

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 rest of this section.

1. Choose the correct answer with justification/workings wherever applicable: [7×2=14]
- (i) Which of the following tax has been abolished by the GST?
(a) Service tax
(b) Income tax
(c) Wealth tax
(d) Corporation tax
- (ii) Which of the following has been kept out of GST levy?
(a) Generator
(b) Computer
(c) Jewellery
(d) Electricity
- (iii) Which state became the first state of India to ratify GST bill?
(a) Bihar
(b) Telangana
(c) Assam
(d) Andhra Pradesh
- (iv) A service would be called as “continuous supply of service”, if the service under a contract is provided continuously or on recurrent basis exceeding
(a) 1 year
(b) 6 months
(c) 3 months
(d) 1 month
- (v) A casual taxable person is required to obtain registration where he makes:
(a) Taxable inter-State or intra-State supply.
(b) Taxable inter-State or intra-State supply whose proposed value exceeds ₹20 lakhs.
(c) In none of the above situations.
(d) Taxable inter-State supply.
- (vi) A new supplier has taxable intra-State sales, exempt intra-State sales and export sales of goods. He should get himself registered under GST law, where:
(a) The aggregate value of taxable intra-State goods exceeds ₹ 20 lakhs.

- (b) The aggregate value of taxable as well as exempt intra-State goods exceeds ₹20 lakhs.
 - (c) The aggregate value of all the three items exceeds ₹20 lakhs.
 - (d) The aggregate value of taxable intra-State goods as well as export sales exceeds ₹ 20 lakhs.
- (vii) Under GST input tax credit cannot be claimed on goods and services used as inputs if:
- (a) Goods are purchased on credit.
 - (b) Goods are received and utilized, the invoice is received after two weeks from the supplier.
 - (c) Good are destroyed by fire.
 - (d) Services are provided by a law firm on which GST has been paid under RCM.

Answer: 1

(i) (a) Service Tax

Service tax is an indirect tax and it has been abolished throughout India after implementation of GST

(ii) (d) Electricity

Electricity is a nil rated item under GST. Therefore, transmission and distribution of electricity is exempted.

(iii) (c) Assam

Assam became the first state in the country to ratify the constitution amendment bill on the Goods and Services Tax (GST) as the assembly unanimously passed the bill.

(iv) (c) 3 months

"Continuous supply of services" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes a supply notified as being a continuous supply of services.

(v) (a) Taxable inter-State or intra-State supply

As per section 24 of the CGST Act, 2017, a casual taxable person making supply of taxable goods is required to obtain registration. It does not matter whether such supply is intra-State or inter-State.

(vi) (c) The aggregate value of all the three items exceeds ₹ 20 lakhs

For the purposes of registration under the GST law, aggregate turnover has to be considered. All three items given in the problem are included in the ambit of the term aggregate turnover

(vii) (c) Goods are destroyed by fire

ITC is not available on goods destroyed u/s. 17(5) of CGST Act.

2. (a) Under the purview of GST explain the terms Exempt Supply, Non Taxable Supply and Non GST Supply. [6]
- (b) Determine the time of supply and amount of GST in the following cases. The rate of GST has been increased to 12% w.e.f. 01.10.2019, before the said date the rate of tax was 5%

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Sl. No.	Date of supply of services	Date of Invoice	Date of payment	Value of service (₹)
1	25-09-2019	05-10-2019	08-10-2019	20,00,000
2	25-09-2019	25-09-2019	08-10-2019	10,00,000
3	04-10-2019	28-09-2019	30-09-2019	20,00,000
4	04-10-2019	04-10-2019	30-09-2019	10,00,000

[8]

Answer: 2

(a) Exempt Supply: As per Section 2(47) of the CGST Act, 2017, "exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply.

Exempt supplies comprise the following three types of supplies:

- Supplies taxable at a 'NIL' rate of tax;
- Supplies that are wholly or partially exempted from CGST or IGST, by way of a notification amending Section 11 of CGST Act or Section 6 of IGST Act;
- Non-taxable supplies as defined under Section 2(78) – supplies that are not taxable under the Act (For Example Alcoholic liquor for human consumption).

Tax need not be paid on these supplies. Input tax credit attributable to exempt supplies will not be available for utilization/setoff.

Non Taxable supply: As per Section 2(78) of the CGST Act, 2017, "non-taxable supply" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

A transaction must be a 'supply' as defined under the GST law to qualify as a non-taxable supply under the GST. Only those supplies that are excluded from the scope of taxation under GST are covered by this definition – i.e., alcoholic liquor for human consumption, articles listed in section 9(2) or in schedule III.

Non GST Supply: Goods or services on which GST is not leviable are called Non GST supply. Input tax credit of inputs and / or input services used in providing non GST supply is not available i.e. no input tax credit on non GST supplies.

Third Country sale is an example of non-GST supply. These supplies do not come under the purview of GST law.

(b) The Time of Supply (TOS) shall be determined as under:

Sl. No.	Value of service (₹)	Reason	Time of Supply	Rate of Tax	GST (₹)
1	20,00,000	Service is supplied before change in rate of tax. Invoice is issued after change in rate of tax. The payment has been received after change in rate of tax. TOS shall be earlier of date of issue of invoice or date of receipt of payment.	05-10-2019	12%	2,40,000
2	10,00,000	Service is supplied before change in rate of tax Invoice is issued prior to such change in rate of tax	25-09-2019	5%	50,000

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		The payment is received after change in rate of tax TOS shall be date of issue of invoice.			
3	20,00,000	Service is supplied after change in rate of tax Invoice is issued before change in rate of tax The payment is received before change in rate of tax TOS shall be earlier of date of issue of invoice or date of receipt of payment.	28-09-2019	5%	1,00,000
4	10,00,000	Service is supplied after change in rate of tax Invoice is issued after change in rate of tax The payment is received before change in rate of tax TOS shall be date of issue of invoice.	04-10-2019	12%	1,20,000

3.(a) **Aroma Pvt Ltd., Mumbai provides housekeeping services. The company supplies its services exclusively through e-commerce website owned and managed by Data Analyst India Pvt. Ltd., Mumbai. The turnover of Aroma Pvt. Ltd in the current financial year is ₹16 lakh.**

Advise Aroma Pvt Ltd as to whether they are required to obtain GST registration. Will your advice be any different if Aroma Pvt Ltd sells readymade garments exclusively through the e-commerce website owned and managed by Data Analyst India Pvt Ltd.? [9]

(b) **Mr. X has cleared goods from his factory on 20th may 2019 for sale to Mr. Y for ₹8,00,000. Effective rate of eligible duties @ 12.5%. However, eligible duties ₹1,00,000 has been paid on 6th June 2019. The consignment received by Mr. Y on 5th July 2019. Find the following:**

- (i) **Mr. Y is eligible for ITC if so what amounts?**
- (ii) **Time limit within which receipt of inputs should record in the books of account of Mr.Y.**
- (iii) **Mr. Y recorded receipt of inputs in the books of account on 15/8/2019, if so can he avail the ITC? [5]**

Answer: 3

(a) Section 24 of GST Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such E-commerce operator (ECO), who is required to collect tax at source u/s 52, is one such person. However, where the ECO is liable to pay tax on behalf of the suppliers of services issued under section 9(5), the suppliers of such services are entitled for threshold exemption. It has been provided that persons who are suppliers of service and supplying services through ECO are not required to register under GST if their aggregate turnover is less than ₹20 lakh per annum (₹10 lakh in case of special category states of Mizoram, Tripura, Manipur and Nagaland).

Since Data Analyst India Pvt Ltd owns and manages a website for e-commerce where both goods and services are supplied, it will be classified as an ECO u/s 2(45).

Section 9(5) specifies services by way of housekeeping, except where the person supplying such service through ECO is liable for registration u/s 22(1), as one such service where ECO is liable to pay tax on behalf of the suppliers.

In the given case, Aroma Pvt Ltd provides housekeeping services through an ECO. It is presumed that Data Analyst India Pvt. Ltd. is an ECO which is required to collect tax at source/s 52. However, housekeeping services provided by Aroma Pvt Ltd, which is not liable for registration u/s 22(1) as its turnover is less than ₹20 lakh, is a service notified u/s 9(5). Thus, Aroma Pvt LTD will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, Aroma Pvt Ltd sells readymade garments through ECO. Such supply cannot be notified u/s 9(5) as only supplies of services are notified under that section. Therefore, Aroma Pvt Ltd will not be entitled for threshold exemption and will have to compulsorily obtain registration.

- (b) (i) Yes, Mr. Y is eligible to avail the ITC of ₹1,00,000 provided he deals with taxable supplies being registered person.
- (ii) Inputs or Input services recorded in the books of account \leq 30 days from 1/7/2019. Therefore, Mr. Y should be account for by 30th July 2019.
- (iii) Since, period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days.
- Mr. Y can take credit on inputs on 15th august 2019, provided permission granted by the Commissioner for extension not exceeded 30 days.
4. (a) **Golden Enterprise Ltd. received a protective demand notice from the department Assistant Commissioner of Central Tax on 1.9.2019 under Section 73 of the CGST Act, 2017 where**
CGST & SGST due = ₹5,00,000
Interest = @15% p.a. for no. of days delay.
Penalty = 10% of tax due or ₹10,000 whichever is higher.
The assessee went for appeal and filed the case in the Appellate Authority on 25.9.2019. This appeal has been taken up for hearing on 06-10-2019.
Case1: How much has to be paid as pre-deposit of duty u/s 107(6) of the CGST Act, 2017 and date of pre-deposit of duty by Golden Enterprise Ltd. to entertain appeal by the Appellate Authority (i.e. Commissioner (Appeals)).
Case 2: Whether your answer is different if the assessee appeals only part of the amount say ₹3,00,000 is in dispute arising from the said order.
Case 3: Suppose the Appellate Authority has passed the order against the assessee. If so how much has to be paid as pre-deposit of duty u/s 112(8) of the CGST Act, 2017 to entertain appeal by GSTAT. [8]
- (b) Compute the duty payable under the Customs Act, 1962 for an imported equipment based on the following information:
- (i) Transaction value of the imported equipment US\$12,200(royalty and license fee included in transaction value US\$200).
- (ii) Date of Bill of Entry 25.4.2019
- (iii) basic customs duty on this date 12% and exchange rate notified by the CBIC US\$ 1 = ₹70.
- (iv) IGST u/s 3(7) of the Customs Tariff Act, 1975 @ 12%.
Social Welfare Surcharge @10% is applicable.
Importer is liable to pay IGST on import of royalty and license fee.
Applicable rate of IGST on import of services namely royalty and license fee @18%.

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Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest rupee. [6]

Answer: 4

- (a) Case 1: Pre-deposit is ₹50,000 ($5,00,000 \times 10\%$) is to be deposited on or before 6th October 2019.

Case 2: Disputed amount ₹3,00,000:

Pre-deposit is ₹2,00,000 plus ₹30,000 ($₹3,00,000 \times 10\%$) together is ₹2,30,000. It should be deposited on or before 6th October 2019.

Case 3: Pre-deposit is ₹1,00,000 ($5,00,000 \times 20\%$). It is in addition to pre-deposit of ₹50,000,

Whereas in case 2 where disputed amount is ₹3,00,000:

Pre-deposit is ₹2,00,000 plus ₹60,000 ($₹3,00,000 \times 20\%$) together is ₹2,60,000. It is in addition to pre-deposit of ₹30,000.

(b)

Particulars	Value in ₹	Working note
Assessable value	8,54,000	(12,200 USD × ₹70)
Add: Basic Customs Duty	1,02,480	₹8,54,000 × 12%
Add: 10% SWS	10,248	1,02,480 × 10%
Transaction value for IGST	9,66,728	
Add: IGST u/s 3(7) of Customs Tariff	1,16,007	9,66,728 × 12%
Value of imports	10,82,735	
Total customs duty payable	2,28,735	

IGST payable on import of service = ₹2,520

(i.e. $USD200 \times ₹70 \times 18\%$)

Less: Exempted

[(i.e. $200USD \times ₹70 \times 113.20\%$) × 12% = ₹(1,902)

Net IGST payable = ₹618

Note: Transaction value of royalty and license fee included in the value of imported goods is ₹14,000 (i.e. $200USD \times ₹70$)

5. (a) (i) M/s. Ashirbad Enterprises, a registered supplier of designer wedding dresses under regular scheme, has aggregate annual turnover of ₹30 lakh in the preceding financial year. It is of the view that in the current financial year, it is permitted to file its monthly statement of outward supplies- GSTR 1 on a quarterly basis while its accountant advises it to file the same on a monthly basis. You are required to advise M/s. Ashirbad Enterprises on the same. During a given tax period in the current financial year, owing to an off-season, M/s Ashirbad Enterprises has not made any taxable supply.

Therefore, M/s. Ashirbad Enterprises opines that no return under GST is required to be filed for the said period. You are required to examine the technical veracity of the opinion of M/s. Ashirbad Enterprises.

- (ii) Kulbhushan & Sons has entered into a contract to supply two consignments of certain taxable goods. However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request.

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On 12/01/2020, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

Kulbhushan & Sons complies with the same and supplies both the consignments of goods on 25/01/2020 thereafter paying the tax on provisional basis in respect of both the consignments on 19/02/2020.

Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21/03/2020, a tax of ₹1,80,000 becomes due on 1st consignment whereas a tax of ₹4,20,000 becomes refundable on 2nd consignment.

Kulbhushan & Sons pays the tax due on 1st consignment on 9/04/2020 and applies for the refund of the tax on 2nd consignment same day. Tax was actually refunded to it on 5/6/2020.

Determine the interest payable and receivable, if any, by Kulbhushan & Sons in the above case. [3+6=9]

(b) M/s Ajay Ltd. of Chennai, engaged in various businesses has provided the following services, whose values are listed below. Compute its GST liability:

(1) Service of interior decoration in respect of immovable property located in Jammu: ₹5lakh;

(2) Service of renting of commercial buildings in Delhi: ₹15lakh;

(3) Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: ₹25lakh;

(4) Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: ₹51lakh;

(5) Services provided as travel agent undertaking marketing in India of services of a foreign seller: ₹1 lakh

Applicable rate of GST is 18%.

[5]

Answer: 5

(a) (i) Section 37 of the CGST Act, 2017 stipulates that GSTR-1 for a particular month is required to be filed on or before the 10th day of the immediately succeeding month, i.e. on a monthly basis.

However, presently, as a measure of easing the compliance requirement for small tax players, GSTR-1 has been allowed to be filed quarterly by small tax players with aggregate annual turnover upto ₹1.5 crore in the preceding financial year or the current financial year. Tax payers with annual aggregate turnover above ₹1.5 crore will however continue to file GSTR-1 on a monthly basis.

In view of the same, M/s. Ashirbad Enterprises can file its GSTR-1 on quarterly basis as its aggregate turnover does not exceed ₹1.5 crore in the preceding financial year.

Further, GSTR-1 needs to be filed even if there is no business activity in a tax period. Thus, in the present case, even if no supply has been made by M/s. Ashirbad Enterprises, a nil return is required to be filed for the relevant tax period.

(ii) Section 60(4) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is higher than provisional assessment i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date, at the rate

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specified u/s 50(1) [18% p.a.], from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before/ after the issuance of order for final assessment.

In the given case, due date for payment of tax on goods cleared on 25-01-2020 under provisional assessment is 20-02-2020. Kulbhushan & Sons is liable to pay following interest in respect of 1st consignment:

Due date of payment of tax under provisional assessment	20-02-2020
Actual date of payment of tax	09-04-2020
Period of delays in days	49 days
GST Payable	1,80,000
Rate of Interest	18% p.a.
Interest Payable [₹1,80,000 × 18% × 49/366] (Leap year) (rounded off)	4,338

Further, section 60(5) of the CGST Act, 2017 stipulates that where tax liability as per final assessment is less than in provisional assessment i.e. tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest at the rate specified u/s 56 [6% p.a.] from the date immediately after the expiry of 60 days from the date of receipt of application u/s 54(1) till the date of refund of such tax.

However, since in the given case, refund has been made (05-06-2020) within 60 days from the date of receipt of application of refund (09-04-2020), interest is not payable to Kulbhushan & Sons on tax refunded in respect of 2nd consignment.

(b)

Particulars	Value ₹ (in lakhs)	Working note	
Interior decoration services	5	POS = J & K (Sec 12(3)(a) of IGST) taxable territory. IGST will be levied.	
Renting of commercial buildings	15	POS = Delhi (Sec 12(3)(b) of IGST) taxable territory. IGST will be levied.	
Architectural services	25	POS = Mumbai (Sec 12(3)(a) of IGST) taxable territory. IGST will be levied.	
Marketing of goods	51	POS = Chennai (Sec 13(8) of IGST) taxable territory. CGST & SGST will be levied.	
Travel agent	1	POS = Chennai (Sec 13(8) of IGST) taxable territory. CGST & SGST will be levied.	
Taxable supply of services	97		
Particulars	CGST	SGST	IGST
GST liability	4.68	4.68	8.10

6. (a) (i) Singh & Sons is a trader dealing in stationary items. It is registered under GST and has undertaken following sales during the day:

Sl. No.	Recipient of supply	Amount in ₹
1	Dhiraj Traders – a registered retail trader	195
2	Dhruv Enterprises – an unregistered trader	330
3	Aditya – a painter [unregistered]	500
4	Oberoi Orphanage – an unregistered entity	180
5	Aaradhya – a student [unregistered]	158

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None of the recipients require a tax invoice [Dhiraj Traders being a composition dealer]. Determine in respect of which of the above supplies, Singh & Sons may issue a Consolidated Tax Invoice instead of tax invoice at the end of the day?

- (ii) Birla traders have opted for composition scheme in the current financial year. Discuss the records which are not required to be maintained by a supplier opting for composition levy as enumerated in Rule 56 of the CGST Rules, 2017. [3+4=7]
- (b) Comment with reason whether ITC available for following services:
- (1) Cement is used for construction of administration building.
 - (2) Cement is used for foundation of pillars supporting a boiler.
 - (3) Works contract services is provided by sub-contractor to a contractor.
 - (4) Steel and other structural supports are used for Land, Building or any other civil structures; or setting up a telecommunication tower; or pipelines laid outside the factory premises.
 - (5) GST paid on parts of telecommunication towers or parts of pipelines.
 - (6) Works contract services availed for construction of staff quarters within the company premises.
 - (7) Health and fitness services availed from Physique Club for upkeep of health of their employees, not under Government obligation. [7]

Answer: 6

- (a) (i) Singh & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage and Aaradhya as the value of goods supplied to these recipients is less than ₹200 and also these recipients are unregistered and don't require a tax invoice.
- As regards the supply made to Dhiraj Traders, although the value of goods supplied to it is less than ₹200, Dhiraj Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.
- Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Aditya although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than ₹200.
- (ii) Following records are not required to be maintained by a supplier who has opted for composition scheme as per Rule 56(2) and (4) of the CGST Rules, 2017:
- (1) **Commodity wise stock account – Not to be maintained in case of Composition Supplier:** Composition Supplier shall not be required to maintain the accounts of stock in respect of goods received and supplied by him, containing particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off, or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
 - (2) **Accounts containing tax details including ITC – Not to be maintained in case of Composition Supplier:** Composite Supplier paying tax u/s 10, shall not be required to keep and maintain an account containing details of tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during nay tax period.
- (b)

Sl. No.	ITC	Remarks
1	Not allowed	Building is not plant and machinery.
2	Allowed	As such structural support for plant and machinery is included in definition of plant and machinery.

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3	Allowed	Works contract service is excluded except when used for providing works contract service.
4	Not allowed	These are specifically excluded from the term plant and machinery. Note: Credit of tax paid on goods and services used for construction of immovable property including work contract service has been allowed only if such immovable property is in the nature of "plant and machinery".
5	Not allowed	GST paid on any inputs or capital goods used for construction of telecommunication towers, pipeline laid outside the factory, will not be available as ITC.
6	Not allowed	This comes under the ambit of blocked credit u/s 17(5)(c), hence ITC shall not be admissible.
7	Not allowed	As per Section 17(5) (b), no ITC is available in respect of health and fitness centre where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

7. (a) Explain the provisions relating to export and import of service? [7]

(b) Durga Ltd. sends the goods to Baburao & Co. for making finished goods on 30-07-2018.

What are the tax implications, in the following cases if GST @ 18% is levied?

(1) Baburao & Co sends the goods back to Durga Ltd. within one year of being sent.

(2) Baburao & Co sells the goods directly to the customer in behalf of Durga Ltd. [7]

Answer: 7

(a) As per Section 2(6) of the IGST Act, 2017 Export of Services means the supply of any service when, -

- The supplier of service is located in India;
- The recipient of service is located outside India;
- The place of supply of service is outside India;
- 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
- The supplier of service and the recipient of service are not merely establishments of a distinct person.

As per Section 2(11) of the IGST Act, 2017 Import of Services means the supply of any service, where-

- The supplier of service is located outside India;
- The recipient of service is located in India;
- The place of supply of service is in India.

(b) As per Sec 143 of the Act, supply of goods to a job worker without payment of tax is permissible upon intimation. In the given cases, the implications are as follows:

- On supply of goods to Baburao & Co – As per the Sec 143 of Act, no tax shall be payable on supply of goods to Baburao & Co. However, the tax will be payable if finished goods is not returned before one year from 30-07-2018.
- Baburao & Co sends the finished goods back to Durga Ltd. – As per the Act, there is no tax liability on returning of goods back to the principal i.e. Durga Ltd within a period of one year. Hence post completion of job work, no tax is leviable on finished goods returned to Durga Ltd.
- Baburao & Co. sells the finished goods on behalf of Durga Ltd. – Sec 143 also allows the job worker to directly sell the goods on behalf of the principal, wherein the liability to pay tax is of the principal and not the job worker. Durga Ltd is liable to pay GST on sale of finished goods to customer by Baburao & Co.

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However, Durga Ltd must declare the premises of Baburao & Co as an 'Additional place of Business' and the sale of finished goods will form part of aggregate turnover of Durga Ltd. Such a declaration is not required in case where:

- o Job worker is registered u/s 25 or
- o Principal is engaged in supply of notified goods.

Section – B

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

8. Choose the correct answer with justification/ workings wherever applicable: [3×2=6]

(i) Derelict are goods that

- (a) are abandoned by the owner in an emergency with a hope of recovering it later.
- (b) owner has no intention to abandon but get sunk and drift to the shore.
- (c) owner has no intention to abandon but float and drift to the shore.
- (d) are abandoned by owner of goods without any hope of recovery.

(ii) Which of the following is an eligible capital good for import under EPCG (Export Promotion Capital Goods) Scheme?

- (a) Second hand capital goods
- (b) Power Generator Sets
- (c) Computer software systems
- (d) None of the above

(iii) Which of these is/are not an adjudicating authority under Customs Act, 1962?

- (a) Commissioner of Customs
- (b) Principal Commissioner of Customs
- (c) Commissioner (Appeals)
- (d) Assistant Commissioner of Customs

Answer: 8

(i) (d) are abandoned by owner of goods without any hope of recovery.

It is not permission from CBEC but from RBI authorizing re-export of goods which is to be filed where applicable.

(ii)(c) Computer software systems

The ineligible capital goods under EPCG (Export Promotion Capital Goods) Scheme are Second hand capital goods & Power Generator Sets. Computer software systems are eligible capital goods under EPCG scheme.

(iii)(c) Commissioner (Appeals)

Commissioner (Appeals) is not an adjudicating authority under Customs Act, 1962

9.(a) Mr. Mayank, an Indian resident and an engineer by profession who was engaged in his profession in USA for 9 months, brought with him on 10.04.2019 the following used items on his return to India:

1. Used personal effects like clothes etc. of ₹1,00,000.
2. Digital Video Disc player of ₹7,000.
3. Music System of ₹45,000.
4. Air-Conditioner of ₹50,000.
5. Microwave Oven of ₹28,000.

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6. Fax Machine of ₹55,000.
7. Domestic Refrigerator of capacity of 285 liters of ₹1,20,000.
8. Jewellery (18 grams) of ₹75,000.

Calculate the custom duty payable by him.

[8]

- (b) Explain the meaning of the term "Bill of export" and "Import report" under the provisions of the Customs Act, 1962.

[4]

Answer: 9

(a) Duty free allowances allowed to Mr. Mayank are as follows:-

- (i) Under Rule 3, goods eligible for GFA are:
 - Used personal effects (excluding jewellery); and
 - Other articles (other than those mentioned in Annexure I) upto ₹50,000.
- (ii) Under Rule 6, Duty free allowance of used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III, upto an aggregate value of ₹1,00,000.
- (iii) Under Rule 5, no duty free allowance in case of jewellery of ₹50,000 will be available, since he was not residing abroad for more than one year prior to his return to India.

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

Particulars	Value in ₹
Used personal effects like clothes etc.	Nil
Digital Video Disc player	7,000
Music System	45,000
Air-Conditioner	50,000
Microwave Oven	28,000
Fax Machine	55,000
Domestic Refrigerator of capacity of 285 liters	1,20,000
Jewellery (18 grams)	75,000
Total dutiable goods imported	3,80,000
Less: Total allowance [(i.e., ₹50,000 (GFA) + ₹1,00,000 (Transfer of residence)]	1,50,000
Value of goods on which duty is payable	2,30,000
Customs duty @38.5% (inclusive of SWS)	88,550

(b)

Bill of Export	Import Report
As per section 2(5) of the Customs Act, Bill of Export means a bill of export referred to in section 50 of the Customs Act, 1962.	As per section 2(24) of the Customs Act, Import manifest or Import report means the manifest or report required to be delivered referred to in section 30 of the Customs Act, 1962.
The exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill and in the case of goods to be exported by land, a bill of export in the prescribed form.	The person in charge of a vehicle carrying imported goods or any other person as may be notified by the Central Government shall, in the case of a vehicle, deliver to the proper officer an import report within 12 hours after its arrival in the customs station, in the prescribed form.

10. (a) State whether the principle of 'unjust enrichment' shall be applicable in the following cases-

1. Refund of duty paid on raw materials which have been actively consumed.
2. Refund of duty paid on provisional basis under section 18 of the Customs Act.
3. Refund of an advance payment made in anticipation of importation of goods.
4. Refund of duty paid under protest.

[8]

(b) Bright Prints Pvt. Ltd. manufactured register account books & letter pads and exported the same by courier at FOB value of 5,000 USD per consignment to USA and 6,500 UK Pounds per consignment to UK. During the year, 45 consignments sent to USA. Exchange rate is ₹70 per USD. 20 consignments sent to UK. Exchange rate is ₹88 per Pound. Diksha Prints Pvt Ltd entitled 2% reward rate. Find the reward amount under MEIS for Diksha Prints Pvt Ltd? [4]

Answer: 10

(a) (1) YES. The doctrine of 'unjust enrichment' is applicable in this case as has been judicially decided by the Supreme Court. The Apex court held that the duty burden can be passed on directly or indirectly. In case of raw materials which is captively consumed and finished goods manufactured there from are sold, it can be said that incidence of duty has been passed on, since the same is included in value of finished goods.

(2) YES. Section 18 of the Customs Act, 1962 statutorily provides that refund of duty paid on provisional basis can be made only if the importer proves that he has not passed on the incidence of duty to any other person.

(3) NO. The doctrine of 'unjust enrichment' will not be applicable in case duty is paid in advance in anticipation of importation of goods. The Delhi High Court has held that till the advance payment is appropriated against the duty on actual importation of goods, such amount cannot be regarded as duty to be hit by doctrine of unjust enrichment. Thus, the time limit u/s 27 and bar of unjust enrichment is not applicable in such cases.

(4) YES. The Supreme Court has held that every claim of refund, even if duty is paid under protest, shall be dealt in accordance with provisions of section 27. Thus, refund of duty paid under protest is also governed by doctrine of unjust enrichment.

(b) Export to USA:

Reward amount in ₹3,15,000 [i.e. (₹3,50,000 x 45 consignments) x 2%]

[i.e. (5,000 USD × ₹70) = ₹3,50,000]

Maximum permissible per consignment is ₹5,00,000.

Export to UK:

Reward amount in ₹2,00,000

[i.e. (6,500 UK Pounds × ₹88) = ₹5,72,000]

However, maximum permissible per consignment is ₹5,00,000.

[i.e. (₹5,00,000 x 20 consignments) × 2%]

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11. (a) Aryan International Group has imported a machine by air from US. Bill of entry is presented on 18.07.2019. however, entry inward is granted on 7.08.2019. The relevant details of the transaction are provided as follows:-

CIF value of the machine imported	\$13,000
Air freight paid	\$2,800
Insurance charges paid	\$200

Rate of exchange as announced by	As on 18.07.2019	As on 7.08.2019
CBIC	1US\$ = ₹68	1US\$ = ₹67.80
RBI	1US\$ = ₹68.10	1US\$ = ₹68.10

Calculate the assessable value (in rupees) for the purposes of levy of customs duty as well as total customs duty. BCD = Nil IGST = 18% Make suitable assumptions wherever necessary [7]

- (b) X Pvt. Ltd., being a Micro, Small & Medium Enterprises (MSME) manufactured and exported packing material to USA. Other information is as follows:

S. No.	Category of exports	FOB value US\$ in the current year (April to June)	FOB value US\$ in the Previous Year 1	FOB value US\$ in the Previous Year 2
1	Export of goods as MSME	50,000	20,00,000	Nil
2	Manufacturing units having ISO/BIS	Nil	Nil	5,00,000

Find whether X Pvt. Ltd., is eligible for double weightage? If yes, identify its export status? [5]

Answer:11

(a)

Particulars	Amount in US\$	Remarks	Workings
CIF value	13,000		
Less: Air freight	2,800	Air freight should not be more than 20% on FOB	
Less: Insurance	200		
FOB value	10,000		
Add: Air freight	2,000	Air freight should not be more than 20% on FOB	$10,000 \times 20\% = 2,000$
Add: Insurance	200		
CIF value/ Assessable value	12,200		US\$ (10,000+2,000+200)
	Amount in ₹		
Assessable value	8,29,600	CBIC exchange rate as on the date of submission of bill of entry is relevant.	US\$ 12,200 × 68 = ₹8,29,600
Add: BCD	Nil		
Add: SWS @10%	Nil		
Balance	8,29,600		
Add: IGST	1,49,328		(8,29,600 x 18%)
Landed value	9,78,928		

(b)

S. No.	Category of exports	FOB value US\$ in the current year (April to June)	FOB value US\$ in the Previous Year 1	FOB value US\$ in the Previous Year 2
1	Export of goods as MSME	50,000	20,00,000	Nil
2	Manufacturing units having ISO/BIS	Nil	Nil	5,00,000
	Total FOB	50,000	20,00,000	5,00,000
	FOB Value of Exports with Double Weightage (US\$) = [2 x Total FOB Value]	1,00,000	40,00,000	10,00,000

X Pvt. Ltd., achieved export turnover of US\$ 5.10 Million by applying double weightage. Therefore, X Pvt. Ltd., can apply for One Star Export House status.