

PAPER – 5: INDIRECT TAX LAWS

- (i) Question paper comprises of **6** questions. Answer Question No. 1 which is compulsory and any **4** questions out of the remaining **5** questions.
- (ii) Working notes should form part of the answer.
- (iii) All questions should be answered on the basis of the position of (i) GST law as amended by the Finance Act, 2023 including significant notifications and circulars and other legislative amendments made upto 31.10.2023 and (ii) Customs law as amended by the Finance Act, 2023 and significant notifications and circulars and other legislative amendments made upto 31.10.2023.

Question 1

XYZ Ltd., a registered supplier under GST in the State of Tamil Nadu, is engaged in providing various kinds of supplies of goods and services. It provides the following information for month of October, 2023:

S. No.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Supplies a consignment of goods in the territorial water to M/s Vikram Industries, registered in Kerala. The said territorial waters is located at a distance of 12 nautical miles from the baseline of State of Kerala and 11 nautical miles from the baseline of State of Tamil Nadu.	5,00,000
(ii)	Provided pure labour services of construction of a single commercial unit located in Delhi not forming part of any residential complex to a customer in Delhi.	12,00,000
(iii)	Supplied 25 televisions over the counter to Mr. Vijay, an unregistered buyer, who took it to his residence in Haryana.	14,00,000

	INWARD SUPPLY:	
(i)	Received a debit note in respect of inward intra-State taxable supplies received in the financial year 2020-21 for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 17 th October, 2023.	3,00,000
(ii)	Purchased silk yarn (to be used as raw material) from Mr. Ravi, who manufactures silk yarn from raw silk. Mr. Ravi is registered in the State of Rajasthan.	8,00,000
(iii)	Availed services of an arbitral tribunal in Chennai, Tamil Nadu to settle a case relating to the Companies Act.	6,00,000
(iv)	Purchased raw material from ABK Ltd., registered in the State of Andhra Pradesh.	15,00,000
(v)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials.	14,00,000

Notes:

The company provided the following additional information related to above said transactions or otherwise:

- (i) The company claimed depreciation under the Income-tax Act, 1961 on the value of new truck purchased including all applicable taxes.
- (ii) The company provided a corporate guarantee of ₹ 2.5 crore to BYH Ltd., its related company, having registered office in the State of Maharashtra, for loan availed by the latter from Mangal Bank Ltd., Maharashtra. No consideration has been charged against this corporate guarantee.
- (iii) In the month of March, 2023, company had availed services in an inter-State transaction with a taxable value of ₹ 9,00,000 and a tax rate of 18%. This transaction was liable to tax under reverse charge. Payment for the same to the supplier was not made till the current month (overdue for 181 days during October, 2023). However, tax due under the said transaction was paid to Government and input tax credit availed in the month of transaction itself.
- (iv) The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase was related to earlier years for which ITC claim eligibility has become time barred.

- (v) Invoice issued to Mr. Vijay for televisions mentions only his name and State. However, his complete address of Haryana is missing in the invoice.
- (vi) ABK Ltd. is mandatorily required to issue e-invoice. However, it did not issue e-invoice with Invoice Reference Number (IRN) although the invoice was reflected in GSTR-2B.
- (vii) Turnover of XYZ Ltd. for the precious financial year was ₹ 190 lakh.
- (viii) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services involved.
- (ix) All the amounts given above are exclusive of the GST, wherever applicable. There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit have been fulfilled except if mentioned otherwise and also that details of GST paid on inward supplies are available in GSTR 2B.
- (x) Assume that all the inward supplies have been used only for taxable outward supply.
- (xi) Company is not covered under any of the exception of rule 86B of the CGST Rules, 2017 regarding restriction on use of available input tax credit.

Compute minimum net GST liability of M/s XYZ Ltd, to be paid in cash if any, after utilizing input tax credit if any, for the month of October, 2023.

Note: Working notes along with legal reasoning of each item should form part of your answer. **(14 Marks)**

Answer

Computation of minimum net GST liability of XYZ Ltd. to be paid in cash for the month of October 2023

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	Output tax payable under forward charge				
(i)	Supply of consignment in territorial waters [Where supply is in territorial waters,	5,00,000	45,000 [5,00,000 x 9%]	45,000 [5,00,000 x 9%]	

	place of supply is deemed to be in coastal State where nearest point of the appropriate baseline is located. Therefore, place of supply will be in Tamil Nadu and hence, supply will be intra-State supply]				
(ii)	Pure labour services [Since pure labour services provided for construction of only residential unit are exempt, such services provided for construction of commercial unit are taxable. Further, it is an inter-State supply since place of supply is location of immoveable property, viz. Delhi.]	12,00,000			2,16,000 [12,00,000 x 18%]
(iii)	Supply of 25 Televisions ¹ [Inter-State supply since place of supply is location as per the address of the unregistered recipient (name of the State) recorded	14,00,000			2,52,000 [14,00,000 x 18%]

¹ It has been most logically assumed that the value of supply of ₹ 14,00,000 is for 25 televisions supplied.

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	in the invoice issued in respect of the supply, viz. Haryana.]				
(iv)	Corporate guarantee provided. [Deemed supply under Schedule-I of the CGST Act, 2017 even though made without any consideration. Inter-State supply since place of supply is Maharashtra (location of recipient). Further, value of supply is higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration [Thus, value of supply is 1% of ₹ 2.5 crores, i.e. ₹ 2,50,000]	2,50,000			45,000 [2,50,000 x 18%]
	Total output tax		45,000	45,000	5,13,000
	Less: ITC available for set off [Refer note below.] [IGST credit is utilized for payment of IGST. CGST and		(45,000) -CGST	(45,000) -SGST	(1,44,000) -IGST (36000) -CGST (36000) -SGST

	SGST credit is first utilized for payment of CGST and SGST liability respectively and thereafter, for payment of IGST liability.]				
	Net output tax payable in cash		Nil	Nil	2,97,000
	GST payable under reverse charge				
	Tax on services provided by the arbitral tribunal is payable under reverse charge by the recipient of service. [Arbitral tribunal services to XYZ Ltd., a business entity with aggregate turnover exceeding the applicable threshold limit for registration [viz. ₹ 20 lakh] in the previous financial year are liable to tax under reverse charge mechanism.]		54,000	54,000	
	Tax on silk yarn supplied by a person who manufactures it from raw silk to a registered person is				1,44,000

	payable under reverse charge.				
	Minimum net GST payable for set off		54,000	54,000	4,41,000

Working note - Computation of eligible ITC available for set off

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Debit note received. [ITC on debit notes issued in a financial year (FY) can be availed, any time till 30 th November of the succeeding FY or the date of filing of the relevant annual return, whichever is earlier, based on date of issue of debit note, irrespective of the date of original invoice/ supply.]	3,00,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	
(ii)	Silk yarn purchased. [Inter-State supply since place of supply is location where movement of goods terminates, viz. Tamil Nadu. Further, ITC on goods to be used in course or furtherance of business is available.]	8,00,000			1,44,000 [8,00,000 × 18%]

(iii)	Services of the Arbitral Tribunal availed. Such services are intra-State supply since place of supply is Tamil Nadu (location of recipient). Further, ITC on services used in course or furtherance of business is available.]	6,00,000	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
(iv)	Raw Material purchased from ABK Ltd. [ITC cannot be claimed on the e-invoices without IRN since an e-invoice without IRN is not treated as valid document for claiming ITC.]	15,00,000			
(v)	Truck purchased. [ITC is not available since depreciation has been claimed on the GST component.]	14,00,000			
(vi)	Condition of payment of value of supply plus tax within 180 days does not apply to supplies on which tax is payable under				

	reverse charge mechanism.				
	Total ITC available		81,000	81,000	1,44,000

Question 2

- (a) A banking company M/s. YVPAY Bank Ltd. is registered under GST laws and provided the following services during the month of October, 2023.

S. No.	Particulars	Amount (₹)
(i)	Discount earned on bills discounted	6,00,000
(ii)	Interest earned on reverse repo transaction	2,00,000
(iii)	Penal interest recovered from the borrower for the delay in payment of loan EMIs/Dues	5,00,000
(iv)	Services to merchants accepting credit /debit card payments using Point of Sale (POS) machine of bank. (In 50% cases, the amount per transaction was up to ₹ 1,500 while in the other cases, the amount was between ₹ 1,500 to ₹ 2,000)	6,50,000
(v)	Commission received for debt collection service	12,00,000
(vi)	Interest charges for last payment of credit card dues	4,00,000

M/s. YVPAY Bank Ltd. had opted for optional method, under section 17(4) of the CGST Act, 2017, for claiming input tax credit in respect of its operations. For the month of October, 2023, the relevant details for input tax credit are as follows:

- (i) Amount of GST paid on eligible input services - ₹ 8,00,000
- (ii) Amount of GST paid on eligible capital goods - ₹ 6,00,000
- (iii) Amount of GST paid on items whose credit is blocked under section 17(5) of the CGST Act, 2017 - ₹ 3,00,000
- (iv) Applicable rate of GST is 18% on services provided.

Based on the information given above, calculate the net GST payable by the bank for the month of October 2023. Ignore bifurcation of CGST and SGST or IGST.

(5 Marks)

- (b) *M/s. Win here 2407 is an online money gaming platform operating from Singapore. It provides its users a platform to play and win money in different games etc. that are available on its web portal.*

In the month of October 2023, Mr. Anil (player), an unregistered person located in India, deposited an amount of ₹ 15,000 (inclusive of GST) in the master wallet available on the portal of M/s Win here 2407. Subsequently, following transactions were undertaken by Mr. Anil during the month of October, 2023.

- (i) Mr. Anil utilized the amount of ₹ 2,500 from the master wallet towards playing a virtual racing game on the portal. As a winning amount ₹ 11,000 was credited to the master wallet of Mr. Anil.*
- (ii) On another portal operated by M/s Win here 2407 in the name of Win 90, Mr. Anil placed a bet of face value of ₹ 12,000 on an international cricket match. The amount of such bet was paid through the master wallet with applicable taxes and accordingly, the bet amount of ₹ 12,000 with applicable taxes was transferred from the master wallet of Mr. Anil to the bank account of Win 90. However, he lost the bet.*
- (iii) Mr. Anil transferred the balance amount from the master wallet to his bank account after doing the aforesaid transactions.*

Based on the information provided above, answer the following questions, providing reasons in brief:

- (1) Compute the taxable value under GST law and total GST payable on the aforesaid given transactions in the hands of M/s Win here 2407 in India.*
- (2) Determine the net amount transferred by Mr. Anil from the master wallet to his bank account after the aforesaid transactions.*

Note:

Assume all the above transactions to be exclusive of GST unless otherwise specified. Rate of GST applicable is 28% (ignore the bifurcation of GST amount into CGST and SGST or IGST). Calculate amount of value and tax rounded off to nearest rupee.

(5 Marks)

- (c) Calculate the assessable value (rounded off to nearest one rupee) under the Customs Act, 1962 with appropriate working notes from the following particulars related to import of a machine (by sea) by Daksh Industries from USA in the month of October 2023:*

S. No.	Particulars	Amount
(i)	Cost of machine at the port of exportation	US \$ 8,200
(ii)	Freight from port of export to port of import	US \$ 1,800
(iii)	Daksh Industries had paid to seller the cost for packing (not as condition of sale but included in cost of machine at point (i) above)	US \$ 400
(iv)	Actual selling commission paid by Daksh Industries to local agent of exporter.	₹ 20,000
(v)	Actual insurance charges paid are also not ascertainable.	-
(vi)	Ship demurrage charge paid by Daksh Industries at port of importation.	₹ 15,000
(vii)	Engineering charges paid by Daksh Industries to consultancy firm in Mumbai as a condition of sale.	₹ 1,25,000

Note:

- (i) Rate of exchange to be considered ₹ 80 for one US \$
(ii) Relevant legal reasoning should form part of your answer. **(4 Marks)**

Answer

(a) Computation of net GST payable by YVPAY Bank Ltd.

	Particulars	GST @ 18% ² (₹)
(i)	Discount earned on bills discounted [Exempt since consideration is represented by way of discount.]	-
(ii)	Interest on reverse repo transaction [Exempt since consideration is represented by way of interest paid to bank.]	-

² It has been assumed that the amounts given in the question are exclusive of GST. However, it is also possible to solve the question assuming that the amounts given in the question is inclusive of GST.

(iii)	Penal interest on delayed payment of EMIs [Penal interest paid to bank is exempt]	-
(iv)	Services to merchants accepting credit/debit card payments [Exempt since such services are provided to merchants in relation to settlement of an amount upto ₹ 2,000 per transaction through credit/debit card.]	-
(v)	Commission for debt collection services [Not exempt, since it is not a service of extending deposits, loans or advances.]	2,16,000
(vi)	Interest charges for late payment of credit card dues [Not exempt, since specifically excluded.]	72,000
	Output tax payable	2,88,000
	Less: 50% of eligible ITC on input services and capital goods availed in October [(₹ 8,00,000 + ₹ 6,00,000) × 50%] [Blocked credit cannot be availed.]	(7,00,000)
	Net GST payable	Nil

(b) (1) Computation of taxable value of supply and total GST payable

- (i) **Value of supply** of online money gaming = Total amount deposited with the supplier by the player

= Initial deposit of ₹ 15,000 (inclusive of GST) by Mr. Anil with M/s Winhere 2407 after excluding GST = ₹ **11,719** (₹ 15,000 × 100/128) [rounded off]

GST payable = ₹ 11,719 × 28%

= ₹ **3,281** (rounded off) – **[A]**

- (ii) **Value of supply** of online bet = 100% of the face value of the bet
= ₹ **12,000**

GST payable = ₹ 12,000 × 28%

= ₹ **3,360** – **[B]**

Total amount payable = [A] + [B] = ₹ 6,641

(2) Computation of net amount transferred by Mr. Anil from the master wallet to his bank account

Particulars	Amount (₹)
Initial Deposit	15,000
Less – GST on deposit	(3,281)
Less – Payment for virtual racing game	(2,500)
Add – Winning from virtual racing game	11,000
Less – Payment for bet placed on Win 90	(12,000)
Less – GST on the bet placed on Win 90	(3,360)
Net balance transferred	4,859

(c) Computation of assessable value

Particulars	Amount in \$	Amount in ₹
Cost of machine at port of importation	8,200	6,56,000
Add: Local agent's commission [Includible as not a buying commission.]	250 (₹ 20,000/₹ 80)	20,000
FOB as per customs	8,450	6,76,000
Add: Freight [Freight charges till port of importation are includible in assessable value.]	1,800	1,44,000
Add: Insurance charges @ 1.125% of FOB	95.0625	7,605
Add: Ship demurrage (₹ 15,000/₹ 80) [Includible in cost of transport.]	<u>187.50</u>	15,000
Assessable Value (in \$)	10,532.5625	

	Amount (₹)	
Assessable value (in ₹) [\$10,532.5625 × ₹ 80]	8,42,605	8,42,605

Notes:

1. Packing charges incurred by the buyer are includible in assessable value even though they are not paid as a condition of sale.
2. Engineering charges are not included in the assessable value as engineering work is undertaken in India.

Question 3

(a) Determine the 'place of supply' along with justification for the following independent cases:

- Crystal Clear Water Ltd. (CCWL) is a manufacturer of mineral water and registered under GST in Mumbai, Maharashtra. CCWL enters into a contract with Global Advertising Agency (GAA) registered under GST in Ahmedabad, Gujarat for displaying its advertisement on hoardings at an awards event organized at Convention Centre Gandhinagar, Gujarat on 31.10.2023. the structure on which the hoardings are to be displayed is taken on rent by GAA from Mr. Kapoor (unregistered person based in Delhi.). Determine the 'place of supply' for tax invoice to be raised by GAA to CCWL.*
- Mr. Sunil (unregistered person under GST) is a resident of Delhi and currently posted in Dehradun, Uttarakhand. He went on an official visit to Arunachal Pradesh. He purchased a leather bag on 15.10.2023 from Arunachal Pradesh and shop keeper M/s ABC issued a tax invoice in the name of Mr. Sunil only. Mr. Sunil returned back to Dehradun along with leather bag. Determine the 'place of supply' for tax invoice issued by M/s. ABC to Mr. Sunil.*
- Mr. Pintu (unregistered person under GST), resident of Karnal, Haryana went to visit Shimla, Himachal Pradesh along with his family during holidays in the month of October 2023. Due to some medical emergency, he purchased some medicines on 20.10.2023 from a medical store at Mall Road, Shimla and the tax invoice was issued in the name of Mr. Pintu mentioning the address as Karnal, Haryana only. The medicines purchased were consumed in Shimla during the period of stay.*

Determine the 'place of supply' for tax invoice issued by medical store to Mr. Pintu.
(5 Marks)

- (b) *Mr. Sharma, director of VEE Ltd., provides personal guarantee on 31.10.2023 to a nationalized bank for sanctioning the cash credit facility of ₹ 100 lakh sanctioned in favour of VEE Ltd. Mr. Sharma was not paid any consideration for the same by VEE Ltd.*

Whether the said activity undertaken by Mr. Sharma will be considered as supply? If yes, what will be the value of such services? Explain in brief the relevant provisions of GST law.
(5 Marks)

- (c) *GHN Ltd. imported certain items on 14th October 2023. According to GHN Ltd, these items should be classified under chapter heading no. XXXX.AB of the Customs Tariff schedule whereas the Department's view was that these items should be classified under different chapter heading number XXXX.AC. So, there was a dispute going on between GHN Ltd. and the Department regarding the classification of product.*

Meanwhile, an exemption notification was issued on 26th October 2023 which exempted the disputed goods by classifying it under chapter heading number XXXX.AB for the future imports from 30th October 2023 onwards.

Now, GHN Ltd. claimed that since the Department exempted product under chapter heading XXXX.AB. Hence, its items are also to be classified under the same heading even though it imported goods earlier.

Discuss with the help of decided case law if any, whether the contention of GHN Ltd. is correct as per law?

Note: Chapter headings given above are just an example and not the real one.
(4 Marks)

Answer

- (a) (I)** In the given case, services provided by GAA to CCWL are advertisement services.

The place of supply of such services made to a registered person is location of such person.

Thus, place of supply for tax invoice to be raised by GAA to CCWL is location of CCWL, i.e. Mumbai, Maharashtra.

- (II)** In case of supply of goods to an unregistered person over the counter (OTC), where address of such person is not recorded in the invoice, the place of supply is location of the supplier.

Since in the given case, the address of Mr. Sunil is not recorded in the invoice, place of supply is location of M/s ABC i.e. Arunachal Pradesh.

- (III)** In case of supply of goods to an unregistered person over the counter (OTC), where address of such person is recorded in the invoice (i.e. name of State of said person is recorded in invoice), the place of supply is location as per said address.

Thus, in the given case, since the address of Mr. Pintu is recorded in the invoice, place of supply is Karnal / Haryana.

- (b)** Since director and company are related persons in terms of Schedule I of the CGST Act, 2017, the activity of providing personal guarantee by a director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration.

Thus, the activity of providing personal guarantee by Mr. Sharma to the nationalized bank will qualify as supply.

Value of such supply will be the open market value (OMV) in terms of rule 28 of the CGST Rules, 2017.

However, as per RBI Guidelines, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits, except in exceptional cases.

Thus, it is clarified that OMV of said supply may be treated as zero / Nil and therefore, no tax is payable on such supply of service by Mr. Sharma to VEE Ltd.

- (c)** The contention of GHN Limited is correct as per law. As per judicial ruling, if an exemption notification classifies a product under a specified Chapter heading from a specific date, the said classification can be accepted for the period prior to it being beneficial to the applicant.

Question 4

(a) *Rajwada Operators Limited (ROL) is registered under GST in the State of Karnataka as an Electronic Commerce Operator (ECO). It owns and operates a web portal which supplies various goods and services on behalf of various sellers/service providers to its ultimate customers. Details of supplies undertaken through ROL in the month of October 2023 are as under:*

- (i) *Sale of goods worth ₹ 1,47,500/- (including GST) by A Ltd., registered supplier of Rajasthan to B Ltd., Gujarat. Also, goods worth taxable value of ₹ 1,40,000/- sold by A Ltd., Rajasthan to B Ltd., Gujarat in the month of September 2023 were returned back in the month of October 2023.*
- (ii) *Value of services provided from 21.10.23 to 30.10.23 by way of transportation of passengers by motor vehicles by X Ltd., registered under GST in Karnataka to Z Ltd., registered under GST in Karnataka amounting to ₹ 5,50,000/- (it includes ₹ 1,50,000/- against transportation services provided by omnibus).*
- (iii) *Miss Zara of Mumbai books a room for 3 days and 2 nights in Raj Niwas Palace, Jodhpur, Rajasthan through Maharaja Resorts Ltd. (MRL), also an ECO registered under GST in Karnataka. MRL is integrated with ROL who has an agreement with Raj Niwas Palace. Raj Niwas Palace is registered under GST in Rajasthan and raises an invoice for ₹ 1,50,000/- to Miss Zara and receives ₹ 1,45,000/- from ROL for the same.*

All the figures given above are exclusive of GST except wherever specified separately. Assume rate of CGST and SGST to be 9% each and IGST to be 18% on all inward and outward supplies of goods and services. Compute the amount of TCS to be collected by ROL for the month of October 2023.

Working notes should form part of your answer.

(5 Marks)

(b) *Bhagwan Manufacturers & Exporters Company (BMEC) is registered under GST in the State of Rajasthan and supplies various goods in domestic as well as in international markets. It is engaged in both manufacturing and trading of goods. It exports goods without payment of tax under bond or letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.*

BMEC provides the following information in relation to various supplies made by it during October, 2023 tax period:

S. No	Particulars	(₹)
1.	Taxable value of goods 'Star' supplied within India	14,00,000/-
2.	Taxable value of goods 'Sun' exported without payment of tax under letter of undertaking. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is ₹6,00,000).	10,00,000/-
3.	Taxable value of goods 'Moon' exported without payment of tax under bond. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is ₹1,50,000)	2,00,000/-

The input tax credit (ITC) availed for the above tax period is as follows:

S.No.	Particulars	(₹)
1	Input tax credit availed on capital goods	1,00,000/-
2	Input tax credit availed on inputs	3,00,000/-
3	Input tax credit availed on inputs services	1,50,000/-
BMEC also provided following additional information:		
(i)	All the above inputs, input services and capital goods are used in manufacturing process and all the conditions for availing input tax credit have been complied with.	
(ii)	The balance in the electronic credit ledger of BMEC at the time of filing the refund application is ₹ 1,50,000/-.	
(iii)	The balance in the electronic credit ledger of BMEC at the end of the October 2023 tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 3,25,000/-	

You are required to compute the amount refundable to Bhagwan Manufacturers & Exporters Company against accumulated unutilized input tax credit for October 2023 tax period according to the provisions of GST law by giving necessary explanations for treatment of various items. **(5 Marks)**

- (c) *Varun Goyal, an IT professional and a person of Indian origin, is residing in USA for the last 14 months. He wishes to bring a used microwave oven (costing approximately ₹ 1,85,500/- and weighing 15 kg) with him during his permanent return to India. He purchased the oven in USA 6 months before and he has been using that oven for his personal use in his kitchen. He is not aware of Indian customs rules.*

Analyze and summarize the related legal provision of the Baggage Rules, 2016 and provide him with some advice in this regard. Relevant legal provisions should form part of your answer. **(4 Marks)**

Answer

- (a) (i) ROL is liable to collect tax at source under section 52 of the CGST Act, 2017 @ 1% under IGST of the net value of inter-State taxable supplies of goods (Value of taxable supplies made less value of supplies returned) made through it by the electronic commerce operator (ECO) - A Ltd.

Net value of taxable supplies = ₹ 1,25,000 (₹ 1,47,500 × 100/118) – ₹ 1,40,000 = Nil / (Negative Value)

Thus, TCS to be collected is Nil.

- (ii) ROL is liable to collect TCS, since the tax on services, by way of transportation of passengers by an omnibus provided by a company through ECO, is not payable by ECO, under section 9(5) of the CGST Act, 2017.

= ₹ 1,50,000 × 0.5%

= ₹ 750 each under CGST and SGST

ROL is not required to collect TCS on transportation of passenger services by other motor vehicles supplied through it worth ₹ 4,00,000 as tax on the same is payable by ROL itself under section 9(5) of the CGST Act, 2017.

- (iii) ROL, being supplier side ECO is liable to collect TCS @ 0.5% under CGST and 0.5% under SGST of the net value of intra-State taxable supplies of accommodation services made through it by Raj Niwas Palace.

= ₹ 1,50,000 × 0.5%

= ₹ 750 each under CGST and SGST

- (b) As per rule 89(4) of the CGST Rules, 2017, in the given case, refund of ITC in the case of zero-rated supply of goods without payment of tax under bond/LUT is as follows:

$$\begin{aligned} \text{Refund Amount} &= \frac{\text{Turnover of zero-rated supply of goods}}{\text{Adjusted Total Turnover}} \times \text{Net ITC on inputs and input services} \\ &= \frac{[9,00,000^* + 2,00,000^{**}]}{[9,00,000 + 2,00,000 + 14,00,000]} \times [1,50,000 + 3,00,000^3] \\ &= ₹ 1,98,000 \end{aligned}$$

*Turnover of goods 'Sun' = Lower of (i) ₹ 6,00,000 × 1.5 or (ii) ₹ 10,00,000, i.e. ₹ 9,00,000

**Turnover of goods 'Moon' = Lower of (i) ₹ 1,50,000 × 1.5 or (ii) ₹ 2,00,000, i.e. ₹ 2,00,000

Refundable amount is the least of the following:

- Refund as per rule 89(4) of the CGST Rules, 2017 [₹ 1,98,000]
- Balance in ECL at the time of filing refund application, [₹ 1,50,000] and
- Balance in ECL at the end of October 2023 for which refund is being filed after the return in Form GSTR-3B for the said period has been filed [₹ 3,25,000]

Thus, the refundable amount is ₹ 1,50,000.

ITC is on capital goods is not eligible for refund.

- (c) A person, who is engaged in a profession abroad shall, on return after a minimum stay of 1 year during the preceding 2 years, be allowed clearance free of duty, *inter alia*, personal and household articles, including specified articles upto an aggregate value of ₹ 2,00,000.

³ It has been most logically presumed that ITC figures given in the question pertains to both CGST and SGST or IGST.

One of such specified articles is Microwave oven. However, the Indian passenger should not have availed this concession in the preceding 3 years.

Thus, Varun Goyal can bring Microwave oven duty free provided he had not availed this concession in the preceding 3 years.

Question 5

- (a) *In an order passed dated 1st April 2023 issued to Sita Ram Pvt. Ltd., the Commissioner of Central Tax, being Revisionary Authority has confirmed IGST demand of ₹ 1400 crore, penalty of ₹ 200 crore and interest of ₹ 20 crore.*

Sita Ram Pvt. Ltd. admits the tax liability, penalty and interest to the extent of ₹ 200 crore, ₹ 20 crore and ₹ 10 crore respectively but wishes to litigate the balance amount of demand and thus, Sita Ram Pvt. Ltd. deposits the required amount of pre-deposit on 12th April 2023 and files an appeal with the GSTAT.

GSTAT decides the appeal in favour of Sita Ram Pvt. Ltd. on 12th June 2023. Sita Ram Pvt. Ltd. submits an application seeking refund of the pre-deposit along with applicable interest on 2nd July 2023 and the department acknowledges the application on the same day. The amount of pre-deposit is refunded to Sita Ram Pvt. Ltd. on 15th October 2023.

With reference to provisions of the GST law, compute the amount of pre-deposit required to be deposited before filing an appeal to GSTAT and interest payable by the Department on refund of such pre-deposit, if any, along with necessary explanations.

(5 Marks)

- (b) *GST Department initiated prosecution proceedings against Mr. Sahil, a taxable person under GST. Mr. Sahil collected ₹ 8 crore as GST but failed to pay the same to the Government beyond the period of three months from the date on which such payment became due.*

He approached the Commissioner on 15.10.2023 with a request for compounding of offence. Mr. Sahil made full and true disclosure of facts relating to the case. After considering the request, the Commissioner directed him to pay an amount of ₹ 5.2 crore as compounding amount on 20.10.2023.

As per the provisions of section 138 of the CGST Act, 2017 read with relevant rule of the CGST Rules, 2017, examine the issue and provide the answers with supporting explanatory note to the following:

- (1) *Determine the minimum and maximum compounding amount which can be determined by the Commissioner.*
- (2) *Is the amount determined by the Commissioner in this case within the limits prescribed under the GST law?*
- (3) *In what time period will Mr. Sahil have to pay the compounding amount ordered by the Commissioner?* **(5 Marks)**
- (c) *Mr. Pandya imported certain raw material from Japan. However, Mr. Pandya was not able to furnish certain supporting documents related to the said raw material imported along with the Bill of Entry for home consumption. Mr. Pandya requested the customs officials to deposit the said imported goods in a public bonded warehouse for a period of 20 days so that he obtains the required documents. The Customs officer initially denied for allowing warehousing and afterwards insisted Mr. Pandya to execute an indemnity bond for the goods to be deposited in the warehouse.*

Examine the correctness of the stand taken by the Customs Officer.

(4 Marks)

Answer

- (a) The amount of pre-deposit to be made by Sita Ram Pvt. Ltd. for filing the appeal to the GSTAT is as under-
- (i) full amount of tax, interest and penalty as admitted by it, i.e. ₹ 230 (200+20+10) crores and
- (ii) 20% of the remaining tax in dispute, i.e. ₹ 240 crore (20% of ₹ 1,200 crore) subject to a maximum of ₹ 100 crores (in case of IGST).
- = ₹ 330 crores

If the pre-deposit made by the appellant before the Tribunal is required to be refunded consequent to any order of the Tribunal, interest @ 9% p.a. shall be payable from the date of payment of the amount till the date of refund of such amount.

Period of delay counted from 12th April 2023 is 186 days

Interest (rounded off) = ₹ 100 crore × 9% × 186/366 = ₹ 4,57,37,705

- (b) (1)** Since Mr. Sahil has collected amount exceeding ₹ 5 crores as tax but failed to pay the same to the Government beyond a period of 3 months from the date on which such payment became due:
- (i) minimum amount for compounding is 50% of the tax evaded, i.e., ₹ 4 crore (50% of ₹ 8 crore).
 - (ii) maximum amount for compounding is 75% of the tax evaded i.e., ₹ 6 crore (75% of ₹ 8 crore).
- (2)** Yes, the amount for compounding determined by the Commissioner i.e. ₹ 5.2 crore is within the above limits prescribed under the GST law.
- (3)** Mr. Sahil has to pay the compounding amount ordered by the Commissioner within 30 days from the date of the receipt of the order.
- (c)** Where Assistant/Deputy Commissioner of Customs is satisfied on an application of the importer that the imported goods, entered for home consumption / warehousing cannot be cleared within a reasonable time, such goods may, pending clearance/removal, be permitted to be stored in a public warehouse for a period not exceeding 30 days.

Such goods shall not be deemed to be warehoused goods for the purpose of the Customs Act, 1962 and accordingly warehousing provisions shall not apply to such goods. This is popularly known as warehousing without warehousing.

Thus, goods imported by Mr. Pandya can be stored in the public warehouse for a period of 30 days.

However, the stand taken by the Customs officer to insist him to execute an indemnity bond for goods to be deposited in warehousing is not valid in law since warehousing provisions are not applicable to such goods.

Question 6

- (a) Under what circumstances, the Revisional Authority (RA) cannot exercise the powers of revision under section 108 of the CGST Act, 2017.*

Is there any exception to the above provision?

(6 Marks)

- (b) What is search warrant? Who is the competent authority to issue Search Warrant under the CGST Act, 2017? What details should be contained in a Search Warrant?*

OR

(b) *Which officers under section 72 of the CGST Act, 2017 are empowered and are required to assist proper officers in the implementation of the CGST Act?*

(4 Marks)

(c) *Under Foreign Trade Policy (FTP), what does the National Trade Facilitation Action Plan aim to achieve? Enumerate the trade facilitation measures which are provided under Foreign Trade Policy (FTP).*

(4 Marks)

Answer

(a) The RA shall not exercise the power of revision if:

- (a) the order sought to be revised has been subject to an appeal before Appellate Authority (AA) or Tribunal or High Court or Supreme Court; or
- (b) the period of 6 months (from the date of communication of order) has not yet expired or more than 3 years have expired after the passing of the decision/order sought to be revised; or
- (c) the order has already been taken for revision at an earlier stage; or
- (d) the order sought to be revised is itself a revisional order.
- (e) Non appealable orders and decisions i.e. order covered under section 121.

The RA may still pass an order on any point which has not been raised and decided in an appeal before AA/Tribunal/High Court/Supreme Court, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later.

(b) A search warrant is a written authority to conduct a search.

The competent authority to issue a search warrant is an officer of the rank of Joint Commissioner or above.

A search warrant must indicate the existence of a reasonable belief leading to the search. Search warrant should contain the following details:

- the violation under the GST law,

- the premise to be searched,
- the name and designation of the person authorized for search,
- the name of the issuing officer with full designation along with his round seal,
- date and place of issue,
- serial number of the search warrant,
- period of validity i.e. a day or 2 days etc.

Note – Any two points may be mentioned.

(b) Alternative Answer

Under section 72 of the CGST Act, 2017, the following officers have been empowered and are required to assist CGST officers in the execution of CGST Act:

- (i) Police;
- (ii) Railways
- (iii) Customs;
- (iv) Officers of State/UT/ Central Government engaged in collection of GST;
- (v) Officers of State/UT/ Central Government engaged in collection of land revenue;
- (vi) All village officers;
- (vii) Any other class of officers as may be notified by the Central/State Government.

(c) The National Trade Facilitation Action Plan aims to achieve:

- Improvement in ease of doing business through reduction in transaction cost and time
- Reduction in cargo release time
- A paperless regulatory environment
- A transparent and predictable legal regime
- Improved investment climate through better infrastructure

Note – Any two points may be mentioned.

The following trade facilitation measures are provided under FTP:

- Free passage will be provided to export consignment
- There will not be any seizure of export related stock except in exceptional cases.
- Single window system to facilitate export of perishable agricultural produce.
- DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counseling, training and outreach programmes including the 'Districts as Export Hubs'.
- DGFT online customer portal provides information relating to export and import including Acts, rules, policy and procedures.
- Online facilities for e-RCMC/RC related processes, e-Certificate of Origin (e-CoO) and Quality Control and Trade Disputes (QCTD) are also available on said common digital platform.
- DGFT has undertaken a number of IT Initiatives to enable a paperless, contactless and transparent environment for availing benefits under the export promotion schemes.
- A dedicated 24 X 7 Helpdesk facility has been put in place to assist the exporters in filing online applications on the DGFT portal and other matters pertaining to FTP.
- A large number of Trade Facilitation measures have been taken by Customs Department.
- Authorised Economic Operator (AEO) Programme
- Towns of Export Excellence (TEE)
- Duty Free Entitlements to Select Sectors
- Special privileges granted to Status Holders
- DGFT is committed to function as a facilitator of exports and imports.

- Continuous efforts are being made for better collection, compilation and wider dissemination of Trade Data and Statistics to help the policy makers, researchers, exporters and importers to formulate their trade strategy.
- DGFT has in place a Citizen's Charter, giving time schedules for providing various services to clients.

Note – Any four points may be mentioned.