

FINAL COURSE: GROUP – II
PAPER – 5: INDIRECT TAX LAWS
Part-I Multiple Choice Questions

| Question No. | Answer |
|---------------------|--|
| 1 | (b) ₹ 59,03,500 |
| 2 | (a) ₹ 1,55,000 |
| 3 | (d) 8 th July |
| 4 | (b) ₹ 1,305 |
| 5 | (a) Penalty is leviable since the offence is not a “minor breach”. |
| 6 | (d) M/s Techno Enterprises is eligible for obtaining the CEN as it is registered in multiple States with same PAN. After obtaining CEN, it can use it for generating e-way bills and updating Part-B throughout the country. |
| 7 | (c) Bhakti & Sons is liable to pay CGST and SGST of ₹ 45,000 each. |
| 8 | (d) E-invoicing is applicable to DTA unit and SEZ unit is exempt from e -invoicing. |
| 9 | (a) ₹ 2.40 lakh |
| 10 | (b) ₹ 6,24,700 |
| 11 | (a) ₹ 9,17,200 |
| 12 | (c) ₹ 25,000 |
| 13 | (c) Baba Shoes (P) Ltd.: ₹ 5 crore and Mr. Robert: ₹ 60 lakh |
| 14 | (a) Nil |
| 15 | (a) ₹ 10,25,000 |

1. Computation of net GST payable in cash of MS Ltd. for October

| Particulars | CGST (₹ in lakh) | SGST (₹ in lakh) | IGST (₹ in lakh) |
|--|-----------------------------|-----------------------------|-----------------------------|
| GST liability for Product Alpha | 54 | 54 | 72 |
| Post-supply discount on Product Alpha [In the given case, discount given after effecting the supply is not in | Nil | Nil | |

| | | | |
|--|---------------------|---------------------|-------------------|
| terms of an agreement that existed at the time of supply. Therefore, discount is not allowed as deduction from value of supply.] | | | |
| Sale of van by auction used for travel of director [In case of a registered person who has claimed depreciation under section 32 of the Income-Tax Act, 1961 on the said goods, value = Consideration received - Depreciated value on the date of supply.] | 0.006 [0.1 × 6%] | 0.006 [0.1 × 6%] | |
| Transportation cost charged on the product [Supply of goods and transport service is a composite supply as the transportation cost is charged at a flat rate from all customers irrespective of the distance involved. Therefore, rate of principal supply (product) viz. 9% CGST and SGST each is charged on intra-State supply and 18% IGST is charged on inter-State supply.] | 0.54 [6 × 9%] | 0.54 [6 × 9%] | 0.72 [4 × 18%] |
| Total output tax liability | 54.546 | 54.546 | 72.72 |
| Less: ITC set off ¹ [Refer working note (1) below] [IGST credit is first utilized for payment of IGST liability and then for payment SGST and CGST liability in equal proportion] | (35.915) | (35.915) | (72.72) |
| After exhausting IGST credit, CGST and SGST credit is to be utilized. ITC of CGST cannot be utilized for payment of SGST and vice versa. | (18.631) | (18.631) | |
| GST payable in cash [A] | Nil | Nil | Nil |
| GST under reverse charge payable in cash [Refer working note (2) below] [B] | 0.153 | 0.153 | |

¹ Since ITC of IGST can be utilized for payment of CGST and SGST liability in any proportion and in any order, there can be multiple ways of utilizing IGST credit for payment of CGST and SGST.

| | | | |
|--|-------|-------|--|
| [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.] | | | |
| Total GST payable in cash = [A]+ [B] | 0.153 | 0.153 | |

Working notes:

(1) Computation of ITC available with MS Ltd. for October

| Particulars | CGST (₹ in lakh) | SGST (₹ in lakh) | IGST (₹ in lakh) |
|---|----------------------|----------------------|---------------------|
| Eligible credit on inputs and input services for the month | 20 | 20 | 145 |
| Ball bearings stolen [ITC on stolen goods is blocked. Hence, ITC taken on stolen ball bearings needs to be reversed.] | | | (0.45) |
| Input tax on cosmetic and plastic surgery of CEO of company [ITC on cosmetic and plastic surgery is blocked if the same are not used for making the same category of outward supply or as an element of a taxable composite/mixed supply. Hence, the same is not credited to the Electronic Credit Ledger] | Nil | Nil | Nil |
| Audit fee [Audit fee is a service used in the course or furtherance of business and thus, credit of input tax paid on such service will be available.] | 0.054 [0.6 × 9%] | 0.054 [0.6 × 9%] | |
| Rent paid to Municipality | 0.135 [1.5 × 9%] | 0.135 [1.5 × 9%] | |
| Sitting fee paid to whole time director | 0.018 [0.20 × 9%] | 0.018 [0.20 × 9%] | |
| Total | 20.207 | 20.207 | 144.55 |

(2) Tax payable under reverse charge

| Particulars | CGST (₹ in lakh) | SGST (₹ in lakh) | IGST (₹ in lakh) |
|---------------------------|---------------------|---------------------|---------------------|
| Rent paid to Municipality | 0.135 | 0.135 | |

| | | | |
|--|--------------|--------------|--|
| [Tax on renting of immovable property services supplied by local authority to a registered person is payable under reverse charge.] | | | |
| Sitting fee paid to whole time director [Services provided by employee to employer in the course of his employment are not a supply. Hence, salary paid to director is not taxable. However, sitting fee is a consideration for the services provided beyond course of employment and hence, is taxable. Further, tax on sitting fee paid to director is payable under reverse charge.] | 0.018 | 0.018 | |
| Total tax payable under reverse charge | 0.153 | 0.153 | |

2. (a) (i) The place of supply of services by way of fixed telecommunication line is the location where the telecommunication line is installed for receipt of services. Thus, the place of supply in the given case is Kolkata.
- (ii) The place of supply of services on board an aircraft is the location of the first scheduled point of departure of that aircraft or flight for the journey. Thus, the place of supply in the given case is Bangkok.
- (iii) The place of supply of services provided by way of admission to an amusement park is the place where the park is located. Thus, the place of supply in the given case is Mumbai.
- (iv) The place of supply of services by way of transportation of goods by courier to a person other than a registered person is the location at which such goods are handed over for their transportation. Thus, the place of supply in the given case is New Delhi.
- (v) The place of supply of stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services. Thus, the place of supply in the given case is Ranchi, (Jharkhand).

(b) Computation of assessable value of product 'X'

| Particulars | Amount |
|-------------------------------|-------------|
| Ex-factory price of the goods | 8,500 US \$ |

| | | |
|---|--------------------|--------------------|
| Freight from factory of the exporter to load airport (airport in the country of exporter) | 250 US \$ | |
| Loading and handling charges at the load airport | 250 US \$ | |
| Freight from load airport to the airport of importation in India | <u>4,500 US \$</u> | |
| Total cost of transport, loading and handling charges associated with the delivery of the imported goods to the place of importation | 5,000 US \$ | |
| <i>Add:</i> Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (restricted to 20% of FOB value) [Note 1] | | 1,800 US \$ |
| Insurance (actual) | | <u>2,000 US \$</u> |
| CIF for customs purpose | | 12,300 US \$ |
| Value for customs purpose | | 12,300 US \$ |
| Exchange rate as per CBIC [Note 2] | | ₹ 70 per US \$ |
| | | Amount (₹) |
| Assessable value (₹ 70 x 12,300 US \$) | | 8,61,000 |
| <i>Add:</i> Basic customs duty @ 10% [Note 3] | | 86,100 |
| <i>Add:</i> Social Welfare Surcharge (SWS) @ 10% | | <u>8,610</u> |
| Value for the purpose of levying integrated tax [Note 4] | | 9,55,710 |
| <i>Add:</i> Integrated tax @ 12% | | 1,14,685.2 |
| Total duty & tax payable (rounded off) | | 2,09,395 |

Notes:

- (1) In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods.

FOB value in this case is the ex-factory price of the goods (8,500 US \$) plus the cost of transport from factory to load airport (250 US \$) plus loading and handling charges at the load airport (250 US \$) which is 9,000 US \$.

- (2) Rate of exchange determined by CBIC is to be considered
- (3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.

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(4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties. SWS leviable on integrated tax have been exempted.

3. (a) (1) In the given case, price is not the sole consideration for the supply. Apart from monetary consideration, the buyer has given some material to the supplier as consideration for such supply. Hence, the value of the supply cannot be determined on the basis of the transaction value in terms of section 15 of the CGST Act, 2017.

Here, the value will be determined with the help of rule 27 of the CGST Rules, 2017 which specifies that where the consideration for a supply is not wholly in money, the value will be the open market value.

Open market value of a supply means the full value in money, excluding the applicable GST, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

Therefore, in the given case, the open market value of the goods supplied is ₹ 1,26,000 ($₹ 1,48,680 \times 100/118$) and is therefore, the value of such goods.

- (2) Rule 27 of the CGST Rules, 2017 further provides that if open market value of the supply is not known, the value of the supply will be the consideration in money plus the money equivalent to the non-monetary consideration, if such amount is known at the time of supply.

Therefore, the value in the given case will be ($₹ 1,47,500 \times 100/118$) + ₹ 15,000, which is ₹ 1,40,000.

- (b) Renting of precincts of a religious place meant for general public, owned/managed by, *inter alia*, an entity registered as a charitable trust under section 12AA/12AB of the Income-tax Act are exempt from GST vide exemption notification. However, said exemption is not available if:

- (i) charges for rented rooms are ₹ 1,000 per day or more;
- (ii) charges for rented community halls, Kalyan mandapam, open area are ₹ 10,000 per day or more;
- (iii) charges for rented shops are ₹ 10,000 per month or more.

Further, services by way of renting of residential dwelling for use as residence are also exempt vide exemption notification.

**Computation of GST liability of Shanti Niwas Charitable Trust
for December**

| Particulars | Value (₹) | GST @ 18% (₹) |
|---|------------------|--------------------------|
| Renting of residential dwelling for use as residence [Exempt vide exemption notification] | 18,00,000 | Nil |
| Renting of rooms for devotees [Exempt since charges per day are below ₹1,000] | 6,00,000 | Nil |
| Renting of Kalyanamandapam [Taxable since charges per day exceed ₹10,000] | 12,00,000 | 2,16,000 |
| Renting of community halls and open spaces [Exempt since charges per day are below ₹ 10,000] | 10,75,000 | Nil |
| Renting of shops for business [Exempt since charges per month are below ₹10,000] | 4,75,000 | Nil |
| Renting of shops for business [Taxable since charges per month exceed ₹ 10,000] | 7,50,000 | <u>1,35,000</u> |
| Total | | 3,51,000 |

- (c) The abatement of duty is allowed where it is shown to the satisfaction of the Assistant/Deputy Commissioner of Customs that, *inter alia*, any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination, on account of any accident not due to any wilful act, negligence or default of the importer.

Thus, in view of the above-mentioned provisions, the stand taken by the proper officer of refusing the claim for abatement is not valid in law.

The duty to be charged on the damaged goods shall be reduced in proportion to the reduction in the value of goods on account of damage.

Thus, in the given case, the amount of total duty payable

$$= [\text{₹ } 1,50,000 / \text{₹ } 7,50,000] \times \text{₹ } 1,50,000 = \text{₹ } 30,000$$

The abatement of duty is allowed in case of deterioration only if such deterioration occurs before or during the unloading of goods. Since in this case, imported goods have deteriorated before clearance for home consumption but after unloading, abatement of duty will not be allowed and full duty will have to be paid.

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4. (a) Following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2,50,000:
- (a) a department or establishment of the Central Government or State Government; or
 - (b) local authority; or
 - (c) Governmental agencies; or
 - (d) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
 - (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
 - (f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Bali Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

| S. No. | Particulars | Total contract value (₹) | Payment due (₹) | Tax to be deducted | | |
|--------|--|--------------------------|-----------------|--------------------|----------|----------|
| | | | | CGST (₹) | SGST (₹) | IGST (₹) |
| (i) | Supply of stationery to Fisheries Department, Kolkata (Note-1) | 2,60,000 | 15,000 | -- | | |
| (ii) | Supply of car rental services to Municipal Corporation of Delhi (Note-2) | 2,95,000 | 20,000 | -- | | |
| (iii) | Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3) | 5,90,000 | 25,000 | | | 500 |

Notes:

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 2,60,000 \times 100 / 118$$

$$= ₹ 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,95,000 \times 100 / 118$$

$$= ₹ 2,50,000$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 5,90,000 \times 100 / 118$$

$$= ₹ 5,00,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

- (b)** Holistic Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds ₹ 50,000 and each invoice is considered as one consignment for the purpose of generating e-way bills.

The *FAQs on E-way Bill* issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

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- (c) Where the baggage of a passenger contains any prohibited article which has been declared by him under section 77 of the Customs Act, 1962, the proper officer may, at the request of the passenger, detain such article for the purpose of being returned to him on his leaving India.

In the given case, proper officer has detained the prohibited article declared and brought by Mr. Joseph Brown. Such articles shall be returned to him on his leaving India.

Further, if for any reason, he is not able to collect it at the time of his leaving India, the said article may be returned to him through any other passenger authorized by him and leaving India or as cargo consigned in his name.

5. (a) (i) No, Mr. Shashank and his tax consultant are not correct.
An advance ruling is binding only on the applicant who had sought it and on the concerned officer. An advance ruling is not applicable to similarly placed other taxable persons in the State.
Thus, Mr. Shashank cannot classify the goods to be supplied by him on the basis of his friend Mr. Prashank's advance ruling order.
- (ii) No, Mr. Shashank need not register to apply for advance ruling since advance ruling can be sought by a registered person or person desirous of obtaining registration. It is not mandatory for a person seeking advance ruling to be registered.

(b)

| Person | Offence | Prosecution | Arrest | Bail |
|-----------|------------------------|----------------------------|-----------|------------------|
| 'Bhaskar' | Non-cognizable offence | Upto 1 year and with fine | No arrest | Bailable Offence |
| 'Raghav' | Non-cognizable offence | Upto 5 years and with fine | No arrest | Bailable Offence |

- (c) When the imported goods are warehoused, the temporary possession and the custody of the goods are passed on to the warehouse keeper. However, the remaining titular rights of the goods vest with the owner.

Thus, the owner has every access to the goods.

In the course of his dealings with the goods, he may:

- (a) inspect the goods;
(b) ensure that the goods do not deteriorate or get damaged during storage in the warehouse;
(c) sort the goods; or
(d) show the goods for sale.
6. (a) The proper officer may recover the dues in following manner:
(i) Deduction of dues from the amount owned by the tax authorities payable to such person.

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- (ii) Recovery by way of detaining and selling any goods belonging to such person;
 - (iii) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
 - (iv) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
 - (v) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
 - (vi) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
 - (vii) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
 - (viii) CGST arrears can be recovered as an arrear of SGST and vice versa.
- (b)** Section 168 empowers the Board (CBIC) to issue orders, instructions or directions to the CGST officers for the purpose of uniformity in the implementation of the CGST Act. All officers and all other persons employed in the implementation of the Act observe and follow such orders, instructions or directions.

The binding nature of such orders, instructions and directions has been a matter of debate and scrutiny. The general understanding that prevails now is that a circular is binding on the officers, but not on the assessee. However, in case such circular states something contrary to the law, the law shall prevail over the circular.

OR

Alternative Answer

- (b)** Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

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Every person in charge of place referred above shall, on demand, make available to the officer so authorised or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66 of the CGST Act, 2017-

- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
- (ii) trial balance or its equivalent;
- (iii) statements of annual financial accounts, duly audited, wherever required;
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);
- (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and
- (vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

- (c) The term 'customs' derives its colour and essence from the term 'custom', which means a habitual practice or course of action that characteristically is repeated in like circumstances.

Duties on import and export of goods were levied through legislations during the British period before which, during monarchical governance, said duty was collected at the city gates at the time of goods coming in and going out. The legislations of the British period were replaced by the enactment and promulgation of the Customs Act, 1962 and the Customs Tariff Act, 1975.

The power to make laws is conferred on the Parliament and the legislature of a State by Article 245 of the Constitution of India.

Further, entry 83 of the List I [Union List] of the Seventh Schedule to Article 246 of the Constitution of India grants the power to frame laws relating to customs duty.

The power to make laws relating to customs duty vests exclusively with the Parliament.