



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

CONFIDENTIAL  
SPEED POST

Ref: 13 CA/Exams/AB-Cell/N-11/F-532 Roll No. 158381

Date: 9/3/2012

To,  
Mr. Aarish Ayub Khan,  
A/8,  
Room No. 2,  
Parkside Vikhroli (W),  
Mumbai - 400079.

Dear Student,

**Sub: Supply of Certified copy(ies) of answer books(s) of Chartered Accountants Final Examination held in November, 2011.**

This has reference to your application for supply of certified copy(ies) of your answer book(s) of Chartered Accountants Final Examination held in November 2011. We are enclosing herewith the Certified copy(ies) of your answer book(s) of Paper No.(s) 8 of Final Examination held in November, 2011, for your academic guidance only.

It is further informed that the signatures of examiner, checker etc. have not been disclosed as a safeguard, as per policy of the Institute. The Roll No. portion is also not shown in the certified copies of answer books as the same was removed to hide the identity of the candidate and fictitious number was allotted before sending answer books to the concerned examiners for evaluation.

Your faithfully,

(Rajiv Seth)

Deputy Secretary (Exams)

Encl.: as above

'ICAI BHAWAN', Indraprastha Marg,  
Post Box No.7112, New Delhi - 110 002  
India

Phone: (+91)(0120) 3054805  
Fax: (+91)(0120)3054841/3  
Email: abc@icai.in/Website: <http://www.icai.org>



Book No. 1 (containing 36 pages)

**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

Final

Examination

Group No II Paper No 8

Subject Indirect Tax Laws.

Number of Answer Books used 1 to = 1

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17 NOV 2011

Q. No.	Please put ✓ against the Questions answered	Marks Awarded (to be filled by Examiner)					Total
		a	b	c	d	e	
1	✓	3	4	4	3	5	19
2	✓	6	6	3			15
3	✓	5	5	3			13
4	✓	4	5	3			12
5	✓	6	6	2			14
6	✓	5	6	2			13
7							86
8							
9							
10							
Total	6						

Use only Blue / Black Ball Point Pen to write and shade the circles. AVOID RED PEN. Write the marks in the boxes before shading the respective circles.

Total Marks awarded

086

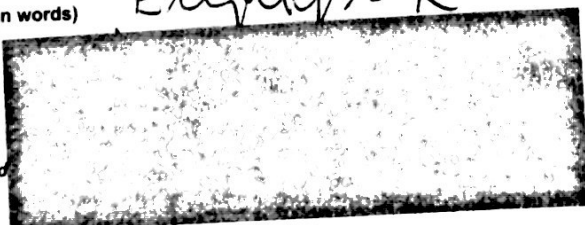
3131-30037

Total Marks awarded (in words)

Eighty six

Examiner's Signature

Checked (Initial of the Checker with)



(Q.2.)

Ans: a)

i) This statement is false.

Reason:

→ As per Rule 2(1) of the Cenvat Credit Rules 2004, services used in the repairs or renovation of factory is specifically included in the definition of Input Service in the inclusive part.

→ Therefore, Cenvat Credit of Input Services used in the repair or renovation of factory or office is available.

ii) This statement is false.

Reason:

→ As per Rule 6(4) of Cenvat Credit Rules 2004, no credit on capital goods should be allowed if it is used in the manufacture of exempted goods or for providing exempted service.

→ As per Rule 2(d) of Cenvat Credit Rules 2004, goods on which benefit of exemption under Notification No. 1/2011 is availed are exempted goods.

→ Therefore, on combine. reading of the above two provisions credit on capital

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goods used in the manufacture of goods on which Notification No. 1/2011 is availed is not available

Ans: iii) → This statement is true.

→ As per Rule 2(a) of the Central Credit Rule 2004, goods used outside the factory for generation of electricity for captive use within the factory is allowed.



Ans: b)

(i) → Vacant Land given on lease or license for construction of a building or temporary structure at a later stage to be used for furtherance of business or commerce is classified under 'Renting of Immovable Property' Service.

→ Therefore, service tax will be levied on such service.

②

Ans: (ii) → Activity relating to promotion of a brand of goods, events, business entity are classified under 'Promotion of Brand Service'

→ Therefore, service tax would be leviable on such service.

②

Ans: (iii) → Air Transport of crew members on board the aircraft. is classified under 'Transport of Passenger by Air' Service.

→ However service tax in respect of Air Transport of crew members on board the aircraft is exempt.

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②

6

Ans: c) i) If Mandatory:

→ The Assessment of Packaged software where affixation of Retail Sale Price is mandatory for the purpose of charging CVD u/s 3(1) of Customs Tariff Act 1975 is the Retail Sale Price on such imported goods less abatement.

(ii) Not Required under Standards of Weights and Measures Act 1976:

→ The value of the packaged software for the purpose of charging CVD u/s 3(1) will be transaction value u/s 4(1) of Central Excise Act 1944.

3

(Q-3.)

Ans: a) →

"Issue under Consideration:"

→ The issue under consideration is whether the differential duty consequent upon the said revision in prices are liable for interest under section 11AB.

Judgement:

→ The issue was resolved in the case of International Auto Limited, where in it was held that "differential excise duty consequent upon the revision of price is liable for interest u/s 11AB as it tantamounts to loss of Revenue to the government."

Conclusion:

→ The facts of XYZ Co Ltd are similar to the facts of the above judgement. Therefore the stand taken by department is correct in law.

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Ans: b)

### Issue under consideration:

→ The issue under consideration is whether the entrance fee collected from visitors by "Efficient Collections" tantamounts to consideration charged for the purpose of charging service.

### Judgement:

→ The court had an occasion to consider the issue in the case of P.C. Paulose wherein the Lordship held no doubt the services were provided by the Airport Authority to the visitors, but moment the Airport Authority enters into an agreement with the Agents to collect entrance fee, the agents steps into the shoes of service provider.

→ Therefore, it was Agents who is liable to pay service tax and not Authority.

### Conclusion:

→ Applying the aforementioned Ratio-decendi, the stand taken by the Central Excise department is tenable in law and accordingly show cause notice issued to "Efficient Collections" is justified.

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Ans: c) → The Court had an occasion to consider this issue in the case of Aman Medical Products Ltd. wherein the court held:

i) It is not necessary that duty must always be paid in pursuance of an assessment order.

ii) The duty can be borne by the assessee.

iii) Sec 27(ii) is inserted to cover those situation where duty has been without an assessment order.

→ Therefore, the stand taken by the department is not correct in law and PQR Ltd must be allowed refund in of excess duty paid by it.

3

(Q-4.)

Ans: 4)

Issue under Consideration:

→ The issue under consideration is that whether Tarpaulin madeups prepared by means of cutting, stitching and fixing eyelets amounts to manufacture so as to impose excise duty.

Judgement:

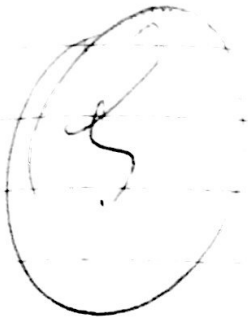
- The similar issue was raised in the case of Tarpaulin International 2010, where it was held conversion of Tarpaulin <sup>into</sup> ~~and~~ Tarpaulin madeups does not change the basic characteristic of raw materials and the final product.
- Further conversion of Tarpaulin into Tarpaulin madeups does not transform into distinct identity having distinct identity, character and use.
- Moreover, the Tarpaulin were even named as Tarpaulin made up i.e. there is no change in name.
- Therefore the court held, Tarpaulin madeups prepared by means of cutting, stitching and fixing eyelets does not amount to manufacture.

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Conclusion:

→ Therefore, the department's view in the matter is not legally sustainable.



Ans: b)

### Issue under Consideration:

→ The issue under consideration is whether service tax is leviable on value of materials on which VAT has been paid by Ms Sure Shot.

### Judgement:

- The court had decided a similar matter in the case of Vahoo Colour Ltd. in the favour of assessee wherein it held no doubt services of shooting photographs cannot be provided without the use of various materials.
- The use of various materials forms integral part of the providing the services.
- However, where value of materials include vat then such services should be classified under work contract and account accordingly service tax cannot be levied on the 'Transfer of property in goods.'
- Therefore, the court held the nature of service being 'Works contract' therefore value of service should not value of goods.

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Conclusion:

→ Therefore, applying the ratio of supra decision, the stand taken by the department is not correct in law and accordingly service tax will not be leviable on the portion of materials for M/s Sure Shot.

5

Ans: c) → The facts of this case is similar to the facts of the Fenisse Creation Inc, wherein it was held that where the goods are not available for seizure the question of confiscation of the same doesnot arise.

→ Therefore where the goods are not liable for confiscation the question of redemption of the same and subsequently imposition of Redemption fine doesnot arise.

→ Therefore, applying the above principle, the penal action taken by the department is not correct in law and subsequent imposition of Redemption fine is not legally upheld.

3

Q.5.)

Ans: i) Following could be considered as a 'Related Person' under sec 4(3)(b) of the Central Excise Act 1944:

- The interconnected undertakings,
- The relatives.
- amongst them buyer is relative and distributor of the seller.
- They are so associated in each other that they have interest in each others business.

(3)

Ans: ii) "Place of Removal" ~~is~~ is defined under section 4(3)(c) of the Central Excise Act 1944 as following:

- Factory of manufacturer where exisable goods are produced or manufactured.
- Premises of warehouse keeper where exisable goods are stored.
- Depot of a consignment Agent.

(3)

Ans: b) P) Rule 4 of the Service Tax Rules 2006:

- Central Excise Officer must satisfy itself with the assessment by the assessee by examining documents, records etc.
- Where the Central Excise Officer is not satisfied, then it may send ~~to~~ a Show cause notice to the assessee indicating that why service tax should not be charged at amount specified in the notice.
- In respect of such show cause notice assessee will have to show cause.
- Therefore, after, Central Excise Officer will demand the duty. ✓

(3)

Ans: b) (i) Invoice Method:

- Under Invoice Method Tax is imposed at each stage of sales and tax paid at the earlier stage is allowed as setoff.
- Under Invoice Method Input Tax credit is available for dealers who are registered with the respective authorities.
- Also the dealer should purchase goods in from within the state.
- Further, Input Tax credit is available to dealers holding Valid Certificate.

3

Ans: c) → The provisions relating to importation of 'Set of articles' are contained in Sec 19 of the Customs Act 1962

- In a set of articles, the articles which are chargeable to specific duty shall be charged at specific duty.
- In a set of articles, if the articles are chargeable at ad-valorem duty then charge at the highest of the advalorem duty.
- In a set of articles, where articles are not chargeable to duty, then charge all the articles at advalorem rate.

(2)

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(0.6.)

Ans: a) i) Payment of duty under Protest:

- Where there is dispute regarding payment of duty on account of valuation or rate of duty, and manufacturer is in urgency of removal of goods, then he shall pay duty under protest and remove the goods.
- Manufacturer shall file a protest with the officer and obtain dated acknowledgment.
- Subsequent to payment of duty under Protest manufacturer shall mark all the invoices that duty is paid under protest.
- Further, he should also mark all the return that duty is paid under protest.

2

Ans: ii) → The provisions relating to filing of Annual Installed Capacity statement are contained in Rule 12 of Central Excise Rules 2002.

- Every person shall file Annual Installed Capacity with the Superintendent of Central Excise by 30th April of succeeding year in Form ER-7.
- However, Central Government has the power to exempt any class of assessee from filing Annual Installed Capacity.
- Accordingly manufacturer of following goods are exempted from filing Annual Installed Capacity:
  - Manufacturer of Biris without the aid of machines.
  - Manufacturer of Matches without the aid of Power.
  - Reinforced Cement ~~concent~~ Concrete Pipes.

(7)

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Ans: b) i) → The issue relating to provision of deemed Registration in case of Centralized registration is resolved in the case of Karamchand Thapar and Bros, wherein it was held that provision of deemed Registration doesnot apply in the case of Centralized Registration.

(3)

Ans. b) (ii) Vat Registration could be cancelled under following circumstances:-

- Disposal of Business.
- Discontinuance of Business.
- Transfer of Business.
- Turnover falling below the specified limit.

3

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Ans: c) → Commissioner of Customs may call for and examine any record in which the ~~Customs~~ ~~or~~ Customs officer has passed an order as an adjudicating officer to test the legality and propriety of order.

→ Where there is difference of opinion, then Commissioner of ~~customs~~ Customs may direct the Customs officer to state the points to ~~Customs~~ Commissioner of Customs (Appeals)

(2)

(Q.1.)

Ans: e) Computation of Assessable Value under Customs Act 1962, in respect of Imported Machine

Particulars:	₹
FOB Value	6000
Add: Air Freight (Note 1)	1200
Add: Design and Development charges paid in U.K (Note 2)	500
Add: Commission paid to local Agents (Note 3)	60
Add: Insurance (Note 4)	67.5
CIF Value	7827.5
Add: Landing charges (Note:5)	78.275
	7905.775
CBEC Rate (Note:6)	70
Assessable Value.	5534.04

(5)

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Note: 1: As per Rule 10(2)(a) Air freight on imported goods is restricted to 20% of FOB.

Note: 2: As per Rule 10(1)(b)(iv) design and development charges paid outside India is considered in the valuation, whereas design and development charges paid in India are not included.

Note: 3: As per Rule 10(1)(a)(i), Brokerage and Commission paid to local agents are included in the assessable value.

Note: 4: As per Rule 10(2)(b), where insurance charges are not ascertainable then it is considered at a rate of 1.125% of FOB.

Note: 5: As per Rule 10(2)(c), Landing charge at 1% <sup>of CIF</sup> is included in the value.

Note: 6: As per proviso to Sec 14, conversion rate is the CBEC rate on the date of Bill of entry.

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Ans: b) As per Rule 8 of Central Excise Valuation Rule 2000, the assessable value in respect of product which is captively consumed is 110% of Cost of Production.

Particulars	₹
Cost of direct material (Excluding duty) (Note: 1)	15000
Cost of direct Employees } Work over heads } (Note: 2) Administrative Production } Cost }	12300 8400 3000
<u>less:</u> Scrap Value Realised. (Note: 3)	(1500)
Cost of Production.	37200
Assessable Value = 110% of 37200	
Assessable Value = ₹ 40920.	



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Note: 1) Cost of direct material is a part of cost of production.

Further it is assumed that cen vat credit in respect of excise duty is availed therefore, it is not included in cost as held in Dai Ichi Karkaria.

Note: 2 Cost of direct employees, work-overheads, and Administrative production overhead are part of cost of production and hence included.

Note: 3 Scrap Realised is to be reduced from the value of cost of production.

Note: 4: Quality Control cost, Research and Development Cost, Administrative cost and Selling and distribution costs are not cost of production hence not included.

Ans: c) Computation of value of Taxable Service and Service Tax payable thereon under 'Business Auxiliary Service'

Particulars	₹ (laks)
(i) Commission for Procurement of Services for their client M/s Sharddha & co. is taxable here	10. ✓
(ii) Commission on distribution of UTI Mutual Fund is taxable in the hands of Mutual Fund Company as per Sec 68(2) of Finance Act 1994 r.w. Rule 2(1)(d)(v) of Service Tax Rules 1994.	-
(iii) Customer Care Service covered here	8 ✓
(iv) Commission on purchase and sale of food grains is exempt	-

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(v) Commission for procurement of Advertisements for Publications Company is covered under Advertising Service

(vi) Charges for processing parts and accessories in the manufacture of cycles is eligible for 30% abatement provided value of input is also included in the Gross Amount Charged. Further it is assumed inputs valued ₹ 2 lacs is included in ₹ 10 lacs.  
(10 - 30% Abatement)

Value of Taxable Service.

25

Service Tax @ 10%

2.5

Add: Education Less @ 2%

0.05

Secondary & Higher Education  
Less @ 1%

0.025

Service Tax Payable

4

2.575

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Ans: d) Computation of Vat Payable:

Vat on Sales:	
Sales in Gujarat: $500000 \times 12.5\%$	62500
Sales in Maharashtra:	12000
<u><math>600000 \times 2\%</math></u>	
Sales in Gujarat: 30,00,000	-
Sales in Gujarat: $40,00,000 \times 4\%$	160000
	<u>234500</u>
<u>Less: Input Tax Credit</u>	
Goods 'Z' { less: 2% reduction } in credit: $437500(-) 2\%$	428750
Goods 'Y':-	
(Cr. Not Available as used in exempted goods)	
Excess carry forward.	<u>194250</u>

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Dy. Secretary (Exe)  
The Institute of Chartered  
Accountants of India  
I.P. Marg, New Delhi



→ For the purpose of this notification aggregate value of clearance refers to Aggregate value of goods cleared from a factory builder. Therefore, clearance of Exisable goods by previous tenant will also be clubbed.

$$\therefore \text{Total value of clearance} = 60 + 80 + 70 + 200 + 120$$

$$\text{Aggregate Value of clearance} = ₹ 530 \text{ lacs.}$$

Since, the Aggregate Value of clearances in Financial Year 2010-11 exceeds ₹ 400, therefore MNO Ltd will not be eligible to claim benefit of E/N - 8/2003 - CE.

(3)