

Paper 18- Indirect Tax Laws and Practice

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Full Marks: 100

Time allowed: 3 hours

The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.

Section - A

Answer Question No. 1 which is compulsory and any four from the rest of this section.

1. Choose the correct answer with justification/ workings wherever applicable: [7×2=14]

- (i) In GST, securities have been specifically —
(a) Included in definition of goods
(b) Included in definition of services
(c) Included in definition of goods as well as services
(d) Excluded from definition of goods as well as services.
- (ii) ABC Ltd. gives Puja Gifts to its employee Mr. Y worth ₹ 5,00,000. It's taxability will be:
(a) It is a supply and liable to GST
(b) It is not a supply and therefore not liable to GST
(c) Outside the scope of GST
(d) It is a supply but not liable to GST.
- (iii) Where supplier is from Jaipur, recipient is from Mumbai and place of assembly/ installation of goods is Kolkata, the place of supply will be:
(a) Jaipur
(b) Mumbai
(c) Kolkata
(d) None of the above.
- (iv) As per section 147 of the CGST Act, which of the following is considered as deemed export?
(a) Supply of goods by a registered person against Advance Authorisation
(b) Supply of capital goods by a registered person against Export Promotion Capital Goods Scheme
(c) Supply of goods by a registered person to Export Oriented Unit
(d) All of the above.
- (v) Customs Department, Mumbai has auctioned some confiscated goods and the buyer is P Ltd. who is registered under GST. GST is payable by —
(a) Customs Department
(b) P Ltd.
(c) GST is not payable at all
(d) None of the above.
- (vi) Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the said information may be uploaded in the common portal in form no.
(a) GST EWB-01
(b) GST EWB-03
(c) GST EWB-04
(d) GST EWB-07.
- (vii) The user charges for Goods and Service Tax Network (GSTN) will be paid:

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- (a) entirely by the Central Government
- (b) entirely by the State Governments
- (c) entirely by the Central Government and the State Governments in equal proportion
- (d) entirely by the users.

Answer:

- (i) (d) Securities have been specifically excluded from definition of goods as well as services in GST. Although securities have been excluded from the definition of 'goods' or of 'services', 'transaction in securities' have been included in the scope of exempt supplies while determining pro rata reversal of input tax credits used for making both taxable and exempt supplies.
- (ii) (a) Puja Gifts to employee Mr. Y worth ₹ 5,00,000 shall qualify as a supply and liable to GST. However, gifts up to ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
- (iii) (c) As per section 10(1)(d) of IGST Act, where the goods are assembled / installed at site, the place of supply shall be the place of such installation/ assembly. Here, the place of supply will be Kolkata.
- (iv) (d) Supply of goods by a registered person against Advance Authorisation, Supply of capital goods by a registered person against Export Promotion Capital Goods Scheme, Supply of goods by a registered person to EOU/ EHTPU/ STPU/ BTPU and supply of gold by a bank or public sector undertaking against advance authorisation — these all are considered as deemed export.
- (v) (b) In the given case, GST is payable by P Ltd. under reverse charge mechanism, as P Ltd. is a registered buyer.
- (vi) (c) Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the said information may be uploaded in the common portal in form no. GST EWB-04 by the transporter.
- (vii) (c) The user charges for Goods and Service Tax Network (GSTN) will be paid entirely by the Central Government and the State Governments in equal proportion on behalf of all users. The state share will be then apportioned to individual states, in proportion to the number of taxpayers in the state.

2.(a) Mr. P is an insurance agent of Saraogi General Insurance Company Ltd. Amount of commission up to June 30, 2018 was approximately ₹ 5,00,000 every year. During July 1, 2018 and March 31, 2019, he is likely to get insurance commission ₹ 20,20,000 from the company. Mr. P is of the view that out of ₹ 20,20,000, ₹ 20,00,000 is not chargeable to GST and the balance ₹ 20,000 is taxable. Is he legally correct? Can he claim exemption available to small taxable persons? Discuss. [5]

(b) State the cases where place of supply of services (other than export or import) will be the location at which immovable property or lodging in boat or vessel is located or intended to be located. Also, state what will be the place of supply if the immovable property located outside India? [6+3=9]

Answer:

- (a) Generally, supplier of goods/services is liable for payment of GST. However, in some cases, recipient of goods/services is subject to GST under reverse charge mechanism. In the case of service supplied by an insurance agent to any person carrying on insurance

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business, the recipient of service will have to pay GST under reverse charge mechanism. The benefit of small scale service provider is not available when GST is payable under reverse charge mechanism. Saraogi General Insurance Company will have to pay GST in respect of commission paid to Mr. P. If amount of commission during July 1,2018 and March 31,2019 is ₹ 20,20,000, then insurance company will make the following payment:

Commission to Mr. P	20,20,000
GST to Government @ 18%	3,63,600

Note: Saraogi General Insurance Company will deduct tax at source at the rate of 5% under section 194D of the Income-tax Act. TDS will be ₹ 1,01,000. After TDS, the balance of ₹ 19,19,000 will be paid to Mr. P. There is no TDS on GST.

(b) In following cases, the place of supply of services shall be the location at which the immovable property or lodging in boat or vessel is located or intended to be located - section 12(3) of IGST Act:

1. Directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or
2. by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, by whatever name called and including a house boat or any other vessel, or
3. by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or
4. any services ancillary to the services referred to in clauses (1), (2) and (3).

Where the immovable property or boat or vessel is located in more than one State or Union Territory, the supply of service shall be treated as made in each of the States or Union Territories in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed - *explanation* to section 12(3) of IGST Act.

Place of supply if immovable property located outside India - If the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient - *proviso* to section 12(3) of IGST Act.

Thus, even if immovable property is located outside India, if the location of service recipient is in India, IGST will be payable.

Location of boat or vessel is relevant only in case of lodging accommodation.

3.(a) What do you mean by Registration Certificate in GST? List the persons who are not liable for registration. [4+4=8]

(b) Section 140(3)(iv) of the CGST Act restricts transitional credit of inputs to invoices or other documents issued not earlier than 12 months immediately preceding appointed day i.e. 1-7-2017. Due to this particular condition, stocks on which the assessee manufacturer had already paid tax under erstwhile tax regime, would be barred from availing CENVAT credit where invoice was issued on or prior to 30-6-2016. The assessee approached the High Court challenging constitutional validity of section 140(3)(iv) as

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invoices they had were dated earlier than 12-months limitation period set out in prerequisite under section 140(3)(iv). Discuss whether the contention of the assessee is legally tenable or not. [6]

Answer:

(a) Registration certificate - Where the application for grant of registration has been approved, a certificate of registration in Form GST REG-06 will be issued. The registration certificate shows the principal place of business and additional place or places of business and is made available to the applicant on the common portal and a Goods and Services Tax Identification Number (GSTIN) shall be assigned.

GSTIN contains the following characters -

- 2 characters for the State code
- 10 characters for PAN or TAN
- 2 characters for the entity code
- 1 checksum character.

Persons not liable for registration –

The following persons are not liable for registration even if aggregate turnover exceeds the threshold limit -

- ▶ Engaged exclusively in making exempt supplies - Any person who is engaged exclusively in the business of supplying goods/services that are not liable to GST or wholly exempt from GST, is not required to get registration.
- ▶ Agriculturist - An agriculturist is not liable for registration to the extent of supply of produce out of cultivation of land. "Agriculturist" means an individual / HUF who undertakes cultivation of land -
 1. by own labour, or
 2. by the labour of family, or
 3. by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.
- ▶ Engaged only in making taxable supplies, GST on which is payable by recipient under reverse charge mechanism – If a person is engaged only in making taxable supply of goods/ services, GST on which is liable to be paid on reverse charge basis by the recipient, registration is not required (even if aggregate turnover is more than the threshold limit).

(b) In the case of JCB India Ltd. v. Union of India [2018] 92 taxmann.com 131 (Bom.), it is held that the CENVAT credit is a mere concession and it cannot be claimed as a matter of right. Further, the CENVAT credit rules themselves stipulated and provided for conditions for availment of credit and right thereunder was not absolute but a restricted or conditional one and hence, it could not be said that such rights could have been enjoyed/availed irrespective of period/time provided therein. Thus, the right to availment of CENVAT credit itself being conditional and there being nothing indefeasible or absolute in right claimed under existing law or in transitional arrangements set out, or in substantive provisions permitting availing of input tax credit, conditions laid down for, GST Transitional Credit under section 140(3)(iv) are constitutionally valid. So, the decision is in favour of revenue.

4.(a)(i) What is Authority for Advance Ruling?

[2]

(ii) Compute the quantum of pre-deposit required to be made under Section 107 of the CGST Act, 2017 in each of the following independent cases:

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- (1) In an order dated 17-10-2018 issued to M/s. Black Ltd., the Joint Commissioner of Central Tax has confirmed a tax demand of ₹ 42,00,000. M/s. Black Ltd. has admitted ₹ 5,00,000 as tax liability and intends to file an appeal with the Commissioner (Appeals) against tax demand of ₹ 37,00,000.
- (2) In an order dated 19-10-2018 issued to M/s. Alpha Ltd., the Joint Commissioner of Central Tax has confirmed a tax demand of ₹ 40,00,000 and imposed a penalty of ₹ 2,00,000. M/s. Alpha Ltd. intends to file an appeal with the Commissioner (Appeals) against the said order. [3+3=6]

- (b) JEL, the applicant company generates power from coal supply by JSL, a steel company. JSL and JEL entered into work agreement under which JSL would supply coal or any other inputs to JEL, on a free-of-cost basis and JEL would convert said input into power. Justify whether the said activity undertaken by JEL would amount to manufacture of electricity and is a transaction of supply of goods and not a job work. [6]

Answer:

- (a)(i) Authority for Advance Ruling (AAR): As per section 96 of the CGST Act, the AAR constituted under the provisions of SGST Act or UTGST Act shall be deemed to be the Authority for Advance Ruling (AAR) in respect of that State or Union territory.

The Government shall appoint officers not below the rank of Joint Commissioner as member of the Authority for Advance Ruling.

- (ii) (1) Section 107(6) of the CGST Act, 2017 require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of ₹ 25 crore. Thus, Black Ltd. has to pre-deposit ₹ 5,00,000 (admitted tax) and 10% of ₹ 37,00,000 (tax in dispute) = ₹ 8,70,000.
- (2) Section 107(6) of the CGST Act, 2017 require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of ₹ 25 crore. In this case since entire amount of tax demanded is in dispute, hence Alpha Ltd. has to pre-deposit 10% of ₹ 40,00,000 = ₹ 4,00,000.
- (b) Where applicant-power company, entered, into work agreement under which another company would supply coal or any other inputs, on a free- of-cost basis and applicant company would convert said input into power, activity undertaken would amount to manufacture of electricity and is a transaction of supply of goods and not a job work.

In the case of JSW Energy Ltd., In re [2018] 93 taxmann.com 91 (AAR - Mah.), it is held that the activity undertaken by JEL amounts to manufacture of electricity from coal as supplied by JSL and is squarely covered in definition of 'manufacture' under GST Act and, is, therefore, not covered by scope of definition of 'job work' and transaction between JEL and JSL is a transaction of supply of goods and not a 'job work'.

- 5.(a) State the provisions pertaining to Scrutiny of returns under GST. [6]

- (b) Moonlight Ltd., Mumbai, a registered supplier, is manufacturing Chocolates and Biscuits. It provides the following details of taxable inter-state supply made by it for the month of October 2018:

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List price of goods supplied inter-State - ₹ 13,60,000. Items already adjusted in the list price above –

(1) Subsidy from Central Government for supply of Biscuits to Government School - ₹ 1,64,000.

(2) Subsidy from Trade Association for supply of quality Biscuits - ₹ 45,000.

Items not adjusted in the list price given above –

(3) Tax levied by Municipal Authority - ₹ 48,000,

(4) Packing Charges - ₹ 11,000

(5) Late fee paid by the recipient of supply for delayed payment of invoice - ₹ 15,000.

Calculate the value of taxable supply made by M/s Moonlight Ltd. for the month of October 2018. [8]

Answer:

(a) Scrutiny of return - The provisions pertaining to scrutiny of return are given below -

1. If the return furnished by the registered person is selected for scrutiny, the proper officer may scrutinize the same return and related particulars furnished by the registered person to verify the correctness of return.
2. In case of any discrepancy, he shall issue a notice to the said person in Form GST ASMT-10, informing him of such discrepancy and seeking his explanation thereto. The proper officer will also quantify the amount of tax, interest and any other amount payable in relation to such discrepancy.
3. The registered person is required to submit his explanation within a period of 30 days from the date of service of aforesaid notice (the period of 30 days may be extended).
4. The registered person may accept the discrepancy mentioned in the notice and pay the tax, interest and any other amount arising from such discrepancy and inform the same.
5. Alternatively, the registered person may furnish an explanation for the discrepancy in Form GST ASMT-11 to the proper officer. If the explanation submitted by the registered person is found acceptable, the proper officer shall inform him accordingly in Form GST ASMT-12 and no further action shall be taken.
6. In case no satisfactory explanation is furnished within a period of 30 days (or extended period) or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65/66/67 of the CGST Act or proceed to determine the tax and other dues under section 73/74 of the CGST Act.

(b) The value of taxable supply is as follows -

(i) List price of goods supplied inter-state	₹ 13,60,000
(1) Subsidy from Central Government for supply of Biscuits to Government School - ₹ 1,64,000 (Item already adjusted in the price given in (i) above) - Not to be added back in value	—
(2) Subsidy from Trade Association for supply of quality Biscuits - Items adjusted in the price given in (i) above - to be added as not eligible for deduction from value	₹ 45,000

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(3) Tax levied by Municipal Authority - Items not adjusted in the price given in (i) above - to be added as tax (other than GST) is not allowed as deduction - section 17(1)(a) of CGST Act (It is presumed that this amount has been separately recovered from customer)	₹ 48,000
(4) Packing Charges - Items not adjusted in the price given in (i) above - to be added as in respect of goods before delivery - section 17(1)(c) of CGST Act	₹ 11,000
(5) Late fee paid by the recipient of supply for delayed Payment of invoice. - Items not adjusted in the price given in (i) above - to be added as per section 17(1)(d) of CGST Act [cannot be added at the time of making tax invoice].	—
Value of taxable supply (Total of all above)	₹ 14,64,000
Credit note for Late fee paid by the recipient of supply for delayed Payment of invoice. - Items not adjusted in the price given in (i) above - to be added as per section 17(1)(d) of CGST Act	₹ 15,000

Note - Practically, at the time of making tax invoice, the late fee cannot be added. A separate debit note or supplementary invoice with GST is required to be issued after receipt of payment.

6.(a) Write in details about the transportation of goods without issue of invoice. [6]

(b) Ravi, a supplier of goods, pays GST under regular scheme. He has made the following outward taxable supplies in the month of August, 2019:

Particulars	Amount (₹)
Intra-state supply of goods	15,00,000
Inter-state supply of goods	12,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	Amount (₹)
Intra-state purchases of goods	8,00,000
Inter-state purchases of goods	2,00,000

Ravi has following ITCs with him as on 01.08.2019:

Particulars	Amount (₹)
CGST	70,000
SGST	60,000
IGST	40,000

Assume:

- (i) Rate of CGST, SGST and IGST to be 6%, 6% and 12% respectively.**
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.**
- (iii) All the conditions necessary for availing the ITC have been fulfilled.**

Compute the net GST payable by Ravi for the month of August, 2019. [8]

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Answer:

(a) Transportation of goods without issue of invoice:

- (1) The consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the prescribed details for the purposes of —
 - supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
 - transportation of goods for job work,
 - transportation of goods for reasons other than by way of supply, or
 - such other supplies as may be notified by the Board,
- (2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:
 - the original copy being marked as original for consignee;
 - the duplicate copy being marked as duplicate for transporter; and
 - the triplicate copy being marked as triplicate for consigner.
- (3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.
- (4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
- (5) Where the goods are being transported in a semi knocked down or completely knocked down condition -
 - the supplier shall issue the complete invoice before dispatch of the first consignment;
 - the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
 - each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
 - the original copy of the invoice shall be sent along with the last consignment.

(b) Computation of GST payable by Ravi on outward supplies

	Particulars	(₹)	GST (₹)
(i)	Intra-State supply of goods		
	CGST @ 6% on ₹ 15,00,000	90,000	
	SGST @ 6% on ₹ 15,00,000	90,000	1,80,000
(ii)	Inter-State supply of goods		
	IGST @ 12% on ₹ 12,00,000		1,44,000
	Total GST payable		3,24,000

Computation of total ITC

Particulars	CGST@ 6% (₹)	SGST@ 6% (₹)	IGST@ 12% (₹)

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Opening ITC	70,000	60,000	40,000
Add: ITC on Intra-State purchases of goods valuing ₹ 8,00,000	48,000	48,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 2,00,000	Nil	Nil	24,000
Total ITC	1,18,000	1,08,000	64,000

Computation of GST payable from electronic credit ledger

Particulars	CGST @ 6% (₹)	SGST @ 6% (₹)	IGST @ 12% (₹)
Total ITC available	1,18,000	1,08,000	64,000
Less: GST payable	90,000	90,000	1,44,000
Balance ITC available	28,000	18,000	(80,000)
Less: Utilized for IGST	28,000	18,000	46,000
Net GST payable	Nil	Nil	34,000

7. Answer the following:

[7+7]

- (a) Export of services
(b) GST Portal.

Answer:

(a) Export of services: Export of Services as per 2(6) of IGST Act, 2017:

“Export of services” means the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

Explanation 1 of Section 8.—For the purposes of this Act, where a person has,—

- (i) an establishment in India and any other establishment outside India; or
- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) an establishment in a State or Union territory and any other establishment registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Supply of service, when the supplier is located in India and the place of supply is outside India, shall be deemed to be a supply of service in the course of inter-state trade or commerce [Section 7(5)(a)].

(b) GST Portal: GST Portal or GSTN hosted at <https://www.gst.gov.in/> is a website where all the activities related to GST can be done. Activities like GST registration, return filing, payment of taxes, application for refund, etc. can be done on the GST Portal.

Services Available on GST Portal: Here is a list of some services available on the GST Portal:

1. Application for Registration for Normal Taxpayer, ISD, Casual Dealer
2. Application for GST Practitioner

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3. Opting for Composition Scheme (GST CMP-02)
4. Stock intimation for Composition Dealers (GST CMP-03)
5. Opting out of Composition Scheme (GST CMP-04)
6. Filing GST Returns
7. Payment of GST
8. Filing Table 6A of GSTR-1 (Export Refund)
9. Claim Refund of excess GST paid (RFD-01)
10. Furnish Letter of Undertaking (LUT) (RFD-11)
11. Transition Forms (TRAN-1, TRAN-2, TRAN-3)
12. Viewing E-Ledgers

Other than the above services changing core and non-core fields, browsing notices received, filing ITC Forms, Engage/ Disengage GST Practitioner are some of the other services provided on the GST Portal/ GSTN.

Goods and Service Tax Network: The Goods and Service Tax Network (or GSTN) is a non-profit, non-government organization. It will manage the entire IT system of the GST portal, which is the mother database for everything GST. This portal will be used by the government to track every financial transaction, and will provide taxpayers with all services – from registration to filing taxes and maintaining all tax details.

Functions of GSTN:

GSTN is the backbone of the Common Portal which is the interface between the taxpayers and the government. The entire process of GST is online starting from registration to the filing of returns. It has to support about 3 billion invoices per month and the subsequent return filing for 65 to 70 lakhs taxpayers.

The GSTN will handle:

- Invoices
- Various returns
- Registrations
- Payments & Refunds.

Section - B

Answer Question No. 8 which is compulsory and any two from the rest of this section.

- 8. Choose the correct answer with justification/ workings wherever applicable: [3×2=6]**
- (i) **The Central Government is empowered to levy customs duty vide entry no. _____ of the Union List of the Seventh Schedule to the Constitution of India.**
- (a) 78
(b) 83
(c) 111
(d) 120
- (ii) **As per section 2(2) of the Customs Act, assessment includes:**
- (a) provisional assessment
(b) self assessment
(c) reassessment
(d) All of the above.
- (iii) _____ **means vessel or cargo which is abandoned in sea without any hope of recovering it.**
- (a) Derelict
(b) Jetsam
(c) Flotsam
(d) Wreck.

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Answer:

- (i) (b) The Central Government is empowered to levy customs duty vide entry no. 83 of the Union List of the Seventh Schedule to the Constitution of India.
- (ii) (d) As per section 2(2) of the Customs Act, assessment means process of determining the tax liability in accordance with the provisions of the Act, which includes provisional assessment, self assessment, reassessment and any assessment in which the duty assessed is nil.
- (iii) (a) Derelict means vessel or cargo which is abandoned in sea without any hope of recovering it. Goods are not thrown from the vessel to prevent it from sinking.

9. Mr. Wang a tourist of Chinese origin aged 25 years came to India on tourist visa for a period of one month on 1-4-2018 along with his wife aged 22 years and child Juang aged 2 years. He brought the following items along with him:

- (1) Personal effects like clothes of Mr. Wang valued at ₹ 35,000, of Mrs. Wang valued at ₹ 55,000 and of Juang worth ₹ 27,000.
- (2) 2 laptop computers worth ₹ 40,000 each.
- (3) 3 bottles of wine of 1 litre each of total value of ₹ 7,500.
- (4) Digital camera worth ₹ 15,000.
- (5) Mobile worth ₹ 12,000.

What is the customs duty payable?

[12]

Answer:

Computation of Customs duty payable by Mr. Wang (amount in ₹):

Particulars	Mr. Wang
(1) Personal effects	Exempt
(2) 1 laptop computer	Exempt
(3) 2 bottles of wine (Wine upto 2 litres can be accommodated in GFA) (₹ 7,500 ÷ 3 × 2) [WN-1]	5,000
(4) Digital camera	15,000
Total dutiable goods imported	20,000
Less: General free allowance under Rule 3	15,000
Balance Goods on which duty is payable	5,000
Customs duty payable @38.5%	1,925

Computation of Customs duty payable by Mrs. Wang (amount in ₹):

Particulars	Mrs. Wang
(1) Personal effects	Exempt
(2) 1 laptop computer	Exempt
(3) 1 bottle of wine (Wine upto 2 litres can be accommodated in the GFA) (₹ 7,500 ÷ 3 × 1) [WN-1]	2,500
(4) Mobile	12,000
Total dutiable goods imported	14,500
Less: General free allowance under Rule 3	14,500
Balance Goods on which duty is payable	Nil
Customs duty @ 38.5% (inclusive of SWS)	Nil

Computation of Customs duty payable in respect of the Child Juang (amount in ₹):

Particulars	Juang
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Used personal effects	Exempt
Total value of dutiable goods	Nil
Customs duty @ 38.5% (inclusive of SWS)	Nil

Working Notes:

- (1) Since only 2 litres of wine can be accommodated in General Free Allowance, therefore, 2 litres is declared in the baggage of Mr. Wang and 1 litre in the baggage of Mrs. Wang.
- (2) The free allowance of one passenger cannot be pooled with that of other.
- (3) For infants only used personal effects shall be allowed duty free. It has been assumed that Mrs. & Mr. Wang and child Juang have brought three separate baggages for which separate declaration have been given to lower the incidence of customs duty.

10.(a) Eva Offshore Ltd. is engaged in drilling operations for exploration of offshore oil, gas and other related activities under contracts. The drilling operations are carried out at oil rigs/vessels which are situated outside the territorial waters of India. Until around November, 1993, the company was permitted to transship stores to the oil rigs without levy of any customs duty regardless of the fact whether oil rigs were operating within a designated area or non-designated area. Whether oil rigs engaged in operations in the exclusive economic zone/continental shelf of India, falling outside the territorial waters of India, are 'foreign going vessels' as defined by section 2(21) of the Customs Act, 1962, and are entitled to consume imported stores thereon without payment of customs duty in terms of section 87 of the Customs Act, 1962? [6]

(b) State the eligible as well as ineligible capital goods for import under Export Promotion Capital Goods Scheme. [6]

Answer:

(a) The Apex Court namely the Supreme Court of India in the case of *Aban Lloyd Chilies Offshore Ltd. v UOI* (2008) 227 ELT 24 (SC), had held that the goods imported by the assessee for consumption on board on oil rigs 'were stores', as they were for use on oil rigs, which are vessels. However, the oil rigs proceeding to or carrying out operations in, continental shelf/ exclusive economic zones of India, which are deemed to be a part of Indian territory, would not be a foreign going vessels, as the oil rigs proceed from the territory of India to an area which also deemed to be a part of the territory of India.

Thereby, neither the 'oil rigs nor the ship employed for transshipment of the goods to the oil rigs were foreign going vessel'. Therefore, the stores transshipped to the oil rigs and consumed thereon were not entitled to exemption u/s. 87 of the Customs Act, 1962. Therefore, the supply of imported spares or goods or equipments to the rigs by a ship will attract import duty.

In the given case, Eva Offshore Ltd. is liable to pay duty on imported stores.

(b) Export Promotion Capital Goods (EPCG) Scheme permits exporter to procure capital goods at concessional rate of customs duty / zero customs duty, in return exporter is under an obligation to fulfill the export obligation.

Eligible capital goods for import under EPCG Scheme:

1. Capital Goods including capital goods in CKD/SKD condition
2. Computer software systems
3. Spares, moulds, dies, jigs, fixtures, tools & refractories for initial lining and spare refractories
4. Capital goods for Project Imports notified by CBIC.

Ineligible capital goods for import under EPCG Scheme:

1. Second hand capital goods
2. Power Generator Sets.

11. Write short notes on:

[6+6=12]

(a) All industry drawback rates

(b) Benefits to Status holders in FTP.

Answer:

(a) All Industry Drawback Rates: The Central Government's Drawback Directorate fixes all industry rates, having regard to the following criteria -

1. the average quantity or value of each class or description of the materials from which a particular class of goods is ordinarily produced or manufactured in India;
2. the average quantity or value of the imported materials or excisable materials used for production or manufacture in India of a particular class of goods;
3. the average amount of duties paid on imported materials or excisable materials used in the manufacture of semis, components and intermediate products which are used in the manufacture of goods;
4. the average amount of duties paid on materials wasted in the process of manufacture and catalytic agents:

However, if any such waste or catalytic agent is re-used in any process of manufacture or is sold, the average amount of duties on the waste or catalytic agent re-used or sold shall also be deducted;

5. the average amount of duties paid on imported materials or excisable materials used for containing or, packing the export goods;
6. any other information which the Central Government may consider relevant or useful for the purpose.

Reduced drawback to be allowed in Certain Cases: In case where any goods are produced or manufactured from imported materials or excisable materials,-

1. the duty chargeable on which has been paid only on some of such materials and not on the rest, or the duty chargeable on which has been paid in part, or
2. the duty paid has been rebated or refunded in whole or in part or given as credit, under any of the provisions of the Customs Act, 1962, and the rules made there under, or of the Central Excise Act, 1944 and the rules made there under,

the drawback admissible on the said goods shall be reduced taking into account the lesser duty paid or the rebate, refund or credit obtained.

(b) Benefits to Status holders in FTP: Status holders are granted certain benefits like —

1. Self declaration based Clearances and authorizations: Authorisation and custom clearances for both imports and exports on self-declaration basis.
2. Priority in SION fixation: Fixation of Input Output Norms (SION) on priority i.e. within 60 days.
3. No need of negotiation of documents through banks - Only remittances through banks: Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels.

4. Exemption from Bank Guarantee: Exemption from furnishing of Bank Guarantee in Schemes under FTP.
5. Establishment of Export warehouses: Two Star Export Houses and above are permitted to establish export warehouses.
6. ACP benefit: Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBIC.
7. Free of Cost Export supplies: Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to some specified annual limit.