



FINAL EXAMINATION
MODEL ANSWER
PAPER – 19
INDIRECT TAX LAWS & PRACTICE

SET - 1
TERM – DECEMBER 2023
SYLLABUS 2022

Time Allowed: 3 Hours

Full Marks: 100

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

SECTION – A (Compulsory)

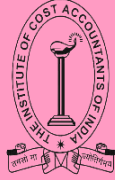
1. Choose the correct option:

[15 x 2 =30]

- (i) Under GST Act a supply of assortment of sweets, chocolates and firecrackers packed in gift hamper is
- Joint supply
 - Composite supply
 - Mixed supply
 - Assorted supply
- (ii) What happens if the turnover of a registered person paying taxes under composition scheme during the year 2022-23 crosses threshold limit?
- He can continue under composition scheme till the end of the financial year.
 - He will be liable to pay tax at normal rates of GST on the entire turnover for the financial year 2022-23
 - He will cease to remain under the composition scheme with immediate effect
 - He will cease to remain under the composition scheme from the quarter following the quarter in which the aggregate turnover exceeds threshold limit
- (iii) Mr. A has started intra-state supply of goods from Delhi. He is required to obtain registration if his aggregate turnover exceeds _____ during a financial year.
- ₹ 10 lakh
 - ₹ 20 lakh
 - ₹ 30 lakh
 - ₹ 40 lakh
- (iv) Kesar Maharaj, a registered supplier, gave a classical dance performance in an auditorium. The consideration charged for the said performance is ₹ 1,60,000. Such performance is not for promotion of any product/services. Rate of CGST and SGST on such services is 9% each. Assuming the services supplied by him to be intra State supplies, which of the following statement are true?
- GST liability of Kesar Maharaj is Nil
 - Kesar Maharaj is liable to pay CGST and SGST of ₹ 14,400 and ₹ 14,400 respectively.
 - Kesar Maharaj is liable to pay CGST and SGST of ₹900 and ₹900 respectively.
 - None of the above.
- (v) Calculate Free on Board value from following: Ex-factory price of exporter- ₹ 10,000; Expenses upto loading of goods by foreign exporter- ₹ 12,000. Post importation cost- ₹ 8000:

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- a. ₹ 30,000
b. ₹ 22,000
c. ₹ 18,000
d. ₹ 22,250.
- vi) Is E-way bill mandatory in case of transport of the handicraft goods from one State to another State by a person who has been exempted from the requirement of obtaining registration?
- a. E-way Bill is not required as the supplier is exempt from the requirement of obtaining registration.
b. E- way Bill is mandatory only if the value of consignment is more than ₹50,000
c. E-way Bill is mandatory even if the value of consignment does not exceed ₹50,000
d. None of the above
- (vii) Mr. A purchase redeemable vouchers worth INR 8000/- on 1st January. The vouchers are redeemable against purchase of any goods. The vouchers are valid till 30th June. What will be the time of supply in case of such vouchers?
- a. 1st January
b. 30th June
c. The date of redemption of vouchers
d. None of the above.
- (viii) What is the time limit for taking ITC on invoices pertaining to a financial year?
- a. 180 days
b. 1 year
c. Due date of filling return for the month of September of the next financial year or the date of filling annual return, whichever is earlier
d. No limit
- (ix) Mr. Ram registered in Chennai has supplied goods to Kochi Fisheries Department, for total contract value of ₹ 2,65,000 inclusive of 18% IGST. The tax to be deducted at sources is (TDS on GST):
- (a) Nil
(b) ₹ 2,650
(c) ₹ 5,300
(d) None of these
- (x) The due date for filling GSTR – 6 (Return for input Service distribution) is _____ of the succeeding month.
- a. 10
b. 13
c. 18
d. 20
- (xi) GST is payable by the recipient under reverse charge on:
- a. Sponsorship services

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- b. Transport of good by rail
c. Transport of passengers by air
d. All of the above
- (xii) If any doubt arises in respect of interpretation of FTP, the said doubt should be forwarded to _____:
a. CBIC
b. DGFT
c. Government
d. Courts.
- (xiii) What is the General Free Allowance for passengers coming from Nepal by land route?
a. Nil
b. ₹ 50,000
c. ₹ 15,000
d. ₹ 25000.
- (xiv) At present manufacture, and other operations in which bonded warehouse is not allowed?
a. Public Bonded Warehouse
b. Special Bonded warehouses
c. Only Private Bonded warehouse
d. Both (a) and (b).
- (xv) Value of inputs covered by Advanced authorization ₹25 lakh. Export must be of _____ minimum value addition:
a. 100%
b. 15%
c. 20%
d. 50%

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)	(xiii)	(xiv)	(xv)
c	d	d	b	b	c	c	c	a	b	d	b	a	c	b

SECTION-B

(Answer any five questions out of seven questions given. Each question carries 14 Marks.)

2. (a) Explain the provisions relating to tax liability on Composite supply and mixed supply. [7]
(b) Discuss non-resident taxable person? Analyze the provision relating to filling of returns by non-resident taxable persons. [7]

**INDIRECT TAX LAWS & PRACTICE****Answer:****(a) Composite and Mixed Supplies (Section 8 of CGST Act, 2017):**

Composite supply is similar to the concept of “bundled service” as under Service Tax Laws in the earlier regime. Both Composite supply and Mixed supply consist of two or more taxable supplies of goods or services or both but the main difference between the two is that Composite supply is naturally bundled i.e., goods or services are usually provided together in normal course of business and cannot be separated. Whereas in Mixed supply, the goods or services can be sold separately.

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.

Note: Principal supply means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary.

Following two conditions are necessary for composite supply:

- (A) Supply of two or more goods or services together, and
- (B) It should be a natural bundle and they cannot be separated

Example:

Booking of Air Tickets which involves cost of the meal to be provided during travel will be Composite supply and tax will be calculated on the principle supply which in this case is transportation passengers through flight.

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 combination 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.

Example:

Diwali gift hamper which consist of different Items like sweets, chocolates, cakes, dry fruits packed in one pack is Mixed supply as these items can be sold separately and it shall be treated as a supply of that particular item which attracts the highest rate of tax.

- (b)** 1. “Non-resident taxable person” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.
- 2. Filling of Returns by Non-Resident Taxable Persons (NRTP) [Section 39(5) read with Rule 63 of CGST Rules]:

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	Particulars	Explanation
(A)	Monthly return	A registered NRTP is not required to file separately the Statement of Outward Supplies, Statement of Inward Supplies and Return like a normal tax Payer. In place of the same, a simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof. NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5
(B)	Last date of filing return	The details in GSTR-5 should be furnished within 13 days after the end of the calendar month or within 7 days after the last day of validity period of the registration. Whichever is earlier. [Amended by Finance Act, 2022 w.e.f. 01-10-2022]
(C)	Payment of Interest, penalty fee or any other amount payable.	NRTP shall pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or rule thereunder if return is not furnished as per the above time limit.

3. (a) Well-Being Nursing Home has received the following amounts in the month of Jan 2023 in lieu of various services rendered by it in the same month. You are required to determine its GST liability from the details furnished below:

Sl. No.	Particulars	(₹ in lakh)
(i)	Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease)	30
(ii)	Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells	24
(iii)	Hair transplant services	100
(iv)	Ambulance services to transport critically ill patients from various locations to nursing home	12
(v)	Transportation of patients in an ambulance on behalf of the State Governments against consideration	10
(vi)	Naturopathy treatments. Such treatment is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010	80
(vii)	Plastic surgery to restore anatomy of a child affected due to an accident.	30
(viii)	Pranic healing treatments. Such treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010	120
(ix)	Mortuary services	10

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Note: All the amounts given above are exclusive of GST. Further, Well-Being Nursing Home is registered person under GST. Applicable rate of GST 18%. All transactions are at intra-State level. [7]

- (b) Ram & Co., being a registered person under GST supplied the following in the month of January 2023:

Particulars	Value in ₹
Taxable supply of goods	20,00,000
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Deposit on which interest received	2,00,000
Total	42,00,000

Common inputs for the relevant tax period is ₹2,00,000.

GST applicable rate on outward supply of goods @ 28%

Compute the GST liability. [7]

Answer:

(a)

Sl. No.	Particulars	₹ in lakh
(i)	Palliative care for terminally ill patients	Exempted supply
(ii)	cord blood bank services	Exempted supply
(iii)	Hair transplant services	100
(iv)	Ambulance services	Exempted supply
(v)	Transportation of patients in an ambulance on behalf of the State Governments	Exempted supply under entry 3 of NT 12/2017 CT.
(vi)	Naturopathy treatments	Exempted supply
(vii)	Plastic surgery (warranted)	Exempted supply
(viii)	Pranic healing services	120
(ix)	Mortuary services	Excluded from the scope of supply (i.e. covered under Schedule III of CGST Act, 2017)
(x)	Taxable supply	220
(xi)	CGST 9%	19.80
(xii)	SGST 9%	19.80

- (b) Statement showing net GST liability:

	(₹)
Output tax	= 5,60,000
Add: ITC reversed	= 95,238
Out tax liability	= 6,55,238
Less: ITC	= (2,00,000)
Net GST liability	= 4,55,238



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Working note:

- (1) Exempted supply:

	₹
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Total	20,00,000

- (2) Net ITC allowed = ₹1, 04,762 (₹2, 00,000 - ₹ 95,238)
- (3) GST liability on outwards supply = ₹20, 00,000 × 28% = ₹5,60,000
- (4) ITC not allowed as per Rule 42(1) (i) of CGST Rules, 2017 = 2, 00,000 × 20 L/42 L
= ₹95,238/-
- (5) Sale of land and Recovery Agent to a banking company is treated as exempted supply as per Section 17(3) of the CGST Act, 2017
- (6) W.e.f. 25.1.2018, interest on deposits should not include in exempted supply. However, it is included in total turnover.

4. (a) Briefly explain the concept of TDS and TCS under GST Law. [7]
- (b) Explain “Related persons” and “distinct persons” under GST. [7]

Answer:

4. (a) The concepts of TDS and TCS are as under:
- (1) Tax Deduction at Sources (TDS): Tax Deduction at Sources (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier.
- It is similar to “pay as you earn” scheme also known as Withholding Tax, in many other countries. It facilitates sharing of responsibility of tax Government. It acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provided for the creation of an audit trail. Section 51 of CGST Act provided for deduction of tax at sources in certain circumstances. This Section specifically list out the deductors who are mandated by the Central Government to deduct tax at sources, the rate of tax deduction and the procedure for remittance of the tax deducted.
- (2) Tax Collection at Sources (TCS): On the other hand, Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services make some payments under a contract etc., while TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies some goods or services through its portal and the payment for the supply is collected by the electronic commerce operator.
- Section 52 provides for collection of tax at source in certain circumstances. The Section specifically lists out the tax collecting persons who are mandated by the Central Government



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to collect tax at sources, that rate of tax collection and the procedure for remittance of the tax collected.

The amount of tax deducted/collected is reflected in the Electronic Cash Ledger of the deductee/supplier respectively.

(b) Related Persons:

As per Explanation to Section 15, persons shall be deemed to be “related persons” if—

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

Distinct persons specified under section 25 of CGST Act, 2017:

Every place of business of a person where separate registration is obtained for output supply will be considered as distinct person.

Section 25(4), A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Section 25(5), where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

5. (a) The Times Group being an event organizer located at New Delhi organized Miss India 2022 beauty pageant in India in the following Cities for M/s Femina Miss India a registered person located in Mumbai:

City	No. of Days	Fee in ₹
New Delhi	12	12 crores
Chennai	18	18 crores
Mumbai	20	20 crores
Total	50	50 crores

Determine the place of supply of service if contract specifies clear details.

Also determine the place of supply of service if contract specifies lump sum amount of ₹48 crores.

[7]

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- (b) M/s. Money Express Ltd., Jaipur is an authorized money changer registered under FEMA, 1999. It enters into the following transactions of money changing:

- (1) Sold 10,000 US \$ @1 US \$ = ₹71
- (2) Purchased 1,000 Euro @ 1 Euro = ₹ 70
- (3) Purchased 1,000 GBP @ 1 GBP = ₹ 99
- (4) Sold 50,000 units of currency ABC @ 1 ABC = ₹ 15
- (5) Sold 9680 US \$ for 6,8000 GBP
- (6) RBI reference rate for the various currencies at the relevant time:
 1US \$ = ₹70
 1 Euro = ₹ 71
 1 GBP = ₹ 100

You are required to calculate value of taxable supply of service and tax thereon if all charges are exclusive GST. Applicable GST rate – 18%. [7]

Answer:

5. (a) The place of supply of service if contract specifies clear details:

City	No. of Days	₹ in crores	Location of supplier of services	Place of supply of service = where the respective event in held	GST
New Delhi	12	12	New Delhi	New Delhi	CGST & SGST
Chennai	18	18	New Delhi	Chennai	IGST
Mumbai	20	20	New Delhi	Mumbai	IGST
Total	50	50			

The place of supply of service if contract specifies lump sum amount:

City	No. of Days	₹ in crores	Location of supplier of services	Place of supply of service = where the respective event in held	GST
New Delhi	12	11.52	New Delhi	New Delhi	CGST & SGST
Chennai	18	17.28	New Delhi	Chennai	IGST
Mumbai	20	19.20	New Delhi	Mumbai	IGST
Total	50	48.00			

- (b) The value of taxable supply of service shall be computed as follows (amount in ₹):

(1) Sales of 10,000 US \$ [(Selling Rate- RBI reference rate) x Units of foreign currency sold = ₹ (71-70) x 10,000]	10,000
(2) Purchase of 1,000 Euro [(RBI reference rate – Buying rate) x Units of foreign currency purchased of = ₹(71-70) x 1,000]	1,000
(3) Purchase of 1,000 GBP = ₹ (100-99) x 1,000	1,000
(4) Sold 50,000 units of currency ABC = 50,000 x ₹ 15 ₹ 1% (1% of the gross amount of currency exchanged in Indian Rupees)	7,500

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(5) Direct conversion of GBP into US\$	
[Value of Service = 1% of (Lower of 'Amount 1 or Amount 2')]	
Amount 1=9,680 US \$ x ₹ 70 = ₹ 6,77,600	
Amount 2 = 6,800 GBP x ₹ 100= ₹ 6,80,000	6,776
Total value of taxable supply	26,276
CGST @ 9%	2,365
SGST @ 9%	2,365

6. (a) Briefly discuss Remission of Duties and Taxes on Export Promotion scheme [RODTEP]. [7]
- (b) Analyze the Concept of “Deemed exports” with reference to Foreign Trade Policy. [7]

Answer:

- (a) The Government had recently announced the introduction of a new scheme “Remission of Duties and Taxes on Exported Products” (RoDTEP) to replace the Merchandise Exports from India Scheme (MEIS) available to exporters of goods.

RoDTEP has been made effective for exports from 1st January 2021 in respect of those exports where intention to claim the benefit has been manifested on the shipping bills. RoDTEP is going to give a boost to Indian exports by providing a level playing field to domestic industry abroad.

Objective of RODTEP Scheme:

The Scheme's objective is to refund, currently un-refunded duties and taxes. The scheme has been introduced with an objective to neutralize the taxes and duties suffered on exported goods which are otherwise not credited or remitted or refunded in any manner and remain embedded in the export goods. This scheme provides for rebate of all hidden Central, State, and Local duties/taxes/levies on the goods exported which have not been refunded under any other existing scheme namely:

- Mandi Tax,
- Municipal Taxes,
- Property Taxes,
- VAT,
- Coal Cess,
- Central Excise duty on fuel,
- Electricity duty on purchase of electricity,
- Stamp duty on export documents; etc.

will now be refunded under this particular scheme.

All the items under the MEIS and the RoSCTL (Rebate of State and Central Taxes and Levies) are now under the purview of the RoDTEP Scheme.

- (b) Deemed Exports (i.e. Supply of goods from DTA to EOU):**
Goods manufactured in India and supplies from DTA to EOU, EHTP, STP & BTP units will be regarded as deemed exports and DTA supplier shall be eligible for export incentives.
- I. The following supplies considered as deemed exports:
- A. Goods supplied by a manufacturer:

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1. Supply of goods against Advance Authorization/Advance Authorization for Annual Requirement/ DFIA.
 2. Supply of goods to units located in EOU/STP/BTP/EHTP.
 3. Supply of capital goods against EPCG authorization.
 4. Supply of marine freight containers by 100% EOU provided said containers are exported within 6 months by another 100% EOU.
- B. Goods supplied by a Main contractor/sub-contractor:
1. Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
 2. Supply of goods to any project where import is permitted at zero customs duty.
 3. Supply of goods to mega power projects against International Competitive Bidding.
 4. Supply to goods to UN or international organisations.
 5. Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).
- II. Benefits for Deemed Exports:
- Deemed exports shall be eligible for any/all of following benefits:
1. Advance Authorization/Advance Authorization for Annual requirement/DFIA
 2. Deemed Export Drawback
 3. Domestic supplies to EOUs would be treated as deemed exports under Section 147 of CGST/SGST Act and refund of tax paid on such supplies given to the supplier or recipient as the case may be.
7. (a) Mrs. A, a person of India origin, aged 40 years came to India to tour along with her baby aged 1½ years. She carried with her following goods:
- (1) Personal effects like clothes of Mrs. A valued at ₹ 40,000
 - (2) Used personal effects of infant valued at ₹ 60,000
 - (3) Laptop worth ₹ 65,000
 - (4) Travel souvenirs valued at ₹ 25,000
 - (5) 1 liter wine worth ₹ 5,000
 - (6) Mobile worth ₹ 20,000
 - (7) Digital camera ₹ 60,000
 - (8) Cigars 20 worth ₹ 1,340
- Compute the customs duty payable. [7]
- (b) Compute the assessable value and Custom duty payable from the following information:
- (i) FOB value of machine – 8,000 UK Pounds
 - (ii) Freight paid (air)- 2,500 UK Pounds
 - (iii) Design and development charges paid in UK – 500 UK Pounds
 - (iv) Commission payable to local agent @ 2% of FOB in Indian ₹
 - (v) Date of bill of entry – 24-10-2022 (Rate BCD 10%, Exchange rate as notified by CBIC ₹90 per UK Pound)



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- (vi) Date of arrival of aircraft – 20-10-2022 (Rate BCD 18%, Exchange rate as notified by CBIC ₹ 85 per UK Pound)
- (vii) Integrated tax leviable under Section 3(7) of CTA, 1975 - @12%
- (viii) Insurance charge actually paid but details not available. [7]

Answer:

- (a) Computation of Customs duty payable by Mrs. A (amount in ₹):

(1) Personal effect like clothes of Mrs. A	Exempt
(2) Used personal effect of infant	Exempt
(3) Laptop	Exempt
(4) Travel souvenir	Exempt
(5) Wine (upto 2 liters can be accommodated in GFA)	5,000
(6) Mobile	20,000
(7) Digital camera	60,000
(8) Cigars (upto 25 nos. Can be accommodated in GFA)	1,340
Total dutiable goods imported (that can be accommodated in GFA)	86,340
Less: General Free Allowance under Rule 3	50,000
Balance goods on which duty is payable	36,340
Customs duty@ 38.5% (inclusive of SWS)	13,991

- (b) Computation of Assessable value & customs duty-

FOB cost	£	8,000
Add: Design and development charge paid in UK	£	500
Total		8,500
Exchange rate to be applied in 1£(Pound)=₹ 90, as notified by CBIC on date of presentation of bill of entry.	₹	90
Total sum in Indian ₹	₹	7, 65,000
Add: Commission to the Agent @ 2% of FOB cost x ₹ 90 per pound	₹	14,400
FOB Value as per customs	₹	7,79,400
Add: Insurance charge (1.125% of Customs FOB)	₹	8,768.25
Add: Air freight (Restricted to 20% Customs FOB)	₹	1,55,880.00
Total CIF Value being Assessable Value		9,44,048.25
Add: Basic Customs duty @10% (Rate of Custom duty is applicable of the date of presentation of Bill of Entry since it is presented after arrival of aircraft)	₹	94,404.83
Add: SWS@10% of [1]	[2] ₹	9,440.48
Total for Integrated tax leviable u/s 3(7)	₹	10,47,893.56
Add: Integrated tax @ 12% of ₹ 10,47,893.56	[3] ₹	1,25,747.23
Total imported cost(rounded off)		11,73,640.79
Total customs duty & Integrated tax payable – [1]+ [2]+[3] (rounded off)	₹	2,29,593



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8. (a) **Multi-Level Marketing (MLM)** is a marketing strategy in which the distributor is compensated for the sales of the other salespeople that they recruit. This recruited sales force is referred to as the participant's "downline", and can provide multiple levels of compensation. In this model, distributors sell products directly to consumers by means of relationship referrals or by encouraging others to join the company as a distributor. In this model, usually three kinds of incentives/rewards are earned by the distributor-
- Profit margin earned on sale of goods purchased from the MLM company (hereafter referred to as "company");
 - Incentive received for buying certain quantum of goods; and
 - Consideration for identification of persons who can further be appointed as distributors.
- Justify. [7]
- (b) Sundar Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of input tax credit in respect of the following expenses incurred by it during the course of its business operations:
- (i) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers.
- (ii) Works contract services availed for constructing a car washing shed in its premises. [7]

Answer:

- (a) Decision: Recently, honorable tribunal held that:
- (A) Profit margin: Sale of goods by distributors to the seller is not in the nature of service but is in the nature of sale of goods, on which VAT is applicable because after sale, those products cease to belong to the company, but belong to the Distributor. Hence Tax is not applicable. However, after GST it is treated as supply of goods which will attract GST.
- (B) Buying Commission (i.e. Discount): Incentive received for quantum of goods purchased by the distributor from the company is in the nature of voluble discount. Hence, outside the ambit of Tax.
- (C) Downline Marketing: The activity of a Distributor of identifying distributors is considered as Business Auxiliary service on which tax will apply. This case law is whole good under GST Law also.
- (b) The availability of input tax credit (ITC) in respect of the various expenses incurred by Sundar Motors is discussed below:
- (i) ITC on cars purchased from the manufacturer for making further supply of such cars will be allowed (i.e. exception to section 17(5)(a) of CGST Act, 2017). However, ITC on the cars destroyed in accident will not be allowed as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5)(h) of CGST Act.
- (ii) the car washing shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, ITC thereon will not be allowed (Section 17(5)(c) of CGST Act, 2017).



FINAL EXAMINATION
MODEL ANSWER
PAPER – 19
INDIRECT TAX LAWS & PRACTICE

SET - 1
TERM – DECEMBER 2023
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Time Allowed: 3 Hours

Full Marks: 100

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

SECTION – A (Compulsory)

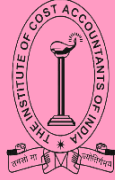
1. Choose the correct option:

[15 x 2 =30]

- (i) Under GST Act a supply of assortment of sweets, chocolates and firecrackers packed in gift hamper is
- Joint supply
 - Composite supply
 - Mixed supply
 - Assorted supply
- (ii) What happens if the turnover of a registered person paying taxes under composition scheme during the year 2022-23 crosses threshold limit?
- He can continue under composition scheme till the end of the financial year.
 - He will be liable to pay tax at normal rates of GST on the entire turnover for the financial year 2022-23
 - He will cease to remain under the composition scheme with immediate effect
 - He will cease to remain under the composition scheme from the quarter following the quarter in which the aggregate turnover exceeds threshold limit
- (iii) Mr. A has started intra-state supply of goods from Delhi. He is required to obtain registration if his aggregate turnover exceeds _____ during a financial year.
- ₹ 10 lakh
 - ₹ 20 lakh
 - ₹ 30 lakh
 - ₹ 40 lakh
- (iv) Kesar Maharaj, a registered supplier, gave a classical dance performance in an auditorium. The consideration charged for the said performance is ₹ 1,60,000. Such performance is not for promotion of any product/services. Rate of CGST and SGST on such services is 9% each. Assuming the services supplied by him to be intra State supplies, which of the following statement are true?
- GST liability of Kesar Maharaj is Nil
 - Kesar Maharaj is liable to pay CGST and SGST of ₹ 14,400 and ₹ 14,400 respectively.
 - Kesar Maharaj is liable to pay CGST and SGST of ₹900 and ₹900 respectively.
 - None of the above.
- (v) Calculate Free on Board value from following: Ex-factory price of exporter- ₹ 10,000; Expenses upto loading of goods by foreign exporter- ₹ 12,000. Post importation cost- ₹ 8000:

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- a. ₹ 30,000
b. ₹ 22,000
c. ₹ 18,000
d. ₹ 22,250.
- vi) Is E-way bill mandatory in case of transport of the handicraft goods from one State to another State by a person who has been exempted from the requirement of obtaining registration?
- a. E-way Bill is not required as the supplier is exempt from the requirement of obtaining registration.
b. E- way Bill is mandatory only if the value of consignment is more than ₹50,000
c. E-way Bill is mandatory even if the value of consignment does not exceed ₹50,000
d. None of the above
- (vii) Mr. A purchase redeemable vouchers worth INR 8000/- on 1st January. The vouchers are redeemable against purchase of any goods. The vouchers are valid till 30th June. What will be the time of supply in case of such vouchers?
- a. 1st January
b. 30th June
c. The date of redemption of vouchers
d. None of the above.
- (viii) What is the time limit for taking ITC on invoices pertaining to a financial year?
- a. 180 days
b. 1 year
c. Due date of filling return for the month of September of the next financial year or the date of filling annual return, whichever is earlier
d. No limit
- (ix) Mr. Ram registered in Chennai has supplied goods to Kochi Fisheries Department, for total contract value of ₹ 2,65,000 inclusive of 18% IGST. The tax to be deducted at sources is (TDS on GST):
- (a) Nil
(b) ₹ 2,650
(c) ₹ 5,300
(d) None of these
- (x) The due date for filling GSTR – 6 (Return for input Service distribution) is _____ of the succeeding month.
- a. 10
b. 13
c. 18
d. 20
- (xi) GST is payable by the recipient under reverse charge on:
- a. Sponsorship services

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- b. Transport of good by rail
c. Transport of passengers by air
d. All of the above
- (xii) If any doubt arises in respect of interpretation of FTP, the said doubt should be forwarded to _____:
a. CBIC
b. DGFT
c. Government
d. Courts.
- (xiii) What is the General Free Allowance for passengers coming from Nepal by land route?
a. Nil
b. ₹ 50,000
c. ₹ 15,000
d. ₹ 25000.
- (xiv) At present manufacture, and other operations in which bonded warehouse is not allowed?
a. Public Bonded Warehouse
b. Special Bonded warehouses
c. Only Private Bonded warehouse
d. Both (a) and (b).
- (xv) Value of inputs covered by Advanced authorization ₹25 lakh. Export must be of _____ minimum value addition:
a. 100%
b. 15%
c. 20%
d. 50%

Answer:

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)	(xi)	(xii)	(xiii)	(xiv)	(xv)
c	d	d	b	b	c	c	c	a	b	d	b	a	c	b

SECTION-B

(Answer any five questions out of seven questions given. Each question carries 14 Marks.)

2. (a) Explain the provisions relating to tax liability on Composite supply and mixed supply. [7]
(b) Discuss non-resident taxable person? Analyze the provision relating to filling of returns by non-resident taxable persons. [7]

**INDIRECT TAX LAWS & PRACTICE****Answer:****(a) Composite and Mixed Supplies (Section 8 of CGST Act, 2017):**

Composite supply is similar to the concept of “bundled service” as under Service Tax Laws in the earlier regime. Both Composite supply and Mixed supply consist of two or more taxable supplies of goods or services or both but the main difference between the two is that Composite supply is naturally bundled i.e., goods or services are usually provided together in normal course of business and cannot be separated. Whereas in Mixed supply, the goods or services can be sold separately.

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.

Note: Principal supply means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary.

Following two conditions are necessary for composite supply:

- (A) Supply of two or more goods or services together, and
- (B) It should be a natural bundle and they cannot be separated

Example:

Booking of Air Tickets which involves cost of the meal to be provided during travel will be Composite supply and tax will be calculated on the principle supply which in this case is transportation passengers through flight.

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 combination 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.

Example:

Diwali gift hamper which consist of different Items like sweets, chocolates, cakes, dry fruits packed in one pack is Mixed supply as these items can be sold separately and it shall be treated as a supply of that particular item which attracts the highest rate of tax.

- (b)** 1. “Non-resident taxable person” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.
- 2. Filling of Returns by Non-Resident Taxable Persons (NRTP) [Section 39(5) read with Rule 63 of CGST Rules]:

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	Particulars	Explanation
(A)	Monthly return	A registered NRTP is not required to file separately the Statement of Outward Supplies, Statement of Inward Supplies and Return like a normal tax Payer. In place of the same, a simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof. NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5
(B)	Last date of filing return	The details in GSTR-5 should be furnished within 13 days after the end of the calendar month or within 7 days after the last day of validity period of the registration. Whichever is earlier. [Amended by Finance Act, 2022 w.e.f. 01-10-2022]
(C)	Payment of Interest, penalty fee or any other amount payable.	NRTP shall pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or rule thereunder if return is not furnished as per the above time limit.

3. (a) Well-Being Nursing Home has received the following amounts in the month of Jan 2023 in lieu of various services rendered by it in the same month. You are required to determine its GST liability from the details furnished below:

Sl. No.	Particulars	(₹ in lakh)
(i)	Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease)	30
(ii)	Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells	24
(iii)	Hair transplant services	100
(iv)	Ambulance services to transport critically ill patients from various locations to nursing home	12
(v)	Transportation of patients in an ambulance on behalf of the State Governments against consideration	10
(vi)	Naturopathy treatments. Such treatment is a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010	80
(vii)	Plastic surgery to restore anatomy of a child affected due to an accident.	30
(viii)	Pranic healing treatments. Such treatment is not a recognized system of medicine in terms of section 2(h) of the Clinical Establishments Act, 2010	120
(ix)	Mortuary services	10

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Note: All the amounts given above are exclusive of GST. Further, Well-Being Nursing Home is registered person under GST. Applicable rate of GST 18%. All transactions are at intra-State level. [7]

- (b) Ram & Co., being a registered person under GST supplied the following in the month of January 2023:

Particulars	Value in ₹
Taxable supply of goods	20,00,000
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Deposit on which interest received	2,00,000
Total	42,00,000

Common inputs for the relevant tax period is ₹2,00,000.

GST applicable rate on outward supply of goods @ 28%

Compute the GST liability. [7]

Answer:

(a)

Sl. No.	Particulars	₹ in lakh
(i)	Palliative care for terminally ill patients	Exempted supply
(ii)	cord blood bank services	Exempted supply
(iii)	Hair transplant services	100
(iv)	Ambulance services	Exempted supply
(v)	Transportation of patients in an ambulance on behalf of the State Governments	Exempted supply under entry 3 of NT 12/2017 CT.
(vi)	Naturopathy treatments	Exempted supply
(vii)	Plastic surgery (warranted)	Exempted supply
(viii)	Pranic healing services	120
(ix)	Mortuary services	Excluded from the scope of supply (i.e. covered under Schedule III of CGST Act, 2017)
(x)	Taxable supply	220
(xi)	CGST 9%	19.80
(xii)	SGST 9%	19.80

- (b) Statement showing net GST liability:

	(₹)
Output tax	= 5,60,000
Add: ITC reversed	= 95,238
Out tax liability	= 6,55,238
Less: ITC	= (2,00,000)
Net GST liability	= 4,55,238



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Working note:

- (1) Exempted supply:

	₹
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Total	20,00,000

- (2) Net ITC allowed = ₹1, 04,762 (₹2, 00,000 - ₹ 95,238)
- (3) GST liability on outwards supply = ₹20, 00,000 × 28% = ₹5,60,000
- (4) ITC not allowed as per Rule 42(1) (i) of CGST Rules, 2017 = 2, 00,000 × 20 L/42 L = ₹95,238/-
- (5) Sale of land and Recovery Agent to a banking company is treated as exempted supply as per Section 17(3) of the CGST Act, 2017
- (6) W.e.f. 25.1.2018, interest on deposits should not include in exempted supply. However, it is included in total turnover.

4. (a) Briefly explain the concept of TDS and TCS under GST Law. [7]
- (b) Explain “Related persons” and “distinct persons” under GST. [7]

Answer:

4. (a) The concepts of TDS and TCS are as under:
- (1) Tax Deduction at Sources (TDS): Tax Deduction at Sources (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier.
- It is similar to “pay as you earn” scheme also known as Withholding Tax, in many other countries. It facilitates sharing of responsibility of tax Government. It acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provided for the creation of an audit trail. Section 51 of CGST Act provided for deduction of tax at sources in certain circumstances. This Section specifically list out the deductors who are mandated by the Central Government to deduct tax at sources, the rate of tax deduction and the procedure for remittance of the tax deducted.
- (2) Tax Collection at Sources (TCS): On the other hand, Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services make some payments under a contract etc., while TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies some goods or services through its portal and the payment for the supply is collected by the electronic commerce operator.
- Section 52 provides for collection of tax at source in certain circumstances. The Section specifically lists out the tax collecting persons who are mandated by the Central Government



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to collect tax at sources, that rate of tax collection and the procedure for remittance of the tax collected.

The amount of tax deducted/collected is reflected in the Electronic Cash Ledger of the deductee/supplier respectively.

(b) Related Persons:

As per Explanation to Section 15, persons shall be deemed to be “related persons” if—

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

Distinct persons specified under section 25 of CGST Act, 2017:

Every place of business of a person where separate registration is obtained for output supply will be considered as distinct person.

Section 25(4), A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Section 25(5), where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

5. (a) The Times Group being an event organizer located at New Delhi organized Miss India 2022 beauty pageant in India in the following Cities for M/s Femina Miss India a registered person located in Mumbai:

City	No. of Days	Fee in ₹
New Delhi	12	12 crores
Chennai	18	18 crores
Mumbai	20	20 crores
Total	50	50 crores

Determine the place of supply of service if contract specifies clear details.

Also determine the place of supply of service if contract specifies lump sum amount of ₹48 crores.

[7]

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- (b) M/s. Money Express Ltd., Jaipur is an authorized money changer registered under FEMA, 1999. It enters into the following transactions of money changing:

- (1) Sold 10,000 US \$ @1 US \$ = ₹71
- (2) Purchased 1,000 Euro @ 1 Euro = ₹ 70
- (3) Purchased 1,000 GBP @ 1 GBP = ₹ 99
- (4) Sold 50,000 units of currency ABC @ 1 ABC = ₹ 15
- (5) Sold 9680 US \$ for 6,8000 GBP
- (6) RBI reference rate for the various currencies at the relevant time:
1US \$ = ₹70
1 Euro = ₹ 71
1 GBP = ₹ 100

You are required to calculate value of taxable supply of service and tax thereon if all charges are exclusive GST. Applicable GST rate – 18%. [7]

Answer:

5. (a) The place of supply of service if contract specifies clear details:

City	No. of Days	₹ in crores	Location of supplier of services	Place of supply of service = where the respective event in held	GST
New Delhi	12	12	New Delhi	New Delhi	CGST & SGST
Chennai	18	18	New Delhi	Chennai	IGST
Mumbai	20	20	New Delhi	Mumbai	IGST
Total	50	50			

The place of supply of service if contract specifies lump sum amount:

City	No. of Days	₹ in crores	Location of supplier of services	Place of supply of service = where the respective event in held	GST
New Delhi	12	11.52	New Delhi	New Delhi	CGST & SGST
Chennai	18	17.28	New Delhi	Chennai	IGST
Mumbai	20	19.20	New Delhi	Mumbai	IGST
Total	50	48.00			

- (b) The value of taxable supply of service shall be computed as follows (amount in ₹):

(1) Sales of 10,000 US \$ [(Selling Rate- RBI reference rate) x Units of foreign currency sold = ₹ (71-70) x 10,000]	10,000
(2) Purchase of 1,000 Euro [(RBI reference rate – Buying rate) x Units of foreign currency purchased of = ₹(71-70) x 1,000]	1,000
(3) Purchase of 1,000 GBP = ₹ (100-99) x 1,000	1,000
(4) Sold 50,000 units of currency ABC = 50,000 x ₹ 15 ₹ 1% (1% of the gross amount of currency exchanged in Indian Rupees)	7,500



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(5) Direct conversion of GBP into US\$ [Value of Service = 1% of (Lower of 'Amount 1 or Amount 2')] Amount 1 = 9,680 US \$ x ₹ 70 = ₹ 6,77,600 Amount 2 = 6,800 GBP x ₹ 100 = ₹ 6,80,000 Total value of taxable supply CGST @ 9% SGST @ 9%	 6,776 26,276 2,365 2,365
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6. (a) Briefly discuss Remission of Duties and Taxes on Export Promotion scheme [RODTEP]. [7]
(b) Analyze the Concept of “Deemed exports” with reference to Foreign Trade Policy. [7]

Answer:

- (a) The Government had recently announced the introduction of a new scheme “Remission of Duties and Taxes on Exported Products” (RoDTEP) to replace the Merchandise Exports from India Scheme (MEIS) available to exporters of goods.

RoDTEP has been made effective for exports from 1st January 2021 in respect of those exports where intention to claim the benefit has been manifested on the shipping bills. RoDTEP is going to give a boost to Indian exports by providing a level playing field to domestic industry abroad.

Objective of RODTEP Scheme:

The Scheme’s objective is to refund, currently un-refunded duties and taxes. The scheme has been introduced with an objective to neutralize the taxes and duties suffered on exported goods which are otherwise not credited or remitted or refunded in any manner and remain embedded in the export goods. This scheme provides for rebate of all hidden Central, State, and Local duties/taxes/levies on the goods exported which have not been refunded under any other existing scheme namely:

- Mandi Tax,
- Municipal Taxes,
- Property Taxes,
- VAT,
- Coal Cess,
- Central Excise duty on fuel,
- Electricity duty on purchase of electricity,
- Stamp duty on export documents; etc.

will now be refunded under this particular scheme.

All the items under the MEIS and the RoSCTL (Rebate of State and Central Taxes and Levies) are now under the purview of the RoDTEP Scheme.

- (b) Deemed Exports (i.e. Supply of goods from DTA to EOU):
Goods manufactured in India and supplies from DTA to EOU, EHTP, STP & BTP units will be regarded as deemed exports and DTA supplier shall be eligible for export incentives.
- I. The following supplies considered as deemed exports:
- A. Goods supplied by a manufacturer:

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1. Supply of goods against Advance Authorization/Advance Authorization for Annual Requirement/ DFIA.
 2. Supply of goods to units located in EOU/STP/BTP/EHTP.
 3. Supply of capital goods against EPCG authorization.
 4. Supply of marine freight containers by 100% EOU provided said containers are exported within 6 months by another 100% EOU.
- B. Goods supplied by a Main contractor/sub-contractor:
1. Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
 2. Supply of goods to any project where import is permitted at zero customs duty.
 3. Supply of goods to mega power projects against International Competitive Bidding.
 4. Supply to goods to UN or international organisations.
 5. Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).
- II. Benefits for Deemed Exports:
- Deemed exports shall be eligible for any/all of following benefits:
1. Advance Authorization/Advance Authorization for Annual requirement/DFIA
 2. Deemed Export Drawback
 3. Domestic supplies to EOUs would be treated as deemed exports under Section 147 of CGST/SGST Act and refund of tax paid on such supplies given to the supplier or recipient as the case may be.
7. (a) Mrs. A, a person of India origin, aged 40 years came to India to tour along with her baby aged 1½ years. She carried with her following goods:
- (1) Personal effects like clothes of Mrs. A valued at ₹ 40,000
 - (2) Used personal effects of infant valued at ₹ 60,000
 - (3) Laptop worth ₹ 65,000
 - (4) Travel souvenirs valued at ₹ 25,000
 - (5) 1 liter wine worth ₹ 5,000
 - (6) Mobile worth ₹ 20,000
 - (7) Digital camera ₹ 60,000
 - (8) Cigars 20 worth ₹ 1,340
- Compute the customs duty payable. [7]
- (b) Compute the assessable value and Custom duty payable from the following information:
- (i) FOB value of machine – 8,000 UK Pounds
 - (ii) Freight paid (air)- 2,500 UK Pounds
 - (iii) Design and development charges paid in UK – 500 UK Pounds
 - (iv) Commission payable to local agent @ 2% of FOB in Indian ₹
 - (v) Date of bill of entry – 24-10-2022 (Rate BCD 10%, Exchange rate as notified by CBIC ₹90 per UK Pound)



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- (vi) Date of arrival of aircraft – 20-10-2022 (Rate BCD 18%, Exchange rate as notified by CBIC ₹ 85 per UK Pound)
- (vii) Integrated tax leviable under Section 3(7) of CTA, 1975 - @12%
- (viii) Insurance charge actually paid but details not available. [7]

Answer:

- (a) Computation of Customs duty payable by Mrs. A (amount in ₹):

(1) Personal effect like clothes of Mrs. A	Exempt
(2) Used personal effect of infant	Exempt
(3) Laptop	Exempt
(4) Travel souvenir	Exempt
(5) Wine (upto 2 liters can be accommodated in GFA)	5,000
(6) Mobile	20,000
(7) Digital camera	60,000
(8) Cigars (upto 25 nos. Can be accommodated in GFA)	1,340
Total dutiable goods imported (that can be accommodated in GFA)	86,340
Less: General Free Allowance under Rule 3	50,000
Balance goods on which duty is payable	36,340
Customs duty@ 38.5% (inclusive of SWS)	13,991

- (b) Computation of Assessable value & customs duty-

FOB cost	£	8,000
Add: Design and development charge paid in UK	£	500
Total		8,500
Exchange rate to be applied in 1£(Pound)=₹ 90, as notified by CBIC on date of presentation of bill of entry.	₹	90
Total sum in Indian ₹	₹	7, 65,000
Add: Commission to the Agent @ 2% of FOB cost x ₹ 90 per pound	₹	14,400
FOB Value as per customs	₹	7,79,400
Add: Insurance charge (1.125% of Customs FOB)	₹	8,768.25
Add: Air freight (Restricted to 20% Customs FOB)	₹	1,55,880.00
Total CIF Value being Assessable Value		9,44,048.25
Add: Basic Customs duty @10% (Rate of Custom duty is applicable of the date of presentation of Bill of Entry since it is presented after arrival of aircraft)	₹	94,404.83
Add: SWS@10% of [1]	₹	9,440.48
Total for Integrated tax leviable u/s 3(7)	₹	10,47,893.56
Add: Integrated tax @ 12% of ₹ 10,47,893.56	₹	1,25,747.23
Total imported cost(rounded off)		11,73,640.79
Total customs duty & Integrated tax payable – [1]+ [2]+[3] (rounded off)	₹	2,29,593



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8. (a) **Multi-Level Marketing (MLM)** is a marketing strategy in which the distributor is compensated for the sales of the other salespeople that they recruit. This recruited sales force is referred to as the participant's "downline", and can provide multiple levels of compensation. In this model, distributors sell products directly to consumers by means of relationship referrals or by encouraging others to join the company as a distributor. In this model, usually three kinds of incentives/rewards are earned by the distributor-
- Profit margin earned on sale of goods purchased from the MLM company (hereafter referred to as "company");
 - Incentive received for buying certain quantum of goods; and
 - Consideration for identification of persons who can further be appointed as distributors.
- Justify. [7]
- (b) Sundar Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of input tax credit in respect of the following expenses incurred by it during the course of its business operations:
- (i) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers.
- (ii) Works contract services availed for constructing a car washing shed in its premises. [7]

Answer:

- (a) Decision: Recently, honorable tribunal held that:
- (A) Profit margin: Sale of goods by distributors to the seller is not in the nature of service but is in the nature of sale of goods, on which VAT is applicable because after sale, those products cease to belong to the company, but belong to the Distributor. Hence Tax is not applicable. However, after GST it is treated as supply of goods which will attract GST.
- (B) Buying Commission (i.e. Discount): Incentive received for quantum of goods purchased by the distributor from the company is in the nature of voluble discount. Hence, outside the ambit of Tax.
- (C) Downline Marketing: The activity of a Distributor of identifying distributors is considered as Business Auxiliary service on which tax will apply. This case law is whole good under GST Law also.
- (b) The availability of input tax credit (ITC) in respect of the various expenses incurred by Sundar Motors is discussed below:
- (i) ITC on cars purchased from the manufacturer for making further supply of such cars will be allowed (i.e. exception to section 17(5)(a) of CGST Act, 2017). However, ITC on the cars destroyed in accident will not be allowed as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5)(h) of CGST Act.
- (ii) the car washing shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, ITC thereon will not be allowed (Section 17(5)(c) of CGST Act, 2017).