

PAPER -18 -INDIRECT TAXES AND PRACTICE

SUGGESTED ANSWERS

SECTION-A

1.

- (i) (D)
- (ii) (B)
- (iii) (A)
- (iv) (C)
- (v) (D)
- (vi) (B)
- (vii) (A)

2. (a)

The registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 150 Lakh, may opt to pay tax under composition levy, under section 10(1) The scheme can be availed by an intra-State supplier of goods and supplier of restaurant service.

However, The registered person opting for composition scheme, under section 10(1) and 10(2), can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher, in the current financial year.

Thus, M/s PQR Electronics can opt for composition scheme for the current financial year as its aggregate turnover is less than ₹ 150 Lakh in the preceding financial year and it is not engaged in inter-State outward supplies.

Thus, M/s PQR Electronics can supply repair and maintenance services up to a value of ₹ 12.80 lakh [10% of ₹ 128 lakh or ₹ 5 lakh, whichever is higher] in the current financial year.

There is no restriction on composition supplier to receive inter-State inward supplies of goods or services

The registered persons, who is engaged in only supply of service and whose aggregate turnover in the preceding financial year did not exceed ₹ 50 Lakh, may opt to pay tax under composition levy, under section 10(2A)

Since here turnover of preceding year was 128 lakh so PQR Electronics is not eligible for composition scheme under section 10 (2A).

2. (b)

- (i) As per section 13 (3) of CGST Act, 2017, the time of supply of service on which GST is payable on reverse charge basis is

Date of payment or

Date immediately following 60 days since issue of invoice by the supplier

Whichever is earlier

Meaning of “Date of payment”

“Date of payment” in the above situation refers to the date on which the payment is recorded in the books of account of the entity that receives the service (recipient of service), or the date on which the payment is debited from the entity’s bank account, whichever is earlier.

Thus, time of supply of services is :-

08/08/2022 (date of payment i.e when recorded because it is earlier than 15/08/2022)

Or

08/09/2022 (61st day from date of invoice)

Hence time of supply will be 08/08/2022

- (ii) No change: Answer will be remains same because important date is issue of invoice by supplier not date of supply of service.

3 (a)

- (i) As per Notification No. 10/2017 IT dated 13.10.2017. The persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 lakh in a financial year have been exempted from obtaining compulsory registration. Hence, Arun is not required to get registered
- (ii) As per Notification No. 5/2017 CT dated 19.06.2017, Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) have been exempted from obtaining registration
- Also as per section 23, of CGST Act, 2017 any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under CGST Act/IGST Act, shall not be liable to registration
- Hence, Vikram is not required to get registered

3 (b)

- (i) Yes. Mr. Krishna is eligible to avail the ITC of Rs 70,000 provided he deals with taxable supplies being registered person.
- (ii) Inputs or Input Services recorded in the books of account \leq 30 days from 1-7-2017. Therefore, Mr. Krishna should be account for by 30th July 2017.
- (iii) Since, period of 30 days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 30 days.
- In the given case Mr. Krishna can take credit on inputs on 14th Aug 2017, provided permission granted by the Commissioner for extension not exceeded 30 days

4. (a)

As per section 129(1)(b), when owner of goods does not come forward for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- (i) 50% of value of goods or
- (ii) 200% of the tax payable on such goods.

In view of the same, the amount of penalty payable under the CGST Act if Aadhi Private Limited does not come forward for the payment of penalty is as follows:

- (i) 50% of value of goods [₹ 3,40,000 (50% of ₹6,80,000)]

or

- (ii) 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 \times 9%)]

Whichever is higher, i.e. ₹ 3,40,000.

As per first proviso to section 129(6), conveyance shall be released on payment by the transporter the penalty as mentioned in the order or ₹ 1 lakh, whichever is less.

In the given case, since the owner - Aadhi Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 under CGST Act shall be levied

Further, the transporter of goods can get its truck released upon payment of the lower of the following under CGST Act:

- (i) penalty as mentioned in the order [₹ 3,40,000]
- (ii) ₹ 1,00,000

Hence, Amar Transporters can get its truck released upon payment of ₹ 1,00,000.

4. (b)

(i) Place of supply

- When service of organization of event is provided to a registered person, the place of supply is location of recipient, whether event is held in India or outside India.

Thus, in the given case, place of supply of:

- event held at New Delhi is Ahmedabad, Gujarat, and
- event held at Malaysia is Ahmedabad, Gujarat.

- When service of organization of event is provided to an unregistered person, the place of supply is location where the event is held when event is held in India and place of supply is location of recipient where event is held outside India.

Thus, in the given case, place of supply:

- if wedding takes place at Maharashtra is Mumbai, Maharashtra, and
- if wedding takes place at Singapore is Kochi, Kerala.

(ii) Chargeability of Rs 35 lakhs

In the given case, BJL Consultancy is providing the service of agreeing to the obligation to refrain from an act to AP Ltd. against a consideration of ₹ 35 lakh. Therefore, the same is liable to tax.

Thus, view taken by BJL Consultancy is incorrect.

Since the place of supply of said services is the location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies liable to IGST @ 18%.

GST liability (IGST) of BJL Consultancy is:

= ₹ 5,33,898 (rounded off)

5. (a)

Special Audit [Section 66 of the CGST Act, 2017]:

The law provides that Special audit under section 66 may be directed irrespective of any other audit have been conducted under any other provision of this Act or any other law for the time being in force or otherwise.

Salient features are as follows:-

Components	Section 66
Nature of Audit	In this section, we have a special audit
Conducted by	It is conducted by Chartered accountant/cost accountant nominated by the commissioner
Prior Notice	No such notice/intimation is required
Time for conclusion of the audit	The conclusion of the audit is given in 90 days, further extension of 90 days is allowed
Audit Findings/ Report	Audit reports should be shown to deputy/ assistant commissioner
The opportunity of being heard	Yes, where material gathered during the audit is to be used in any proceedings against the auditee
Action based on a report	Yes, under section 73 by the issuance of SCN

5. (b)

Transaction value ₹ 1,14,730

Note:

- (1) As per rule 30 of the CGST Rules, 2017 value of supply of goods or services or both on cost. The value shall be 110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.
- (2) Following expenses will not become part of the cost of production
 - i) Project management related
 - ii) Interest and financial charges
 - iii) Selling and distribution cost
 - iv) Cost incurred due to break down of machinery

6. (a)

In the given case, due date for payment of tax on goods cleared on 26.01.2023 under provisional assessment is 20.02.2023.

In view of the provisions of section 60(4), in the given case, Murthy and Bros. is liable to pay following interest in respect of 1st consignment:

No of days 49

Rate of Interest 18%

= ₹ 5,316 (rounded off)

Further, section 60(5) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is less than in provisional assessment i.e. tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest at the rate specified under section 56 [6% p.a.] from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.

However, since in the given case, refund has been made (07.06.2023) within 60 days from the date of receipt of application of refund (10.04.2023), interest is not payable to Murthy and Bros. on tax refunded in respect of 2nd consignment.

6. (b)

- (a) Gross tax to be paid under forward charges ₹ 99,300
- (b) Tax to be paid under reverse charges:

CGST – ₹ 11700
SGST – ₹ 11700
- (c) Input Tax credit Available for payment of Tax:

CGST – ₹ 1,04,700
SGST – ₹ 1,04,700
- (d) Net Tax liability to be paid in cash:

CGST – ₹ 11700
SGST – ₹ 11700

7. (a)

Point	Annual return	Final return
Who is required to furnish	All registered persons are required to file an annual return except (i) Casual taxable persons. (ii) Non- resident taxable person (iii) Input service distributors ⁵ and (iv) Persons authorized to deduct/collect tax at source under section 51/52 (v) persons supplying OIDAR services from a place outside India to a person in India, other than a registered person,	Every registered person who is required to furnish return u/s 39(1) and whose registration has been surrendered or cancelled is required to file a final return electronically in
Time limit	The annual return for a financial year needs to be filed by 31st December of the next financial year	The final return has to be filed within 3 months of the: (i) date of cancellation or (ii) date of order of cancellation whichever is later.
Prescribe form for regular supplier	Form GSTR-9	Form GSTR-10

7. (b)**Services Available on GST Portal**

Here is a list of some services available on the GST Portal.

1. Application for Registration for Normal Taxpayer, ISD, Casual Dealer
2. Application for GST Practitioner
3. Opting for Composition Scheme (GST CMP-02)
4. Stock intimation for Composition Dealers (GST CMP-03)
5. Opting out of Composition Scheme (GST CMP-04)
6. Filing GST Returns
7. Payment of GST
8. Filing Table 6A of GSTR-1 (Export Refund)
9. Claim Refund of excess GST paid (RFD-01)
10. Furnish Letter of Undertaking(LUT)(RFD-11)
11. Transition Forms (TRAN-1, TRAN-2, TRAN-3)
12. Viewing E-Ledgers

SECTION - B

8.

- (i) (C)
- (ii) (D)
- (iii) (A)

9. (a)

Total Custom Duty Payable = ₹ 1,47,312

9. (b)

Product 'A' is imported goods because its ultimate destination is in India.

Products 'A' & 'B' are called as Transshipment goods, since these goods are transhipped to another vessel,

Product 'A' transhipped to Chennai attracts import duty

Whereas product 'B' is destined to Sri Lanka without payment of duty.

Products C & D are transit goods since these goods remains in the same vessel Bhishma chartered to Australia.

10 (a)

Warehousing Period

The period for which imported goods may be kept in a warehouse without payment of duty is called warehousing period. Such period may be extended to a limited extent, with interest on the duty thus deferred.

- (i) **EOUs, EHTPs, STPs, or warehouses where manufacture/ other operations are permitted under section 65**

It had been observed that EOUs, EHTPs and STPs have to constantly keep track of multiple warehousing bonds and extension thereof. In order to address this issue, the warehousing period for capital goods is till their ex-bonding and for goods other than capital goods, it is till their ex-bonding/consumption. Similar warehousing period has been kept for warehouses where manufacture/ other operations are permitted under section 65.

- (ii) **Other cases**

In other cases, warehousing period is till the expiry of 1 year from the date of order under section 60(1). Whether its capital good or other.

- (iii) **Extension of period**

The Principal Commissioner/ Commissioner may extend the warehousing period by not more than 1 year at a time. The extension may be reduced based on the shelf life of the goods

10. (b)

Duty free import authorization (DFIA) necessitates exports with a minimum of 20% value addition (VA).

$$VA = [(A - B)/B \times 100]$$

A = FOB value of export realized, B = CIF value of inputs covered by authorization.

Therefore, the minimum FOB value of the exports made by. should be ₹ 19,50,000.

FOB value of import is not relevant

(ii) The following sectors are eligible to avail of benefits under the RoDTEP scheme.

1. All sectors shall be covered under the scheme. Labour-intensive sectors will be accorded a priority.
2. Both manufacturer exporters and merchant exporters (traders) are eligible.
3. There is no turnover threshold for availing benefits under the scheme.
4. Re-exported products are not eligible under this scheme.
5. The exported products should have India as their country of origin to be eligible for benefits under the scheme.
6. Special Economic Zone Units and Export Oriented Units are also eligible.
7. The scheme also applies to goods that have been exported via courier through e-commerce platforms.

11. (a)

Total customs duties and tax payable = ₹ 17,37,600

11. (b)

- (a) Mr. Madan is not eligible for SEIS Scheme as his net foreign exchange earnings are less than USD 10,000 (minimum limit for individuals).
- (b) ABC & Co., being a partnership firm eligible for SEIS Scheme as their net foreign exchange exceeds the limit of USD 15,000 (minimum limit for firms).
- (c) Foreign exchange earned through credit cards is counted for the purpose of computing the limit of minimum net foreign exchange required for being eligible to SEIS Scheme. Thus, Mr. Tarun is eligible for SEIS Scheme.