ii) Case-II-14.12.2013 (iii) Case-III -03.05.2014 the late fee payable in each of the aforesaid cases will be as under (a) Case-I -₹ 500, Case-II- ₹ 3,000 and Case-III - ₹ 20,000	(c)

Q. No.	Question	Answer
	(b) Case-I - ₹ 100, Case-II- ₹ 3,000 and Case-III - ₹ 17,000 (c) Case-I - ₹ 500, Case-II- ₹ 3,000 and Case-III - ₹ 17,000 (d) Case-I - ₹ 500, Case-II- ₹ 2,000 and Case-III - ₹ 17,000	
28.	Suresh, a practicing Chartered Accountant, was liable to pay service tax of ₹ 6,00,000 for the quarter ended 30.06.2013. However, he deposited it on 15.09.2013. Compute the amount of interest payable by Shiv under section 75. The value of taxable services provided by him during the last financial year was ₹ 55.40 lakh. (a) ₹ 17,753 (b) ₹ 21,304 (c) ₹ 18,000 (d) ₹ 21,600	(a)
29.	Airport Authority of India (AAI) is awarded a contract for construction of an airport in the Nicobar Islands to Ananyana Construction Ltd., for ₹ 100 lakh in August, 2013. Determine the amount of service tax payable : (a) ₹ 12.36 Lacs (b) ₹ 6.18 Lacs (c) Nil, as the same is Covered under the Mega Exemption List (d) Nil, as the same is Covered under the Negative List	(c)
30.	Which of the following Articles of the Constitution gives the power to Central Government for taxing services ? (a) Article 268 (b) Article 268A (c) Article 269 (d) Article 267	(b)
31.	Who is the present Chairman of the empowered Committee of State Finance Ministers on Goods and Service Tax (GST) ? (a) Sh. Yashwant Sinha (b) Sh. Sushil Kumar Modi (c) Sh. Abdul Rahim Rather (d) Sh. Parthasarathi Shome	(c)

Q. No.	Question	Answer
32.	<p>In the proposed GST Council, matters will be decided by :</p> <p>(a) consent of all the members present (b) consent of $\frac{3}{4}$ th of all the members present (c) consent of majority of all the members present (d) consent of 90% of all the members present</p>	(a)
33.	<p>Ascertain the quantum of duty drawback in the following case :</p> <p>FOB value of 2,000 kgs goods exported is ₹ 2,00,000. Rate of duty drawback on such export is ₹ 30 per kg. Market price of goods is ₹ 50,000 (in wholesale market) :</p> <p>(a) ₹ 60,000 (b) ₹ 50,000 (c) No Drawback is allowed (d) ₹ 30,000</p>	(c)
34.	<p>IEC is a unique ____ digit PAN based alphanumeric code issued by DGFT to Indian companies.</p> <p>(a) 12 (b) 10 (c) 11 (d) 15</p>	(c)
35.	<p>XYZ Ltd. has imported inputs without payment of duty under Advance Authorization. The CIF value of such inputs is ₹ 10,00,000. The inputs are processed and the final product is exported. The exports made by XYZ Ltd. are subject to general rate of value addition prescribed under Advance Authorization Scheme. No other input is being used by XYZ Ltd. in the processing. What should be the minimum FOB value of the exports made by the XYZ Ltd. as per the provisions of Advance Authorization?</p> <p>(a) ₹ 11,50,000 (b) ₹ 10,00,000 (c) ₹ 20,00,000 (d) None of the above</p>	(a)

PART – B

[Answers 6 questions in briefly]

1. The following information relates to purchases and sales of N.S. Ltd. for the month of August, 2013:

Particulars	₹
Purchases for resale within the State	8,50,000
Purchases from registered dealers who opted for composition scheme	4,25,000
Purchases to be used as consumable stores for manufacture of taxable goods	3,50,000
Purchases of goods where invoices do not show the amount of taxes separately	4,00,000
Purchases of goods for personal consumption	2,50,000
Purchases of capital goods (not eligible for input credit)	6,75,000
Purchases of capital goods (eligible for input credit)	5,76,000

Sales made within the State during the month of August, 2013 was ₹ 65,00,000 on which VAT @ 4% was payable.

Assuming that all purchases given above are exclusive of VAT @ 12.5%, calculate:

- (i) The amount of input tax credit available for the month of August, 2013.
- (ii) VAT payable for the month of August, 2013
- (iii) Input tax credit carried forward

Note: The input VAT credit on eligible capital goods is available in 24 equal monthly installments.

(Make suitable assumptions where required and show the workings)

(5 Marks)

Ans.

Computation of input tax credit available to N.S. Ltd.

Particulars	Amount (₹)	
<u>Purchases eligible for input tax credit</u>		
Purchases for resale within the State	8,50,000	
Purchases from registered dealers who opted for composition scheme (input tax credit not available)	-	
Purchases to be used as consumable stores for manufacture of taxable goods	3,50,000	
Purchases of goods where invoices do not show the amount of taxes separately (input tax credit not available)	-	
Purchases of goods for personal consumption (input tax credit not available)	-	
Total	12,00,000	
<u>Input tax credit</u>		
VAT credit on eligible purchases [₹ 12,00,000 x 12.5%]	-	1,50,000
VAT credit on eligible capital goods [(₹ 5,76,000 x 12.5%)/24]		<u>3,000</u>
Total input tax credit available for the month of August, 2013		<u>1,53,000</u>

Computation of VAT payable and input tax credit carried forward

Particulars	Amount (₹)
Output VAT payable during August, 2013 [₹ 65,00,000 x 4%]	2,60,000
Less: Input credit available for the month of August, 2013	<u>1,53,000</u>
Net VAT payable	1,07,000
Input tax credit carried forward	Nil

OR

- (i) Compute the invoice value to be charged and amount of tax payable under VAT by a dealer who had purchased goods for ₹ 1,20,000 (exclusive of VAT) and after adding for expenses of ₹ 10,000 and of profit ₹ 15,000 had sold out the same. The rate of VAT on purchases and sales is 12.5%.

(3 Marks)

Ans.

Particulars	Invoice value to be charged(₹)
Purchase price of goods	1,20,000
Add: Expenses	10,000
Add: Profit margin	15,000
Amount to be billed	1,45,000
Add: VAT @12.5%	18,125
Total invoice value	1,63,125

Computation of VAT to be paid :

VAT charged in the invoice	18,125
Less: VAT credit on input 12.5% of Total ₹1,20,000	15,000
Balance VAT payable	3,125

And

- (ii) Compute the VAT payable by R, who purchased goods from a manufacturer on payment of ₹ 6, 30,000 (including VAT) and earned 20% profit on sale price. VAT rates both on purchase and sale is 5%.

(2 Marks)

Ans.

Computation of sale price and VAT liability

Particulars	₹
Purchase Value of Goods exclusive of VAT (6,30,000 ÷ 1.05)	6,00,000
Add: Profit 25% (see notes)	1,50,000

Sale value	7,50,000
VAT @ 5%	37,500
Total	7,87,500
VAT Payable	37,500
Less: Input VAT credit (₹6,00,000 × 5%)	30,000
Net VAT payable	7,500

Working Note:

Suppose sale price ₹100

Profit @ 20% on sale price ₹20

Cost Price is ₹80

Hence profits on cost shall $20/80 \times 100 = 25\%$

2. Ashok Kumar, a first stage dealer in packing machinery in the city of Mumbai, furnishes the following data:

Particulars	Amount (₹)
Total inter-State sales during financial year 2011-12 (CST not shown separately)	92,50,000

Above Sales includes:

	Amount (₹)
Excise Duty	9,00,000
Freight (of this ₹50,000 not shown separately in invoices)	1,50,000
Insurance charges incurred prior to delivery of goods	32,000
Installation and commissioning charges shown separately	15,000

Determine the turnover and CST payable, assuming that all transactions were covered by valid 'C'Forms.

(5 Marks)

Ans.

Computation of CST liability

Particulars	Amount (₹)	Amount (₹)
Gross turnover		92,50,000
Less:		1,00,000
a) Freight shown separately in the Invoices		
b) Installation charges shown separately in the Invoice	15,000	1,15,000
Aggregate turnover		91,35,000
Taxable turnover $91,35,000 \times 100/102$		89,55,882
CST @ 2%		1,79,118

Note: excise duty forms part of turnover and hence not adjusted.

3. Mrs. & Mr. Kapoor visited Germany and brought following goods while returning to India:
- Personal effects like clothes, etc., valued at ₹ 35,000.
 - One personal computer bought for ₹ 46,000.
 - One laptop bought for ₹ 95,000.
 - Two litres of liquor bought for ₹ 1600.
 - A new camera bought for ₹ 47,400.

What is the amount of Custom Duty payable.

(5 Marks)

Ans.

Personal effects like clothes etc.	Exempt
One Personal Computer	₹46,000
One Laptop Computer	Exempt
2 liters of liquor	₹ 1,600
One new camera	<u>₹ 47,400</u>
Total Value	₹ 95,000
Less : General Free Allowance for 2 persons (35,000 × 2)	<u>(-) ₹70,000</u>
Duty payable on	₹ 25,000
Customs Duty @ 36.05%	₹ 9,012.50

OR

Compute the assessable value for the purpose of determination of customs duty from the following data:

	US \$
Machinery imported from USA by air (FOB price)	5,000
Accessories compulsorily supplied alongwith the machinery	500
Air freight	1,800
Insurance charges	Actuals not available
Local agent's commission to be paid in Indian currency	₹ 6,000
Transportation from Indian airport to factory	₹ 3,500

Exchange rate US \$ 1 = ₹ 60

Date of bill of entry is 20.10.2013. Exchange rate notified by CBEC is US \$ 1= Rs. 60

Date of arrival of aircraft is 25.10.2013. Exchange rate notified by CBEC is US \$ 1= Rs. 62

Provide explanations where necessary.

(5 Marks)

Ans.

Computation of Assessable Value of Machinery and Accessories

	Accessories US \$	Machinery US \$
FOB price	5,00.00	5,000.00
Add : Air Freight [Note 2]	100.00	1,000.00
Add : Insurance charges [Note 3]	<u>5.625</u>	<u>56.25</u>
Total CIF value excluding agent's commission	605.625	6,056.25
Exchange rate 1US \$ = ₹ 60 [Note 4]	₹	₹

Total in Indian currency	36,337.50	3,63,375.00
Add : Local agent's commission (allocated on pro-rata basis)	<u>545.45</u>	<u>5,454.55</u>
CIF value	36,882.95	3,68,829.55
Add : Landing charges @1% of CIF value [Note 5]	<u>368.83</u>	<u>3,688.30</u>
Assessable value	37,251.78	3,72,517.85
Assessable value (rounded off)	37,252.00	3,72,518.00

Notes :

- (1) Since the price of the accessories is not included in the price of the machinery and is charged separately, the accessories will not be charged at the same rate as applicable to the machinery. Hence, separate assessable values for the machinery and accessories have to be computed [Proviso (a) to section 19 of the Customs Act, read with Accessories (Condition) Rules, 1963]
- (2) If the goods are imported by air, the freight cannot exceed 20% of FOB price [Second proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
- (3) Insurance charges are taken as 1.125% of FOB price if actual charges are not known [Clause (iii) of first proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
- (4) Rate of exchange notified by CBEC as prevalent on the date of filing of bill of entry would be the applicable rate. (Section 14 of Customs Act, 1962)
- (5) Even if there is no information regarding landing charges, still they are charged @ 1% of CIF value [Clause (ii) of first proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
- (6) Cost of transport of the imported goods upto the place of importation is only includible in the assessable value. Thus, transportation charges from Indian airport to factory of importer will not be included in the assessable value. [Clause (a) of rule 10(2) of Customs (Determination of Value of Imported Goods) Rules, 2007].

4. (a) Briefly explain the term "*Prohibited Goods*" under the Customs Act, 1962.
(3 Marks)

Ans.

As per Section 2(33) of the Custom Act, 1962, prohibited goods means any goods the import or export of which is subject to any prohibition under the Customs Act or any other law for the time being in force but doesn't include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with. In some cases, conditions are to be fulfilled after importation of goods. Unless those conditions are fulfilled, the goods continue to be "prohibited goods."

- (b) What is the purpose of the Interpretation Rules regarding Custom Tariff?
(2 Marks)

Ans.

The purpose of Interpretation Rules of Customs Tariff is:

- (i) to give clear direction as to how the nomenclature in the schedule is to be interpreted and
- (ii) to give statutory force to the Interpretation Rules and the general explanatory notes.

5. A trader supplied two consignments of goods in a single carriage to his two different buyers, (i) Reserve Bank of India and (ii) a unit located within Special Economic Zone.

The amounts of freights were ₹ 3,000 and ₹ 4,000 *respectively*. In the first case, the freight was paid by the consignee and in the second case by the consignor. Assess the service tax liabilities of the freight payers. Discuss whether exemption from payment of service tax is available in these cases or not.

(1+2+2=5 Marks)

Ans:

In both these two cases, exemption from payment of service tax for the freight payers shall be available.

In the first case, the amount of freight of `3000.00 was paid by the Reserve Bank of India, the consignee. Against the item Sr. No. b) of the Negative List under Section 66 D of the Finance Act, 1994, Reserve Bank of India has been granted exemption from payment of service tax both- as a service provider as well as a service recipient.

In the second case, freight was paid by the consignor, the trader. Supply of goods to a unit located within Special Economic Zone is considered as export. Therefore, if the consignor supplies the goods to a unit in Special Economic Zone by observing the provisions laid down under Notification No. 31/2012 ST. dated 20.06.2012, he can enjoy exemption from payment of service tax on the amount of freight be paid.

OR

Discuss about the eligibility of CENVAT credit in each of the following situations :

- (i) 2.0 Metric Tonnes of Raw Materials on which Central Excise Duty of ₹ 20,000 was paid, were destroyed by accidental fire after the same were issued to the shop floor for production of Finished Goods.
- (ii) 1.0 Metric Tonne of Raw materials on which Central Excise Duty paid was ₹ 10,000 were used in manufacture of the Finished Goods on which Central Excise Duty payable is ₹ 8,000.
- (iii) The original copy of the Central Excise Invoice for 1000 units of Raw Materials (Central Excise Duty paid ₹ 10,000) purchased was missing, however, duplicate for transporter copy of the same Invoice is available, which also shows that the Central Excise Duty of ₹ 10,000 had been paid on Raw Materials.

(2+1+2=5 Marks)

Ans:

- (i) Goods must be used within factory of production and must have some relation with manufacture so as to qualify as “input” under Rule 2(k). Since

input had been issued for production, hence, they may be regarded as “used” within factory and handling losses are a part of manufacturing process. Hence credit can not be denied. [CCEX vs. Indchem Electronics (SC)]

- (ii) Full Cenvat credit is available even though duty on the Finished Goods is less. Such excess credit can be adjusted against duty payable on the Finished Goods.
- (iii) The Cenvat Credit Rule states that credit can be availed on the basis of invoice issued by the manufacturer. Duplicate for Transporter copy of Invoice is also an invoice issued by the manufacturer. Hence, credit is available on the basis of such document.

6. The assessee, Harinderpal Singh, Mathura, was running guest houses for the pilgrims. The Department issued show cause notice stating that the assessee was liable to get service tax registration under “*short term accommodation service*” and liable to pay service tax. The assessee, on the other hand, submitted that since it was a religious and charitable institution and was running guest houses without any profit motive, it was not liable to pay service tax.

You are required to examine whether the show cause notice issued by the Department is valid or not, referring to a decided case law, if any.

(5 marks)

Ans :

Yes, the show cause notice issued by the Department is valid in law.

The facts of the given case are similar to the case of Tirumala Tirupati Devasthanams, Tirupati v. Superintendent of Customs, Central Excise, Service Tax 2013 (30) S.T.R. 27 (A.P.) wherein the High Court stated that there is no absolute exemption granted to the petitioner.

The contention, in the present case, by Hargopal Devasthanams that, it is a religious and charitable institution and is running guest houses without any profit motive, is irrelevant.

The High Court further stated that running guest houses by whatever name they are called - whether as a shelter for pilgrims or any other name with or without profit is no answer. Thus, Hargopal Devasthanams is liable to get itself registered under 'short term accommodation service' and pay service tax on the services provided by it.

OR

Comment on validity of the following Statements with reference to the provision of the Finance Act, 1994 with suitable reasons.

- (i) Statutory services are also taxable service.
- (ii) Speed Post Services provided by the Post Office are liable to service tax.
- (iii) Manufacture of medicine under Medicinal and Toilet preparation (Excise Duties) Act, 1955 is liable to service tax.
- (iv) Testing undertaken for soil of a farm land is liable to service tax.
- (v) Using a STANDALONE amusement ride set up in a mall is not liable to service tax.

(1x5 = 5 marks)

ANS.

- i) Services Provided by Government or any department of Government which is authorized under a statute are not taxable.
- ii) This statement is correct. Speed post service rendered by the department of Indian Post is not covered in the negative list. Hence this service is fully taxable.
- iii) The negative list of services includes "any process amounting to manufacture or production of goods" [Clause (f) of section 66D]. Definition of "any process amounting to manufacture or production of goods" has been expanded by the Finance Act, 2013 so as also to include a process on which excise duty is leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955. Thus, with effect from 10.05.2013, service tax is not chargeable on a process on which excise duty is leviable under the Medicinal and Toilet Preparations (Excise Duties) Act.

- iv) The Finance Act, 2013 has expanded the scope of the said negative list entry relating to agriculture by deleting the word “seed”. As a result, all types of testing activities which are directly related to production of any agricultural produce have been covered under the negative list.

- v) Admission to entertainment events or access to amusement facilities are covered in negative list under clause (j) of section 66D. A standalone amusement ride set up in a mall qualifies as an amusement facility in which fun or recreation is provided by means of a ride. Access to such amusement ride on payment of charges would be covered in the negative list. Hence, service tax is not chargeable in the instant case.