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) For an E-commerce operator registration threshold limit is ____________
(a) ₹ 20 lakhs
(b) ₹ 50 lakhs
(c) ₹ 75 lakhs
(d) None of above.

(ii) Based on Article Number ____________ of the Constitution of India, GST Council formed.
(a) 269A
(b) 279A
(c) 289A
(d) 299A

(iii) GST will be levied on_______.
(a) Manufacturers
(b) Retailers
(c) Consumers
(d) All of the above

(iv) Which constitutional amendment is done to pass the GST bill?
(a) 101st
(b) 120th
(c) 122nd
(d)115th

(v) Balance in Electronic Credit Ledger can be utilised against which liability?
(a) Output tax payable
(b) Interest payable
(c) Penalty
(d) All of above

(vi) In case of supply of goods, the tax invoice shall be prepared in the manner of:
(a) Only original
(b) Two copies
(c) Three copies
(d) Four copies

(vii)The due date to file GSTR-4 is ____________
(a) 10th of the month succeeding quarter
(b) 13th of the month succeeding quarter
(c) 18th of the month succeeding quarter
(d) 20th of the month succeeding quarter.

Answer :

1. (i) (d) None of above
GST registration is mandatory for E-commerce operator.

(ii) (b) 279A
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.

(iii) (d) All of the above
The GST is an indirect tax which means that the tax is passed on till the last stage wherein it is the customer of the goods and services who bears the tax.

(iv) (a) 101^{st}
101st Constitutional Amendment is done to pass the GST bill. GST Constitutional (101st Amendment) Act 2016 contains the provisions which are necessary for the implementation of GST Regime.

(v) (a) Output tax payable
As per Section 49(4) of the CGST Act, 2017, the amount available in the electronic credit ledger may be used for making any payment towards output tax.

(vi) (c) Three copies
In case of supply of goods, the tax invoice shall be prepared in the manner of three copies — the original copy being marked as original for recipient, the second copy being marked as duplicate for transporter and the third copy being marked as triplicate for supplier.

(vii) (c) 18^{th} of the month succeeding quarter
The GSTR-4 [Return for compounding taxable person (Section 39(2) of the CGST Act, 2017)] is to be filed on a quarterly basis and the due date is 18^{th} of the month succeeding quarter.

2. **(a) Arihant Life Insurance Company Ltd. (ALICL) has started its operations in the year 2017-18 (w.e.f. 1-7-2017). During the year 2017-18, Arihant Life Insurance Company Ltd. (ALICL) has charged gross premium of ₹ 180 lakh from policy holders with respect to life insurance policies; out of which ₹ 100 lakh have been allocated for investment on behalf of the policy holders.**

Compute the GST liability of ALICL for the year 2017-18 under rule 32(4) of the CGST Rules, 2017

(i) if the amount allocated for investment has been intimated by ALICL to policy holders at the time of providing service.

(ii) if the amount allocated for investment has not been intimated by ALICL to policy holders at the time of providing of service.

(iii) if the gross premium charged by ALICL from policy holders is only towards risk cover.

Applicable rate of GST 18%.

(b) Compute value of taxable supply of services of Air Speed Airlines located in Chennai for transportation of passengers by air from the following data relating to sums received exclusive of GST –

(i) Passengers embarking at Arunachal Pradesh: ₹ 5 lakhs;

(ii) Amount for journey terminated at Assam: ₹ 4 lakhs;

(iii) Amount charged from passenger for flights starting from USA to Chennai: ₹ 250 lakhs;

(iv) Amount charged from passengers flying from Chennai to Sydney (Business class): ₹ 540 lakhs (including passenger taxes levied by government and shown separately on ticket: ₹ 100 lakhs). All passengers booked ticket from Delhi Office of Air Speed Airlines.

(v) Passengers embarking from Chennai to Coimbatore (Economic class): ₹ 4 lakhs. Passengers booked tickets from Chennai office of Air Speed Airlines.

Applicable rate of GST 5% and 12%. Find the IGST, CGST & SGST if any. [6 + 8]

Answer:

2. (a) (i) GST liability of ALICL for the year 2017-18 will be computed as under:
= ₹ 14.40 lakhs [₹ (180-100) lakh × 18%]

(ii) 25% of the 1st year premium is value of taxable supply. Thus, GST liability of ALICL for the year 2017-18, being first year of its operations, will be computed as under:
Value of taxable supply = ₹ 180 lakh × 25% = ₹ 45 lakh
GST liability = ₹ 8.10 lakh (i.e. ₹ 45 lakh x 18%)

(iii) GST liability of ALICL for the year 2017-18 will be computed as under:
= ₹ 32.40 lakh (₹ 180 lakh × 18%)

2. (b)

Statement Showing GST Liability of Air Speed Airlines:

Sl. No.	Particulars	Amount (₹)	Remarks
(i)	embarking at Arunachal Pradesh	-	exempted supply
(ii)	where journey terminated at Assam	-	exempted supply
(iii)	from USA to Chennai	-	exempted supply
(iv)	from Chennai to Sydney (Business class)	4,40,00,000	
	Passenger tax	1,00,00,000	
(v)	from Chennai to Coimbatore	4,00,000	(Economic class)
	Value of Taxable Supply of Services	5,44,00,000	
	IGST 12% on ₹ 5,40,00,000	64,80,000	
	CGST 2.5% on ₹ 4,00,000	10,000	
	SGST 2.5% on ₹ 4,00,000	10,000	
	Total Tax	**65,00,000**	

3. (a) What is Anti-profiteering Committee ? What are the duties and powers of the Anti-profiteering Committee?

(b) Mr. A, a taxable service provider, provided taxable supply of services to Mr. B. The contract of service entered into between them stipulated that Mr. A will bear all the taxes, duties and other liabilities in connection with discharge of his obligations. While the service was being provided, an amendment in the law shifted the liability to pay GST in case of such taxable supply of services from service provider to service receiver retrospectively, i.e. reverse charge provisions were made applicable. You are required to answer the following questions with the help of the decided case law(s), if any:

(i) Can Mr. B, who is the person liable to pay GST under reverse charge, shift the burden of such GST on Mr. A by deducting the same from the payment made against the bills raised by Mr. A?

(ii) Can Mr. B ask the Revenue to recover GST from Mr. A since the contract of service stipulates that Mr. A will bear all the taxes, duties and other liabilities in connection with discharge of his obligations? [(4 + 6) + 4]

Answer:

3. (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 member 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 CBEC (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.

3. (b) (i) Yes. As per the Rashtriya Ispat Nigam Ltd. v. Dewan Chand Ram Saran 2012 (260) S.T.R. 289 (S.C.), Mr. B can shift the burden of GST on Mr. A by deducting the same from the payment made against the bills raised by Mr. A.

(ii) No. As per the Delhi Transport Corporation v. Commissioner Service Tax 2015 (038) STR 673 (Del.), Mr. B cannot ask the Revenue to recover GST from Mr. A since the contract of service stipulates that Mr. A will bear all the taxes, duties and other liabilities in connection with discharge of his obligations.

4. (a) What is Special Audit under section 66 of the CGST Act, 2017? Write down the procedures to be followed to conduct this audit.

(b) Raja Ltd. manufactured and cleared taxable goods on 1st August 2017 for ₹ 20,00,000 plus GST 12%. After payment of GST on or before the due date, it is noticed that these goods are exempted from GST and applied for refund of GST on 15th November 2017. Department acknowledged the receipt on 15th November 2017. Department granted the refund on 23rd January 2018.
Find the interest if any on delay refund.
Note: Raja Ltd. not passed ITC to recipient of supply. [10+ 4]

Answer:

4. (a) Special Audit under section 66 of the CGST Act, 2017:

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 to be followed:
During the scrutiny, inquiry, investigation or any other proceedings of a registered person, the Assistant Commissioner or any officer senior to him, having regard 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 utilised, the process of demand and recovery will be initiated against the registered person.

4. (b) From 15th November 2017 to 22nd January 2018 = 69 days
Less: from 15th November 2017 to 13th Jan 2018 = (60) days
No. of days delay = 9 days
Interest = ₹ 355/- (i.e. 2,40,000 x 6% x 9/365)

5. (a) Mr. Roy imported goods from USA on 28th June 2017 for ₹ 5,00,000. Customs duties like BCD ₹ 50,000, CVD ₹ 68,750, Cess ₹ 3,563 and Spl.CVD. of ₹ 24,893 also paid on 29th June 2017. The consignment received by Mr. Das into his factory on 20th July 2017. The services of Customs Broker and C&F are used for imported inputs. Service Tax ₹ 10,000, SBC of ₹ 500 and KKC of ₹ 500 has been paid on 30th June 2017 along with value of services to the provider of services.
Mr. Das is eligible for ITC if so what amount?

(b) Compute taxable value for transport of goods by rail within India (all sums exclusive of all taxes) –
(1) Transport of postal mails and postal bags : ₹ 55 lakhs;
(2) Transportation of household effects: ₹ 50 lakhs
(3) Transport of petroleum products: ₹ 25 lakhs;
(4) Transport of relief materials to flood affected areas: ₹ 25 lakhs;
(5) Transport of newspapers and magazines registered with registrar of newspapers: ₹ 15 lakhs (6) Transport of milk: ₹ 15 lakhs;
(7) Transport of alcoholic beverages: ₹ 7 lakhs:
(8) Transport of defence and military equipments: ₹ 40 lakhs;
(9) Transport of chemical fertilizers: ₹ 90 lakhs;
(10)Transport of other taxable goods: ₹ 200 lakh (including ₹ 20 lakhs demurrages).
[6 + 8]

Answer:

5. (a) Statement showing ITC to Mr. Roy under GST

Sl. No.	Duties and Taxes	Tax Amount in (₹)	Remarks
1	BCD	Nil	Not allowed as ITC
2	CVD	68,750	Allowed as ITC under CGST
3	Cess	Nil	Not allowed as ITC
4	Spl. CVD	24,893	Allowed as ITC under CGST
5	Service Tax	10,000	Allowed as ITC under CGST
6	SBC	Nil	Not allowed as ITC
7	KKC	Nil	Not allowed as ITC
	Total u/s 140(5)	**1,03,643**	

5. (b) Computation of Taxable value of supply

Nature of service	₹ in lakhs
Transport of postal mails and postal bags	55
Transportation of household effects	50
Transport of petroleum products	25
Transport of relief materials to flood affected areas	Exempted supply
Transport of newspapers and magazines registered with registrar of newspapers	Exempted supply
Transport of milk	Exempted supply
Transport of alcoholic beverages	7
Transport of defence and military equipments	Exempted supply
Transport of chemical fertilizers:	90
Transport of other taxable goods (including demurrages of ₹ 20 lakhs)	200
Taxable value of supply	**427**

6. (a) Briefly explain the concepts of composite supply and mixed supply under GST.

(b) What is the difference between a taxpayer and a GST practitioner? What are the roles and responsibilities of a GST practitioner? [4 + (4 + 6)]

Answer:

6. (a) Composite Supply: Composite supply consists of two or more goods/services, which is naturally supplied with each other in the ordinary course of business and one of them is a principal supply. The items cannot be supplied separately.

Following two conditions are necessary for composite supply:
(i) Supply of two or more goods or services together, and
(ii) It should be a natural bundle and they cannot be separated.

Mixed Supply: In Mixed supply two or more individual supplies combination of goods or services with each other for a single price. Each of these items can be supplied separately and is not dependent on each other. In other words, the combinations of goods or services are not bundled due to natural necessities, and they can be supplied individually in the ordinary course of business. For tax liability purpose, mixed supply consisting of two or more supplies shall be treated as a supply of that item which has the highest tax rate.

(b) A taxpayer is a person registered under GST law for the purpose of filing returns, payment of tax, availing input tax credit and other compliances. Such a person is defined as a 'taxable person' under GST law.

On the contrary, a GST practitioner is a person registered as a GST professional under GST Law. A taxpayer may authorise a GST practitioner to furnish monthly/quarterly/ annual returns and information, on his behalf, to the government. The manner of approval of GST practitioners, the manner of removal, eligibility and qualification, roles and responsibilities and other conditions relevant for the functioning of a GST Practitioner have been prescribed in Rule 24 and 25 of the Return Rules. A taxable person can add a GST Practitioner to his GST Portal, to allow such a person to make compliance under GST on his behalf.

The roles and responsibilities of a GST Practitioner are given below:

The government by virtue of section 48 of CGST Act, 2017 permits GST practitioners, upon authorization from taxpayers, to:
(i) Filing GSTR-1 and GSTR-2 with the details of outward and inward supplies
(ii) Filing of GST monthly, quarterly or annual returns on behalf of his clients
(iii) Representing the clients before GST authorities
(iv) Filing refund claims, upon confirmation from clients
(v) Making deposits for credit in the electronic ledger
(vi) Filing applications in case of any for changes (amendment) or cancellation the registration

GST practitioners are entrusted by the government to help common people with the work/ activity related to compliance of GST laws. With this provision of the Act, it becomes the responsibility of the GST practitioner to ensure that returns are filed correctly and on timely basis.

Further, provisions of CGST Act, 2017 requires CGST Practitioners to follow the principle of due diligence while preparing the statements of return and verify such statements.

Verification can be done:
(i) Electronically by Electronic Verification Code (EVC); or
(ii) By way of affixing Digital Signature Certificate.

7. (a) Priya Tours Co. has arranged four package tours during Oct 2018. 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.

(b) M/s Ram Ltd. manufacture and cleared goods under provisional assessment, in the month of July, 2018, by paying tax of ₹ 50,000 on the 20th August, 2018 [i.e. due date of fling GSTR-3], a further tax of ₹ 90,000 is paid on the 15th November, 2018, and on the same day the documents for final assessment are submitted by the assesse. Final assessment order is issued on the 18th November, 2018, assessing the tax payable on goods as ₹ 1,50,000, and consequently the assesse paid a tax of ₹ 10,000 on the 30th November, 2018. Find the total interest payable by the assessee? [8 + 6]

Answer:

7. (a) Statement Showing GST of Priya Tours Co. for Oct 2018

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

(b) No interest shall be payable on ₹ 50,000.

Interest shall be payable on ₹ 90,000 from the 21st August 2018 to 15th November 2018.

Therefore No. of days delay = 87 days.

Interest shall be payable on ₹ 10,000 from the 21st August 2018 to 30th November 2018 as due date for payment of duty of ₹ 1,50,000 is the 20th August 2018.

Therefore, No. of days delay = 102 days.
₹ 90,000 x 18/100 x 87/365 = ₹ 3,861
₹ 10,000 x 18/100 x 102/365 = ₹ 503
Total interest payable = ₹ 4,364

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) If, any drawback amount payable to a claimant u/s 74 or 75 is not paid within the specified time period, then the rate of interest is payable to the claimant is ________.
(a) 4% p.a.
(b) 5% p.a.
(c) 6% p.a.
(d) 7% p.a..

(ii) There would be no recovery if the amount of customs duty involved is less than ___________ [Section 28 (1) - w.e.f. 10.05.2013].
(a) ₹ 100
(b) ₹ 200
(c) ₹ 300
(d) ₹ 500

(iii) Once goods are imported from a country outside India into India, such goods need to be cleared from the port within ______________ from the date of import.
(a) 3 working days
(b) 4 working days
(c) 5 working days
(d) 7 working days

Answer:

8. (i) (c) 6% p.a.
Any drawback payable to a claimant u/s 74 or 75 is not paid within specified time period (i.e. one month from the date of filing of draw back claim), @6% per annum interest is payable to the claimant after the expiry of said one month till the date of payment of such drawback.

(ii) (a) ₹ 100
No minimum limit for recovery of customs duty had been specified under the Customs Act, 1962. Thus, recovery proceedings could be initiated even for the default of Re. 1. The Finance Act, 2013 has inserted third proviso in section 28(1) which provides that the proper officer will not serve the show cause notice, where the amount involved is less than ₹ 100. In other words, there would be no recovery of the customs duty if the amount of customs duty involved is less than ₹ 100.

(iii) (a) 3 working days
Once goods are imported from a country outside India into India, such goods need to be cleared from the port within 3 working days from the date of import. For delay beyond 3 working days the port authorities will charge demurrage. If the delay is from the Customs authorities, then such authorities will issue a certificate called as Detention Certification for bona fide import.

9. (a) (i) What is deemed export under Customs?

(ii) A Big Ship carrying merchandize and stores enters the territorial waters of India but it cannot enter the port. In order to unload the merchandize lighter ships are employed. Stores are consumed on board the ship as well as by the small ships. Examine whether such consumption of stores attracts customs duty. Quote

relevant section and case law if any. Stores are supplied to the above ships. Will such supplies be treated as exports and be entitled to draw back? [4 + 4]

(b) What are the features of Risk Management System? 4

Answer:

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

(A) Sale of goods to units situated in Export Oriented Units, Software Technology Park, and Electronic Hardware Technology Park etc.
(B) Sale of capital goods to fertilizer plants
(C) Sale of goods to United Nations Agencies
(D) Sale of goods to projects financed by bilateral Agencies, etc.

(ii) 'Stores' means goods for use in a vessel and includes diesel and spare parts and other articles and equipments. Bringing of 'stores' is treated as import.

However, there is special provision for stores under section 87. Imported stores consumed on board an ocean going vessel (i.e. foreign going vessel) are exempt from import duty under Section 87. Since the ship is ocean going, stores consumed on board will not attract customs duty.

Regarding the smaller ships which are employed to unload the cargo from the mother ship, they are termed as "Transhippers". These are also treated as ocean going vessels as was decided in UOI v. V M Salgaoncar AIR 1998 SC1367: 99 ELT 3 (SC).

Hence stores consumed by small vessels would also be exempt from customs duty. Stores supplied to the vessel will be treated as export as per Section 89 of Customs Act and hence will be eligible for duty drawback.

9. (b) The Central Board of Excise and Customs has decided to introduce the 'Risk Management System' (RMS) in major Customs locations where the Indian Customs EDI System (ICES) is operational. The implementation of the RMS is one of the most significant steps in the ongoing Business Process Re-engineering initiatives of the Customs and Central Excise Department.

Features of the Risk Management System:

(i) The Risk Management System replaces the existing system of concurrent audit and replaced by a Post Clearance Compliance Verification (Audit) function.
(ii) This system provides the special Customs clearance for Accredited Clients. (Accredited Client means importer whose value of imports during the previous financial year ₹ 10 crores or paid duty more than ₹ 1 crore).
(iii) This system applies only to those importers whose track record is good for the last 3 financial years.
(iv) The RMS is intended to improve the management of the resources of the department to enhance the efficiency and effectiveness in meeting stakeholder expectations and to bring the Customs processes at par with the best international practices.

10. (a) Mr. Amrit, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2017. His wife also joined him in London on 01.12.2017. The

following details are submitted by them with the Customs authorities on their return to India on 30.04.2018.-

(i) used personal effects worth ₹ 80,000

(ii) a music system worth ₹ 35,000

(iii) Gold bars (i.e. other than ornaments) brought by Mr. Amrit for ₹ 48,000 and the jewellery brought by his wife worth ₹ 20,000.

Determine their eligibility with regard to duty free allowance.

(b) A person makes an unauthorized export of goods liable to confiscation. The value of those goods as computed by the customs officer is ₹ 10 lakhs. You are required to compute penalty under Section 114 of the Customs Act, 1962,

(A) If export goods are prohibited goods (declared as some other goods) for ₹ 5 lakhs. What is the penalty if the accepted his fraud before issuance of show cause notice? Whether your answer is different if accepted his fraud within 30 days from the date of receipt of show cause notice.
Rework the penalty in case of (i) if accepted his fraud within 30 days from the date of receipt of order.

(B) if export goods are non-prohibited goods (declared as some other goods) for ₹ 5 lakhs, applicable rate of duty @10%. What is the penalty if duty and interest paid within 30 days from the date of receipt of notice? Whether your answer is different if duty and interest paid within 30 days from the date of receipt of order?

(C) if export goods are non-prohibited goods (declared as some other goods) for ₹ 5 lakhs, exempt from export duty. [6 + 6]

Answer:

10. (a)

Statement showing customs duty in the hands of Mr. Amrit:

Particulars	Amount (₹)	Workings
Personal effects	Nil	Fully exempted from duty
Music system	35,000	Dutiable within the limit of GFA
Less: GFA	-35,000	GFA allowed upto ₹ 50,000 (w.e.f. 1-4-2016 GFA increased to ₹ 50,000)
Dutiable goods	Nil	
Jewellery	48,000	
Less: exemption	-48,000	Upto ₹ 50,000 is free from duty, since, he stayed outside abroad for a period more than one year.
Dutiable goods	Nil	

Statement showing customs duty in the hands of Mrs. Amrit:

Particulars	Amount (₹)	Workings
Gold bars (other than jewellery)	20,000	Fully taxable
Less: exemption	Nil	General free allowance not allowed.
Dutiable goods	20,000	
Customs duty	7,700	(₹ 20,000 x 38.50%)

10. (b) (A) Penalty = ₹ 10 lakhs
Whichever is higher (i) ₹ 10 lakhs (ii) ₹ 5,000

if the duty and interest has been paid before issuance of show cause notice, then reduced penalty @15% of penalty. Therefore, penalty is ₹ 1.50 Lakhs (i.e. ₹ 10 L x 15%).
If duty and interest is paid within 30 days from the date of receipt of show cause notice penalty is ₹ 1.50 Lakhs.

(B) Penalty = ₹ 10,000
Whichever is higher
(i) 10% of ₹ 1 lakh = ₹ 10,000
Duty = ₹1 lakh (i.e. ₹ 10 lakhs x 10%)
Note: no education cess and SAH education cess on exports.
(ii) ₹ 5,000.
If duty and interest paid within 30 days from the date of receipt of notice, then penalty is nil.

If duty and interest paid within 30 days from the date of receipt of order, then reduced penalty is 25% of such penalty. Therefore, penalty is ₹ 2,500 (i.e. ₹ 10,000 x 25%).

(C) Penalty = ₹ 10 lakhs
Whichever is higher (i) ₹ 5 lakhs (ii) ₹ 10 lakhs

11. (a) What are the features of Foreign Trade Policy?

(b) List out the benefits available to status holders under FTP 2015-20. [6 + 6]

Answer:

11. (a) The features of Foreign Trade Policy are given below:
i) Export-Import is free unless specifically regulated by the provisions of the FTP.
ii) Export and Import goods are broadly categorized as
a. Free (i.e. general goods freely import or export without any authorization).
b. Restricted (i.e. goods allowed to import or export only with authorization).
c. Prohibited (i.e. goods are not allowed to import or export)
iii) There are restrictions on exports and imports for various strategic, health, and other reasons.
iv) Exports are promoted through various promotional schemes.
v) There should be no taxes on exports.
vi) Capital goods can be imported at NIL duty for the purpose of exports under the scheme of Export Promotion Capital Goods (EPCG) Scheme.
vii) EOU'S and SEZ units are exempted from payment of taxes.
viii) Deemed exports concept introduced.
ix) Duty credit scrip's schemes are designed to promote exports of some specified goods to specified markets and to promote export of specified services.

11. (b) The list of the benefits available to status holders under FTP 2015-20 are:
i) Authorisation and Customs Clearances for both imports and exports may be granted on self- declaration basis;
ii) Fixation of Input Output Norms (SION) on priority by the Norms Committee i.e. within 60 days.
iii) Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels by way of e-BRC by DGFT.
iv) Exemption from furnishing of Bank Guarantee in Schemes under FTP.
v) Two Star Export Houses and above are permitted to establish export warehouses.

vi) Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC.
vii) Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of ₹ 10 lakhs or 2% of average annual export realization during proceeding 3 licensing years, whichever is higher.
viii) Manufacturer exporters who are also Status Holders shall be eligible to self-certify their goods as originating from India.