

Paper 18- Indirect Tax Laws and Practice

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Full Marks: 100

Time allowed: 3 hours

The figures in the margin on the right side indicate full marks.

Working notes should form part of the answer.

Section - A

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

1. Choose the correct answer with justification/ workings wherever applicable: [7×2=14]
- (i) The GST return form to be filed by a Composition dealer/supplier is _____ and the same had to be furnished _____.
- (a) GSTR-1, Monthly
 - (b) GSTR-1, Quarterly
 - (c) GSTR-4, Monthly
 - (d) GSTR-4, Quarterly
- (ii) Under GST Act a supply of assortment of sweets, chocolates and firecrackers packed in a gift hamper is:
- (a) Joint supply
 - (b) Composite supply
 - (c) Mixed supply
 - (d) Assorted supply
- (iii) In case of supply of services, the tax invoice shall be prepared in the manner of:
- (a) Only original
 - (b) Two copies
 - (c) Three copies
 - (d) Four copies
- (iv) Mr. C of Chennai supplied goods to M/s Smart Jet Airlines of Chennai flying between Delhi-Mumbai. The goods are loaded in the aircraft in Delhi. The place of supply of goods will be:
- (a) Chennai
 - (b) Delhi
 - (c) Mumbai
 - (d) None of the above.
- (v) ABC Ltd. has income from renting of vacant land to a stud farm of ₹1,00,000 and leasing of vacant land to a cattle farm of ₹50,000. The value of taxable supply will be:
- (a) ₹1,00,000
 - (b) ₹50,000
 - (c) ₹1,50,000
 - (d) Nil

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- (vi) Under GST, Act the term UIN stands for:
- (a) User Identification Number
 - (b) Utility Identification Name
 - (c) Unique Identification Number
 - (d) Unique Individual Number
- (vii) In computation of aggregate turnover for composition levy, which of the following item should be excluded from the aggregate turnover?
- (a) The value of exported goods/services
 - (b) Inter-state supplies between distinct persons having same PAN
 - (c) Compensation Cess
 - (d) Supply on own account and on behalf of principal

Answer:

- (i) (d) Under the GST law, in case of a Composition dealer, the prescribed return form is GSTR-4, which shall be filed on quarterly basis.
- (ii) (c) Mixed supply - Each of these items can be supplied separately, is not dependent on each other and not bundled due to natural necessities. (Section 8 of CGST Act)
- (iii) (b) Two copies - In case of supply of services, the tax invoice shall be prepared in the manner of two copies — the original copy being marked as original for recipient and the duplicate copy being marked as duplicate for supplier
- (iv) (b) Delhi - Where the goods are supplied on board a conveyance including a vessel, an aircraft, a train or a motor vehicle, place of supply of goods will be the location at which such goods are taken on board So, the place of supply will be Delhi.
- (v) (a) ₹ 1,00,000 - Renting of vacant land to a stud farm will be liable for GST as rearing of horses has been excluded from exemption but leasing of vacant land to a cattle farm is exempted vide entry no. 54 of exemption notification no. 12/2017-CT (Rate).
- (vi) (c) Unique Identification Number - As per GST Act, any notified agency of the United Nations etc. can be granted this number for claiming GST refund.
- (vii) (c) Compensation Cess - In computation of aggregate turnover for composition levy, the items like Inward supplies on which the recipient is required to pay tax under Reverse Charge Mechanism (RCM), CGST, SGST, UTGST, IGST and Compensation Cess.

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2. (a) (i) Hot Breads Pvt. Ltd is the supplier of bakery products registered in the current financial year (2022-23) w.e.f. 1st Oct. 2022. In the month of Oct. 2022 total taxable supplies ₹88 lakhs.
Answer the following:
(1) Company is eligible for Composition Scheme?
(2) If so company wants to pay tax @1% being a trader. However, the Deputy Commissioner of Central Tax contended that the assessee is liable to pay tax @5% under the Food and Restaurant Services category? Advise. [4]
- (ii) M/s X Ltd. a dealer, offer combo packs of shirt, watch, wallet, book and they are bundled as a kit and this kit is supplied for a single price and the supply of one item does not naturally necessitate the supply of other elements. Is it composite supply or mixed supply & what would be the rate of tax leviable thereon and why? [3]
- (b) M/s. X Ltd. of Chennai, engaged in various businesses has provided the following services, whose values are listed below. Find the place of supply & compute its GST liability:
(1) Service of interior decoration in respect of immovable property located in Jammu: ₹ 5 lakh;
(2) Service of renting of commercial buildings in Delhi: ₹ 15 lakh;
(3) Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: ₹ 25 lakhs;
(4) Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: ₹ 51 lakhs;
(5) Services provided as travel agent undertaking marketing in India of services of a foreign seller: ₹ 1 lakhs. Applicable rate of GST 18%. [5+2=7]

Answer:

- (a) (i) (1) Hot Breads Pvt. Ltd. is eligible for composition levy in the current year.
(2) The supply of food and restaurant services category is the only service included under the composition scheme. For a business to be categorised as food and restaurant services, there needs to be an element of service involved.
In the given case, supply of bakery products, there is only a supply of goods i.e. food items but there is no element of supply of service. Hence supply of bakery products is eligible to pay GST @1%, under the Traders category and not Food and Restaurant Services category. Therefore, department contention is not correct.
- (ii) The supply is a mixed supply. In this case, the product which attracts the highest rate of tax in the mixed supply will be the applicable rate of tax.

(b)

Particulars	Value (₹ in lakhs)	Working note
Interior decoration services	5	POS = J&K (Sec 12(3)(a) of IGST Act) taxable territory. IGST will be levied

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Renting of commercial buildings	15	POS = Delhi (Sec 12(3)(b) of IGST Act) Taxable territory IGST will be levied
Architectural services	25	PoS = Mumbai (Sec 12(3)(a) of IGST Act). Taxable territory IGST will be levied
Marketing of Goods	51	PoS = Chennai (sec 13(8) of IGST Act) Taxable territory CGST & SGST will be levied.
Travel agent	1	PoS = Chennai (sec 13(8) of IGST Act) Taxable territory CGST & SGST will be levied.
Taxable supply of services	97	

Particulars	CGST	SGST	IGST
GST liability (₹ in lakhs)	4.68	4.68	8.10

3. (a) (i) Mr. A of Rajasthan has effected following supplies within the State of Rajasthan. You are required to determine whether he is required to obtain registration under GST law.

Particulars	₹
(1) Intra-State supply of goods agricultural produce grown out of cultivation of land by family members	5,50,000
(2) Intra-State supply of goods which are wholly exempt from GST u/s 11 of CGST Act, 2017	6,00,000
(3) Intra-State supply of goods chargeable with GST @5%	8,50,000
(4) Intra-State supply of services which are wholly exempt from tax	50,000

[4]

- (ii) State any six categories of person who are required to be registered compulsorily under CGST Act, 2017. [3]

- (b) (i) M/s X Ltd. manufacturer of product 'A' and 'B'. Product 'A' is cleared on payment of duty whereas product 'B' is exempt from payment of excise duty. Inputs used exclusively for product 'A' of ₹ 2,00,000 suffered excise duty ₹ 25,000 and product 'B' of ₹ 1,00,000 suffered excise duty paid ₹ 12,500. Common inputs of ₹ 3,00,000 is used for product 'A' as well as 'B' which also suffered excise duty ₹ 37,500.

As on 1-7-2017, Finished goods of Product 'A' worth ₹ 10,00,000 and Product 'B' worth of ₹ 5,00,000 is in Stock. How much ITC credit is allowed to M/s X Ltd under GST under Section 140(1) and 140(4) of the CGST Act, 2017. W.e.f. 1-7-2017 Product 'A' as well as 'B' taxable with CGST 6% as well as SGST 6%.

Note: Manufacturer is in possession of relevant duty paid documents on inputs.

[4]

- (ii) State any three conditions need to be satisfied to take credit u/s 140(6) of the CGST Act in case of duty based on capacity of production. [3]

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Answer:

(a) (i) Computation of Aggregate value of taxable supplies (amount in ₹):

(1) Intra-State supply of goods agricultural produce grown out of cultivation of land by family members [WN-1]	5,50,000
(2) Intra-State supply of goods which are wholly exempt from GST u/s 11 of CGST Act, 2017 [WN-2]	6,00,000
(3) Intra-State supply of goods chargeable with GST @ 5% [WN-3]	8,50,000
(4) Intra-State supply of services which are wholly exempt from tax [WN-4]	50,000
Total Value of supplies	20,50,000

Working Notes:

- (1) An agriculturalist is not liable to obtain registration under the Act to the extent of supply of produce out of cultivation of land. Since Mr. A is engaged in supply of other goods and services also, he is not covered under section 23. In such a case the aggregate turnover will include all supplies made by him including supply of agricultural produce.
- (2) Intra-State supply of goods which are wholly exempt from GST under Section 11 of CGST Act, 2017 is to be included since the same is specifically included in the definition of aggregate turnover.
- (3) Intra-State supply of goods chargeable with GST @ 5% is specifically included for determination of aggregate turnover.
- (4) Intra-State supply of services though exempt from tax is specifically included in the definition of aggregate turnover.

Since he is engaged in intra state supply of both goods and services from Rajasthan, the applicable threshold limit for registration will be ₹ 20 lakh. As the aggregate turnover exceeds ₹ 20,00,000, hence Mr. A is required to obtain registration under GST law.

(ii) Compulsory registration in certain cases [Section 24]: The following category of persons are mandatorily required to obtain the registration under GST irrespective of their turnover:

1. persons making any inter State taxable supply [It must be noted that Central Government has granted exemption from Registration to person making interstate supplies of taxable services having aggregate turnover not exceeding ₹ 20 lakh (₹ 10 lakhs in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) (Notification No. 10/2017-IT dated 13-10-2017 w.e.f. 13-10-2017)]
2. Casual taxable person (CTP) who does not have a fixed place of business in the State or Union Territory from where he wants to make supply: (However, threshold limit of 20 lakh (10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in case of CTP who is making inter State taxable supplies of notified handicraft goods and availing the benefit of exemption from registration as mentioned in point (i) above.]

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3. persons who are required to pay tax under reverse charge i.e. recipient of supply is liable to pay tax;
4. person who are required to pay tax under Section 9(5) i.e. E-Commerce operator who is required to pay tax on specified services;
5. non-resident taxable persons making taxable supply;
6. persons who are required to deduct tax u/s 51, whether or not separately registered under this Act;

(b) (i) ITC c/f under Sec. 140(1) is as follows:

Inputs used exclusively for Product 'A' = ₹ 25,000

Inputs used commonly for "A & B" = ₹ 25,000 (₹ 37,500 x ₹ 10 Lakhs / ₹ 15 Lakhs)

ITC allowed under Sec. 140(3) is as follows:

Inputs used exclusively for Product 'B' = ₹ 12,500

Inputs used commonly for "A & B" = ₹ 12,500 (₹ 37,500 x ₹ 5 Lakhs / ₹ 15 Lakhs)

Total ITC under section 140(4) = ₹ 75,000

(ii) Conditions need to be satisfied to take credit u/s 140(6) of the CGST Act:

- (1) Such inputs are used or intended to be used for making taxable supplies under this Act;
- (2) The registered person not opted to pay tax under composition levy (Sec 10.);
- (3) The said registered person is eligible for input tax credit on such inputs under this Act;
- (4) The said registered person is in possession of invoice evidencing payment of duty under existing law (C.Ex., S.T., CVD, Spl. CVD., VAT or Entry tax) in respect of inputs; and
- (5) Such invoice not earlier than 12 months as on 30-6-2017.

4. (a) (i) X Ltd. received a protective demand notice from the department Assistant Commissioner of Central Tax on 1.9.2022 under Section 73 of the CGST Act, 2017 where

	Amount ₹
CGST & SGST due =	5,00,000
Interest =	@15% p.a. for no. of days delay.
Penalty =	10% of tax due or ₹ 10,000 whichever is higher

The assessee went for appeal and filed the case in the Appellate Authority on 25.9.2022. This appeal has been taken up for hearing on 06-10-2022.

Case 1: How much has to pay as pre-deposit of duty under section 107(6) of the CGST Act, 2017 and date of pre-deposit of duty by X 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

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amount say ₹ 3,00,000 is in dispute arising from the said order. [4]

- (ii) Considered the previous question where Appellate Authority passed the order against the assessee, if so how much has to pay as pre-deposit of duty under section 112(8) of the CGST Act, 2017 to entertain appeal by the Goods and Services Tax Appellate Tribunal (GSTAT). [3]

- (b) (i) Riya Tours Co. has arranged four package tours during January 2023. The particulars of the services and charges are as under:

- (1) Tour 1: Charges received ₹ 35 lakhs. The package includes transportation, accommodation, food, and tourist guide, entry fees for monuments.
- (2) Tour 2: Charges received ₹ 65 lakhs. The package includes transportation and accommodation for stay.
- (3) Tour 3: Charges received ₹ 40 lakhs. The charges are solely for arranging accommodation for stay. However, the bills issued to the clients do not mention it clearly that the charges are solely for arranging the accommodation for stay.
- (4) Tour 4: Charges received ₹ 50 lakhs (inclusive of charges of stay). The bill issued to the client's mentions it clearly that the charges are solely for arranging the accommodation for stay.

Compute the value of taxable supply of services and GST.

Note: Applicable rates of GST 5% and 18%. All transactions taken place at inter-state level. [4]

- (ii) M/s Shakshi Associates, a recovery agent (located in Chennai) empaneled by State Bank of India, Local Head Office, Nungambakkam, Chennai. The following service supplied by M/s Shakshi Associates in the month of Nov. 20XX are as follows:

- (1) Fee of ₹ 2,25,825 for supply of services in relation to recovery of dues from the defaulting Borrowers at the place of business/occupation and if such Borrowers is/are unavailable at the place of business then at his/ her residence.
- (2) Supply of services with regard to demand for recovery or taking possession of the security from defaulting Borrowers, for which separate fee charge from the bank ₹ 55,175/-

Find the following:

- (A) Is it supply of service.
- (B) If so, who is liable to pay GST.
- (C) Find the GST liability

Note: Assume the applicable rate of GST for recovery agent services is @18%. [3]

Answer:

- (a) (i) Case 1: Pre-deposit is ₹ 50,000 (5,00,000 x 10%) is to deposit on or before 6th October 2022.
Case 2: Disputed amount ₹ 3,00,000: Pre-deposit is ₹ 2,00,000 plus ₹ 30,000 (₹ 3,00,000 x 10%) together is ₹ 2,30,000. It should be deposited on or before 6th

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October 2022.

- (ii) Pre-deposit is ₹ 1,00,000 (5,00,000 × 20%). It is in addition to pre-deposit of ₹ 50,000.
Case 2: Disputed amount ₹ 3,00,000:
Pre-deposit is ₹ 2,00,000 plus ₹ 60,000 (₹ 3,00,000 × 20%) together is ₹ 2,30,000, it is in addition to pre-deposit of ₹30,000.

- (b) (i) Statement Showing Taxable supply of services & GST liability of Riya Tours Co. for January 2023

Particulars	Value ₹ in lakhs	Value ₹ in lakhs
Tour 1: Packaged Tour	35	
Tour 2: Transportation and Accommodation	65	
Tour 3: Accommodation for stay		40
Tour 4: Accommodation for stay	50	
Taxable supply of services	150	40
GST Rate	5%	18%
IGST	7.50	7.20
Less: ITC	Not allowed	Allowed
Net GST liability	7.50	7.20

- (ii) (A) Yes. It is taxable supply of service.
(B) State Bank of India being recipient of service is liable to pay GST under Reverse Charge Mechanism (RCM).
(C) GST liability = ₹ 50,580 [i.e. ₹ 2,25,825 + 55,175) × 18%].

5. (a) (i) **Who can opt for QRMP Scheme?** [3]
(ii) **How the payment of tax is termed under QRMP Scheme?** [4]

- (b) Asha Ltd. supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Asha Ltd. putting the retail sale price as ₹ 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. under GST law from the following details:

Particulars	Value in ₹
Cost of raw material supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. paid certain technology transfer fees to 'Reena Ltd', so that 'Kareena Ltd' can use the said technology in the given job-work operation and the same amortized in the books of job-worker	22,500
Note: Kareena Ltd offered discount ₹ 2,000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. made	

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full payment at the time of issue of invoice.

[7]

Answer:

- (a) (i) Following registered person (hereinafter RP) can file quarterly returns and pay tax on monthly basis w.e.f. 01.01.2021 under Quarterly Return filing & Monthly Payment of Taxes (QRMP) scheme:
- An RP who is required to file Form GSTR 3B with Aggregate Annual Turn Over (AATO) of up to ₹ 5 Cr. in the previous financial year is eligible. If AATO crosses ₹ 5 Cr. during a qtr., RP will become in-eligible for the Scheme from next quarter.
 - Any person obtaining a new registration or opting out of Composition Scheme can also opt for this Scheme.
 - The option to avail this Scheme can be availed GSTIN wise. Therefore, few GSTINs for that PAN can opt for the Scheme and remaining GSTINs can remain out of the Scheme.

- (ii) Payment of tax under the QRMP scheme:
- Registered Persons need to pay tax due in each of first two months (by 25th of next month) in the Quarter, by selecting "Monthly payment for quarterly taxpayer" as reason for generating Challan.
 - Registered Persons can either use Fixed Sum Method (pre-filled challan) or Self-Assessment Method (actual tax due), for monthly payment of tax for first two months, after adjusting ITC.
 - No deposit is required for the month, if there is nil tax liability.
 - Tax deposited for first 02 months can be used for adjusting liability for the qtr. in Form GSTR-3B and can't be used for any other purpose till the filing of return for the qtr.

- (b) Statement showing transaction value of Kareena Ltd.

Particulars	Value in ₹
Cost of raw material supplied	Exempted supply
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	Exempted supply
Transportation charges for returning the finished packets to Asha Ltd. [Sec. 15(2)(b) of the CGST Act, 2017]	4,500
Technology fee [Sec. 15(2)(b) of the CGST Act, 2017]	22,500
Sub-total	37,000
Less: Discount [Sec. 15(3) of CGST Act, 2017]	(2,000)
Transaction value (i.e. sole consideration)	35,000
Note: It is very clear that principal to job worker and job worker to principal cannot be treated as supply as per section 143 of the CGST Act, 2017.	

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6. (a) Write in details about the consequences of transportation of goods without issue of invoice. [6]

(b) M/s Lips Ltd., manufactures four types of 'Nail Polishes', namely Sweety, Pretty, Beauty, Tweety. The Company has taken input tax credit of ₹3,00,000 on the common inputs used in the manufacture of 'Nail Polishes'. Common inputs also used partly for non-business purposes. During the financial year 2022-23 (w.e.f. 1-7-2022) the company manufactured 1000 liters of each type of 'Nail Polishes'. The Company was not in a position to maintain separate set of records with regards to inputs used for final products. GST payable on final goods @12%.

You are required to calculate the net GST payable by M/s Lips Ltd. for the year 2022-23 from the following data:

Product Name	Description	Sale price (Exclusive of GST)
Sweety	Sale to Domestic Tariff Area	₹ 30 per 20ml. bottle
Pretty	Sale to a Special Economic Zone (SEZ)	₹ 40 per 20ml. bottle
Beauty	Sale to A Ltd. of USA	₹ 50 per 20ml. bottle
Tweety	Sale to Defence Canteen (Exempted from GST)	₹ 60 per 20ml. bottle

[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;

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- 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) Statement showing GST on outward supplies:

Product Name	Description	Sale price (Exclusive of GST)	Transaction Value (₹)	GST liable to pay (₹)	Remarks
Sweety	Sale to Domestic Tariff Area	₹ 30 per 20ml. bottle	15,00,000	1,80,000	₹ 15,00,000 (1000 litres × 1000ml./ 20ml × ₹ 30) GST = ₹ 1,80,000 (₹ 15,00,000 × 12%)
Pretty	Sale to a unit of SEZ (treated as exports)	₹ 40 per 20ml. bottle	20,00,000	Zero rated supplies	₹ 20,00,000 (1000 litres × 1000ml./ 20ml × ₹ 40)
Beauty	Sale to A Ltd. of USA (export sales)	₹ 50 per 20ml. bottle	25,00,000	Zero rated supplies	₹ 25,00,000 (1000 litres × 1000ml./ 20ml × ₹ 50)
Tweety	Sale to Defence Canteen (Exempted from GST)	₹ 60 per 20ml. bottle	30,00,000	Exempted	₹ 30,00,000 (1000 litres × 1000ml./ 20ml × ₹ 60)
	Total		90,00,000	1,80,000	

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

Particulars	ITC reversal (₹)	Working note
Input tax credit proportionate reversal on common inputs [rule 42(1)(i)]	1,00,000	(₹30,00,000/ ₹90,00,000) × ₹ 3,00,000
Credit attributable to non-business purposes on common inputs [rule 42(1)(j)]	15,000	₹3,00,000 × 5%
Total	1,15,000	

Quantum of eligible ITC (Rule 42(1)(k) of the CGST Rules, 2017) is ₹1,85,000/- [₹ 3,00,000 – (1,00,000 + 15,000)]

Statement showing net GST liability or excess credit:

Therefore, the GST payable on taxable supply of goods = ₹ 1,80,000
 Less: ITC credit allowed = ₹ 1,85,000
 Excess ITC can be carried forward into next month = ₹ (5,000)

7. Answer the following:

[7+7=14]

- (a) Write a short note on Anti-profiteering committee and its duties and powers.
 (b) Write a brief note on Special Audit under Section 66 of the CGST Act, 2017.

Answer:

(a) Anti-profiteering Committee [Section 171(2)]:

The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

The National Anti-Profiteering Authority shall be a five members' committee consisting of:

- a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and
- four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under existing laws.
- The Additional Director General of Safeguards under the CBIC (Board) shall be the Secretary to the Authority.

The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

Duties & Powers of Anti-profiteering committee [Section 171(3)]:

The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

The Authority can determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

The Authority would have the following duties:

- (i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- (ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- (iii) to order,
 - reduction in prices;
 - return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Consumer Welfare Fund;
 - imposition of penalty; and
 - Cancellation of registration.

(b) Special Audit [Section 66 of the CGST Act, 2017]:

- Special Audit the registered person can be directed to get his records including books of account examined and audited by a Chartered Accountant or a Cost Accountant during any stage of scrutiny, inquiry, investigation or any other proceedings; depending upon the complexity of the case.
- Procedure: During the scrutiny, inquiry, investigation or any other proceedings of a registered person, the Assistant Commissioner or any officer senior to him, having regard

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to the nature and complexity of the case and the interest of revenue, might be of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits.

In such cases, with the prior approval of the Commissioner, the Assistant Commissioner or any officer senior to him can direct the registered person in FORM GST ADT-03 to get his records including books of account examined and audited by a specified chartered accountant or a cost accountant.

- The chartered accountant or a cost accountant will be nominated by the Commissioner. The chartered accountant or cost accountant so nominated has to submit a report of such audit within the period of ninety days, duly signed and certified by him to the Assistant Commissioner.
- On an application made by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, the Assistant Commissioner can extend the said period by a further period of ninety days.
- The provisions of special audit shall have effect even if the accounts of the registered person have been audited under any other provisions of the GST Act or any other law for the time being in force.
- The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit and which is proposed to be used in any proceedings against him under this Act or the rules made thereunder. The expenses of the examination and audit of records, including the remuneration of such Chartered Accountant or Cost Accountant, shall be determined and paid by the Commissioner.

On conclusion of the special audit, the registered person shall be informed of the findings of the special audit in FORM GST ADT-04. Where the special audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the process of demand and recovery will be initiated against the registered person.

Section - B

Answer Question No. 8 which is compulsory and any two from the rest of this section.

8. Choose the correct answer with justification/ workings wherever applicable: [3×2=6]

- (i) _____ means vessel or cargo which is abandoned in sea without any hope of recovering it.
- (a) Derelict
 - (b) Jetsam
 - (c) Flotsam
 - (d) Wreck
- (ii) The type of bill of entry which is used for ex-bond clearance for home consumption from the warehousing, is:
- (a) Form I (white)
 - (b) Form II (yellow)
 - (c) Form III (green)

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- (d) None of the above
- (iii) Under Foreign Trade Policy export and import goods are broadly categorized. Which of the following statements is correct?
- (a) Free i.e. general goods are allowed to be imported without payment of any customs duty.
- (b) Restricted goods are banned and not allowed to import or export.
- (c) Restricted goods are allowed to be imported only if used for re-export.
- (d) Restricted goods are allowed to be imported or exported only with authorization.

Answer:

- (i) (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.
- (ii) (c) The bill of entry of Form III (green) is used for ex-bond clearance for home consumption from the warehousing
- (iii) (d) Restricted goods are allowed to be imported or exported only with authorization as per FTP – 2015 – 2020. Other choices are incorrect.

9. (a) Discuss the Services offered by Inland Container Depot (ICD) and Container Freight Station (CFS). [4]

- (b) (i) The assessee M Ltd. entered into a joint venture with a foreign collaborator N for promotion and selling of antennas, accessories and other communication equipment. The agreement between them indicates that N owned majority of equity shares in M Ltd. Technical Services were provided by N to M Ltd, for various functions that were carried out in respect of manufacture of antenna system in India, for which technical services fee was paid to N by M Ltd. Based on the above facts, the department opined that both M Ltd. and N were related persons in terms of rule 2(2)(1) and 2(2)(iv) of the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 and that the technical fee paid by M Ltd. was includible in the assessable value of the imported components in terms of Rule 9(1)(c) of the Rules. Decide. [2]

- (ii) Following particulars are available in respect of consignment of goods imported:
- (1) Cost at the factory of the exporter: US\$ 20,000
- (2) Carriage/freight/insurance upto the port of shipment in the exporter's country: US\$ 400
- (3) Charges for loading on to the ship at the shipping port: US\$ 100
- (4) Freight charges of the ship for transport upto the Indian port: US\$ 1,200

Compute the assessable value for the purpose of levy/payment of customs duties. [6]

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Answer:

- (a) Inland Container Station (ICD) and Container Freight Station (CFS) handle only containerized shipment, thus special kind of facilities are provided like:
- Sheds for temporary storage of cargo and container yard for temporary storage of container,
 - Customs clearance facility
 - Cargo handling equipment and container handling equipment
 - Arranging manpower for stuffing the cargo into container and destuffing the cargo from container
 - Road/rail connectivity to and from serving gateway port.
 - Bonded warehousing facility
 - Maintenance and repair of container unit
 - Packaging, palletisation (i.e. a portable platform on which goods can be moved, stocked, and stored) fumigation (i.e. disinfect with chemical fumes).
- (b) (i) Technical fee cannot be added simply because the importer and exporter are 'Related Persons'. It can be added only if it is related to imported goods itself. Here, import was for components while technical fee was for manufacture of antenna systems. The fee is not connected to imported goods. Hence, not includible.

(ii) Statement showing assessable of imported goods

Particulars	Value in US\$	Workings
Cost at the factory (ex-factory price)	20,000	
Carriage/freight/insurance upto the port of shipment	400	
Charges for loading on the ship at the shipping port	100	
Free On Board (FOB)	20,500	
Insurance charges @1.125% on FOB	230.625	US\$ 20,500 x 1.125% = 230.625
Freight charges	1,200	Actual taken into account
CIF Value/ Assessable value	21,930.625	

Note: Since exchange rate is not given; therefore, the assessable value cannot be computed in Indian Rupees.

10. (a) **The adjudication order was passed and was forwarded to the assessee. However, assessee did not receive the same. It learned about the order only after receipt of a letter from the Superintendent, nearly after two years, directing it to pay the dues as per said order. Thereafter, a copy of that order was made available to the assessee. The appeal filed by the assessee against the said order was rejected by the Commissioner (Appeals) as well as by the Tribunal, as being barred by limitation. The assessee contended that the appeal could not be held to be barred by limitation as no order was received by it. Justify.** [5]
- (b) **Mention the category of sales made to the Domestic Tariff Area (DTA) that can be counted for positive Net Foreign Exchange (NFE).** [7]

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Answer:

(a) The High Court noted that the period of limitation prescribed under erstwhile section 85(3) [now section 85(3A)] of the Finance Act, 1994 to prefer an appeal against order-in-original is 3 months [now 2 months]. The said period begins from the date of receipt of the decision or the order of adjudicating authority. Further, section 37C(2) of the Central Excise Act, 1944 stipulates that every decision/order passed or any summons/ notice issued under the said Act is deemed to have been served on the date on which such decision, order or summons is tendered or delivered by post or is affixed in the prescribed manner.

Thus, a perusal of section 37C (as supported by erstwhile section 85(3) [now section 85(3A)] of the Finance Act, 1994) shows insistence upon the service of such adjudication order upon the assessee. Hence, the observation in the Tribunal's order that the order- in-original had been forwarded to the assessee on a particular date was not sufficient in the eyes of law to start computing the period of limitation.

The High Court observed that neither the order of Commissioner (Appeals) nor the order of Tribunal recorded a finding that the adjudication order was actually tendered to the assessee on a particular date or received by him on a particular date.

The High Court quashed and set aside both the orders - order of Commissioner (Appeals) and the order of Tribunal, and placed back the matter for fresh consideration before Commissioner (Appeals).

(b) Category of sales made to the Domestic Tariff Area (DTA) that can be counted for positive Net Foreign Exchange (NFE):

- (i) Supplies in DTA to holders of Advance Authorization / Advance Authorization for annual requirement/ DFIA under duty exemption/ remission scheme/ EPCG scheme subject to certain exceptions.
- (ii) Supplies affected in DTA against foreign exchange remittance received from overseas.
- (iii) Supplies to other EOU/ EHTP/ STP/ BTP/ SEZ units.
- (iv) Supplies made to bonded warehouses set up under FTP and/ or under section 65 of Customs Act and Free Trade and Warehousing Zones (FTWZ), where payment is received in foreign exchange.
- (v) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by MoF.
- (vi) Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom/ electronics items.
- (vii) Supplies of items like tags, labels, printed bags, stickers, belts, buttons or hangers to DTA unit for export.

11. **(a) Write a short note on Appeals to the Customs, Excise and Service Tax Appellate Tribunal (CESTAT).** [8]

(b) From the following identify correct category for grant of status certificate to X Ltd:

Type of Exports in US \$	Current Year (From April - Oct)	Previous Year 1	Previous Year 2
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1. Exports of goods without Weightage US\$	1,25,000	11,00,000	5,80,000
2. Exports of services without Weightage US\$	1,55,000	4,20,000	3,95,000
3. FOR value for Deemed Exports (₹)	50,00,000	1,25,00,000	1,20,00,000

Exchange rate notified by the CBIC as on 1st April of Previous Year 2, 1st April of Previous Year 1 and 1st April of Current Year is ₹ 55/USD, ₹ 58/USD and ₹ 60/USD respectively. [4]

Answer:

(a) Sec. 129 Customs Act, 1962 deals with appeals to the CESTAT:

- (1) CESTAT hears appeals against orders of Commissioner as adjudicating authority and Commissioner (Appeals).
- (2) CESTAT is final fact finding authority
- (3) Appeal should be in prescribed form EA-3
- (4) Appeal should be filed within 3 months from the date of receipt of order in the prescribed form EA 3.
- (5) The Tribunal shall hear and decide every appeal within a period of 3 years.
- (6) If stay is granted by Tribunal for recovery, appeal shall be decided within 180 days. W.e.f. 10-5-2013 CESTAT may further extend the period of stay, by not more than 185 days in the following cases:
 - (i) on an application made in this behalf by a party and
 - (ii) on being satisfied that the delay in disposing of the appeal is not attributable to such party

In case the appeal is not disposed of within the total period of 365 days from the date of the stay order, the stay order shall, on the expiry of 365, stand vacated.

- (7) Fee for filing an appeal

Amount, interest and penalty demanded	Fee for filing an appeal
≤ ₹ 5,00,000	₹ 1,000
> ₹ 5,00,000 ≤ ₹ 50,00,000	₹ 5,000
> ₹ 50,00,000	₹ 10,000

- (8) Monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals enhanced from ₹ 10 lakh to ₹ 50 lakh [Section 35D (3)] (w.e.f. 10-5-2013)
- (9) Tribunal can condone the delay for any number of days.
- (10) Tribunal can refuse petty appeals below ₹ 2 lakhs.
- (11) CBIC can extend time limit for sanctioning departmental appeal by 30 days in Customs (w.e.f. 6-8-2014):

The Committee of Principal Commissioner or Commissioners or Principal Chief Commissioner/Chief Commissioners is required to take decision regarding filing of departmental appeal within 3 months. This period can be extended up to 30 days by CBIC, on sufficient cause being shown (presumably by the Committee itself)- proviso to section 129D(3) of Customs Act 1962.

(b) Statement showing exports for shipments during last two years and current year up to 31st Oct:

Type of Exports in US\$	Current Year in US\$ (From April - Oct)	Previous Year 1 in US\$	Previous Year 2 in US\$

Answer to MTP_Final_Syllabus 2016_Jun2023_Set1

1. Exports of goods without Weightage	1,25,000	11,00,000	5,80,000
2. Exports of services without Weightage	1,55,000	4,20,000	3,95,000
3. FOR value for Deemed Exports US\$	83,333.33	2,15,517.24	2,18,181.82
TOTAL	3,63,333.33	17,35,517.24	11,93,181.82

X Ltd. export performance as on the date of application made to RA/Development Commissioner (DC) is US\$ 3.292 Million (i.e. 32,92,032.39 US\$ /10,00,000). Therefore, X Ltd. is eligible for One Star Export House status.