SUGGESTED SOLUTION

CA FINAL MAY 2017EXAM

INDIRECT TAX LAWS

Test Code - F M J 4 0 0 2

BRANCH - (MULTIPLE) (Date : 13.11.2016)

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Answer-1 :

If goods are captively consumed, there is no requirement of declaration of RSP. Section 4A is applicable only when RSP is required to be declared on the retail package as per Legal Metrology Act, 2009. Hence, section 4A shall not apply in case of captively consumed goods. The value will be determined as per section 4 read with Rule 8 of the Central Excise Valuation Rules, 2000.

Since in the present case, only a part of the excisable goods are used for captive consumption (50% of 1,00,000 units i.e., 50,000 units), assessable value of such 50,000 captively consumed units will be determined in accordance with rule 8 of Valuation Rules, 2000.

The assessable value of remaining 50,000 units, which are sold, will be determined u/ s 4A of Central Excise Act, 1944 i.e., RSP less abatement. Thus, net excise duty liability of Solid Ltd. will be computed in the following manner:

Computation of excise duty payable, in cash, by Solid Ltd. (amount in Rs.) :

(I)	**Duty payable on goods used for captive consumption (50,000 units)**			
	Cost of direct materials	Rs. 1,350		
	Less: Central excise duty Rs. 1,350 ÷ 112.5 x12.5 [WN-1]	Rs. 150	1,200	
	Cost of direct salaries (includes house rent allowance of Rs. 120)		300	
	Depreciation of machinery		500	
	Quality control cost		50	
	Factory overheads		200	
	Administrative cost (25% related to production capacity)	[WN-2]	100	
	Selling and distribution cost	[WN-3]	-	
	Cost incurred due to break down of machinery	[WN-4]	-	
	Total		**2,350**	
	Less: Scrap value realized		200	
	Cost of production		2,150	
	Cost of production of 50,000 units used for captive consumption			10,75,00,000
	Add: 10% as per rule 8		215	1,07,50,000
	Assessable value of 50,000 units of 'Z' used for captive consumption		2,365	11,82,50,000
	Duty payable @ 12.5%	**[A]**		**1,47,81,250**
(II)	**Duty payable on goods sold (50,000 units)**			
	Retail sale price		4,000	
	Less: Abatement u/s 4A @ 10%		400	
	Assessable value per unit of 'Z' sold		3,600	
	Assessable value of total units of 'Z' sold (Rs. 3,600 x 50,000 units)			18,00,00,000
	Duty payable @ 12.5%	**[B]**		**2,25,00,000**
	Total excise duty payable [(A) + (B)]			**3,72,81,250**
	Less: CENVAT credit [Rs. 150 x 1,00,000 units]			1,50,00,000
	Duty payable in cash			**2,22,81,250**

(12 Marks)

Working Notes:

(1) Since CENVAT credit is available on central excise duty paid on direct materials, it has been deducted from the cost of direct materials in accordance with the Cost Accounting Standard-4 [CAS-4].

(2) Administrative overheads in relation to activities other than manufacturing activities have not been included in cost of production [CAS-4],

(3) Selling and distribution cost have not been considered while computing the cost of production as they are not in relation to production activity [CAS-4].

4) Abnormal cost like break down of machinery does not form part of cost of production [CAS-4].

Answer-2 (a) :

Rule 3 is to be applied when classification cannot be decided by Rules 1 and 2, which is as under - Classification when goods classifiable under two or more headings [Rule 3]: When by application of Rule 2(b), or for any other reason, goods are prima facie classifiable under two or more headings, classification shall be effected as follows

(1 Mark)

(a) **Most Specific description shall prevail over general description [Rule 3(a)]:** The heading, which provides the most specific description, shall be preferred to headings providing a more general description.

Example: Heading 8215 covers spoons, forks, ladles, skimmers, fish-knives etc. while Heading 7323 covers table, kitchen or other household articles of iron and steel. In order to classify steel forks, obviously heading 8215 is preferred to heading 7323.

However, when two or more headings each refer to only part of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

In such cases the classification of the goods shall be determined by Rule 3(b) or 3(c).

(1 Mark)

(b) **Classification on basis of essential character [Rule 3(b)]:** Mixtures, composite goods consisting of different materials or made up of different components and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, so far as this criterion is applicable. This Rule will be applicable only on the failure of Rule 3(a).

Example: Hair dressing sets consisting of a pair of electric hair clippers (heading 8510), a comb (heading 9615), a pair of scissors (heading 8213), a brush (heading 9603) and a towel of textile material (heading 6304) put up in a leather case (heading 4202) - classifiable in Heading 8510.

(1 Mark)

(c) **Latter the better maxim [Rule 3(c)]:** When goods cannot be classified by reference to (a) or (b) they shall be classified under the heading, which occurs last in numerical order among those, which equally merit considerations. **This rule is also known as 'latter the better maxim'.**

Example: Consider the case of a conveyor belting used in the colliery. The top layer is vulcanised rubber as coal has a tendency to ignite and bum on its own, the central layer is that of textiles which gives strength and the bottom layer is of plastic which is friction free to move on rollers. The following headings are relevant -

4010 Conveyor or transmission belting;

5910 Transmission or conveyor belts or belting of textile material, whether or not reinforced with metal or other material.

Even though each of the above headings is equally specific, by virtue of Rule 3(c), the last heading 5910 will be the appropriate heading for classification.

(1 Mark)

Answer-2 (b) :

(i) **The relevant computations are as follows (amounts in Rs.) —**

Particulars	ST	SBC	KKC
(1) Value of taxable services providedRs. 110 crores	15.40	0.55	0.55
(2) CENVAT Credit: Service tax paid on spectrum licence [Rs. 300 crores x 14% ÷ 3]	14.00	—	0.5
(3) Service tax payable in cash [1 - 2]	**1.40**	**0.55**	**0.05**

Working Notes:

(1) The CENVAT Credit of Service Tax paid in a financial year, on the onetime charges payable in full upfront or in instalments, for the service of assignment of the right to use any natural resource by the Government, local authority or any other person, shall be spread evenly over a period of 3 years.

(2) No CENVAT credit is allowed of Swachh Bharat Cess. Further, SBC cannot be paid by utilizing credit of any other duty or tax. CENVAT credit of KKC can be adjusted only against KKC.

(3 Marks)

(ii) Where the provider of output service further assigns such right to use, in any financial year, to another person against a consideration, such amount of balance CENVAT credit as does not exceed the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year : In case the company has assigned such rights to Teletalk limited for a consideration of Rs. 210 crores in financial year 2017-18. Hence, the remaining CENVAT Credit of Rs. 28 crores [Rs. 42 crores - Rs. 14 crores] can be utilised for payment of service tax liability. The utilisation of CENVAT Credit shall be restricted to service tax liability.

	Particulars	ST	SBC	KKC
(1)	Value of taxable services providedRs. 210 crores	29.40	1.05	1.05
(2)	CENVAT Credit: Remaining Cenvat Credit Rs. 28 crores to be utilisied			
	to the extent of service tax payable	28.00		1.00
(3)	**Service tax payable in cash [1 - 2]**	**1.40**	**1.05**	**0.05**

(3 Marks)

Answer-3 (a) :

Computation of assessable value -

FOB cost		Yen	2,00,000
Add: Freight	[WN-1]	Yen	20,000
Add: Design charges	[WN-2J	Yen	30,000
Total (A)		**Yen**	**2,50,000**
Exchange rate to be applied is 1 yen = Rs. 0.3948, as notified by CBEC	[WN-3]	Rs.	0.3948
Total sum in Indian Rs.		Rs.	98,700.00
Add: Commission to the Agent [5% of FOB value of goods]	[WN-4]	Rs.	3,948.00
Add: Developmental activities with respect to the imported machine	[WN-5]	Rs.	—
Add: Insurance charges	[WN-6]	Rs.	10,000.00
Total CIF Value		**Rs.**	**1,12,648.00**
Add: Landing charges @1% of CIF	[WN-7]	Rs.	1,126.48
Total Assessable value			**1,13,774.48**

(6 Marks)

Working Notes:

(1) Only the cost of transport of the imported goods up to the place of importation is includible for the purpose of valuation. Thus, transport cost from Mumbai port (place of importation) to the factory in Karnataka has not been included in the assessable value.

(2) Value of design work undertaken elsewhere than in India is includible in the value of the imported goods.

(3) Rate of exchange notified by the CBEC has been considered.

(4) Buying commission is not includible in the value of the imported goods. Since the agent's commission does not represent buying commission, hence, it is includible.

(5) Value of development work undertaken in India is not includible in the value of the imported goods. Hence, Rs. 1,00,000 expended in India for developmental activities have not been considered.

(6) Insurance of the machine is includible in the assessable value.

(7) Landing charges have been considered @ 1 %.

(2 Marks)

Answer-3 (b) :

Computation of customs duty payable

Particulars	**Rs.**
Total CIF value in INR = US $ 40,000 x Rs. 45	18,00,000
Add: Landing charges @1%	18,000
Assessable value (AV)	18,18,000
Basic customs duty (BCD) @10%	1,81,800
Education cess (EC) @ 2% on BCD	3,636
Secondary and higher education cess (SHEC) @ 1% on BCD	1,818
Landed value of imported goods	**20,05,254**

Total customs duty payable (BCD + EC+ SHEC) **1,87,254**

Computation of anti – dumping duty payable

Particulars	Rs.
Value of goods in INR as per Notification = 1,000 Kgs x US $ 60 x Rs. 45	27,00,000
Less : Landed value of goods	20,05,254
Anti-dumping duty payable	**6,94,746**

Answer-4 (a) :

Transit	Transhipment
(i) Section 53 of the Customs Act, 1962 provides for transit of goods.	(i) Section 54 of the Customs Act, 1962 provides for transhipment of goods.
(ii) In case of transit of goods, goods are allowed to remain on the sameconveyance.	(ii) In case of transhipment of goods, theconveyance changes i.e., the goods areunloaded from one conveyance andloaded in another conveyance.
(iii) In case of transit of goods, there iscontinuity of records.	(iii) In transhipment of goods, continuity inthe records is not maintained as thegoods are transferred to anotherconveyance.

(4 Marks)

Answer-4 (b) :

Section 64 of Customs Act 1962, provides that with the sanction of the proper officer, and on payment of the prescribed fees, the owner of any goods either before or after warehousing the same -

(a) inspect the goods;
(b) separate damaged or deteriorated goods from the rest;
(c) sort the goods or change the containers for the preservation, sale, export or disposal of the goods;
(d) deal with the goods & their containers in such manner as may be necessary to prevent loss, deterioration or damage to the goods;
(e) show the goods for sale;
(f) take samples of the goods without entry for home consumption, if the proper officer so permits, without payment of duty on such samples.

(3 Marks)

Answer-5 (a) :

(i) As per Rule 8(1) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, no amount of drawback shall be allowed if the rate of drawback is less than1% of the FOB value, except where the amount of drawback per shipment exceeds Rs. 500. Further, as per section 76(1)(c) of the Customs Act, 1962 drawback is notallowed where the drawback due in respect of any goods is less than Rs. 50.

In the given case, since the rate of duty drawback is not less than 1% and drawback dueis Rs. 500 (1% of FOB value) which is more than Rs. 50, duty drawback shall be allowed.

(1 Mark)

(ii) Section 76(1)(b) of the Customs Act, 1962 *inter alia* provides that no drawback shall beallowed in respect of any goods, the market price of which is less than the amount ofdrawback due thereon. In this case, the market price of the goods is Rs. 50,000, which isless than the amount of duty drawback, i.e. 2,000 kgs x Rs. 30 = Rs. 60,000. Hence, nodrawback shall be allowed.

(1 Mark)

(iii) As per rule 8(1) of the Customs, Central Excise Duties and Service Tax Drawback Rules,1995, no amount of drawback is allowed if the rate of drawback is less than 1% of theFOB value, except where the amount of drawback per shipment exceeds Rs. 500. Further, as per section 76(1)(c) of the

Customs Act, 1962, drawback is not allowed wherethe drawback due in respect of any goods is less than Rs. 50.

In the given case, though the rate of duty drawback is less than 1%, duty drawback shallbe allowed as the amount of drawback is Rs. 640 (0.8% of Rs. 80,000) which is more than Rs. 500 and also Rs. 50.

(1 Mark)

Answer-5 (b) :

The excise duty payable by M/s. Choti Ltd. during the financial year 2015-16 is as follows (Rs.) :

Clearances of finished goods made during the year		2,50,00,000
Less: Exemption of Rs.150 lakhs		1,50,00,000
Dutiable clearances		1,00,00,000
Duty @ 12.50%	**[A]**	**12,50,000**
CENVAT credit available on inputs used in the manufacture of dutiable clearances (No CENVAT credit available in respect of exempt clearances):		
Final products cleared during the year (in Kgs.)	[WN-1]	15,000
Uniform Transaction Value (Rs. 250 lakhs 15000 Kg.)		1,667
No. of units comprised in dutiable clearances (Rs. 150 lakhs + Rs.1667 approx)		6,000
Inputs consumed in manufacture of dutiable clearances (Kg.)		6,000
CENVAT credit attributable to 6000 Kg. of inputs **(6000 x 1012.50 x 12.5 +112..5)**	**[B]**	**6,75,000**

(Alternative Computation : Since 40% of clearances are dutiable, therefore, 40% of inputs are eligible for CENVAT credit. Hence, CENVAT credit = Rs.1,51,87,500x 40% x 12.5 ÷112.5 = Rs.6,75,000)

CENVAT credit availed on capital goods (C)	
(100% of 45,00,000 x 12.5 ÷ 112.5)[WN-2 & 3]	5,00,000
Duty payable [A - B - C]	**75,000**

(5 Marks)

Working Notes:

(1) Since there is neither any processing loss nor inventory of input and output, it implies that all goods manufactured have been sold and entire quantity of inputs has been used in manufacturing these goods.

(2) In respect of units availing SSI exemption, no CENVAT credit is available on inputs consumed in exempt clearances of Rs. 150 lakh.

(3) In respect of units availing SSI exemption, CENVAT credit on capital goods can be availed but utilized only after clearances of Rs. 150 lakh.

Further, entire credit on capital goods can be taken in the same financial year by such units.