

## **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**

Answer question No. 1 which is compulsory and any four from rest of this section.

1. Answer the following questions:

[5×1=5]

(A) Multiple choice questions:

(i) Reverse charge means

- (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) Reversal of tax due to mistake detected later
- (d) The liability to pay tax where only services provided.

(ii) The item which will be 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 :

- (a) commerce
- (b) vacation
- (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) The threshold limit of turnover in the preceding financial year for opting to pay tax under composite scheme in states other than specified states is-----?

- (a) ₹ 20 lakhs
- (b) ₹10 lakhs
- (c) ₹75 lakhs
- (d) ₹150 lakhs

Answer:

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

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(B) Say True or False for the following question:

[5×1=5]

- (i) Activity of funeral , burial, crematorium or mortuary including transportation of the deceased is 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 :

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

(C) Match the following:

[5×1=5]

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

Answer:

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

(D) Fill in the blanks:

[5×1=5]

- (i) Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration is\_\_\_\_\_.
- (ii) \_\_\_\_\_ was first country to adopt GST as indirect system of taxation.
- (iii) A casual taxable person or a non-resident 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 means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary.

Answer:

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

2.(a) State the differences between direct taxes and indirect taxes.

[7]

(b)(i) Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is ₹800. Customer received subsidy ₹ 200 directly from Government to his bank account. Net outflow of the buyer is ₹600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas?

[2]

(ii) Discuss whether the following are supply of goods or supply of services-

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

[6]

**Answer:**

(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 ,Custom 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 Bharat Gas making the supply. Therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas making the supply. Hence, transaction value is ₹800 per cylinder.

(ii)

|                                                          |                   |
|----------------------------------------------------------|-------------------|
| 1.) Renting of vacant land to a stud farm for ₹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                | Supply of service |

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|                                                                                                         |                                                               |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| director for his personal use and charge fee ₹30,000                                                    |                                                               |
| 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) Determine the time of supply in the following cases assuming that GST on goods is payable under reverse charge:**

| s.no. | Date of receipt of goods | Date of payment by receipt of goods                                                                   | Date of invoice by supplier of goods |
|-------|--------------------------|-------------------------------------------------------------------------------------------------------|--------------------------------------|
| 1     | July 2                   | August 10                                                                                             | June 29                              |
| 2     | July 2                   | June 25                                                                                               | June 29                              |
| 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 2                 | August 10                                                                                             | June 29                              |

[6]

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

[5]

**(ii) Miss Shalvee , partner of M/s. Finex , a firm registered in Delhi , went to Mumbai for audit purpose. He purchased from Jaipur Airlines (registered in Rajasthan )air ticket from Jaipur to Mumbai disclosing name of organization and its GST Registration number. Determine place of supply of service .What would your answer if Miss Shalvee does not disclose particulars of 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 10                        | June 29                                               | July 30                            | July 2                                          |
| 2      | July 2                                    | June 25                          | June 29                                               | July 30                            | 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                                          |

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|   |        |                                                                         |         |         |          |
|---|--------|-------------------------------------------------------------------------|---------|---------|----------|
|   |        |                                                                         |         |         | (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 2  | August 10                                                               | June 29 | July 30 | July 30  |

**(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---

(a) 1% of the gross amount of the currency exchanged for an amount upto ₹1,00,000 subject to the minimum amount of ₹250;

(b) ₹1000 and 0.5 of the gross amount of the currency exchanged for an amount exceeding ₹1,00,000 and upto ₹ 10,00,000.

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

|                                                                |       |          |
|----------------------------------------------------------------|-------|----------|
| Value of currency exchanged in Indian rupees [₹64x US\$10,000] |       | 6,40,000 |
| Upto ₹1,00,000 (1% x 1,00,000)                                 | 1,000 |          |
| For ₹5,40,000 (0.50 % x ₹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 Shalvee does not disclose the particulars of organization , the place of supply of service will be Jaipur i.e. the place where Miss Shalvee embarks the aircraft for her journey. Here, the airlines shall charge CGST /SGST.

**4.(a) State the salient features of composite supply. Give an example of composite supply.**

**[6+1]**

**(b) ABC India Ltd. is engaged in the manufacture of some taxable goods. It purchased the following goods in the month of October, 2018**

| ITEMS                                                                                                                                                            | GST paid in ₹ |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Raw material used for the production of the final product                                                                                                        | 1,00,000      |
| Goods used for generation of electricity for captive consumption                                                                                                 | 20,000        |
| 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 | 10,000        |

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|                               |      |
|-------------------------------|------|
| separately from the customers |      |
| Light diesel oil              | 5000 |

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 salient features 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 ₹    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Raw material used for the production of the final product                                                                                                                                      | 1,00,000    |
| Goods used for generation of electricity for captive consumption                                                                                                                               | 20,000      |
| 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      |
| Light diesel oil                                                                                                                                                                               | 5000        |
| High Speed Diesel oil                                                                                                                                                                          | Not allowed |
| Total input tax credit                                                                                                                                                                         | 1,35,000    |

5.(a) Describe the procedure for application of registration.

[7]

(b) M/s Martin Pvt. Ltd. is a distributor or selling agent of lottery tickets, authorized by the State of Kerala. Who is liable to pay GST and also find GST liability from the following:

| Particulars             | Maha Lakshmi (Printed)<br>(Lottery run by State Govt.) | Bhaghya Lakshmi (Online)<br>(Lottery authorized by State Govt.) |
|-------------------------|--------------------------------------------------------|-----------------------------------------------------------------|
| No. of tickets proposed | 2,50,000                                               | 3,00,000                                                        |
| Face value of ticket    | ₹10 each                                               | ₹500                                                            |
| Guaranteed prize payout | @ 60 %                                                 | @ 90 %                                                          |
| No. of tickets sold     | 2,00,000                                               | 2,35,000                                                        |

[8]

Answer:

(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.

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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.

- (b) (i) M/s Martin Pvt. Ltd. is liable to pay GST.  
(ii) GST liability of M/s Martin Pvt. Ltd. is as follows:

| Particulars                                                                             | Maha Lakshmi (Printed)<br>(Lottery run by State<br>Govt.)<br>₹ |          | Bhaghya Lakshmi<br>(Online) (Lottery<br>authorized by State<br>Govt.)<br>₹ |             |
|-----------------------------------------------------------------------------------------|----------------------------------------------------------------|----------|----------------------------------------------------------------------------|-------------|
| Aggregate face value of<br>lottery ticket sold<br>(2,50,000 x ₹10)<br>(2,35,000 x ₹500) | 25,00,000                                                      |          | 11,75,00,000                                                               |             |
|                                                                                         | 6% CGST                                                        | 6% SGST  | 14%CGST                                                                    | 14%SGST     |
| GST liability                                                                           | 1,50,000                                                       | 1,50,000 | 1,64,50,000                                                                | 1,64,50,000 |

Note : Assuming lottery ticket is exclusive of GST .

- 6.(a) From the following information , determine place of supply of goods as per section 10(1)(b) of IGST Act ,2017, where goods are delivered by supplier to a recipient on direction of a third person during course of movement of goods. Also determine nature of supply : whether inter –state supply or intra- state supply? The information is as follow :

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

[8+4]



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(b) Compute taxable supply from the following :

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

[3]

**Answer:**

(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 Amar Ltd. To BUYER (third person) i.e. for Amar Ltd. [(section 10(1)(b))] |                 |                 |                       |                 |
|--------------------------------------------------------------------------------------------|-----------------|-----------------|-----------------------|-----------------|
| Supplier                                                                                   | Third Person    | Place of Supply | Nature of Supply      | Third Party     |
| Amar Ltd.                                                                                  | Jaipur (Z Ltd.) | Jaipur          | Intra-state CGST/SGST | Jaipur (Z Ltd.) |
| Amar Ltd.                                                                                  | Mumbai (X Ltd.) | Mumbai          | Inter-state IGST      | Mumbai (X Ltd.) |
| Amar Ltd.                                                                                  | Surat (S Ltd.)  | Surat           | Inter-state IGST      | Surat (S Ltd.)  |
| Amar 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 involves 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 :

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

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|  |                      |          |
|--|----------------------|----------|
|  | lakhs                |          |
|  | Total taxable supply | 70 lakhs |

### 7. Short note: (any three)

[5×3]

- (a) GST Council
- (b) Related person under GST Act
- (c) Distribution of credit by input service distributor.
- (d) Distinct person under GST Act.

#### Answer:

- (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) As per the CGST Act 2017 –

- (A) persons shall be deemed to be “related persons” if –
- (i) such persons are officers or directors of one another's business
  - (ii) such persons are legally recognized partners in business
  - (iii) such persons are employer or employee
  - (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them
  - (v) one of them directly or indirectly controls the other
  - (vi) both of them are directly or indirectly controlled by third person
  - (vii) together they directly or indirectly control a third person, or
  - (viii) they are member of the same family
- (B) the term “person” also includes legal person
- (C) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

#### (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 are persons with different GSTINs belonging to one legal entity (single PAN) situated within the same state or in two different states or in a different country.

Provisions of Distinct Person under the CGST (Amendment) Act [u/s 25(2),(4) and 25]

A person seeking registration under this Act shall be granted a single registration in a State or Union territory. Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

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 States or Union territory shall in respect of each such registration, be treated as distinct person for the purpose of this Act.

Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment in another State or Union territory, then such establishment shall be treated as establishments of distinct persons for the purpose of this Act.

### **Section – B**

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

**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:**

(i) (c)

(ii) (d)

(iii) (a)

(iv) (d)

(v) (a)

9.(a) List major differences between drawback u/s 74 and 75.

[6]

(b) Miss Geeta imported certain goods from a related person Mr. Om of US and transaction value has been rejected . Rules 4 and Rule 5 of the Import Valuation Rules are found inapplicable , as no similar/ identical goods are imported in India. Miss Geeta furnished cost related data of imports and requests Customs Authorities to determine value as per Rule 8 . The relevant data are –

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

The Customs Authorities are of the opinion that since value as per Rule 7 can be determined at ₹1,45,000, there is no need to apply Rule 8.

[9]

**Answer:**

(a)

| Basis                          | Re-export of duty paid goods<br>[ section 74]                                | Material used in manufacture/<br>processing of exported goods<br>[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. Om                                                                                                          | \$ 600   |
| 2. Making charges incurred by Mr. Om                                                                                                            | \$100    |
| 3. Other direct expenses incurred by Mr. Om                                                                                                     | \$ 400   |
| 4. Overhead incurred by Mr. Om                                                                                                                  | \$ 150   |
| 5. Freight from Mr. Om 's factory to US port                                                                                                    | \$ 120   |
| 6. Loading charges at US port                                                                                                                   | \$ 30    |
| Total Cost incurred by Mr. Om                                                                                                                   | \$ 1,400 |
| 7. Normal net profit margin of Mr. Om [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 ₹) [ \$ 2,150 x Exchange Rate ₹60 per \$]                                                                                  | 1,29,000 |

**10.(a) A machine was originally imported from Japan at ₹ 250 lakh in August 2017 on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in January 2018 and re-imported without any re-manufacturing or re-processing in October, 2018 after repairs. Since the machine was under warranty period, the repairs were carried out free of cost.**

**However, the fair cost of repairs carried out (including cost of material ₹6 lakh) would have been ₹9 lakh. Actual insurance and freight charges (to and fro) were ₹3 lakh. 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) Enlist differences between Safeguard Duty and Anti – dumping duty. What do you mean by deemed export ? [6+3]

Answer:

(a)

| Particulars                                                                                | ₹         |
|--------------------------------------------------------------------------------------------|-----------|
| Value of goods re-imported after exports [₹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 are 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.