

<b>Customs</b>
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1. Who has powers to – [Nov-08, 3\*1 mark each]

- |                                    |                                  |
|------------------------------------|----------------------------------|
| i. Appoint inland container depots | [refer Sec. 7 - CBEC]            |
| ii. Appoint land custom station    | [refer Sec. 7 - CBEC]            |
| iii. Specify limit of custom area  | [refer Sec. 8 – Comm. Of Custom] |

2. Miss Priya imported some goods weighing 1,000 kg with CIF value US \$ 40,000/-. Exchange rate was 1 US \$ = Rs. 45/- on the date of presentation of bill of entry. Basic custom duty is chargeable @ 10%. There is no excise duty on the goods if such goods are manufactured in India. Anti-dumping duty has been imposed on these goods. The ADD will be equal to difference between amount calculated @ US \$ 60/- per kg. & landed value of goods. Calculate custom duty and ADD? [CA Final May 2010]

Solution –

**Calculation of Landed Value and Custom Duties Payable**

A. CIF value of the goods [US \$ 40,000 X Rs. 45]	Rs. 1800,000
B. Add – 1% landing charges [Rs. 1800,000 X 1%]	Rs. 18,000
C. Assessable value of the goods	Rs. 1818,000
D. BCD @ 10% of C	Rs. 181,800
E. EC & SHEC @ 3%	Rs. 5,454
F. Assessable value for the purpose of ADC u/s 3 (5) [C + D + E]	Rs. 2005,254
G. ADC u/s 3 (5) @ 4% on F	Rs. 80,210
H. Landed value of goods [F + G]	Rs. 2085,464

The value notified for anti-dumping duty is US \$ 60 per kg X 1000 kgs X Rs. 45 = Rs. 27,00,000/-. Hence, ADD = Rs. 2700,000 – Rs. 2085,464 = Rs. 614,536/-

3. Write difference between sec. 74 and sec 75 of customs act, 1962? [Refer notes]
4. State the provision of customs act relating to disposal of goods not cleared within specified period u/s 48? [Refer Sec. 48 and also Sec. 151]
5. Consignment of 800 MT of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to BPL citizens in a backward area. Nominal price of US \$ 10 per MT was charged for consignment to cover the freight and insurance charges. Custom house found that at or about the time of importation of this gift consignment, there were following imports of edible oil of Malaysian origin.

Quantity Imported (MT)	Unit price in US \$ (CIF)	Quantity Imported (MT)	Unit price in US \$ (CIF)
20	260	780	160
100	220	400	180
500	200	900	175

Rate of exchange 1 US \$ = Rs. 43 per US \$. BCD is 15%. No CVD or special CVD. Calculate custom duties payable. [Nov-08, 5 marks]

Solution – In the instant case, while determining the transaction value of the goods, following factors need consideration –

1. In the given case, US \$10 per MT has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, we have to look for transaction value of identical goods under Rule 4 of Valuation Rules, 2007
2. Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports given during the relevant time, the goods are identical in description and of the same country of origin. It may be presumed that they were produced by the same person. Even otherwise, such consignments can be accepted as identical goods.
3. Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 20 and 100 MT cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.
5. However, the unit prices in these 4 consignments are different. Rules 4(3) of Customs Valuation (DVIG) Rules, 2007 stipulates that in applying rule 4 of the said rules, if more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods. Accordingly, the unit price of the consignment under valuation shall be US \$ 160 per MT.

CIF value of the consignment [US \$ 160 X 800 MT]	US \$ 128,000
Add – 1% landing charges	US \$ 1280
Assessable value in US \$	US \$ 129,280
Assessable value in INR @ Rs. 43 per US \$	Rs. 5559,040
BCD @ 15.45%	Rs. 858,872

6. *M/s IES Ltd. (assessee) imported certain goods at US \$ 20 per unit from an exporter who was holding 30% equity in the share capital of the importer company. Subsequently, the assessee entered into an agreement with the same exporter to import the said goods in bulk at US \$ 14 per unit. When imports at the reduced price were effected pursuant to this agreement, the Department rejected the transaction value stating that the price was influenced by the relationship and completed the assessment on the basis of transaction value of the earlier imports i.e. at US \$20 per unit under rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007, viz. transaction value of identical goods. State briefly, whether the Department's action is sustainable in law, with reference to decided cases, if any. (Nov-08, 5 Marks)*

*Solution* - No, the Department's action is not sustainable in law. Rule 2(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 inter alia provides that persons shall be deemed to be "related" if one of them directly or indirectly controls the other. The word "control" has nowhere been defined under the said rules. As per the common parlance, the control is established when one enterprise holds at least 51% of the equity shareholding of the other company. However, in the instant case, the exporter company held only 30% of shareholding of the assessee. Thus, Exporter Company did not exercise a control over the assessee. So, the two parties cannot be said to be related.

The fact that assessee had made bulk imports could be a reason for reduction of import price. The burden to prove under valuation lies on the Revenue and in absence of any evidence from the Department to prove under-valuation, the price declared by the assessee is acceptable. In the light of foregoing discussion, it could be inferred that Department's action is not sustainable in law.

**7. Briefly state the duty exemption to baggage u/s 79 of the Customs Act. [3 Marks, May 2010]**

Refer Sec. 79. This section provides exemption to bonafied baggage i.e. personal effects, used apparels and bonafied gifts as specified and detailed in the Baggage Rules to be notified by the Central Government. Under these powers, Central government has also issued Baggage Rules, 2016 and given a general free allowance also to the baggage.

**8. Explain briefly, the significance of Indian customs waters under the Customs Act, 1962.**

Refer definition of Indian Custom Waters as given in Sec. 2.

**9. Explain, with a brief note, how the duty is arrived under the Customs Act, 1962 where the imported goods consist of articles liable to different rates of duty.**

*Answer* – Where goods consist of a set of articles, duty shall be calculated as follows as per Sec. 19 of the Customs Act, 1962 –

- (a) Articles liable to duty with reference to quantity shall be chargeable to that duty;
- (b) Articles liable to duty with reference to value shall, if they are liable to duty at the same rate, be chargeable to duty at that rate, and if they are liable to duty at different rates, be chargeable to duty at the highest of such rates;
- (c) Articles not liable to duty shall be chargeable to duty at the rate at which articles liable to duty with reference to value are liable under clause (b).

**10. Briefly state the rights of the owner of warehoused goods under the Customs Act, 1962.**

Refer Sec. 64 & 65. Sec. 64 (as amended) gives general powers to the owners of the goods such as inspection, sorting, grading of goods etc. Sec. 65 provides powers to do manufacturing within the warehouse.

**11. What is the minimum and maximum rate or amount of duty drawback prescribed under the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 made under section 75 of the Customs Act, 1962? Explain with a brief note.**

As per Duty Drawback Rules, maximum duty drawback cannot exceed 1/3 of market value of goods. Minimum duty drawback (as per Sec. 76) cannot be less than Rs. 50/-.

**12. In respect of an article, the central government imposed anti-dumping thereon under custom tariff act. Importer of this article feels aggrieved by this order. What remedy under custom tariff act does he have? [Nov-1997]**

Refer Sec. 9C of Custom Tariff Act. The aggrieved person can file appeal before special bench of CESTAT.

**13. In a particular case of goods, the seller in USA and Indian buyer were found to be together controlling a third company in India. What are the conditions subject to which the transaction value of such goods would be accepted for custom purpose? [Nov-2003]**

Seller in USA and Indian buyer is covered in the definition of 'related' as given in Custom Valuation Rules. Therefore, transaction value shall be accepted only if Indian importer proves that relationship has not influenced the price as per Rule 3 (3) of Import Valuation Rules.

**14. Gujarat dry fruit limited imported dry fruits and declared following value –**

<i>Date of import Nov-2002</i>	<i>Quantity – 250 MT</i>
<i>Value declared – Rs. 25000 per MT</i>	<i>Country of import – Egypt</i>

*Department wants to assess the import at following contemporaneous import u/s 14 read with rule 4 –*

<i>Date of import Oct-2002</i>	<i>Quantity – 25 MT</i>
<i>Value declared – Rs. 40000 per MT</i>	<i>Country of import – Dubai</i>

*Examine whether action proposed by the department is correct?*

*Answer – the action taken by the department is not correct. The transaction of contemporaneous import is different in commercial levels and place of importation. The department cannot take value of 25 MT consignments for a consignment of 250 MT. Further, country of origin is also different. In this case, value of Rs. 40,000 must be adjusted as the assessee has imported 10 times more quantity and must be eligible for rate discounts.*

**15. Ship carrying imported goods is entered in Indian waters on 25-feb-2010. Goods were exempted from payment of custom duty on that day. The goods were warehoused on 26-feb-2010 by the importer and removed from the warehouse on 15-Mar-2010 by which time the exemption notification has been withdrawn. Write a note as to rate of duty applicable on such imports?**

*Refer Sec. 15. Rate on 15-Mar-2010 shall apply assuming that ex-bond bill of entry has been filed on this date.*

**16. A shipping bill in respect of an export consignment was presented to the custom authority on 8-Mar-2010. Rate of export duty on this product is 5%. Custom authorities granted entry outwards order on 11-Mar-2010, the actual loading of goods in the ship had commenced only after 17-Mar-2010 when let-export order has been passed by the proper officer. A notification was issued exempting the exported item on 16-Mar-2010. Write a note as to rate of duty applicable on such exports?**

*Refer Sec. 16. Rate on 17-Mar-2010 shall apply when let export order is passed.*

**17. What is export for the purpose of drawback under customs act, 1962? Is off loading at foreign destination an essential condition?**

*Answer – export for the purpose means –*

- I. Normal exports*
- II. Export by way of baggage [only for the purpose of Sec. 74]*
- III. Export by post*
- IV. Exports by way of supply of stores to foreign going vessels and aircrafts*
- V. Supply to SEZ units (only for Sec. 75 duty drawback).*

*Export for the purpose of drawback shall get over once goods cross the territorial waters of India. Therefore, off loading at foreign destination is not an essential condition for claiming drawback.*

**18. Under what circumstances, drawback shall not be allowed to an exporter?**

*Refer Sec. 76. Duty drawback shall not be allowed in three cases given in Sec. 76*

**19. An exporter has availed CENVAT credit on imported raw materials. Advise whether he could avail duty draw back u/s 75 of customs act if such raw material is used in exported finished goods?**

Yes, lower amount of drawback is available when CENVAT credit is taken. This is known as custom component of duty drawback.

20. Determine assessable value of following imported article - [Jun-09, 5 marks]

i. FOB value of equipment	Yen 200,000
ii. Freight charges	Yen 20,000
iii. Development charges post importation paid in India	Rs. 60,000
iv. Insurance charges paid in India for transportation from Japan	Rs. 15,000
v. Commission payable to agent in India	Rs. 15,000
vi. Exchange rate as per RBI 1 Yen	Rs. 0.45
vii. Exchange rate as per CBEC 1 Yen	Rs. 0.50
viii. Landing charges	1% of CIF cost

Calculation of Assessable Value of Imported Article

FOB Value	200,000 YEN
Add: Freight (Air or Ocean, any of the two can be assumed) [Rule 10 (2)]	20,000 YEN
Sub-total	220,000 YEN
Rate of Exchange per YEN (CBEC Rate)	Rs. 0.50
Sub-total (in INR)	Rs. 110,000
Add: Transit Insurance [Rule 10 (2), at actuals]	Rs. 15,000
Add: Development work in India [not to be added as per Rule 10 (1)]	-
Add: Commission paid to Indian agent [Rule 10 (1)]	Rs. 15,000
<b>CIF Value of Imported Article</b>	<b>Rs. 140,000</b>
Add: Landing Charges @ 1% as per Rule 10 (2)	Rs. 1,400
<b>Assessable Value of Imported Article</b>	<b>Rs. 141,400</b>

21. Answer the following with reference to sec 14 of CA, 1962 – [Nov-08, 2\*3 marks]

i. What shall be the value if there is price rise between the date of contract and the date of actual importation?

Value of goods shall be the transaction value i.e. price which is actually paid by the Indian importer. Even if there is a price rise, generally the importer will pay at the contracted price only unless the price is renegotiated between the importer and exporter.

ii. Bill of entry was filed on 27-10-2008. Will you apply the exchange rate notified by CBEC on 25-9-08 or 25-10-08?

Generally CBEC notify the rate of exchange on 25<sup>th</sup> of every month which will be applicable during the next month. Therefore, if bill of entry is filed in the month of October-2008, rate of exchange notified on 25-Sep-2008 shall apply.

22. FOB cost	Yen 200,000
Freight	Yen 20,000
Insurance charges	Rs. 10,000
Designing charges paid in Japan	Yen 30,000
Development expenses incurred in India after import	Rs. 100,000
Road transport from Mumbai port to factory in Pune	Rs. 30,000

Inter-bank exchange rate 1 Yen = Rs. 0.4150

Rate notified by CBEC 1 Yen = Rs. 0.3948

Importer has paid based on rate of 0.4150 to the exporter.

Commission payable to agent in India – 5% of FOB price in Indian Rs. [May-08, 6 marks]

Calculation of Assessable Value of Imported Article

FOB Value	200,000 YEN
Add: Freight (Air or Ocean, any of the two can be assumed) [Rule 10 (2)]	20,000 YEN
Add: Designing Charges Paid outside India [Rule 10 (1)]	30,000 YEN
Sub-total	250,000 YEN
Rate of Exchange per YEN (CBEC Rate)	Rs. 0.3948
Sub-total (in INR)	Rs. 98,700
Add: Transit Insurance [Rule 10 (2), at actuals]	Rs. 10,000
Add: Development work in India [not to be added as per Rule 10 (1)]	-
Add: Transit cost after import in India [not to be added as per Rule 10 (2)]	-
Add: Commission paid to Indian agent [Rule 10 (1)] @ 5%	Rs. 3,948
<b>CIF Value of Imported Article</b>	<b>Rs. 112,648</b>
Add: Landing Charges @ 1% as per Rule 10 (2)	Rs. 1,126.48
<b>Assessable Value of Imported Article</b>	<b>Rs. 113,774.48</b>

23. Determine assessable value of following imported article and calculate custom duty payable - [Jun-09, 6 marks]

- |       |   |            |
|-------|---|------------|
| i.    | FOB value of machine  | UK P 8,000 |
| ii.   | Freight paid (air)  | UK P 2,500 |
| iii.  | Development & design charges paid in UK                       | UK P 500   |
| iv.   | Commission payable to local agent @ 2% of FOB                 |            |
| v.    | Date of filing bill of entry                                  | 24-10-2010 |
|       | Rate of BCD 20%, exchange rate notified by CBEC Rs. 68 / UK P |            |
| vi.   | Date of entry inwards   | 20-10-2010 |
|       | Rate of BCD 18%, exchange rate notified by CBEC Rs. 70 / UK P |            |
| vii.  | CVD payable @ 16% plus education cess as applicable.          |            |
| viii. | Special CVD as applicable.                                    |            |
| ix.   | Insurance charges actually paid but details not available.    |            |

Calculation of Assessable Value of Imported Article & Duty Payable

FOB Value	UKP 8,000
Add: Air Freight (restricted to 20% of FOB) [Rule 10 (2)]	UKP 1,600
Add: Insurance @ 1.125% as not ascertainable [Rule 10 (2)]	UKP 90
Add: Development charges [as per Rule 10 (1)]	UKP 500
Add: Commission Payable [as per Rule 10 (1)] @ 2%	UKP 160
<b>CIF Value of Imported Article</b>	<b>UKP 10,350</b>
Add: Landing Charges @ 1% as per Rule 10 (2)	UKP 103.50
<b>Assessable Value of Imported Article</b>	<b>UKP 10,453.50</b>

Rate of Exchange on date of Bill of Entry	Rs. 68
Assessable Value of Imported Article	Rs. 710,838
BCD Payable @ 20% (later of bill of entry or entry inwards) (A)	Rs. 142,167.60
Sub-total	Rs. 853,005.60
CVD Payable @ 16% as per Sec. 3 (1) (B)	Rs. 136,480.90
EC & SHEC Payable @ 3% on (A+B) (C)	Rs. 8,359.45
Sub-total	Rs. 997,845.95
SAD Payable @ 4% as per Sec. 3 (5) (D)	Rs. 39,913.84
Total Duty payable (A+B+C+D)	Rs. 326,921.79
(Duty can be rounded off to next amount as it exceeds fifty Paise)	

24. Determine assessable value –

Name of raw material	X
FOB value	Euro 1 million
Ocean freight and insurance	not ascertainable
Freight from sea port to godown in India	Rs. 10000
Transit insurance in India	Rs. 2000
Selling commission paid to agent in India	5% of FOB
Royalty payable for technical knowledge separately Under a contract for manufacturing final product	Euro 50,000
Interest payable for 180 days credit period availed	12% p.a.
Dividend paid to foreign supplier on their equity participation on 1 million shares of face value of Rs. 10 / per share	Rs. 2 per share
Cost of designs and drawings supplied free of cost to the Foreign raw material supplier	Euro 10,000

Calculation of Assessable Value of Imported Article

FOB Value	Euro 1000,000
Add: Freight (@ 20% of FOB as not ascertainable) [Rule 10 (2)]	Euro 200,000
Add: Insurance @ 1.125% as not ascertainable [Rule 10 (2)]	Euro 11,250
Add: Development charges [as per Rule 10 (1)]	Euro 10,000
(As it is given in forex, assumed to be incurred outside India & hence added)	
Add: Commission Payable [as per Rule 10 (1)] @ 5%	Euro 50,000
<b>CIF Value of Imported Article</b>	<b>Euro 12,71,250</b>
Notes: Freight and transit insurance post importation in India is not to be added in value of imported goods.	
Notes: royalty is paid under a separate contract and hence cannot be considered as paid as condition of sale. Hence, not added.	
Notes: Interest and Dividend are financial charges and does not affect the value of goods. CBEC clarified that interest cannot be added. Dividend is also paid due to investments made and not as condition of sale.	

25. Info tech has imported 5 main frame computer systems from USA in Dec-2009 paying custom duty of Rs. 60 lakhs. Due to some technical snags that developed in the system in Mar-2010, supplier has sent his technicians but problem could not be solved. In Jul-2010 info tech has decided to reship / re export

*the computers to foreign supplier. Advice whether import duties paid can be got back from the government when goods are reshipped or re-exported?*

As the goods are defective, their market value in India can be assumed to be negligible. In such a case, duty drawback under Sec. 74 cannot be claimed on re-export of goods as duty drawback amount cannot exceed the market value of goods.

Sec. 26A benefit can be claimed which provides for refund of entire import duty if imported goods are found to be defective provided that within one month of import, the goods must be either re-exported or destroyed or surrendered to customs. In this case, period of one month has already been expired and therefore Info tech will have to claim extension from the proper officer to get back the import duties.

- 26.** *Some goods are imported by air from USA for CIF value of US \$ 6,000/-. Freight and insurance actually paid is US \$ 2,000 and US \$ 700 respectively. CBEC notified rate of exchange is Rs. 45.50 per US \$. Calculate assessable value for the purpose of calculation of custom duty. [Nov 2010]*

Calculation of Assessable Value of Imported Article

CIF Value	US \$ 6,000
Less: Freight & Insurance (to determine FOB)	US \$ 2,700
FOB Value of Goods	US \$ 3,300
Add: Freight restricted to 20% as it is by air [as per Rule 10 (2)]	US \$ 660
Add: Insurance at actuals [as per Rule 10 (2)]	US \$ 700
<b>CIF Value of Imported Article</b>	<b>US \$ 4,660</b>
Rate of Exchange	Rs. 45.50
CIF Value	Rs. 212,030
Add: Landing Charges @ 1% as per Rule 10 (2)	Rs. 2,120.30
<b>Assessable Value of Imported Article</b>	<b>Rs. 214,150.30</b>

- 27.** *Some goods are imported by air from USA for CIF value of US \$ 2,600/-. Air Freight is US \$ 500/- and insurance actually paid is US \$ 100.*

*Date of bill of entry is 25-09-2014 and BCD on this day is 10% & CBEC notified rate of exchange is Rs. 62 per US \$.*

*Date of entry inward is 21-10-2014 and BCD on this day is 20% & CBEC notified rate of exchange is Rs. 60 per US \$.*

*Duty under Sec. 3 (1) of Custom Tariff Act is 12%. Education cess is 3% and duty under Sec. 3 (5) of Custom Tariff Act is exempt. Calculate the total duty payable. [May 2015 – 5 Marks]*

Calculation of Assessable Value & Duty Payable

CIF Value	US \$ 2,600
Less: Freight & Insurance (to determine FOB)	US \$ 600
FOB Value of Goods	US \$ 2,000
Add: Freight restricted to 20% as it is by air [as per Rule 10 (2)]	US \$ 400
Add: Insurance at actuals [as per Rule 10 (2)]	US \$ 100
<b>CIF Value of Imported Article</b>	<b>US \$ 2,500</b>



Rate of Exchange (date of Bill of entry)	Rs. 62
CIF Value of Imported Article	Rs. 155,000
Add: Landing Charges @ 1% as per Rule 10 (2)	Rs. 1,550
<b>Assessable Value of Imported Article</b>	<b>Rs. 156,550</b>
BCD Payable @ 20% (later of bill of entry or entry inwards) (A)	Rs. 31,310
Sub-total	Rs. 187,860
CVD Payable @ 12% as per Sec. 3 (1) (B)	Rs. 22,543.20
EC & SHEC Payable @ 3% on (A+B) (C)	Rs. 1,615.60
Sub-total	Rs. 212,018.80
SAD Payable as per Sec. 3 (5) (D)	-
Total Duty payable (A+B+C+D)	Rs. 55,468.80
(Duty can be rounded off to next amount as it exceeds fifty Paise)	

**28.** Briefly explain the provisions relating to transshipment of goods without payment of duty u/s 54? [Nov 2010, 4 Marks]

Refer Sec. 54. Bill of transshipment needs to be filed. If goods are not transhipped within 30 days from being unloaded, custodian may auction them also u/s 48.

**29.** Certain goods were brought to the export shed on 5.10.2012. The goods were examined and let export order passed on the same day after noting the shipping bill. Computer processed shipping bill has been generated and issued on 6.10.2012. Rates of DEPB has been lowered on 6.10.2012 and department has allowed lower rate of DEPB. The exporter is aggrieved and it is his case that he is entitled for higher rate of duty prevailing on 5.10.2012. Explain the provisions of customs act in this regard. [Nov 2010]

Sec. 16 provides that export duty or incentives on the date of let export order shall be allowed to the exporter. Accordingly, exporter is correct that higher rate must be allowed to him as prevailing on 5<sup>th</sup> of October when let export order was passed.

**30.** Answer the following –

(a) Mr. A filed a claim of duty drawback of Rs. 50,000/- on 30-07-2014. The amount was received on 28-10-2014. Calculate the interest payable to Mr. A? (2 Marks – May 2015)

(Interest is payable for 59 days i.e. from 31-08-2014 to 28-10-2014 @ 6%)

(b) Mr. X was erroneously refunded a sum of Rs. 20,000/- in excess of actual drawback on 20-06-2014. The same was returned to the department on 20-10-2014. Calculate the interest payable by Mr. X? (2 Marks – May 2015)

(Interest is payable for 122 days i.e. from 21-06-2014 to 20-10-2014 @ 15%)

(c) Write a short note on safeguard duty on articles imported by 100% EOU / SEZ unit and then cleared to DTA as such? (2 Marks – May 2015)

(No duty is payable when goods are imported by 100% EOU and SEZ unit. But, safeguard duty is payable when such goods are cleared as such to DTA. This provision has been inserted by Finance Act, 2014 in Sec. 8B of Custom Tariff Act)

(d) Explain briefly with respect to the provisions of the import valuation rules, 2007 the chief reasons for which proper officer could raise doubts on the truth & accuracy of the declared value? (4 Marks – May 2015) (Refer Rule 12 of Import Valuation Rules, 2007 in the notes)

31. PQR limited imported certain machinery from Japan at FOB price of YEN 200,000. Calculate assessable value. The other expenses are as follows – [May 2012, 5 marks]

Freight	20,000 YEN
Insurance	10,000 INR
Designing charges in Japan	30,000 YEN
Development work in India on machine	100,000 INR
Freight from port to factory	30,000 INR
1 YEN as per CBEC	0.3948 INR
Commission paid to Indian agent	5% of FOB in INR

Calculation of Assessable Value of Imported Article

FOB Value	200,000 YEN
Add: Freight (Air or Ocean, any of the two can be assumed) [Rule 10 (2)]	20,000 YEN
Add: Designing Charges Paid outside India [Rule 10 (1)]	30,000 YEN
Sub-total	250,000 YEN
Rate of Exchange per YEN (CBEC Rate)	Rs. 0.3948
Sub-total (in INR)	Rs. 98,700
Add: Transit Insurance [Rule 10 (2), at actuals]	Rs. 10,000
Add: Development work in India [not to be added as per Rule 10 (1)]	-
Add: Transit cost after import in India [not to be added as per Rule 10 (2)]	-
Add: Commission paid to Indian agent [Rule 10 (1)] @ 5%	Rs. 3,948
<b>CIF Value of Imported Article</b>	<b>Rs. 112,648</b>
Add: Landing Charges @ 1% as per Rule 10 (2)	Rs. 1,126.48
<b>Assessable Value of Imported Article</b>	<b>Rs. 113,774.48</b>

32. Write a brief note on self-assessment under customs? Also state whether export duty is payable when goods are sold from DTA to SEZ? [May 2012 – 3 + 3 marks]

Under self-assessment, the importer or exporter has to self-assess the duty payable on imported / export goods. The proper officer may seek clarifications / documents from the assessee in this regard and may re-assess the duty also in case self-assessment is improperly done. It is a trust based assessment wherein the disclosures made by the assessee is considered as correct unless proved otherwise and re-assessment exercise is undertaken only when proper officer is having doubts.

Removal of goods from DTA to SEZ is considered as deemed exports for the purpose of claiming export incentives. But, such deemed exports are not liable to export duty as no deeming fiction is made for the purpose of duty liability. Export duty is payable only on physical exports.

33. Machine is imported from UK and following charges are incurred. Calculate Assessable value – [Nov 2011, 5 marks]

FOB value	UKP 6000
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Freight	UKP 1500
Design and development charges paid in UK	UKP 500
Design and development charges paid in India	INR 10,000
Commission paid to local agent	1% of FOB
Bill of entry filed on 10.04.2011 Rate of exchange	Rs. 70 per UKP
Entry inward granted on 20.04.2011 Rate of exchange	Rs. 65 per UKP

Calculation of Assessable Value of Imported Article

FOB Value	UKP 6,000
Add: Freight (restricted to 20% of FOB) [Rule 10 (2)]	UKP 1,200
(Freight is assumed to be air freight. Alternatively, may be considered as ocean freight as date of entry inwards is given.	
Add: Insurance @ 1.125% as not ascertainable [Rule 10 (2)]	UKP 67.50
Add: Development charges [as per Rule 10 (1)]	UKP 500
Add: Commission Payable [as per Rule 10 (1)] @ 1%	UKP 60
<b>CIF Value of Imported Article</b>	<b>UKP 7,827.50</b>
Add: Landing Charges @ 1% as per Rule 10 (2)	UKP 78.275
<b>Assessable Value of Imported Article</b>	<b>UKP 7,905.775</b>
Rate of Exchange on date of Bill of Entry	Rs. 70
Assessable Value of Imported Article	Rs. 553,404.25

34. Mr. Backpack imported goods from a UK supplier by Air, contracted on CIF basis. However, there are changes in prices in international market between date of contract and date of actual importation. Accordingly, the parties has negotiated following prices – (May 2016, 5 Marks)

Particulars	Contract Price	Changed Price	Negotiated Price
CIF Value	UKP 5000	UKP 5800	UKP 5500
Air Freight	UKP 300	UKP 600	UKP 500
Insurance	UKP 500	UKP 650	UKP 600

**Other details are as follows –**

Vendor inspection charges (not required for making the goods ready for shipment) UKP 600  
 Commission payable to local agent 1% of FOB  
 Bill of entry filed on 18-Feb-2016 – BCD is 10% and rate of exchange per UKP is Rs. 102.  
 Inter-bank rate of exchange is Rs. 106 per UKP.  
 Arrival of aircraft is 15-Feb-2016 – BCD is 15% and rate of exchange per UKP is Rs. 98.

Calculation of Assessable Value of Imported Article & Duty Payable

CIF Value (negotiated price shall be taken as it is actually paid)	US \$ 5,500
Less: Freight & Insurance (to determine FOB)	US \$ 1,100
FOB Value of Goods	US \$ 4,400
Add: Freight (restricted to 20% of FOB) [Rule 10 (2)]	UKP 500
Add: Insurance at actuals [Rule 10 (2)]	UKP 600
Add: Vendor inspection charges [as per Rule 10 (1)]	-

[These charges may be assumed as not paid as condition of sale and hence not be added in the value of imported goods as per Rule 10 (1)]	
Add: Commission Payable [as per Rule 10 (1)] @ 1%	UKP 44
<b>CIF Value of Imported Article</b>	<b>UKP 5,544</b>
Add: Landing Charges @ 1% as per Rule 10 (2)	UKP 55.44
<b>Assessable Value of Imported Article</b>	<b>UKP 5,599.44</b>
Rate of Exchange on date of Bill of Entry	Rs. 102
Assessable Value of Imported Article	Rs. 571,142.88
BCD Payable including EC & SHEC @ 10.30%	Rs. 58,827.72
CVD & SAD can be taken as exempt.	

35. 1500 units of some goods had been imported for charitable purposes by XY Charitable trust. Trust has not paid any amount for these goods. Custom officer computed FOB Value at US\$ 20,000 (including design and development charges) which has been accepted by the trust. Calculate duty payable using other details which are as follows –  
(Nov 2015, 5 Marks)

Freight paid in US\$ (by air)	4,500
Design & development charges in US\$ in USA	2,500
Commission Payable to an agent in India in INR	12,500
BCD Rate	30%
CVD Rate	12%
Rate of Exchange	Rs. 60 per US \$

Calculation of Assessable Value & Duty Payable

FOB Value of Goods		US \$ 20,000
Add: Freight restricted to 20% as it is by air [as per Rule 10 (2)]		US \$ 4,000
Add: Insurance @ 1.125% [as per Rule 10 (2)]		US \$ 225
Add: Design & Development charges [as per Rule 10 (1)]		US \$ 2,500
Sub-total		US \$ 26,775
	Rate of Exchange	Rs. 60
Sub-total		Rs. 1606,500
Add: Commission paid to agent [as per Rule 10 (1)]		Rs. 12,500
CIF Value of Goods		Rs. 1619,000
Add: Landing Charges @ 1% as per Rule 10 (2)		Rs. 16,190
<b>Assessable Value of Imported Article</b>		<b>Rs. 1635,190</b>
BCD Payable @ 30%	(A)	Rs. 490,557
Sub-total		Rs. 2125,747
CVD Payable @ 12% as per Sec. 3 (1)	(B)	Rs. 255,090
EC & SHEC Payable @ 3% on (A+B)	(C)	Rs. 22,369
Sub-total		Rs. 2403,206
SAD Payable as per Sec. 3 (5)	(D)	-
Total Duty payable (A+B+C+D)		Rs. 768,016
(Duty can be rounded off to next amount as it exceeds fifty Paise)		

36. Determine custom duty payable including safeguard duty of 30% under Sec. 8B of Custom Tariff Act with following details –  
(May 2016, 4 Marks)

Import of sodium nitrate from a developing country	INR 30 lakhs
Share of import from developing country to total import in India	4%
BCD Rate	10%
CVD Rate	15%
SAD Rate	Nil

Calculation of Assessable Value & Duty Payable

Assessable Value of Imported Article		Rs. 3000,000
BCD Payable @ 10%	(A)	Rs. 300,000
Sub-total		Rs. 3300,000
CVD Payable @ 15% as per Sec. 3 (1)	(B)	Rs. 495,000
EC & SHEC Payable @ 3% on (A+B)	(C)	Rs. 23,850
Sub-total		Rs. 3818,850
SAD Payable as per Sec. 3 (5)	(D)	-
Safeguard Duty u/s 8B @ 30% on Rs. 3300,000	(E)	Rs. 990,000
(Generally, it is payable on assessable value + BCD). Alternatively can be calculated on Rs. 3818,850/-)		
Total Duty payable (A+B+C+D+E)		Rs. 1808,850

37. KYR Logistics is a steamer agent and has filed import manifest on behalf of master of a vessel before the custom authorities. The steamer agent also dealt with custom department for getting an order under Sec. 42 of the Act. Penalty under Sec. 116 has been imposed by the department on the agent for short landing of goods. Examine whether department is justified in imposing penalty on the steamer agent?

Refer Sec. 148 in Chapter 42. Agent of person in charge may be held responsible for all penalties and obligations of person in charge. Therefore, department is justified. Similar interpretation is also given by Madras High Court in the matter of Caravel Logistics Private Limited v. Joint Secretary [2013 (293) ELT 342]  
(Nov 2015, 4 Marks)

38. X limited has constructed a warehouse nearby notified custom station and wants to get registration of the warehouse for deposition of imported goods. Can X limited is eligible to do so? What is the time period for which the license of such warehouse shall be valid?  
(Nov 2015, 4 Marks)

Refer Public and private warehousing provisions (Sec. 57 & 58). X limited is eligible to get the licence. Even, X limited may have to take license as a special warehouse if specified goods are to be deposited. Such license, once granted, shall be valid until surrendered by X limited or cancelled by the proper officer due to any non – compliances / fraud committed by X limited.

39. M & Company has exported some goods to USA by aircraft. FOB price of exported goods is US \$ 500,000. The shipping bill is filed electronically on 12-Dec-2014 and let export order is passed on 25-Dec-2014. Rate of exchange is Rs. 60 and Rs. 62 per US \$ respectively on these two dates.

Export duty on goods is 10% and 8% respectively on these two dates. Calculate the export duty payable.

Will your answer change, if goods are exported by vehicle on 17-Dec-2014 and details of let ship order is same. Rate of exchange on 17-Dec is Rs. 60 per US \$ and rate of export duty is 12%. (RTP – Nov 2015)

In case of export goods, export duty is calculated on FOB value of goods. The rate of export duty on date of let export order shall be taken. Rate of exchange on the date of filing shipping bill or bill of export shall be taken.

Accordingly, duty payable = US \$ 500,000 X Rs. 60 X 8% = Rs. 24,00,000/- (Education Cess is not payable on export duties).

Even in case of vehicle, date of let export order is same (i.e. 8% duty only will be taken) & rate of exchange on 17-Dec is also Rs. 60 (assuming that bill of export is filed on this date), answer will remain same.

## Service Tax

**Question 12 – Calculated value of taxable services provided by Ganga Limited assuming that it is not eligible for exemption under Notification No. 33 / 2012 –(May 2015, 5 Marks)**

<i>Particulars</i>	<i>Amount</i>
<i>Construction services provided to international labour organization</i>	<i>7,00,000</i>
<i>Construction of private clinic for Dr. Ramesh</i>	<i>15,00,000</i>
<i>Renovation services provided to government relating to plant for sewerage treatment</i>	<i>30,00,000</i>
<i>Construction of roads in factory</i>	<i>25,00,000</i>
<i>Construction of residential complexes meant for members of parliament</i>	<i>120,00,000</i>
<i>Renting of residential dwelling for use as residence</i>	<i>22,00,000</i>
<i>Repair and maintenance of railway station</i>	<i>13,00,000</i>

## Calculation of Value of Taxable Services

<b>Particulars</b>	<b>Amount</b>
Construction services provided to international labour organization (It is covered in Mega Exemption notification [MEN] as any service provided to an specified international organization)	-
Construction of private clinic for Dr. Ramesh (It is a taxable service but eligible for deduction of 60% as it can be assumed as works contract for original work and hence taxable @ 40% only as per Rule 2A of Valuation Rules i.e. Rs. 1500,000 X 40%)	6,00,000
Renovation services provided to government relating to sewerage treatment (It is covered in Mega Exemption notification as any service related to sewerage treatment is exempt)	-
Construction of roads in factory (It is a taxable service but eligible for deduction of 60% as it can be assumed as works contract for original work and hence taxable @ 40% only as per Rule 2A of Valuation Rules i.e. Rs. 2500,000 X 40%. It may be noted that construction of roads is exempt only when roads are of general public use.)	10,00,000
Construction of residential complexes meant for members of parliament (This service is exempt under MEN assuming that contract has been executed and stamp duty thereon has been paid on or before the specified date – refer Entry 12 of MEN)	-
Renting of residential dwelling for use as residence (covered in Negative list)	-
Repair and maintenance of railway station (Only construction or original work in relation to railway is covered under MEN and hence repair is chargeable to tax on 70% of value as it is not works contract for original work i.e. Rs. 1300,000 X 70%) – refer entry 14 of MEN	9,10,000
<b>Total Value of Taxable Services</b>	<b>Rs. 25,10,000</b>

**Question 13 – Bombay media agency provided the following services during the quarter ended on 31-Mar-2016. Calculate service tax payable during the quarter. (May 2015, 4 Marks)**

<i>Particulars</i>	<i>Amount</i>
<i>Advertising through mobile SMS and e-mails</i>	<i>10,00,000</i>

<i>Sale of space for advertisement in newspaper</i>	<i>6,50,000</i>
<i>Sale of space for advertisement in Doon Yellow pages (including Rs. 40,000 for advertisement in business directories)</i>	<i>90,000</i>
<i>Advertisement by way of banner in public places</i>	<i>75,000</i>
<i>Advertisement on back and cover page of book</i>	<i>1,20,000</i>

Calculation of Value of Taxable Services & Tax Payable

<b>Particulars</b>	<b>Amount</b>
Advertising through mobile SMS and e-mails	10,00,000
Sale of space for advertisement in newspaper (Newspaper is print media and hence covered in negative list)	-
Sale of space for advertisement in Yellow pages & business directories (Yellow pages and business directories are specifically excluded from print media and hence taxable at full rate)	90,000
Advertisement by way of banner in public places	75,000
Advertisement on back and cover page of book (Book is print media if it is registered under Press Act and hence can be considered as covered in negative list)	-
<b>Total Value of Taxable Services</b>	<b>Rs. 11,65,000</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 163,100</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 5,825</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 5,825</b>

**Question 14 – Mark Agro products furnishes following information for a month. Calculate service tax liability assuming that company has paid Rs. 400,000 as service tax last year – (May 2015, 4 Marks)**

<b>Particulars</b>	<b>Amount</b>
<i>Rearing of silkworm and horticulture</i>	<i>2,50,000</i>
<i>Plantation of tea and coffee</i>	<i>2,00,000</i>
<i>Renting of vacant land for marriage ceremony</i>	<i>4,50,000</i>
<i>Sale of wheat on commission basis</i>	<i>50,000</i>
<i>Sale of rice on commission basis</i>	<i>2,00,000</i>

Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

<b>Particulars</b>	<b>Amount</b>
Rearing of silkworm and horticulture (Covered in the definition of agriculture, therefore covered in the negative list)	-
Plantation of tea and coffee (Covered in the definition of agriculture, therefore covered in the negative list)	-
Renting of vacant land for marriage ceremony (renting is declared as service)	450,000
Sale of wheat on commission basis (Agent for agriculture produce is covered in negative list)	-
Sale of rice on commission basis (As rice is not an agriculture produce, commission is taxable)	200,000
<b>Total Value of Taxable Services</b>	<b>Rs. 6,50,000</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 91,000</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 3,250</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 3,250</b>



**Question 15** – *Whether expenditure like travel, stay, transportation etc. incurred by service provider in course of providing taxable service may be treated as consideration for taxable services and included in value for charging service tax? (May 2015, 4 Marks)*

Answer – after the amendment is made in Sec. 67, definition of consideration specifically includes reimbursement of expenses. Therefore, charges of travel, stay, transportation etc. incurred by the service provider shall be included in the value of taxable services.

**Question 16** – *Briefly explain the intermediary services under place of provision rules, 2012. Also explain manner of determination of rate of exchange for the purpose of service tax? (May 2015, 4 Marks)*

Answer – for intermediary services, refer Rule 9 of Place of Provision of Service Rules, 2012.

Rate of exchange under service tax is to be taken as per Rule 11 of Service Tax Rules. According to this rule, the rate of exchange for determination of value of taxable service shall be the applicable rate of exchange as per the generally accepted accounting principles on the date when point of taxation arises in terms of the Point of Taxation Rules, 2011.

**Question 17** – *Briefly explain the place of provision of service for hiring of all means of transport. Also explains point of taxation for reverse charge mechanism services?(May 2015, 4 Marks)*

Answer – for hiring of all means of transport services, refer Rule 9 of Place of Provision of Service Rules.

Point of taxation for reverse charge mechanism is explained in Rule 7 of Point of Taxation Rules.

**Question 18** – **Discuss whether following payments constitute a consideration for provision of a service? (May 2015, 4 Marks) –**

- (1) *Imposition of fine or penalty for breaking of law;*
- (2) *Advance forfeited for cancellation of an agreement to provide a service;*
- (3) *Security deposits forfeited for damages caused by service receiver in course of receiving a service;*
- (4) *Demurrage payable for use of services beyond the period initial agreed upon.*

Answer –the answers are as follows –

1. Imposition of fine or penalty becomes payable for breach of statutory provisions and does not represent any consideration paid for provision of a service.
2. Advance forfeited for cancellation of a contract is consideration for the services of tolerating an act of cancellation. It is declared service.
3. As per Rule 6 of Valuation Rules, deposits forfeited for damages caused by service receiver in course of receiving a service is included in the value of taxable service. Therefore, it is consideration.
4. As per Rule 6 of Valuation Rules, demurrage is specifically included in the value of taxable services.

**Question 19** – *Surbhi Limited entered in to a contract with meena limited for construction of a new building to be used primarily for purpose of commerce or industry for a total consideration of Rs. 500 lakhs on 1-Oct-2014. Said services are covered under works contract services and Rs. 100 lakhs is received on the date of contract itself. It was further agreed that Rs. 170 lakhs, Rs. 140 lakhs and Rs. 90 lakhs would be received respectively on completion of 50%, 75% and 100% of construction work of building. Determine point of taxation for following stages of completion - (May 2015, 4 Marks)*

Stage	% Completed	Date of completion	Date of Invoice	Date of payment
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I	50%	20-Nov-2014	30-Nov-2014	25-Jan-2015
II	75%	30-Dec-2014	25-Feb-2015	30-Jan-2015
III	100%	25-Feb-2015	03-Mar-2015	01-Mar-2015

As it is continuous supply of service, POT shall be determined under Rule 3 of POT Rules and date of completion shall be taken as date when according to agreement, the customer is liable to pay consideration. Accordingly POT is determined as under –

Stage	% Completed	Date of Completion	Date of Invoice	Date of Payment	Amount (In Lakhs)	POT under Rule 3
Sign	-	1-Oct-2014	-	1-Oct-2014	100	1-Oct-2014
I	50%	20-Nov-2014	30-Nov-2014	25-Jan-2015	170	30-Nov-2014
II	75%	30-Dec-2014	25-Feb-2015	30-Jan-2015	140	30-Dec-2014
III	100%	25-Feb-2015	3-Mar-2015	1-Mar-2015	90	1-Mar-2015

**Question 20 – What is the penalty for following non – compliances -(May 2015, 2 Marks)**

- Failure to make e-payment;
- Issue of invoice with incorrect details;
- Failure to account for an invoice in books of accounts;
- Failure to keep books of accounts as per provisions of law.

Answer – all the above non-compliances are liable for penalty under Sec. 77 [up to an amount of Rs. 10,000]

**Question 21 – Determine place of provision in following cases -(May 2015, 4 Marks)**

- XY Limited agrees to provide technical inspection and certification service in respect of newly developed product of an overseas firm. The overseas firm provided a product to XY limited for testing and the testing is carried out in Delhi (15%), Assam (35%) and Sweden (50%).
- A movie on demand is provided as on – board entertainment during Kolkata – Delhi leg of Bangkok – Kolkata – Delhi flight.

Answer –place of provision is determined as follows -

- As goods are required to be made available for testing services, the place of provision is to be determined under Rule 4 of Place of Provision of Service Rules [POPS] which will be the place where services are actually performed. In case of multiple place of provisions under Rule 4 being determined, Rule 7 provides that it shall be the place of in taxable territory where highest proportion of services are provided i.e. Assam in this case. Therefore, Assam is place of provision.
- This service is covered by Rule 12 of POPS and accordingly place of provision shall be Bangkok i.e. first scheduled point of departure of the conveyance.

**Question 22 – Some taxable services are provided by oil rig of Global Oil and Natural Gas Company (GONC) established in the Continental Shelf of India, constructed for the purposes of prospecting or extraction or production of mineral oil and natural gas. The Department raised the demand for service tax on the said service. Examine whether the demand raised by Revenue is valid in law.**

Answer – demand raised by department is valid in law as the service tax law is extended to designated places in CS & EEZ where mineral oil & natural gas is extracted or prospected. Accordingly, the oil rig is part of India and hence services are taxable.

**Question 23** – *Hotel Mela Plaza charges 10% of bill amount as service charges and department has asked them to pay ST on it. Assessee claims that as 10% service charges are subsequently disbursed in staff members, same is not liable to ST. Advise.*

Answer – irrespective of application or disbursement of service charges, Mela plaza is required to pay service tax on service charges as the amount has been collected from the buyers and Sec. 67 provides that value of taxable service shall include gross amount charged from the buyer. Subsequent disposal is not relevant.

**Question 24** – **State whether following payments are made as a pure agent and thus not liable to tax –**

- Clearing and forwarding agent incurred expenditure for payment of octroi charges.*
- Real estate agent incurred advertising expenditure on behalf of client.*
- Hotel accommodation charges incurred by internal auditors of company.*
- Architect incurred air travel expenses and paid ST also to airline for providing services to builder.*
- CHA paying service charges, port charges or custom dues on behalf on their clients and taking reimbursement later. [Circular 119/13/2009]*

Answer –the answers are as follows –

- Payment of octroi charges is made acting as a pure agent. The client is responsible for payment of octroi charges and C&F Agent does not derive any benefit from the expense of octroi incurred by him. Assuming that the amount has been shown separately on the invoice and amount actually incurred has been claimed as reimbursement, the octroi charges will be treated as paid acting as a pure agent.
- Advertisement expense has been beneficial for the real estate agent himself also. Through this, he will be able to earn his commission on sale of property of client. Therefore, advertisement expenses cannot be considered as incurred acting as a pure agent of client. In effect, the advertisement is an input service for real estate agent to provide his own service. Therefore, advertisement charges must form part of value of services provided by the real estate agent.
- Same as (b) above.
- Same as (b) above. Service tax charged by the airline company can be availed as credit by the architect.
- CBEC has clarified that CHA acts as a pure agent when he pays the custom duty on behalf of client and claim reimbursement of same amount from the client. Custom duty is responsibility of client and he authorizes the CHA to pay the same on his behalf. CHA derives no benefit from this payment.

**Question 25** – *Jaipur Transport Company has provided services of Rs. 12 lakh in year 2014-15 and paid service tax on Rs. 750,000 value of service. In year 2015-16, it has provided services of Rs. 22 lakhs (all payments received and invoices issued) and person liable to pay tax is as follows –*

<i>Consignor</i>	<i>Rs. 6 lakhs</i>
<i>Consignee</i>	<i>Rs. 6.25 lakhs</i>
<i>GTA itself</i>	<i>Rs. 9.75 lakhs</i>

*Calculate ST payable by the company?*

As per Notification No. 33/2012-ST i.e. SSP exemption, services of up to Rs. 10 lakhs are exempt if value of services provided last year does not exceed Rs. 10 lakhs. For GTA services, special dispensation is given and it is provided that while calculating limit of Rs. 10 lakhs, transactions where consignor or consignee is liable to pay tax, shall not to be considered.

Accordingly, Jaipur Transport Company (JTC) is eligible for SSP exemption in FY 2015-16 as services provided by it is Rs. 750,000 only i.e. less than Rs. 10 lakhs. Hence, in FY 2015-16, JTC shall not be liable to pay tax on first services of Rs. 10 lakhs on which it is liable to pay tax.

In FY 2015-16, JTC is liable to pay tax on freight of Rs. 9.75 lakhs only which is within Rs. 10 lakhs and hence no tax shall be payable at all.

**Question 26 – Calculate exemption available under Notification No. 12/2013 –**

Taxable services provided from DTA unit	8 lakhs
Exempted services exported from DTA unit	7.5 lakhs
Goods sold from SEZ to DTA	5 lakhs
Exports of goods from SEZ unit	26 lakhs
Export of services from SEZ unit	5 lakhs
Value of services received & used wholly for authorised operations of SEZ	1.5 lakhs
Value of services shared between DTA & SEZ unit	2.5 lakhs

As per Notification No. 12/2013-ST, services used wholly for authorised operation of SEZ shall be fully exempt. No tax is required to be paid on them and if tax has been paid, then full refund shall be allowed. Therefore, services of Rs. 1.50 lakhs shall be fully exempt.

Services which shared with DTA operations are exempt only by way of refund. Therefore, service provider will charge service tax (and SBC+KKC) thereon out of which SEZ unit can claim refund based on proportion of export turnover to total turnover of company. Refund of service tax would be

$$\begin{aligned}
 &= \text{ST paid on shared services} \times \text{export turnover of SEZ} / \text{Total turnover of company} \\
 &= (250,000 \times 14\%) \times (26 \text{ lakhs} + 5 \text{ lakhs}) / (26 \text{ lakhs} + 5 \text{ lakhs} + 8 \text{ lakhs} + 7.5 \text{ lakhs} + 5 \text{ lakhs}) \\
 &= \text{Rs. } 35,000 \times 31 / 51.50 = \text{Rs. } 21,068/-
 \end{aligned}$$

Refund of SBC & KKC shall be calculated as = refund of ST / 14 X (0.5+0.5) i.e. Rs. 21,068 / 14

$$= \text{Rs. } 1,505/-$$

**Question 27 –** A service provider charged concessional services charges for services provided to a friend Mr. A and billed for Rs. 25,000 (ST extra). Similar services were provided for a consideration of Rs. 40,000 to others. Determine tax to be charged in the bill to Mr. A.

Answer – As per Sec. 67, value of taxable service shall be gross amount charged from the customer i.e. Rs. 25,000/- in the present case and hence service tax would be charged on Rs. 25,000/- only @ 15% i.e. 3,750/-. Value of similar service becomes relevant only when consideration is not capable of ascertainment.

**Question 28 –** B Limited has provided services of 10 lakhs during previous year. In current year it has issued invoices of Rs. 9.50 lakhs. B Ltd is also liable to pay ST in respect of transport of goods services for which it had paid freight of Rs. 2 lakh. Abatement of 70% is available in case of GTA services. B limited also imported service of a consultant from Germany worth Rs. 1 lakh chargeable under RCM. Calculate ST liability of B limited for current year?

Answer – As per Notification No. 33 / 2012-ST, B limited is eligible for SSP exemption during current year as services provided last year does not exceed Rs. 10 lakhs. Therefore, in the current year, first invoices of up to Rs. 10 lakhs are exempt and hence no tax is payable on Rs. 9.50 lakhs. However, SSP exemption shall not apply on tax payable under RCM and therefore, B limited will have to pay ST on GTA services and import of services. On GTA services, service tax (including SBC & KKC) shall be:

$$= \text{Rs. } 200,000 \times 30\% \times 15\% = \text{Rs. } 9,000/-$$

On import of services, tax payable @ 15% shall be Rs. Rs. 15,000/-. Therefore, total tax payable shall be Rs. 24,000/-.

**Question 29 –State whether following statements are true / false –**

- (a) *Payment to a hotelier of Rs. 10,000 on behalf of an architect by a service receiver be included in the value of taxable services.*
- (b) *ST is payable on accrual basis when service provider maintains books of accounts on mercantile basis.*
- (c) *ABC Industries limited is a USA based company and having permanent establishment in India (ABC India private limited-wholly owned subsidiary). DEF limited (registered in India) has imported some services from ABC (USA). In this case tax is to be paid by PE of ABC (USA) in India.*

Answer –

- (a) It is true. Payment by service recipient to service provider or any other person on behalf of service provider shall be included in the value of taxable service. In this case, hotel will give bill to architect and architect will bill to service receiver.
- (b) It is false. Service tax payment does not depend on manner of maintaining books of accounts. Tax is always payable as POT Rules.
- (c) It is false as tax is payable by DEF limited under RCM. Concept of PE is not relevant.

**Question 30 – Notification to increase ST rate to 14% has been issued on 1-Jun-15. A service provider has provided services in the month of May-15 and billed for it on -**

- a. *16th May-15*
- b. *16th Jun-15*

*In both the above cases determine the rate of tax to be charged (12% or 14%) given that payment for services has been received in the month of May-15.*

Answer – In case of change in rate of tax, POT shall be determined as per Rule 4 of POT Rules. In first case, service has been provided and payment & invoice both has been raised before the change in rate of tax. Therefore, entire transaction got over before the amendment. In such a case, Rule 4 has no application and Rule 3 shall apply. Old rate of tax shall apply in this transaction.

In second case, invoice has been raised after the change in rate of tax but other two events i.e. completion and payment were before the change in rate of tax. This case is covered under Rule 4. Accordingly, date of payment shall be point of taxation and hence old rate will apply.

**Question 31 –Determine POT in following independent cases -**

- a. *ABC India limited has provided services to ABC Inc. (located in USA) for Rs. 10 lakhs on 31-Jul-2012. They are associated enterprises. Date of accounting entry in ABC India limited is 4-Aug-2012 & payment has been received on 10-Aug-2012.*

POT in this case shall be determined under Rule 3 i.e. earlier of date of invoice (if invoice is issued within 30 days) or date of payment. Relationship between parties is not relevant here. Date of accounting entry is also irrelevant. This service may also be considered as export of services and in that case, there will not be any tax liability.

- b. *ABC India limited received taxable services from ABC Inc. (located in USA) for Rs. 10 lakhs on 31-Jul-2012. They are associated enterprises. Date of accounting entry in ABC India limited is 4-Aug-2012 & payment has been made on 10-Aug-2012.*

If Place of provision is outside taxable territory, then the service would not be taxable in India. However, if the place of provision is in taxable territory, then it is covered under RCM as import of service. The POT shall be determined as per Rule 7 (second proviso of Rule 7) i.e. date of payment or date of debit in the books of accounts of ABC India, whichever is earlier. Hence, POT is 4-Aug.

- c. *B limited provided services of Rs. 10 lakh on 5-Jun-2012. It has received advance of Rs. 2 lakh on 2-Apr-2012 and balance on 20-Jun-2012. The invoices are issued on respective due dates.*

As per Rule 3, POT for advance of 2 lakhs is date of advance payment itself i.e. 2-Apr-2012. For remaining 8 lakhs, POT shall be earlier of date of invoice (as invoice is issued on 30<sup>th</sup> day itself) or date of payment. As payment is made on 20-Jun itself, therefore POT for 8 lakhs is 20-Jun-2012.

- d. *A chartered accountant has provided company audit services under a contract of continuous period of 6 months from Oct-2012 to Mar-2013. Monthly audit fee is Rs. 40000. It has received Rs. 200,000 on 31-Dec-2012 and remaining balance on 31-Mar-2013.*

In case of continuous supply of service, date of completion shall be treated as date of completion of an event which requires recipient to pay the consideration i.e. month end in the instant case. Assuming invoice is issued at the end of every month for Rs. 40,000/-, there will be 6 point of taxations (each for a month) under Rule 3 (earlier of DOI & DOP). Accordingly, for October, November and December – POT shall be date of month end. For January and February, POT shall be 31-Dec as payment is received in advance. For March, POT shall be 31-Mar.

- e. *XYZ limited imported certain taxable services on 13-Oct-2012 and paid 50% consideration on 26-Oct-2012. Remaining balance is appearing in Balance sheet as payable on 31-Mar-2013. Invoice for these services were issued on 1-Nov-2013.*

In case of import of service, POT shall be determined under Rule 7. Accordingly date of payment shall be POT [for 50% consideration, POT shall be 26-Oct-2012] if payment is made within 3 months from the date of invoice. Otherwise, POT shall be date immediately after the expiry of 3 months from the date of invoice, if payment is not made within 3 months from the date of invoice.

**Question 32 – X Bank Ltd furnishes the following information relating to services provided and the gross amount received -** (Rs. in Lakhs)

Merchant Banking Services	8
Asset Management (Including portfolio management)	3
Service charges for services to the Government of India	1.5
Interest on Overdraft and cash credits	2
Banker to the Issue	5
Locker Rent	2

Repayment of financial lease made by the customer to the Bank is Rs. 80 lakhs which includes a principal amount of 50 lakhs. Compute the value of taxable service the Finance Act 1994 and the service tax liability of X Bank Ltd.

Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

Particulars	Amount
Merchant Banking Services (fully taxable)	800,000
Asset Management (Including portfolio management) (fully taxable)	300,000
Service charges for services to the Government of India (fully taxable)	150,000

Interest on Overdraft and cash credits (It is covered in Negative list as interest on loans, advances and deposits)	-
Banker to the issue (fully taxable)	500,000
Locker Rent (fully taxable)	200,000
Financial lease payments (Principal amount is not taxable. Further, 90% abatement is allowed in case of interest. Hence, only 10% of interest is taxable i.e. Rs. 30 lakhs X 10%)	300,000
<b>Total Value of Taxable Services</b>	<b>Rs. 22,50,000</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 315,000</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 11,250</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 11,250</b>

**Question 33** – ABC limited has transferred their patented process for manufacturing goods to other company for Rs. 10 lakh for a year. R&D cess paid by them on transfer of technology is Rs. 25000. Calculate ST payable.

Answer – Temporary transfer or permitting use of patent is a declared service and hence service tax is payable on Rs. 10 lakhs @ 15% including SBC and KKC i.e. total of Rs. 150,000.

However, as per Notification No. 14/2012-ST, R&D Cess paid on such technology is eligible as deduction and hence total tax payable shall be Rs. 150,000 – Rs. 25,000 = Rs. 125,000/-.

**Question 34** – following details of receipts of Mr. Nawab are available for the month of Aug-2015, calculate the service tax liability assuming that last year, he has paid tax of Rs. 400,000/- [May 2016, 5 marks]

<b>Particulars</b>	<b>Amount</b>
Performing classical dance	98,000
Performing in TV Serials	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities related to arts	210,000
Activities in sculpture making	310,000
Performing western dance	90,000

Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

<b>Particulars</b>	<b>Amount</b>
Performing classical dance (being an classical art form of dance and consideration does not exceed Rs. 150,000/-, therefore covered in MEN)	-
TV Serial performance (nor classical or folk, hence fully taxable)	280,000
Service as brand ambassador (fully taxable)	12,00,000
Coaching in recreational activities related to arts (covered in MEN)	-
Activities in sculpture making (not a performing artist, therefore taxable)	310,000
Performing western dance (fully taxable)	90,000
<b>Total Value of Taxable Services</b>	<b>Rs. 18,80,000</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 263,200</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 9,400</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 9,400</b>

**Question 35** – Monogram Limited started business in Aug-2015 for the first time and following are the details undertaken in Aug-2015 itself. Monogram limited intends to claim all exemptions and benefits available. Compute service tax liability. [May 2016, 5 marks]

<b>Particulars</b>	<b>Amount</b>
Services provided under own brand name	2,85,000
Services provided under others brand name 'Tonogram'	6,40,000
Consideration on completion of mall for which completion certificate is received in June-2015	63,00,000
Transport of goods in a single goods carriage	1,280
Freight charges paid to GTA	46,000
Full advance received for construction of a complex	30,00,000

As it is the first year of the business, Monogram will be eligible for SSP exemption. However, SSP exemption shall not be available where services are provided using others brand name or where service tax is payable under RCM. Accordingly, the tax liability is calculated as under:

Calculation of Value of Taxable Services & Tax Payable

<b>Particulars</b>	<b>Amount</b>
Services provided under own brand name (eligible for SSP exemption)	-
Services provided under others brand name 'Tonogram' (not eligible for SSP exemption as others brand name is used)	640,000
Consideration on completion of mall for which completion certificate is received in June-2015 (as entire payment is received after date of completion certificate, it is not a taxable service)	-
Transport of goods in a single goods carriage (as freight is less than Rs. 1,500/-, it is covered under MEN)	-
Freight charges paid to GTA (this is taxable under RCM and therefore ST is payable but after claiming abatement of 70% i.e. taxable value is Rs. 46,000 X 30%)	13,800
Full advance received for construction of a complex (it is taxable with 70% abatement under construction services) However, it is eligible for SSP exemption also. SSP exemption limit remaining unutilized is Rs. 715,000 (i.e. 10 lakhs – 280,000). Therefore, taxable shall be Rs. 30 lakhs – Rs. 715,000 = Rs. 2285,000 Taxable value after abatement shall be = Rs. 2285,000 X 30% = Rs. 685,500. [In case of services under abatement, full value should be considered for limits of SSP exemption and then abatement need to be calculated)	685,500
<b>Total Value of Taxable Services</b>	<b>Rs. 13,39,300</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 187,502</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 6,696.50</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 6,696.50</b>

**Question 36** – Mega star hotel provides following information for the month of September 2015. Calculate service tax payable -

- Hotel has 45 rooms out of which 30 are deluxe with declared tariff of Rs. 1,200/-. Other 15 are semi deluxe with declared tariff of Rs. 800/-
- Discount of 25% is offered on deluxe rooms.
- Occupancy ratio is 80%
- Receipt from food served from air-conditioned restaurant is Rs. 600,000/-. It includes Rs. 200,000/- as goods sold on MRP basis.
- Receipt from food served from non air-conditioned restaurant separately demarcated and named is Rs. 400,000/-.

[May 2016, 4 marks]



Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

Particulars	Amount
Receipts from deluxe rooms where declared tariff is not less than Rs. 1000/- [30 rooms X (Rs. 1,200 X 75%) X 80% occupancy X 30 days] X 60% (as abatement of 40% is also allowed to hotels)	388,800
Receipts from semi deluxe rooms (exempt as tariff does not exceed Rs. 1000)	-
Receipts of AC restaurant (it is taxable with service portion being only 40%) However, goods sold on MRP are not to be included in value of taxable service. Therefore, taxable value = (Rs. 600,000 – Rs. 200,000) X 40%	160,000
Receipts from Non-AC restaurant (exempt under MEN)	-
<b>Total Value of Taxable Services</b>	<b>Rs. 5,48,800</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 76,832</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 2,744</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 2,744</b>

**Question 37** – Fortune Limited has given following details for Aug-2015. Calculate Service tax payable given that no credit has been taken by them. [May 2016, 4 marks]

Particulars	Amount
Receipt from running a boarding school	28,00,000
Conducting private tuitions	16,00,000
Fees for education recognised by law of a foreign country	8,00,000
Conducting modular employable skill course recognised by National council for vocational training	10,00,000
Fee from prospective employers for campus interview	6,00,000
Renting of furnished flats for temporary stay to different persons	6,80,000

Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

Particulars	Amount
Receipt from running a boarding school (Both education in school & accommodation in hostel are covered in Negative list)	-
Conducting private tuitions (fully taxable)	16,00,000
Fees for education recognised by law of a foreign country (As not recognised by law in India, therefore benefit is not allowed)	800,000
Conducting modular employable skill course recognised by National council for vocational training (It is approved vocational educational course, therefore not taxable)	-
Fee from prospective employers for campus interview (fully taxable)	600,000
Renting of furnished flats for temporary stay to different persons (Temporary stay cannot be considered as residential dwelling and hence negative list benefit cannot be availed)	680,000
<b>Total Value of Taxable Services</b>	<b>Rs. 36,80,000</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 515,200</b>
<b>SBC Payable @ 0.50%</b>	<b>Rs. 18,400</b>
<b>KKC Payable @ 0.50%</b>	<b>Rs. 18,400</b>

**Question 38** – A resident welfare association collects the following amount from 100 members during a month. Calculate the service tax payable - [Nov 2015, 5 marks]

<b>Particulars</b>	<b>Amount</b>
Contribution from 20 members @ Rs. 3,500 each	70,000
Contribution from 80 members @ Rs. 6,500 each	5,20,000
Collection of electricity bills from 20 members as per bills submitted	70,000
Collection for electricity consumed for common use by RWA	48,000
RWA purchased maintenance items on which excise @ 12.36% paid	50,000
Services taken valued at (service tax charged extra by the provider)	100,000

Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

<b>Particulars</b>	<b>Amount</b>
Contribution from 20 members @ Rs. 3,500 each (Up to Rs. 5000/-, exemption under MEN is allowed)	-
Contribution from 80 members @ Rs. 6,500 each (Up to Rs. 5000/-, exemption under MEN is allowed. Therefore, taxable is Rs. 1,500 only for 80 members)	120,000
Collection of electricity bills from 20 members as per bills submitted (The society is acting as pure agent and hence nothing is taxable)	-
Collection for electricity consumed for common use by RWA (The society is not acting as pure agent and hence this amount will be taxable. We may divide the amount among 100 members i.e. Rs. 480/- per member. It will be taxable for 80 members as their contribution already exceeds Rs. 5000. Accordingly, taxable value will be Rs. 480 X 80 members)	38,400
<b>Total Value of Taxable Services</b>	<b>Rs. 158,400</b>
<b>Service Tax payable @ 14%</b>	<b>Rs. 22,176</b>
<u>Less: CENVAT Credit</u>	
- excise duty paid on maintenance items (50,000 X 12.36%)	6,180
- ST paid on services (100,000 X 14%)	14,000
Total credit availed	20,180
Less – reversal required under Rule 6 (3) of CENVAT Credit Rules (as exempted services are also provided)	
Reversal would be @ 7% of exempted services i.e. 7% of [(20 members X Rs. 3500) + (20 members X Rs. 480)]	(5,572)
<b>Service Tax payable in Cash</b>	<b>7,568</b>
In addition to above, SBC is also payable in cash against which no credit shall be allowed i.e. Rs. 158,400 X 0.50%	792
In addition to above, KKC is also payable in cash against which credit of KKC shall be allowed. Calculation shall be as under – KKC payable i.e. Rs. 158,400 X 0.50% = 792 Less – KKC credit i.e. 100,000 X 0.50% = (500)	292
<b>Total Tax Payable i.e. ST + SBC + KKC</b>	<b>8,652</b>

**Question 39** – A company is engaged in dealing of intellectual property rights. For a month, calculate service tax payable with following details - [Nov 2015, 4 marks]

<b>Particulars</b>	<b>Amount</b>
Permanent transfer of design to XYZ limited	120,000
Allowing Shrikant to use the patents registered in Indonesia	60,000
Acquire technology from foreign country by paying 5% R&D Cess on consideration	25,00,000
Temporary transfer of copyright of original dramatic work	10,00,000

Calculation of Value of Taxable Services & Tax Payable (Non-SSP)

Particulars	Amount
Permanent transfer of design to XYZ limited (It shall be treated as sale of goods and not a service)	-
Allowing Shrikant to use the patents registered in Indonesia (Allowing use or temporary transfer is a declared service, therefore taxable)	60,000
Acquire technology from foreign country by paying 5% R&D Cess on consideration (Service tax is payable under RCM but R &D deduction is also allowed which is claimed later)	25,00,000
Temporary transfer of copyright of original dramatic work (Allowing use or temporary transfer is a declared service, but copyrights for original dramatic work is covered in MEN, therefore exempt)	-
<b>Total Value of Taxable Services</b>	<b>Rs. 25,60,000</b>
Service Tax payable @ 14%	Rs. 358,400
SBC Payable @ 0.50%	Rs. 12,800
KKC Payable @ 0.50%	Rs. 12,800
<b>Total Tax payable</b>	<b>Rs. 384,000</b>
Less : R&D cess deduction as per Notification No. 14/2012-ST @ 5%	(Rs. 125,000)
<b>Tax payable in cash</b>	<b>259,000</b>

**Question 40 – Determine taxability of following services -**

[Nov 2015, 10 marks]

Particulars	Amount
Premium collected on IRDA approved micro insurance plan having sum assured from Rs. 75,000 to Rs. 100,000	125,000
Indian tour operator receiving tour fee for conducting tour outside India for Indian tourist	2,25,000
Consultancy to government for arranging water supply and sanitation	400,000
RBI receiving services from outside India for management of forex reserves	48,000
Tirupati temple providing residential accommodation with declared tariff of Rs. 1,200 per unit for 100 units	120,000
Radio taxis (non AC) for purposes other than tourism	240,000
Hiring of bank lockers	100,000
Car is given on hire by a person to company along with driver on payment of charges based on per month / mileage basis	100,000

Taxability is determined as under –

Particulars	Taxability
Premium collected on IRDA approved micro insurance plan	Micro insurance plans are exempt only if sum assured is up to Rs. 50,000/-. Therefore, taxable.
Indian tour operator for conducting tour outside India for Indian tourist	This transaction is covered under MEN if tourist is a foreigner. Therefore, taxable.
Consultancy to government for arranging water supply and sanitation	Any services in relation to water supply provided to government / LA / Govt. Authority are exempt.
Import of service by RBI for management of forex reserves	This transaction is specifically covered in MEN. Hence, RBI shall not pay tax under RCM.
Temple providing accommodation	Even if temple provides accommodation, it shall be

with declared tariff of Rs. 1,200	taxable if declared tariff is not up to Rs. 1000/-.
Radio taxis (non AC) for purposes other than tourism	Radio taxis are always taxable as specifically excluded from MEN and also not covered in Negative list.
Hiring of bank lockers	Bank locker services are always taxable.
Car is given on hire by a person to company along with driver on payment of charges based on per month / mileage basis	As the driver is given, it can be inferred that effective control and possession of the car has not been given to the company. Therefore, right to use has not been transferred and accordingly, it shall be a declared service.

**Question 41** – P has entered in to a contract with NT Limited for running a canteen in factory of NT limited. NT limited is charging rent from P. P charges cash from individuals for food etc. at rates specified in menu. According to P, he does not provide any service to NT limited and hence not liable to pay tax. As per department, as food is provided at a place other than his own, it would be treated as outdoor caterer. State, who is correct with help of decided case law? [May 2016, 4 marks]

Ref: Indian Coffee Workers Co-operative Society v. CCE & ST (Allahabad HC 2014). In this case, the High Court has held that as work is done from the premises of other person, it will be a transaction of outdoor caterer and hence service tax is applicable. (This case is given in Select Case book also)

**Question 42** – Mr. Rohit want to organize marriage ceremony of his daughter. He entered in to a contract with P for pandal & shamiana services including supply of furniture, crockery, sound and lighting systems. Discuss whether the transaction is liable to service tax and if yes, under which category of service. [May 2016, 4 marks]

Ref: BSNL case (SC 2006) and Rashtriya Ispat Nigam Limited (AP High Court 2002). CBEC has clarified that right to use the goods does not transferred in this case and hence the transaction is covered under declared services. Service tax can be charged under the category of pandal services or under goods given on rent services.

**Question 43** – determine applicability of service tax in following independent cases –

- (a) Construction, erection, installation of an original work related to an airport;
- (b) Services by way of admission to a national park;
- (c) Ambulance service provided by a manpower recruitment agency;
- (d) Services by a mutual fund agent to the mutual fund company. [May 2016, 4 marks]

Answer –

- (a) It is exempt. (MEN – Entry No. 14). However, this exemption has been withdrawn from Apr-2015 except when stamp duty has been paid and agreement has been executed prior to said date.
- (b) It is specifically covered in MEN.
- (c) Transport by ambulance is exempt provided by any entity (MEN – Entry No. 2)
- (d) These services are taxable and now they are not covered under Reverse Charge Mechanism also.

**Question 44** – determine applicability of service tax in following independent cases – [May 2016, 6 marks]

- (a) Transportation services by an ambulance by an entity which is not a clinical establishment, paramedics or medical practitioner;
- (b) GTA Services provided for transport of export goods from place of removal to land custom station.
- (c) Services of retail packing and labelling of fruits and vegetables provided by M/s Zeena.

Answer –

- (a) Transport by ambulance is exempt provided by any entity (MEN – Entry No. 2)
- (b) GTA services are exempt in this case as per Notification No. 31/2012-ST. Refer last chapter in Service tax notes.
- (c) It is specifically covered in MEN (refer agriculture related services in Service tax)

**Question 45** – *An association has been constituted temporarily by several members without being registered. The object was to provide services to own members for a consideration. The association argues that the transaction cannot be considered as service at all as it is provided to oneself and association and member is same person. Comment on stand taken by the association.*

*Also, the central excise officer intends to levy tax on capital contribution made by members to the association. Whether the action of officer is tenable in law? [May 2016, 4 marks]*

As per definition of service u/s 65B (44), member and an association of person (whether incorporated or not) shall be treated as distinct person and hence stand taken by association is not valid. Tax demand on services provided by association to members is sustainable.

However, service tax is not applicable on capital contributions made by the members to the association as clarified by CBEC circular as it is transaction in money which is excluded from the definition of service.

**Question 46** – *Mr. G has raised an invoice as per contract to a client for Rs. 50 lakh and paid the service tax as per Point of taxation. At the time of payment, client renegotiates the amount and paid only 75% of amount along with service tax on 75% value. Mr. G has taken the credit of excess service tax paid. The officer has denied the credit on the ground that Mr. G has not given intimation for taking the credit. State whether the action taken by officer is correct? [May 2016, 4 marks]*

As per Rule 6 (3) of Service Tax Rules, if the amount of invoice is renegotiated due to poor quality of service, then service provider can take the credit of excess tax paid by him. No intimation is required to be given as per Rule 6 (3) and hence action taken by the officer is not correct.

**Excise – Chapter 2**

1. *Healthcare Limited is a manufacturer of medicines. Physician samples were distributed to medical practitioners as free samples. Central excise department has raised demand on such samples. The assessee contended that since the sale of physician samples was prohibited under the Drugs and Cosmetics Act, 1940, same could not be considered to be marketable and hence were not liable to excise duty. Examine, with help of a decided case law, whether the contention raised by the assessee is valid in law?*  
(CA Final May-2014, 3 Marks)

[Refer case of Medley Pharmaceuticals discussed in the heading of 'Excisable Goods']

2. *Discuss whether excise duty is attracted in following cases –*

- i. *Goods manufactured in J&K*
- ii. *Goods manufactured by Government*

[Excise law is applicable in state of J&K also. Therefore, duty is payable. Further, excise law is applicable when goods are manufactured by the Government in the same manner as it apply for manufacturing by a private entity]

3. *What are the basic conditions for levy of excise duty u/s 3 of Central excise Act?*

[Under Sec. 3, excise duty is applicable when all the following conditions are fulfilled –

- There must be manufacturing or production;
- The goods must be excisable goods;
- The manufacturing or production is carried out in India (except in SEZ)]

4. *Write short note on Excisable goods?*

[Refer definition of excisable goods given under Sec. 2 (d) – total of 4 conditions and an explanation for which provides that capability of bought and sold shall be deemed as marketable]

5. *What is the difference between 'goods chargeable to NIL rate of duty' & 'goods exempt from duty'?*

[Goods chargeable to nil rate of duty mean goods where rate of duty mentioned in CETA is nil in the rate column. Exempted goods means goods for which rate of duty is mentioned in the CETA but it has been exempted by the Central Government by issuing a Notification. Such notifications can be issued by the Central Government under Sec. 5A of Central Excise Act in the public interest.]

6. *Mere selling of a commodity does not mean it is marketable? Explain.*

[Mere selling of commodity does not mean it is marketable as for marketability, the product must enjoy separate name, character and use in the market where informed buyers and sellers deal in such product. In the DCM case, the Supreme Court held that cow dung, even though saleable but cannot be treated as marketable in absence of any market available for such commodity.

However, after the insertion of explanation in Sec. 2 (d) of the Act which provides that goods capable of being bought and sold shall be deemed as marketable, mere selling of a commodity shall be deemed as marketable.]

7. *Discuss whether following process would be liable to duty –*

*ABC limited is engaged in process of mixing aluminum paste & thinner resulting in the production of aluminum paint having a shelf life of 8-10 hours*

[As the process aforementioned results in to emergence of a new commodity which is having a separate identity from the inputs used, the process shall amount to manufacturing as per DCM case. For levy of duty, the resultant product must also be covered in the definition of excisable goods and hence must be marketable. Short shelf life of 8 – 10 hours shall be irrelevant to determine the marketability as product with such a short life may also be capable of being bought and sold during the short life span. Hence, the aluminium paint is chargeable to excise duty.]

8. *Goods specified in Tariff schedules though are excisable goods yet dutiable only if marketable. Write a note on above statement.*

[In DCM Case, the Apex Court has held that for goods to become dutiable, mere mention in tariff schedules shall not be sufficient. The goods shall be treated as excisable only if they can be sold in the market in the form in which department wants to levy duty i.e. the product shall be dutiable only when it is known in the market as such having its own identity. Therefore, goods specified in Tariff schedules though are excisable goods yet dutiable only if marketable.]

9. *A vendibility criterion is a litmus test to be fulfilled before any goods can be subjected to duty of excise. Discuss?*

[In DCM Case, the Apex Court has held that for goods to become dutiable, department has to prove that they are marketable i.e. they can be sold in the market in the form in which department wants to levy duty. Hence, vendibility criterion is a litmus test to be fulfilled before any goods can be subjected to duty of excise]

10. *Explain the concept, Ambit and scope of manufacture under Central excise?*

[Refer definition of manufacturing under Sec. 2 (f) of the Act. Discuss all the three clauses in the definition]

11. *Computers under CETA, 1985 are described as automatic data processing machines. ABC limited has undertaken upgradation of its computers both in terms of storage capacity and processing speed by increasing the hard disc capacity, RAM, changing the processor chip etc. Department has contended that new goods with a different name, character and use have come into existence and upgraded products are chargeable to excise duty. Discuss whether stand taken by Department is justified?*

[In the DCM case, the Supreme Court has held that a process shall be considered as manufacturing only when it results in to transformation of inputs in to a whole new commodity. The court has held that mere change is not sufficient; there must be emergence of a new product which is different in name, character and use from the inputs. In the present case, computers remain computer even after upgradation and hence it does not result in to transformation of identity. Therefore, stand taken by the department is not correct]

12. *Explain the dutiability of waste and scrap arising out of manufacturing process?*

[Waste and scrap, if produced in the manufacturing process in the factory, is liable to duty if is capable of being sold and rate of duty is mentioned in the CETA. After insertion of explanation in Sec. 2 (d), product capable of being bought and sold is deemed to be marketable and hence charged to duty. It may be noted that scrap generated during manufacturing of wholly exempted finished goods / Nil

rated finished goods is exempted by the Central Government through Notification No. 89 / 1995 – CE provided that in the factory, all the goods manufactured are exempted / Nil rated only.

Further, recently in case of *Hindalco Industries Limited* and *DSCL Sugar Limited*, the court held that for the purpose of duty on waste & scrap, they must also arise out of manufacturing process. Accordingly, it has been held that Bagasse and aluminum skimming, though capable of being bought & sold, shall not be dutiable as they are not arising out of any manufacturing process.]

- 13. Briefly explain whether Bagasse which is a marketable commodity but not a manufactured product can be subjected to excise duty?** (Nov 2015, 4 Marks)

Refer *DSCL Sugar Limited* case given in the Chapter

- 14. Examine the validity of the statement – ‘Labeling or branding of goods does not amount to Manufacture’.**

[Refer the definition of manufacturing in the chapter. Labeling and branding of goods does not amount to manufacturing as no new product comes in to existence. However, same can be considered in view of deemed manufacturing under Sec. 2 (f) (ii) and Sec. 2 (f) (iii).]

- 15. Explain the term ‘Deemed manufacturing’?**

[Refer the last two clauses in the definition of manufacturing i.e. Sec. 2 (f) (ii) and Sec. 2 (f) (iii).]

- 16. Explain the constitutional validity of ‘Deemed manufacturing’?**

[Entry 84 in List I of Schedule VII gives power to charge duty on manufacturing or production of goods but not on deemed manufacturing of goods. However, the Supreme Court has held that parliament has power to levy duty on deemed manufacturing under residuary powers given under Entry 97 of List I of Schedule VII i.e. parliament can make the law on any subject which is not covered by any entry in list I or list II]

- 17. Briefly explain ‘Dutiability of site related activities and immovable property’?**

[As per conditions added by the Court in the definition of excisable goods, goods must be movable for charging excise duty. Hence, if any manufacturing process results in to an immovable property, then excise duty cannot be charged. Therefore, any assembly or site related activities shall be charged to excise only when the ultimate product remains movable]

- 18. Describe whether assembly would tantamount to manufacture under the central excise Act, 1944?**

[Assembly would amount to manufacturing if the assembled product is distinct from the parts and components used for assembly i.e. it must result in to a new product]

- 19. Kagaz karkhana limited has embarked on a major expansion programme and for this purpose fabricated paper making machine at site with the help of duty paid inputs. It has assembled all the parts and thereafter machine is fastened to the earth with the help of nuts, bolts and other material on a concrete bed to ensure wobble free operation. Central excise department demanded duty on the said machine. Company engages you as counsel to represent them and contest the case. Advise the client.**

[Fabrication of machine would amount to manufacturing if the assembled machine is distinct from the parts and components used for fabrication. For levy of excise duty, the paper making machine must



also fulfill the definition of excisable goods i.e. it must be movable and marketable. In the present case, the machine is movable and marketable. It has been attached with the earth only to ensure vibration free operation and therefore can be moved without being dismantled. In the similar facts, Supreme Court has held, in the matter of *Solid and Correct Engineering*, that machine shall be charged to excise duty]

- 20.** *A public sector undertaking has given a contract to BS limited for erection, commissioning and installation of central air conditioning plant. CEO has demanded duty in respect of installed plant from BS limited. Decide whether duty of excise is payable on the plant?*

[It is clarified by the CBEC that central air-conditioning plant is an immovable property i.e. it cannot be moved without being dismantled. Therefore, it is not chargeable to excise duty]

- 21.** *What types of duties are levied under section 3 of Central excise act?*

[Basic Excise Duty and Special Excise Duty as per rates in Schedule I & II of CETA respectively]

- 22.** *Define 'Assessee' under Central Excise.*

[As per Rule 2 (c) of Central Excise Rules, "assessee" means any person who is liable for payment of duty assessed or a producer or manufacturer of excisable goods or a registered person of a private warehouse in which excisable goods are stored and includes an authorized agent of such person]

**Excise – Chapter 5 (Valuation)**

1. Arvin Limited (not availing SSI Exemption), sold a machine to Isha Limited for Rs. 400,000/- (excluding taxes & duties). A cash Discount of 3% was allowed since Isha Limited had made full payment in advance. The following additional details are given below –

(a) Expenses pertaining to installation & erection of machine at Isha Limited's premises (machine was permanently fixed to earth) Rs. 20,000/-

(b) Cost of durable & returnable packing (such cost has been amortized & included in the cost of the machine) Rs. 5,000/-

(c) Actual freight & insurance from factory to buyers premises Rs. 25,000/-

Determine total amount of excise duty payable assuming that transaction is on principal to principal basis. Excise duty rate is 12.36% (CA Final May 2015, 5 Marks)

Computation of Amount of Excise Duty Payable by Arvin Limited

Particulars	Amount (In Rs.)
Price of machine	400,000
Less – 3% Cash Discount (Note 4)	(12,000)
Assessable Value	388,000
Excise Duty Payable @ 12.36%	47,957

**Note 1** – Erection & Commissioning charges are not included as it results in to an immovable property.

**Note 2** – Durable & Returnable packing cost is not to be included as it has already been amortized in the cost of final product.

**Note 3** – Cost of freight & delivery is not to be included in view of Rule 5 of Valuation Rules.

**Note 4** – Cash discount is known at the time of removal and passed on to the buyer. Therefore, allowed as deduction.

**Note 5** – It has been assumed that cash discount has not been deducted from Rs. 400,000/-. Therefore, now deducted. Similarly, Rs. 400,000/- does not include erection charges and freight.

2. Happy Limited sold 1000 units of excisable goods manufactured by it @ Rs. 1,200/- per unit. It has received interest free advance of Rs. 500,000/- from the buyer against the delivery for the whole year. Compute assessable value of 1000 units sold in following independent cases –

(a) Normal price charged from other buyers is Rs. 1,150/- per unit;

(b) Normal price charged from other buyers is Rs. 1,280/- per unit;

Normal Rate of interest is 12% per annum. (CA Final Nov 2014, 4 Marks)

Refer Rule 6 and Explanation to Rule 6 for the provision. As per this rule, no notional interest is to be added in the transaction value unless CEO has evidence to prove that advance payment has affected the price. In (a), price charged from other buyers is Rs. 1,150 /- only and hence advance taken for 1000 units has not affected the price at all. 1000 units on which advance have been taken, in fact, has been

sold for higher amount. Therefore, no notional interest is to be added. Therefore, duty is payable on Rs. 1,200 per unit X 1,000 units = Rs. 12,00,000/-

In (b), the advance payment has affected the price as normal price is Rs. 1,280/- whereas goods against advance payment have been sold at Rs. 1,200/- only. Therefore, notional interest shall be added in the value of goods as CEO shall have evidence to prove that advance has affected the price. Therefore, notional interest @ 12% shall be added for whole year. The assessable value of goods shall be (Rs. 1,200 X 1,000 units) + (Rs. 5,00,000 X 12%) = Rs. 12,60,000.

**Alternate Solution** – the above solution is given as ICAI suggested answers. However, as per author, value of notional interest must be the amount of price differential. Therefore, if normal price of 1000 units is Rs. 12,80,000/- and price at which 1000 units are sold against advance is Rs. 12,00,000/-, then the price differential is Rs. 80,000/- and that will be treated as the notional interest for advance. Hence, assessable value is 12,00,000 + 80,000 notional interest = 12,80,000/-. In view of the author, rate of interest @ 12% is not relevant at all under Rule 6. The concept is advance must not influence the price. If it influences the price, then the notional interest on such advances is equivalent to the amount of influence which is Rs. 80/- per unit in this case.

3. *Assessee is engaged in manufacture of certain goods. Goods are delivered at customers place. Assessee pays the transportation charges for delivering the goods at customers place and recovers a lesser amount from the customer. Department contended that difference between charges paid and charges collected must be added to the AV. Do you agree?*

In case, goods are delivered beyond place of removal, Rule 5 provides for deduction of actual freight paid from the transaction value irrespective of whether actual freight is less than or more than the amount of freight recovered in the transaction value. Therefore, contention of the department is not valid.

4. *An assessee has factory in Kolkata. As a sales policy, he has fixed uniform price of Rs. 2000 per piece excluding taxes for sales anywhere in India. Freight is not shown separately in the invoice.*

*During the year, he made following sales –*

- |                                   |   |
|-----------------------------------|---|
| ➤ Sale at factory gate in Kolkata | 1200 units [Transport charges incurred NIL]               |
| ➤ Sale to buyers in Gujarat       | 600 units [Actual transport charges incurred Rs. 28,000]  |
| ➤ Sale to buyers in Bihar         | 400 units [Actual transport charges incurred Rs. 18,000]  |
| ➤ Sale to buyers in Kerala        | 1000 units [Actual transport charges incurred Rs. 54,000] |

*Find assessable value per piece?*

In this case, assessee can be assumed to follow averaged method of freight deduction as per Rule 5 of Valuation Rules. Accordingly, deduction of averaged freight shall be allowed from transaction value. The averaged freight per unit shall be = (Rs. Nil + 28,000 + 18,000 + 54,000) / (Units 1200 + 600 + 400 + 1000) i.e. Rs. 100,000 / 3,200 = Rs. 31.25/-

Hence, assessable value per unit = Rs. 2,000 – Rs. 31.25 = Rs. 1,968.75

5. *Discuss how 'value' is to be determined in the following situation –*

*Stocks of excisable goods are made ex- factory, where freight and insurance are charged on actual basis through invoice. Assessee and the buyer are not related and price is the sole consideration of the sale?*

In such a case, as per Rule 5, deduction of fright & insurance is allowed from the transaction value.

6. A limited, a manufacturer of tyres was extending a warranty discount on any tyres that were defective. The scheme of warranty discount operated thus: the customers lodged their claim with regard to any defects in the tyres. Such claims are than scrutinized and decided by technical committee of 'A limited'. Thereafter refund as decided by the committee is given to the customers. A limited has claimed warranty discount as trade discount which is deductible in computing the assessable value of the tyres. Is this correct? Discuss your views.

Contention of A limited is not correct as no deduction is allowed post clearance of goods from the factory unless provisional assessment is opted at the time of removal. As the duty is payable at the time of removal, any deduction for defect after removal cannot be entertained unless it has been provisionally assessed at the time of removal.

7. A tyre manufacturer has filed claim of refund of excise duty on the following ground –

*'Their price list was approved but subsequently due to consumer resistant, Ministry of commerce directed them to reduce the prices with effect from some earlier date. On account of this reduction of prices, there came a difference in prices on the date of removal and based on it assessee filed claim of refund.'* According to you, whether claim of refund filed by the assessee is sustainable?

Contention of assessee is not correct as no deduction is allowed post clearance of goods from the factory unless provisional assessment is opted at the time of removal. As the duty is payable at the time of removal, any deduction or price reduction after removal cannot be entertained unless it has been provisionally assessed at the time of removal.

8. Cost of production per unit of excisable goods manufactured by A limited is Rs. 1200/-. Goods are sold to the unrelated buyers at Rs. 1300/- and discount is allowed @ 10%. Excisable goods are liable to duty @ 10% AV. Determine the value on which excise duty shall be charged?

As the buyer is not related and price can be assumed to be sole consideration of sale, duty shall be payable on transaction value i.e. Rs. 1,300 – trade discount of 10% = Rs. 1,170/-. This amount may become less than the cost also.

9. An assessee sold certain goods to AB limited for Rs. 50,000/- and AB limited is a related person. AB limited does not resell the goods but use them for manufacturing other goods. Cost of goods as per CAS – 4 is Rs. 60,000/-. Determine the assessable value of goods?

*What will be the assessable value if in the above case, AB limited is not related to the assessee? (May 2016, 4 Marks)*

When goods are sold to a related person, valuation is done as per Rule 9 wherein it has been provided that value of goods shall be determined as per Rule 8 if related person does not re-sell the goods but consumes it for their own use. Accordingly, goods shall be valued @ 110% of cost of production i.e. Rs. 66,000/-.

In case, the buyer is not related and price is sole consideration of sale, the goods shall be valued at transaction value i.e. Rs. 50,000/-.

10. State whether following items [expenses or charges paid by the buyer to seller] are includible in the assessable value under section 4:

- *Optional sales service / warranty charges [Circular number 354/81/2000]*
- *Installation / erection / commissioning charges [Circular number 643/34/2002]*
- *Dharmada charges [charity payments] [Circular number 763/79/2003]*
- *Returnable or durable packing [Circular number 643/34/2002]*
- *Interest on delayed payment [Circular number 354/81/2000]*

Optional sales service charges are includible in value as it is paid due to reason of or in connection with sale of goods.

Installation charges are included only if it results in to movable property after installation.

Dharmada charges are includible in value as it is paid due to reason of or in connection with sale of goods. Application of money for noble cause is not relevant.

Proportionate cost of returnable packing is already included in the value of finished goods and hence no further addition shall be made in the value.

Interest on delayed payment is a financial transaction and hence does not affect the value of goods. Therefore, it is not to be included.

**11. Discuss the important deductions that are statutory available under section 4 of the central excise act, 1944 in the valuation of excisable goods?**

As per Sec. 4, discounts are allowed as deduction if they are known at the time of removal. Further, deduction of taxes paid by the buyer is allowed if same is paid or payable to the Government. Further, Sec. 4 read with Rule 5 provides for deduction of freight paid beyond place of removal.

**12. Which rate of excise duty is more commonly used and why?**

Ad-valorem rates are most commonly used due to their inherent capacity of elasticity with changes in price of finished goods. They are governed by market forces and changes with change in prices. Therefore, these rates are not frequently required to be amended.

**13. Explain briefly – can different rates of discounts offered to dealers in different regions be claimed as admissible deduction for valuation u/s 4 of CE act, 1944?**

Sec. 4 provides that valuation shall be done for each transaction at transaction value if price is sole consideration and buyer is not related. Accordingly, different rates of discount can be offered to different buyers based on commercial necessities.

**14. Registered office of Mr. A and one of his bulk buyers is located in the same premises. Factory of Mr. A was located in same industrial area owned by such bulk buyer, for which Mr. A used to pay suitable rent. Mr. A gave 40% discount to the bulk buyer. Department questioned the amount of discount on the ground that both the parties are related. Discuss the validity of the claim of the department?**

Related party under Excise is defined under Sec. 4 so as to include parties having interest in the business of each other. Location of factory within same premises for which suitable rent has been paid and offering discounts to bulk buyer cannot prove such interest. Further, higher rate of discount to a bulk buyer is normal business practice and cannot be questioned if the price is sole consideration of sale. Therefore, claim of the department is not valid.

15. Bangalore factory is manufacturing components which are branch transferred to Delhi factory of AB limited. Determine ED and VAT payable by Bangalore factory from following details –

Direct material cost [including ED @ Rs. 16 & VAT of Rs. 4]	Rs. 600
Indirect materials	Rs. 50
Direct labour	Rs. 100
Indirect labour	Rs. 50
Direct expenses	Rs. 100
Indirect expenses	Rs. 50
Administration overhead (80% relating to production)	Rs. 60
Selling and distribution overheads	Rs. 100
Works overhead	Rs. 50
Quality control cost	Rs. 50
Realization from scrap sold	Rs. 50
R&D Cost	Rs. 40
Profit margin	12% before income tax
ED rate applicable	16%

VAT is payable on sale of goods and hence branch transfers do not attract any VAT liability. However, excise duty is payable by Bangalore factory on removal of components. But, as the components are not sold and only removed, valuation rules shall apply for valuation purpose. No rule in the Valuation Rules covers this situation and hence Rule 11 read with Rule 8 (on captive consumption) will have to be used. Accordingly, value of components is calculated as under –

Computation of Amount of Excise Duty Payable by AB Limited

Particulars	Amount (In Rs.)
Material cost (ED credit shall be allowed and hence not considered as cost but VAT credit is assumed to be not allowed)	584
Indirect Materials	50
Direct labour	100
Indirect labour	50
Direct Expenses	100
Indirect Expenses	50
Administration Expenses (80% production related)	48
Selling overheads (not to be taken as cost of production)	-
Works overhead	50
Quality control cost (treated as part of COP)	50
R&D cost (treated as part of COP)	40
<b>Total Cost of Production (COP)</b>	<b>1,122</b>
Less – Scrap Sold	(50)
<b>Net Cost of Production</b>	<b>1,072</b>
Add – deemed profits as per Rule 8 i.e. 10%	107.20
<b>Assessable Value i.e. 110% of COP</b>	<b>1179.20</b>
<b>Excise Duty payable @ 16%</b>	<b>188.68</b>

16. Assessee received 20% subsidy from the government and 10% from the buyer of its products as per government policy. Department wants to add both subsidies in AV of final product. Do you agree?

As per Rule 6, additional consideration is added in value of goods only when it flows from buyer to the manufacturer. Therefore, subsidy from buyer shall be added in the transaction value but subsidy from government shall not be added.

- 17.** *A, the assessee manufactures and supplies certain goods as per design and specification of B. A takes 50% of the price as advance against these goods and there is no sale of such goods to any other buyer. CEO wants to add notional interest at the market rate of interest in the assessable value. Discuss?*

Notional interest on advance shall be added as per Rule 6 only when Central Excise officer has evidence that advance has influenced the price. In absence of any comparable sale to other buyers, officer will not have any evidence and hence no notional interest can be added.

- 18.** *OTV limited manufacture TV sets. They had sent TV sets from their plant to their depot at Jammu. Depot sold them at Rs. 12,000 on 1-Aug-2011 and @ Rs. 12,500 on 10-Aug-2011. Mention what will be the value of TV sets removed from the factory on 3-Aug-2011 and 10-Aug-2011?*

In case of depot sale, Rule 7 is applicable and duty is payable when goods are removed from factory at normal transaction value (NTV) prevailing at depot when goods are removed from factory or any time near to such removal. Accordingly, goods removed from factory on 3-Aug will be valued at Rs. 12,000/- and on 10-Aug will be valued at Rs. 12,500/-.

- 19.** *A manufacturer manufactures a product 'C' which is chargeable to ED. He avails CENVAT credit of duty paid on inputs used for manufacturing 'C'. Product 'C' is intermediate product and used in the factory of manufacturer for manufacturing a finished product which is not liable to ED.*

*While determining cost of production, manufacturer does not include Excise duty paid on raw materials as cost. Decide whether stand taken by the manufacturer is correct or not?*

According to Generally accepted costing principals, duties paid on inputs shall not be treated as part of cost if credit of the same is allowed. Accordingly, stand taken by the manufacturer is correct.

- 20.** *X limited manufactures 3 health drinks – Slim, Trim and Prim. Slim is sold only to Y limited, a subsidiary company of X limited. Trim is sold to Z limited where the managing director of X limited is manager. Prim is sold to P limited who is the sole distributor of X limited and coming under same management.*

*Determine assessable value of 3 products in the hands of X limited on the basis of following information of sale price charged per unit –*

➤ By X limited to Y limited	Rs. 100
➤ By X limited to Z limited	Rs. 50
➤ By X limited to P limited	Rs. 20
➤ By Y limited to Consumer	Rs. 120
➤ By Z limited to Consumer	Rs. 60
➤ By P limited to Consumer	Rs. 30

As per Sec. 4, duty is payable on transaction value. However, according to Rule 9 & 10, when goods are sold to related parties, value of such goods shall be taken as price at which related parties are re-selling the goods. In the instant case, X & Y are related as they are holding and subsidiary of each other. Accordingly, Rule 9 & 10 shall apply and slim will be valued at Rs. 120/- per unit.

However, X & Z cannot be treated as related merely on the basis of common key personnel. Similarly, X & P cannot be treated as related merely due to common management. Hence, in these cases, duty shall be payable on the basis of transaction value i.e. Rs. 50 & Rs. 20 respectively.

**21. Compute assessable value as per section 4 of CE act –**

➤ Cum duty wholesale price including sales tax of Rs. 2000	Rs. 15,000
➤ Normal secondary packing cost	Rs. 1,000
➤ Cost of special packing	Rs. 1,500
➤ Cost of durable packing	Rs. 1500
➤ Freight	Rs. 750
➤ Insurance on freight	Rs. 200
➤ Trade discount	Rs. 1,000
➤ Rate of CE duty	12.50% AV

Computation of Amount of Excise Duty Payable

Particulars	Amount (In Rs.)
Cum duty wholesale price	15,000
Less – Sales Tax assuming it is paid or payable to Government	(2,000)
Normal Packing cost (includible in the value) – as the cum-duty price is assumed to be inclusive of all charges, further addition is not made.	-
Special Packing (same as above)	-
Durable Packing (same as above)	-
Freight – deduction is allowed as per Rule 5	(750)
Insurance (same as above)	(200)
Trade Discount (always to be deducted)	(1,000)
<b>Cum – Duty Price of Goods</b>	<b>11,050</b>
<b>Excise Duty payable @ 12.50%</b>	<b>1,227.78</b>

**22. Divine limited manufactures product K which is notified under Sec. 4A of Central Excise Act having abatement rate of 20%. During the month, 80,000 units has been produced out of which 60,000 has been captively consumed. Calculate the excise duty payable with following information – (May 2016)**

➤ Cost of direct materials (inc. excise duty of Rs. 1800)	Rs. 18,800
➤ Direct wages and salaries	Rs. 11,000
➤ Administrative cost related to production	Rs. 5,000
➤ Administrative cost related to corporate office expenses	Rs. 1500
➤ Sales of by product	Rs. 1000
➤ R & D cost	Rs. 8000
➤ Abnormal and non – recurring cost	Rs. 10,000
➤ Excise duty rate	12.50%
➤ RSP declared	Rs. 10

Computation of Amount of Excise Duty Payable by Divine Limited

Particulars	Amount (In Rs.)
Value of 60,000 units captively consumed as per Sec. 4 read with Rule 8 <b>(Working Note 1)</b>	44,000
Value of 20,000 units u/s 4A [(20,000 X Rs. 10) – 20% abatement	160,000



Total Value of Excisable Goods	204,000
<b>Excise Duty Payable @ 12.50%</b>	<b>25,500</b>

Working Note 1 – Value of 60,000 units captively consumed

Particulars	Amount (In Rs.)
Material cost (ED credit shall be allowed and hence not considered as cost)	17,000
Direct labour	11,000
Administration Expenses (production related)	5,000
Non-recurring cost (not to be taken as cost of production)	-
R&D cost (treated as part of COP)	8,000
<b>Total Cost of Production (COP)</b>	<b>41,000</b>
Less – Scrap Sold	(1000)
<b>Net Cost of Production</b>	<b>40,000</b>
Add – deemed profits as per Rule 8 i.e. 10%	4,000
<b>Assessable Value i.e. 110% of COP</b>	<b>44,000</b>

23. Shri Ramesh Babu has manufactured goods for captive consumption and incurred following expenses, calculate the assessable value of goods and duty payable – (Nov 2015, 5 Marks)

- |   |             |
|---|-------------|
| ➤ Cost of direct materials (inc. excise duty)       | Rs. 225,000 |
| ➤ In house manpower cost not related to production  | Rs. 48,000  |
| ➤ Design and engineering charges (inc. service tax) | Rs. 23,000  |
| ➤ Transportation cost of components to job worker   | Rs. 2,800   |
| ➤ Job worker charges                                | Rs. 20,000  |
| ➤ Transportation charges levied by the job worker   | Rs. 2,800   |
| ➤ Wooden box charges levied by the job worker       | Rs. 1,200   |

Computation of Amount of Excise Duty Payable by Ramesh Babu as per CAS 4

Particulars	Amount (In Rs.)
Material cost (ED credit shall be allowed and hence not considered as cost) – assuming rate of duty @ 12.50%	200,000
Cost of materials = 225,000 / 112.50 X 100	
Manpower cost not related to production	-
Design Charges (assuming credit of service tax shall be allowed, net cost is to be taken) = 23,000 / 115 X 100	20,000
Job working and related charges –	
Cost of transport	2,800
Job charges	20,000
Transport charges	2,800
Wooden box charges	1,200
<b>Net Cost of Production</b>	<b>246,800</b>
Add – deemed profits as per Rule 8 i.e. 10%	24,680
<b>Assessable Value i.e. 110% of COP</b>	<b>271,480</b>
<b>Excise Duty payable @ 12.50%</b>	<b>33,935</b>
<b>Less : CENVAT Credit of Excise (Rs. 25,000) and Service Tax (Rs. 2,800) [KKC &amp; SBC Credit is not allowed to a manufacturer]</b>	<b>(27,800)</b>
<b>Net Duty payable in cash</b>	<b>6,135</b>

24. *Surabhi Textile Limited is manufacturer of synthetic yarn and is availing the benefit of sales tax incentive scheme of state government wherein it is allowed to retain 75% of sales tax amount collected from its customers and pay balance 25% to the state government. The Central Excise department has demanded inclusion of 75% portion of sales tax collected from customers and retained by the assessee, in the transaction value of goods whereas the assessee is contending that 75% portion of sales tax is an incentive to promote the industries and it has nothing to do with transaction value. Examine whether Surabhi Textile Limited is liable to include 75% of sales tax incentive in transaction value?*

*(CA Final Nov-2014, 4 Marks)*

Refer Super Synotex India Ltd. [2014-TIOL-19-SC-CX] case law discussed in the chapter. It is also given in select cases books.

**Excise – Chapter 6 (Job Working)**

1. KLM gets their grey cloth processed from ABC. ABC processes the cloth and return the FG to KLM. KLM sells the processed cloth @ Rs. 100 per meter. Cost of the grey cloth in the hand of ABC is Rs. 50 per meter and ABC charges Rs. 20 per meter as job charges which include profit of ABC also. How will be the Assessable value should be determined in the above case.

In case of job working, duty is payable by principal manufacturer on transaction value i.e. Rs. 100/- and job worker remains exempt. In case, job worker is liable to pay duty, then also as per Rule 10A, duty shall be payable on normal transaction value (NTV) at which principal is selling the goods i.e. again Rs. 100.

2. Texto print (private) limited is brand owner of Texto garments and supply fabrics and accessories to various job workers to get readymade garments from them. The company refused to pay excise duty on the ground that manufacturing facility is with job workers and the company is merely a trader. Explain provisions related to merchant manufacturers in readymade garment sector. (May 2016, 4 Marks)

In readymade garment sector, as per Rule 4 of Central Excise Rules, duty is always payable by the principal manufacturer and hence Texto print is not correct that in asserting that duty is payable by the job worker. However, as per Rule 4, after giving intimation to CEO, the principal may make job worker liable to pay duty and comply with all the excise formalities.

3. Vidhya limited supplies raw material to a job worker Kareenna limited. After completing the job work, the finished products of 5,000 packets are returned to Asha limited putting the RSP of Rs. 20 on each packet. Product is covered under MRP valuation and abatement notified is 40%. Determine assessable value from following details –

Cost of RM supplied	Rs. 30,000
Job workers charges including profit	Rs. 10,000
Transportation charges one way	Rs. 3,000

In this case, MRP valuation is applicable and hence duty shall be payable on MRP less abatement as per Sec. 4A i.e. 5000 packets X (Rs. 20 – 40% abatement) = Rs. 6,000/-.

4. Specify the persons liable to pay excise duty in case of readymade garments and made up articles of textiles manufactured on job work basis under the provisions of Central Excise Rules, 2002. Explain the provisions in brief? (CA Final Nov-2014, 4 Marks)

Refer Rule 4 (1A) of Central Excise Rules, 2002. Job worker is not liable to pay duty and principal manufacturer is liable to pay duty. However, principal may authorise the job worker also.

**Excise – Chapter 7 (SSI)**

1. For 2014-15, find out whether Smart Manufacturing company is eligible for SSI Exemption from the following details of clearances of year 2013-14 – (CA Final Nov-2014, 5 Marks)
- (a) Clearance of excisable goods exempted under a notification other than Notification No. 8 / 2003 – CE Rs. 100 lakhs;
- (b) Clearances of account books bearing brand name of other person falling under Chapter Heading 4820 Rs. 100 lakhs;
- (c) Clearances of goods to United nation exempted under Notification No. 108 / 95 – CE – Rs. 50 lakhs;
- (d) Total exports (including export to Bhutan Rs. 50 lakhs). Other exports are to USA - Rs. 250 lakhs;
- (e) Clearance of goods (duty paid based on annual capacity of production u/s 3A of Central Excise Act, 1944) Rs. 190 lakhs

For FY 2014-15, SSI exemption is available only if total value of clearances in 2013-14 does not exceed Rs. 400 lakhs. Total value of clearances for 2013-14 is calculated as under –

Particulars	Amount (In Rs. Lakhs)
(a) Exempted goods under some other notification	100
(b) Clearances of Account books	100
(c) Clearances of goods to united nations	-
(d) Exports to Bhutan (treated as home consumption only). Exports to USA is not considered as it is export.	50
(e) Clearances of goods on which duty is paid under Sec. 3A (Note 1)	190
<b>Total Value of Clearances</b>	<b>440</b>

As total value of clearances exceeds Rs. 400 lakhs in 2013-14, SSI benefit is not available to Smart Manufacturing Company for FY 2014-15.

**Note 1** – Refer the definition of 'Value' under SSI Notification. If goods are covered under Sec. 4A, value of goods to be taken in the amount column is MRP value of goods less abatement. If goods are notified u/s 3 (2) i.e. under tariff value concept, then value of goods shall be tariff value.

However, in all other cases, value of goods shall be transaction value. In this case, few goods are covered under Sec. 3A (capacity based excise duty) and hence we have to take transaction value of such goods. Rs. 190 lakhs is assumed to be transaction value of such goods.

**Note 2** – Account books bearing brand name or trade name of some other person is eligible for SSI exemption as it falls in one of the five exceptions. Hence, included in the value of total clearances.

**Note 3** – Exempted goods which are exempt under some other notification (adjustment (a) and (c) above) are not to be taken while calculating Rs. 150 lakhs limit. However, Rs. 400 lakhs limit is total turnover limit and hence all exempted goods are also included in it. Therefore, adjustment (a) is also included.

However, **Para 3A (a)** of Notification specifically provides for exclusion of few clearances which are exempt from excise duty under some other notification and such clearances are not to be included in

value of Rs. 400 lakhs limits also. Clearances to United Nation is one such item referred in Para 3A (a) and therefore, not included in the value of Rs. 400 lakhs limit.

2. Please specify the circumstances in which clearances of two or more units shall be clubbed under the Central Excise Law? (CA Final Nov-2014, 4 Marks)

The clubbing of two or more units is relevant in Central Excise law as small scale exemption is available up to clearances of Rs. 150 lakhs. It has been decided in various case laws that assessee plan tax evasion by creating separate legal entities merely to avail SSI exemption multiple times. It has been provided in the SSI Notification that clearances of all factories of a manufacturer are to be clubbed. But, if there are separate legal entities, then there is no clubbing. Indian Courts had always taken the pragmatic view and held for clubbing the clearances of two or more units in following circumstances (in these circumstances, turnovers of two companies are also clubbed lifting the corporate veil if court is satisfied that a new legal entity has been created solely for the purpose of tax evasion) –

- Common managerial control;
- Common funding;
- Same partners in two firms;
- Same or sharing of customers, locations, facilities, expenses or incomes etc.;
- Interest free advances;
- Reason to start is customer do not want to pay excise duty;

The above factors are to be seen in facts and circumstances of each case and turnovers shall be clubbed only when there is flow back of profits or there is financial control by one unit over the other i.e. mutuality of interest.

3. Veena Limited has two factories and supplies you the following information –

Particulars	Factory 'A'	Factory 'B'
Clearances up to 31-Dec-2013	Rs. 90 lakhs	Rs. 60 lakhs
Clearances from 1-Jan-2014 to 31-Mar-2014	Rs. 60 lakhs	Rs. 40 lakhs
Inputs purchased during 2013-14 (including excise duty)	Rs. 112.36 lakhs	Rs. 55.15 lakhs
Capital Goods purchased on 14-Sep-2013 (including ED)	-	Rs. 11.03 lakhs
Rate of excise duty on inputs, capital goods and output	12.36%	10.30%

Veena Limited is availing SSI exemption and inputs are used evenly throughout the year. Calculate amount of excise duty payable by Veena Limited for the financial year 2013-14 (CA Final May-2014, 5 marks)

Computation of Excise Duty Payable by Veena Limited for 2013-14

Particulars	Factory 'A'	Factory 'B'
Clearances up to 31-Dec-2013	Rs. 90 lakhs	Rs. 60 lakhs
<b>Less – SSI Exemption under Notification No. 8 / 2003</b> totaling to Rs. 150 lakhs ( <b>Note 1</b> )	(Rs. 90 lakhs)	(Rs. 60 lakhs)
Dutiable Clearances up to 31-Dec-2013	<b>Nil</b>	<b>Nil</b>
Clearances from 1-Jan-2014 to 31-Mar-2014	Rs. 60 lakhs	Rs. 40 lakhs
Excise duty payable @ 12.36% & 10.30% respectively	<b>Rs. 7.416 lakhs</b>	<b>Rs. 4.12 lakhs</b>
<b>Less – CENVAT Credit on inputs (Note 2)</b> [(112.36 lakhs / 112.36 X 12.36) X (60 lakhs / 150 lakhs)]	<b>(Rs. 4.944 lakhs)</b>	

[(55.15 lakhs / 110.30 X 10.30) X (40 lakhs / 100 lakhs)]		(Rs. 2.06 lakhs)
<b>Less – CENVAT Credit on Capital Goods (Note 3)</b> (11.03 lakhs / 110.30 X 10.30)	-	(Rs. 1.03 lakhs)
<b>Excise Duty Payable in Cash</b>	<b>(Rs. 2.472 lakhs)</b>	<b>(Rs. 1.03 lakhs)</b>

**Note 1** – SSI exemption is Rs. 150 lakhs taken together for all the factories of a manufacturer (i.e. Veena Limited in this case). This limit has been reached on 31-Dec-2013 and hence no duty is payable till this limit.

Clearances from 1-Jan-2014 to 31-Mar-2014 became dutiable as they are beyond the exemption limit of Rs. 150 lakhs.

**Note 2** – CENVAT Credit of excise duty paid on inputs cannot be taken by a SSI manufacturer if such inputs are used in exempted output of Rs. 150 lakhs. However, inputs used in finished goods after the Rs. 150 lakhs limit are eligible for CENVAT Credit. Therefore, pro-rata calculations has been done. For factory 'A' credit on inputs used in clearances of last Rs. 60 lakhs has been availed. Similarly, credit on inputs used in last Rs. 40 lakhs finished goods has been availed for factory 'B'.

**Note 3** – CENVAT Credit of excise duty paid on capital goods can be taken by a SSI manufacturer. However, the credit can be utilised only after the clearances crosses the limit of Rs. 150 lakhs. Entire 100% credit has been taken on capital goods as per CENVAT Credit Rules.

4. An SSI unit is availing exemption under NN 8/2003 without availing CENVAT credit on inputs but want to utilize CENVAT credit on capital goods. Advice.

Credit on inputs is not allowed as duty is not paid on finished goods. However, credit on inputs is allowed when such inputs are used after the clearances exceed Rs. 150 lakhs or when finished goods are liable to duty due to brand name / trade name or being non-specified goods.

Credit on capital goods can be availed by SSI manufacturer but can be utilized only when clearances exceed Rs. 150 lakhs i.e. when duty became payable on finished goods.

5. Choti limited started business in May-2011 and availed SSI exemption for 2011-12. Following details are provided –

15000 kg of inputs purchased @ Rs. 992.70 per Kg [inclusive of ED @ 10.3%]	Rs. 1,48,90,500
Capital goods purchased on 28-Jun-2011 [inclusive of ED @ 10.3%]	Rs. 44,12,000
Finished goods sold [at uniform transaction value]	Rs. 2,50,00,000

Calculate ED payable in cash assuming rate of ED on finished goods is 10.3% and there is no processing loss. State your assumptions clearly.

Computation of Excise Duty Payable by Choti Limited

Particulars	Amount
Clearances beyond Rs. 150 lakhs and duty payable thereon (Rs. 250,00,000 – Rs. 150,00,000) X 10.30 / 110.30 (Assuming values are given cum-duty basis)	933,816.86
<b>Less – CENVAT Credit on Capital Goods (fully allowed in first year)</b> (Rs. 44,12,000 / 110.30 X 10.30)	(412,000)
<b>Less – CENVAT Credit on inputs (proportionately allowed)</b>	

(Rs. 148,90,500 / 110.30 X 10.30) X Rs. 100 lakhs / 250 lakhs	(556,200)
<b>Excise Duty Payable in Cash / (Credit carried forward)</b>	<b>(Rs. 34,383.14)</b>

6. RPL limited has 3 units situated in Bangalore, Delhi & Pune. Total clearances from all factories are Rs. 450 lakhs. Individual clearances are Delhi – 100 lakhs, Bangalore – 150 lakhs & Pune – 200 lakhs. Discuss whether the benefit of NN 8/2003 is available to RPL limited?

Clubbing provisions are applicable and hence benefit of SSI exemption shall not be available as total value of clearances exceeds Rs. 400 lakhs.

7. Bharat Soap Company manufactures soap and supply the same to 'Thar Hotel'. Soap bears the brand name of the hotel and also its logo. Write a brief note and explain whether SSI exemption is available to Soap Company?

SSI exemption is not available to the soap company as the goods are bearing brand name / trade name of some other person. The exemption shall be allowed if the factory is located in rural area.

8. Calculate value of clearances for the purpose of NN 8/2003 with following details –

- i. Goods notified under Sec. 4A is removed declaring total MRP of Rs. 65 lakhs for Rs. 52 lakhs. Abatement notified is 30%.

In this case, value shall be determined u/s 4A only i.e. Rs. 65 lakhs – 30% = Rs. 45,50,000/-

- ii. Goods not notified under Sec. 4A & Sec. 3 (2) is removed declaring total MRP of Rs. 65 lakhs for Rs. 52 lakhs.

In this case, value shall be determined u/s 4 i.e. transaction value i.e. Rs. 52 lakhs.

- iii. Goods notified under Sec. 3 (2) are removed declaring total MRP of Rs. 65 lakhs for Rs. 52 lakhs. Tariff value notified is RSP less 35%.

In this case, value shall be determined u/s 3 (2) only i.e. Rs. 65 lakhs – 35% = Rs. 42,25,000/-

9. MNO limited is small scale unit located in rural area and is eligible to SSI exemption. Calculate first clearance of goods and duty liability for the year 2011-12 with following details – [CA Final, May 2013]

I. Goods removed under own brand name	Rs. 50,00,000
II. Goods removed under others brand name	Rs. 100,00,000
III. Goods removed which are exempt under other notification	Rs. 45,00,000

Calculate ED payable by the company assuming rate of ED is 12.36%.

MNO limited can claim SSI exemption on goods bearing own name as well others name as factory is located in rural area. Therefore, exemption of Rs. 150 lakhs can be claimed on goods of Rs. 150 lakhs given in (I) and (II) above. Further, no SSI exemption would be required for goods which are already exempt under any other notification. Effectively, no duty is payable.

10. Calculate duty payable in FY 2012-13 @ 14% after availing benefit of NN 8/2003 in following cases and decide whether in next year, benefit is available –

	Amount in Rs. lakhs
i. Export to Bhutan	140

	<i>Export to USA</i>	200
	<i>Removal to 100% EOU</i>	100
	<i>Clearances for HC</i>	270
ii.	<i>Non excisable</i>	70
	<i>Nil rated goods</i>	50
	<i>Exempted under notifications</i>	140
	<i>Clearances for HC</i>	270
iii.	<i>Nil rated goods</i>	60
	<i>Removed to SEZ</i>	40
	<i>Cleared to defense canteen under notification</i>	100
	<i>Cleared under NN 214/86</i>	50
	<i>Intermediate specified goods for use in specified goods</i>	70
	<i>Clearances for HC</i>	300
iv.	<i>Goods with own brand</i>	200
	<i>With brand of Bata, manufactured in –</i>	
	<i>Rural area</i>	30
	<i>Urban area</i>	250
	<i>With brand of a KVIC</i>	10
v.	<i>With brand name but not meant for Sale, for advertisement</i>	50
	<i>Removal to Bhutan</i>	40
	<i>Clearances for HC</i>	165
	<i>Nil rated</i>	100
	<i>Exempted under notifications</i>	110

(All adjustments in this question are to be solved in class)

- 11.** *A small scale industry unit manufactures a particular component part of a machine with the brand name of machine manufacturer and clears the same from its factory to the machine manufacturer as original equipment in the manufacture of machine. Both the component part and machine are specified goods for the purpose of SSI exemption. Can this unit avail the benefit of NN 8/2003?*

As per Notification No. 8 / 2003-CE, SSI exemption is not allowed when goods are bearing brand name / trade name of other person. However, there are few exceptions wherein goods bearing brand name are also eligible for SSI exemption which includes a case when goods being components or parts are removed as original equipment for manufacturing of equipment, plant or machinery. Instant case is squarely covered in this exemption and hence eligible for exemption.

- 12.** *A SSI unit claiming benefit given by NN 8/2003 has exceeded the exemption limit by Rs. 20 lakh in year 2014-15. Therefore they obtained registration and had paid duty on Rs. 20 lakh. For the year 2015-16, they anticipate turnover of Rs. 140 lakh. Write a brief note on steps to be adopted by for the due compliance of conditions of NN 8/2003 in 2015-16 if they want to opt for SSI exemption?*

As the unit is already registered, either they need to surrender it or continue to file nil returns. On the date when SSI exemption is resumed i.e. on 1-Apr-2015, CENVAT credit on inputs lying in stocks as per Rule 11 of CENVAT Credit Rules need to be reversed. Further, no intimation is required to be made.



13. Total clearances of a SSI unit claiming exemption under NN 8/2003 is Rs. 2.01 crore including all taxes. Determine duty liability for the period given that applicable sales tax is 10% and rate of ED is also 10%.

Computation of Duty Payable

Particulars	Amount
Assume, first Clearances of Rs. 150 lakhs includes only value of goods. VAT thereon @ 10% is Rs. 15 lakhs. Excise duty on these goods is nil as SSI exemption is claimed.	-
Remaining clearance of (Rs. 201 lakhs – Rs. 165 lakhs) Rs. 36 lakhs is inclusive of excise duty and VAT. VAT included in Rs. 36 lakhs is $36 \text{ lakhs} / 110 \times 10 = \text{Rs. } 327,273$ Cum-duty value of goods is $\text{Rs. } 36 \text{ lakhs} - \text{Rs. } 327,273 = \text{Rs. } 32,72,727$ Therefore, duty payable is $\text{Rs. } 32,72,727 / 110 \times 10$	297,521
<b>Excise Duty Payable</b>	<b>297,521</b>

14. Total removal of a SSI unit is Rs. 750 lakh which includes exports of Rs. 200 lakhs. It includes job work of value of Rs. 100 lakhs exempted under NN 214/86 & NN 83/94. SSI unit has removed goods of Rs. 20 lakhs to a 100% EOU without payment of duty. It has also manufactured goods of Rs. 100 lakhs using brand name of other person in a rural area included in total removals. Total removal also includes clearances of goods of Rs. 50 lakhs captively consumed to manufacture finished goods that are exempt under a notification other than NN 8/2003-CE. Determine whether unit is eligible to claim SSI exemption in next year?

Computation of Eligibility Limit

Particulars	Amount (In Rs. Lakhs)
Total Removals	750
Less – exports which are not to be taken as clearances for home consumption	(200)
Less – job work not included in eligibility limit	(100)
Less – deemed exports to be excluded from Rs. 400 lakh limit	(20)
Less – Value of captive consumption as value of finished goods is already included in the limit of eligibility limit	(50)
<b>Total Value of Clearances</b>	<b>380</b>

Notes: as value does not exceed Rs. 400 lakhs, the unit is eligible for SSI exemption next year.

Notes: goods bearing brand name of other person manufactured in rural area is eligible for SSI exemption and remain included in the limits.

15. In 2014-15, unit has removed goods of Rs. 460 lakhs. Decide whether the benefit of NN 8/2003 is available in FY 2015-16 given that clearances includes following removal –
- i. Removed to 100% EOU – Rs. 140 lakhs
  - ii. Export to Bhutan – Rs. 50 lakhs
  - iii. Job work which is exempt under NN 214/86 – Rs. 60 lakhs
  - iv. Goods manufactured in rural area using brand name of others – Rs. 70 lakhs

Computation of Eligibility Limit

Particulars	Amount (In Rs. Lakhs)
Total Removals	460
Less – deemed exports to be excluded from Rs. 400 lakh limit	(140)
Less – exports to Bhutan (taken as clearances for home consumption)	-
Less – job work not included in eligibility limit	(60)
<b>Total Value of Clearances</b>	<b>260</b>

Notes: as value does not exceed Rs. 400 lakhs, the unit is eligible for SSI exemption next year.

Notes: goods bearing brand name of other person manufactured in rural area is eligible for SSI exemption and remain included in the limits.

16. Your advice is required on the following case – XYZ partnership firm has manufactured goods in a factory for part of the year and another unrelated partnership firm has manufactured goods for remaining part of the year. CEO wants to club clearances of both firms to ascertain eligibility of SSI exemption.

Notification No. 8 / 2003-CE provides for clubbing of clearances of all the manufacturers from one factory. Accordingly, stand taken by CEO is correct in clubbing the clearances.

17. Explain whether following unit are eligible for benefits under NN 8/2003 during the FY 2012-13 –

- i. ABC Ltd registered turnover of Rs. 4.2 crore in FY 2011-12. Due to recession in industry, they anticipate fall in turnover by 20% in FY 2012-13.

As value of clearances exceeds Rs. 400 lakhs in last year, SSI exemption is not allowed in FY 2012-13.

- ii. XYZ Ltd started its manufacturing operations in year 2012-13 with an investment of Rs. 4.5 crore in plant & machinery and hope to achieve turnover of Rs. 2 crore.

As it is the first year of manufacturing, SSI exemption is allowed irrespective of amount of investment made.

18. Urs & Co. furnishes details of previous financial year. Determine, whether it is eligible to claim SSI exemption in the current year (May 2016, 4 Marks) –

- Value of clearance in last year	665 lakhs
- Included in above, non – excisable goods	25 lakhs
- Exports to Nepal and Bhutan	120 lakhs
- Clearances to unit in STP	60 lakhs
- Job work not fulfilling conditions of Not. No. 214 / 86	25 lakhs
- Clearances of goods under Sec. 4A	200 lakhs
- Rate of abatement on above goods	30%
- Goods manufactured in rural area bearing brand of other	75 lakhs

Computation of Eligibility Limit

Particulars	Amount (In Rs. Lakhs)
Total Removals	665
Less – Non excisable goods	(25)
Less – Exports to Bhutan (taken as clearances for home consumption)	-

Less – Job work to be included in eligibility limit as conditions not fulfilled	-
Less – Deemed export (i.e. STP removals)	(60)
Less – Abatement on MRP based goods (30% of Rs. 200 lakhs)	(60)
<b>Total Value of Clearances</b>	<b>520</b>

Notes: as value does exceed Rs. 400 lakhs, the unit is not eligible for SSI exemption next year.

Notes: goods bearing brand name of other person manufactured in rural area is eligible for SSI exemption and remain included in the limits.

19. Total value of clearances during the year is Rs. 870 lakhs (including VAT of Rs. 50 lakhs). It also includes export of Rs. 500 lakhs (including Rs. 200 lakhs to Bhutan). Goods transferred to STP unit are Rs. 20 lakhs. It also includes job working under Not. No. 84 / 94 of Rs. 100 lakhs and goods removed under brand name of KVIC of Rs. 200 lakhs. Determine whether in next year, the manufacturer can claim SSI exemption? (Nov 2015, 4 Marks)

Computation of Eligibility Limit

Particulars	Amount (In Rs. Lakhs)
Total Removals excluding VAT	820
Less – exports except to Bhutan not to be taken as home consumption	(300)
Less – exports to Bhutan (taken as clearances for home consumption)	-
Less – job work not included in eligibility limit	(100)
Less – Deemed export (i.e. STP removals)	(20)
<b>Total Value of Clearances</b>	<b>400</b>

Notes: as value does not exceed Rs. 400 lakhs, the unit is eligible for SSI exemption next year.

Notes: goods bearing brand name of KVIC is eligible for SSI exemption and remain included in the limits.

20. A limited is manufacturing two products 'X' and 'Y'. Goods 'X' is dutiable and 'Y' is exempt under an exemption notification. However, 'A limited' has paid duty on Y by mistake. A limited has not claimed any refund also of such duty. While claiming SSI exemption, 'A limited' excluded the clearances of Y as Y was exempt under some other notification. Department had taken a view that as duty has been paid on Y, it cannot be treated as exempted and hence must be included in the limit of first clearance of Rs. 150 lakhs.

Determine with a reference of decided case law as whether the contention of department is correct or not?  
(CA Final May-2014, 3 marks)

Refer case law of Bonanzo Engineering & Chemicals Private Limited v. CCE [2012 (277) ELT 145 (Supreme Court)] discussed in the chapter.