

**INTERMEDIATE EXAMINATION
GROUP - II
(SYLLABUS 2016)**

SUGGESTED ANSWERS TO QUESTIONS

JUNE - 2018

Paper-11: INDIRECT TAXATION

Time Allowed : 3 Hours

Full Marks : 100

The figures in the margin on the right side indicate full marks.
Wherever required, the candidate may make suitable assumptions and
state them clearly in the answer.

Working notes should form part of the relevant answers.

GST (Section – A)

Part – I

(All questions are compulsory in Part - I)

1. (a) Choose the correct option from amongst the four alternatives given: 1×5=5
- (i) GST has replaced the following law(s):
 - (A) Customs
 - (B) VAT
 - (C) Central excise
 - (D) Both (B) and (C)

 - (ii) GST is a _____ based tax.
 - (A) origin
 - (B) destination
 - (C) territory
 - (D) None of the above

 - (iii) In IGST, I stands for
 - (A) Integrated
 - (B) International
 - (C) Inter-State
 - (D) Indian

 - (iv) The Chairperson of GST Council is
 - (A) Prime Minister of India
 - (B) Finance Minister of India
 - (C) Minister of State for Finance
 - (D) None of the above

 - (v) Under GST law the phrase 'Goods' does not include
 - (A) Actionable claim
 - (B) Growing crops on the land agreed to be severed before supply
 - (C) Money and Securities
 - (D) None of the above

Suggested Answers_Syl2016_June2018_Paper 11

(b) Match the following:

1x5=5

	Column A		Column B
1.	Agricultural Activities	A.	Compulsory registration
2.	Casual Taxable Person making taxable supplies	B.	Collected by Central Government
3.	Integrated Goods and Services Tax	C.	72 Months
4.	Transaction Value	D.	Exempt from GST
5.	Retention of Accounts	E.	When price is sole consideration

(c) State whether true or false:

1x5=5

- (i) When goods are imported into India, CGST is levied.
- (ii) The highest rate of tax levied under IGST is 28%.
- (iii) GST will not abolish all the indirect taxes levied in India.
- (iv) GST threshold limit for North-Eastern and hilly states is ₹ 25 lakhs.
- (v) Goods are classified in the GST regime in India using SAC code.

(d) Fill in the blanks:

1x5=5

- (i) Indirect taxes are _____ based taxes.
- (ii) Direct taxes are _____ in nature.
- (iii) Indian GST Model is chosen from _____ (country) model.
- (iv) GST Council has been created as per Article _____ of the amended Constitution.
- (v) In HSN, N stands for _____.

Answer:

1. (a) (i) (D)
 (ii) (B)
 (iii) (A)
 (iv) (B)
 (v) (C)

(b)

	Column A		Column B
1.	Agricultural Activities	D.	Exempt from GST
2.	Casual Taxable Person making taxable supplies	A.	Compulsory registration
3.	Integrated Goods and Services Tax	B.	Collected by Central Government
4.	Transaction Value	E.	When price is sole consideration
5.	Retention of Accounts	C.	Exempt from GST

- (c) (i) False;
 (ii) True;
 (iii) True;
 (iv) False;
 (v) False;

- (d) (i) Supply
 (ii) Progressive
 (iii) Canadian
 (iv) 279A
 (v) Nomenclature

Part - II

(Answer any four questions in Part - II)

2. (a) (i) What do you mean by GST Council? What is its guiding principle? What are its functions?

(ii) State the advantages of GST.

5+5=10

Suggested Answers_Syl2016_June2018_Paper 11

(b) Mr. Ijas, a performing artist, provides the following information relating to October, 2017:

Receipts from:	Amount (₹)
Performing classical dance	1,49,000
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts	2,10,000
Activities in sculpture making	3,10,000
Performing western dance	90,000

Determine the value of taxable supply of services and GST payable by Mr. Ijas for October, 2017, GST @ 18%.

5

Answer:

2. (a) (i) 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.

(ii) Advantages of GST

(a) One Nation One Tax.

(b) Removal of bundled indirect taxes such as VAT, CST, Service tax, CAD, SAD, and Excise.

(c) Removal of cascading effect of taxes i.e. removes tax on tax.

(d) Increased ease of doing business;

(e) Lower cost of production, increases demand will lead to increase supply. Hence, this will ultimately lead to rise in the production of goods. Resultantly boost to make in India initiative.

(f) It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth.

(b) Calculation of value of Taxable Supply and GST Payable by Mr. Ijas for October 2017

Suggested Answers_Syl2016_June2018_Paper 11

Particulars	Amount (in ₹)
Classical dance (Exempt as receipt is less than or equal to ₹ 1,50,000)	Nil
Performing in television serial	2,80,000
Brand ambassador	12,00,000
Coaching in recreational activities in relation to arts	Nil
Sculpture making	3,10,000
Western dance	90,000
Value of taxable supply of service	18,80,000
GST 18%	3,38,400

3. (a) (i) R, a manufacturer of machines (having a turnover of more than ₹ 1.5 crore) received an advance of ₹ 1,20,000 along with the purchase order on 15.10.2017 for supply of machine X for ₹ 20,00,000 to be manufactured according to the specifications. Advance payment was entered in the books of account on 16.10.2017 and credited in his bank account 18.10.2017. The machine is manufactured and after approval has been delivered to the buyer on 25.10.2017 and the invoice was raised at the time of removal. The balance payment of ₹18,80,000 was received on 15.11.2017 which was recorded in the books of accounts of R on the same date and was credited in his bank on 17.11.2017. Determine the time of Supply. 4

- (ii) R issues an invoice of ₹ 64,100 for supply of goods 10.10.2017 and received ₹ 65,000 in his bank through RTGS on the same date which was credited in his books of account on 11.10.2017 on receipt of intimation from the bank. Determine the time of supply of goods and the time of supply of excess payment. 4

- (b) RG Pvt. Ltd. provides the following particulars relating to goods sold by it to GK Pvt. Ltd.:

Particulars	Amount in (₹)
List price of the goods (exclusive of taxes and discounts)	10,00,000
Tax levied by Municipal Authority in the sale of such goods	1,00,000
CGST and SGST chargeable on the goods	2,00,880
Packing charges (not included in price above)	20,000

RG Pvt. Ltd. received ₹ 40,000 as a subsidy from a NGO on sale of such goods. The price of ₹ 10,00,000 of the goods is after considering such subsidy.

RG Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of the taxable supply made by RG Pvt. Ltd. 7

Answer:

3. (a) (i) The time of supply of machine to the extent of ₹ 1,20,000 is 16.10.2017 as this payment was received before the date of invoice and entered in the books of account on 16.10.2017.

The time of supply of machine to the extent of the balance amount of ₹ 18,80,000 is 25.10.2017 when the invoice was raised which is earlier than the payment received.

- (ii)

Particulars	
1) Time of supply of goods	
It will be determined as under:	
(i) Date of issue of actual invoice	10.10.2017

Suggested Answers_Syl2016_June2018_Paper 11

(ii) Amount credited in his bank account	10.10.2017
(iii) Payment entered in the books of account	11.10.2017
Whichever is earlier	
Thus time of supply of goods shall be 10.10.2017	
2) Time of supply of excess payment of ₹ 900	
R has received ₹ 900 in excess which cannot be taken as payment for invoice issued on 10.10.2017.	
Hence, in this case R will adjust the excess amount against the next supply.	
Consequently, the time of supply for ₹ 900 can be taken as the date of issue of next invoice if the supplier so chooses, though he has received the payment earlier.	

(b)

Particulars	Amount in ₹
List price of the goods (exclusive of taxes and discounts)	10,00,000
Add:	
(i) Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	1,00,000
(ii) CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	-
(iii) Packing charges [Includible in the value as per section 15(2)(c)]	20,000
(iv) Subsidy received from a non - Government body [Since subsidy is received from a non - Government body, the same is included in the value in terms of section 15(2)(e)]	40,000
Total	11,60,000
Less: Discount @ 2% on ₹ 10,00,000	20,000
Value of taxable supply	11,40,000

4. (a) Mrs. Lakshmi, intending to start a new business in January, 2018, furnishes the following information pertaining to the period upto 31.03.2018:

Estimated supplies	(₹)
Intra-State supplies of taxable goods	14,00,000
Intra-State supplies of exempt services	4,00,000
Export sales	3,20,000
Supplies made as agent of a principal	2,40,000

Ascertain the aggregate turnover. She wants to know whether she should get herself registered for GST purposes. You are required to help her. Further, what will be the GST payable by her, if the GST rate for taxable goods supplied is 18%? 7

- (b) M/s. XYZ Ltd., having its Head Office at Mumbai, is registered as ISD. It has three units in different states namely 'Mumbai', 'Chennai' and 'Delhi' which are operational in the current year. M/s. XYZ Ltd. furnishes the following information for the month of December 2017. You are required to distribute the below input tax credit (i) CGST and SGST paid on services used only for Mumbai Unit: ₹ 3,00,000 (ii) IGST, CGST and SGST paid on services used for all units: ₹ 12,00,000. Total Turnover of the units for the Financial Year 2016-17 are as follows: 8

Unit	Turnover in (₹)
Turnover of Mumbai unit	5,00,00,000
Turnover of Chennai	3,00,00,000
Turnover Delhi	2,00,00,000
Total turnover	10,00,00,000

Suggested Answers_Syl2016_June2018_Paper 11

Answer:

4. (a)

Computation of aggregate turnover

Estimated supplies	Amount (₹)
Intra-State supplies of taxable goods	14,00,000
Intra-State supplies of exempt services	4,00,000
Export sales	3,20,000
Supplies made as agent of a principal	2,40,000
Aggregate turnover	23,60,000

Since the aggregate turnover exceeds ₹20 lakhs, Mrs. Lakshmi has to get her registered.

Computation of taxable supplies and GST

Estimated supplies	Amount
Intra-State supplies of taxable goods	14,00,000
Intra-State supplies of exempt services	Nil
Export sales	Nil
Supplies made as agent of a principal	Nil
Aggregate taxable supplies	14,00,000
Estimated GST payable:	
SGST at 9%	1,26,000
CGST at 9%	1,26,000

Alternative answer: As per sec. 24(vii) of the CGST Act it is states that persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise, have to mandatorily take registration irrespective of their amount of turnover. As per this provision, threshold limit of ₹ 20 lakhs (₹ 10 lakhs in special category of states) is not applicable for intermediaries.

(b) Statement showing distribution of input tax credit:

Particulars	Credit distributed to all the units			
	Total credit available (₹)	Mumbai	Chennai	Delhi
CGST & SGST paid on services used only for Mumbai Unit.	3,00,000	3,00,000	0	0
IGST, CGST & SGST paid on services used in all units Distribution on pro-rata basis to all the units which are operational in the current year	12,00,000	6,00,000	3,60,000	2,40,000
Total	15,00,000	9,00,000	3,60,000	2,40,000
Particulars				
Working note:				
(1) CGST & SGST paid on services used only for Mumbai Unit should be distributed only to that unit.				
(2) Credit distributed pro rata basis on the basis of the turnover of all the units is as under: -				
Particulars				₹
(a) Unit Mumbai: $(5,00,00,000/10,00,00,000) \times 12,00,000$				6,00,000
(b) Unit Chennai: $(3,00,00,000/10,00,00,000) \times 12,00,000$				3,60,000
(c) Unit Delhi: $(2,00,00,000/10,00,00,000) \times 12,00,000$				2,40,000

Suggested Answers_Syl2016_June2018_Paper 11

5. (a) List out the category of persons who are not liable for registration under GST. State at least four category of persons who are required to compulsorily register under GST law. 7

(b) State with reasons whether the following transactions attract GST or not: 2x4=8

- (i) Services provided by a private school bus operator to a school in relation to transportation of students to and from the school.
- (ii) Campus interview conducted by M/s. Sona College of Engineering, Mumbai by collecting entry fee from the corporate houses.
- (iii) Ms. Geethanjali, a classical dancer receives ₹ 1,00,000 from an event management company for performing in a stage programme.
- (iv) Madras Music Academy charged ₹ 500 per ticket for a music concert of Mr. Srinivas, an Indian Classical Singer. But charged ₹ 1,000 per ticket for a music concert of another Indian classical singer Mr. K.J. Jesudas.

Answer:

5. (a) Persons not liable for registration:
- (i) Sec. 23(1)(a): Any person engaged exclusively in the business of supplying of goods or services or both they are not liable to tax or wholly exempt from tax under CGST or IGST.
 - (ii) Sec. 23(1)(b): An agriculturist ,to the extent of supply of produce out of cultivation of land.
 - (iii) Sec. 23(2): The government may, on the recommendation of the GST Council exempt any person/class of persons.

Compulsory registration in certain cases:

Sec 24 of the CGST Act: The following categories of persons shall be required to be registered under GST:

- (i) Persons making any inter - state taxable supply;
 - (ii) Casual taxable persons making taxable supply;
 - (iii) Persons who are required to pay tax under reverse charge u/s 9(3) of CGST Act.
 - (iv) Persons who are required to pay tax under sec.9(5) of CGST Act (i.e., Electronic Commerce Operator);
 - (v) Non - resident taxable person making taxable supply;
 - (vi) Persons who are required to deduct tax under sec 51, whether or not separately registered under this act;
 - (vii) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
 - (viii) Input services distributor, whether or not separately registered under CGST;
 - (ix) Persons who supply of goods or services or both, other than supplies specified under sec 9(5), through such electronic commerce operator who is required to collect tax at source under sec 52;
 - (x) Every electronic commerce operator;
 - (xi) Every persons supplying online information and database access or retrieval services from place outside India to a person in India , other than a registered person; and
 - (xii) Such other person or class of persons as may be notified by the Govt. on the recommendation of the council.
- (b) (i) Exempted Supply of Service as per Entry No.66 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017.
- (ii) Not in the nature of exempted education services as provided in Entry No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. Hence, it is taxable.
- (iii) Since the amount received is not more than ₹ 1.50 Lakhs, as per Entry No. 78 of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 the given service is exempt from tax.

Suggested Answers_Syl2016_June2018_Paper 11

(iv) As per Entry No.81 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended on 25.01.2018 [Vide Notification No.2/2018-Central Tax (Rate) dated 25.01.2018] services by way of right to admission to musical performance, inter - alia, is exempt up to ₹ 500 per person. Hence, in the former case where the ticket cost is ₹ 500/- is exempt and in the later case it is taxable. (The exemption limit till 24.01.2018 was ₹ 250/- per person. The exemption limit till 24.01.2018 was ₹ 250 per person.

6. (a) (i) **Mr. Velmuragan of Panruti (Tamil Nadu), a farmer, sold raw cashew nuts produced in his farm land to M/s. Rajesh International of Chennai, a company registered under GST. Applicable rate of GST is 5%. Value of Goods is ₹ 1,00,000. M/s. Rajesh International has input credit of IGST ₹ 4,000. You are required to answer the following:**

(a) Who is liable to pay GST?

(b) Net Liability of GST?

4

(ii) M/s. Alpha Limited Ahmadabad receives the input services from M/s. Beta Limited of Mumbai who raises the invoice for supply of services on 25th November, 2017 and availed the credit on the same date. Find the time limit within which M/s. Alpha Limited is required to pay the bill amount to M/s. Beta Limited. Also explain the consequences if payment is not made within the stipulated period as mentioned in Section 16(2) of CGST Act.

4

(b) State whether input tax credit is available in the following cases: 3+2+2=7

(i) Motor car purchased by driving school for imparting training to the customers. Whether your answer would be different if the motor car is purchased by a manufacturing company to be used by its Managing Director for official purposes.

(ii) Amount spent for construction of factory building.

(iii) Gift articles purchased on the occasion of Diwali to be distributed among the employees.

Answer:

6. (a) (i) (a) As per Notification No.4/2017-Integrated Tax (Rate) dated 28.06.2017, in the case of supply of cashew nuts, not shelled or peeled, by an agriculturist to a registered person, the registered person who purchases the goods is liable to pay the tax under reverse charge mechanism. Hence, in the given case, M/s. Rajesh International is liable to pay GST.

(b) The GST liability in the given case is ₹ 5,000/- i.e., 5% on ₹ 1,00,000/-. Since, both the supplier and recipient are situated in Tamilnadu, the taxes to be paid are CGST ₹ 2,500/- and SGST ₹ 2,500/-. However, M/s. Rajesh International has input credit of IGST ₹ 4,000/-, which shall be adjusted first with the CGST liability and the balance remaining after adjustment shall be adjusted with SGST liability. Hence, the net tax liability of M/s. Rajesh International is SGST ₹1,000/-.

(ii) As per second proviso to Section 16(2) of the CGST Act, 2017, where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed.

As per the above provision M/s. Alpha Ltd., is required to pay the bill amount including tax to M/s. Beta Ltd., on or before 23rd May 2018 [i.e., 180 days from 25th November 2017]. 6 days for November, 31 days for December, 31 days for

Suggested Answers_Syl2016_June2018_Paper 11

January, 28 days for February, 31 days for March, 30 days for April and 23 days for May. If the payment is not made within the stipulated date, an amount equal to the input tax credit availed by M/s. Alpha Ltd shall be added to its output tax liability along with the interest thereon. The interest rate stipulated for this purpose is 18% p.a.

- (b) (i) Motor car purchased by driving school for imparting training to the customers is an exception to the blocked credit item as per Section 17(5)(a)(i)(C) of CGST Act, 2017. Hence, ITC is available.

Yes, motor car purchased by a manufacturing company to be used by its managing director is a blocked credit item as per Section 17(5)(a) of CGST Act, 2017. Hence, ITC is not available.

- (ii) As per Section 17(5)(c) and (d) of CGST Act, 2017, amount spent for construction of factory building is an item for which input tax credit is not available.
- (iii) As per Section 17(5)(h) of CGST Act, 2017, input tax credit shall not be available for goods disposed of by way of gift or free samples.

7. Write short notes on any three of the following:

5x3=15

- (a) Advance payment of GST and refund claim by casual trading person**
(b) Distribution of input tax credit by ISD and manner of such distribution
(c) Contents of a revised tax invoice and credit or debit note
(d) Export of Service.

Answer:

7. (a) Advance payment of GST:

The Common Portal, after making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought will give the applicant a temporary reference number. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger.

The amount deposited shall be credited to the electronic cash ledger of casual taxable person. On depositing the amount, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

The casual taxable person can make taxable supplies only after the issuance of the certificate of registration.

Refund by Casual taxable person:

The casual taxable person is eligible for the refund of any balance of the advance tax deposited by him after adjusting his tax liability. The balance advance tax deposit can be refunded only after all the returns have been furnished, in respect of the entire period for which the certificate of registration was granted to him had remained in force.

The refund relating to balance in the electronic cash ledger has to be made in serial no. 14 of the last FORM GSTR-3 return required to be furnished by him.

(b) Distribution of input tax credit by ISD:

The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised on the Head Office. But the Head Office itself would not be providing any output supply so as to utilize the credit which gets accumulated on account of such input services.

Suggested Answers_Syl2016_June2018_Paper 11

ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units.

For the purposes of distributing the input tax credit, an ISD has to issue an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, 2017, clearly indicating in such invoice that it is issued only for distribution of input tax credit.

The input tax credit available for distribution in a month shall be distributed in the same month and details furnished in FORM GSTR-6. Further, an ISD shall separately distribute both the amount of ineligible and eligible input tax credit.

Manner of Distribution of ITC by ISD:

- (i) The credit has to be distributed only to the unit to which the supply is directly attributable to. For example, an ISD has 4 units across the country. However, if a particular input service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units.
 - (ii) If input services are attributable to more than one recipient of credit, the distribution shall be in the pro-rata basis of turnover in the State/Union Territory. For example, an ISD has 4 units across the country. If the input services are common for all units, then it will be distributed according to the ratio of turnover of all the units.
- (c) Contents of a revised tax invoice and credit or debit note:
1. The word "Revised Invoice", wherever applicable, indicated prominently
 2. Name, address and GSTIN of the supplier
 3. Nature of the document
 4. A consecutive serial number containing alphabets or numerals or special characters like hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year
 5. Date of issue of the document
 6. Name, address and GSTIN or UIN, if registered, of the recipient
 7. Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered
 8. Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply
 9. Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient.
 10. Signature or digital signature of the supplier or his authorized representative.
- (d) As per Section 2(6) of the IGST Act, 2017, export of service means the supply of any services when:
- The supplier of the service is located in India;
 - The recipient of service is located outside India;
 - The place of supply of service is outside India;
 - The payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - The supplier of service and the recipient of service are not merely establishments of distinct persons in accordance with explanation 1 to section 8 of the IGST Act, 2017.

Customs (Section – B)

Part – III

(All questions are compulsory in Part - III)

8. Choose the correct option from amongst the four alternatives given:

1×5=5

Suggested Answers_Syl2016_June2018_Paper 11

- (i) The limit of exclusive economic zone of India, is _____ from the nearest point of the baseline.
(A) 200 nautical miles
(B) 12 nautical miles
(C) 24 nautical miles
(D) 100 nautical miles
- (ii) The Safeguard duty imposed shall be in force for a period of _____ from the date of its imposition and can be extended with the total period of levy not exceeding _____.
(A) 4 years, 10 years
(B) 3 years, 5 years
(C) 1 year, 5 years
(D) 5 years, 10 years
- (iii) Which of the following is a taxable event for imported goods?
(A) Unloading of imported goods at the customs port
(B) Date of entry into Indian territorial waters
(C) Date of presentation of bill of entry
(D) Date on which the goods cross the customs barrier
- (iv) Where the insurance amount is not available, for ascertaining the assessable value for customs duty, the percentage of FOB value to be taken is:
(A) 1
(B) 1.125
(C) 1.5
(D) 2
- (v) Goods which are same in all respects, including physical quantity is known as
(A) Similar Goods
(B) Identical Goods
(C) Alike Goods
(D) Indistinguishable Goods

Answer:

8. (i) (A)
(ii) (A)
(iii) (D)
(iv) (B)
(v) (B)

Part – IV

(Answer any one question in Part-IV)

9. (a) (i) "The duty drawback granted under customs law will be recovered where sale proceeds are not realized by an exporter within the period allowed under FEMA". Explain the exception(s), if any, to this rule.
- (ii) When a vessel caught up in the rough waters and sank in the territorial waters, can the duty drawback be claimed? 4+3=7
- (b) (i) Calculate the amount of duty drawback allowable under section 74 of the Customs Act, 1962 in the following cases:
- (a) Infopro Ltd., imported 50 computers paying customs duty of ₹ 30,000 per computer. Due to some technical problems, of the 50 computers imported, 25 computers were re-exported to the foreign supplier after 1 month without

Suggested Answers_Syl2016_June2018_Paper 11

using them at all.

(b) M/s. RKM Films P. Ltd., imported wearing apparels from USA paying duty of ₹ 5,00,000 and were used in their upcoming movie. The apparels were re-exported to USA after use after 3 months.

(ii) Explain the rights of the owner to deal with waterhoused goods under section 64 of the Customs Act, 1962. 2+2+4=8

Answer:

9. (a) (i) As per Rule 16A(5) of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995, as amended by the Customs, Central Excise Duties and Service Tax Drawback (Second Amendment) Rules, 2011 in the notification no. 30/2011 Customs (N.T.), dt. 11.04.2011 where sale proceeds are not realized by an exporter within the period allowed under the FEMA, the amount of drawback paid to the exporter or the claimant shall not be recovered if:

- (i) Such non-realization of sale proceeds is compensated by the Export Credit Guarantee Corporation of India Ltd., (ECGC) under an insurance cover; and
- (ii) The RBI writes off the requirement of realization of sale proceed on merits; and
- (iii) The exporter produces a certificate from the concerned Foreign Mission of India about the fact of the non-recovery of sale proceeds from the buyer.

(ii) In Union of India v. Rajindra Dyeing & Printing Mills Ltd., 2005 (180) ELT 433 (SC):
The vessel sunk within territorial waters of India and therefore there is no export. Accordingly, no duty drawback shall be available in this case. The territorial waters extend to 12 nautical miles into the sea from the base line.

- (b) (i) (a) Duty Drawback is ₹ 7,35,000/- [$₹30000 \times 25 \times 98\%$], since the computers are re-exported without being used.
(b) Duty drawback on wearing apparel is not allowed as they were re-exported after being used.

(ii) As per Section 64 of the Customs Act, 1962 (as amended w.e.f. 14.05.2016), the owner of any warehoused goods may, after warehousing the same:

- (A) Inspect the goods;
- (B) Deal with the containers in such manner as may be necessary to prevent loss or deterioration or damage to the goods;
- (C) Sort the goods;
- (D) Show the goods for sale.

10. (a) From the undermentioned relating to import made on 12.10.2017 of product 'Minic' from New York, USA, to the Kochi Airport, by Mr. Prahalad, the importer:

FOB value of the product	\$ 10,000
Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	\$3,500
Insurance	\$ 1,000
Unloading charges at Kochi Airport	₹ 24,800
Basic customs duty	10%
Exchange rate notified by RBI	1\$ = ₹ 64.50
Exchange rate notified by CBEC	1\$ = ₹ 64

Ascertain the assessable value and total tax and duty payable by Mr. Prahalad. 9

(b) What do you mean by the term 'GST Compensation Cess'? Can Input tax credit be availed on GST Compensation Cess paid on inward supplies? List out some of the

Suggested Answers_Syl2016_June2018_Paper 11

Notified Goods on which GST Compensation Cess is applicable.

6

Answer:

10. (a)

Calculation of assessable value and total tax & customs duty payable

FOB value of the product	\$10,000
Cost of transport, loading, unloading and handling charges connected with the delivery of the imported goods to the place of importation, restricted to 20% of FOB	\$ 2,000
Insurance (Actual) [if actual amount of insurance is known, the same is to be taken]	\$ 1,000
CIF Value	\$ 13,000
Unloading charges at Kochi airport (Not includible) No landing charges are to be added to the CIF value in view of the amendment in rule 10(2) of the CVR vide Notification No. 91/2017 - Cus. (NT) dated 26.09.2017.	Nil
Exchange rate notified by CBEC 1\$ = ₹ 64 is to be considered.	
Assessable value (13,000 × 64)	₹ 8,32,000
Basic customs duty at 10%	83,200
Add: Education cess @ 2% & Secondary & Higher Education Cess @ 1% of custom duty	2,496
Value for the purpose of levying integrated tax	9,17,696
Add: Integrated tax leviable under section 3(7) @ 12%	1,10,124
Total duty & tax payable	1,95,820

Note: Here, it is assumed that the product attracts IGST and the rate of IGST is 12%.

- (b) Under GST regime, Compensation Cess will be charged on luxury products like high-end cars and demerit commodities like pan masala, tobacco and aerated drinks for the period of 5 years in order to compensate states for loss of revenue.

GST Compensation cess, wherever applicable, would be levied on cargo that would arrive on or after 1st July, 2017. Similarly ex-bond bill of entry filed on or after 1st July 2017 would attract GST Compensation cess, as applicable. In the case where cargo arrival is after 1st July and an advance bill of entry was filed before 1st July along with the payment of duty, the bill of entry may be recalled and reassessed by the proper officer for levy of GST compensation Cess, as applicable.

The value of the imported article for the purpose of levying GST Compensation cess shall be, assessable value plus Basic Customs Duty levied under the Act, and any sum chargeable on the goods under any law for the time being in force, as an addition to, and in the same manner as, a duty of customs. These would include education cess or higher education cess as well as anti-dumping and safeguard duties.

Yes, input tax credit can be availed on GST Compensation Cess paid on inward supplies of the above mentioned notified goods. However, the credit of GST Compensation Cess paid can be utilized only towards payment of the GST Compensation Cess liability.

GST Cess will be levied on supply of certain notified goods - mostly belonging to the luxury and demerit category. Coal, Pan Masala, Tobacco, Motor Vehicles, Aerated Drinks.