

Paper 11- Indirect Taxation

Paper 11- Indirect Taxation

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: GST

PART – I

Answer Question Number 1. All parts of this question are compulsory.

1. Answer the following Question [5×1=5]

(A) Multiple choice questions:

- (i) Reverse Charge Mechanism (RCM) is _____
(a) the reversal of tax liability in case of return of goods
(b) the liability to pay tax by the recipient of supply of goods and services
(c) the reversal of tax due to mistake detected later
(d) the liability to pay tax where only services provided.
- (ii) Which of the following item is taxable both under Central Excise law and GST?
(a) Motor spirit
(b) Alcoholic liquor for human consumption
(c) Tobacco and tobacco products
(d) Natural gas
- (iii) Business u/s 2(17) includes which of the following?
(a) commerce
(b) vocation
(c) manufacture
(d) all of the above.
- (iv) Which of the following is not exempted from GST :
(a) Charitable trust
(b) Advocate services
(c) Veterinary services
(d) Manufacturing of motor car.
- (v) What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composite scheme in states other than specified states?
(a) ₹ 20 lakhs
(b) ₹ 10 lakhs
(c) ₹ 75 lakhs
(d) ₹ 1.5 Crores

Answer:

- (i) (b) (ii) (c) (iii)(d) (iv) (d) (v) (d)

(B) State True or False for the following question: [5×1=5]

- (i) Activity of funeral, burial, crematorium or mortuary including transportation of the deceased is not supply of services.
- (ii) Tour conducted through luxury trains are covered as Tour Operators Service.
- (iii) In case of intra-state transactions, CGST and SGST will be levied.
- (iv) GSTIN is a 15 digit number which does not include state code.
- (v) Input tax credit is not available on goods used for personal use.

Answer : B

- 1. True
- 2. True
- 3. True
- 4. False
- 5. True

(C) Match the following: [5×1=5]

	Column 'A'		Column 'B'
1.	HSN	A.	Union Finance Minister
2.	Inter –state supply liable to	B.	Product naming and coding system.
3.	Chairperson of GST council	D.	CGST and SGST/UTGST.
4.	Renting of immovable property.	C.	Exempted from GST
5.	Distribution of electricity	e.	Supply of service.

Answer: C

- 1. B.
- 2. C.
- 3. A.
- 4. E.
- 5. D.

(D) Fill in the blanks: [5×1=5]

- (i) _____ was first country to adopt GST as indirect system of taxation.
- (ii) _____ supply means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary.
- (iii) A casual taxable person or a non- taxable person shall apply for registration at least _____ days prior to the commencement of business.
- (iv) The calculation of the aggregate turnover to decide the registration limit will be based on _____.
- (v) Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration is_____.

Answer: D

- (i) France
- (ii) Principal
- (iii) 5
- (iv) Pan based turnover throughout India
- (v) Supply of goods

PART – II

Answer any four questions from question numbers 2 to 7. Each question carries 15 marks

[15×4= 60]

2. (a) Write down the distinctions between direct taxes and indirect taxes. [7]

(b)(i) B Gas sells cooking gas cylinders, the selling price of which is ₹800. Subsidy directly transferred to the account of the customer. Customer received subsidy 200 directly from Government to his bank account. Buyer's net outflow is 600. Compute the value of supply of goods (per cylinder) in the hands of B Gas? [2]

(ii) State whether the following item can be treated as supply of goods or supply of services-

1. Renting of vacant land to a stud farm for ₹ 1,50,000.
2. A director takes a computer at home for his private use. This computer is the company's business asset.
3. Sale of office computer.
4. M/s. X Ltd. provided car to one of its director for his personal use and charge fee ₹ 30,000.
5. Salary paid to partners by partnership firm.
6. Catering and Restaurant.

[6]

Answer: 2

(a) Difference between Direct Taxes and Indirect Taxes:

Basis	Direct Taxes	Indirect Taxes
1. Meaning	Direct tax is referred to as the tax, levied on person's income and wealth and is paid directly to the government.	Indirect tax is referred to as the tax, levied on a person who consumes the goods and services and is paid indirectly to the government.
2. Nature	It is progressive in nature .	It is regressive in nature.
3. Incidence and impact	Falls on the same person . Assessee, himself bears such taxes. Thus, it pinches the taxpayer.	Falls on different person. Tax is recovered from the assessee who passes such burden to another person. Thus, it does not pinch the taxpayer.
4. Example	Income tax	GST, Customs Duty.
5. Evasion	Tax evasion is possible	Tax evasion is hardly possible because it is included in the price of goods and services.
6. Imposition and collection	Imposed on and collected from the same person.	Imposed on and collected from consumers of goods and services but paid and deposited by the assessee.
7. Burden	Cannot be shifted	Can be shifted.

(b)(i) Since, the amount of subsidy is directly credited to the account holder and not received by the B Gas making the supply. Therefore, such subsidy will not be considered as part of transaction value as it is not received by the B Gas making the supply. Hence, transaction value is Rs. 800 per cylinder.

(ii)

1.) Renting of vacant land to a stud farm for Rs. 1,50,000.	Supply of service
2.) Sale of office computer	Supply of goods
3.) M/s X Ltd. provided car to one of its director for his personal use and charge fee Rs. 30,000	Supply of service
4.) A director takes a computer home for his private use. This computer is the company's business asset	Supply of service
5.) Salary paid to partners by partnership firm.	It is not a supply. It is merely an appropriation of profit.
6.) Restaurant and catering	Supply of service

3.(a) From the following information, determine the time of supply for each of the following cases, assuming that GST on goods is payable under reverse charge:

Sl. no.	Date of receipt of goods	Date of payment by receipt of goods	Date of invoice by supplier of goods
1	July 2	August 12	June 29
2	July 2	June 25	June 27
3	July 2	Part payment made on June 30 & balance amount paid on July 20	June 29
4	July 6	Payment is entered in books of account on June 28 and debited in recipient's bank account on June 26	June 1
5	July 2	Payment is entered in books of account on June 30 and debited in recipient's bank account on June 26	June 29
6	August 5	August 8	June 28

[6]

(b) (i) Mr. R is a money changer. He has exchanged US\$ 10,000 to Indian rupees @ ₹ 64 per US\$. Mr. R wants to know the value of such supply in accordance with the rule 32(2)(b) of CGST Rules. Determine value of supply made by Mr. R. [5]

(ii) Miss S is a partner of a partnership firm M/s. F. The firm is registered in Delhi. Miss S went to Mumbai for audit purpose. She purchased air ticket from Jaipur Airlines (registered in Rajasthan) for journey from Jaipur to Mumbai disclosing name of organization and its GST Registration number. Determine the place of supply of service. What would be your answer if Miss S does not disclose the particulars of the organization? [2+2]

Answer: (a)

S. No.	Date of receipt of goods (DOR) Column (1)	Date of payment (DOP) Column (2)	Date of invoice by suppliers of goods (DOI) column(3)	Date next to DOI+30 days column(4)	Time of supply(TOS) =Earliest of (1) ,(2)& (4).
1	July 2	August 12	June 29	July 30	July 2
2	July 2	June 25	June 27	July 28	June 25

3	July 2	June 30(part 1)	June 29	July 30	June30 (part1)
	July 2	July 20(part 2)	June 29	July 30	July 2
					(part 2)
4	July 6	June 26(earlier of date of entry in the books or date of debit in bank	June 1	July 2	June 26
5	July 2	June 26 (earlier of date of entry in book or date of debit in bank)	June 29	July 30	June26
6	Aug 5	August 8	June 28	July 29	July 29

(b)(i) As per rule 32(2)(b) of CGST Rules, the value in relation to the supply of foreign currency, including money changing is deemed to be---

- 1% of the gross amount of the currency exchanged for an amount upto Rs.1,00,000 subject to the minimum amount of Rs. 250;
- Rs. 1000 and 0.5 of the gross amount of the currency exchanged for an amount exceeding Rs. 1,00,000 and upto Rs. 10,00,000.

Therefore, the value of supply made by Mr. R , under rule 32(2)(b) of CGST rule as under (amount in Rs):

Value of currency exchanged in Indian rupees [Rs.64 x US\$10,000]		6,40,000
Upto Rs. 1,00,000 (1% x 1,00,000)	1,000	
For Rs. 5,40,000 (0.50 % x Rs. 5,40,000)	2,700	
Value of Supply	3,700	

(ii) As per section 12(9) of IGST Act, 2017, since the organization is registered in Delhi, therefore as per section 12(9)(a), the place of supply shall be the place where the recipient is located i.e. Delhi in this case.

The airlines shall charge IGST at the location of suppliers is in Jaipur.

In case Miss S does not disclose the particulars of organization, the place of supply of service will be Jaipur i.e. the place where Miss S embarks the aircraft for her journey. Here, the airlines shall charge CGST /SGST.

4. (a) Mention the characteristics of composite supply. Give an example of composite supply. [6+1]

(b)ABC India Ltd. is manufacturing some taxable goods. For the purpose of production, it purchased the following goods in the month of October, 2021:

	Items	GST paid in ₹
1.	Raw material used for the production of the final product	1,00,000
2.	Goods used for providing free warranty – Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
3.	Light diesel oil	5,000
4.	Goods used for generation of electricity for captive consumption	20,000

Note: ABC India Ltd. is also purchased High Speed Diesel oil by paying central excise duty of ₹12,000, which is also used in the manufacture of taxable output.

Compute the amount of input tax credit available to ABC India Ltd.

[8]

Answer:

(a) The following are the characteristics of composite supply -

1. Supply is made by a taxable person to a recipient
2. Such supply consists of 2 or more taxable supplies of goods and/or services or any combination thereof.
3. Such combination of 2 or more supplies of goods and/or services is naturally bundled.
4. Such naturally bundled goods and/or services is supplied in conjunction with each other in the ordinary course of business.
5. Out of naturally bundled supply of goods and/ or services, one is principal supply ("principal supply" means the supply which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary).
6. If the above conditions are satisfied, GST is chargeable on the entire consideration at the rate applicable on principal supply.

Example: Goods are packed and transported with insurance. The supply of goods, supply of packing materials, transport service and insurance service is a composite supply. Supply of goods is a principal supply. GST rate applicable on supply of goods will be applied on this composite supply.

(b) Statement showing eligible input tax credit to ABC India Ltd.

	Items	ITC in Rs
1.	Raw material used for the production of the final product	1,00,000
2.	Goods used for providing free warranty – Value of such free warranty provided by ABC India Ltd. is included in the price of the final product and is not charged separately from the customers	10,000
3.	Light diesel oil	5000
4.	Goods used for generation of electricity for captive consumption	20,000
5.	High Speed Diesel oil	Not allowed
	Total input tax credit	1,35,000

5. (a) What is the procedure for application of registration by a casual taxable person? [7]

(b) R & Co. being a trader of cell phones registered under GST in the State of Tamil Nadu and furnished the following information relating to preceding financial year:

Particulars	Value (₹ in lakhs)
Intra-State supply of taxable goods	120
Intra-State supply of exempted goods	10
Intra-State Supply of taxable services	5
Intra-State supply of exempted services	3
Interest earned on deposits/loans/advances	15.50

Whether R & Co. is eligible for composition scheme in the current financial year? [8]

Answer: 5

(a) Application for Registration by Casual taxable persons:

Casual taxable persons are required to obtain GST registration under a special category at least 5 days prior to the undertaking business.

There is no special form to register as a casual taxable person. Casual taxable person can use the normal form GST REG-01 which is used by other taxable persons for registration.

A casual taxable person, before applying for registration, declares his:

- Permanent Account Number,
- mobile number,
- e-mail address,
- State or Union territory

In Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address.

On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address. Using this reference number generated, the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Answer: 5. (b)

Aggregate turnover of R & Co. of in the preceding financial year

Particulars	Value (₹ in lakhs)	Remarks
Intra-State supply of taxable goods	120	Addable into the aggregate turnover
Intra-State supply of exempted goods	10	-do-
Intra-State Supply of taxable services	5	-do-
Intra-State supply of exempted services	3	
Interest earned on deposits/loans/advances	Nil	Not addable into the aggregate turnover
Aggregate turnover	138	Not exceeded ₹150 lakh.

Value of services not exceeded 10% of turnover or ₹5,00,000 whichever is higher: Value of taxable output supply of service = 5 lakh

Add: value of exempted output supply of service = ₹3 lakh

Total value of services = ₹8 lakh

Supply of service as % on turnover = (₹8 lakh / ₹138 lakh) x 100 = 5.80%

Permissible limit:

10% of turnover = ₹13.80 lakh (i.e. ₹138 lakh x 10%)

w.e.f 1-8-2019, Interest earned on deposits/loans/advances shall not be taken into account for determining the value of turnover in a State or UT.

Or ₹5 lakh

Whichever is higher

Therefore, the value of service upto ₹13.80 lakh can be supplied by R & Co.

In the given case supply of services (excluding interest earned on deposits/loans/advances) did not exceed the permissible limit and hence, R & Co. is eligible for composition scheme in the current financial year.

6. (a) The following information's are available in respect of goods which are delivered by a supplier to a recipient on direction of a third person during course of movement of goods. You are required to determine the place of supply of goods as per sec. 10(1)(b) of the IGST Act, 2017. Also determine nature of supply: whether inter -state supply or intra- state supply.

Supplier and his location	Location of a buyer (third person)	Recipient and his location	Place of delivery of the goods
A Ltd. Jaipur	Z Ltd. Jaipur	X Ltd. Mumbai	Mumbai
A Ltd. Jaipur	X Ltd. Mumbai	Z Ltd. Jaipur	Jaipur
A Ltd. Jaipur	S Ltd. Surat	X Ltd. Mumbai	Mumbai
A Ltd. Jaipur	X Ltd. Mumbai	P Ltd. Mumbai	Mumbai

[8+4]

- (b) Find out the value of taxable supply from the following:

- (i) Renting of bus to state transport undertaking: ₹ 25 lakhs.
- (ii) Hiring of pandal or shamiana for organizing functions /events: ₹ 30 lakhs.
- (iii) Renting of cars designed to carry passenger to a goods transport agency, being a partnership firm: ₹ 40 lakhs. [3]

Answer: 6

- (a) The place of supply of goods shall be determined as under-
As per section 10(1)(b) of IGST, where goods delivered on the direction of third person, place of supply shall be the Principal place of business of the third person.

LEG 1: Supplier A Ltd. to Buyer (third person) i.e. for A Ltd. [(section 10(1)(b))]				
Supplier	Third Person	Place of Supply	Nature of Supply	Third Party
A Ltd.	Jaipur (Z Ltd.)	Jaipur	Intra-state CGST/SGST	Jaipur (Z Ltd.)
A Ltd.	Mumbai (X Ltd.)	Mumbai	Inter-state IGST	Mumbai (X Ltd.)

A Ltd.	Surat (S Ltd.)	Surat	Inter-state IGST	Surat (S Ltd.)
A Ltd.	Mumbai (X Ltd.)	Mumbai	Inter-state IGST	Mumbai (X Ltd.)

As per section 10(1)(a) of IGST, where supply involves movement of goods, place of supply shall be the place where movement terminates for delivery to the recipient.

As per section 10(1)(c) of IGST, where supply does not involve movement of goods, place of supply shall be the location at the time of delivery to the recipient.

LEG 2 : BUYER (third person) to RECIPIENT [Section 10(1)(a) or 10(1)(c)]			
Actual Recipient	Location of Goods	Place of Supply	Nature of Supply
X Ltd. Mumbai	Mumbai	Mumbai	Inter state IGST
Z Ltd. Jaipur	Jaipur	Jaipur	Inter state IGST
X Ltd. Mumbai	Mumbai	Mumbai	Inter state IGST
P Ltd. Mumbai	Mumbai	Mumbai	Intra state CGST & SGST

(b) Computation of taxable supply:

		Rs
1.	Renting of bus to state transport undertaking: Rs. 25lakhs. [bus carries more than 12 passengers ,hence, eligible for exemption]	exempt
2.	Hiring of pandal or shamiana for organizing functions /events: Rs. 30 lakhs	30 lakhs
3.	Renting of cars designed to carry passengers to a goods transport agency, being a partnership firm: Rs. 40 lakhs. [Hiring of car, which is not a means of transport of goods to GTA is not exempt]	40 lakhs
	Total taxable supply	70 lakhs

7. Short note: (any three)

[5×3]

(a) GST Council

(b) Revocation of cancellation of registration

(c) Distribution of credit by input service distributor.

(d) Distinct person under GST Act.

Answer: 7(a)

GST Council: As per Article 279A of the Constitution of India, the President of India is empowered to constitute Goods and Services Tax Council. The President of India constituted the GST Council on 15th September, 2016.

The GST Council shall consist of Union Finance Minister as a Chairperson, Union Minister of State in charge of Finance as a member, the State Finance Minister or State Revenue Minister or any other Minister nominated by each State as a member of the Council. The GST Council shall select one of them as Vice Chairperson of Council.

Guiding principle of the GST Council: The mechanism of GST Council would ensure harmonization on different aspects of GST between the Centre and the States as well as among States. It has been provided in the Constitution (101st Amendment) Act, 2016 that the GST Council, in its discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

Functions of the GST Council: GST Council is to make recommendations to the Central Government and the State Governments on

- tax rates,
- exemptions,
- threshold limits,
- dispute resolution,
- GST legislations including rules and notifications etc.

(b) Revocation of cancellation of registration

As per section 30(1) of the CGST Act, 2017, subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within 30 days from the date of service of the cancellation order.

As per section 30(2) of the CGST Act, 2017, the proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

As per Section 30(3) of the CGST Act, 2017, the revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

Procedure for Revocation of Cancellation of Registration as per Rule 23 of the CGST Rules, 2017:

Particulars Relevant Form	Particulars Relevant Form
Application for revocation of cancellation of registration within 30 days from the date of service of the order of cancellation of registration. As per Finance Act, 2020: Provided that such period may on sufficient cause being shown, and for reasons to be recoded in writing, be extended (a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days. (b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a).	GST REG-21 Note: Application for revocation cannot be filed if cancellation is on account of failure to furnish returns or failure to pay liability unless such return is filed / liabilities are discharged.
For justified reasons, proper officer shall revoke cancellation of registration within 30 days of application or receipt of clarification by passing an order	GST REG-22
For unjustified reasons, proper officer shall issue show cause notice	GST REG-23
Reply shall be filed in within 7 days.	GST REG-24
For justified reasons, proper officer shall revoke cancellation of registration within 30 days of application or receipt of clarification by passing an order.	GST REG-22
For unjustified reasons, proper officer shall reject the application for revocation of cancellation of registration by passing an order.	GST REG-05

Extension of time limit for filing application for revocation of cancellation of registration by a registered person permitted beyond the stipulated time:

w.e.f. 1-10-2021, the registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in prescribed form, to such proper officer, within a period of 30 days from the service of the order of cancellation of registration,

On sufficient cause being shown, and for reasons to be recorded in writing, be extended,

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days;

(b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a)

Note: Notification No. 56/2018 – Central Tax, dated 23.10.2018 seeks to exempt a person making inter-state taxable supplies of handicrafts goods from the requirement to obtain registration.

Provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed the amount of aggregate turnover above which a supplier is liable to be registered in the State or Union territory in accordance with sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to that section.

Such persons making inter-State taxable supplies shall be required to obtain a Permanent Account Number and generate an e-way bill in accordance with the provisions of rule 138 of the Central Goods and Services Tax Rules, 2017

Note: NOTIFICATION No. 58/2018 – Central Tax, dated 26.10.2018 notifies the persons whose registration under the CST Act has been cancelled by the proper officer on or before the 30th September, 2018, as the class of persons who shall furnish the Final Return in **FORM GSTR-10** of the said rules till the 31st December, 2018.

(c) Distribution of credit by input service distributor:

(1) The Input Service Distributor (ISD) shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely: —

- A. the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
- B. the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- C. the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
- D. the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
- E. the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

(d) Distinct persons specified under section 25 of CGST Act, 2017:

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, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

Section – B: Customs

PART – I

Answer question No. 8 which is compulsory.

8. Answer the following questions:

[5×1=5]

- (i) Beneficial owner means any person :
 - (a) On whose behalf the goods are being imported or exported
 - (b) who exercises effective control over the goods being imported or exported
 - (c) Both (a) & (b)
 - (d) None of the above
- (ii) Value of imported goods ₹ 800. Custom Duty leviable @10%. Duty payable is:
 - (a) ₹ 88
 - (b) ₹ 90
 - (c) ₹ 180
 - (d) None of the above.
- (iii) Determine the value (before insurance/ freight): Cost of material ₹ 1,00,000; commissions and brokerage (inclusive buying commission) of ₹ 5000; Buying commissions ₹ 3000; cost of packing ₹ 15,000.
 - (a) ₹ 1,17,000
 - (b) ₹ 1,20,000
 - (c) ₹ 1,15,000
 - (d) ₹ 1,00,000
- (iv) Which of the following is NOT a condition to apply Preferential rate of duty-
 - (a) a preferential rate duty is specified in the First schedule, or is admissible by virtue of exemption;
 - (b) owner of article claims at time of importation that it is chargeable with preferential rate of duty;
 - (c) such article is the produce or manufacture of notified preferential area;
 - (d) commissioner has approved the import with that area.
- (v) In case, the goods are re-exported out of India without being put to use, the drawback is allowed equal to:
 - (a) 98% of import duty
 - (b) 90% of import duty
 - (c) 100% of import duty
 - (d) 15% of import duty.

Answer: 8

- (i) (c)
- (ii) (d)
- (iii) (c)
- (iv) (d)
- (v) (c)

PART – II

Answer any one question from question numbers 9 to 10. Each question carries 15 marks

[15×1]

9. (a) Mention the major differences between drawback on re – export of duty paid goods (u/s 74) and drawback on material used in manufacture / processing of exported goods (u/s 75). [6]

- (b) Miss G imported certain goods from Mr. O who is a related person in US. In this ground, transaction value has been rejected. Rule 4 and Rule 5 of the Import Valuation Rules are found inapplicable, as no similar / identical goods are imported in India. Miss G requests Customs Authorities to determine value as per rule 8, after furnishing the cost related data of import. The relevant data are –

1. Cost of material incurred by Mr. O	\$600
2. Making charges incurred by Mr. O	\$100
3. Loading charges at US port	\$30
4. Normal net profit margin of Mr. O	20% of FOB
5. Air freight from US port to Indian port	\$500
6. Insurance from US port to Indian port	\$50
7. Other direct expenses incurred by Mr. O	\$400
8. Overhead incurred by Mr. O	\$150
9. Freight from Mr. O's factory to US port	\$120
10. Exchange rate	₹ 60 per \$

Compute the assessable value as per Rule 8.

[9]

Answer.9. (a)

Basis	Re-export of duty paid goods [section 74]	Material used in manufacture/ processing of exported goods [section 75]
1. Meaning	Drawback = Refund of import duties, IGST & GST Cess paid on import.	Drawback = import/ excise duty on imported or domestic materials (excluding IGST & GST cess).
2. Identity	Goods exported must be the duty paid goods actually imported.	Goods exported are goods manufactured or processed out of materials and are, thus, different.
3. Quantum	98% of duty paid at the time of import or reduced amount considering import.	Drawback is allowed at all industry rate or brand rate or special brand rate, as it is applicable.
4. Time- limit	Goods must be exported in 2 years (or extended) from payment of duty.	No time bar.
5. Value addition	No criteria of value addition; in fact, goods must remain same.	Notified value addition must be achieved and there should be no negative value addition.
6. Recovery of export proceeds	No provision/need to that effect.	Export proceeds must be realized in time limit allowed by RBI, except in exceptional circumstances.

(b) Computation of value as per Rule 8:

Particulars	US \$
1. Cost of material incurred by Mr. O	\$ 600
2. Making charges incurred by Mr. O	\$100
3. Other direct expenses incurred by Mr. O	\$ 400
4. Overhead incurred by Mr. O	\$ 150
5. Freight from Mr. O's factory to US port	\$ 120
6. Loading charges at US port	\$ 30
Total Cost incurred by Mr. O	\$ 1,400
7. Normal net profit margin of Mr. O [20 % of FOB OR 25% of COST= 25% of \$ 1,400]	\$ 350

FOB price	\$ 1,750
8. Air freight and Handling from US port to India[Air freight cannot exceed 20% of FOB ; hence, restricted to 20% of \$ 1,750] [Rule 10(2)(a)]	\$ 350
9. Insurance from US port to Indian port [Rule 10(2)(b)]	\$ 50
CIF or Assessable Value under Customs	\$2,150
Assessable Value (in Rs.) [\$ 2,150 x Exchange Rate Rs. 60 per \$]	Rs. 1,29,000

- 10.(a) On August 2020, a machine was imported from Japan. The cost of the machine was ₹250 lakhs. All the duties of customs have been cleared at the time of import. The said machine was exported (sent-back) to supplier for repairs in January 2021 and re-imported without any re-manufacturing or re-processing in October, 2021 after repairs. The repairs were carried out free of cost, as the machine was under warranty period.**

However, the fair cost of repairs carried out (including cost of material ₹ 6 lakh) would have been ₹ 9 lakhs. Actual insurance and freight charges (to and fro) were ₹ 3 lakhs. The rate of basic customs duty is 10% and rate of IGST in India on like article is 12%. Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period. [6]

(b) What are the differences between Safeguard Duty and Anti - dumping duty? What is deemed export? [6+3]

Answer:10 (a)

Particulars	Rs.
Value of goods re-imported after exports [Rs. 9 lakhs (including cost of material) + 3 lakhs]	12,00,000
Basic custom duty @ 10%	1,20,000
Social Welfare Surcharge	12,000
Balance (i.e. transaction value)	13,32,000
Add: IGST @12 % on 13,32,000	1,59,840
Landed Value	14,91,840
Total customs duty(including IGST)	2,91,840

(b) The difference between safeguard duty and anti-dumping duty:

Basis	Safeguard duty	Anti-dumping duty
Levy under	Section 8B or 8C of Custom Tariff Act, 1975.	Section 9A of Custom Tariff Act, 1975.
Objective	To ensure that bulk import of goods do not cause serious injury/ disruption to domestic industry.	To ensure that goods are not imported at lower than normal value (dumping) thereby, causing loss to domestic market.
Based on	Increased import in quantity	Imports at value less than normal value.
Quantum	Levied as determined by government	Cannot exceed margin of dumping.

Duration	Remains in force for 4 years , extendable upto 10 years from date of levy	Remains in force for 5 years, extendable by further 5 years.
Exception	Not levied if imports from a developing country does not exceed 3% and total imports from all developing countries (each with share upto 3% doesn't exceed 9% in total) .	Exception to levy of this duty is listed in section 9B.

Deemed Export:

The term Deemed Export is an export without actual export, it means goods and services are sold and provide respectively within India and payment is also received in the Indian Rupees. As per the Foreign Trade Policy the following few transactions can be considered as deemed export.

- (i) Sale of goods to units situated in Export Oriented Units, Software Technology Park, and Electronic Hardware Technology Park etc. (ii) Sale of capital goods to fertilizer plants.
- (iii) Sale of goods to United Nations Agencies
- (iv) Sale of goods to projects financed by bilateral Agencies etc.