

## 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) Under GST Act a supply of assortment of sweets, chocolates and firecrackers packed in a gift hamper is \_\_\_\_\_.
- (a) Joint supply
  - (b) Composite supply
  - (c) Mixed supply
  - (d) Assorted supply
- (ii) Under GST Act the term UIN stands for \_\_\_\_\_.
- (a) User Identification Number
  - (b) Utility Identification Name
  - (c) Unique Identification Number
  - (d) Unique Individual Number
- (iii) Under GST Act the term SAC stands for \_\_\_\_\_.
- (a) Supply Accounting Code
  - (b) Services Application Code
  - (c) Services Accounting Code
  - (d) Supply Application Code
- (iv) GST is a \_\_\_\_\_ based tax.
- (a) Territory
  - (b) Origin
  - (c) Destination
  - (d) None of the above
- (v) For the year 2018-19 due date of filling of annual return is 31.12.2019. The books and records of 2018-19 must be maintained till
- (a) 31.03.2025
  - (b) 31.12.2025
  - (c) 31.12.2027
  - (d) 31.03.2029

(vi) What is the taxable event under GST?

- (a) Supply of goods or services
- (b) Provision of service
- (c) Manufacturing of goods
- (d) None of the above

(vii) What is the meaning of the Cascading effect of tax?

- (a) Dual taxation
- (b) Charging Tax on tax
- (c) Non-eligible of ITC
- (d) None of the above

**Answer:**

1. (i) (c) Mixed Supply

Each of these items can be supplied separately, is not dependant on each other and not bundled due to natural necessities.(Section 8 of CGST Act).

(ii) (c) Unique Identification Number

As per GST Act any notified agency of the United Nations etc. can be granted this number for claiming GST refund.

(iii) (c) Services Accounting Code

SAC codes (Full form: Services Accounting Code) are codes issued by CBEC to uniformly classify each services under GST

(iv) (c) Destination

Under GST law, the share of the GST goes to the state where the destination lies or where the movement of goods ends, unlike VAT, where it went to the state where the movement originated.

(v) (b) 31.12.2025

As per section 36 of the CGST Act, 2017 books and records are to be maintained for 72 months (6 years) from the date of furnishing the return.

(vi) (a) Supply of goods or services

The *taxable event* in GST is supply of goods or services or both. It means no supply no GST.

(vii) (b) Charging tax on tax

Cascading tax effect is also termed as "tax on tax". This effect occurs when a good is taxed on every stage of production. Such a good is taxed till it is finally sold to the consumer.

2. (a) (i) Define Distinct Persons as specified under Section 25 of CGST Act, 2017. [3]

(ii) Write a short note on IFSC. [5]

(b) M/s Arya Ltd., Delhi is an authorized money changer registered under FEMA, 1999. It has entered the following transaction of supply of money changing:

(i) 650 transactions of conversion of Dollar into Indian Rupees of ₹20,000 per transaction;

(ii) 600 transactions of conversion of Dollar into Indian Rupees of ₹50,000 per transaction;

(iii) 250 transactions of conversion of Indian Rupee in Dollar of ₹5 lakh per transaction;

(iv) 150 transactions of conversion of Euro into Indian Rupees of ₹500 lakhs per transaction;

(v) 350 transactions of conversion of Dollar into Euro of ₹100 lakhs per transaction;

Compute the value of taxable supply and GST payable where M/s Arya Ltd opted for option u/r 32(2) (b) of CGST Rules, 2017. Applicable GST rate is 18%. [6]

**Answer:**

2. (a) (i) Every place of business of a person where separate registration is obtained for output supply will be considered as distinct person.

Section 25(4), A person who has obtained or is required to obtain more than one registration, whether in one State or Union Territory or more than one State or Union Territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Section 25(5), where a person who has obtained or is required to obtain registration in a State or Union Territory in respect of an establishment, has an establishment in another State or Union Territory, and then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

(ii) IFSC – An IFSC (International Financial Service Centre) caters to customers outside the jurisdiction of the domestic economy. IFSCs are set up in special economic zones as a unit of SEZ or a special economic zone after approval from central government, and deal with flows of finance, financial products and services across borders.

Services offered by IFSCs are:-

- Fundraising services for individuals, corporations and governments.
- Asset management and global portfolio diversification undertaken by pension funds, insurance companies and mutual funds
- Wealth management.
- Risk management operations such as insurance and reinsurance.
- Merger and acquisition activities among transnational corporations are exempted from GST.

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(b) Computation of value of taxable supply under rule 32(2)(b) (amount in ₹):

S. No.	Particulars	₹
i	(650x₹250) [(i.e. ₹20,000 x 1% subject to minimum of ₹250) per transaction]	1,62,500
ii	(₹50,000 x 1%)x600 [i.e. ₹50,000 x 1% subject to minimum of ₹250) per transaction]	3,00,000
iii	(₹1,000 + ₹4,00,000 x 0.5%) x 250	7,50,000
iv	150 x [(₹5,500 + ₹490 lakhs x 0.1%) subject to maximum of ₹60,000]	81,75,000
v	350 x [(₹5,500 + ₹90 lakhs x 0.1%) subject to maximum of ₹60,000 per transaction]	50,75,000
	Total value of taxable supply	1,44,62,500
	CGST @9%	13,01,625
	SGST @9%	13,01,625
	Total GST payable	26,03,250

3. (a) Adhunik Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of goods at multiple locations, i.e. in Himachal Pradesh, Sikkim and Tripura in the month of June.

It has furnished the following details relating to the sale made at such multiple locations for the month of June:-

Particulars	Himachal Pradesh	Sikkim	Tripura
	(₹)*	(₹)	(₹)
Intra-State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed deposits	-	-	60,000
Intra-State sale of non- taxable goods	-	21,00,000	40,000

\* excluding GST

With the help of the above mentioned information, answer the following questions giving reasons:-

- (1) Determine whether Adhunik Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case.
- (2) Explain with reasons whether your answer in (1) will change in the following independent cases:
  - (i) If Adhunik Enterprises is dealing in taxable supply of goods only from Himachal Pradesh;
  - (ii) If Adhunik Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
  - (iii) If Adhunik Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter-state supplies of taxable goods amounting to ₹1,00,000.

[10]

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(b) Mr. Ganesh is a taxable person under GST (who is a wholesaler), is having a stock worth of ₹5,00,000 as on 1-07-2017. Such person has supplied goods for ₹6,50,000 and on which he has paid CGST @ 9% and SGST @ 9%.

How much ITC is allowed u/s 140(3) of GST in the following independent cases:

- (i) If he is in possession of duty paid document for the stock (namely BED is ₹62,500 and VAT ₹28,125)
- (ii) If he is not in possession of duty paid document for the stock, but has invoice evidencing purchase of good. [4]

Answer:

3. (a) As per Section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-state taxable supplies of goods is as under:-
- 1) ₹10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
  - 2) ₹20 lakh for the States of Arunachal Pradesh, Meghalaya, Pondicherry, Sikkim, Telangana and Uttarakhand.
  - 3) ₹40 lakh for rest of India.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- 1) ₹10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- 2) ₹20 lakh for the rest of India.

Aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) export of goods and/or services and
- (iv) all inter-state supplies of persons having the same PAN.

In the light of the aforesaid provisions, the aggregate turnover of Adhunik Enterprises is computed as under:

Computation of State-wise aggregate turnover of Adhunik Enterprises:

Particulars	Himachal Pradesh (₹)*	Sikkim (₹)	Tripura (₹)
Intra-State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed deposits [WN-1]	-	-	60,000
Intra-State sale of non-taxable goods [WN-2]	-	21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	14,00,000

Working Notes:

- (1) Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount is exempted. Since aggregate turnover includes exempt supply, interest received from banks on fixed deposits, being exempt supply, is included in the aggregate turnover.
- (2) As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, intra-state supply of non-taxable goods in Sikkim and Tripura, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover.

In the given case, Adhunik enterprises is engaged in exclusive intra-state supply of goods from Himachal Pradesh and Sikkim and in supply of both goods and exempted services from Tripura, the threshold limit for registration will be ₹40 lakh, ₹20 lakh and ₹10 lakh respectively.

Further, since Adhunik enterprises also makes taxable supply of goods from one of the specified special category states i.e. Tripura, the threshold limit for registration will be reduced to ₹10 lakh.

- (1) Thus, in the view of the above-mentioned provisions, Adhunik enterprises is liable to be registered under GST law with the aggregate turnover amounting to ₹57,50,000 (computed on all India basis). The applicable threshold limit of registration in this case is ₹10 lakh.
  - (2)
    - (i) If Adhunik enterprises is dealing in taxable supply of goods only from Himachal Pradesh, the applicable threshold limit of registration would be ₹40 lakh, thus, Adhunik enterprises will not be liable for registration as its aggregate turnover would be ₹22,50,000.
    - (ii) If Adhunik enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh then higher threshold limit of ₹40 lakh will not be applicable as the same applies only in case of exclusive supply of goods. Therefore, in this case, the applicable threshold limit will be ₹20 lakh and hence, Adhunik enterprises will be liable to registration.
    - (iii) In case of inter-state supplies of taxable goods, Section 24 of the CGST Act, 2017 requires compulsory registration irrespective of the quantum of aggregate turnover. Thus, Adhunik enterprises will be liable to registration.
- (b)
  - (i) ITC allowed is equal to BED is ₹62,500 as CGST credit and VAT of ₹28,125 as SGST credit.
  - (ii) In accordance with the provisions of Transition Rules, he can claim credit to the extent of 60% of CGST paid, i.e., ₹35,100 (₹58,500 @ 60%) as CGST credit. In accordance with the provisions of Transition Rules, he can claim credit to the extent of 60% of SGST paid, i.e., ₹35,100 (₹58,500 @ 60%) as SGST credit.  
Note:  $[6,50,000 \times 9\% = 58,500]$

**4. (a) Whether the payment of tax dues can be made in installments?**

**[7]**

(b) Mr. Ram (register person under GST) being a dealer furnished the following business transactions that took place in the month of January 2020. Find the GST liability.

- (i) Sale of plastic bangles for ₹20,000.
- (ii) Supply of mobile phones for ₹3,42,000.
- (iii) Sale of printed books and newspapers for ₹1,35,700.
- (iv) Sale of Dates for ₹13,500.
- (v) Sale of Salt for ₹9,180.
- (vi) Sale of Organic manure worth ₹2,00,000.
- (vii) Sale of Chemical Fertilizers ₹6,20,000 (out of which 30% subsidy received from Government of India).

Note: Taxable supply attracts GST @ 5% (CGST 2.5% and SGST 2.5%). [7]

**Answer:**

4. (a) Payment of tax and other amount in installments:

(1) Extension of time or payment in installments on application of taxable person:

- On an application filed by a taxable person,
- The Commissioner may, for reasons to be recorded in writing,
  - Extend the time for payment, or
  - Allow payment of any amount due under this Act, by such person in monthly installments not exceeding 24,
- Subject to payment of interest u/s 50 and subject to such conditions and limitations as may be prescribed.

Self Assessed tax – benefit of extension/installment is not available: However, the extension and installments shall not be allowed for the amount due as per the liability self-assessed in any return.

(2) Default in installment – All outstanding installments shall become due on date of such default: Where there is default in payment of any one installment on its due date, the whole outstanding balance payable on such date –

- Shall become due and payable forthwith and
- Shall, without any further notice being served on the person, be liable for recovery.

(b) Statement showing tax liability of Mr. Ram

S.No.	Particulars	Taxability	CGST 2.5%	SGST 2.5%
i	Plastic bangles	Exempted	Nil	Nil
ii	Mobile phone	3,42,000	8,550	8,550
iii	Books	Exempted	Nil	Nil
iv	Dates	Exempted	Nil	Nil
v	Salt	Exempted	Nil	Nil
vi	Organic manure	Exempted	Nil	Nil
vii	Chemical fertilizers 70%	4,34,000	10,850	10,850
	total		19,400	19,400

5. (a) M/s Shyam Ltd manufactured and cleared goods under provisional assessment, in the



month of July, 2019, by paying tax of ₹50,000 on 20<sup>th</sup> August, 2019 [i.e. due date of filing GSTR-3], a further tax of ₹90,000 is paid on 15<sup>th</sup> November, 2019, and on the same day the document for final assessment are submitted by the assessee. Final assessment order is issued on 18<sup>th</sup> November, 2019, assessing the tax payable on goods as ₹1,50,000, and consequently the assessee paid a tax of ₹10,000 on 30<sup>th</sup> November, 2019. Find the total interest payable by the assessee? [4]

(b) Determine place of supply in the following independent cases:

- 1) Mr. X, registered in Bengaluru has availed land-line services from BSNL. The telephone is installed in residential premises in Jaipur and the billing address is of office of Mr. X in Bengaluru.
- 2) Mr. X has availed post paid mobile services from BSNL registered in Bengaluru. Mr. X is registered under GST law in Bengaluru but the billing address is of residential premises of Mr. X in Jaipur.
- 3) Mr. X has purchased pre-paid mobile vouchers of BSNL registered in Bengaluru through internet banking. Mr. X is registered under GST law in Bengaluru but in BSNL's records the address of Mr. X is that of his residence in Jaipur.
- 4) Mr. C of Pune purchases a pre-paid card from a selling agent in Mumbai.
- 5) Mr. F of Pondicherry gets a pre-paid voucher recharged from a grocery shop in Chennai. [10]

**Answer:**

5. (a) No interest shall be payable on ₹50,000.

Interest shall be payable on ₹90,000 from 21<sup>st</sup> August 2019 to 15<sup>th</sup> November 2019.

Therefore No. of days delay = 87 days.

Interest shall be payable on ₹10,000 from 21<sup>st</sup> August 2019 to 30<sup>th</sup> November 2019 as due date for payment of duty of ₹1,50,000 is 20<sup>th</sup> August 2019.

Therefore, No. of days delay = 102 days.

$$₹ 90,000 \times 18/100 \times 87/365 = ₹3,861$$

$$₹ 10,000 \times 18/100 \times 102/365 = ₹503$$

$$\text{Total interest payable} = ₹4,364$$

(b) (1) As per Section 12(11) of the IGST Act, the place of supply of telecommunication services by way of fixed communication line shall be the location where the telecommunication line is installed for receipt of services. In this case though the billing address is in Bengaluru but the place of supply of services shall be Jaipur where the telephone is installed.

(2) As per Section 12(11) of the IGST Act, the place of supply of services by way of mobile connection for telecommunication provided on post-paid basis shall be the location of billing address of the recipient of services on record of the supplier of services. In this case since the billing address of the recipient is of Jaipur, the place of supply shall be Jaipur.

(3) As per Section 12(11) of the IGST Act, the place of supply of services by way of

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mobile connection for telecommunication provided on pre-paid basis shall be the location of billing address of the recipient of services on the record of the supplier of services if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment. In this case since address of Mr. X as per BSNL's record is that of Jaipur, the place of supply shall be Jaipur.

(4) As per Section 12(11) of the IGST Act, in case where mobile connection for telecommunication is provided on pre-payment basis through a voucher or any other means through a selling agent or a re-seller or a distributor of subscriber identity module card or recharge voucher, the place of supply will be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply. Thus, in this case the place of supply will be Mumbai.

(5) As per Section 12(11) of the IGST Act, in case where mobile connection for telecommunication is provided on pre-payment basis through a voucher or any other means by any person to the final subscriber, the place of supply shall be the location where such prepayment is received or such vouchers are sold i.e. in this case is Chennai.

6. (a) What are goods covered under GST Compensation Cess? [6]

(b) M/s Kothari Ltd. manufactures four types of 'Nail Polishes', namely Arc, Brat, Carol and Dolphy.

The company has taken ITC of ₹3,30,000 on the common inputs used in the manufacture of 'Nail polishes'. Common inputs also used partly for non-business purposes. During the financial year 2019-20 (w.e.f 1-7-2019) the company manufactured 1000 liters of each type of 'Nail polishes'. The company is not in a position to maintain separate set of records with regards to inputs used for final products. GST payable on final goods @12%.

You are required to calculate the net GST payable by M/s Kothari Ltd for the year 2019-20 from the following data:

Product Name	Description	Sale price (Exclusive of GST)
Arc	Sale to Domestic Tariff Area	₹30 per 20ml. bottle
Brat	Sale to Special Economic Zone (SEZ)	₹40 per 20ml. bottle
Carol	Sale to X ltd. of USA	₹50 per 20ml. bottle
Dolphy	Sale to Defense Canteen (Exempted from GST)	₹60 per 20ml. bottle

[8]

Answer:

6. (a) Goods covered under GST Compensation Cess are:

- Pan Masala
- Tobacco and tobacco products
- Cigarettes
- Coal, briquettes, ovoid and similar solid fuels manufactured from coal, lignite excluding jet and peat.

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- Aerated waters
- Motor vehicles

(b) Statement showing GST on outward supplies:

Product Name	Transaction Value ₹	GST liable to pay ₹	Remarks
Arc	15,00,000	1,80,000	₹15,00,000 (1000 liters x 1000ml/20ml x ₹30) GST = ₹1,80,000 (₹15,00,000 x 12%)
Brat	20,00,000	Zero rated supplies	₹20,00,000 (1000 liters x 1000ml/20ml x ₹40)
Carol	25,00,000	Zero rated supplies	₹25,00,000 (1000 liters x 1000ml/20ml x ₹50)
Dolphy	30,00,000	Exempted	₹30,00,000 (1000 liters x 1000ml/20ml x ₹60)
Total	90,00,000	1,80,000	

As per Section 17(3) of the CGST Act, 2017 read with rule 42(1) (i) and rule 42(1) (j) of the CGST Rules, 2017 proportionate reversal of credit is as follows:

Particulars	ITC reversal ₹	Working note
ITC proportionate reversal on common inputs [rule 42(1)(i)]	1,10,000	(₹30,00,000/₹90,00,000)x ₹3,30,000
Credit attributable to non-business purposes on common inputs [rule 42(1)(j)]	16,500	₹3,30,000 x 5%
Total	1,26,500	

Quantum of eligible ITC (Rule 42(1)(k) of the CGST Rules, 2017) is ₹2,03,500  
[₹3,30,000 – 1,26,500]

Statement showing net GST liability or excess credit:

Therefore, the GST payable on taxable supply of goods = ₹1,80,000  
 Less: ITC credit allowed = ₹2,03,500  
 Excess ITC can be carried forward into next month = ₹ (23,500)

7. (a) Happy Toys Manufacturers, registered in Delhi, sold electronic toys to a retail seller in Mumbai, at a value of ₹58,000 (excluding GST leviable @18%). Now, it wants to send the consignment of such toys to the retail seller in Mumbai. You are required to advise Happy Toys Manufacturers on the following issues:

- (i) Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?
- (ii) What will be the consequences for non-issuance of e-way bill? [7]

(b) Write short note on Advance ruling. [7]

Answer:

7. (a) (i) E-way bill to be mandatorily generated if value of consignment (including taxes)

exceeds ₹50,000: Rule 138(1) of the CGST Rules, 2017 provides that e-way bill is mandatorily required to be generated if goods are moved, inter alia, in relation to supply and the consignment value exceeds ₹50,000. Further, explanation with 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Accordingly, in the given case, the consignment value will be as follows:

$$= ₹58,000 \times 118\% = ₹68,440$$

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹50,000, e-way bill is mandatorily required to be issued in the given case.

- (ii) Penalty ₹10,000 or tax sought to be evaded whichever is greater: It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than ₹50,000 and it is not otherwise exempted in terms of rule 138(14) of CGST Rules, 2017. If e-way bills, wherever required, are not issued in accordance with the provisions contained in rule 138, the same will be considered as contravention of rules. As per section 122(1) (xiv) of CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to penalty of ₹10,000 or tax sought to be evaded (wherever applicable) whichever is greater.

Moreover where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made there under, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

- (b) Advance ruling means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in section 97(2) or section 100(1), in relation to supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.

An advance ruling helps the applicant in planning his activities which are liable for payment of GST, well in advance. It also brings certainty in determining the tax liability, as the ruling given by the authority for Advance Ruling is binding on the applicant as well as Government authorities. Further, it helps in avoiding long drawn and expensive litigation at a later date. Seeking an advance ruling is inexpensive and the procedure is simple and expeditious.

It thus provides certainty and transparency to a tax payer with respect to an issue which may potentially cause a dispute with the tax administration. A legally constituted body called Authority for Advance Ruling (AAR) can give a binding ruling

to an applicant who is registered taxable person or is liable to be registered. The advance ruling given by the AAR can be appealed before an Appellate authority for Advance Ruling (AAAR). There are time lines prescribed for passing an order by AAR and by AAAR.

### 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) What is true about the classification of packing material?
- (a) The packing material is always classified with the goods packed.
  - (b) The packing material is never classified with the goods packed.
  - (c) The packing material may or may not be classified with the goods packed.
  - (d) The packing material is classified in separate chapter of the schedule.
- (ii) Once goods are imported from a country outside India into India, such goods need to be cleared from the port within \_\_\_\_\_ from the date of import.
- (a) 3 working days
  - (b) 4 working days
  - (c) 5 working days
  - (d) 7 working days
- (iii) After visiting USA, Mrs. & Mr. X brought to India a laptop computer valued at ₹ 80,000 personal effects cloths valued at ₹ 90,000 and a personal computer for ₹ 52,000. What is the customs Duty payable?
- (a) ₹11,550/-
  - (b) ₹15,400/-
  - (c) ₹770/-
  - (d) None of the above

**Answer:**

8. (i) (c) The packing material may or may not be classified with the goods packed.
- (ii) (a) Once goods are imported from a country outside India into India, such goods need to be cleared from the port within 3 working days from the date of import. For delay beyond 3 working days the port authorities will charge demurrage. If the delay is from the Customs authorities, then such authorities will issue a certificate called as Detention Certification for bona fide import.
- (iii) (c) Duty payable on baggage is ₹770/- [ $₹(52,000 - 50,000) \times 38.50\%$ ]

9. (a) Write short note on:

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- 1) Foreign going vessel or aircraft
- 2) Goods

[2+2]

(b) Product 'Alpha' was imported by Mr. Castel by air. The details of the import transaction are as follows:

Particulars	US\$
Price of 'Alpha' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	4,500
Insurance charges	2,000

Though the aircraft arrived on 22.08.2019, the bill of entry for home consumption was presented by Mr. Castel on 20.08.2019.

The other details furnished by Mr. Castel are:

	20-08-2019	22-08-2019
Rate of basic custom duty	20%	12%
Exchange rate notified by CBIC	₹75 per US\$	₹78 per US\$
Exchange rate prescribed by RBI	₹76 per US\$	₹77 per US\$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	18%	12%

- Compute –
- (i) Value of product 'Alpha' for the purpose of levying customs duty;
  - (ii) Customs duty and tax payable.
- [8]

Answer:

9. (a) Foreign going vessel air aircraft – As per Section 2(21) of the Customs Act, it means any vessel or aircraft for the time being in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not. The following are also included in the definition:
- (i) A foreign naval vessel doing naval exercises in Indian waters
  - (ii) A vessel engaged in fishing or any other operation (like oil drilling by domestic vessel or foreign vessel) outside territorial waters
  - (iii) A vessel going to a place in India for any purpose whatsoever.

Goods - As per Section 2(22) of the Customs Act, the term goods includes

- (i) Vessels, aircrafts and vehicles
- (ii) Stores
- (iii) Baggage
- (iv) Currency and negotiable instruments and
- (v) Any other kind of immovable property.

(b) Computation of Assessable value & customs duty –

Particulars	US\$	US\$
FOB Value		
Factory price	8,500	
Freight from factory to foreign airport	250	
Loading at foreign airport	250	
		9,000
Add: Cost of transport under Rule 10(2)(a)	WN-1	1,800
Add: Insurance cost on actual basis under Rule 10(2)(b)		2,000
CIF Value or Assessable Value		12,800
		₹
Exchange rate as per CBIC	WN-2	75
Assessable value (₹75x12,800 US\$)		9,60,000
Add: Basic customs duty @12% [A]		1,15,200
Add: SWS @10% on BCD [B]		11,520
Sub-total		10,86,720
Add: IGST on sub-total above @12% [C]		1,30,406
Total duty and tax payable [A+B+C] (rounded off)		2,57,126.4

Working Notes:

- 1) In the case of goods imported by air, air freight shall not exceed 20% of the FOB value of the goods.
- 2) Rate of exchange determined by CBIC is to be considered.
- 3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- 4) Integrated tax is levied on the sum total of the assessable value of the imported goods and custom duties.
- 5) No landing charges are to be added to the CIF value.

10. (a) Assessee imported CD ROMS containing images of drawings and designs of engineering goods. The Appellant (i.e. assessee) filed a Bill of entry for the clearance of the CD ROM. The assessee claimed classification under Custom Tariff heading 4906, or heading 4911, or as Information Technology Software, or as CD ROM, where exemption is given from duty.

However, the Department classified the same under Customs Tariff heading 8524.39 thereby, liable to duty.

Discuss in the light of decided case, if any, whether the classification of the department is correct in the eyes of law? [5]

(b) List down cases where MEIS duty scrip's are not allowed. [7]

**Answer:**

10. (a) The Hon'ble Supreme Court held that "what is made duty free is CD ROM as it is and not a disc containing certain drawings and designs". It further said that the data in a compact disk does not fall within the meaning of the term 'software' to entail the benefit (i.e. nil rate of duty).

Software is a computer program, which enables the computer to function. The drawings and designs of engineering goods recorded on a CD ROM could not be regarded as a "computer program" or "instructions" meant for functioning of a computer. In fact, they are "output" of computer software, which generate such drawings and designs. Therefore, they are not information technology software.

The Supreme Court has ruled that the department can impose appropriate duty on the import of CD ROMs containing images of drawings and designs of engineering goods. The assessee cannot claim clearance of such goods at zero duty. Therefore, the classification of the department is correct in law.

- (b) MEIS duty credit scrip's are not allowed in following cases:

1. EOUs/EHTPs/BTPs/STPs that are availing direct tax benefits/exemptions.
2. Supplies made from DTA units to SEZ units.
3. Exports through trans-shipment, i.e., exports that are originating in third country but transshipped through India.
4. Deemed Exports
5. SEZ/EOU/EHTP/BTP/FTWZ products exported through DTA units.
6. Export products which are subject to minimum export price or export duty.
7. Ores and concentrates of all types and in all formations.

11. (a) Discuss whether any duty drawback is admissible u/s 75 in the following cases and if yes, what is the quantum of such duty drawback-

S. No.	FOB value of exported goods (₹)	Rate or amount of drawback	Market price of goods (₹)	Value of imported material used in goods (₹)
1	2,00,000	40% of FOB value	1,50,000	1,20,000
2	1,00,000 (2,000 Kgs)	₹30 per kg	55,000	40,000
3	4,00,000	3.5% of FOB value	4,60,000	4,50,000
4	4,20,000	4% of FOB value	4,10,000	3,00,000*

\*In case (4), the Central Government has specified a minimum value-addition to be achieved @ 40% of imported materials in terms of FOB value. [8]

- (b) What are the features of Foreign Trade Policy? [4]



Answer:

11. (a) The admissibility or otherwise of duty drawback in the aforesaid cases is discussed hereunder –

1. Drawback Admissible ₹50,000: The amount of drawback i.e. 40% of 2,00,000 i.e. ₹80,000 shall be restricted to 1/3<sup>rd</sup> of the market price of the goods i.e. 1/3<sup>rd</sup> of 1,50,000 i.e. ₹50,000. Hence, the amount of drawback admissible shall be ₹50,000.
2. Drawback Inadmissible: In this case the market price of the goods ₹55,000 is less than the amount of drawback i.e. 2,000 kgs x ₹30 i.e. ₹60,000. Hence, no drawback shall be allowed.
3. Drawback Inadmissible: No drawback shall be allowed in this case, as the export value i.e. FOB value of the goods is less than the value of imported materials used therein.
4. Drawback Admissible ₹16,800: Minimum value addition of 40% of imported material i.e. 40% of ₹3lakhs amounts to ₹1,20,000. Since FOB value of the goods is ₹4,20,000 i.e. the criteria of minimum value addition has been achieved, so drawback allowable = 4% of ₹4,20,000 = ₹16,800.

(b) Features of Foreign Trade Policy are as follows:

1. Export-import is free unless specifically regulated by the provisions of the FTP.
2. Export and Import goods are broadly categorized as free, restricted and prohibited.
3. There are restrictions on exports and imports for various strategic, health and other reasons.
4. Exports are promoted through various promotional schemes.
5. There should be no taxes on exports.
6. EOU and SEZ units are exempted from payment of taxes.