Paper - 18 : Indirect Tax Laws and Practice

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Full Marks : 100 **Time allowed: 3 hours**

The figures in the margin on the right side indicate full marks.
Working notes should form part of the answer.

Section - A

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

1. Choose the correct answer with justification/ workings wherever applicable: [7×2=14]

(i) The due date to file GSTR-7 (Return for authorities deducting tax at source) is:
- (a) 10th of the next month
- (b) 13th of the next month
- (c) 18th of the next month
- (d) 20th of the next month.

(ii) Which state became the first state of India to ratify GST bill?
- (a) Bihar
- (b) Telangana
- (c) Assam
- (d) Andhra Pradesh

(iii) Which one of the following is true?
- (a) A person can collect tax only he is registered
- (b) Registered person not liable to collect tax till his aggregate turn over exceeds threshold limit
- (c) A person can collect the tax during the period of his provisional registration
- (d) None of the above

(iv) What does N stands for in HSN?
- (a) Nomenclature
- (b) Nationalization
- (c) Network
- (d) Nomination

(v) Following is an intra-State supply:
- (a) Goods sent from Delhi to another dealer in Delhi.
- (b) Goods sent from Delhi to a SEZ in Noida, Uttar Pradesh.
- (c) Goods sent from Delhi to Chandigarh branch (Haryana) of the same supplier.
- (d) None of the above

(vi) Combined Stake of Central and State Government in GSTN is _______.
- (a) 25 %
- (b) 49 %
- (c) 51 %
- (d) 100 %

(vii) Which of the following tax has been abolished by the GST?
- (a) Service Tax
- (b) Income Tax
- (c) Wealth Tax
- (d) Corporation tax

Answer:

1. (i) (a) 10th of the next month
The GSTR-7 (Return for authorities deducting tax at source) is to be filed on a monthly basis and the due date is 10th of the next month.

(ii) (c) Assam
Assam became the first state in the country to ratify the constitution amendment bill on the Goods and Services Tax (GST) as the assembly unanimously passed the bill.

(iii) (a) A person can collect tax only he is registered
Only a registered taxable person can collect GST. The taxable person must prominently indicate the GST amount on tax invoices.

(iv) (a) Nomenclature
HSN - Harmonized System of Nomenclature code used for classifying the goods under the GST.

(v) (a) Goods sent from Delhi to another dealer in Delhi.
For intra-State supply, the origin and destination must be in the same State or Union Territory.

(vi) (b) 49 %
The Central and the State Governments hold a combined stake of 49%, the remaining 51% stake is divided among five financial institutions—LIC Housing Finance with 11% stake and ICICI Bank, HDFC, HDFC Bank and NSE Strategic Investment Corporation Ltd with 10% stake each.

(vii) (a) Service Tax
Service tax is an indirect tax and it has been abolished throughout India after implementation of GST.

2. (a) What is GST Council? What is the function of the GST Council?

(b) The Government gives re-development of slum to L&T. As per the Housing for All Scheme, L&T under taken original work in return entitled for 0.5 FSI (out of 1.5 FSI on the land of 10,000 sq. ft.,) which can be utilized for construction of free sale component. L&T in turn appointed DLF as contractor for supplying the services of construction for allotment to slum dwellers. The contractor charges ₹ 900 per sq. ft. of built-up area.

Find the following:
(i) Exempted value of supply.
(ii) Taxable value of supply.
(iii) Taxable person.
(iv) GST liability.

Applicable rate of GST 12% (with Input Tax Credit).

Note: Taxable person is willing to avail benefit of ITC. **[6 + 8]**

Answer:

2. (a) 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 Minster 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.

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.

The functions of the GST Council are given below:

GST Council is to make recommendations to the Central Government and the State Governments on
(i) tax rates,
(ii) exemptions,
(iii) threshold limits,
(iv) dispute resolution,
(v) GST legislations including rules and notifications etc.

(b) (i) Build up area (10,000 × 1 FSI) = 10,000 sf. ft.
Value of build up area (₹ 900 × 10,000 sq. ft.) = ₹ 90,00,000
Value of exempted supply = ₹ 90,00,000
(ii) Build up area (10,000 × 0.5 FSI) = 5,000 sq. ft.
Value of build up area (₹ 900 × 5,000 sq. ft.) = ₹ 45,00,000
Value of taxable supply of service = ₹ 45,00,000
(iii) DLF is the person liable to pay GST under forward charge.
(iv) GST liability:
CGST 6% on ₹ 45 lakh = ₹ 2,70,000 and
SGST 6% on ₹ 45 lakh = ₹ 2,70,000

3. (a) State the categories of persons who shall compulsorily be required to be registered under GST.

(b) Reon operating radio taxi services in India. In the month of Nov 2018, the following services are rendered by it:

(A) Free services provided to new customers who travelled for the first time. However, payment made to taxi drivers ₹ 10,00,000.

(B) Hire charges collected from customers ₹ 12,25,500. Payment made to taxi drivers ₹ 11,00,000.

Reon appointed X Pvt. Ltd., as their representative in India. Person liable to pay GST is willing to avail exemption if any.

You are required to find:
(i) Who is liable to pay GST?
(ii) Taxable value of supply.
(iii) Net GST liability. **[8 + 6]**

Answer:

3. (a) The following categories of persons shall compulsorily be required to be registered under GST:
(i) Person making any inter-state taxable supply;
(ii) Causal taxable persons making taxable supply;
(iii) Person who are required to pay tax under reverse charge;

(iv) Person 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 person whether as an agent or otherwise;
(viii) Input Service 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 person 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) X Pvt. Ltd., being recipient of service is liable to pay GST.

(ii) & (iii) Computation of Taxable value of supply and Net GST Liability

Particulars	Value in ₹	Remarks
Free services provided to new customers. However, payment made to taxi drivers	10,00,000	Reverse charge applicable
Hire charges	12,25,500	Gross value is subject to GST.
Gross value of Bills	22,25,500	
CGST 2.5%	**52,988**	(22,25,500 x 2.5/105)
SGST 2.5%	**52,988**	(22,25,500 x 2.5/105)
Taxable value of supply	**21,19,524**	

4. (a) M/s. Star Ltd. of Chennai, engaged in various businesses has provided the following services, whose values are listed below. Compute its GST liability:

(i) Service of interior decoration in respect of immovable property located in Jammu: ₹ 5 lakh;
(ii) Service of renting of commercial buildings in Delhi: ₹ 15 lakh;
(iii) Architectural services to an Indian Hotel Chain which has business establishment in Mumbai for its newly acquired property in Sydney: ₹ 25 lakhs;
(iv) Services provided as an Indian agent undertaking marketing in India of goods of a foreign seller: ₹ 51 lakhs;
(v) Services provided as travel agent undertaking marketing in India of services of a foreign seller: ₹ 1 lakhs. Applicable rate of GST 18%.

(b) Mr. Suraj being a registered person supplying taxable goods in the following manner:

Particulars	₹
Intra-State supply of goods	**18,00,000**
Inter-State supply of goods	**13,00,000**
Intra-State purchases	**13,00,000**
Inter-State purchases	**1,50,000**
ITC at the beginning of the relevant tax period:	
CGST	**1,30,000**
SGST	**1,30,000**
IGST	**1,70,000**

(i) Rate of CGST, SGST and IGST to be 9%, 9% and18% respectively.
(ii) Inward and outward supplies are exclusive of taxes.
(iii) All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Mr. Suraj during the tax period. Make suitable assumptions. [7 + 7]

Answer:

4. (a) Computation of Taxable supply of services of M/s. Star Ltd.

Particulars	**Value ₹ (in lakhs)**	**Working note**
Interior decoration services	5	PoS = J & K (Sec 12(3)(a) of IGST) taxable territory. IGST will be levied
Renting of commercial buildings	15	PoS = Delhi (Sec 12(3)(b) of IGST) Taxable territory IGST will be levied
Architectural services	25	PoS = Mumbai (Sec 12(3)(a) of IGST). Taxable territory IGST will be levied
Marketing of Goods	51	PoS = Chennai (sec 13(8) of IGST) Taxable territory CGST & SGST will be levied.
Travel agent	1	PoS = Chennai (sec 13(8) of IGST) Taxable territory CGST & SGST will be levied.
Taxable supply of services	**97**	

Computation of GST liability of M/s. Star Ltd. (₹ In lakh)

Particulars	**CGST**	**SGST**	**IGST**
GST liability	4.68	4.68	8.10

(b) Statement showing input tax credit (i.e. Electronic Credit Ledger)

Particulars	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
Opening balance	1,30,000	1,30,000	1,70,000
Add: ITC for the tax period	1,17,000	1,17,000	27,000
Total credit	**2,47,000**	**2,47,000**	**1,97,000**

Statement showing Net GST payable by Mr. Suraj for the tax period

Particulars	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
Output tax	1,62,000	1,62,000	2,34,000
Less: ITC allowed	-2,47,000	-2,47,000	-1,97,000
Sub-total	-85,000	-85,000	37,000
Less: CGST credit adjusted against IGST	37,000	Nil	-37,000
Net GST liability	Nil	Nil	Nil
Excess ITC c/f	48,000	85,000	Nil

5. (a) The goods manufactured by Royal Ltd. have been exempted from GST with effect from 15th November 2018. Earlier these goods were liable to tax @18%. Its inputs were liable to GST @12%. Following information is supplied on 15th November 2018:
(i) The inputs costing ₹ 1,44,720 are lying in stock.
(ii) The inputs costing ₹ 77,184 are in process.
(iii) The finished goods valuing ₹ 4,82,400 are in stock, the input cost is 50% of the value.

(iv) The balance in electronic credit ledger account shows credit balance of ₹ 2,79,104.

(v) Royal Ltd. also purchased capital goods for ₹ 2,00,000 by paying GST 28% (invoice dated 10th July 2018).

The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly taken is indefeasible and not required to be reversed. Decide.

What would be your answer if the balance in electronic credit ledger receivable account as on 15th November 2018 were ₹ 29,104?

(b) What are the non-appealable decisions and orders? [10 + 4]

Answer:

5. (a) Statement showing amount to be paid by Royal Ltd. as on 15th November 2018

Sl. No.	**Particulars**	**Amount to be paid (₹)**	**Workings**
(i)	Inputs lying in stock	17,366.40	₹ 1,44,720 x 12/100 = ₹ 17,366
(ii)	Inputs in process (i.e. Work in Progress)	9,262.08	₹ 77,184 x 12/100 = ₹ 9,262
(iii)	Inputs contained in finished goods lying in stock	28,944.00	₹ 4,82,400 x 50% x 12/100 = ₹ 28,944
(iv)	Capital goods	51,333.33	Useful life as per rule 44(1)(b) = 5 years (i.e. 60 months). No. of months capital goods have been in use = 4months 5 days (i.e. 5 months) The useful remaining life in months = 55 months 2,00,000 x28%x 55/60 = ₹ 51,333
	Amount to be paid by Royal Ltd.	**1,06,906.00**	**(Rounded off)**

Amount payable by Royal Ltd. = ₹ 1,06,906
Less: ITC Receivable = ₹ (2,79,104)
Excess ITC = ₹ (1,72,198)

Excess ITC in electronic credit ledger of ₹ 1,72,198 shall lapse as on15th November 2018.

If the balance in electronic credit ledger as on 15th November 2018 is ₹ 29,104, then amount payable is as follows:

Amount payable by Royal Ltd. = ₹ 1,06,906
Less: ITC Receivable = ₹ (29,104)
Amount payable = ₹ 77,802

(b) A person who is aggrieved by a decision or order passed against him by an adjudicating authority, can file an appeal to the Appellate Authority. But, in the following cases no appeals whatsoever can be filed:

(i) Board can fix monetary limits below which no departmental appeal would be filed with respective authorities;

(ii) An order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;

(iii) An order pertaining to the seizure or retention of books of account, register and other documents;
(iv) An order sanctioning prosecution under the Act;
(v) An order passed under section 80 (payment of tax in installments).

6. (a) Mr. Ajay has taken a loan from the bank on 15th July 2017 worth ₹ 2 crore and purchased a machine. Subsequently Mr. Ajay defaulted in paying the loan amount along with interest. At late date bank repossessed the machine from Mr. Ajay on 1st Jan 2018. The banker sells the said goods on 26th April 2018.

Find the value of taxable supply of goods in the hands of banker in the following two independent cases:

Case 1: machine sold for ₹ 1,90,00,000.
Case 2: machine sold for ₹ 1,70,00,000.
Note: Applicable rate of IGST 18%.

(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 2018. 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 & SGST paid on services used for all units: ₹ 12,00,000/-

Total Turnover of the units for the Financial Year 2017-18 are as follows: -

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

[7 + 7]

Answer:

6. (a) Determination of purchase value:

Particulars	Value in ₹	Working note
Purchase value of the banker	2,00,00,000	Purchase value for the lending company will be the purchase price of the defaulter
Less: 5% per quarter for 2 quarters	(20,00,000)	From 1st Jan 2018 to 26th April 2018 = 2 quarters
Purchase value at the time of disposal by the bank	1,80,00,000	

Value of taxable supply in the hands of banking company:

Particulars	Case 1	Case 2	Remarks
Sale price	1,90,00,000	1,70,00,000	
Less: purchase price	(1,80,00,000)	(1,80,00,000)	In case the sale price is below ₹ 1,80,00,000 banker will not be liable to pay GST as value is nil.
Taxable value or Margin	**10,00,000**	**Nil**	
IGST 18%	**1,80,000**	**Nil**	₹ 10 lacs x 18%

(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**

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: -

	₹
(a) Unit Mumbai: (5,00,00,000/10,00,00,000) x 12,00,000	6,00,000
(b) Unit Chennai: (3,00,00,000/10,00,00,000) x 12,00,000	3,60,000
(c) Unit Delhi: (2,00,00,000/10,00,00,000) x 12,00,000	2,40,000

7. (a) Alpha Ltd., a unit in SEZ, received services from various service providers in relation to authorized operations in SEZ during the month July, 2018. The following details are furnished for the month July, 2018:

(i) Value of Taxable services used exclusively for authorised operations within SEZ: ₹ 5,00,000 (exemption from GST availed).
(ii) Value of Taxable Services used by SEZ units and DTA units: ₹ 8,00,000. GST paid @18%.
(iii) Value of Taxable Service used wholly for DTA units: ₹ 3,00,000. GST paid @18%.
(iv) Export Turnover of SEZ Unit: ₹ 1,00,00,000
(v) Turnover of DTA Unit: ₹ 60,00,000

Compute the ITC and amount of refund if any?
Note: All input services used by SEZ for its authorized operations only.

(b) What is Letter of Undertaking (LUT)? Discuss about the validity of LUT. [8 + 6]

Answer:

7. (a) Statement showing ITC & refund of M/s. Alpha Ltd. (a unit of SEZ)

Sl. No.	Particulars	Value of input services (₹)	ITC (₹)	Refund Amount (₹)	Remarks
1	Input services	5,00,000	Nil	Since, no tax paid on inputs no refund is allowed	Input services used exclusively for authorized operations
2	DTA as well as Zero rated supply	8,00,000	54,000	90,000	(₹ 8L×18%)× 100L/160L
3	Input services only for DTA	3,00,000	54,000	Nil	
	Total		**1,08,000**	**90,000**	

(b) Letter of Undertaking (LUT) is a type of bank guarantee, under which a bank allows its customer to raise money from another Indian bank's foreign branch as a short-term

credit. The purpose of such undertakings is to ensure that owner of the ship or aircraft would:
(i) employ security on the vehicle;
(ii) enter an appearance acknowledge ownership;
(iii) pay any final decree entered against the vehicle whether it is lost or not.

The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub - rule (1) of rule 96A of the CGST Rules and the registered person fails to pay the amount mentioned in the said sub - rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub - rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee.

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) Who is the adjudicating authority in case of goods liable for confiscation amounted > ₹ 50,000 ≤ ₹ 5,00,000?
(a) The Superintendent of Customs
(b) The Deputy/ Assistant Commissioner of Customs
(c) The Joint/ Additional Commissioner of Customs
(d) The Commissioner of Customs

(ii) After visiting USA, Mrs. & Mr. X brought to India a laptop computer valued at ₹ 80,000 personal effects cloths valued at ₹ 90,000 and a personal computer for ₹ 52,000. What is the customs Duty payable?
(a) ₹ 11,550/-
(b) ₹ 15,400/-
(c) ₹ 770/-
(d) None of the above

(iii) Which of the following is an eligible capital good for import under EPCG (Export Promotion Capital Goods) Scheme?
(a) Second hand capital goods
(b) Power Generator Sets
(c) Computer software systems
(d) None of the above

Answer:

8. (i) (b) The Deputy/ Assistant Commissioner of Customs
The adjudicating authority, in case of goods liable for confiscation amounted > ₹ 50,000 ≤ ₹ 5,00,000 is the Deputy/ Assistant Commissioner of Customs (u/s 122 of the Customs Act, 1962).

(ii) (c) ₹ 770/-
Duty payable on baggage is ₹ 770/- [₹ (52,000 – 50,000) x 38.50%]

(iii) (c) Computer software systems
The ineligible capital goods under EPCG (Export Promotion Capital Goods)

Scheme are Second hand capital goods & Power Generator Sets. Computer software systems are eligible capital goods under EPCG scheme.

9. (a) Compute the assessable value and Customs duty payable from the following information:

(i) F.O.B 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 agents @ 2% of F.O.B in Indian Rupees
(v) Date of bill of entry 24.10.2018
(Rate BCD 12%; Exchange rate as notified by CBIC ₹ 68 per UK Pound)
(vi) Date of entry inward 20.10.2018
(Rate of BCD 18%; Exchange rate as notified by CBIC ₹ 70 per UK Pound).
(vii) IGST payable 18%.
(viii) Insurance charges actually paid but details not available.

(b) M/s Hind IT Co. imported laptops with Hard Disc Drives (HDD) preloaded with operating software like Windows XP, XP home etc. The department has claimed that the said laptop along with the operating software was classifiable and assessable as a single unit. It is the claim of the assessee that the software loaded HDD should be classified and assessed separately as an exemption is available as per notification issued under section 25(1) of the Customs Act, 1962. Decide with a brief note whether the action proposed by the department is correct in law. [8 + 4]

Answer:

9. **(a)**

Computation of Assessable Value

Particulars	UK Pound
FOB value	8,000
Add: Design and Development (paid in UK)	500
Add: Commission to local agent (2%on8,000UKP)	160
FOB value as per customs	**8,660**
Add: Air freight (8,660 x 20%)	1,732
Add: Insurance (8,660 x 1.125%)	97.425
CIF value/Assessable value	**10489.425**
Assessable value (10,489.425 x ₹ 68)	**₹ 7,13,281**

Statement showing customs duties

Particulars	Value in ₹	Working Note
Assessable value	7,13,281.00	
Add: BCD	85,593.72	(7,13,281 x 12%)
Add: Social Welfare Surcharge (SWS)	8,559.37	(85,593.72 x 10%)
Balance	8,07,434.09	
Add: IGST	1,45,338.13	(8,07,434.09 x 18%)
Landed value	9,52,772.22	
Total Customs duties	**2,39,491.22**	(9,52,772.22 – 7,13,281)

(b) The pre-loaded operating systems recorded in Hard Disc Drive in the laptop (item of import) forms an integral part of the laptop as the laptop cannot work without the operating system. A laptop without an operating system is like an empty building. Hence, laptop should be treated as one single unit classifiable under the Customs Tariff Act, 1975.

The Apex Court held that when a laptop is imported with in-built pre-loaded operating system recorded on HDD, the said item forms an integral part of laptop (computer system). Hence, laptop should be treated as one single unit classifiable under Heading 84.71.

However, if the operating system is imported as packaged software like an accessory, then it would be classifiable under Heading 85.24. There will be no question of adding the cost of the software. [CCus. v Hewlett Packard India Sales (P) Ltd. (2007) 215 ELT 484 (SC)]

10. (a) Determine the safeguard duty payable by X Ltd., Y Ltd., and Z Ltd., and A Ltd. under section 8B of the Customs Tariff Act, 1975 from the following:

Import of Sodium Nitrite from developing and developed countries from 26th February, 2017 to 25th February, 2018 (both days inclusive) are as follows:

Importer	Country of Import	₹ In crores
X Ltd.	Developing country	70
Y Ltd.	Developing country	82
Z Ltd.	Developing country	52
A Ltd.	Developing country	50
Others	Developed country	2,246
	Total	2,500

Note: Safeguard duty 30%.

(b) When shall the safeguard duty under section 8B of the Customs Tariff Act, 1975 be not imposed? Discuss briefly. **[8 + 4]**

Answer:

10. (a)

Importer	Country of Import	₹ in Crores	% of imports	
X Ltd.	Developing country	70	2.8 %	
Y Ltd.	Developing country	82		3.28 %
Z Ltd.	Developing country	52	2.08 %	
A Ltd.	Developing country	50	2 %	
Others	Developed country	2,246		
	Total	**2,500**	**6.88 %**	**3.28 %**
Safeguard duty is as follows:				
X Ltd.		Nil	70 x 30%	
Y Ltd.		24.60	82 x 30%	
Z Ltd.		Nil	52 x 30%	
A Ltd.		Nil	50 x 30%	

Articles originating from more than one developing countries (each with less than 3% import share), then the aggregate of imports from all such countries taken together does not exceed 9% (i.e. in the given case 6.88%) of the total imports of that article into India. Therefore, Safeguard duty is not applicable to X Ltd., Z Ltd., and A Ltd.

(b) The safeguard duty under section 8B of the Customs Tariff Act, 1975 is not imposed on the import of the following types of articles:

(i) Articles originating from a developing country, so long as the share of imports of that article from that country does not exceed 3% of the total imports of that article into India;

(ii) Articles originating from more than one developing country, so long as the aggregate of imports from developing countries each with less than 3% import share taken together does not exceed 9% of the total imports of that article into India;

(iii) Articles imported by a 100% EOU or units in a Free Trade Zone or Special Economic Zone unless the duty is specifically made applicable on them.

11. (a) What are the conditions to be fulfilled for claiming duty drawback on the re-export of duty paid goods?

(b) Sigma Ltd. has exported following goods to USA. Discuss whether any duty drawback is admissible under section 75 of the Customs Act, 1962.

Product	FOB Value of Exported Goods	Market Price of goods	Duty drawback rate
A	2,50,000	1,80,000	30% of FOB
B	1,00,000	50,000	0.75% of FOB
C	8,00,000	8,50,000	3.50% of FOB
D	2,000	2,100	1.50% of FOB

Note: Imported value of product C is ₹ 9,50,000. **[6 + 6]**

Answer:

11. (a) Section 74 of the Customs Act, 1962, provides facility of claiming duty drawback on the re-export of duty paid goods. The following conditions to be fulfilled for claiming the duty drawback:

(i) Originally the goods should have been imported into India;

(ii) Customs duty on import should have been paid.

(iii) The imported goods should be capable of being easily identifiable as the same goods which were originally imported.

(iv) The goods have been exported after proper examination of the goods and after ensuring that there is no prohibition or restriction on their export by the proper officer.

(v) The goods should have been identified to the satisfaction of the Assistant or Deputy Commissioner of Customs as the goods, which were imported, and

(vi) The goods should have been entered for export within two years from the date of payment of duty on the importation thereof.

The Central Board of Excise and Customs has the power to extend the period of two years. Once these conditions are satisfied, then 98% of the import duty paid on such goods at the time of importation shall be repaid as drawback. 98% duty drawback is allowed only when these goods are re-exported without being used in the industry. If the goods are taken into use after importation then the duty drawback is allowed based on the period of usage as per section 74(2) of the Customs Act, 1962.

(b) Duty draw back amount for all the products are as follows:

Product A:
Drawback amount = 2,50,000 x 30% = ₹ 75,000 or ₹ 1,80,000 x 1/3 = ₹ 60,000
Allowable duty drawback does not exceed 1/3 of the market value.
Hence, the amount of duty drawback allowed is ₹ 60,000

Product B:
Drawback amount allowed is ₹ 750 (i.e. ₹ 1,00,000 x 0.75%).
Since, the amount is more than ₹ 500 even though the rate is less than 1%.

Product C:
No duty drawback is allowed, since the value of export is less than the value of import (i.e. negative sale)

Product D:
No duty drawback is allowed, since the duty drawback amount is ₹ 30 (which is less than ₹ 50). Though rate of duty drawback is more than 1%, no duty drawback is allowed.