

FINAL EXAMINATION

June 2023

*P-18(ITX)
Syllabus 2016*

INDIRECT TAX LAWS AND PRACTICE (ITX)

Time Allowed: 3 hours

Full Marks: 100

*The figures in the margin on the right side indicate full marks.
Where considered necessary, suitable assumptions may be made
and clearly indicated in the answer.*

Answer Question No. 1 which is compulsory and any four from the rest of this section.

Section-A

1. Choose the most appropriate option for the following MCQs:

2×7=14

(i) State which of the following statements is incorrect:

- (I) An agent, supplying taxable goods on behalf of principal, where invoice is issued in the name of principal, is required to get compulsorily registered under GST.
- (II) Persons who are required to deduct tax under section 51 of the CGST Act, 2017, whether or not separately registered under CGST Act, are compulsory required to get registered under GST without any threshold limit.
- (III) Every person supplying online information and database accessor retrieval services from a place outside India to a registered person in India is compulsory required to get registered under GST without any threshold limit.
- (IV) Persons who supply services, other than supplies specified under sub-section (5) of section 9 of the CGST Act, 2017, through such electronic commerce operator who is required to collect tax at source under section 52 of the CGST Act, 2017, are compulsory required to get registered under GST without any threshold limit.

Choose the most appropriate option:

- (A) (I), (II)
- (B) (III), (IV)
- (C) (I), (III), (IV)
- (D) (I), (II), (III) and (IV)

- (ii) Kannan owns a famous sweets shop located and registered under GST in Mathura, Uttar Pradesh. He received an order for 200 kg of sweets on 2nd May from Ghoomghoom Travels (P) Ltd., located in same locality of Mathura and registered under GST, for a total consideration of ₹1,00,000. Complete order of sweets was delivered to Ghoomghoom Travels (P) Ltd. on 5th May but without invoice, as accountant of Mr. Kannan was on leave on that day. However, the invoice was raised for the same on 6th May, when the accountant joined the office after leave. Payment in full was made on 7th May.

Determine the time of supply of goods in this case.

- (A) 2nd May
 - (B) 5th May
 - (C) 6th May
 - (D) 7th May
- (iii) Sukanya, a supplier registered under GST, failed to pay the GST amounting to ₹5000 for the month of January. The proper officer imposed a penalty on Sukanya for failure to pay tax. Sukanya believes that it is a minor breach and in accordance with the provisions of Section 126 of the CGST Act, 2017, no penalty is imposable for minor breaches of tax regulations. In this regard, which of the following statements is true?
- (A) Penalty is leviable on Sukanya since the breach is considered as a 'minor breach' only if amount of tax involved is less than ₹5000.
 - (B) Penalty is leviable on Sukanya since the breach is considered as a 'minor breach' if amount of tax involved is less than ₹ 2,500.
 - (C) Penalty is not leviable on Sukanya since the breach is considered as a 'minor breach' if amount of tax involved is upto ₹5,000.
 - (D) Penalty is leviable on Sukanya since the breach is considered as a 'minor breach' only if amount of tax involved is nil.
- (iv) Under which of the following situations, input tax credit will be available under GST law?
- (A) Cars purchased by a manufacturing company for official use of its employees.
 - (B) Aircraft purchased by a manufacturing company for official use of its CEO.
 - (C) Maintenance and repair services availed by a company for a truck used for transporting its finished goods.
 - (D) General insurance taken on a car used by employees of a manufacturing company for official purposes.

- (v) Under GST law, time-limit for issuance of show cause notice in case of non-payment of tax on account of reasons other than fraud, wilful misstatement or suppression of facts, etc. is:
- (A) 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the tax not paid relates to.
 - (B) 3 years from the due date of filing Annual Return for the Financial Year to which the tax not paid relates to.
 - (C) 4 years and 6 months from the due date of filing Annual Return for the Financial Year to which the tax not paid relates to.
 - (D) 5 years from the due date of filing Annual Return for the Financial Year to which the tax not paid relates to.
- (vi) The time-limit for issuance of order of best judgment assessment is
- (A) 5 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates.
 - (B) 4 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates.
 - (C) 3 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates.
 - (D) None of the above
- (vii) During access to any business premises under section 71 of the CGST Act, 2017, which of the following records can be inspected by the officers?
- (I) Trial balance
 - (II) Statements of annual financial accounts, duly audited, wherever required.
 - (III) Cost audit report.
 - (IV) Income-tax audit report.
- Choose the most appropriate option.
- (A) (I) and (II)
 - (B) (I), (II) and (IV)
 - (C) (II), (III) and (IV)
 - (D) (I), (II), (III) and (IV)

2. (a) (i) PNR & Co. started a partnership firm of Chartered Accountants in Lucknow on 1st April 2022. The firm specializes in providing audit services to banks in Lucknow. It provided the following details of its turnover:

Quarter	Amount (in ₹)
April-June 2022	12 Lakh
July-Sep 2022	33 lakh

It crossed the threshold limit of Rs. 20 lakh on 1st August 2022. PNR & Co. wishes to opt to pay tax at concessional rate under section 10(2A). Examine whether the firm is eligible for this scheme. If yes, then determine the tax payable by it in quarters (1) Apr-Jun & (2) Jul-Sep. 4

- (ii) Discuss the levability of GST or otherwise on the following:

- Alcoholic liquor for human consumption
- Opium, Indian hemp and other narcotic drugs and narcotics 4

- (b) Geeth Pvt. Ltd. owned by Shreya Ghosal - a famous classical singer - wishes to organise a 'Shreya Music Concert' in Chennai (Tamil Nadu). Geeth Pvt. Ltd. (registered in Berhampore, West Bengal) enters into a contract with an event management company, Joy (P) Ltd. (registered in Mumbai, Maharashtra) for organising the said music concert at an agreed consideration of ₹ 15,00,000. Joy (P) Ltd. books the lawns of Hotel Leela Palace, Chennai (registered in Tamil Nadu) for holding the music concert, for a lump sum consideration of ₹ 5,00,000. Geeth Pvt. Ltd. fixes the entry fee to the music concert at ₹ 8,000. 1000 tickets for 'Shreya Music Concert' are sold.

You are required to determine the gross GST liability in respect of the supply(ies) involved in the given scenario. Will your answer be different if the price per ticket is fixed at ₹ 500?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable. 6

3. (a) Mr. Bharani supplied goods to Mr. Madhan for ₹ 4,80,000 plus GST 18%, vide Invoice No. 74 dated 5th August 2022. Mr. Madhan availed the ITC of ₹ 86,400 and confirmed in GSTR-2. However, invoice no. 74 dated 5th August 2022 not reflected in GSTR-1, of Mr. Bharani.

You are required to answer the following:

- (i) When matching will takes through common portal of GSTN.
- (ii) To whom discrepancy will be informed.

- (iii) Time limit for rectification of discrepancy.
- (iv) Whether ITC is allowed to Mr. Madhan, if Mr. Bharani is not paid tax till 20th October 2022.
- (v) Mr. Madhan communicated the problem to Mr. Bharani, who looks into the issue and rectified the discrepancy and included invoice no. 74 in his GSTR-3 for October 2022 accordingly he paid tax on 20th November 2022. If so Mr. Madhan can reduce his liability. 6
- (b) Alpha Pvt. Ltd., a registered supplier of goods at Tamil Nadu who pays GST under regular scheme, has made the following transactions (exclusive of tax) during a tax period:

Particulars	Amount
Purchases made from registered person in Mumbai	4,00,000
Purchases made from registered person in Coimbatore, Tamil Nadu	3,50,000
Sale made to registered person in Mumbai	11,00,000
Sale made to registered person in Coimbatore, Tamil Nadu	8,00,000

The company has complied with all the conditions for availing the ITC. The following further information regarding various opening balances available with it for the tax period, is provided by the company:

Source	Taxes	Interest	Penalty
CGST	60,000	1,500	500
SGST	20,000	1,000	500
IGST	140,000	2,800	500

Compute the net CGST, SGST and IGST payable from the Electronic Cash Ledger by Alpha Pvt. Ltd. for the tax period as also ITC to be carried forward to next tax period, if any. 8

4. (a) Sarvesh & Co. manufactures customized products at its unit situated and registered in Himachal Pradesh. Cost of production of 2,000 products for Sarvesh & Co. is ₹ 40,00,000. These products require further processing before sale, and for this purpose products are transferred from its Himachal Pradesh unit to its another unit situated and registered in Meghalaya. The value declared on the invoice for such transfer is the cost of production of such products.

The Meghalaya unit, apart from processing its own products, engages in processing of similar products of other persons who supply the products of the same kind and quality. Thereafter, the Meghalaya unit sells these processed products to wholesalers. There are no other factories in the neighbouring area which are engaged in the same business as that of Meghalaya unit.

2,000 units of the products of same kind and quality are supplied to Meghalaya unit, at the time when goods are sent by Himachal Pradesh unit, by another manufacturer located in Meghalaya. The ex-factory price of such goods is ₹ 38,00,000. The Meghalaya unit of Sarvesh & Co. is eligible for full ITC.

(i) Discuss the relevant provisions

(ii) Determine the value of 2000 products supplied by Sarvesh & Co. to its Meghalaya unit. 8

- (b) Cooper Industries Ltd., a registered supplier, imports business support services from Ocean Inc. of UK on 17th July, 2022. The relevant invoice for \$ 1,20,000 is raised by Ocean Inc on 25th July, 2022. Cooper Industries Ltd. makes the payment against the said invoice as follows:

Case – I	28th August, 2022
Case – II	30th December, 2022

Determine time of supply in each of the aforesaid cases after explaining the relevant provisions. 6

5. (a) Aqua Ltd. sends the goods to Lego & co. for making finished goods on 30/09/2022. What are the tax implications, in the following cases if GST @ 18% is levied?

(i) Lego & co. sends the goods back to Aqua Ltd within one year of being sent.

(ii) Lego & co. sells the goods directly to the customer on behalf of Aqua Ltd. 5

- (b) Eyebell Manufacturers Ltd., registered in Ahmedabad (Gujarat), is a manufacturer of footwear. It imports a footwear making machine from Germany. Eyebell Manufacturers Ltd. enters into a contract with FJM Logistics, a licensed customs broker with its office at Kochi (Kerala), to meet all the legal formalities in getting the said machine cleared from the customs station.

Apart from this, Eyebell Manufacturers Ltd. authorises FJM Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of Eyebell Manufacturers Ltd. which shall be reimbursed by Eyebell Manufacturers Ltd. to FJM Logistics on the actual basis in addition to agency charges.

FJM Logistics provided following details in the invoice issued by it to Eyebell Manufacturers Ltd.:

Particulars	Amount
Agency charges	6,50,000
Unloading of machine at Kochi port, Kerala	40,000
Charges for transportation of machine from Kochi port, Kerala to its FJM Logistics' godown in Kochi, Kerala	25,000
Charges for transportation of machine from FJM Logistics' Kochi godown to the warehouse of Eyebell Export Import House in Ahmedabad, Gujarat	10,000
Prepared and submitted Bill of Entry and paid customs duty	5,50,000
Dock dues paid	60,000
Port charges paid	60,000
Hotel expenses	20,000
Travelling expenses	30,000
Telephone expenses	5,000

Compute the value of supply made by FJM Logistics with the help of given information.

9

6. (a) (i) What are circumstances when availed ITC of input supplies needs to be reversed under GST?

5

- (ii) M/s X Ltd. sold goods to M/s Y Ltd. for ₹ 2,00,000 plus GST ₹ 36,000. M/s X Ltd. remitted the GST on or before the due date. During the audit of M/s X Ltd. books by the Central Tax Department quantified the GST liability ₹ 72,000 and demanded to pay differential duty of ₹ 36,000 u/s 74 of the CGST Act, 2017. Finally, M/s X Ltd. paid the differential GST of ₹ 36,000.

M/s Y Ltd. wants to avail the input tax credit of differential amount of GST, advise.

2

- (b) (i) What are advantages of e-invoice for businesses?

5

- (ii) How is e-invoicing different from invoices generated in the software used by a dealer within his organization?

2

7. (a) Write a short note on recovery in installments as per Section 80 of the CGST Act, 2017. 5
- (b) (i) Write a short note on Provisional assessment as per Section 60 of the CGST Act, 2017 read with Rule 98 of CGST Rules, 2017. 4
- (ii) A person who is aggrieved by a decision or order passed against him by an adjudicating authority, can file an appeal to the Appellate Authority (i.e. Commissioner (Appeals) also in short called as AA). What are the orders against which no appeals can be filed? 5

Section – B

(Customs duty and FTP)

Question No. 8 which is *compulsory* and any **two** from the rest of this section.

8. Choose the correct answer with justification/workings wherever applicable. 2×3=6
- (i) Which of the following privileges are granted to the Status Holders as per Foreign Trade Policy 2015-2020?
- (I) Authorisation and custom clearances for both imports and exports may be granted on self- declaration basis.
- (II) Two Star Export Houses and above are permitted to establish export warehouses.
- (III) Input-Output norms may be fixed on priority within 7 days by the Norms Committee.
- (IV) Exemption from furnishing of bank guarantee in Schemes under FTP.
- Choose the most appropriate option.
- (A) (I), (II) and (IV)
- (B) (I), (II) and (III)
- (C) (I), (II), (III) and (IV)
- (D) (I) and (II)

- (ii) A Ltd. makes two sales to unrelated buyers. In the first sale, 300 units are sold at a price of ₹ 75. In the second sale, 200 units are sold at a price of ₹ 80. For the purposes of rule 7 (Deductive Value) of the Customs (Determination of Value of Imported Goods) Rules, 2007, determine the unit price in greatest aggregate quantity.

(A) ₹ 75

(B) ₹ 80

(C) Average of ₹ 75 and ₹ 80

(D) Data is insufficient to determine the unit price in greatest aggregate quantity

- (iii) The relevant date for determining the rate of exchange in case of imported goods is:

(A) date when the vessel leaves the exporter's port for India.

(B) date of presentation of bill of entry.

(C) date of examination of goods by proper officer.

(D) date of deposit of duty.

9. (a) Akinodo, aged 56, a tourist of Japan origin, landed at Mumbai airport on 12th March, 2022, with a tourist visa. He has with him the following articles as part of baggage:

Particulars	Value in ₹
Used personal effects	54,000
Travel souvenirs	61,000
Laptop	1,50,000
300 gms tobacco [Valued @ ₹ 5 per gram]	1,800
145 cigars [Valued @ ₹ 50 each]	7,250
Fire-arms	80,000
90 cartridges of firearms [Valued @ ₹ 600 per cartridge]	54,000
2 litres champagne	6,000
Mobile phone	90,000

With reference to the Baggage Rules, 2016, determine customs duty payable. Ignore agriculture infrastructure and development cess.

- (b) DFG Ltd., an Indian company, imports goods from Australia and intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 with regard to the said goods. However, since it does not have a manufacturing facility at all, it needs to send the goods so imported for job work to a job worker.

The C & F agent advised DFG Ltd that as per the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, it is not permitted to send such goods for job work.

You are required to suitably advise DFG Ltd. on the above, touching upon the relevant legal provisions under the customs law. 5

10. (a) Briefly touch upon the provisions relating to re-export or clearance of unutilized or defective goods, under the customs law. 7

- (b) With reference to the provisions of Section 76 of the Customs Act, 1962. write a short note on “prohibition and regulation of drawback”. 5

11. (a) QWE Ltd (which is not in an EPZ unit or EOU) imported a machinery from Netherlands in August 2022 after payment of all the customs dues and connected levies, for ₹ 300 lakhs.

Since the machinery needed some repairs which could not be carried out in India, it was sent back (exported) to the original supplier in Netherlands, in February, 2022. The machinery was sent back (re-imported) to India after repairs, in May, 2022. The supplier did not charge any amount, since this had happened during the warranty period. The fair cost of repairs may be taken as ₹ 10.78 lakhs, inclusive of material costing Rs 4 lakhs. QWE Ltd borne the insurance and ocean freight, which came to ₹ 22,000. BCD is 10% and IGST in India is 12%.

QWE Ltd contends that no customs duty is payable in respect of this re-import, since it has not paid any repair cost to the machinery supplier. Test the veracity of this contention. Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. You are informed that the ownership of the machine has not been changed during the period. You are required to adduce notes relating to the treatment and computation of the items involved. 7

- (b) SD Ltd (SDL) obtained certain orders from clients in Singapore for few food processing machines. SDL sought the assistance of manufacturer of these machines, JK Ltd (JKL), an Indian company engaged in the manufacture of such machines. JKL agreed to manufacture for the given specifications and carried out the manufacture also. The shipping bills relating to the export consignment to Singapore were in the name of SDL. Other connected documents like bank realization certificate, export order, export invoices, GR declaration, etc., were in the name of SDL.

You are required to decide whether JKL can be deemed to be an exporter of these machines in the light of India's FTP.

SUGGESTED ANSWERS TO QUESTIONS

SECTION-A

1.

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

2. (a)

- (i) Section 10(2A) provides an option to a registered person, who is not eligible to pay tax under sub-sections (1) and (2) of section 10, of paying tax @ 6% (CGST-3% and SGST/UTGST-3%) provided his aggregate turnover in the preceding financial year is upto Rs. 50 lakh.

In the given case, PNR & Co. has started the supply of services in the current financial year. Therefore, its aggregate turnover in the preceding financial year is Nil. Consequently, it is eligible to avail the benefit of composition scheme under section 10(2A) of the CGST Act in the current financial year. It becomes liable to the registration when its aggregate turnover exceeds Rs. 20 lakh. While registering under GST, it has to opt for composition scheme under section 10(2A).

Tax payable by the firm is as follows:

- (1) Apr-Jun quarter: Tax payable by the firm in first quarter is nil since the firm's turnover [Rs. 12 lakh] has not yet exceeded the threshold limit of Rs.20 lakh (viz. the threshold limit applicable for registration in the State of Lucknow).
- (2) July-Sep quarter: While computing the tax payable by the firm in second quarter, the turnover from 1st April to the date from which he becomes liable for registration under the Act is to be excluded. Tax payable will be ₹ 1,50,000

(ii)

- (1) Alcoholic liquor for human consumption:

Alcoholic liquor for human consumption is outside the realm of GST.

Hence no duty payable on it.

- (2) Opium, Indian hemp and other narcotic drugs and narcotics:

Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e. GST is leviable on them.

However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.

2. (b)

In the given situation, three supplies are involved:

- (i) Services provided by Geeth Pvt. Ltd. to audiences by way of admission to music concert.
- (ii) Services provided by Joy (P) Ltd. to Geeth Pvt. Ltd. by way of organising the music concert.
- (iii) Services provided by Hotel Leela Palace to Joy (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

- (i) As per the provisions of section 12(6), the place of supply of services provided by way of admission to, inter alia, a cultural event shall be the place where the event is actually held.

Therefore, the place of supply of services supplied by Geeth Pvt. Ltd. (Berhampore, West Bengal) to audiences by way of admission to the music concert is the location of the Hotel Leela Palace, i.e. Chennai, Tamil Nadu.

Since the location of the supplier (Berhampore, West Bengal) and the place of supply (Chennai, Tamil Nadu) are in different States, IGST will be leviable.

Therefore, IGST leviable will be computed as follows:

Consideration for supply = Rs. 80,00,000 and IGST @ 18% = Rs. 14,40,000

- (ii) Section 12(7)(a)(i) stipulates that the place of supply of services provided by way of organization of, inter alia, a cultural event to a registered person is the location of such registered person.

Therefore, the place of supply of services supplied by Joy (P) Ltd. (Maharashtra) to Geeth Pvt. Ltd. (Berhampore, West Bengal) by way of organising the music concert is the location of the registered person, i.e. Berhampore, West Bengal.

Since the location of the supplier (Maharashtra) and the place of supply (Berhampore, West Bengal) are in different States, IGST will be leviable.

Therefore, IGST leviable will be computed as follows:

Consideration for supply = Rs.15,00,000

IGST @ 18% on value of supply = Rs.2,70,000

- (iii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, inter alia, any cultural function shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Leela Palace (Chennai, Tamil Nadu) to Joy (P) Ltd. (Maharashtra) by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Leela Palace, i.e. Chennai, Tamil Nadu.

Since the location of the supplier (Chennai, Tamil Nadu) and the place of supply (Chennai, Tamil Nadu) are in the same State, CGST and SGST will be leviable.

Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = Rs.5,00,000

CGST @ 9% on value of supply = Rs.45,000

SGST @ 9% on value of supply = Rs.45,000

If the price per ticket is fixed at Rs. 500, then no GST would be levied for with respect to admission to the music concert. Since it is exempt As per Entry no. 81 of notification number 12/2017 dated 28.06.2017

3. (a)

- (i) Matching will take place only after the due date of GSTR-3 for the month of November 2022. In the given case matching will take place after 20th September 2022.
- (ii) Discrepancy is to be communicated by the common portal GSTN to supplier (i.e. Mr. Bharani) in the Form GST MIS-2.
- (iii) Time limit for rectification is 20th October 2022 (i.e. Due date of filling FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available). Mr. Bharani should pay tax on it (as per Rule 71(4) of the CGST Rules, 2017).
- (iv) Input tax credit of Rs.86,400 shall be added to the output tax liability of Mr. Madhan in his return to be furnished in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available (i.e. 20th November, 2022) with interest @18%.
- (v) As per section 42(7) of the CGST Act, 2017 Mr. Madhan can reduce the amount from his output tax liability and the interest paid will be refunded to his electronic cash ledger account under section 42(9) of the CGST Act, 2017.

3. (b)

Net tax payable in cash:

CGST = ₹ Nil

SGST = ₹ 6,500

IGST = ₹ Nil

ITC to be carry forward:

CGST = ₹ 19,500

SGST = ₹ Nil

IGST = ₹ Nil

[Note: Rate of Tax :- CGST @ 9%, SGST @ 9% and IGST @ 18%]

4. (a)

- (i) As per section 25(4), a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act. Therefore, units of Sarvesh & Co. in Himachal Pradesh and Meghalaya are distinct persons under GST.

As per rule 28, the value of the supply of goods between distinct persons, other than where the supply is made through an agent, shall-

- be the open market value of such supply;
- if open market value is not available, be the value of supply of goods of like kind and quality;
- if value cannot be determined under the above methods, be cost of the supply plus 10% mark-up or be determined by other reasonable means, in that sequence.

Rule 28 also provides that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

Further, rule 28 provides that where the recipient is eligible for full input tax credit, the value declared in the invoice by the supplier shall be deemed to be the open market value of the goods or services.

- (ii) In the given case, the option of valuing the goods @ 90% of the price charged by the recipient to his unrelated customer is not available as the goods are not further supplied as such' but only after processing at Meghalaya unit.
- (iii) However, since the Meghalaya unit is eligible for full ITC, the value declared by the Himachal Pradesh unit in the invoice for transfer of such products, i.e. Rs.40,00,000 shall be deemed to be the open market value of the products.

Thus, the value of 2000 products supplied by Sarvesh & Co. to its Himachal Pradesh unit in terms of rule 28 is the open market value of such products which is Rs.40,00,000.

4. (b)

In case of services supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient, tax is payable under reverse charge by the person located in the taxable territory. [Notification No. 10/2017 IT (R) dated 28.06.2017].

Hence, in the given case, since the business support services are provided by Ocean Inc (located in non-taxable territory) to Cooper Ltd. (person other than non-taxable online recipient and located in taxable territory), tax is payable under reverse charge by Cooper Ltd.

The time of supply of services taxable under reverse charge is the earlier of the following:

- ✓ Date of payment, or
- ✓ Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier.

Case- I - Since Cooper Ltd makes the payment within 60 days of the date of issue of invoice, the time of supply is the date of payment, i.e. 28th August, 2022.

Case- II - As Cooper Ltd. makes the payment after 60 days from the date of invoice, time of supply is the date immediately following the said period of 60 days, i.e. 61st day which is 24th September, 2022.

5. (a)

As per Sec 143 of the Act, supply of goods to a job worker without payment of tax is permissible upon an intimation.

In the given example, the implications are as follows:

(i)

- On supply of goods to Lego & co. – As per the sec 143 of Act, no tax shall be payable on supply of goods to Lego & co. before However, the tax will be payable if finished goods is not returned one year from 30/09/2022.
- Lego & co. sends the finished goods back to the principal i.e Aqua ltd within a period of one year. Hence post completion of Job Work, no tax is leviable on finished goods returned to Aqua Ltd.

(ii)

- Lego & co. sells the finished goods on behalf of Aqua Ltd- Sec 143, also allows the job worker to directly sell the goods on behalf of principal, wherein the liability to pay tax is of the principal and not the job worker. Aqua Ltd is liable to pay GST on sale of Finished goods to customer by Lego & co.
- However, Aqua Ltd. must declare the premises of Lego & co. as an 'Additional Place of Business' and the sale of finished goods will form part of aggregate turnover of Aqua ltd. Such a declaration is not required in case.

where :

- Job worker is registered under Sec 25 or
- Principal is engaged in supply of notified goods.

5. (b)

As per explanation to rule 33, a “pure agent” means a person who-

- a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- c) does not use for his own interest such goods or services so procured; and
- d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil all the above conditions in order to qualify as a pure agent.

In the given case, FJM Logistics fell field all the above conditions Thus, FJM Logistics qualifies as a pure agent.

Further, Rule 33 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses incurred by FJM Logistics as a pure agent of Eye bell Manufacturers Ltd. shall be excluded from the value of supply.

Agency charges Rs. 6,50,000 Hotel Exp. Rs. 20,000 Travelling Exp. Rs. 30,000 & Tel Exp. 5,000 included.

- Accordingly, value of supply made by FJM Logistics will be ₹ 7,05,000

6. (a)

- (i) Under GST, a registered person can use input tax on purchase to pay output GST tax on supply/sale. Apart from general ITC rule and list of ineligible ITC, availed ITC of input supplies needs to be reversed on subsequent occurrence of the below-mentioned event:

- Recipient of supply doesn't pay to the supplier within 180 days of issue of the invoice.
- Recipient of supply uses input goods/services for any purpose other than business or for supplying exempted supplies [like personal use]
- Recipient of supply uses capital goods for any purpose other than business or for supplying exempted supplies.
- A person transfer his regular GST registration into Composite Scheme [u/s 18(4)] or Cancels GST registration [u/s 29(5)]
- A person sells Capital goods or Plant and machinery [u/s 18(6)].

- (ii) ITC of Any Tax paid against show cause notice u/s 74 of the CGST Act, 2017, is blocked clause (i) of section 17(5) of the CGST Act, 2017.

Thus the differential GST paid by M/s X Ltd. against show cause notice u/s 74 of the CGST Act, 2017, will not be available as credit to M/s Y Ltd.

6. (b)

- (i) Advantages of e-invoice for businesses:

- Auto-reporting of invoices into GST return.
- Auto-generation of e-way bill (where required)
- E-invoicing will also facilitate standardization and inter-operability leading to reduction of disputes among transacting parties.
- Improve payment cycles.
- Reduction of processing costs and thereby greatly improving overall business efficiency, etc.

- (ii) There is no much difference indeed. Registered persons continue to create their GST invoices on their own Accounting/Billing/ERP systems.

These invoices will now be reported to 'Invoice Reference Portal (IRP)'.

On reporting, IRP returns the e-invoicing with a unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice and adding a Quick Response Code. Then, the invoice can be issued to the receiver (along with QR Code)

A GST Invoice will be valid only with a valid IRN.

7. (a)

Recovery in instalments (Section 80 of the CGST Act, 2017)

- (i) Commissioner can allow payment with interest by defaulter in monthly instalments not exceeding 24 instalments.
- (ii) In case of default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due.
- (iii) For seeking instalment facility, taxable person can file application electronically in Form GST DRC-20.

The instalment facility will not be allowed if:

- (i) The taxable person has already defaulted on the payment of any amount under GST law and recovery process is already undergoing;
- (ii) The taxable person has not been allowed to make payment in instalments in the preceding financial year under GST law; and
- (iii) The amount for which instalment facility is sought is less than Rs. 25,000

7. (b)

(i) Provisional assessment (Section 60 of the CGST Act, 2017 read with Rule 98 of CGST Rules, 2017):

- As per section 60(1) of the CGST Act, 2017 where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis.
- The proper officer (i.e. The Asst. Commissioner/Dy. Commissioner of Central Tax) shall pass an order, within a period not later than 90 days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.
- The Asst. Commissioner/Dy. Commissioner of Central Tax provisionally determines the amount of tax payable by the supplier and is subject to final determination.
- On provisional assessment, the supplier can pay tax on provisional basis but only after he executes a bond with security, binding them for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed (Section 60(2) of the CGST Act, 2017)

(ii) No appeals whatsoever can be filed against the following orders:-

- (a) Board can fix monetary limits below which no departmental appeal would be filed with respective authorities.
- (b) An order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;
- (c) An order pertaining to the seizure or retention of books of account, register and other documents; or
- (d) An order sanctioning prosecution under the Act; or
- (e) An order passed under section 80 (payment of tax in instalments).

SECTION – B

8.

- (i) (A)
- (ii) (A)
- (iii) (B)

9. (a)

Customs duty payable:-

When Tobacco valued @ ₹ 6 per gram:-

Particulars	IN GFA	IN Other than GFA
Baggage on which duty is payable	₹ 1,13,000	₹ 1,11,050
Duty payable on baggage @ 38.50% (including 10% Social welfare surcharge)	Duty payable@ 38.50% (including 10% Social welfare surcharge)	Duty payable on baggage @ Higher rate

When Tobacco valued @ ₹ 5 per gram:-

Particulars	IN GFA	IN Other than GFA
Baggage on which duty is payable	₹ 1,12,875	₹ 1,10,875
Duty payable on baggage @ 38.50% (including 10% Social welfare surcharge)	Duty payable @ 38.50% (including 10% Social welfare surcharge)	Duty payable on baggage @ Higher rate

9. (b)

As per rule 6A of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, the importer is permitted to send the imported goods for job work. The said rule stipulates that the importer shall maintain a record of the goods sent for job work during the month and mention the same in the prescribed monthly statement.

The importer shall send the goods to the premises of the job worker under an invoice or wherever applicable through an e-waybill, mentioning the description and quantity of the goods. The maximum period for which the goods can be sent to the job worker shall be 6 months from the date of the invoice/e-waybill.

The job worker shall-

- Maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;
- Produce the account details before the Jurisdictional Custom Officer as and when required by the said officer; and
- After completion of the job work, send the processed goods to the importer or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or an e-waybill.

10. (a)**Re-exportor clearance of unutilized or defective goods [Rule7]**

- ◆ The importer who has availed the benefit of an exemption notification shall use the goods imported in accordance with the conditions specified in exemption notification within 6 months of date of import.
- ◆ The importer is allowed to suo moto decide to either re-export or clear the unutilized goods for home consumption within 6 months from date of import.

The importer who opts store-export such goods shall record the details of necessary export documents in the monthly statement. Further, the value of such goods for re-export shall not be less than the value of the said goods at the time of import.

The importer who opts to clear the unutilized or defective goods for home consumption, shall pay the duty along with interest on the common portal and the particulars of such clearance and the payment of duty shall be recorded by the importer in the monthly statement.

As per the clarification provided by the circular, the period for calculation of such interest would start from the date of import of such goods and end with the date of actual payment.

The importer has an option to clear the capital goods imported, after having been used for the specified purpose, on payment of duty equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest, at the rate fixed by the notification issued under section 28AA of the Act, on the depreciated value allowed in straight line method, as specified below, namely:—

- (i) For every quarter in the first year @ 4%;
- (ii) For every quarter in the second year @ 3%;
- (iii) For every quarter in the third year @ 3%;
- (iv) For every quarter in the fourth and fifth year @ 2.5%;
- (v) And thereafter for every quarter @ 2%.

Explanation–

- (i) For the purpose of computing rate of depreciation for any part of a quarter, a full quarter shall be taken into account.
- (ii) The depreciation shall be allowed from the date when the imported capital goods have come into use for the purpose as specified in the exemption notification up to the date of its clearance.

The importer shall, record the particulars of such clearance and payment of duty in the monthly statement.

10. (b)

Prohibition and regulation of draw back

The provisions in respect of prohibition and regulation of drawback as contained in section 76 of the Customs Act, 1962 are explained here under:

- (1) No drawback is allowed in respect of any goods, the market price of which is less than the amount of draw back due thereon.
Further, draw back is also not allowed where the amount of drawback in respect of any goods is less than Rs.50.
- (2) If the Central Government is of the opinion that goods of any specified description in respect of which drawback is claimed are likely to be smuggled back into India, it may, not allow drawback in respect of such goods.

Or alternatively allow the drawback subject to certain restrictions and conditions.

11. (a)

If the imported goods are exported for repairs, then import duty on re-importation of such repaired goods is restricted to the fair cost of repairs done abroad, insurance and freight charges.

Conditions to avail the aforesaid benefit:

- the time limit for re-importation is 3 years from the date of export (extended up to 5 years)
- The exported and imported goods must be in the same form and ownership of the goods should also not have changed.
- This concept is not applicable if the repairs amount to manufacture and exports from EPZ or EOUs.

Customs duty payable after repairs = ₹ 2,67,520

Correctness of contention

The contention of QWE Ltd that it is not liable for customs duty in respect of the re-import of machinery after repairs, is incorrect.

Customs duty will be liable on the basis of assessable value, which will be the fair value of repairs (including materials).

11. (b)

Third party exports under FTP

The given scenario is a case of third-party exports. Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s).

Certain conditions are to be satisfied for an export being allowed under third party.

The conditions for being allowed as third-party exports under FTP are:

- (i) Export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s).

- (ii) GR declaration, export order and invoice should be in the name of third party exporter. In the above case, though SDL , GR declaration, export order and invoice are in the name of SDL (third party exporter), the shipping bill does not have the name of JKL (manufacturer). Therefore, JKL will not be treated as the exporter in this case.
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