# Paper 10
# Applied Indirect Taxation

**Question No. 1: Answer the followings:**

**(i)** State the taxable event of Central Sales Tax, Value Added Tax, Service Tax, Excise Duty, Customs Duty

**Answer:** The taxable events are:

| Tax/Duty | Vide Section | Act | Taxable Event |
|---|---|---|---|
| Central Sales Tax | | | Purchase or sale in the course of inter-state sale (i.e. from one state to another state) |
| Value Added Tax | | | Purchase or sale in the course of intra-state sale ( i.e. within a state) |
| Service Tax | Sec.66 (Chapter V) | Finance Act,1994 | destination based, service is taxable only if provided in India, except whole of Jammu & Kashmir |
| Excise Duty | Sec.3 | Central Excise Act,1944 | Production or manufacture of excisable goods in India (except goods manufactured or produced in Special Economic Zones in India) |
| Customs Duty | | Customs Act,1962 | Importation of goods into India or exportation of goods from India |

**(ii)** **What are excisable goods?**

**Answer:** Excisable goods are those goods, which are specified in the First and Second Schedule of the Central Excise Tariff Act, 1985, which are subject to duty of excise.

**(iii)** **Indicate whether the following activities would fall under "Manufacture", "Deemed Manufacture" or "Production":**

| Activity | Classification |
|---|---|
| 1. Production in a sugar factory: (a) Sugar | Manufacture (main product) |
| (b) Molasses | Production ( by-product) |
| (c) Bagasse | Production (by-product) |
| 2. Mining of Coal | Production |
| 3. Dyeing of Yarn | Deemed Manufacture [ dyed and coloured yarn is a distinct commodity known to market] |
| 4. Removing pulp from coffee seeds | Curing |

| | |
|---|---|
| 5. Activity on the CD pack and not on the CD | Not a Manufacture **[CCE v. Sony Music Entertainment (I) Pvt.Ltd.2010 (249) E.L.T.341 (Bom.)]** |
| 6. Labeling or relabeling without repacking from bulk to retail | Deemed Manufacture **[ BOC (I) Ltd. 226 ELT 323(SC)]** |
| 7. Conversion of jumbo rolls into small rolls | Manufacture **[ India Cine Agencies (2009) 233 ELT 8 (SC)]** |
| 8. Branding and Labeling of packed spices | Manufacture |
| 9. Branding/Labeling of Stainless Steel screws | Not Manufacture |
| 10. Melting of old brass tubes and converting into new brass tubes | Manufacture. [ Identity of original product is completely lost in the process] |
| 11. Repairing, re-conditioning or re-making | Not a manufacture [No new product emerges because of this activity. **Shriram Refrigeration Industries 26 ELT 353 (Trib.)]** |
| 12. Affixing a brand name on a product manufactured by a sister unit | Not a manufacture. [Branding is a mere process of identifying the end product and is not a manufacturing activity. **Bush India Ltd. 6 ELT 258 (Bom.)]** |
| 13. Melting of old brass tubes and converting into new brass tubes | Manufacture. Identity of original product is completely lost in the process |
| 14. Making ice from water | Manufacture. [ Ice is distinctly marketed] |
| 15. Conversion of rough marble slabs into regular marble slab/tiles | Deemed Manufacture as per Tariff Schedule |
| 16. Preparation of Mango Pulp from Raw Mango | Manufacture, as distinct product emerges which is marketable as different commodity |
| 17. Lamination of film | Not a manufacture, as no new and distinct product emerges [ Meltex (I) Pvt. Ltd (165) ELT 129 (SC)] |
| 18. Up gradation of Computers | Not a Manufacture. Though up gradation involves in increasing its storage/processing capacity, however, no new goods with different name, character and use comes into existence. |
| 19. Crushing betel nuts into small pieces and sweetening the same with essential/non-essential oils, menthol, sweetening, agents, etc. | Not a manufacture, as there is no new product with a different character emerges [ Crane Betel Nut Powder Works (2007) 210 ELT 171 (SC)] |
| 20. Cinders on burning coal | Not a manufacture. [ After burning coal, the resultant cinders are not a new product, but only coal of an inferior quality. Also coal is not used as a raw material, but as a fuel. Hence, burning of coal is not manufacture and cinders arising there from are not dutiable. [ Ahmedabad Electricity Co. Ltd. 158 ELT 3 (SC)] |

**(iv) Discuss the components/structure of the following code numbers:**

| | | | | |
|---|---|---|---|---|
| **Excise Control Code No** | ABCPB3245K/XM/001 | First 10 characters shows the PAN NUMBER<br><br>ABCPB3245K | Next 2 characters shows whether the business is carried out as a<br><br>MANUFACTURER/DEALER<br><br>XM | Next 3 characters<br><br>states<br><br>the No. Assigned to the premise registered<br><br>001 |
| **Service Tax Registration Number** | AABCC5588-ST-001 | AABCC5588<br><br>First 10 characters shows the PAN NUMBER | ST<br><br>Next 2 characters shows the Alpha code | 001<br><br>Next 3 characters<br><br>states<br><br>the No. Assigned to the premise registered |

**<u>Question No.2 (a):</u> What is meant by classification of goods?**

**Answer:** Classification of goods refers to determination of headings or sub-headings of the Central Excise Tariff Schedules under which the goods produced are covered. It is necessary for determining the eligibility to exemption, as generally exemptions in excise are given with reference to Tariff Headings and Sub-headings. Further, the actual amount of excise duty payable on goods depends on its Assessable Value and the Rate of Duty, which in turn depends upon its classification under Central Excise Tariff Schedule.

**<u>Question No. 2(b):</u> Discuss the structure of CETA (Central Excise Tariff Act).**

**Answer:** CETA contains two schedules on classification of goods, First Schedule gives the basic excise duties (CENVAT) and Second Schedule lists items attracting Special Excise Duty. CETA contains 98 Chapters grouped in 21 sections. For some chapters, no rates of duty have been specified, and some Chapters ( 5 in all) have been kept blank for future use.

**<u>Question No.2(c)</u> What is the system of classification in CETA?**

**Answer:** Excisable goods are identified/classified using 8-digits, as follows:

- ❖ First two digits- refers to Chapter number
- ❖ Next two digits- refers to Heading
- ❖ Next two digits- refers sub-heading
- ❖ Last two digits- product ID

**Example: (1): Tariff No. 2710 19 30: High Speed Diesel (HSD)**

| | | | |
|---|---|---|---|
| First two digits | 27 | Chapter 27 | Mineral Fuels, Mineral Oils and Products of their distillation; bituminous substances: Mineral waxes |
| Next two digits | 10 | Heading | Petroleum Oil and Naptha |
| Next two digits | 19 | Sub-heading | |
| Last two digits | 30 | Specific product ID | High speed diesel (HSD) |

**Example: (2): Tariff No. 4013 10 20: High Speed Diesel (HSD)**

| | | | |
|---|---|---|---|
| First two digits | 40 | Chapter 40 | Rubber Articles |
| Next two digits | 13 | Heading | Inner tubes |
| Next two digits | 10 | Sub-heading | Used in motor cars/lorries |
| Last two digits | 20 | Specific product ID | For lorries and buses |

**Question No. 2(d):**

**Explain the meaning of Single Dash (-) and Double Dash (- -) used in Excise Tariff/Customs Tariff Schedule.**

**Answer:** The dashes preceding a Tariff Heading or Tariff Item under the HSN (Harmonised System of Nomenclature) signify the following:

| **Type** | **Denoted by** | **Significance/Meaning** |
|---|---|---|
| **Single Dash** | **( - )** | Indicates that the article or group or articles is covered by the Heading under which they are specified |
| **Double Dash** | **( - -)** | Indicates a sub-group or article which is part of a group with single dash. They are sub-classifications of immediately preceding article/group with single dash. |
| **Triple dash or quadruple dash** | **( - - -)/ ( - - - - )** | Indicates a sub-sub-group or article which is part of a sub-group with single or double dash. They are taken to be sub-classification of the immediately preceding article/group with single or double dash |

**Question No. 2(e): The burden to prove appropriate classification always lies on the Department. Discuss.**

Answer: It is the responsibility of the Department to establish the correct Tariff Heading under which the product falls. The onus is on the Department to establish the alternate classification, when the department turns down the classification claimed by the Assessee.

However, when certain goods are prima facie covered by the generic description, the burden to prove that they are so covered would be on the person claiming so.

**Question No.2 (f): An assessee classifies "Hajmola" as a Candy. Is the classification correct?**

**Answer:** Hajmola contains 25% sugar and 75% medicine. It has the necessary ingredients as per Ayurvedic experts, which helps in digestion and control acidity. Based on its essential character and use, it is an ayurvedic medicine and not a candy. Hence, classification is not correct. **[Dabur India (SC)]**

**Question No.2 (g): After-shave lotion is classified as a medicine. Is the classification correct?**

**Answer:** If an item is to be a treated as a medicinal preparation, it must be meant for curing a disease. Disease could arise out of ailments, physical condition or due to virus or bacterial effect. After-shave lotion is not a medicinal preparation. Hence, it is in the nature of cosmetic **[Coflax Laboratories (SC)].**

**Question No. 2(h): A controversy has arised as to classification of Coconut oil. Is it (a) Hair oil (b) Edible Oil (c) Pure Coconut Oil or Coconut Oil? Advice.**

**Answer:** Classification of Coconut oil is based on End user test vide Circular No.890/10/2009 – CX dated 03.06.3009. It refers to coconut oil sold with the indications on the containers or the labels such as (a) Hair oil; (b) Edible Oil; (c) 'Pure Coconut Oil' or 'Coconut Oil'.

(a) If the 'Coconut Oils' are sold with the label "Hair Oil" meant for retail sale, they are classified under the heading "hair oil" [ Heading no.3305];

(b) If the coconut oil sold with the label "Edible Oil"/ "Pure Coconut or Coconut Oil" meant for retail sale:

   (i) If such oil is sold in small packs i.e. 50ml/100 ml/200ml – classify as "Hair oil" only (Chapter 33), since majority of customers use as Hair oil

   (ii) If such oil is sold in larger packs for e.g. 1 litre or 2 litres – classify as "Edible Oil" ( Chapter 15), since majority of customers use as Edible oil.

Hence, the classification of coconut oil would depend upon the fact as to how the majority of the customers use the said product.

**Question No. 3(a): What is specific duty?**

**Answer:** Specific duty is the duty payable on the basis of units of measurement like weight, length, volume, thickness, etc. example:- Cigarettes (length basis); Matches ( per 100 boxes/packs); cement clinkers ( per tonne basis).

**Question No. 3(b): Explain Assessable Value and the related principles in determining Assessable Value.**

**Answer:** Assessable value is the value on which is excise duty payable on ad-valorem basis. Assessable value can be based on the followings:-

(i) Transaction value- value of a transaction. i.e. price charged by a seller or as determined under valuation rules

(ii) Tariff value – value fixed u/s 3(2) of the Central Excise Act

(iii) Retail Sale Price – maximum retail price printed on packaged goods under Standards, Weights and Measures Act.

**Question No.3(c): Explain Transaction Value with reference to Central Excise Act, 1944.**

**Answer:** Transaction value as per Sec. 4 is the price actually paid or payable for the goods when sold. It includes the amount a buyer is liable to pay to the seller or on is behalf, by reason of such sale or in its connection, either at the time of sale or any other time. It also includes the following:

(i) Advertising or publicity;

(ii) Storage;

(iii) Servicing, warranty;

(iv) Marketing and selling organization expenses;

(v) Outward handling;

(vi) Commission or any other matter

But excludes, excise duty, sales tax and other taxes, actually paid or payable on such goods.

**Question No. 3(d): What are the conditions for treating the transaction value as the assessable value of the excisable goods?**

**Answer:** The following conditions must be fulfilled for considering Transaction Value as the Assessable Value for the levy of duty on ad-valorem basis:

(i) The excisable goods must be sold by the Assessee;

(ii) Such sale should be for delivery at the time and place of removal;

(iii) Price must be the sole consideration for sale; and

(iv) Assessee and the buyer of the goods must not be related persons.

**Question No.4 (a): Discuss Place of Removal**

**Answer:** U/s 4(3) (c) of the Central Excise Act,1944, Place of Removal refers :

(i) Place of Production- factory or any other place or premises of production or manufacture of the excisable goods;

(ii) Place of storage: warehouse or any other place where excisable goods have been permitted to be deposited without payment of duty;

(iii) Place of sale- depot, consignment agent premises or any other place from where excisable goods are to be sold after their clearance from the factory.

**Question No. 4(b): Sale price ₹264. Excise duty @ 16% not shown separately. What is the transaction Value?**

**Answer:** Transaction Value = ₹ (264 x 100) / (100 + ED @ 16%) = ₹227.59.

Excise Duty = ₹227.59 x 16% = ₹36.41

**Question No. 4(c): If the sale price is ₹275, inclusive of VAT @ 13.5% and ED @ 16%. Calculate the transaction value and excise duty.**

**Answer:** Transaction Value = ₹ (275 x 100 x 100)/ (100 + VAT@ 13.5%) (100 + ED @ 16%] = ₹ 208.87

Excise Duty: ₹208.87 x 16% = ₹33.41

VAT = ₹ (208.87 + 33.41) x 13.5% = ₹32.71

**Question No. 4(d): The cum-duty price per piece was ₹150 and the assessee had paid duty @ 20% ad-valorem. Subsequently, it was found that the rate of duty was 30% ad-valorem and the assessee had not collected anything over and above ₹150 per piece. Determine the assessable value.**

**Answer:** Assessable value = ₹ (150 x 100)/ 130 = ₹115.38

**Question No.5 (a): "The value of price support incentives received from the raw materials supplier should be included in the assessable value of the final product". Is this an agreeable proposition?**

**Answer:** The value of the price support incentives from the raw material supplier should not be included in the assessable value of the final product [ Bisleri International Private Ltd (2005) 186 ELT 257(SC)] –

(i) There was no flow back of any additional consideration from the buyers;

(ii) The price uniformity was maintained;

(iii) There was no evidence of any of the buyers or existence of any favoured buyers.

If the aforesaid conditions are not satisfied, the value of the price support incentives would be includible in the assessable value of the final product.

**Question No. 5(b): Calculate the assessable value for the purpose of levy of excise duty from the following particulars:** Cum-duty selling price inclusive of sales tax @ 4.2% (before discount) ₹ 2,73,186. Excise duty @ 10% plus applicable cess. Trade discount allowed ₹3,000; Freight ( to be charged extra) ₹ 5,400.

**Answer:** **Computation of Assessable Value**

| Particulars | ₹ | Justification |
|---|---|---|
| Cum-duty selling price ( inclusive of sales tax)<br>Less: Sales Tax @ 4.2% ( 2,73,286 x 4.2/104.2)<br>Less : Freight ( to be charged extra)<br>Less: Trade Discount | 2,73,186<br>11,011<br>Nil<br>(3,000) | U/s 4(3)(d), Assessable Value excludes Duties and Taxes. As freight charges are not included in assessable value, it shall not be deducted.<br>However, discount passed on to the buyer is excluded from the Assessable Value [ Circular 354/81.2000 TRU] |
| | 2,59,175 | |
| Less: Excise Duty @ 10.3% | 24,202 | = 2,59,275 x 10.3 / 110.3 |
| **Assessable Value** | **2,34,973** | |

**Question No. 6(a): What is the assessable value in the following case?**

| Dates | 4.2.2012 | 8.2.2012 | 12.2.2012 | 16.2.2012 | 20.2.2012 |
|---|---|---|---|---|---|
| X Computers<br>(Y1 composition) | ₹35,000 | ₹35,500 | ? | ₹35,800 | ₹35,500 |
| S Computers<br>(Y2 composition) | ₹28,000 | ₹29,000 | ₹32,000 | ₹31,800 | ₹30,900 |

**Answer:** The price of the excisable goods removed is not available at the time of removal. Value of excisable goods shall be based on the value of such goods sold by the Assessee for delivery at any other time nearest to the time of removal of goods under assessment. Price prevailing at the nearest time may be adjusted for differences in dates of delivery & nearest dates.

**Such goods:** In the above case, for valuing X Computers cleared on 12.2.2012, value of such goods, i.e. X Computers, sold during the nearest time only should be considered. S Computers are not such goods, as the composition of the computers are different, referred as Y1 composition and Y2 composition. Such goods refers to same goods or identical goods.

**Value on nearest date**: Nearest date in the instant case, i.e. 8$^{th}$ February, 2012 and 16$^{th}$ February, 2012. Interpolating the value between these two dates, value as on 12$^{th}$ February, 2012 is ₹ 35,650. ( adjustment for difference in dates).

**Question No. 6(b): B Ltd. is engaged in the manufacture of tablets that has an MRP of ₹100 per strip of 10 tablets. The company cleared 50,000 tables and distributed as physician's sample. The goods are not covered by MRP but MRP includes 10% excise duty and 4% CST. If the cost of production of the tablet is ₹2 per tablet, determine the total duty payable.**

**Answer:** Where a product is not covered under MRP provisions, Sec.4A does not apply and valuation is required to be done as per the Central Excise Valuation Rules. CBEC has vide its circular, clarified that physicians samples or other samples distributed free of cost are to be valued under Rule 11 read with Rule 4 of the Valuation Rules,2000.

Under Rule 4, such samples are to be valued at the value of such goods nearest to the time of removal.

**Computation of Duty Payable**

| Particulars | ₹ |
|---|---|
| Maximum Retail Price per strip | 100.00 |
| Less: CST @ 4% [ ₹100 x 4/104] | 3.85 |
| Cum-duty Price | 96.15 |
| Less: Excise Duty (including Cess) @ 10.3% [ 96.15 x 10.3/110.3] | 8.98 |
| Assessable Value | 87.17 |
| Excise Duty ( including Cess) [ ₹ 87.17 x 10.3%] | 8.98 |

**Note:** It is assumed that MRP is the cum-duty price collected by B Ltd on its normal sales. Excise duty rate is assumed to be inclusive of Education Cess and SHEC.

**Question No.7 (a):** Raj & Co. furnish the following expenditure incurred by them and want you to find the assessable value for the purpose of paying excise duty on captive consumption. Determine the cost of production in terms of rule 8 of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 and as per CAS-4 (cost accounting standard) (i) Direct material cost per unit inclusive of excise duty at 20% - ₹ 1,320 (ii) Direct wages - ₹ 250 (iii) Other direct expenses - ₹ 100 (iv) Indirect materials - ₹ 75 (v) Factory Overheads - ₹ 200 (vi) Administrative overhead (25% relating to production capacity) ₹ 100 (vii) Selling and distribution expenses - ₹ 150 (viii) Quality Control - ₹ 25 (ix) Sale of scrap realized - ₹ 20 (x) Actual profit margin - 15%.

**Answer:**

| | **Particulars** | **Amount (₹)** |
|---|---|---|
| (1) | Direct Material (exclusive of Excise Duty) [1,320 x 100/120] | 1,100.00 |
| (2) | Direct Labour | 250.00 |
| (3) | Direct Expenses | 100.00 |
| (4) | Works Overhead [indirect material (₹75) (+) Factory OHs (₹ 200)] | 275.00 |
| (5) | Quality Control Cost | 25.00 |
| (6) | Research & Development Cost | Nil |
| (7) | Administration Overheads (to the extent relates to production activity) | 25.00 |
| | Less: Realizable Value of scrap | (20.00) |
| | Cost of Production | 1,755.00 |
| | Add 10% as per Rule 8 | 175.50 |
| | **Assessable Value** | **1,930.50** |

**Question No. 7(b)**

Determine the cost of production on manufacture of the under-mentioned product for purpose of captive consumption in terms of Rule 8 of the Central Excise Valuation (DPE) Rules, 2000 - Direct material - ₹ 11,600, Direct Wages & Salaries - ₹ 8,400, Works Overheads - ₹ 6,200, Quality Control Costs - ₹ 3,500, Research and Development Costs - ₹ 2,400, Administrative Overheads - ₹ 4,100, Selling and Distribution Costs ₹ 1,600, Realisable Value of Scrap - ₹ 1,200. Administrative overheads are in relation to production activities. Material cost includes Excise duty ₹ 1,054.

**Answer:** Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of Cenvat credit available.

| | **Particulars** | **Total Cost (₹)** |
|---|---|---|
| 1 | Material Consumed (Net of Excise duty) (11,600 – 1,054) | 10,546 |
| 2 | Direct Wages and Salaries | 8,400 |
| 3 | Direct Expenses | - |
| 4 | Works Overheads | 6,200 |
| 5 | Quality Control Cost | 3,500 |
| 6 | Research and Development Cost | 2,400 |

**Note -** (1) Indirect labour and indirect expenses have been included in Works Overhead (2) In absence of any information, it is presumed that administrative overheads pertain to production activity. (3) Actual profit margin earned is not relevant for excise valuation.

**Question No.8 (a)**

Hero Electronics Ltd. is engaged in the manufacture of colour television sets having its factories at Kolkata and Gujarat. At Kolkata the company manufactures picture tubes which are stock transferred to Gujarat factory where it is consumed to produce television sets. Determine the Excise duty liability of captively consumed picture tubes from the following information: - Direct material cost (per unit) ₹ 800 Indirect Materials ₹ 50 Direct Labour ₹ 200; Indirect Labour ₹ 50; Direct Expenses ₹ 100; Indirect Expenses ₹ 50; Administrative Overheads ₹ 50; Selling and Distribution Overheads ₹ 100. Additional Information: - (1) Profit Margin as per the Annual Report of the company for 2011-2012 was 12% before Income Tax. (2) Material Cost includes Excise Duty paid ₹ 73 (3) Excise Duty Rate applicable is 10%, plus education cess of 2% and SHEC @ 1%.

**Answer:** Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of CENVAT credit available.

| | **Particulars** | **Total Cost (₹)** |
|---|---|---|
| 1 | Material Consumed (Net of Excise duty) (800 – 73) | 727 |
| 2 | Direct Wages and Salaries | 200 |
| 3 | Direct Expenses | 100 |
| 4 | Works Overheads | 100 |
| 5 | Quality Control Cost | - |
| 6 | Research and Development Cost | - |
| 7 | Administrative Overheads (Relating to production capacity) | 50 |
| 8 | Total (1 to 7) | 1,177 |
| 9 | Less - Credit for Recoveries/Scrap/By-Products/Misc Income | - |
| 10 | Cost of Production (8-9) | 1,177 |
| 11 | Add - 10% as per Rule 8 | 118 |
| 12 | Assessable Value | 1,295 |
| 13 | Excise duty @ 10% of ₹ 1,295 | 129.50 |
| 14 | Education Cess @ 2% of ₹ 129.5 | 2.59 |
| 15 | SHEC @ 1% on ₹ 129.5 | 1.295 |

Total Duty Liability = ₹ (129.5 + 2.59 + 1.295) = ₹ 133.385

**Note -** (1) Indirect labour and indirect expenses have been included in Works Overhead (2) In absence of any information, it is presumed that administrative overheads pertain to production activity. (3) Actual profit margin earned is not relevant for excise valuation.

**Question No. 8(b)**

How would you arrive at the assessable value for the purpose of levy of excise duty from the following particulars :

- Cum-duty selling price exclusive of sales tax ₹ 20,000
- Rate of excise duty applicable to the product 10.30%
- Trade discount allowed ₹ 2,400
- Freight ₹ 1,500

**Answer:**

Trade discount of ₹ 2,400 and freight of ₹ 1,500 are allowed as deductions.

Hence, net price will be ₹ 16,100 [₹ 20,000 – 2,400 – 1,500].

Since the price is inclusive of excise duty of 10.30%, Excise Duty will be ₹ (16,100 × 10.30)/110.30 *i.e.* ₹ 1,503.45 and Assessable Value will be ₹ 14,596.55 [16,100 – 1,503.45]

**Question No. 8(c)**

Z Ltd. is a small-scale industrial unit manufacturing a product X. The Annual report for the year 2008-09 of the unit shows a gross sale turnover of ₹ 1,91,40,000. The product attracted an excise duty rate of 10% as BED and Sales Tax 10%. Determine the duty liability under Notification Nos. 8/2001 and 9/2001 meant for SSI units.

**Answer:**

(A) Duty payable under Notification No. 9/2001-CE (Now 9/2002-CE)

Under excise Notification No. 9/2001-CE, an SSI unit is required to pay 60% of normal duty (*i.e.* 6% duty) on first ₹ 100 lakhs and 10% on the balance. The assessee can avail Cenvat credit on all the inputs. Since the example gives gross sale turnover, it is first necessary to find net sales turnover.

In respect of first net turnover of ₹ 100 lakhs (₹ 1,00,00,000), excise duty will be ₹ 6,00,000. Sales tax @ 10% is payable on net turnover *plus* excise duty *i.e.* on ₹ 1,06,00,000, sales tax @ 10% will be 10,60,000.

Therefore, balance gross sale turnover will be ₹ 74,80,000 [₹ 1,91,400,00 – 1,16,60,000]. This includes excise duty at 10% and sales tax @ 10%.

Sales tax is payable on cum duty price. If Net turnover for excise purposes is 'Z', the gross sale turnover will be as follows:

| | | |
|---|---|---|
| Net Turnover | = | Z |
| Duty @ 10% | = | 0.10 × Z |
| Sub-Total | = | 1.10 × Z |
| Add : Sales Tax @ 10% | = | 0.11 × Z |
| Total price (*i.e.* inclusive of duty and sales tax) | = | 1.21 × Z |

Now :

1.21 × Z = ₹ 74,80,000.00

Hence, Z = ₹ 61,81,818.18

This can be checked as follows:

Net turnover = ₹ 61,81,818.18

Excise duty @ 10% = ₹ 6,18,181.82

Sub-Total = ₹ 68,00,000.00

Add: Sales Tax @ 10% = ₹ 6,80,000.00

Gross Selling Price = ₹ 74,80,000.00

Therefore, —

| | | |
|---|---|---|
| Excise duty paid on first net turnover of ₹ 1,00,00,000 | = | ₹ 6,00,000 |
| Excise duty on subsequent Turnover of ₹ 6,18,181.18 | = | ₹ 6,18,181.82 |
| Total excise duty paid | = | ₹ 12,18,181.82 |

This can be checked as follows :

| | | |
|---|---|---|
| Total Net turnover | = | ₹ 1,61,81,818.18 |
| Total Excise Duty | = | ₹ 12,18,181.82 |
| Sales tax @ 10% on Net turnover plus Excise duty *i.e.* on ₹ 1,74,00,000) [1,61,81,818.18 + 12,18,181.82] | = | ₹ 17,40,000 |
| Therefore, Gross sales turnover | = | ₹ 1,91,40,000 |

(B) Duty payable under Notification No. 8/2001-CE (Now 8/2002-CE)

Under excise Notification No. 8/2001-CE, an SSI unit is exempt from duty on first ₹ 100 lakhs and duty payable on balance amount is 10%. The assessee can avail Cenvat credit on inputs after it crosses turnover of ₹ 100 lakhs. Since the example gives gross sale turnover, it is first necessary to find net sales turnover.

In respect of first net turnover of ₹ 100 lakhs (₹ 1,00,00,000), excise duty will be Nil. Sales tax @ 10% will be payable on net turnover on ₹ 1,10,00,000. Sales tax @ 10% will be 10,00,000.

Accordingly, gross sale turnover in respect of first net turnover of 100 lakhs (where excise duty is not paid) will be ₹ 1,10,00,000.

Therefore, balance gross sale turnover will be ₹ 81,40,000 [₹ 1,91,40,000 – 1,10,00,000]. This includes excise duty at 10% and sales tax @ 10%.

Sales tax is payable on cum duty price. If Net turnover for excise purposes is 'Z', the gross sale turnover will be as follows:

| | | |
|---|---|---|
| Net Turnover | = | Z |
| Duty @ 10% | = | $0.10 \times Z$ |
| Sub-Total | = | $1.10 \times Z$ |
| Add: Sales Tax @10% | = | $0.11 \times Z$ |
| Total price (*i.e.* inclusive of duty and sales tax) | = | $1.21 \times Z$ |

Now :

$1.21 \times Z$ = ₹ 81,40,000.00

Hence, Z = ₹ 67,27,272.73

This can be checked as follows:

Net turnover = ₹ 67,27,272.73

Excise duty @ 10% = ₹ 6,72,727.27

Sub-Total = ₹ 74,00,000.00

Add: Sales Tax @ 10% = ₹ 7,40,000.00

Gross Selling Price = ₹ 81,40,000.00

Hence:

| | | |
|---|---|---|
| Excise duty paid on first net turnover of ₹ 1,00,00,000 | = | Nil |
| Excise duty on subsequent of ₹ 67,27,272.73 | = | ₹ 6,72,727.27 |
| Total excise duty paid | = | ₹ 6,72,727.27 |

This can be checked as follows:

| | | |
|---|---|---|
| Total Net turnover | = | ₹ 1,67,27,272.73 |
| Total Excise Duty | = | ₹ 6,72,727.27 |
| Sales tax @ 10% on Net turnover *plus* Excise duty *i.e.* on ₹ 1,74,00,000 (1,67,27,272.73 + 6,72,727.27) | = | ₹ 17,40,000. |
| Hence, Gross sales turnover ₹ [1,74,00,000 + 17,40,000] | = | ₹ 1,91,40,000 |

**Question No.9(a)**

B Ltd. manufactures two products namely, Eye Ointment and Skin Ointment. Skin Ointment is a specified product under section 4A of Central Excise Act, 1944. The sales prices of both the products are at ₹ 43/unit and ₹ 33/unit respectively. The sales price of both products included 10% excise duty as BED and 8% excise duty as SED. It also includes CST of 2%. Additional information is as follows –

Units cleared: Eye Ointment: 1,00,000 units

Skin Ointment: 1,50,000 units

Deduction permissible under section 4A: 40%

Calculate the total excise duty liability of B Ltd., on both the products.—

**Answer :**

Duty on eye ointment and skin ointment is required to be calculated separately.

Duty on Eye Ointment :

Let us assume that Assessable Value of Eye Ointment is Z.

| | | |
|---|---|---|
| Assessable Value | = | Z |
| Duty @ 18.54% [Basic 10% + Special 8% + Education Cess 3%] | = | 0.1854 × Z |
| Sub-Total | = | 1.1854 × Z |
| Add: Central Sales Tax @ 2% | = | 0.0237 × Z |
| Total price (i.e., inclusive of duty and sales tax) | = | 1.2091 × Z |

Now:

1.2091 × Z = ₹ 43.00

Hence, Z = ₹ 35.56

This may be checked as follows:

| | | | |
|---|---|---|---|
| Assessable Value per unit | = | ₹ | 35.56 |
| Excise duty @ 18.54% | = | ₹ | 6.59 |
| Sub-Total | = | ₹ | 42.15 |
| Add: Sales Tax @ 2% | = | ₹ | 0.843 |
| Total price | = | ₹ | 43.00 |

Excise duty payable per unit of eye ointment is ₹ 6.59

Total quantity cleared is 1,00,000.

Hence, total excise duty on eye ointment will be ₹ 6,59,000.

Duty on skin ointment

Since the product is covered under section 4A, Assessable Value is required to be calculated after deducting abatement @ 40%.

The MRP is ₹ 33 and abatement is 40%.

Therefore, Assessable Value (after allowing deduction @40%) will be ₹ 19.80

Excise duty payable per unit @ 18.54% will be ₹ 3.67.

Total quantity cleared is 1,50,000 units.

Accordingly, total duty payable on skin ointment (basic plus special) will be ₹ 5,50,638

**Question No. 9(b)**

Determine the value on which Excise duty is payable in the following instances. Quote the relevant section/rules of Central Excise Law.

(a) A. Ltd. sold goods to B Ltd., at a value of ₹ 100 per unit, In turn, B Ltd. sold the same to C Ltd. at a value of ₹ 110 per unit. A Ltd. and B Ltd. are related, whereas B Ltd. and C Ltd. are unrelated.

(b) A Ltd. and B. Ltd. are inter-connected undertakings, under section 2(g) of MRTP Act. A Ltd. sells goods to B Ltd. at a value of ₹ 100 per unit and to C Ltd. at ₹ 110 per unit, who is an independent buyer.

(c) A Ltd. sells goods to B Ltd. at a value of ₹ 100 per unit. The said goods are captively consumed by B Ltd. in its factory. A Ltd. and B Ltd. are unrelated. The cost of production of the goods to A Ltd. is ₹ 120 per unit.

(d) A Ltd. sells motor spirit to B Ltd. at a value of ₹ 31 per litre. But motor spirit has administered price of ₹ 30 per litre, fixed by the Central Government.

(e) A Ltd. sells to B Ltd. at a value of ₹ 100 per unit. B Ltd. sells the goods in retail market at a value of ₹ 120 per unit. The sale price of ₹ 100 per unit is wholesale price of A Ltd. Also, A Ltd. and b Ltd. are related.

(f) Depot price of a company are –

| **Place of removal** | **Price at depot on 1-1-2012** | **Price at depot on 31-1-2012** | **Actual sale price at depot on 1-2-2012** |
|---|---|---|---|
| Amritsar Depot | ₹ 100 per unit | ₹ 105 per unit | ₹ 115 per unit |
| Bhopal Depot | ₹ 120 per unit | ₹ 115 per unit | ₹ 125 per unit |
| Cuttack Depot | ₹ 130 per unit | ₹ 125 per unit | ₹ 135 per unit |

**Additional information:** (i) Quantity cleared to Amritsar Depot – 100 units (ii) Quantity cleared to Bhopal Depot – 200 units (iii) Quantity cleared to Cuttack Depot – 200 units (iv) The goods were cleared to respective depots on 1-1-2009 and actually sold at the depots on 1-2-2009.

**Answer:**

(a) Transaction value ₹ 110 per unit (Rule 9 of Transaction value Rules). [Sale to unrelated party].

(b) Transaction value ₹ 100 per unit for sale to B and ₹ 110 for sale to C – Rule 10 read with Rule 4 [Note that inter connected undertaking will be treated as 'related persons' for purpose of excise valuation only if they are 'holding and subsidiary' or are 'related person' as per any other part of the definition of 'related person'. Note that A is selling directly to C as per the question, and not through B Ltd].

(c) Transaction value will be ₹ 100. – Section 4(1)—Incase of sale to unrelated person, question of cost of production does not arise.

(d) Transaction value ₹ 31. – section 4. – Since the goods are actually sold at this price, administered price is not considered.

(e) Transaction value ₹ 120 per unit – Rule 9 read with section 4 of Central Excise Act. Sale to an unrelated buyer. [Under new rules, there is no concept of 'wholesale price and retail price']

(f) Under Rule 7, the price prevailing at the Depot on the date of clearance from the factory will be the relevant value to pay Excise duty.

Therefore:

(i) Clearance to Amritsar depot will attract duty based on the price as on 1-1-2012. Transaction value ₹ 110 × 100 units = ₹ 11,000

(ii) Clearance to Bhopal depot. Depot price on 1-1-2012. Transaction value ₹ 120 × 200 units = 24,000

(iii) Clearance to Cuttack Depot. Depot price on 1-1-2012. Transaction value ₹ 130 × 200 units = ₹ 26,000. Note The relevant date is 1-1-2012, since the goods were cleared to the depots on that date. No additional duty is payable even if goods are later sold from depot at higher price.

**Question No. 10(a)**

Determine the transaction value and the Excise duty payable from the following information : (i) Total Invoice Price ₹ 18,000; (ii) The Invoice Price includes the following :

| | | |
|---|---|---|
| (a) | Sales-tax | ₹ 1000 |
| (b) | Surcharge on ST | ₹ 100 |
| (c) | Octroi | ₹ 100 |
| (d) | Insurance from Factory to depot | ₹ 100 |
| (e) | Freight from factory to depot | ₹ 700 |
| (f) | Rate of Basic Excise duty | 10% ad valorem |
| (g) | Rate of Special excise duty | 24% ad valorem |

**Answer:**

Let us assume that the Invoice Price of ₹ 18,000 is depot price. Thus, deduction of insurance and transport charges from factory to depot will not be available.

The deductions available will be :

- Sales Tax ₹ 1,000; Surcharge on Sales Tax ₹ 100; and Octroi ₹ 100

Thus, net price excluding taxes on final product (but inclusive of excise duty) will be ₹ 16,800.

The rate of excise duty is 35.02% [10% basic plus 24% special plus 3% Education Cess].

Hence, duty payable is as follows –

Assessable Value = 16,800 – 4,357 = ₹ 12,443

Check: Excise duty payable (basic plus special) is 35.02% of ₹ 12,443 i.e. ₹ 4,357.

**Question No. 10(b)**

Having regard to the provisions of section 4 of the Central Excise Act, 1944, compute/derive the assessable value of excisable goods, for levy of duty of excise, given the following information:

| | ₹ |
|---|---|
| Cum-duty wholesale price including sales tax of ₹ 2,500 | 15,000 |
| Normal secondary packing cost | 1,000 |
| Cost of special secondary packing | 1,500 |
| Cost of durable and returnable packing | 1,500 |
| Freight | 1,250 |
| Insurance on freight | 200 |
| Trade discount (normal practice) | 1,500 |
| Rate of C.E. duty as per C.E. Tariff | 10% Ad-valorem |

State in the footnote to your answer, reasons for the admissibility or otherwise of the deductions.

**Answer :**

The assessable value from cum-duty price can be worked out by the under-mentioned formula.

Assessable value =

Computation of Assessable value

| | | ₹ | ₹ |
|---|---|---|---|
| | Cum-duty price | | 15,000 |
| Less : | Deductions (See Notes) | | |
| | Sales tax | 2,500 | |
| | Durable & returnable-packing | 1,500 | |
| | Freight | 1,250 | |
| | Insurance | 200 | |
| | Trade-Discount | 1,500 | 6,950 |
| | | | 8,050 |
| Less: | Central Excise Duty thereon @ 10.30% Ad-valorem | | |
| | 8,050 × 10.30/110.30 | | 752 |
| | **Assessable value** | | **7,298** |

**Notes:**

1. The transaction value does not include Excise duty, Sales tax and other taxes.
2. The Excise duty is to be charged on the net price, hence trade discount is allowed as deduction.
3. With regards to packing, all kinds of packing except durable and returnable packing is included in the assessable value. The durable and returnable packing is not included as the such packing is not sold and is durable in nature.
4. Freight and insurance on freight will be allowed as deduction only if the amount charged is actual and it is shown separately in the invoice as per Rule 5 of the Central Excise Valuation Rules, 2000.

**Question No. 11(a)**

Thunder TV Ltd is engaged in the manufacture of colour television sets having its factories at Bangalore and Pune. At Bangalore the company manufactures picture tube; which are stock transferred to Pune factory where it is consumed to produce television sets. Determine the Excise duty liability of the captively consumed picture tubes from the following information:

| | |
|---|---|
| Direct material cost (per unit) | ₹ 600 |
| Indirect material | ₹ 50 |
| Direct Labour | ₹ 100 |
| Indirect Labour | ₹ 50 |
| Direct Expenses | ₹ 100 |
| Indirect Expenses | ₹ 50 |
| Administrative overheads | ₹ 50 |
| Selling and Distribution overheads | ₹ 100 |

**Additional Information:**

1. Profit margin as per the Annual Report for the company for 2008-2009 was 15% before income tax.
2. Material cost includes Excise duty paid ₹ 100.
3. Excise duty rate applicable is 10.30%.

**Answer:**

As per Rule 8 of The Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000, the valuation of captively consumed goods is 110% of the cost of production. The cost of production of goods would include cost of material, labour cost and overheads including administration cost and depreciation etc.

The cost of material would be net of excise duty if CENVAT credit is availed in respect of such inputs.

Accordingly, the assessable value will be determined as follows :

| | | |
|---|---|---|
| Raw materials Cost (net of excise duty) | ₹ | 500 |
| Indirect material | ₹ | 50 |
| Direct Labour | ₹ | 100 |
| Indirect Labour | ₹ | 50 |
| Direct Expenses | ₹ | 100 |
| Indirect Expenses | ₹ | 50 |
| Administrative overheads | ₹ | 50 |
| **Total cost of production** | **₹** | **900** |
| **Assessable value** | **₹** | **990** |
| (i.e. 110% of the cost of production) | | |
| Excise duty @ 10% | ₹ | 99 |

| | | |
|---|---|---|
| Add: Education Cess @ 2% | ₹ | 1.98 |
| Add: SHEC @ 1% | Re. | 0.99 |

**Total Duty Liability = ₹ (99 + 1.98 + 0.99) = ₹ 101.97**

The raw material cost has been taken at ₹ 500 after deducting the duty element assuming that the CENVAT credit has been availed.

**Question No. 11(b)**

From the following data, determine the CENVAT allowable if the goods are produced or manufactured in a FTZ or by a 100% EOU and used in any other place in India.

Assessable value : ₹ 770 per unit,

Quantity cleared 77,770 units,

BCD — 10%,

CVD – 10%

**Answer:**

As per Rule 3 of CENVAT Credit Rules, 2002 the following formula is to be used if a unit in DTA purchases goods from EOU –

CENVAT = 50% of Assessable value × {[1 + BCD/100] × CVD/100}

Hence, CENVAT Available per unit is as follows –

CENVAT = 0.50 × 770 x {[1 + 10/100] × 10/100}

= 385 {1.10 × .10}

= 385 × 0.11 = ₹ 42.35 per unit

Hence, CENVAT allowable on 77,770 units = 77,770 × 42.35 = ₹ 32,93,559.50

**Question No. 12(a)**

M/S RPL has three units situated in Bangalore, Delhi and Pune. The total clearances from all these three Small Scale units of excisable goods was ₹ 350 lakhs during the financial year, 2010-2011. However, the value of individual clearances of excisable goods from each of the said units was Bangalore Unit ₹ 150 lakhs; Delhi Unit ₹ 100 lakhs; and Pune Unit ₹ 1000 lakhs.

Discuss briefly with reference to the Notifications governing small scale industrial undertakings under the Central Excise Act, 1944 whether the benefit of exemption would be available to M/s RPL for the financial year, 2011-2012.

**Answer :**

Any SSI unit whose turnover was less than ₹ 3 crore in the previous year is entitled for exemption irrespective of their investment in plant & machinery or number of employees.

Where the manufacturer has more than one factory, the turnover of all factories will have to be clubbed together for the purpose of calculating the SSI exemption limit of ₹ 300 lakhs.

Since in the above case, the total value of clearances during the preceding financial year 2010-2011 is 350 lakhs, hence it will not be entitled for the SSI benefit.

**Question No. 12(b)**

An assessee has factory in Kolkata. As a sales policy, he has fixed uniform price of ₹ 2,000 per piece (excluding taxes) for sale anywhere in India. Freight is not shown separately in his invoice. During F.Y. 2011-12, he made following sales – (i) Sale at factory gate in Kolkata – 1,200 pieces – no transport charges (ii) Sale to buyers in Gujarat – 600 pieces –actual transport charges incurred – ₹ 28,000 (iii) Sale to buyers in Bihar – 400 pieces –

actual transport charges incurred – ₹ 18,000 (iv) Sale to buyers in Kerala – 1,000 pieces – Actual transport charges – ₹ 54,800. Find assessable value.

**Answer :**

The total pieces sold are 3,200 (1,200 + 600 + 400 + 1000). The actual total transport charges incurred are ₹ 1,00,800 (Nil + 28,000 + 18,000 + 54,800). Thus, equalized (averaged) transport charges per piece are ₹ 31.50. Hence assessable value will be ₹ 1968.50 (₹ 2,000 – ₹ 31.50). This will apply to all 3,200 pieces sold by the manufacturer.

**Question No 13(a)**

An assessee cleared various manufactured final products during June 2011. The duty payable for June 2011 on his final products was as follows – Basic – ₹ 2,00,000 Education Cesses – As applicable. During the month, he received various inputs on which total duty paid by suppliers of inputs was as follows – Basic duty – ₹ 50,000, Education Cess – ₹ 1,000, SAH education Cess ₹ 500. Excise duty paid on capital goods received during the month was as follows – Basic duty – ₹ 12,000. Education Cess - ₹ 240. SAH education cess - ₹ 120. Service tax paid on input services was as follows – Service Tax – ₹ 10,000. Education cess – ₹ 200 SAH Education Cess - ₹ 100. How much duty the assessee will be required to pay by GAR-7 challan for the month of June 2011, if assessee had no opening balance in his PLA account? What is last date for payment?

**Answer:**

Education Cess payable on final products is ₹ 4,000 (2% of ₹ 2,00,000). SAH education cess payable is ₹ 2,000.

The Cenvat credit available for June 2011 is as follows –

| Description | Basic duty | Service Tax | Education Cess | SAH Education Cess |
|---|---|---|---|---|
| Inputs | 50,000 | | 1,000 | 500 |
| Capital Goods (50% will be eligible and balance next year) | 6,000 | | 120 | 60 |
| Input Service | | 10,000 | 200 | 100 |
| **Total** | **56,000** | **10,000** | **1,320** | **660** |

Credit of ₹ 66,000 (56,000 + 10,000) can be utilised for basic duty Credit of education cess and SAH education cess can be utilised only for payment of education cess and SAH education cess on final product only.

Hence, duty payable through GAR-7 challan for June 2009 is as follows –

| | Basic Duty ₹ | Education Cess ₹ | SAH Education Cess ₹ |
|---|---|---|---|
| (A) Duty payable | 2,00,000 | 4,000 | 2,000 |
| (b) Cenvat Credit | 66,000 | 1,320 | 660 |
| Net amount payable (A-B) | 1,34,000 | 2,680 | 1,340 |

Last date for payment is 5th July, 2011.

**Question No.13 (b)**

In aforesaid example, calculate duty payable by GAR-7 challan if assessee had following balance in his PLA account on 6-6-2011 (after debiting utilised amount for payment of duty for May 2011) - Basic duty - ₹ 1,70,000, Service tax - ₹ 30,000. Education Cess - ₹ 4,000. SAH Education Cess - Nil.

**Answer :**

If credit was available on 1-6-2011, the total Cenvat credit available for June 2011 is as follows :

| Description | Basic duty ₹ | Service Tax ₹ | Education Cess ₹ | SAH Education Cess ₹ |
|---|---|---|---|---|
| Inputs | 1,70,000 | 30,000 | 4,000 | Nil |
| Capital Goods (50% will be eligible and balance next year) | 6,000 | | 120 | 60 |

| | | | | |
|---|---|---|---|---|
| Input Service | | 10,000 | 200 | 100 |
| **Total** | **2,26,000** | **40,000** | **5,320** | **660** |

The duty payable will be as follows :-

Hence, duty payable through GAR-7 challan for June 2011 is as follows –

| | Basic Duty ₹ | Education Cess ₹ | SAH Education Cess ₹ |
|---|---|---|---|
| (A) Duty payable | 2,00,000 | 4,000 | 2,000 |
| (b) Cenvat Credit | 2,66,000 | 5,320 | 660 |
| Net amount payable (A-B) | (–66,000) | (–1,120) | 1,340 |

The credit of education cess of ₹ 1,120 is to be carried forward since the credit cannot be utilised for payment of any other duty. Credit of basic duty can be utilised for payment of SAH education cess. Hence, the balance left in basic duty account will be ₹ 64,660.

Thus, no excise duty is required to be paid for the month of June 2011. Balance carried forward will be as follows - (a) Basic duty - ₹ 64,660 (b) Education Cess - ₹ 1,120.

**Question No. 14(a)**

**An importer imports some goods @ 10,000 US $ on CIF basis. Following dollar rates are available on the date of presentation of bill of entry : (*a*) RBI Floor rate : ₹ 43.21 (*b*) Inter-bank closing rate : ₹ 43.23 (*c*) Rate notified by CBE&C under section 14 (3) (a) (i) of Customs Act : ₹ 44.66 (*d*) Rate at which bank has realised the payment from importer : ₹ 44.02. Find the assessable value for customs purposes.**

**Answer** : The relevant exchange rate is ₹ 44.66. Thus, CIF Value of goods is ₹ 4,46,000. Landing charges [rule 9 (2) of Customs Valuation Rules] @1% of CIF Value are to be added - i.e. ₹ 4,460. Thus, Customs Value or Assessable Value is ₹ 4,50,460.

**Question No.14 (b)**

**A consignment is imported by air. CIF price is 4,000 US Dolla₹ Freight is 2800 US $. Insurance cost was $ 140. Exchange rate is same as above. Find Value for customs purposes.**

**Answer** :

| | |
|---|---|
| CIF Price | $ 4,000 |
| (–) Freight | $ 1,280 |
| (–) Insurance | $ 140 |
| **FOB** Price | $ 2,580 |
| (+) Freight @ 20% on FOB | $ 516 |
| (+) Insurance | $ 140 |
| CIF Value for Customs | $ 3,236 |
| Equivalent INR VSD 3,236 × 44.66 = | **₹ 1,44,519.76** |
| (+) Landing charges @ 1% = | **₹ 1,445.20** |
| | **₹ 1,45,964.96** |

**Question No. 15(a)**

**FOB Cost of a consignment is 6,000 UK Pounds. Insurance and transport costs are not available. What is Customs Value? On the date of filing of bill of entry, Reserve Bank of India reference rate of US $ was 43.37 and inter-bank closing rates were : ₹ 43.38 per US $ and ₹ 69.38 per UK Pound. Exchange rate announced by Board (CBE&C) by customs notification was ₹ 69.78 per British Pound. T T buying rate was 69.70 and T T selling rate was ₹ 69.61 per UK pound.**

**Answer**:

| | |
|---|---|
| FOB Price | $ 6,000 |
| Add : Freight @ 20% | $ 1,200 |
| Add : Insurance @ 1.125% on FOB | $ 67.50 |
| CIF | $ 7,267.50 |
| Exchange Rate | ₹ 69.78 per $ |
| CIF Value (in ₹) ($ 7,267.50×69.78) | ₹ 5,07,126.15 |
| Add : Landing charges @ 1% on CIF Value = | ₹ 5,071.26 |
| **Assessable Value for Customs** | **₹ 5,12,197.41** |

**Question No.15 (b)**

**Customs value (Assessable Value) of imported goods is ₹ 4,00,000. Basic Customs duty payable is 10%. If the goods were produced in India, excise duty payable would have been 10%. Education cess is as applicable. Special CVD is payable at appropriate rates. Find the Customs duty payable. What are the duty refunds/benefits available if the importer is (a) manufacturer (b) service provider (c) Trader?**

**Answer**:

| | | Duty % | Amount (₹) | Total Duty (₹) |
|---|---|---|---|---|
| **(A)** | Assessable Value | | 4,00,000.00 | |
| **(B)** | Basic Customs Duty | 10 | 40,000.00 | 40,000.00 |
| **(C)** | Sub-Total for calculating CVD '(A+B)' | | 4,40,000.00 | |
| **(D)** | CVD 'C' × excise duty rate | 10 | 44,000.00 | 44,000.00 |
| **(E)** | Education cess of excise – 2% of 'D' | 2 | 880.00 | 880.00 |
| **(F)** | SAH Education cess of excise – 1% of 'D' | 1 | 440.00 | 440.00 |
| **(G)** | Sub-total for Edu-cess on customs 'B+D+E+F' | | 85,320.00 | |
| **(H)** | Edu Cess of Customs – 2% of 'G' | 2 | 1,706.40 | 1,706.40 |
| **(I)** | SAH Education Cess of Customs – 1% of 'G' | 1 | 853.20 | 853.20 |
| **(J)** | Sub-total for Spl CVD 'C+D+E+F+H+I' | | 4,87,879.60 | |
| **(K)** | Special CVD u/s 3(5) – 4% of 'J' | 4 | 19,515.18 | 19,515.18 |
| **(L)** | Total Duty | | | 1,07,394.78 |
| **(M)** | Total duty rounded off | | | 1,07,395.00 |

**Notes:** Buyer who is manufacturer, is eligible to avail Cenvat Credit of D, E, F and K above. A buyer, who is service provider, is eligible to avail Cenvat Credit of D, E and F above. A trader who sells imported goods in India after charging Vat/sales tax can get refund of Special CVD of 4% i.e. 'K' above.

**Question No.16 (a)**

**An importer has imported a machine from UK at FOB cost of 10,000 UK Pounds. Other details are as follows:**

(*a*) **Freight from UK to Indian port was 700 pounds.**

(*b*) **Insurance was paid to insurer in India: ₹ 6,000**

(*c*) **Design and development charges of 2,000 UK pounds were paid to a consultancy firm in UK**

(*d*) **The importer also spent an amount of ₹ 50,000 in India for development work connected with the machinery.**

(*e*) **₹ 10,000 were spent in transporting the machinery from Indian port to the factory of importer.**

(*f*) **Rate of exchange as announced by RBI was : ₹ 68.82 = one UK Pound**

(*g*) **Rate of exchange as announced by CBE&C (Board) by notification under section 14(3)(a)(i) : ₹ 68.70 = One UK pound**

(*h*) **Rate at which bank recovered the amount from importer: ₹ 68.35 = One UK Pound.**

(*i*) **Foreign exporters have an Agent in India. Commission is payable to the agent in Indian Rupees @ 5% of FOB price.**

**Customs duty payable was 10%. If similar goods were produced in India, excise duty payable as per tariff is 24%. There is an excise exemption notification which exempts the duty as is in excess of 10%. Education cess is as applicable Spl CVD is payable at applicable rates.**

**Find customs duty payable. What are the duty refunds/benefits available if the importer is (a) manufacturer (b) service provider (c) Trader?**

**Answer**:

| | |
|---|---|
| FOB Value | $ 10,000.00 |
| Add : Design & Development Charges | $ 2,000.00 |
| Add : Ocean freight | $ 700.00 |
| Total C & F | $ 12,700.00 |
| Equivalent C&F @ ₹ 68.70 per UK Pound = | ₹ 8,72,490.00 |
| Add : Insurance | ₹ 6,000.00 |
| Add : Local Agency commission 500 $ | |
| @ ₹ 68.70 per pound = | ₹ 34,350.00 |
| **Total CIF Price** | **₹ 9,12,840.00** |
| Add : Landing Charges @ 1% of CIF | ₹ 9,128.40 |
| **Assessable Value** | **₹ 9,21,968.40** |
| **Assessable Value (rounded to)** | **₹ 9,21.968.00** |

**Calculation of duty payable is as follows:**

| | | Duty % | Amount | Total Duty |
|---|---|---|---|---|
| (A) | Assessable Value | | 921,968.00 | |
| (B) | Basic Customs Duty | 10 | 92,196.80 | 92,196.80 |
| (C) | Sub-Total for calculating CVD '(A+B)' | | 1,014,164.80 | |
| (D) | CVD 'C' × excise duty rate | 10 | 101,416.48 | 101,416.48 |
| (E) | Education cess of excise – 2% of 'D' | 2 | 2,028.33 | 2,028.33 |
| (F) | SAH Education cess of excise – 1% of 'D' | 1 | 1,044.16 | 1,044.16 |
| (G) | Sub-total for edu cess on customs 'B+D+E+F' | | 196,655.77 | |
| (H) | Edu Cess of Customs – 2% of 'G' | 2 | 3,933.12 | 3,933.12 |
| (I) | SAH Education Cess of Customs – 1% of 'G' | 1 | 1,966.56 | 1,966.56 |
| (J) | Sub-total for Spl CVD 'C+D+E+F+H+I' | | 1,124,523.45 | |
| (K) | Special CVD u/s 3(5) – 4% of 'J' | 4 | 44,980.94 | 44,980.94 |
| (L) | Total Duty | | | 247,536.39 |
| (M) | Total duty rounded off | | | 247,536.00 |

**Notes – Buyer who is manufacturer, is eligible to avail Cenvat Credit of D, E, F and K above. A buyer, who is service provider, is eligible to avail Cenvat Credit of D, E and F above. A trader who sells imported goods in India after charging Vat/sales tax can get refund of Special CVD of 4% i.e. 'K' above.**

**Note**: (1) Design and development work done in India and transport costs within India are not to be considered for purposes of 'Customs Value'. (2) Excise duty rate has to be considered after considering excise exemption notification. (3) Assessable Value and Final duty payable should be rounded off to nearest Rupee.

Duty payable is same whether the importer is manufacturer or a trader.

**Question No.16 (b):**

Zing Yong of China exports Lithium Cell to India, the FOB price of which is one Dollar for 30 cells; however the details of Fright & Insurance were not made available. Investigation reveals that the goods are imported into India at an increased quantity. Similar cells are manufactured in India, the cost of sales per cell of which indicates the following break-up :

| | |
|---|---|
| Direct Material | ₹ 2.00 |
| Direct Labour | ₹ 0.25 |
| Direct Expenses | ₹ 0.25 |
| Indirect Expenses | ₹ 0.50 |
| Indirect Labour | ₹ 0.25 |
| Indirect Expenses | ₹ 0.25 |
| Administrative Overheads | ₹ 0.50 |
| Selling and distribution overheads | ₹ 0.50 |
| Profit Margin | ₹ 0.50 |

The exchange rate 1 $ = ₹ 50. Is there any case to impose Safeguard Duty? If yes, what is the duty leviable?

**Answer :**

| **Amount** | | **Total Duty** |
|---|---|---|
| FOB US $ for 30 cells | 1.00 | |
| Freight @ 20% of FOB | 0.20 | |
| Insurance @ 1.125% of FOB | 0.011 | |
| CIF USD | 1.21 | |
| Total CIF in ₹ @ ₹ 50 per 1 USD | 60.56 | |
| ADD - Landing Charges @ 1% | 0.61 | |
| (A) Assessable Value | 61.17 | |
| (B) Basic Customs Duty @ 10% | 6.12 | 6.12 |
| (C) Sub Total for calculating CVD (A+B) | 67.28 | |
| (D) CVD "C" × Excise Duty rate (10%) | 6.73 | 6.73 |
| (E) Education cess of excise - 2% of D | 0.13 | 0.13 |
| (F) SAH Education cess of excise - 1% of 'D' | 0.07 | 0.07 |
| (G) Sub-total for education cess on customs 'B+D+E+F' | 13.05 | |
| (H) Education cess of customs - 2% of 'G' | 0.26 | 0.26 |
| (I) SAH Education cess of customs - 1% of 'G' | 0.13 | 0.13 |
| (J) Sub - total for Spl CVD 'C+D+E+F+H+I' | 74.61 | |
| (K) Special CVD - 4% of 'J' | 2.98 | 2.98 |
| (L) Total Duty | | 16.42 |

Hence, landed cost of 30 cells is ₹ 77.59 (₹ 61.17 + ₹ 16.42 as duty)

Accordingly, the landed cost will be ₹ 2.59 per cell

In case of Indian manufacturer, his total cost will be as follows –

| | |
|---|---|
| Prime Cost (Direct Material + Direct Labour + Direct Expenses) | ₹ 2.50 |
| Cost of Production (Prime Cost + Indirect Material + Indirect Labour + Indirect Expenses) | ₹ 3.50 |
| Cost of Sales (Cost of production + Administration Overheads + Selling and Distribution Overheads). | ₹ 4.50 |
| Selling price (Cost of Sales plus profit). | ₹ 5.00 |

Thus, landed cost of imported article will be ₹ 2.59 and selling price of Indian manufacturer will be ₹ 5,00 per cell.

Accordingly, there is a case for imposition of product Specific Safeguard Duty on imports from China u/s 8C of Customs Tariff Act.

Maximum safeguard duty that can be imposed is ₹ 2.41 per cell.

**Question No 17(a)**

Discuss briefly with reference to decided case laws as to how the 'value' shall be determined under section 14 of the Customs Act, 1962 read with Customs Valuation Rules, 1988 in the following cases :

(i) Goods are offered at specially reduced price to buyer and the buyer is asked not to disclose the specially reduced price to any other party in India.

(ii) There has been a price rise between the date of contract and the date of importation. The contract was over 6 months before the date of shipment.

(iii) The sale involves special discounts limited to exclusive agents.

(iv) The goods are purchased on High seas.

**Answer :**

(i) Where sales are made to buyers at specially reduced prices, the prices so offered cannot be said to be the ordinary prices. In Padia Sales Corporation v Collector of Customs (1993) 66 ELT 35 (SC) the Supreme Court held that where the goods are offered to the buyers is asked not to disclose the specially reduced price to any other party, then the said price will not be acceptable.

(ii) Where there is a price rise at the time when the goods are imported in comparison to the price when the contract was made then, the price at the time of importation will be taken to be the value of the goods. In Rajkumar Knitting Mills Pvt. Ltd. v Collector of Customs (1998) 98 ELT 292 (SC), the Supreme Court held that the contract price may have bearing while determining the value of the goods, but he value is to be determined at the time of importation of the goods.

(iii) In Eicher Tractors Ltd. v Commissioner of Customs, Mumbai (2000) 122 ELT 321 (SC) the Supreme Court held that the price paid by the importer to the vendor in the ordinary course of commerce shall be taken to be the value of imported goods. Since the buyer and the seller are not related and the price is the sole consideration for sale, the discounted price was taken as the assessable value. However this decision has been nullified by the Customs Valuation Price of Imported Goods Rules, 2002 and consequently, where the sale involves special discounts limited to exclusive agents, such discounted price shall not be accepted as the assessable value.

(iv) Where high sea sales are made, the price charged by the importer from the assessee will be taken to be the value of the goods. Similar view was expressed by the Tribunal in Godavari Fertilizers v C.C.Ex. (1996) 81 ELT 535 (Tri.).

**Question No 17(b)**

'A' imports by air from USA a Gear cutting machine complete with accessories and spares. Its HS classification is 84.610 and Value US $ f.o.b. 20,000. Other relevant data/information : (1) At the request of importer, US $ 1,000 have been incurred for improving the design, etc. of machine, but is not reflected in the invoice, but will be paid by the party, (2) Freight – US $ 6,000. (3) Goods are insured but premium is not shown/available in invoice. (4) Commission to be paid to local agent in India ₹ 4,500. (5) Freight and insurance from airport to factory is ₹ 4,500. (6) Exchange rate is US $ 1 = ₹ 45. (7) Duties of Customs: Basic – 10% CVD – 10% SAD – 4%. – Compute (i) Assessable value (ii) Customs duty.

**Answer:** (i) Computation of Assessable Value –

| | |
|---|---|
| FOB Value of Machine | = $ 20,000 |
| Add : Expenditure for improving design | = $ 1,000 |
| Add – Freight limited to 20% of FOB [Rule 9(2)] | = $ 4,000 |
| Insurance @ 1.125% of FOB [Rule 9(2)c(iii)] | = $ 225 |
| Sub-Total | = $ 25,225 |
| Sub-Total In ₹ @ ₹ 45 per Rupee | = ₹ 11,35,125 |
| Add – Agents Commission [Rule 9(1)(i)] | = ₹ 4,500 |
| Total CIF Value | = ₹ 11,39,625 |
| Add – Landing charges 1% of CIF | = ₹ 11,396 |
| **Assessable Value** | **= ₹ 11,51,021** |

Duty payable will be as follows –

(ii) Gear cutting machine Complete with accessories and spares

| **Amount** | **Total Duty** | |
|---|---|---|
| (A) Assessable Value | 1,151,021.00 | |
| (B) Basic Customs Duty @ 10% | 115,102.10 | 115,102.10 |
| (C) Sub Total for calculating CVD (A+B) | 1,266,123.10 | |
| (D) CVD "C" × Excise Duty rate (10%) | 126,612.31 | 126,612.31 |
| (E) Education cess of excise - 2% of 0 | 2,532.25 | 2,532.25 |
| (F) SAH Education cess of excise - 1% of 'D' | 1,266.12 | 1,266.12 |
| (G) Sub-total for education cess on customs 'B+D+E+F' | 245,512.78 | |
| (H) Education cess of customs - 2% of 'G' | 4,910.26 | 4,910.26 |
| (I) SAH Education cess of customs - 1% of 'G' | 2,455.13 | 2,455.13 |
| (J) Sub - total for Spl CVD 'C+D+E+F+H+I' | 1,403,899.16 | |
| (K) Special CVD - 4% of 'J' | 56,155.97 | 56,155.97 |
| (L) Total Duty | | 309,034.13 |
| (M) Total duty rounded off | | 309,034.00 |

**Question No. 18(a)**

Mr. B, an Indian resident, aged 52 years, returned to India after visiting England on 31.10.2009. He had been to England on 10.10.2009. On his way back to India he brought following goods with him –

(a) His personal effect like clothes etc. valued at ₹ 40,000.

(b) 1 litre of Wine worth ₹ 1,000.

(c) A video cassette recorder worth ₹ 1,000

(d) A microwave oven worth ₹ 20,000.

What is the customs duty payable?

**Answer :**

As per Rule 3 of the baggage Rules, 1998 passengers above 10 years of age and returning after stay abroad of more than 3 days are eligible for the following general free allowance :

(i) Used personal effect of any amount;

(ii) Articles other than those mentioned in Annex-I, upto a value of ₹ 25,000 if these are carried on the person or in the accompanied baggage of the passenger;

Therefore, in the instant case, the total customs duty payable by the passenger will be as follows :

| Articles | Duty |
|---|---|
| 1. Used personal effects | No Duty |
| 2. Wine upto 1 Ltr. Can be accommodated in General Free Allowance | ₹ 1,000 |
| 3. Video cassette recorder is dutiable | ₹ 11,000 |
| 4. A microwave oven | ₹ 20,000 |
| Total Dutiable goods imported (that can be accommodated in General Free Allowance) | ₹ 32,000 |
| Total General Free allowance (As per rule 3 of the Baggage Rules) | ₹ 25,000 |
| Balance Goods on which duty is payable | ₹ 7,000 |
| Duty payable @ 36.05% [35% + 2% of 35% + 1 % of 35% = 36.05%] | ₹ 2,523.50 |

**Question No.18 (b)**

'A' has exported under-mentioned goods under drawback claim –

| S. No. of DBK Table | Description of goods & quantity exported | Value FOB ₹ | Rate of Drawback |
|---|---|---|---|
| 64.01 | Leather footware Boots 200 nos. @ ₹ 1,000 per pair | 2,00,000 | 11% of FOB subject to maximum of ₹ 85 per pair |
| 64.11 | Leather chappals 2000 no. @ ₹ 50 per pair | 1,00,000 | 3% of FOB subject to maximum of ₹ 5 per pair. |
| 71.01 | Brass Jewellery 200 kgs. @ ₹ 200 per kg | | ₹ 22.50 per kg of Brass content |
| 71.05 | Plastic bangles with embellishment 200 kgs @ ₹ 100 per kg | | ₹ 5.00 per kg of plastic content. |

On examination it is found that brass jewellery is 50% of weight and in plastic bangles the plastic content is 50% but the total weight comes to 190 kgs only. Compute drawback on each item and total drawback.

**Answer:**

| Description | FOB Value ₹ | Rate of Drawback | Drawback in ₹ |
|---|---|---|---|
| Leather footwear Boots – 200 pairs @ ₹ 1,000 per pair | 2,00,000 | 11% of FOB subject to max of ₹ 85 per pair | 17,000 |
| Leather chappals – 2,000 pairs @ ₹ 50 per pair | 1,00,000 | 3% of FOB subject to Max ₹ 5 per pair | 3,000 |
| Brass jewellery 200 Kgs @ ₹ 200 per Kg – Brass content 50% of weight Plastic bangles with embellishment 200 Kgs – Plastic content 50%. Actual weight 190 Kgs only | | 22.50 per Kg of Brass content | 2,250 |
| | | ₹ 5 per Kg of Plastic content | 475 |
| | | Total Duty Drawback | 22,725 |

**Question No. 19(a)**

Ms Priya rendered taxable services to a client. A bill of ₹ 40,000 was raised on 29-4-2011. ₹ 15,000 was received from a client on 1-7-2011 and the balance on 23/10/2011. No service tax was separately charged in the bill. The questions are: (a) Is Ms Priya liable to pay service tax, even though the same has not been charged by her? (b) In case she is liable, what is the value of taxable services and the service tax payable, if service tax rate is 1096 plus education cess as applicable?

**Answer :** She is liable even if tax was not charged separately. ₹ 40,000 will be treated as inclusive of service tax. Hence, 'Value' for service tax is ₹ 36,264.73 [(₹ 40,000 × 100)/110.30]. Service tax @ 10% is 3,626.47, Education cess is ₹ 72.53 and SAHE cess is 36.27.

The tax is payable on 5th July, 2011 if paid by cheque/cash and 6th July, 2011 if paid electronically.

(Till 31-3-2011, the service tax was payable on receipt basis. Hence, in that case due date would have been 5th/6th October for ₹ 15,000 and 5th/6th January (next year) for balance ₹ 25,000).

**Question No.19 (b)**

M/s. ABC & Associates, a firm of Cost Accountants, raised an invoice for ₹ 38,605 (35,000 + service tax of ₹ 3,605 @ 10.3%) on 12th April, 2011. The client paid lump sum of ₹ 36,000 on 2nd June, 2011 in full and final settlement: (i) How much service tax M/s. ABC & Associates have to pay and what is the due date for payment of service tax? (ii) What will be the liability if the client refuses to pay service tax and pays only ₹ 35,000?

**Answer:** In first case, ₹ 36,000 is treated as inclusive of service tax @ 10.30%. Hence, making back calculations, service tax will be ₹ 3,361.74 on value of ₹ 32,638.26. In second case, ₹ 35,000 is treated as inclusive of service tax @ 10.30%. Hence, making back calculations, service tax will be ₹ 3,268.36 on value of ₹ 31,731.64. [Note that in case of Practising CA/CWA/CS, service tax is payable on receipt basis and not on accrual basis, even after 1-4-2011].

**Question No.19(c)**

Mr. Deshpande, Cost Accountant rendered taxable service to Vishwa Cement Ltd. In this regard the company sent 200 cement bags free of cost, for the house construction of Mr. Deshpande. Explain how the value of the taxable service will be determined in this case. Will your answer be different if the service had been rendered free of charge?

**Answer :** In first case, value of 200 cement bags will be treated as consideration for services received. It will be treated as gross value of service and service tax will be calculated by making back calculations. In second case, no service tax is payable since 10.30% of Nil is Nil.

**Question No. 19(d)**

Mr. Gombu, a proprietor of Intellect Security Agency received ₹ 100,000 by an account payee cheque, as advance while signing a contract from proceeding taxable services; he received ₹ 5,00,000 by credit card while providing the service and another ₹ 5,00,000 by a pay order after completion of service on January 31, 2012. All three transactions took place during financial year 2011-12. He seeks your advice about his liability towards value of taxable service and the service tax payable by him.

**Answer :** He is liable on entire ₹ 11 lakhs, presuming that he is not eligible for exemption as small service provider. The ₹ 11 lakhs are to be taken as inclusive of service tax and service tax is payable by back calculations. Assuming service tax rate as 10.30%, the 'value' would be ₹ 9,97,280.15 and service tax @ 10.30% would be ₹ 1,02,729.85.

**Question No. 20(a)**

**Mr. X took an accommodation for 6 days in a Hotel at Delhi. Basic Room Rent ₹6,000 per day . Food Bills amounting to ₹ 8,000. Delhi VAT is @ 12.5%. Calculate Total Bill amount to be paid inclusive of Service Charge @ 10% and applicable Service taxes. [Abatement rate is 30%. Service tax on un-abated amount @ 10.3% and on abatement amount @ 3.71%, Delhi VAT @ 12.5%]**

**Answer: The bill amount shall be computed in the following manner:**

| Sl. No | Particulars | Amount (₹) |
|---|---|---|
| 1 | Room Rent @ ₹6,000 per day for 6 days | 36,000 |
| 2 | Add: Food Bill | 8,000 |
| 3 | Total of room rent including food bill | 44,000 |
| 4 | Add: Service Charges @ 10% on ₹44,000 | 4,400 |
| 5 | Total including Service Charges | 48,400 |
| 6 | Add: Service Tax @ 10.3% on 70 % of ₹44,000 [ considering abatement 30%] | 3,172 |
| 7 | Add: Service Tax @ 3.71% on 30% of ₹44,000 [ service tax on the amount claimed as an abatement] | 490 |
| 8 | Add: VAT @ 12.5% on 30% of ₹44,000 | 1,650 |
| | **Total Bill Amount [5+6+7+8]** | **53,712** |

**Question No. 20(b)**

**Determine the central sales tax liability from the following data when a sale is effected from Faridabad to Lucknow :**

**(a) Invoice no. : 00708374 ; (b) Basic price : ₹ 3,00,000 ; (c) Excise duty : 10% ad valorem**

**(d) CST : as applicable under 'C' forms ; (e) Trade discount : 8% ;(f) Cash discount : 2%**

**(g) Quantity supplied : 10,000 kgs ; (h) Quantity rejected by buyer within 3 days of delivery : 1000 kgs ; (i) Quantity returned by buyer after 6 months of despatch : 1000 kgs.**

**Solution :**

**Computation of Central Sales Tax Payable**

| Particulars | Amount ₹ |
|---|---|
| Basic Price @ ₹ 30/kg | 3,00,000 |
| Less : Goods rejected/returned by buyer within 6 months | 30,000 |
| Balance | 2,70,000 |
| Less : Trade Discount @ 8% | 21,600 |
| Balance | 2,48,400 |
| Less : Cash Discount @ 2% | 5,400 |
| Net Sales | 2,43,000 |
| Add : Excise Duty @ 10% | 24,300 |
| Total | **2,67,300** |
| CST @ 2% (under 'C' Form) | **5,346** |

**Question No. 21(a)**

**Vishal is a dealer. His sales during the first quarter of 2011-12 (April to June) are :**

| Date | Invoice No. | Amount (₹) |
|---|---|---|
| **05.04.2009** | **101** | **10,000 plus tax @ 2%** |
| **12.04.2009** | **102** | **80,000 plus tax @ 2%** |
| **05.04.2009** | **102** | **62,400 (inclusive of tax)** |
| **05.04.2009** | **104** | **14,000 plus tax @ 2%** |
| **05.04.2009** | **105** | **18,000 plus tax @ 2%** |

**(i) Goods worth ₹ 7,000 (excel of tax) against Invoice No. 104 were returned on 29.06.11.**

**(ii) Goods worth ₹ 13,000 (incl of tax) sold on 26.12.10 were returned on 30.06.11.**

**(iii) Goods worth ₹ 6,500 (incl of tax) sold on 27.12.10 were returned on 30.06.11.**

**All the above sales were made in the course of inter-State trade. Calculate the turnover and sales tax payable if the rate of tax is 2%.**

**Solution :** **Computation of Turnover (Inclusive of Sales Tax)**

| Invoice No. | Computation | Amount ₹ |
|---|---|---|
| 101 | (10000 + 2%) | 10,200 |
| 102 | (80000 + 2%) | 81,600 |
| 103 | — | 62,400 |
| 104 | (14000 + 2%) | 14,280 |
| 105 | (18000 + 2%) | 18,360 |
| | | 1,86,840 |
| **Less : Sales return within 6 months** | | **7,280** |
| Aggregate sale value | | **1,79,560** |

**Turnover = = 1,76,039**

**Sales tax payable = [ 1,79,560 x 2/102] = ₹3,521**

**Note :** Goods returned beyond 6 months are not deductible. Hence ₹ 13,000 and ₹ 6,500 are not deductible.

**Question No. 21(b)**

**Adwell Co. of Indore (Madhya Pradesh) has supplied the following statement of sales :**

**(i) Sales of cloth ₹ 12,00,000 of which ₹ 7,50,000 sold in Madhya Pradesh and rst in Rajasthan.**

**(ii) Sales to a registered dealer of Gujarat for sale on Form C of such goods which are given in his registration certificate: ₹ 4,68,000.**

**(iii) Sale of declared goods to unregistered dealer of Maharashtra : ₹ 9,45,000 (The rate of sales-tax on such goods is 2% in the State and the customer returned goods worth ₹ 46,500 within 6 months.)**

**(iv) Sale to a registered dealer of Gujarat of such undeclared goods which have not been given in his registration certificate:₹ 3,63,000. (Sales tax on such goods in the State is 7%.)**

**(v) Sale of goods to Bangladesh: ₹ 6,00,000. (Rate of sales tax in the State is 4%.)**

**(vi) Subsequent sale during inter-State trade: ₹ 1,20,000. (Rate of tax in the State is 10%).**

**Compute the taxable turnover under the CST Act, 1956. Sales include the sales tax.**

**Solution:** **Computation of Taxable Turnover**

| | Particulars | Amount (₹) | Taxable Amount (₹) |
|---|---|---|---|
| (I) | Sales of cloth (Exempt from Tax) | — | — |
| (II) | Sales to a registered dealer of Gujarat for sale on form C | 4,68,000 | |
| | Less : Sales Tax @ 2% i.e. 4,68,000 × 2/102 | 9,147 | 4,58,853 |
| (III) | Sale of declared goods to unregistered dealer of Maharastra | 9,45,000 | |
| | Less : Sales return within 6 months | 46,500 | |
| | Less : Sales Tax double the state rate @ 2% i.e. 8,98,500 | | |
| | (9,45,000 – 46,500) × 2/102 | 17,618 | 8,80,882 |
| (IV) | Sale to a registered dealer of Gujarat of undeclared goods | | |
| | which are ot given in the registration certificate | 3,63,000 | |
| | Less : Sales Tax at state rate or 6% whichever | | |
| | is higher i.e. [3,63,000 × 6/106] | 10,572 | 3,52,428 |
| (V) | Sale of goods to Bangladesh. Exempt since it is export | | |
| | from India | 6,00,000 | — |
| (VI) | Subsequent sale during Inter-state trade (assumed to a | | |
| | registered dealer) is exempt under Sec 6(2) | — | — |
| | **Taxable Turnover** | | **16,92,163** |

**Question No. 22(a)**

**Calculate the CST payable from the following data —**

**(a) Invoice No. 1011 dated 01.04.2011 for ₹ 1,78,967 inclusive of CST @ 2%.**

**(b) Invoice No. 1012 dated on 02.04.2011 for ₹ 1,87,697 exclusive of CST @ 2%.**

**(c) Invoice No. 1013 dated 03.04.2011 for ₹ 1,75,000 inclusive of local Sales Tax @ 10%.**

**(d) Invoice No. 1014 dated 04.04.2011 for ₹ 2,50,000 exclusive of local Sales Tax @ 8%.**

(e) **50% of the goods sold on 01.04.2011 on inter-state trade was rejected and returned on 31.07.2011.**

(f) **20% of the goods sold on 04.04.2011 on local sale was returned on 30.06.2011.**

(g) **30% of the goods sold on 02.04.2011 on inter-state trade returned on 02.06.2011.**

(h) **10% of goods sold on 03.04.2011 on local sale was rejected on 03.10.2011.**

(i) **Goods of ₹ 1,50,000 was stock transferred from Bangalore to Indore on 05.04.2011 excludes CST elements of 2%.**

(j) **Export of goods worth 10 million Yens to Japan on 06.04.2011 of which 50% were rejected and returned on 01.11.2009 (1 Yen = Re. 0.35).**

(k) **Export through Canalising Agency for value of 100 thousand Dollars (Export order with Canalising Agency) (1 dollar = ₹ 48).**

(l) **Purchased goods for ₹ 3,00,000 from the market on 09.01.2011 and exported to Singapore on 14.01.10 to the Agent for further sale (The goods attracted local sales tax of 10%).**

**Give reasons for inclusion/non-inclusion of the above.**

**Solution:** **Calculation of Central Sales Tax**

| **Invoice No. and date** | **Aggregate Sale Price (100+2%) Col. No. 1** | **Turnover (₹) Col. No. 1×100/102 Col. No. 2** | **CST (₹) Col. No. 1-2 Col. No. 3** |
|---|---|---|---|
| 1011 Dt. 01.04.2011 | 1,78,967 | 1,75,458 | 3,509 |
| 1012 Dt. 02.04.2011 | 1,95,205 | 1,91,377 | 3,828 |
| **Total** | 3,74,172 | 3,66,835 | 7,337 |
| **Less -** | | | |
| (a) Rejected & returned goods sold on 01.04.2011 | 89,484 | 87,729 | 1,755 |
| (b) Returned goods sold on 02.04.2011 | 58,561 | 57,413 | 1,148 |
| **Net Amount** | **2,26,127** | **2,21,693** | **4,434** |

**Hence, total CST payable is ₹ 4,434.**

**Working Notes:**

(1) Since CST payable is required to be calculated, local sale as given at Sr. No's 3, 4, 6 and 8 are not considered.

(2) Any rejections are excludable without restriction that these must be returned within sixe months.

(3) Direct exports and export through canalising agency are exempted from CST. Hence, sales given in Sr. No's. 10, 11 and 12 are ignored.

(4) No tax is payable on stock transfer and hence transfer as shown at Sr. No. 9 is not taxable.

Thus, we consider only Sr. No's 1, 2, 5 and 7 for calculation of CST.

**Question No.22 (b)**

**Aloke, a registered dealer in the State of Orissa, furnishes the following details relating to its sales for the month of December, 2011.**

| | | ₹ |
|---|---|---|
| **1.** | **Sale of exempted goods (Schedule A goods)** | **75,000** |
| **2.** | **Sale of goods of zero rate (Schedule AA goods)** | **50,000** |
| **3.** | **Sale of goods taxable at 4% (Schedule C goods)** | **4,00,000** |
| **4.** | **Sale of goods taxable at 12.5% (Schedule CA goods)** | **1,20,000** |

**On buyer of Schedule C goods (taxable at 4%) returned goods worth ₹ 20,000 on 20th January, 2012.**
**Tax on maximum retail price has been paid at the time of purchase of Schedule CA goods, taxable at 12.5%.**
**Determine turnover of sales and taxable turnover of the dealer.**

**Solution:**

Computation of Turnover of Sales and Taxable Turnover of Mr. Alok for the Month of December, 2011.

| | | | ₹ | ₹ |
|---|---|---|---|---|
| Aggregate Sale Price ₹ (75,000 + 50,000 + 4,00,000 + 1,20,000 | | | | 6,45,000 |
| Less: | (i) | Sales return of *Schedule C* goods within 6 months from the date of sale | 20,000 | |
| | (ii) | Sale price of goods, tax on which has been paid on the Maximum Retail Price (MRP) at the time of purchase | 1,20,000 | 1,40,000 |
| **Turnover of Sales [Section 2(55)]** | | | | **5,05,000** |
| Less : | (i) | Sale of Exempted Goods (Schedule A goods) | 75,000 | |
| | (ii) | Sale of Zero-rated Goods (Schedule AA goods) | 50,000 | 1,25,000 |
| | | **Taxable Turnover** (on which tax is payable) | | **3,80,000** |

**Question No. 23(a) : Two factories located in the same premises are to be considered as one factory for the purpose of arriving at the aggregate value of clearances in terms of the SSI notification. Explain.**

**Answer:** Situs of a factory alone should not be considered as the sole criterion for clubbing its clearances with the other factory's clearances. The clubbing of clearances is dependent upon the facts and circumstances of each case. Two factories located in the same premises with common boundaries cannot be treated as one factory for the purpose of SSI exemption if they had separate staff, management passage, separate entrance with separate central excise registration and produced different end products.

Mere common boundary did not make them as one factory even though at the apex level both the factories are maintained by one company. [ Rollantainers Ltd. 170 ELT 257(SC)]

**Question No.23 (b) : Can SSI avail CENVAT Credit? Explain the transitional provision, when the SSI unt starts availing the exemption.**

**Answer:** The assessee shall not avail input credit of excise duty paid on input services are used in relation to manufacture of clearances , till the aggregate clearances do not exceed ₹150 lakhs [notification no.8/2003]. CENVAT credit availed on inputs shall be reversed, if such input services are used in relation to manufacture of clearances, which are exempt based on the said notification. [Rule 6 of CENVAT Credit Rules,2004]

CENVAT credit can be availed on capital goods but has to be utilized only after the aggregate value of the clearances cross the limit of ₹150 lakhs[ Rule 6(4) of the CENVAT Credit Rules,2004].

Transitional provisions- for availing exemption: an eligible person who has been paying excise duty but wishes to avail SSI exemption, should pay an amount equivalent to cenvat credit taken on inputs lying in stock or in process or contained in final product lying in stock on the date of exercising the SSI option.

Example:

In March, 2011, a company purchased goods worth ₹1,50,000 plus ₹30,000 as Excise Duty. It contained the whole duty paid as credit for that month. Half of the stock is still not consumed as on 31st March,2011. On 1st April,2011, the unit opts for SSI exemption. In this case, it has to pay Excise duty of ₹15,000 before claiming exemption.

**Question No.23(c):**

**An SSI unit has effected clearances of goods of the value of ₹575 lakhs during the financial year 2011-12. The said clearances includes the following:**

**(i) Clearance of excisable goods without payment of duty to a 100% EOU ₹ 110 lakhs**

**(ii) Job work in terms of Notification No.214/86 CE which is exempt from duty ₹ 75 lakhs**

**(iii) Export to Nepal and Bhutan ₹50 lakhs**

**(iv) Goods manufactured in rural area with the brand name of others ₹90 lakhs**

**Examine whether SSI benefit of exemption would be available to the unit for the financial year 2011-12.**

**Answer:**

**Computation of Value of Clearances**

| Particulars | ₹lakhs | ₹lakhs |
|---|---|---|
| Value of clearance certified | | 575.00 |
| Less: | | |
| (i) Clearance to 100% EOU – excluded from the limit | | 110.00 |
| (ii) Clearance under notification 214/86- excluded from the limit | | 75.00 |
| Value of clearance as per notification | | 390.00 |

Clearance of excisable goods without payment of duty to a 100% EOU and job work amounting to manufacture done under specific notification 214/86 are not to be excluded in computation of turnover limit of ₹400 lakhs.

The total value of clearances for the financial year 2011-12 has not exceeded ₹400 lakhs. Therefore, the unit is SSI for the financial year 2011-12, i.e. it is eligible to avail the benefit of exemption.

**Question No. 24(a):** **Basic Ltd. is a SSI which is producing 'Active' , a tonic for growing children. Under the Annual Report for the financial year 2011-12, the unit shows a gross sales turnover of ₹1,89,20,000. The product 'Active' attracts excise duty @ 10% and sales tax @ 5%. Calculate the duty liability under notification no.8/2003.**

**Answer: Computation of duty liability under Notification No.8/2003**

| Particulars | Amount (₹) |
|---|---|
| Gross Sales Turnover (including ED & Sales Tax) | 1,89,20,000 |
| Sales Tax on first ₹150 lakhs clearance = ₹150 lakhs x 10%<br>[ for first 150 lakh clearances, excise duty is NIL and sales tax is 5%] | 7,50,000 |
| Balance sales (including excise duty and sales tax) = [ 1,89,20,000 (1,50,00,000 + 7,50,000)] | 31,70,000 |

| | |
|---|---|
| Less: Sales Tax on the balance sales = 31,70,000 x 5/105 (since sales tax already included) | 1,50,592 |
| Cum-duty sales value | 30,19,048 |
| Excise duty (including 3% Cess) = 30,19,048 x 10/110.3 | 2,73,712 |
| Add: Education Cess @ 2% [ 2% of ₹2,73,712] | 5,474 |
| Add: SHEC @1% [ 1% of ₹2,73,712] | 2,737 |
| Total Excise Duty payable | 2,81,923 |

**Question No. 24(b) : State the various types of bonds required for different circumstances in Excise Law.**

**Answer: The following are the bonds required for different circumstances under Excise law:**

(i) B1 Surety/Security (General Bond) – for export of goods without payment of duty under Rule 19

(ii) B2 Bond Surety/Security (General Bond) – for provisional assessment

(iii) B3 Bond Surety/Security – to obtain central excise stamp on credit ( however, at present, this bond is of academic importance only)

(iv) B11- Bond Surety/Security- for provisional release of seized goods

(v) B17 Bond (General) Surety/Security – composite bond for EPZ/100% EOU's for assessment, export, accounting and disposal of excisable goods obtained free of duty.

**Question No.24(c): What are the returns to be filed by the Assessee under the Excise Law?**

**Answer: Central Excise Rules (CER),2002; CENVAT Credit Rules,2004 (CCR)**

| **Rule** | **Assessee Liable to comply** | **Frequency** | **Form No.** | **Due Date** |
|---|---|---|---|---|
| | | **Return for Removal of Goods** | | |
| 17(3) CER | 100% EOU for removals made in DTA | Monthly Return | ER-2 | 10th of the following month |
| 12(1) CER | SSIs | Quarterly | ER-3 | 10th of the month following the immediately preceeding quarter ended [ e.g. April-June quarter, to be submitted within 10th July] |
| 12(1) CER | Assesses manufacturing processed yarn/unprocessed fabrics | Quarterly return | ER-3 | 20th of the month following the quarter |
| 12(1) CER | Other Assessee's (not covered above) | Monthly return | ER-1 | 10th of the following month |
| 9A(3)CCR | All Assessees (information on principal inputs) | Monthly return | ER-6 | 10th of the following month |
| 12(1) CER | Assessees, availing exemption under notification no.1/2011 dated 1st | Quarterly return | ER-1 | 10th of the following month |

| | | | | |
|---|---|---|---|---|
| | March,2011 (notification no.8/2011 dated 24th March,2011) | | | from the end of the previous quarter |
| | | **Declaration** | | |
| Notification No.36/2001 dated 26.06.2001 | Manufacturer of Nil rated or exempted goods | Declaration by persons exempt from registration | No specified form | Before the commencement of manufacture of such goods |
| | Persons availing SSI exemption- if value of clearances in preceding financial year is ₹90 lakhs or more | | | Not applicable |
| | | **Annual Statement** | | |
| 12(2) CER | Assessee's who have paid ED of ₹1 crore or more (through PLA and/or CENVAT credit) | Annual Financial Information Statement | ER-4 | 30th November of the succeeding financial year |
| 94(1) CCR | | Annual information on principal inputs | ER-5 | 30th April of each financial year |
| 12(2A) CER | All Assessees | Annual Installed Capacity of Factory | ER-7 | 30th April of the succeeding financial year |

**Question No. 24(d): What does the return forms under central excise law signify?**

**Answer:**

| **Form No.** | **Particulars** | **Returns under** |
|---|---|---|
| ER 1/ER 3 | Monthly returns | Central Excise Rules,2002 |
| ER 2 | Details regarding inputs and capital goods received without payment of duty by 100% EOU | Central Excise Rules,2002 |
| ER 4 | Annual Financial Information Statement | Central Excise Rules,2002 |
| ER 5 | Annual Information on Principal Inputs | CENVAT Credit Rules,2004 |
| ER 6 | Monthly Information on Principal Inputs | CENVAT Credit Rules,2004 |
| ER 7 | Annual Installed Capacity Statement | Central Excise Rules,2002 |

**<u>Question No. 25(a) :</u> When can Provisional Assessment be made under Excise Law?**

**Answer:** When the Assessee is unable to determine the (a) value of excisable goods or (b) rate of duty applicable, provisional assessment may be resorted.

**<u>Question No. 25(b) </u>: State the effect of Final Assessment if there is already a provisional assessment made.**

**Answer:** The following is the effect of final assessment provided there is a provisional assessment made:

| Case | Final Duty > Provisional Duty | Final Duty < Provisional Duty |
|---|---|---|
| Effect | Further demand to be raised on Assessee | Refund due credited to Consumer Welfare Fund |

| | | |
|---|---|---|
| Interest | @ 18% p.a. | @ 6% p.a. |
| Period | 1st day of subsequent month to the date of payment | 1st day of subsequent month to the date of refund |

**Question No.25(c): Given an overview of Special Audit u/s 14A and 14AA of Central Excise Act.**

**Answer:** Situations which prompts for Special Audits may be represented as:

**Audit u/s 14A**

If Sales is sacrosanct, then Purchases has to be challenged

| | |
|---|---|
| PURCHASES | SALES |

**Or**

If Purchases is sacrosanct, then Sales has to be challenged

**Audit u/s 14AA**

| | |
|---|---|
| PURCHASES | SALES |

**In the following diagram, Cost refers to Cost of Purchases**

## Normal Accounting

### Actual

| Cost | 75 | Sales | 100 |
|---|---|---|---|
| Profit | 25 | | |
| | 100 | | 100 |

### Audit u/s 14A: Sales understated/cost fixed

| Cost | 75 | Sales | 90 |
|---|---|---|---|
| Profit | 15 | | |
| | 90 | | 90 |

### Audit u/s 14AA: Cost overstated/sales fixed

| Cost | 85 | Sales | 100 |
|---|---|---|---|
| Profit | 15 | | |
| | 100 | | 100 |

U/s 14A- Value has not been correctly declared or determined by a Manufacturer (Valuation)

U/s 14AA: - Credit of duty availed of or utilized by a manufacturer of any excisable goods is not within the normal limits (CENVAT Credit).

**Case I: No Opening stock or closing stock**

Stock Account (Shown)

| Particulars | Quantity | Particulars | Quantity |
|---|---|---|---|
| | | Sales | 400 units |
| Purchases | 1,000 Units | Wastage (60% appx) | 600 units |
| | | | |

***ASSUMING PURCHASE of 1,000 units is SACROSANCT***

Stock Account (Actual)

| Particulars | Quantity | Particulars | Quantity |
|---|---|---|---|
| | | Sales | 950 units |
| Purchases | **1,000 Units** | Wastage (5% appx of 1,000 units) from ER-5 and ER-6 Return | 50 units |
| | 1,000 Units | | |

It is apparent that Sales quantity is deflated in the Stock Statement Return to the extent of (950 units – 400 units) = 550 units. [Subject of Sec.14A, based on Input-Output relation establishment]

***ASSUMING SALES OF 400 units is SACROSANCT***

Stock Account (Actual)

| Particulars | Quantity | Particulars | Quantity |
|---|---|---|---|
| | | Sales | 400 units |
| Purchases ( 400 units x 1.05) | 420 Units | Wastage (5% appx of 1,000 units) from ER-5 and ER-6 Return | 50 units |
| | | | |

Therefore, (1,000 units – 420 units) = 580 units.

Therefore, excess credit availed by the assessee on 580 units. [subject matter of Sec.14AA]

**Case II: With Opening and Closing Stocks**

Stock Account (shown)

| Particulars | Quantity | Particulars | Quantity |
|---|---|---|---|
| Opening Stock | 150 Units | Sales | 400 units |
| Purchases | 1,000 Units | Wastage (48% appx) | 550 units |
| | | Closing Stock | 200 Units |

**Assuming Purchase is sacrosanct**

Stock Account (Actual)

| Particulars | Quantity | Particulars | Quantity |
|---|---|---|---|
| Opening Stock | 150 Units | Sales | 892 units |
| Purchases | 1,000 Units | Wastage (5% appx of 1,150 units) from ER-5 and ER-6 Return | 58 units |
| | | Closing Stock | 200 Units |

It is apparent that Sales quantity is deflated in the Stock Statement Return to the extent of (892 units – 400 units) = 492 units.

**Assuming Sales of 400 units is sacrosanct**

Stock Account (Actual)

| Particulars | Quantity | Particulars | Quantity |
|---|---|---|---|
| Opening Stock | 150 Units | Sales | 400 units |
| Purchases | 482 Units | Wastage | 32 units |
| | | Closing Stock | 200 Units |
| | 632 units | | 632 units |

It is apparent that purchase quantity is inflated in the Stock Statement Return to the extent of (1,000 units – 482 units) = 518 units.

**Question No. 26(a): Who is a Large Tax Payer? What is an LTU?**

**Answer: Large Tax payer means a person who:-**

(i) Has one or more registered premises under Central Excise Law/Service Tax Law;

(ii) Is an assessee under Income Tax law, holding Permanent Account Number u/s 139A of the Income Tax Act,1961

**Large Tax Payer Unit (LTU):**

(i) LTU is a self-contained tax office that provides single point interface with the tax administration to the large taxpayers who pay direct and indirect taxes above the threshold limit

(ii) It is headed by a Chief Commissioner (CCIT or CCCE) and supported by other Commissioners and office₹

(iii) Officers posted in LTU will have all India jurisdiction in respect of all registered premises of a Large Tax Payer registered in that particular LTU.

(iv) The existing Central Excise and Service Tax Commissionerate will have concurrent jurisdiction over the premises of the Large Tax Payers

Eligibility: An assessee should satisfy one of the following conditions to be eligible for higher benefits of Large Tax payer:

(i) As a manufacturer, has paid duties of Central Excise of ₹ 5 crores or more;

(ii) As a provider of Taxable Service, has paid service tax of ₹5 crores or more;

(iii) As an Income Tax Assessee, has paid Advance Tax of ₹10 crores or more, during any financial year.

**Question No. 26(b): State the provisions of reduced duty liability in respect of (i) pilfered goods; (ii) damaged or deteriorated goods; (iii) lost, destroyed or abandoned goods**

**Answer: A comparative analysis may be made on the following lines:**

| **Basis of comparison** | **Pilfered goods(Sec.13)** | **Damaged or deteriorated goods (Sec.220** | **Lost, destroyed or abandoned goods (Sec.23)** |
|---|---|---|---|
| Physical availability | Goods lost by theft, not physically available | Physically available but in damaged form | ❖ Lost/destroyed goods are not physically available<br>❖ Abandoned goods are physically available |
| Quantity lost | Small quantities | Any quantity | Amu quantity |
| Duty liability | Duty is not leviable | Duty is leviable, but amount reduced proportionately, i.e. abatement | ❖ Duty is leviable. But AC/DC may grant remission for lost/destroyed goods<br>❖ Owner not liable to pay duty for |

| | | | |
|---|---|---|---|
| | | | abandoned goods |
| Nature of benefit | Statutory benefit, cannot be denied by proper officer | Statutory benefit but damage is estimated by proper officer | Benefit is given by statute, but discretion is available to AC/DC |
| Burden of proof | Importer need not prove pilferage separately. It can be determined by examination | Importer should prove that accident is not due to his willful act/negligence/default | Loss/destruction due to natural causes, should be proved by importer |
| Restoration | If pilfered goods are restored to owner, duty is payable | There is no possibility of any restoration, since goods are not missing as such | Restoration is not possible, since gods are physically lost or damaged |
| Abandonment | There is no question of abandonment, since goods are not available at all | Where goods are sold by public auction, they are deemed abandoned | Sec.23 covers situations of abandonment/surrender also |
| Time point | After unloading, and before order for clearance ( either for home consumption or warehousing) | Covers different situations:<br>(i) All imported goods, and<br>(ii) Warehoused goods | Lost/destroyed any time before clearance for home consumption ( either directly or from warehouse) |
| Warehoused goods | Not applicable to warehoused goods | Applicable to warehoused goods | Applicable to warehoused goods |

**<u>Question no. 27(a):</u> Define Transaction Value u/s 14(1) of the Customs Law.**

**Answer:** Transaction value u/s 14(1) refers to :

- Price actually paid or payable for the goods;
- When sold for export to / from India;
- For delivery at the time & place of importation/exportation;
- Where the buyer and seller of the goods are not related;
- Price is the only consideration for the sale;
- Subject to the other conditions as specified in the rules.

However, the Customs Valuation (Determination of Value of Imported Goods) Rules,2007 is relevant in this regard.

**Question No.27 (b): what is the date for determination of rate of duty and tariff valuation?**

**Answer: For Imported goods [U/s 15]**

| Situation/type of goods | Relevant date for rate of duty & tariff valuation |
|---|---|
| 1. Goods entered for home consumption u/s 46 | Date on which Bill of entry is presented u/s 46 |
| 2. Goods cleared from a warehouse u/s 68 | Date on which a Bill of Entry for Home consumption is presented u/s 68 |
| 3. In case of any other goods | Date of payment of duty |

Note: If the Bill of Entry is presented before the date of entry inwards of the Vessel or arrival of the Aircraft by which the goods are imported, the Bill of entry shall be deemed to be presented on the date of such entry inwards or arrival, as the case may be.

In such case, relevant date = date of bill of entry or date of arrival of vessel/aircraft, whichever is later

Date of entry inwards for the purposes of Sec. 15(1)(a) and proviso therein, is the date recorded in the Customs Register, and not the date of actual entry of the vessel.

**For Exported goods [U/s 16]**

| Situation/type of goods | Relevant date for rate of duty & tariff valuation |
|---|---|
| 1. Goods entered for export u/s 50 | Date on which proper officer makes an order permitting clearance and loading of the goods for exportation u/s 51 |
| 2. In case of any other goods | Date of payment of duty |

Note: Sec.15 and Sec.16 is not applicable to (i) Baggage and (ii) Goods imported/ exported by post.

**Question No.27 (c): Define Person-in-Charge u/s 2(31) of the Customs Act.**

**Answer:** Person-in-charge in relation to:

| Conveyance | Person-in-charge |
|---|---|
| Vessel | Master of the vessel |
| Aircraft | Commander or pilot in charge of the aircraft |
| Railway train | Conductor, guard or other person having the chief direction of the train |
| Any other conveyance | Driver or the other person in charge of the conveyance |

**<u>Question No. 28(a):</u> State the different forms of Bill of Entry used under Customs law.**

**Answer:** The different forms of Bill of Entry used under Customs law are:

| Form | Purpose | Colour | Reference |
|---|---|---|---|
| I | For Home Consumption | White | B/E (General) |
| II | For Warehousing | Yellow | Into Bond B/E |
| III | For Home Consumption from Warehouse | Green | Ex-Bond B/E |

**Question No.28 (b): State the difference between Transit and Transshipment goods under Customs Law.**

**Answer:** The basis of difference between Transit and Transshipment of goods are:

| Purpose | Transit Goods ( Sec.53) | Transshipment Goods (Sec.54) |
|---|---|---|
| Purpose | Goods intended for transit in the same conveyance (i) to any place outside India (ii) to any other customs station | Goods unloaded at a Customs station for transshipment, i.e. for loading into another vessel for carrying it to any place outside India or to any other Customs Station |
| Unloading/loading | Goods remain in same vessel. They are not unloaded in customs area | Goods are first unloaded into the Customs area, and reloaded into another vessel/conveyance |
| Document | Such goods are mentioned in import manifest/report, as for transit in same conveyance | Such goods are mentioned in Import Manifest/Report, as for transshipment |
| Bill of Transshipment | Not applicable | Such goods are also mentioned in a separate Bill of Transshipment |
| Permission | Transit of goods may be permitted without payment of duty, if the destination is –<br>(a) Any place outside India, or<br>(b) Any other customs station | It may be permitted without duty, if destination is-<br>(a) Any place outside India,<br>(b) Any major port, airport at Mumbai, Kolkata, Delhi or Chennai, other notified port/airport, other customs station, if goods are bonafide intended for transshipment |
| Duty liability | On arrival at the destination customs station, such goods shall be liable to duty and shall be entered in same manner as goods entered on first importation. Hence, the destination port/station is deemed as the actual port/station of importation | |

**<u>Question No.29 (a):</u> After visiting USA, Mr. and M₹ B brought to India a laptop computer valued at ₹85,000, personal effects valued ₹1,00,000 and a personal computer for ₹55,000. What is the customs duty payable?**

**Answer:** Personal effects and one laptop are exempted from levy of duty. The General Free Allowance (GFA) for the passenger's of age of 10 years or more and returning after a stay abroad for more than 3 days is ₹25,000 [ As per Rule 3 of Baggage Rules, 1998]. Rate of duty applicable for Baggage = 100% + EC @2% + SHEC @1% = 103%

**Duty Payable = ₹ (55,000 – 25,000) = ₹30,000 x 103% = ₹30,900.**

**<u>Question No. 29(b):</u> What is Unaccompanied Baggage?**

**Answer**: Unaccompanied baggage refers to baggage that is not accompanied with the passenger. Baggage rules, 1998 apply to Unaccompanied Baggage, except where it is specifically excluded.

**Question No.29(c): Define Foreign-going Vessel or Aircraft.**

**Answer:** Foreign-going Vessel or Aircraft u/s 2(21) of the Customs Act means, "any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India, and any port or airport outside India, whether touching any intermediate port or airport in India or not"

It includes:

- Any naval vessel of a foreign government taking part in any naval exercises;
- Any vessel engaged in fishing or any other operations outside the territorial waters of India;
- Any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

**Question No.30 (a): What is Input Tax for VAT?**

**Answer:** Input tax means the:

- Tax paid or payable under this Act;
- By a registered dealer to another dealer on the purchase of goods;
- Including capital goods in the course of the business

**Question No. 30(b) : Define Zero Rated Sale.**

**Answer:** Zero rated sales is a sale on which no tax is levied but the tax paid on purchase of inputs used for such sales is refunded to the dealer. The zero rated sales are:

- Export sale u/s 5(1);
- Sale in the course of export u/s 5(3)
- Sale to international organizations;
- Sale to SEZ

**Question No.30(c): Explain the composition scheme under VAT.**

**Answer:** Every registered dealer who is liable to pay tax under the Respective State Acts and whose turnover does not exceed ₹50 lakhs in the last financial year is generally entitled to avail this scheme, excluding the followings:

- A manufacturer or dealer who sells goods in the course of inter-state trade or commerce
- A dealer who sells goods in the course of import into our export out of territory of India
- A dealer transferring goods outside the State otherwise than by way of sale of for execution of works contract

The following conditions must be fulfilled:

- A dealer who intends to avail the composition scheme shall exercise the option by intimating the Commissioner in writing for a year or part of the year in which he gets himself registered.
- The dealer should not have any stock of goods which are brought from outside the State on the day he exercises his option to pay tax by way of composition and shall not use any goods brought from outside the State after such date
- The dealer should also not claim input tax credit on the inventory available on the date on which he opts for composition scheme
- The dealers opting for composition scheme will not be entitled to input tax credit
- The dealer shall not be authorized to issue tax invoices

The composition tax can be levied on the taxable turnover instead of gross annual turnover at the rate decided by the State Governments. The Empowered Committee has permitted the States to reduce the rate of composition tax to 0.25%,