

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

Course: Law of Taxation-II  
Semester-VIII (Batch: 2012-17)

Mid Semester Test: Feb-Mar. 2016



**Date: 3<sup>rd</sup> March, 2016**

**Duration: 2 hours**

**Max. Marks: 30**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**
- **Calculator is not allowed.**

- |     |   | <b>Marks</b> |
|-----|---|--------------|
| Q.1 | Mr. A (The appellant) imported recorded audio and video discs in boxes of 50 and packed each individual disc in transparent plastic cases known as jewel boxes. An inlay card containing the details of the content of the compact disc was also placed in the jewel box. The whole thing was then shrink wrapped and sold in wholesale. The Department alleged that the said process amounted to manufacture.<br><b>With the help of relevant provisions and case laws determine whether the activity of packing of imported compact discs in a jewel box along with inlay card amounts to manufacture under the Central Excise Act?</b>   | (06)         |
| Q.2 | Induben (The appellant) was getting 'Khakra, and Bhujia' etc. manufactured on their behalf from the household ladies. The household ladies were manufacturing 'Khakra, and Bhujia' etc. in their houses on their behalf without the aid of power in the premises. The appellant was supplying raw material for manufacturing the said products. The final product was directly sold from premises of the ladies and was not brought to the factory of appellant. There was no supervision over their work by the appellant. Payment to the ladies was on basis of number of packets manufactured.<br><br><b>Induben seeks your expert opinion on following points for determining their tax liability under the Central Excise Act-</b><br>a) Whether preparation of Khakra, and Bhujia' etc. amounts to manufacture under the Central Excise Act?<br>b) Since they have provided the raw material for the production of the said products whether they should be considered as manufacturer in the above case?<br><b>Explain with the help of relevant provisions and case laws.</b> | (06)         |

**OR**

Mr. X is a knife manufacturer. He manufactures knife out of imported high-speed cutting steel strips during warehousing period. He also uses locally procured plastic for providing handles to the knives. In a batch process 200 kg imported steel strips and 100 kg plastic is issued for the manufacture of the cutlery items. 400 gross knives are manufactured and

they are cleared for home consumption. The steel strip content in the above knives is 178 kg. The weight of the plastic handles is 85 kg. The waste is in the form of shaving etc. The total weight of the waste is  $[(200+100)-(178+85)=37\text{kg}]$ . The steel content of the waste is 22 kg. Mr. X wants to export these products.

**He seeks your expert opinion regarding the taxability of waste, which was generated during manufacturing. Guide him on the following issues;**

- A. Whether he is liable to pay the import duty on the waste generated during above mentioned process.
- B. How can he save import duty on this waste of steel content? Explain with help of relevant provisions.

- Q.3 The assessee manufactured a cream called as '*fair & lovely*' which was prescribed by dermatologists for treating dry skin conditions. However, the same was also available in chemist or pharmaceutical shops without prescription of a medical practitioner. The pharmaceutical content of the cream included urea (10%), lactic acid (10%) and propylene glycol (10%). The assessee classified the cream as medicament under Heading 30.03 of the Central Excise Tariff. However, the Department contended that the product '*fair & lovely*' is mainly used for care of the skin and thus, the same ought to be classified as cosmetic or toilet preparations under Heading 33.04. It was further contended that even if such cosmetic products contained certain subsidiary pharmaceutical contents or even if they had certain subsidiary curative or prophylactic value, still, they would be treated as cosmetics only. It was also contended that since the product can be purchased without prescription of a medical practitioner, it could not be a medicament. The assessee on the other hand contended that the very presence of pharmaceutical substances changes the identity of the product since such constituents are not used for care of the skin, but for cure of certain diseases relating to skin. (06)

**In the light of the above facts & circumstances determine the suitable heading for "*fair & lovely*" with the help of relevant provisions and case laws.**

- Q.4 Answer **any three** short question: (3x3=09)
- (a) Distinction between section 13 and section 23 of the Customs Act
  - (b) Distinction between tax and compensatory tax
  - (c) Distinction between clearance for home consumption and clearance for warehousing
  - (d) Distinction between Indian territorial and custom waters. Explain significance of Indian customs waters
- Q.5 Mr. A has imported furniture from USA. Ship, which was carrying that furniture, has entered Bombay and made prior entry on 4.7.2014 at which time the duty was 12.5%. Since there was no space, the ship proceeded to Karachi and after that came back to Bombay on 23.7.14 and was granted final entry on 4.8.15 when the duty rate had been revised to 15.0%. Determine which duty rate will be applicable in this case with the help of relevant provision. (03)

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