

PAPER – 19 : INDIRECT TAX LAWS AND PRACTICE

SUGGESTED ANSWER

SECTION - A

1.

- (i) (A)
- (ii) (D)
- (iii) (C)
- (iv) (B)
- (v) (C)
- (vi) (B)
- (vii) (A/B/C/D)
- (viii) (A)
- (ix) (B)
- (x) (B)
- (xi) (B)
- (xii) (A)
- (xiii) (C)
- (xiv) (C/D)
- (xv) (C)

SECTION B

2. (a)

- Meaning of “Supply without consideration” – Schedule I: Section 7(1)(c) deems certain activities as supplies even without consideration.

Examples of Schedule I deemed supplies:

- (i) Permanent transfer/disposal of business assets on which ITC availed.
- (ii) Supplies between related/distinct persons made in course of business.
- (iii) Supply of goods by principal to agent and vice versa.
- (iv) Import of services from related person or from own establishment abroad. in course of business.

- Meaning of “Neither supply of goods nor services” – Schedule III: Lists activities completely outside GST, hence not supplies at all.

Examples of Schedule III activities:

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

- 1. Services by employee to employer in course of employment
- 2. Services by any court or Tribunal established under any law for the time being in force.
- 3. Functions of MPs/MLAs and constitutional posts.
- 4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- 5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

6. Actionable claims, other than lottery, betting, gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8. Supply of warehoused goods to any person before clearance for home consumption;
9. Supply of goods warehoused in a Special Economic Zone or in a Free Trade Warehousing Zone to any person before clearance for exports or to the Domestic Tariff Area
10. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
11. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.
12. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

➤ Legal implication: for taxability:

- Schedule I → Taxable though no consideration.
- Schedule III → Non-taxable, outside scope of supply.

➤ Disclose in GST returns:

- Schedule I transactions must be reported in returns and tax paid under RCM or self-invoice.
- Schedule III transactions not reported in returns (GSTR-3B) and no ITC reversal needed unless used for exempt activities.

2. (b)

GST returns

SN	Form No	Particulars
1	GSTR-1	Monthly/quarterly return of outward supplies filed by regular supplier/ taxpayers. Used to report sales, B2B/B2C invoices, debit/credit notes.
2	GSTR-2B	Auto-populated inward supply statement based on suppliers' GSTR-1. Guides eligible ITC claim in GSTR-3B.
3	GSTR-3B	Monthly summary return for payment of tax (outward & inward) by registered supplier/ taxpayers Filed by 20th of next month.
4	GSTR-4	Composition scheme return (annual) for taxpayers under Section 10; summarizes the turnover and details of taxes already paid through CMP-08 during the financial year..
5	GSTR-5	Filed by non-resident taxable persons for their supplies in India during a tax period.
6	GSTR-6	Filed by Input Service Distributors (ISD) to distribute ITC among branches or units.
7	GSTR-7	Filed by TDS deductors under Section 51; reports tax deducted and remitted to government.
8	GSTR-8	Filed by TCS collectors under Section 52; reports tax collected on e-commerce supplies.
9	GSTR-9	Annual return for regular taxpayers (except composition/ISD/non-resident/casual). Contains details of outward, inward supplies, tax paid, and adjustments.

10	GSTR-9A	Form GSTR-9A is an annual return to be filed once, for each financial year, by taxpayers who have opted for composition scheme, for any period during the said financial year. The taxpayers are required to furnish details regarding outward supplies, inward supplies, taxes paid, any refund claimed or demand created or input tax credit availed or reversed due to opting out or opting in to composition scheme.
11	GSTR-10	A taxable person whose GST registration is cancelled or surrendered has to file a return in Form GSTR-10 called as Final Return.
12	GSTR-11	Form GSTR-11 is a form to be filed by every registered person, who has been issued a Unique Identity Number (UIN), to get tax credit/refunds under GST. Form GSTR-11 is a statement of inward supply of goods or services or both received by Unique Identity Number (UIN) holders, which is required to be filed by them on a quarterly basis.

3. (a)

A. GST liability on outward supply

SI No.	Particulars	Value	CGST	SGST
(i)	Security services to BCM Ltd., a registered person [Tax is payable under reverse charge by the recipient since security services are being provided by a non-body corporate to a registered person.]	-	-	-
(ii)	Loading, unloading, packing and warehousing of tomato ketchup bottles [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, tomato ketchup bottles is not an agricultural produce.]	6,00,000	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]
(iii)	Security services to DEV Trust, an unregistered person [Tax is payable under forward charge/ not payable under reverse charges since security services are being provided by a non-body corporate to an unregistered person.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]
(iv)	Renting of motor vehicle for carrying passengers to CBM Travels Ltd. where value included cost of fuel [Tax is payable under reverse charge by recipient since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%.]	-	-	-
(v)	Renting of motor vehicle for carrying passengers to Amisha & Co., a partnership firm, where supply value included cost of fuel [Tax is payable under forward charge/ not payable under reverse charges since such services are provided by a non-body corporate to a non-body corporate.]	50,000	1,250 [50,000 x 2.5%]	1,250 [50,000 x 2.5%]
(vi)	Services provided to Gujarat Government administration under a Health Training programme [Exempt since the total expenditure borne by the Gujarat Government is more than 75%.]	-	-	-

B. GST liability on inward supplies under reverse charge

(vii)	Availed legal consultancy service from Ajay and Co., a law firm, for business purposes [Legal services provided by a partnership firm of advocates/individual advocate other than a senior advocate to a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration, are exempt from GST. Since Sunil and Sons started its business in April in the current financial year, its turnover in the preceding financial year is nil making it eligible for exemption from registration in the preceding financial year and hence, the legal services provided to it are exempt from GST.]	-	-	-
	Total GST liability		64,250	64,250

3. (b)**Statement showing net GST liability:**

	(₹)
Output tax	4,50,000
Less: Net ITC available	(1,72,826)
Net GST liability	2,77,174

Working note:**(1) Calculation of GST liability on outwards supply**

Taxable Supply of goods	25,00,000
Exempted supply of goods	Nil
Recovery Agent services supplied to JKY Bank Ltd	Covered under RCM
Deposit in Public Sector Bank on which interest received	Exempt
Sale of land	Not a supply or (Under Schedule III)
Total Taxable supply:	25,00,000

Tax Payable = ₹ 25, 00,000 × 18% = ₹4,50,000

(2) Exempted supply for the purpose of reversal of ITC : (₹)

Exempted supply of goods	6,00,000
Sale of land (Sale of land is treated as exempted supply for the purpose of reversal of ITC as per Section 17(3) of the CGST Act, 2017. value will be stamp duty valuation. (assumed that sale value given in the question is stamp duty value)	10,50,000
Recovery Agent services supplied to JKY Bank Ltd (Recovery Agent to a banking company is covered under RCM but for reversal of ITC treated as exempted supply as per Section 17(3) of the CGST Act, 2017)	3,00,000
Total Exempted supply:	19,50,000

(3) ITC not allowed as per Rule 42(1) (i) of CGST Rules, 2017 = 3, 00,000 × 19.50 L/46L = ₹ 1,27,173.91 or 1,27,174 (r/off)

(4) Net ITC allowed = ₹1,72,826 (₹3,00,000 - ₹ 127,174)

Note : W.e.f. 25.1.2018, interest on deposits should NOT be included in exempted supply. However, it is included in total turnover.

4. (a)

Government may issue a mandate to the following persons (the deductor) to deduct CGST and SGST at the rate of 1% CGST and SGST each or (in other words total 2%) from the payment made or credited to the supplier (the deductee) of taxable goods or services or both

Further, TDS provisions shall be attracted only when total value of taxable value of goods or services or both, under a contract exceeds ₹ 2,50,000 Thus, in order to apply TDS provisions, following cumulative conditions needs to be satisfied.

- 1) The supply must be of taxable goods or services or both.
- 2) The total taxable value of supply, under a contract, must exceed ₹ 2,50,000 exclusive of tax and cess
- 3) The deductor must be a person specified u/s 51(1)

The following are persons covered under the TDS Provision.

1. A Department or Establishment of the Central government or State Government or
2. Local Authority
3. Government agencies
4. An authority or a board or any other body set by a parliament or legislature or established by any government with 51% or more participation by way of equity or control, to carry out any function.
5. Society established by the central government or the state government or a local authority under the societies act. 1860.
6. Public Sector undertaking (PSU)

4. (b)

The question on which the advance ruling is sought under this Act, shall be in respect of,-

1. Classification of any goods or services or both;
2. Applicability of a notification issued under the provisions of this Act;
3. Determination of time of supply of goods or services or both;
4. Determination of value of supply of goods or services or both;
5. Admissibility of input tax credit of tax paid or deemed to have been paid;
6. Determination of the liability to pay tax on any goods or services or both;
7. Whether applicant is required to be registered;
8. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

5. (a)

S No	Particulars
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 Mysore.
ii.	The place of supply of services on board an aircraft is the location of the first (start) scheduled point of departure of that aircraft or flight for the journey. Thus, the place of supply in the given case is Singapore.
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 Bhuvaneswar.
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 Varanasi.

5. (b)

S No.	Particulars	Value ₹ in lakhs
i.	<u>General Policies:</u> (a) 1 st year premium (25% value will be considered) (b) Old premium (12.50 % value will be considered)	1,500 (6,000 × 25%) 1,000 (8,000 × 12.50%)
ii.	<u>Only Risk cover policies:</u> (100 % value will be considered)	475
iii.	<u>Variable insurance policies:</u> (Since separate Break up is given to policy holders only remaining (i e 20%) will be considered	1800 (9,000 – 80% i.e.7,200)
	Total Value	4775
Calculation of Tax		
	Total Tax @ 18%	859.50 (4,775 × 18%)
	OR	OR
	CGST 9%	429.75 (4,775 × 9%)
	SGST 9%	429.75 (4,775 × 9%)

6. (a)**RoDTEP Scheme: Objective of the scheme: -**

- (i) The objective of the scheme is to refund such duties and taxes on exported products, as are otherwise not being refunded under other provisions of law, Those duties may include the followings:
- Mandi Tax,
 - Municipal Taxes,
 - Property Taxes,
 - VAT,
 - Coal Cess,
 - Central Excise duty on fuel,
 - Electricity duty on purchase of electricity,
 - Stamp duty on export documents; etc.

Also such duties/taxes/levies, at the Central, State & local level, borne on the exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and Such indirect duties/taxes/levies in respect of distribution of exported products.

Salient features of the scheme: -

- (i) RoDTEP support will be available to eligible exporters at a notified rate as a percentage of Freight On Board (FOB) value.
- (ii) Rebate on certain export products will also be subject to value cap per unit of the exported product.
- (iii) However, for the purpose of calculation of duty credit, value of exported shall be least of the following:
 - a. FOB value of said goods, or
 - b. 1.5 times of the market price of the goods.
- (iv) Rebate amount is issued in the form of a transferable duty credit/electronic scrip (e-scrip), which will be maintained in an electronic ledger by the CBIC.
- (v) Such duty credit shall be used only to pay basic customs duty on imported goods.
- (vi) The duty credit scrips are freely transferable, i.e. credits can be transferred to other importers.
- (vii) The rebate under the scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

6. (b)**Key benefits of Special economic zone:**

- (i) SEZ units are permitted to import or get duty-free goods/materials etc. from domestic sources.
- (ii) SEZ units import capital goods, raw materials, consumables, spares, packing materials, office equipment, etc. for operating their business in the SEZ, without the need for a license or other specific sanction.
- (iii) Products imported or bought locally duty-free could be used for five years after approval.
- (iv) After paying the necessary customs duties, finished goods and by-products may be sold domestically.
- (v) Domestic sales of waste/ scrap/ rejected goods are permitted with payment of any applicable customs taxes
- (vi) SEZ unit, exporting goods with shipping bills presented on or after 1st July 2024 (or as per recent amendment),
can now claim RoDTEP benefits, reducing their overall tax burden and enhancing export profitability.

7. (a) (i)

Computation of customs duty payable	Amount (₹)
Travel souvenir (allowed duty free)	Nil
Articles carried on in person	2,37,000
Cigarettes (100 sticks @ ₹ 147) [100 sticks can be accommodated in General Free Allowance (GFA)]	14,700
Fire arms cartridge (50 @ ₹ 500) (50 cartridges can be accommodated in GFA)	25,000
Baggage than can be accommodated in GFA	2,76,700
Less: GFA	15,000
Baggage on which duty is payable	2,61,700
Duty payable at rate applicable to baggage @ 38.50% (including 10% Social welfare surcharge)	1,00,754.50 Or 1,00,755.00
Total Duty payable	1,00,755
Amount on which duty is payable on specified rate [(Fire arms cartridges 50,000 – 25,000) + (Cigarettes 20,580 – 14,700)] i.e. 100% on (25,000 + 5,880)]	30,880

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage. These items are charged at specified tariff rate.

7. (a) (ii)

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. Donald Mask. Hence Mr. Donald Mask should request the proper officer to retain such articles in their custody and such article 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.

7. (b)

Computation of Customs FOB and CIF (Assessable value)

Particulars	Amount
Cost of equipment to exporter	3,00,000 Yen
Add: Handling charges at port of exportation (Only charges incurred for delivery of goods "up to" the place of importation are includible in the transaction value. Hence handling charges up to port of exportation to be added)	15,000 Yen
Packing Cost (13000+6000) (Cost of packing whether for labour or materials shall be included in the assessable value to the extent they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods)	19,000 Yen
Cost up to Port of exportation	<u>3,34,000 Yen</u>
	₹
Cost in Indian ₹ (334000 X 0.64) (Rate of exchange notified by CBIC on the date of presentation of bill of entry is considered [Explanation to section 14 of the Customs Act, 1962]. HENCE IT WILL BE 1 Yen = ₹0.64)	2,13,760
Add: - Buying commission are not includible	Nil
Total CUSTOMS FOB	2,13,760
Add: Insurance (₹ 213760 X 1.125%) Where the insurance charges are not ascertainable such cost is taken as 1.125% of Custom FOB value of the goods	2404.80
Add: - Freight (40000 Yen X ` 0.64)	25,600
Designing charges undertaken elsewhere than in India is includible in the value of the imported goods. Thus, Designing charges paid for work done in India have not been included for the purposes of arriving at the assessable value.	Nil
Freight incurred from port of entry to Inland Container depot is not includible in assessable value	Nil
Total CIF (Assessable value)	2,41,764.80

Computation of Custom duty payable

Total CIF (Assessable value)	2,41,764.80
Add: Basic customs duty (a) @ 10% (Rate of duty is the rate prevalent on the date of presentation of bill of entry or the rate prevalent on the date of entry inwards, whichever is later)	24176.48
Add: Social welfare surcharge (10 % of 24176.48) (b)	2417.65
Value for the purpose of levying integrated tax Note: Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge	2,68,358.93
Add: Integrated tax leviable under section 3(7) @ 12% (c)	32203.07
Total	300562.00
Total Custom duty payable [(a) +(b) + (c)]	58797.20
Total Custom duty payable (rounded off to nearest rupee)	58,797

8. (a)

Statement showing transaction value of WWR Ltd

Particulars	Value ₹
Job worker's charges including profit (32000+8000)	40,000
Cost of raw material supplied by XYR Ltd (Supply of Material from principal to job worker and job worker to principal cannot be treated as supply as per section 143 of the CGST Act, 2017.)	Nil
Transportation charges for sending the raw material to the job worker (cannot be treated as supply)	Nil
Transportation charges for returning the finished packets to XYR Ltd. [Section 15(2)(b) of the CGST Act, 2017]	8,500
Technology fee (CBIC Circular No. 47/21/2018-GST, dated 8-6-2018: Technology owned by the recipient which are provided to a job worker (the two not being related persons or distinct persons) on "Free of Cost"(FOC) basis does not constitute a supply. (OR) It is clarified that while calculating the value of the supply made by the job worker, the value of technology provided by the recipient to the job worker on FOC basis shall not be added to the value of such supply because the cost of technology was not to be incurred by the job worker and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the CGST Act 2017)	Nil
Sub-total	48,500
Less: Discount (Shown in invoice so deduction is available as per Section 15(3) of CGST Act, 2017)	(6,000)
Transaction value (i.e. sole consideration)	42,500

8. (b)

(i) Eligible ITC for the year 2024-25

SI No.	Particulars	GST Paid/ (₹)	Eligible ITC (₹)
1	Regular raw materials	2,70,000	2,70,000 Used fully in taxable outward supplies → fully eligible

All other purchases are for earlier years and ITC already taken in the respective years

(ii) ITC REVERSAL

SI No.	Particulars	GST Paid/ITC Claimed (₹)	ITC reversal (₹)
1	Machinery sent to job worker (ITC claimed FY 2022–23)	7,20,000	NIL (Section 19 and 143: Capital goods sent to job worker must be returned within 3 years, not 1 year. No ITC reversal required)
2	Gifts to agents	36,000	36,000 As per section 17(5)(h) of the CGST Act, 2017, ITC on goods disposed of by way of gift or free samples is blocked; hence, the entire ITC attributable to such goods is required to be reversed.
Total reversal			36,000

Calculation of Tax to be paid

SI No.	Particulars	GST Paid/ITC Claimed (₹)	Tax to be paid
1	Sale of machinery after 2 years	7,20,000	₹ 4,50,000 Section 18(6) of CGST Act, 2017: When capital goods on which ITC has been taken are supplied, the registered person shall pay an amount equal to the higher of: 1. ITC taken on such capital goods reduced by 5% per quarter or part thereof, or 2. Tax on the transaction value of such supply. ITC originally claimed = ₹7,20,000 Period held: 01/04/2022 to 15/01/2025 = 12 quarters Hence ₹7,20,000 – 4,32,000 (5% per 12 quarters = 60%) = 2,88,000. Or Tax on Sale Value: ₹25,00,000 * 18% = 4,50,000. Higher amount = ₹4,50,000 to be paid

2	Sale of car purchased 3 years back	1,80,000	₹ 1,08,000 The registered person shall pay an amount equal to the higher of: 1. ITC taken on such capital goods reduced by 5% per quarter or part thereof, or 2. Tax on the transaction value of such supply. ITC originally claimed = ₹1,80,000 Period held: February 2022 to February 2025 = 13 quarters Hence ₹1,80,000 – 1.17.000 (5% per 13 quarters= 65 %) = 63,000. Or Tax on Sale Value: ₹ 6,00,000 * 18% = 1,08,000. Higher amount = ₹ 1,08,000 to be paid
---	------------------------------------	----------	--

Note:

- (1) The amount payable under Section 18(6) is treated as an output tax liability and to be reported in Form GSTR-1 and paid via Form GSTR-3B, rather than being shown as an ITC reversal in the ITC ledger.
- (2) Generally ITC on Car is blocked but in the question specifically given that ITC claimed so we assumed that this is fall under the exceptions of the block credit.