

## Paper 18- Indirect Tax Laws and Practice

**Paper 18- Indirect Tax Laws and Practice**

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 No. 1 which is compulsory.

1. Choose the correct answer with justification/ workings wherever applicable: [7×2=14]
- (i) In GST, securities have been specifically \_\_\_\_\_  
(a) included in definition of goods  
(b) included in definition of services  
(c) included in definition of goods as well as services  
(d) excluded from definition of goods as well as services.
- (ii) A private limited company gave puja gifts to Mr. Y, an employee worth Rs.5,00,000. It's taxability will be:  
(a) It is a supply and liable to GST  
(b) It is not a supply and therefore not liable to GST  
(c) Outside the scope of GST  
(d) It is a supply but not liable to GST.
- (iii) Where supplier is from Raipur, recipient is from Bangalore and place of assembly/ installation of goods is Guwahati, the place of supply will be:  
(a) Raipur  
(b) Bangalore  
(c) Guwahati  
(d) None of the above.
- (iv) As per section 147 of the CGST Act, which of the following is considered as deemed export?  
(a) Supply of goods by a registered person against Advance Authorisation  
(b) Supply of goods by a registered person to Export Oriented Unit  
(c) Supply of capital goods by a registered person against Export Promotion Capital Goods Scheme  
(d) All of the above.
- (v) The Customs Department of Kolkata has auctioned some confiscated goods and X Ltd. is the buyer who is registered under GST. GST is payable by \_\_\_\_\_.  
(a) X Ltd.  
(b) Customs Department of Kolkata  
(c) GST is not payable at all  
(d) None of the above.
- (vi) Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the said information may be uploaded in the common portal in Form No. \_\_\_\_\_.  
(a) GST EWB-01  
(b) GST EWB-03  
(c) GST EWB-04  
(d) GST EWB-07

- (vii) The user charges for Goods and Service Tax Network (GSTN) will be paid entirely by the \_\_\_\_\_.
- (a) users.
  - (b) Central Government
  - (c) State Governments
  - (d) Central and State Government in equal proportion

**Answer:**

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

**Part – II**

**Answer any four questions from question number 2 to 7. Each question carries 14 marks.**

**[14x4=56]**

2. (a) KM charitable trusts running a hospital by hiring visiting doctors/ specialists. Medical services to patients at a concessional rate charged by hospital for ₹2,25,500 from patients and paid to visiting doctors/specialists ₹2,00,000. Find the following:
- (1) Exempted supply if any.
  - (2) GST liability if any. Applicable rate of GST 18%. **[5]**
- (b) What do you mean by Online Information and Database Access or Retrieval (OIDAR) Service? How the place of supply of OIDAR services can be determined? **[2+7=9]**

**Answer: 2. (a)**

- (1) Fee collected from Patients ₹2,25,500 is exempted from GST.
- (2) Hospital is liable to pay GST on such amount (i.e. ₹25,500) deducted from fees paid to doctors. GST payable is ₹4,590

**Answer: 2. (b)**

Online information and database access or retrieval [OIDAR] services means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology and includes electronic services:

OIDAR Services includes	OIDAR Services excludes
(i) advertising on the internet;	(i) Supplies of goods, where the order and processing is done electronically
(ii) providing cloud services;	(ii) Supplies of physical books, newsletters, newspapers or journals
(iii) provision of e-books, movie, music, software and other intangibles via telecommunication networks or internet;	(iii) Services of lawyers and financial consultants who advise clients through email
(iv) providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network;	(iv) Booking services or tickets to entertainment events, hotel accommodation or car hire
(v) online supplies of digital content (movies, television shows, music, etc.);	(v) Educational or professional courses, where the content is delivered by a teacher over the internet or an electronic network (in other words, using a remote link)

**[Online information and database access or retrieval services [Sec 13(12) of IGST Act]:**

POS = Location of the recipient of service

Recipient of service deemed to be located in the taxable territory, if any two of the following conditions are satisfied:

- (a) the location of address presented by the recipient of services through internet is in the taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- (c) the billing address of the recipient of services is in the taxable territory;
- (d) the internet protocol address of the device used by the recipient of services is in the taxable territory;
- (e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
- (f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
- (g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

**3. (a) What is Registration Certificate in GST? Who are the persons not liable for registration?**

**[4+4=8]**

(b) Section 140(3)(iv) of the CGST Act provides a restriction in transitional credit. It restricts transitional credit of inputs to invoices or other documents issued not earlier than 12 months immediately preceding appointed day i.e. 01-07-2017. Due to this particular condition, stocks on which the assessee manufacturer had already paid tax under erstwhile tax regime, would be barred from availing CENVAT credit where invoice was issued on or prior to 30-6-2016. The assessee approached the High Court challenging constitutional validity of section 140(3)(iv) as invoices they had were dated earlier than 12-months limitation period set out in prerequisite under section 140(3)(iv). Discuss whether the contention of the assessee is legally tenable or not. [6]

**Answer:**

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

GSTIN contains the following characters -

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

Persons not liable for registration –

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

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

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

**4. (a) (i) What do understand by Authority for Advance Ruling? [2]**

**(ii) From the following information in relation to Section 107 of the CGST Act, 2017, compute the quantum of pre-deposit required to be made in each of the following independent cases:**

- (1) The Joint Commissioner of Central Tax has confirmed a tax demand of ₹ 42,00,000 in an order dated 17-10-2021 issued to M/s. B Ltd. M/s. B Ltd. has admitted ₹5,00,000 as tax liability and intends to file an appeal with the Commissioner (Appeals) against tax demand of ₹37,00,000.**

- (2) The Joint Commissioner of Central Tax has confirmed a tax demand of ₹ 40,00,000 in an order dated 19-10-2021 issued to M/s. A Ltd. The Commissioner also imposed a penalty of ₹ 2,00,000. M/s. A Ltd. intends to file an appeal with the Commissioner (Appeals) against the said order. [3+3=6]

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

**Answer:**

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

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

(ii) (1) Section 107(6) of the CGST Act, 2017 require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of ₹25 crores. Thus, B Ltd. has to pre-deposit ₹5,00,000 (admitted tax) and 10% of ₹37,00,000 (tax in dispute) = ₹8,70,000.

(2) Section 107(6) of the CGST Act, 2017 require an appellant before Appellate authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of ₹25 crores. In this case since entire amount of tax demanded is in dispute, hence A Ltd. has to pre-deposit 10% of ₹40,00,000 = ₹4,00,000.

(b) Where applicant-power company, entered, into work agreement under which another company would supply coal or any other inputs, on a free- of-cost basis and applicant company would convert said input into power, activity undertaken would amounts to manufacture of electricity and is a transaction of supply of goods and not a job work.

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

5. (a) State the procedures to be followed to Scrutiny a return under GST. [6]

(b) M Ltd. is a Mumbai based registered supplier. It manufactures Chocolates and Biscuits. It provides the following informations of taxable inter-state supply made by it for the month of October 2021:

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

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

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

Items not adjusted in the list price given above –

**(3) Packing Charges – ₹11,000****(4) Tax levied by Municipal Authority – ₹48,000,****(5) Late fee paid by the recipient of supply for delayed payment of invoice – ₹15,000.  
Compute the value of taxable supply made by M/s M Ltd. for the month of October 2021.****[8]****Answer:****(a) Scrutiny of return - The provisions pertaining to scrutiny of return are given below -**

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

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

<b>(i) List price of goods supplied inter-state</b>	<b>₹13,60,000</b>
<b>(1) Subsidy from Trade Association for supply of quality Biscuits - Items adjusted in the price given in (i) above - to be added as not eligible for deduction from value</b>	<b>—</b>
<b>(2) Subsidy from Central Government for supply of Biscuits to Government School - Rs.1,64,000 (Item already adjusted in the price given in (i) above) - Not to be added back in value</b>	<b>₹45,000</b>
<b>(3) Packing Charges - Items not adjusted in the price given in (i) above - to be added as in respect of goods before delivery - section 17(1)(c) of CGST Act</b>	<b>₹48,000</b>
<b>(4) Tax levied by Municipal Authority - Items not adjusted in the price given in (i) above - to be added as tax (other than GST) is not allowed as deduction - section 17(1)(a) of CGST Act (It is presumed that this amount has been separately recovered from customer)</b>	<b>₹11,000</b>
<b>(5) Late fee paid by the recipient of supply for delayed Payment of invoice. - Items not adjusted in the price given in (i) above - to be added as per section 17(1)(d) of CGST Act [cannot be added at the time of making tax invoice].</b>	<b>—</b>



Value of taxable supply (Total of all above)	Rs.14,64,000
Credit note for Late fee paid by the recipient of supply for delayed Payment of invoice. - Items not adjusted in the price given in (i) above - to be added as per section 17(1)(d) of CGST Act	Rs.15,000

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

6. (a) Describe in details the consequences of transportation of goods without issue of invoice.

[6]

- (b) R is a supplier of goods. He pays GST under regular scheme. The following outward taxable supplies has been made by him in the month of August, 2021:

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

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

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

R has following ITCs with him as on 01.08.2021:

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

Assume:

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

You are required to compute the net GST payable by R for the month of August, 2021. [8]

**Answer:**

- (a) Transportation of goods without issue of invoice:

- (1) The consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the prescribed details for the purposes of —
  - ✓ supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
  - ✓ transportation of goods for job work,
  - ✓ transportation of goods for reasons other than by way of supply, or
  - ✓ such other supplies as may be notified by the Board,
- (2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:
  - ✓ the original copy being marked as original for consignee;
  - ✓ the duplicate copy being marked as duplicate for transporter; and
  - ✓ the triplicate copy being marked as triplicate for consigner.
- (3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.



- (4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
- (5) Where the goods are being transported in a semi knocked down or completely knocked down condition -
- the supplier shall issue the complete invoice before dispatch of the first consignment;
  - the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
  - each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
  - the original copy of the invoice shall be sent along with the last consignment.

**(b) Computation of GST payable by R on outward supplies**

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

**Computation of total ITC**

Particulars	CGST@ 6% (₹)	SGST@ 6% (₹)	IGST@ 12%(₹)
Opening ITC	70,000	60,000	40,000
Add: ITC on Intra-State purchases of goods valuing Rs. 8,00,000	48,000	48,000	Nil
Add: ITC on Inter-State purchases of goods valuing Rs. 2,00,000	Nil	Nil	24,000
Total ITC	1,18,000	1,08,000	64,000

**Computation of GST payable from electronic credit ledger**

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

**7. Write a short note:**

**[7+7]**

**(a) Central Product Clarification (CPC)**

**(b) GST Portal.**

**Answer:(a)**

In the Preface to the document issued by Department of Economic and Social Affairs (Statistical Division) of United Nations in 2015 titled "Central Product Classification-Version 2.1", it has been stated thus :

"The Central Product Classification (CPC) constitutes a complete product classification covering all goods and services. It serves as an international standard for assembling and tabulating all kinds of data requiring product detail, including statistics on industrial production, domestic and foreign commodity trade, international trade in services, balance of payments, consumption and price statistics and other data used within the national accounts.

It provides a framework for international comparison and promotes harmonization of various types of statistics related to goods and services".

Further in the Overview to the said document it has thus been stated about CPC:

The Central Product Classification (CPC) consists of a coherent and consistent classification structure for products based on a set of internationally agreed concepts, definitions, principles and classification rules. The classification structure represents a standard format to organize detailed information on products – be it on production, transformation, trade or consumption – according to economic principles and perceptions.

It is pertinent to note that with regard to services, before the development of the CPC, no international classification covering the whole spectrum of outputs of the various service industries and serving the different analytical needs of statistical and other users was available.

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

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

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

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

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

Functions of GSTN:

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

The GSTN will handle:

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

**Section – B: Customs & FTP**

**Part - I**

**Answer Question No. 8 which is compulsory**

8. Choose the correct answer with justification/ workings wherever applicable: [3×2=6]
- (i) The Central Government is empowered to levy customs duty vide an entry no.\_\_\_\_ of the Union List of the Seventh Schedule to the Constitution of India. Which of the following is such entry no.?
- (a) 53
  - (b) 56
  - (c) 83
  - (d) 94
- (ii) As per section 2(2) of the Customs Act, assessment includes which of the following?
- (a) provisional assessment
  - (b) reassessment
  - (c) self assessment
  - (d) All of the above.
- (iii) Which of the following means vessel or cargo which is abandoned in sea without any hope of recovering it ?
- (a) Derelict
  - (b) Flotsam
  - (c) Jetsam
  - (d) Wreck.

**Answer:**

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

**Part – II**

**Answer any two questions from question number 9 to 11. Each question carries 12 marks.**

[12x2=24]

9. Mr. W is a tourist of Chinese origin. His age is 25 years. He came to India on tourist visa for a period of one month on 1-04-2021. He came along with his wife aged 22 years and child J aged 2 years. He brought the following items along with him:
- (1) Personal effects like clothes of Mr. W valued at ₹35,000, of Mrs. W valued at ₹55,000 and of Child J worth ₹27,000.
  - (2) laptop computers worth ₹40,000 each.
  - (3) bottles of wine of 1 litre each of total value ₹7,500.
  - (4) Digital camera worth ₹15,000.
  - (5) Mobile worth ₹12,500.

**What is the customs duty payable?**

**[12]**

**Answer:**

Computation of Customs duty payable by Mr. W (amount in Rs.):

Particulars	Mr. W
(1) Personal effects	Exempt
(2) 1 laptop computer	Exempt
(3) 2 bottles of wine (Wine upto 2 litres can be accommodated in GFA) (Rs. 7,500 ÷ 3 × 2) [WN1]	5,000
(4) Digital camera	15,000
Total dutiable goods imported	20,000
Less: General free allowance under Rule 3	15,000
Balance Goods on which duty is payable	5,000
Customs duty payable @38.5% (inclusive of SWS)	1,925

Computation of Customs duty payable by Mrs. W (amount in Rs.):

Particulars	Mrs. W
(1) Personal effects	Exempt
(2) 1 laptop computer	Exempt
(3) 1 bottle of wine (Wine upto 2 litres can be accommodated in the GFA) (Rs. 7,500 ÷ 3 × 1) [WN-1]	2,500
(4) Mobile	12,500
Total dutiable goods imported	15,000
Less: General free allowance under Rule 3	15,000
Balance Goods on which duty is payable	Nil
Customs duty @ 38.5% (inclusive of SWS)	Nil

Computation of Customs duty payable in respect of the Child J (amount in Rs.):

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

Working Notes:

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

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

- (b) Which are the eligible and ineligible capital goods for import under Export Promotion Capital Goods Scheme? [6]**

**Answer:**

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

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

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

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

Eligible capital goods for import under EPCG Scheme:

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

Ineligible capital goods for import under EPCG Scheme:

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

**11. Write short notes on:**

**[6+6=12]**

- (a) All industry drawback rates**  
**(b) MEIS Reward or Duty Credit Scrip**

**Answer:**

- (a)** All Industry Drawback Rates: The Central Government's Drawback Directorate fixes all industry rates, having regard to the following criteria -
1. the average quantity or value of each class or description of the materials from which a particular class of goods is ordinarily produced or manufactured in India;
  2. the average quantity or value of the imported materials or excisable materials used for production or manufacture in India of a particular class of goods;
  3. the average amount of duties paid on imported materials or excisable materials used in the manufacture of semis, components and intermediate products which are used in the manufacture of goods;
  4. the average amount of duties paid on materials wasted in the process of manufacture and catalytic agents:

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

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

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

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

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

**(b) MEIS Reward Rates:**

Reward rates are prescribed under Appendix 3B-MEIS Schedule Table 2. ITC (HS) code wise list of products with rewards rates are incorporated under Appendix 3B. There are three types of reward rates are prescribed namely 2%, 3% and 5%. Applicability of these rates depends up on the country group and description of goods. On request, split certificates of Duty Credit Scrip subject to a minimum of ₹5 Lakh each and multiples thereof may also be issued, at the time of application. Once Duty Credit Scrip has been issued, request for splits can be permitted with same port of registration as appearing on the original Scrip. The above procedure shall be applicable only in respect of EDI enabled ports. In case of export through non-EDI ports, the facility of splits shall not be allowed after issue of Scrip. Social Welfare Surcharge (SWS) cannot be paid by utilizing MEIS/SEIS Scrip (Circular No. 02/2020 – 10th Jan 2020)

**Basis of calculation of MEIS reward or Duty Credit Scrip:**

$$\text{Duty Credit Scrip} = \left[ \left( \text{FOB value of exports realized in free foreign exchange} \right) \text{ OR } \left( \text{FOB value of exports as given in the Shipping Bills in free foreign exchange} \right) \right] \times \text{Reward Rate}$$

**WHICHEVER IS LESS**

MEIS duty credit scrip's are not allowed in the following cases:

- (1) EOUs / EHTPs / BTPs/ STPs who are availing direct tax benefits / exemption
- (2) Supplies made from DTA units to SEZ units
- (3) Exports through trans-shipment, i.e., exports that are originating in third country but trans-shipped 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
- (8) Cereals of all types
- (9) Sugar of all types and all forms unless specifically notified.
- (10) Crude / petroleum oil and crude / primary and base products of all types and all formulations
- (11) Export of milk and milk products and meat and meat products unless specifically notified.