

**Solution of  
Paper 10  
Applied Indirect Taxes (CMA)  
December, 2012**

**Chapter -2  
Central Excise Law**

**Descriptive Question**

2012-Dec[2] (a)

**Answer (a):**

Particular	Taxable event
CST	Sale or Purchase of the goods in the course of inter-state trade or commerce
Service tax	Service tax is payable on taxable service. Various clauses of Sec 65(105) of Finance Act, 1944 define each type of 'taxable service'. The definition is different for each class of services.
Excise duty	Manufacture or Production of excisable goods in India.
Customs duty	Importation of goods into India or Exportation of goods from India.

**Answer (c):**

**Specific duty: It** is the duty payable on the basis of certain units of measurement like weight, length, volume, thickness, etc. For example duty on Cigarette is payable on the basis of length. , duty on sugar is based on per Kg, duty on Matches on the basis of per 100 boxes/ packs etc.

2012-Dec [3](b)

**Answer:**

**CENVAT credit in respect of the input or input service is used** in the final product which is cleared for export or used in the intermediate products cleared for export, of used in providing, output service which is exported, *shall be allowed* to be utilized by the manufacturer or provider of Output Service towards payment of :

- (i) Duty of excise on any final products cleared for home consumption or for export on payment of duty; or
- (ii) Service Tax on Output Service; where for any reason such adjustment is not possible, the manufacturer or Output service provider shall be allowed refund of
- (iii) Such amount, subject to such safeguards, conditions, as may be specified, by the Central Government, by notification.

2012-Dec [4](a)

**Answer 4.**

**Packing Charges:** Section 4 of the CEA, 1944, does not make any specific reference regarding packing charges. Normally packing charges are included in the assessable value of the goods. All

packing charges, whether normal or special, will form part of the transaction value. It was held in the case of *Royal Enfield v UOI* (2011) 270 ELT 637 (SC) That, packing that is necessary for putting excisable articles in condition in which it is generally sold is includible in assessable value.

Secondary packing done which is not in case of normal delivery of goods to customers is not required to include in assessable value.

**Durable and returnable packing:**

Durable packing means packing which can be used repeatedly for the same purpose for example, LPG gas cylinders, Oxygen gas cylinders, cold drink packed in glass bottles etc are durable packing material.

**Returnable packing** means packing which is to be returned to the seller by buyer after using the excisable goods packed in the packing. In this case seller often takes some security deposit from buyer to ensure return of the container. However these are not sold to buyer. Deposited security is forfeited if the container is not returned,

**Rental Charges or maintenance of reusable containers:**

However, rental charges or cost of maintenance of reusable metal containers like gas cylinders etc. are to be included in the value since the amount has been charged by reason of, or in connection with the sale of goods.

Similarly, cost of containers supplied by the buyer will be included in the transaction value of the goods, as the price will not be the sole consideration of the sale and the valuation would be governed by Rule 6 of the Valuation Rules, 2000.

**2012-Dec[5](d)**

**Answer:**

**(d)** It was cleared by CBDT vide Circular No. 454/20/99-CX dated 12/4/1999, that computers are covered under heading No. 84.71 of the First Schedule to the Central Excise Tariff Act, 1985 are described as automatic data processing machines. An automatic data processing machine will be known by this name, irrespective of its capacity of storage and processing, which may be enhanced by increasing the hard disk capacity, RAM or by changing the mother board or the processor chip. However, it cannot be said that new goods with a different name, character and use have come into existence, which can be subjected to duty again.

Upgradation of computer may involve changing the processor (e.g. from 486 chip to Pentium or Pentium II chip), the motherboard, the hard disk etc. The new components which replace the components in existing system have already suffered duty. The remaining old parts of the old system have also suffered duty as a system initially.

Accordingly, updating of old and used computer systems would not amount to manufacture, in so far as the upgradation does not bring into existence goods with a distinct new name, character and use.

**2012-Dec[6](c)**

**Answer:**

**(i)**

**True** – The Central Excise Department cannot challenge or investigate into genuineness of MRP printed on the package. Department can satisfy itself that there is a declaration of MRP in prescribed form [**ITC Ltd. vs. CCE 2004** (171) ELT 433 (SC)].

**(ii) True-** As per Section 5A (1A) of the Central Excise Act, 1994, if any excisable goods is exempt from duty of excise absolutely, the manufacturer of such goods will be bound to avail the exemption.

### Practical Questions

#### 2012-Dec (2) (d)

**Answer:**

In computation of assessable value for the purpose of Levy of excise duty, trade discount and freight are allowed as deductions.

**Thus, —**

Net price = Selling Price – (Trade Discount + Freight)

In this case freight is charged extra, hence ignored here.

$$\begin{aligned} \text{Selling price} &= \text{Cum duty price incl. of VAT} - \text{VAT} \\ &= 16,10,128 - (\text{VAT}, 16,06,128 \times 4/104) 61,928 = 1548200 \end{aligned}$$

$$\text{Net Price} = 15,48,200 - 4,000 = 15,44,200$$

Since the price is inclusive of excise duty @ 10.30%,

Therefore

$$\begin{aligned} \text{Assessable Value} &= \frac{\text{Selling price} \times 100}{100 + \text{Excise Duty}} \\ &= \frac{1544200 \times 100}{100 + 10.3} = \mathbf{14,00,000} \end{aligned}$$

**Note:** U/s 4(3) (d) for determining Transaction Value, Assessable Value excludes Duties and Taxes. As freight charges are not included in assessable value, it shall not be deducted. However, discount passed on to the buyer is excluded from the Assessable Value.

#### 2012-Dec [3](a)

**Answer:3**

As in the given case, there is no ‘Sale’ at the time of removal, so the company needs to calculate the AV as per Valuation Rules, 2000.

The views as given by the company are not maintainable because of below reasons:

- (i) The goods do not become marketable just because they are restricted under Drug Control Act not selling the free samples given to the doctors. The marketability has to be decided from the company’s point of view not on restriction by Act. Samples are always marketable hence said goods are excisable.
- (ii) Where a product is not covered under MRP provisions, Sec.4A does not apply and valuation is required to be done as per the Central Excise Valuation Rules Determination of Price of Excisable Goods). CBEC has vide its circular, clarified that physicians samples or other samples distributed free of cost are to be valued under Rule 11 read with Rule 4 of the Valuation Rules, 2000. Under rule 4, such samples are to be valued at the value of such goods nearest to the time of removal.
- (iii) Further, if the company does not make any profit still valuation will be done as per rules prescribed in this regard.

The company will be liable to pay excise duty as per Rule 4 i.e. value of such goods sold at any other time nearest to the removal of subject goods.

**Calculation of AV**

**Particulars**

**Amount (₹)**

MRP per unit	202.00
<b>Less: VAT @ 1% [202x1/101]</b>	2.00
Price excluding VAT, but including Excise duty	200.00
<b>Less: Excise duty @ 10.30% [200x10.30/110.30]</b>	19.00
<b>Assessable value per unit</b>	<b>181.00</b>

**2012-Dec [5] (a)**

**Answer:**

	<b>Rs.</b>
<b>Cost of production</b>	
Direct material (excluding Cenvat credit ` 1,030)	10,000
Direct wages and salaries	9,000
Direct expenses	1,200
Works overheads	5,500
Research cost	<u>1,300</u>
<b>Total cost of production</b>	<b><u>27,000</u></b>
Assessable Value = 110% of Cost of production	
= 110 % of 27,00 = <b>Rs. 29,700</b>	

**Note:**

1. Selling cost is not included in case of captive consumption.
2. Cost of production is required to be computed as per CAS-4. Material cost is required to be exclusive of Cenvat credit available.

**2012-Dec[6] (a)**

**Answer:**

[In my opinion, there is a clerical mistake in the question. Because, the eligibility of a SSI unit is decided on the basis of previous year's turnover not on current FY. So the question must the eligibility for FY **2012-13.**]

Assuming the same, the SSI exemption shall be available if turnover of the unit was not exceeding Rs. 400 L in the immediately preceding financial year.

**Eligible turnover in year 2011-12**

<b>S.No</b>	<b>Particulars</b>	<b>Amount ( ` in lakhs)</b>
1.	Total value of clearance of goods bearing the brand name of Unicorn Plastics	75
2.	Total value of clearance of plastic containers bearing the brand name of Teebok Jams. Teebok Jams used these plastic containers for packing the jam produced by them.	200
3.	Exports to Nepal and Bhutan form part of turnover ( other exports are not includible)	200
<b>4.</b>	<b>Total Turnover</b>	<b>475</b>

Since the turnover of Unicorn Plastics Ltd exceeds ` 400 lakhs in the financial year 2011-12. Small scale Industrial Exemption benefit Under Notification No.8/2003 is not available in the financial year **2012-13.**

**Note:** Job work under Notification No. 84/94-CE, dated 11.04.94 & Clearances of certain non-excisable goods manufactured by it are not eligible for the purpose of turnover.

## 2012-Dec [7](a)

**Answer:**

Particulars	Amount (₹)
Transaction value = 10units @ Rs.25,000	2,50,000
Less : 10% Trade discount	25,000
Assessable value for charging excise	2,25,000
Excise duty @ 10%	22,500
Education Cess 2% on excise duty	450
S & H.E. Cess 1% on excise duty	225
<b>Total</b>	<b>2,48,175</b>
Freight charged separately	3,000
Value for VAT purposes	2,51,175
VAT 4%	10,047
<b>Total amount as per excise duty invoice</b>	<b>2,61,222</b>

## 2012-Dec[8](b)

**Answer:**

**As the SSI unit wants to avail** the Cenvat credit, so the benefit of SSI exemption shall not be available.

Particulars	Amount (₹)
Assessable value	2,40,00,000
Output Excise duty on goods removed payable @ 10.30%	24,72,000
<b>Less:</b> Cenvat credit on raw materials purchased	15,96,000
<b>Less:</b> Cenvat credit on capital goods [100% can be claimed by a SSI unit]	30,500
Balance excise duty payable	8,45,500

## Chapter -3 Customs law

### Distinguish between

## 2012-Dec[8](c)

**Answer:****Documents:**

**In case of Transfer of Goods (Section 53):** Subject to the provisions of section 11, any goods imported in a conveyance and mentioned in the import manifest or the import report, as the case may be as for transit in same conveyance. Bill of Transshipment is not applicable.

**In case of Transshipment of Goods (Section 54):** - Such goods are mentioned in Import Manifest/ Report, as for transshipment.

A bill of transshipment shall be presented to the proper officer in the prescribed form.

**Permission:**

**In case of Transfer of Goods (Section 53):** - Transit of goods in same vessel or aircraft. Subject to the provisions of section 11, any goods imported in a vessel or aircraft and mentioned in the import manifest as for transit in the same vessel or aircraft to any port or airport outside India or any customs port or customs airport may be allowed to be so transited without payment of duty.

**In case of Transshipment of Goods (Section 54):** - Transshipment of goods may be without payment of duty.

1. Subject to the provisions of (section 11): Where any goods imported into a customs port / airport are mentioned in the import manifest as for transshipment to any port outside India.
2. Where any goods imported into a customs port or a customs airport are mentioned in the import manifest as for transshipment-
  - a. to any major port airport at Mumbai, Calcutta, Delhi or Chennai, or any other customs port or customs airport which the Board may, by notification in the Official Gazette, specify in this behalf, or
  - b. to any other customs port or customs airport, and the proper officer is satisfied that the goods are bona fide intended for transshipment to such customs port or airport, the proper officer may allow the goods to be transhipped.

### Descriptive Question

2012-Dec[6](b)

Answer :

- (i) **Correct.** Where there is no requirement in the contract for independent inspection and the inspection is carried out by foreign supplier on his own and is not required for the purpose of fulfilling the conditions of the contract, and then such charges incurred on inspection are not includible in assessable value.
- (ii) **Incorrect.** Exemption from basic customs duty cannot meet exemption from additional duty. When goods are exempted from basic customs duty in terms of section 12 of the Customs Act, 1962, it would not mean that they are exempted from additional duty of customs also, as basic additional customs duty is leviable under Section 3 of the Customs Tariff Act, 1975.

### Practical Questions

2012-Dec [4](b)

Answer:

#### Computation of total cost of imported goods

Particulars	Amount (₹)
A. Assessable Value	4,00,000
B. Basic Custom Duty @ 10%	40,000
C. Value for levy of Additional custom Duty (CVD) [ + B]	4,40,000
D. Additional Duty of Customs under Section 3(1) for Central Excise @ 16%	70,400
Education Cess @2%	1,408
S&HEC. @1%	704
	<b>72,515</b>
E. Education Cess @ 2% on (B+D)	2,250
F. S & H.E. Cess @ on (B+D)	1,125
G. Value for the purpose of Levy of Special CVD u/s 3(5)	5,15,887
H. Special CVD u/s 3(5) @4% on (G )	20,636
I. <b>Total Cost of Imported Goods</b>	<b>5,36,523</b>

Total duty payable = 5,36,523 – 4,00,000 = 1,36,523

Credit available to manufacturer = 72,515 + 20,635 = 93,147

2012-Dec [5](c)

**Answer:****(c) Computation of assessable value for customs duty**

Particulars	Amount
Sale price charged by seller (assumed as FOB price)	€ 40,000
Add: Freight (limited to 20% of FOB price)	€ 8,000
Add: Insurance (1.125% of FOB price)	€ 450
<b>CIF Value (in €)</b>	<b>€ 48,450</b>
<b>Add: Loading/ unloading 1%</b>	<b>€484.5</b>
Assessable Value	€48934.50
Assessable Value (in INR) @ Rs. 80 per €	<b>Rs. 39,14,760</b>

2012-Dec [8](a)

**Answer: (a)**

- (i) Used Shirts and Cloth ` 30,000 are personal effects. No duty on used personal effects.
- (ii) Duty is payable on New cloth and fancy jewellery ` 40,000.
- (iii) 2 kgs of gold valued at ` 3,000 per gram, has to be treated separately,
- (iv) One laptop computer worth ` 50,000 is exempt.

	Rs.
Assessable value excluding gold	40,000
Less: General free allowance	25,000
Net assessable value	15,000
Customs duty @ 35%	5,250
<b>Add: Education cess @ 2%</b>	105
S & H.E cess @ 1%	53
<b>Total for above goods</b>	<b>5,408</b>

**Duty payable on gold:**

Rs. 250 per 10 grams for 2000 gms	50,000
Add: Education cess @ 2%	1,000
S & H.E cess @ 1%	500
Total	51,500

**Total customs duty to be paid = Rs. 5,408 + 51,500 = 56,908**

## Chapter- 4 Service Tax

**Descriptive Questions**

2012-Dec[2](b)

**Answer:****First 10 digits denote** – The PAN of the assessee e.g. AACPS2345M

**Last 3 digits denote** – Serial numbers indicating the number of registrations taken by the service taxpayer / code e.g. 123

### Practical Questions

2012-Dec[7](c)

Answer:

Particulars	Amount (Rs.)
Services rendered to Foreign Consular officials is exempt.	Nil
Advance received from a charitable trust to be taken inclusive of Service tax. ( $2,80,000 \times \frac{100}{112.36}$ )	2,49,199
Services rendered to J, who made a consolidated payment, refusing to pay service tax to be taken inclusive of Service tax. ( $4,20,000 \times \frac{100}{112.36}$ )	3,73,799
Other services billed (excluding service tax, which was charged and received)	9,00,000
<b>Value of taxable services</b>	<b>15,22,998</b>

**Note:** (1) Assume advance received is inclusive of service tax.  
(2) No service tax on services provided to Foreign consular.  
(3) **Service tax is taken @12.36%.**

## Chapter - 6 Central Sales Tax and VAT

### Descriptive Questions

2012-Dec[5](b)

Answer: (b) Refer 2010 [5](c)

### Practical Questions

2012-Dec[3](c)

Answer:

#### Computation of VAT Liability of Vivitha & Co.

Output VAT : $40L \times 10\%$		4L
Input VAT : $26L / 104 \times 4$	1L	
Add: Opening balance	<u>0.2</u>	
Total credit available		<u>(1.2)L</u>
Balance VAT Liability to be paid in cash		2.8 L

**Notes:** 1. No credit of vat on purchase from composite dealers  
2. No credit of tax on interstate purchases.

2012-Dec[4](c)

Answer:

#### Computation of CST liability



Gross Sales		92,50,000
<b>Less:</b> Freight shown separately in the Invoice		(1,00,000)
Installation charges		<u>(15,000)</u>
Aggregate turnover		<b><u>91,35,000</u></b>
Taxable Turnover $91,35,000 \times \frac{100}{102} = 89,55,882$		
CST @ 2%	= 1,79,118	
<b>Note :</b> Excise duty cannot be adjusted, since it is part of total turnover.		

**2012-Dec[7](b)**

**Answer:**

Sale prices charged to customers		12,30,000
Less: Sales return (Note-1)	60,000	
Rejected goods returned (Note-2)	<u>30,000</u>	<u>90,000</u>
Total Sale price		11,40,000
Add: excise duty at 10.30%		<u>1,17,420</u>
Total value including ED		12,57,420
<b>CST Payable at 2%</b>		<b>25,148</b>

**Note:**

1. Sales return can be deducted if return is within 6 months.
2. Sales returned after 6 months are not deductible i.e, Rs. 40,000
3. Rejected goods will be deducted irrespective of any time limit.
4. Assume all sales are made by transfer of valid 'C' forms.

**Chapter -7**  
**2012-Dec [1](a)**

**Answer :**

- (i) Green
- (ii) 6
- (iii) 1994
- (iv) Two
- (v) Each particular Quarter [As per amendment by the Finance Act,2010]
- (vi) Movable and Marketable
- (vii) 4
- (viii) Is not
- (ix) 5 Crores
- (x) Special importance in inter-state trade or commerce
- (xi) Cannot
- (xii) 12.5%
- (xiii) Rs. Five
- (xiv) XM
- (xv) ER-4

**2012-Dec [1](b)**

- i. **False.** Shares and debentures have been specifically excluded from the definition of goods under Section 2(d) of the CST Act and are not chargeable to CST when sold.

- ii. **True.** As per White Paper on VAT, The dealer should not have any stock of goods which were brought from outside the State on the day he exercises his option to pay tax by way of composition and shall not use any goods brought from outside the State after such date.
- iii. **False.** As per Notification No:01/2010 of Service Tax dt 19/02/2010. An Assessee, who has paid a total Service Tax of ` Ten Lakh or more including the amount paid by utilization of Cenvat Credit in the preceding financial year, he shall deposit Service Tax liable to be paid by him electronically, through e-payment.
- iv. **True.** As per Rule 3 of the Central Excise Drawback Rules, 1995. Drawback rate is fixed by the Central Government.
- v. **False.** Tooling supplied initially by seller along with machinery, are to be treated as capital goods for claiming Cenvat Credit. Items like tools, spare parts etc. are never capitalized in accounts or for income tax purpose but are defined as 'Capital Goods' for Cenvat.