CATestSeries.org(Since 2015)

CA Final | CA Inter | CA IPCC | CA Foundation Online Test Series

Answer Paper	
Indirect Tax Laws	**Duration**: 65
Details: Test- 5	**Marks**: 35

Instructions:

- All the questions are compulsory
- Properly mention test number and page number on your answer sheet, Try to upload sheets in arranged manner.
- In case of multiple choice questions, mention option number only Working notes are compulsory wherever required in support of your solution
- Do not copy any solution from any material. Attempt as much as you know to fairly judge your performance.

ANS-1:

Export Promotion Capital Goods Scheme (EPCG) permits exporters to procure capital goods at concessional rate of custom duty/zero customs duty. In return, exporter is under an obligation to fulfil the export obligation. Export obligation means obligation to export product(s) covered by Authorization/ permission in terms of quantity or value or both, as may be prescribed/ specified by Regional or competent authority.

Exports to SEZ Unit/ developer/ co-developer will be considered for discharge of export obligation of EPCG Authorisation, irrespective of currency.

The license holder can either procure the capital goods (whether used for pre-production, production or post production) from global market or domestic market. The capital goods can also be imported in CKD/SKD to be assembled in India.

An EPCG Authorization can also be issued for import of capital goods under Scheme for Project Imports'.

Export obligation for such EPCG Authorizations would be 6 times of duty saved.

Duty Saved Amount:	**Rs.**
Effective duty under Project Imports	xxxx
Less: Concessional duty under the EPCG Scheme	(xxx)
Duty Saved amount	xxxx

However, import of capital goods is subject to 'Actual User' condition till export obligation is completed.

Therefore, based on the above discussion, Mira Pvt. Ltd. can import the capital goods under EPCG Scheme.

However, it has to make sure that it does not sell the capital goods till the export obligation is completed.

(6 Marks)

ANS 2:

Computation of Customs duty payable by Mr. Fang (amount in):

Particulars	Mr. Fang
Personal effects	Exempt
1 laptop computer	Exempt
2 bottles of wine (Wine upto 2 litres can be accommodated in the GFA) (6,000 ÷ 3 ×2) [WN-1]	4,000
Digital camera	11,000
Total dutiable goods imported	15,000
Less: General free allowance under Rule 3	15,000
Balance Goods on which duty is payable	Nil
Customs duty Payable	Nil

Computation of customs duty payable by Mrs. Fang (amount in Rs):

Particulars	Mr. Fang
Personal effects	Exempt
1 laptop computer	Exempt
1bottles of wine (Wine upto 2 litres can be accommodated in the GFA) **(6,000 ÷ 3 ×1) [WN-1]**	2,000
Mobile	15,000
Total dutiable goods imported	17,000
Less: General free allowance under Rule 3	15,000
Balance Goods on which duty is payable	2,000
Customs duty @ 38.5% (inclusive of SWS)	770

Computation of customs duty payable in respect of the Child Jing (amount in Rs.)

Particulars	Jing
Used person effects	Exempt
Total value of dutiable goods	Nil
Customs duty @38.5% (inclusive of SWS)	Nil

Working Notes:

1. Since only 2 litres of wine can be accommodated in General free Allowance, Therefore, 2 litres is declared in the baggage of Mr. Fang and 1litre in the baggage of Mrs. Fang.
2. The free allowance of one passenger cannot be pooled with that of other.
3. For infants only used personal effects shall be allowed duty free. It has been assumed that Mrs. S Mr. Fang and child Jing have brought three separate baggage for which separate declaration have been given to lower the incidence of customs duty

(6 Marks)

ANS 3:

The admissibility or otherwise of duty drawback in the aforesaid cases is discussed hereunder –

(1) Drawback Admissible Rs.50,000 : The amount of drawback i.e. 40% of Rs.2,00,000 i.e. Rs. 80,000 shall be restricted to 1/3rd of the Market price of the goods i.e. 1/3rd of 1,50,000 i.e. 50,000. Hence, the amount of drawback admissible shall be Rs.50,000.

(2) Drawback Inadmissible: In this case the market price of the goods Rs. 55,000/- is less than the amount of drawback i.e. 2,000 kgs. × Rs.30 i.e. Rs. 60,000/-. Hence, no drawback shall be allowed.

(3) Drawback Inadmissible: No drawback shall be allowed in this case, as the export value i.e. FOB value of the goods is less than the value of imported materials used therein.

(4) Drawback Admissible Rs. 16,800/-: Minimum value-addition of 40% of imported material i.e. 40% of Rs. 3 lakhs amounts to Rs. 1,20,000. Since FOB value of the goods is Rs.4,20,000 i.e. the criteria of minimum value-addition has been achieved, so, drawback allowable = 4% of Rs.4,20,000 = Rs.16,800.

(6 Marks)

ANS 4:

Section 75 provides that duty drawback is permissible on the goods which have "entered for export" and in respect of which an order permitting the clearance and loading thereof is granted by the proper officer. Hence, the admissibility of the claim for drawback will not depend on the fact whether the goods have reached the destination or not.

The facts are similar to that of **Sun Industries v. CC [1988] 35 ELT 241 (SC),** wherein the Apex Court held that export is complete on loading after clearance and accordingly allowed the drawback claim where the ship carrying goods ran aground after crossing territorial waters due to engine trouble and the goods in question were neither salvaged nor re-landed; it further held that off-loading of goods at foreign port is not an essential requirement for export to take place.

Applying the ratio of the said case to the present case, M/s. R & Co. is eligible for drawback claim.

(6 Marks)

ANS 5:

Period for which goods may remain warehoused [Section 61]:

(1) Warehousing period: Any warehoused goods may remain in the warehouse in which they are in any warehouse, to which they may be removed,

(a) In the case of capital goods intended for use in any –

(i) 100% export oriented undertaking; or

(ii) electronic hardware technology park unit; or

(iii) software technology park unit; or

(iv) any warehouse wherein manufacture or other operations have been permitted under section se till their clearance from the warehouse;

(b) In the case of goods other than capital goods intended for use in any –

(i) 100% export oriented undertaking; or

(ii) electronic hardware technology park unit; or

(iii) software technology park unit; or

(iv) Any warehouse wherein manufacture or other operations have been permitted under section 65. till their consumption or clearance from the warehouse; and

(c) In the case of any other goods, till the expiry of 1 year from the date on which the proper officer has made an order under section 60(1).

Extension of Warehousing period: However, the Principal Commissioner of Customs or Commissioner of Customs may, on sufficient cause being shown, extend the period for which the goods may remain in the warehouse, by not more than one year at a time.

Reduction of Warehousing Period: Where such goods are likely to deteriorate, the period referred above may be reduced by the Principal Commissioner of Customs or Commissioner of Customs to such shorter period as he may deem fit.

(2) Interest in case of warehoused goods : Where any warehoused goods specified in Section 61(1)(c) remain in a warehouse beyond a period of 90 days from the date on which the proper officer has made an order under Section 60(1), interest shall be payable at such rate as may be fixed by the Central Government under section 47 i.e. 15% p.a., on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Exceptions: If the Board considers it necessary so to do, in the public interest, it may,20

(a) by order, and under the circumstances of an exceptional nature, to be specified in such order, waive the whole or any part of the interest payable under this section in respect of any warehoused goods;

(b) by notification in the Official Gazette, specify the class of goods in respect of which no interest shall be charged under this section;

(c) By notification in the Official Gazette, specify the class of goods in respect of which the interest shall to be chargeable from the date on which the proper officer has made an order under section 60(1).

Explanation: For the purposes of this section –

I. "Electronic hardware technology park unit" means a unit established under the Electronic Hardware Technology Park Scheme notified by the Government of India;

II. "100% export oriented undertaking" has the same meaning as in clause (ii) of Explanation 2 to Section 3(1) of the Central Excise Act, 1944;

III. Software technology park unit" means a unit established under the Software Technology Park Scheme notified by the Government of India.

Time period for which different class of goods may be warehoused and interest provisions are tabulated as under:

Class of goods	**Time for which the goods may remain warehoused**	**Interest provisions**
Goods for use in any 100% EOU/ EHTP/ STP/ warehouse where manufacture or other		

operations are permitted u/s 65			
(i) Capital goods	Till the clearance of such goods warehouse	No interest is payable as goods can from remain in the warehouse till their clearance or consumption	
(ii) Other goods	Till the consumption or clearance of such goods		
Goods other than (1) above	Till the expiry of 1 year from the date of order u/s60(1) permitting removal of goods from a customs station for deposit in warehouse	Interest will be payable if goods remain in the warehouse beyond 90 days from the date on which the order u/s 60(1) is made.	
		Rate of interest	Rate fixed u/s 47 which is 15% p.a.
		Amount on which interest time	Duty payable at the of clearance of is payable the goods
		Period for of which interest is payable	From the expiry the **90 days** till the date of payment of duty on the warehoused

		goods.

No interest leviable in case of NIL duty: The Supreme Court in **Pratibha Processors v. UOI [1996] 88 ELT 12 (SC) has** held that if on date of removal of goods from warehouse, such goods are chargeable with NIL rate of duty or are wholly exempt from duty, then no interest will be payable since interest is calculated on duty amount.

Improper removal from warehouse: Goods which are not removed from the warehouse after the expiry of the period permitted for warehousing or extended are deemed to be improperly removed in terms of section 72. The rate of duty applicable in such case will be the rate in force on the date of deemed removal, i.e. the date on which the permitted period or its permitted extension comes to an end. When the demand notice is issued is not relevant for determining the rate of duty.

The Supreme Court in **Kesoram Rayon v. CC [1996] 86 ELT 464 (SC)** has held that Section 15(1)(b) has no application in such cases where the goods are removed from warehouse beyond the permitted period of warehousing; it is applicable only to the cases where a bill of entry is presented for removal from warehouse under section 68.

(6 Marks)

MCQ's

1. A

Eligibility for SEIS Benefits: Service providers of notified service who have earned minimum net fee foreign exchange earnings of US $ 15,000 in year of rendering service are eligible for duty Credit Scrip.

The SEIS benefit is computed below:

Particulars	Gross ($)	Expenses in foreign exchange ($)	NFE of current year ($)
Supply from India to US-Eligible	30,000	900	29,100
Realization on behalf of client	Ineligible	Ineligible	Ineligible
Total	30,000	900	29,100
Credit scrip entitled @ 7% of $ 29,100			**2,037**

2. D

Explanation: Status holders are granted certain benefits like:

I. Authorization and custom clearances for both imports and exports on self- declaration basis.

II. Fixation of input, output Norms (SION) on priority i.e. within 60 days by Norms Committee.

III. Exemption from compulsory negotiation of documents through banks. The remittance/ receipts, however, would continue to be received through banking channels.

IV. Exemption from furnishing of Bank Guarantee is Scheme under FTP.

3. C

Explanation: No duty drawback is allowed if exported goods are manufactured out of duty free inputs.

4. B

Explanation: Computation of Assessable value (CIF value)--

Particulars	**US $**
FOB value	1,000
Add: Cost of transport, loading , unloading and handling charges associated with the delivery of the imported goods to the place of importation[20% of FOB value in terms of first proviso to rule 10(2) of CVR]	200
Cost of Insurance [Including in terms of Rule 10(2)(b) of CVR]	10
Assessable value [CIF value]	**1,210**

5. A

Explanation: In exercise of the power conferred by the FT (D& R) Act, the union Ministry of Commerce and Industry, Government of India generally announces the integrated Foreign Trade Policy (FTP) every Five years with certain underlined objectives.

(1 × 5 = 5 Marks)