

# NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination-July-Nov- 2024

UG- IX Semester

Subject- Indirect Taxation (Compulsory)

Marks. 100

Time: Three Hours

**Instructions:**

1. Attempt any five questions... Marks have been indicated against each question.
2. No clarifications can be sought during the examination.
3. Bare Act is not allowed.

Q.1) (a) Skincare Ltd. manufactured a cream which was prescribed by the company for treating dry skin conditions. The said product was also available in pharmacies and grocery stores without prescription of a medical doctor. The composition of the cream included urea (10%), lactic acid (10%) and propylene glycol (10%). The assessee Skincare Ltd. claimed classification as a medicament under Central Excise Tariff Heading (CETH) 30.03 while the excise department was of the view that the same should fall under CETH 33.04 as cosmetic or toilet preparations (preparations for care of skin other than medicaments). Briefly explain the key tests laid down by the Apex Court in this regard to decide whether a given product should be classified as a medicament or a cosmetic or toilet preparation (preparations for care of skin other than medicaments) with the help of General rules of Interpretation of Tariff. Discuss also the Effect of your argument for the classification of same under GST.

(b) The Applicant was engaged in the business of organising wedding and other events. To conduct such events, the applicant installed temporary structure (hall/pandal/shamiana) comprising of pillars and prefabricated shelters tightened by nuts and bolts. The Applicants wanted to claim the Input Tax Credit on GST paid on the input goods and input services. The applicant contended that these structures do not qualify as immovable property because fixing of structures to foundation is meant only to give stability to structures and keep its operation vibration free. The department on other side contended that these structures are permanent in nature and considered to be immovable property and any Input tax credit on the works contract is not allowed under Section 17 (5) of the CGST Act-2017. Discuss this issue.

(Marks,10+10)

Q.2) The Petitioner was a car dealer in Puducherry. A buyer residing in Thiruvananthapuram (Kerala), came to the Petitioner to purchase car. On buyer's direction, the Petitioner transported

the car to Thiruvananthapuram. The vehicle in which car was transported did not accompany EWB (E-way Bill) during transportation and was detained by GST authorities in Kerala. As per GST department of Kerala the place of supply is in Kerala and transaction is liable for IGST (Integrate Goods and Services Tax). Puducherry GST department charge the CGST+SGST by considering the place of supply there. The Petitioner filed writ petition before the HC, challenging the detention of vehicle and chargeability by Kerala GST department under IGST. Decide the issue and also discuss the concept of deemed place of supply of goods under GST.

(Marks,20)

Q.3) The respondent *XYZ Co. Ltd.* was manufacturer of refractories. Between 2015 and 2020, they entered into a number of contracts with a steel manufacturing firm, *ABC Ltd*, to supply refractories to the latter. *ABC Ltd* are purchasing 90% of the product manufactured by *XYZ Ltd*. Under an agreement between them, enable the respondent to obtain advance intermediate licenses for import of inputs without payments of customs duty by availing of the "Duty Exemption Scheme" contained in the Export and Import Policy, 2015-16. Accordingly, *ABC Ltd.* surrendered its advance intermediate license and against such surrender the respondent were issued advance intermediate license for import of inputs used in the manufacturing process. The respondent could thus import the inputs without payments of customs duty as well as get them at a price lower than what they would have paid had they purchased the same in India. The Department claimed that the benefit derived by the respondent under the advance intermediate license was "additional consideration" towards the value of the goods and formed part of the price for the purpose of excise duty valuation. The Tribunal held that the benefit in question had to be treated as a statutory benefit and could not be equated with "additional consideration" flowing to the manufacturer from the buyer. The department then filed the appeal to the Hon'ble SC. Discuss the Validity of claim made by the parties with suitable provisions and cases on the point and also Discuss the impact of the similar situation on valuation under GST.

(Marks,20)

Q.4) Briefly explain with reference to the provisions of the Customs Tariff Act, 1975 the concept of levy of additional customs duty (including Integrated Goods and Services Tax) upon importation of goods in India. Whether the exemption of customs duty also includes exemption from additional customs duty?

(Marks,20)

Q.5) Discuss briefly with reference to provisions and cases decided under CGST Act-2017, whether the following supply will be classified as composite supply or not and if yes, then what will be principal supply? (Marks,10+10)

(i) The applicant was engaged in supply, laying and terminating of cables. The applicant was executing two agreements with its customers, one for 'supply of cables' and other for 'services of detailed survey, planning, transportation, commissioning etc'. Each contract had 'cross fall breach clause' deeming breach of one contract as breach of other. Supply by the applicant under each contract was distinct with separate consideration prescribed thereto.

(ii) The applicant was undertaking repair of boats/vessels involving supply of parts. The customers were providing details of repair services and parts separately in work orders. Similarly, on its invoices, the applicant was separately mentioning value of repair services and parts.

Q.6) Write short note on the followings: (Marks 5x4=20)

(i) Concept of Supply under GST

(ii) Concept of Intermediary service under GST

(iii) Time and Place of Supply of Services under GST

(iv) Services of "Pure Agency" under GST