

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: GST

Part - I

Answer Question No. 1 which is compulsory

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

- (i) Advance ruling can be declared to be void by the Authority if it has been obtained by an applicant/appellant by:**
 - (a) Fraud**
 - (b) Suppression of facts**
 - (c) Misrepresentation of facts**
 - (d) Any one of the above**

- (ii) Which of the following has been kept out of GST levy?**
 - (a) Generator**
 - (b) Computer**
 - (c) Jewellery**
 - (d) Electricity**

- (iii) Which state became the first state of India to ratify GST bill?**
 - (a) Bihar**
 - (b) Telangana**
 - (c) Assam**
 - (d) Andhra Pradesh**

- (iv) A service would be called as “continuous supply of service”, if the service under a contract is provided continuously or on recurrent basis exceeding**
 - (a) 1 year**
 - (b) 6 months**
 - (c) 3 months**
 - (d) 1 month**

- (v) A casual taxable person is required to obtain registration where he makes:**
 - (a) Taxable inter-State or intra-State supply.**
 - (b) Taxable inter-State or intra-State supply whose proposed value exceeds Rs. 20 lakhs.**
 - (c) Taxable inter-State supply.**
 - (d) In none of the above situations.**

- (vi) A person is not liable for registration under GST Act if
- (a) Non-resident person making a taxable supply
 - (b) An agriculturist selling produce out of cultivation of land
 - (c) Dealer engaged in inter-state trade above threshold limit for registration
 - (d) Casual taxable person making taxable supply
- (vii) Under GST input tax credit cannot be claimed on goods and services used as inputs if:
- (a) Goods are purchased on credit.
 - (b) Goods are received and utilized, the invoice is received after two weeks from the supplier.
 - (c) Good are destroyed by fire.
 - (d) Services are provided by a law firm on which GST has been paid under RCM.

Answer: 1

- (i) (d) Any one of the above

Sec 104 of CGST Act 2017 specifies the three cases - Viz. fraud, suppression of material facts, mis-representation of facts as reasons for holding advance ruling to be void

- (ii) (d) Electricity

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

- (iii) (c) Assam

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

- (iv) (c) 3 months

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

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

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

- (vi) (b) An agriculturist selling produce out of cultivation of land

Income is related to agriculture and hence turnover is exempt from GST and such agriculturist is not liable for registration under GST

- (vii) (c) Goods are destroyed by fire

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

Part – II

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

[14x4=56]

2. (a) Under the purview of GST explain the terms Exempt Supply, Non Taxable Supply and Non GST Supply. [6]
- (b) Determine the time of supply and amount of GST in the following cases. The rate of GST has been increased to 12% w.e.f. 01.10.2021, before the said date the rate of tax was 5%

Sl. No.	Date of supply of services	Date of Invoice	Date of payment	Value of service (Rs.)
1	25-09-2021	05-10-2021	08-10-2021	20,00,000
2	25-09-2021	25-09-2021	08-10-2021	10,00,000
3	04-10-2021	28-09-2021	30-09-2021	20,00,000
4	04-10-2021	04-10-2021	30-09-2021	10,00,000

[8]

Answer: 2

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

Exempt supplies comprise the following three types of supplies:

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

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

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

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

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

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

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

Sl. No.	Value of service (Rs.)	Reason	Time of Supply	Rate of Tax	GST (Rs.)
1	20,00,000	Service is supplied before change in rate of tax. Invoice is issued after change in rate of tax. The payment has been received after change in rate of tax. TOS shall be earlier of date of issue of invoice or date of receipt of payment.	05-10-2021	12%	2,40,000
2	10,00,000	Service is supplied before change in rate of tax. Invoice is issued prior to such change in rate of tax. The payment is received after change in rate of tax. TOS shall be date of issue of invoice.	25-09-2021	5%	50,000
3	20,00,000	Service is supplied after change in rate of tax. Invoice is issued before change in rate of tax. The payment is received before change in rate of tax. TOS shall be earlier of date of issue of invoice or date of receipt of payment.	28-09-2021	5%	1,00,000
4	10,00,000	Service is supplied after change in rate of tax. Invoice is issued after change in rate of tax. The payment is received before change in rate of tax. TOS shall be date of issue of invoice.	04-10-2021	12%	1,20,000

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

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

(b) Mr. X has cleared goods from his factory on 20th May 2021 for sale to Mr. Y for Rs. 8,00,000. Effective rate of eligible duties @ 12.5%. However, eligible duties Rs.1,00,000 has been paid on 6th June 2021. The consignment received by Mr. Y on 5th July 2021.

Find the following:

- (i) Mr. Y is eligible for ITC if so what amounts?**
- (ii) Time limit within which receipt of inputs should record in the books of account of Mr. Y.**
- (iii) Mr. Y recorded receipt of inputs in the books of account on 15/8/2021, if so can he avail the ITC? [5]**

Answer: 3

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

aggregate turnover is less than Rs. 20 lakh per annum (Rs. 10 lakh in case of special category states of Mizoram, Tripura, Manipur and Nagaland).

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

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

In the given case, A Pvt Ltd provides housekeeping services through an ECO. It is presumed that DA India Pvt. Ltd. is an ECO which is required to collect tax at source u/s 52. However, housekeeping services provided by A Pvt Ltd, which is not liable for registration u/s 22(1) as its turnover is less than Rs. 20 lakh, is a service notified u/s 9(5). Thus, Aroma Pvt LTD will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO. In the second case, A Pvt Ltd sells readymade garments through ECO. Such supply cannot be notified u/s 9(5) as only supplies of services are notified under that section. Therefore, A Pvt Ltd will not be entitled for threshold exemption and will have to compulsorily obtain registration.

- (b) (i) Yes, Mr. Y is eligible to avail the ITC of Rs.1,00,000 provided he deals with taxable supplies being registered person.
(ii) Inputs or Input services recorded in the books of account $\leq$ 30 days from 1/7/2021.
Therefore, Mr. Y should be account for by 30th July 2021.
(iii) Since, period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days.
Mr. Y can take credit on inputs on 15th August 2021, provided permission granted by the Commissioner for extension not exceeded 30 days.

4. (a) G Enterprise Ltd. received a protective demand notice from the department Assistant Commissioner of Central Tax on 1.9.2021 under Section 73 of the CGST Act, 2017 where CGST & SGST due = Rs.5,00,000

Interest = @15% p.a. for no. of days delay.

Penalty = 10% of tax due or Rs.10,000 whichever is higher.

The assessee went for appeal and filed the case in the Appellate Authority on 25.9.2021. This appeal has been taken up for hearing on 06-10-2021.

Case1: How much has to be paid as pre-deposit of duty u/s 107(6) of the CGST Act, 2017 and date of pre-deposit of duty by Golden Enterprise Ltd. to entertain appeal by the Appellate Authority (i.e. Commissioner (Appeals)).

Case 2: Whether your answer is different if the assessee appeals only part of the amount say Rs.3,00,000 is in dispute arising from the said order.

Case 3: Suppose the Appellate Authority has passed the order against the assessee. If so how much has to be paid as pre-deposit of duty u/s 112(8) of the CGST Act, 2017 to entertain appeal by GSTAT. [8]

(b) Compute the duty payable under the Customs Act, 1962 for an imported equipment based on the following information:

- (i) Transaction value of the imported equipment US\$12,200(royalty and license fee included in transaction value US\$200).**

(ii) Date of Bill of Entry 25.04.2021

(iii) basic customs duty on this date 12% and exchange rate notified by the CBIC US\$ 1 = Rs. 70.

(iv) IGST u/s 3(7) of the Customs Tariff Act, 1975 @ 12%.
@10% is applicable.

Social Welfare Surcharge

Importer is liable to pay IGST on import of royalty and license fee.

Applicable rate of IGST on import of services namely royalty and license fee @18%.

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

Answer: 4

(a) Case 1: Pre-deposit is Rs. 50,000 ($5,00,000 \times 10\%$) is to be deposited on or before 6th October 2021.

Case 2: Disputed amount Rs.3,00,000:

Pre-deposit is Rs.2,00,000 plus Rs. 30,000 ($\text{Rs.}3,00,000 \times 10\%$) together is Rs.2,30,000. It should be deposited on or before 6th October 2021.

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

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

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

(b)

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

IGST payable on import of service = Rs.2,520

(i.e. $\text{USD}200 \times \text{Rs.}70 \times 18\%$)

Less: Exempted

$[(\text{i.e. } 200\text{USD} \times \text{Rs.}70) \times 113.20\%] \times 12\%$ = Rs.(1,902)

Net IGST payable = Rs.618

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

5. (a) (i) M/s. A Enterprises, a registered supplier of designer wedding dresses under regular scheme, has aggregate annual turnover of Rs.30 lakh in the preceding financial year. It is of the view that in the current financial year, it is permitted to file its monthly statement of outward supplies- GSTR 1 on a quarterly basis while its accountant advises it to file the same on a monthly basis. You are required to advise

M/s. A Enterprises on the same. During a given tax period in the current financial year, owing to an off-season, M/s A Enterprises has not made any taxable supply.

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

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

On 12/01/2022, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

K & Sons complies with the same and supplies both the consignments of goods on 25/01/2022 thereafter paying the tax on provisional basis in respect of both the consignments on 19/02/2022.

Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21/03/2022, a tax of Rs.1,80,000 becomes due on 1st consignment whereas a tax of Rs. 4,20,000 becomes refundable on 2nd consignment.

K & Sons pays the tax due on 1st consignment on 09/04/2022 and applies for the refund of the tax on 2nd consignment same day. Tax was actually refunded to it on 05/06/2022.

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

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

- (1) Service of interior decoration in respect of immovable property located in Jammu: Rs.5lakh;
 - (2) Service of renting of commercial buildings in Delhi: Rs.15lakh;
 - (3) Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: Rs.25lakh;
 - (4) Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: Rs.51lakh;
 - (5) Services provided as travel agent undertaking marketing in India of services of a foreign seller: Rs.1 lakh
- Applicable rate of GST is 18%. [5]

Answer: 5

- (a) (i) Section 37 of the CGST Act, 2017 stipulates that GSTR-1 for a particular month is required to be filed on or before the 10th day (extended up to 11th) of the immediately succeeding month, i.e. on a monthly basis.

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

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

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

(ii) Section 60(4) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is higher than provisional assessment i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date, at the rate specified u/s 50(1) [18% p.a.], from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before/ after the issuance of order for final assessment.

In the given case, due date for payment of tax on goods cleared on 25-01-2022 under provisional assessment is 20-02-2022. K & Sons is liable to pay following interest in respect of 1st consignment:

Due date of payment of tax under provisional assessment	20-02-2022
Actual date of payment of tax	09-04-2022
Period of delays in days	48 days
GST Payable	1,80,000
Rate of Interest	18% p.a.
Interest Payable [Rs.1,80,000 × 18% x 48/365] (rounded off)	Rs. 4,261

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

However, since in the given case, refund has been made (05-06-2022) within 60 days from the date of receipt of application of refund (09-04-2022), interest is not payable to K & Sons on tax refunded in respect of 2nd consignment.

(b) Computation of GST liability

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

Taxable supply of services	97		
Particulars	CGST	SGST	IGST
GST liability	4.68	4.68	8.10

6. (a) Mr. D, a registered supplier of goods, pays GST under regular scheme and provides the following information for the month of August:

Sl. No.	Particular	Amount in Rs.
1	Inter-State taxable supply of goods	10,00,000
2	Intra-State taxable supply of goods	2,00,000
3	Intra-State purchase of taxable goods	5,00,000

He has the following ITC at the beginning of August:

Nature	ITC in Amount Rs.
CGST	20,000
SGST	30,000
IGST	25,000

Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively.

Both inward and outward supplies are exclusive of taxes wherever applicable.

All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr. D for the month of August.

[7]

- (b) ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

Sl. No.	Items	GST Paid (Rs.)
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionary items for consumption of employees working in the factory	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

- (1) All the condition necessary for availing the ITC have been fulfilled.
- (2) ABC Co. Ltd. is not eligible for any threshold exemption.

[7]

Answer: 6

- (a) Computation of GST payable by Mr. D on outward supplies for the month of August

S.No.	Particulars	Rs.	GST (Rs.)
(i)	Intra-state supply of goods		
	CGST @ 9% on Rs.2,00,000	18,000	
	SGST @ 9% on Rs.2,00,000	18,000	36,000
(ii)	Inter-state supply of goods		
	IGST @ 18% on Rs.10,00,000		1,80,000
	Total GST payable		2,16,000

Computation of total ITC

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Opening ITC	20,000	30,000	25,000
Add: ITC on Intra-state purchases of goods valuing Rs.5,00,000	45,000	45,000	Nil
Total ITC	65,000	75,000	25,000

Computation of GST payable from cash ledger

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
GST payable	18,000	18,000	1,80,000
Less: ITC from respective heads	(18,000)	(18,000)	(25,000)
Less: ITC Balance from CGST utilized of IGST			(47,000)
Less: ITC Balance from SGST utilized of IGST			(57,000)
Net GST payable in cash	Nil	Nil	51,000

(b) Computation of ITC available with ABC Co. Ltd. for the month of July

Sl. No.	Items	ITC (Rs.)
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [Though ITC on motor vehicles has been specifically disallowed under section 17(5)(a), ITC on motor vehicles used for transportation of goods is allowed under section 17(5)(a)(ii)]	1,00,000
(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionary items for consumption of employees working in the factory [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply – section 17(5)(b)(i)]	Nil
	Total ITC	8,20,000

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

[7]

(b) D Ltd. sends the goods to B & Co. for making finished goods on 30-07-2021.

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

1) B & Co sends the goods back to D Ltd. within one year of being sent.

2) B & Co sells the goods directly to the customer in behalf of D Ltd.

[7]

Answer: 7

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

- The supplier of service is located in India;
- The recipient of service is located outside India;
- The place of supply of service is outside India;
- The payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- The supplier of service and the recipient of service are not merely establishments of a distinct person.

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

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

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

- On supply of goods to B & Co – As per the Sec 143 of Act, no tax shall be payable on supply of goods to B & Co. However, the tax will be payable if finished goods is not returned before one year from 30-07-2021.
- B & Co sends the finished goods back to D Ltd. – As per the Act, there is no tax liability on returning of goods back to the principal i.e. D Ltd within a period of one year. Hence post completion of job work, no tax is leviable on finished goods returned to D Ltd.
- B & Co. sells the finished goods on behalf of D Ltd. – Sec 143 also allows the job worker to directly sell the goods on behalf of the principal, wherein the liability to pay tax is of the principal and not the job worker. Durga Ltd is liable to pay GST on sale of finished goods to customer by B & Co.

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

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

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) An area beyond _____ miles from the base line is called High Seas.
- (a) 12 nautical
 - (b) 24 nautical
 - (c) 200 nautical
 - (d) 360 nautical

- (ii) Which of the following is an eligible capital good for import under EPCG (Export Promotion Capital Goods) Scheme?
- (a) Second hand capital goods
 - (b) Power Generator Sets
 - (c) Computer software systems
 - (d) None of the above

- (iii) Which of these is/are not an adjudicating authority under Customs Act, 1962?
- (a) Commissioner of Customs
 - (b) Principal Commissioner of Customs
 - (c) Commissioner (Appeals)
 - (d) Assistant Commissioner of Customs

Answer: 8

(i)(c) An area beyond 200 nautical miles from the base line is called High Seas. All countries have equal rights in this area.

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

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

Part – II

Answer any two questions from question number 9 to 11. Each question carries 12 marks.
[12x2=24]

9.(a) Mr. M, an Indian resident and an engineer by profession who was engaged in his profession in USA for 9 months, brought with him on 10.04.2021 the following used items on his return to India:

- 1. Used personal effects like clothes etc. of Rs.1,00,000.**
- 2. Digital Video Disc player of Rs.7,000.**
- 3. Music System of Rs.45,000.**
- 4. Air-Conditioner of Rs.50,000.**
- 5. Microwave Oven of Rs.28,000.**
- 6. Fax Machine of Rs.55,000.**
- 7. Domestic Refrigerator of capacity of 285 liters of Rs.1,20,000.**
- 8. Jewellery (18 grams) of Rs.75,000.**

Calculate the custom duty payable by him.

[8]

(b) Explain the meaning of the term “Bill of export” and “Import report” under the provisions of the Customs Act, 1962. [4]

Answer: 9

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

(i) Under Rule 3, goods eligible for GFA are:

- Used personal effects (excluding jewellery); and
- Other articles (other than those mentioned in Annexure I) upto Rs.50,000.

(ii) Under Rule 6, Duty free allowance of used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III, upto an aggregate value of Rs.1,00,000.

(iii) Under Rule 5, no duty free allowance in case of jewellery of Rs.50,000 will be available, since he was not residing abroad for more than one year prior to his return to India.

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

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

(b)

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

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

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

[8]

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

[4]

Answer: 10

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

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

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

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

(b) Export to USA:

Reward amount in Rs. 3,15,000 [i.e. (Rs. 3,50,000 x 45 consignments) x 2%]
[i.e. (5,000 USD x Rs. 70) = Rs. 3,50,000]

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

Export to UK:

Reward amount in Rs. 2,00,000
[i.e. (6,500 UK Pounds x Rs. 88) = Rs. 5,72,000]

However, maximum permissible per consignment is Rs. 5,00,000.
[i.e. (Rs. 5,00,000 x 20 consignments) x 2%]

11. (a) A International Group has imported a machine by air from US. Bill of entry is presented on 18.07.2021. However, entry inward is granted on 7.08.2021.
The relevant details of the transaction are provided as follows:-

CIF value of the machine imported	\$13,000	
Air freight paid	\$2,800	
Insurance charges paid	\$200	
Rate of exchange as announced by	As on 18.07.2021	As on 7.08.2021
CBIC	1US\$ = Rs. 68	1US\$ = Rs. 67.80
RBI	1US\$ = Rs. 68.10	1US\$ = Rs. 68.10

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

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

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

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

[5]

Answer:11

(a)

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

(b)

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

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