

CA – FINAL NOV 22 SUGGESTED ANSWERS

Question 1:

The details of transactions of J Ltd, Vadodara (Gujarat), a registered taxable person, during the month of February, 2022, are as under:

S. No	Particulars
1	Purchased goods from a manufacturer in Maharashtra as a merchant exporter (on payment of 0.1% IGST) and exported the same directly to an importer of Spain under LUT. FOB value is ₹ 7,00,000. Invoice for the supply of J Ltd was received on 05/02/22 and payment was made on 08/02/22.
2	Imported goods from China with CIF value of ₹ 5,00,000. The goods were sold for ₹ 5,10,000 as high sea sales to an Indian party on 21/02/22.
3	Purchased goods from a party in Taiwan. Sold the goods to a party in Turkey without bringing the goods to India. Purchase value was ₹ 5,00,000 and the sale price was ₹ 7,00,000. J Ltd paid sales commission of ₹ 50,000 to Mrs. T, their agent in connection with this transaction. The transaction was completed in the third week of February. (The figures in rupees have been given after conversion though transaction was in convertible foreign currency).
4	J Ltd has agreed to provide technical services to Mr. K of Ahmedabad who is an unregistered person in connection with the manufacturing operations to be undertaken by him for a consideration of ₹ 5,00,000 and has received an advance of ₹ 1,00,000 for the same on 02/02/22.
5	It has imported raw materials from China. CIF Value of the goods for the purpose of customs included ₹ 1,00,000 as ocean freight paid by J Ltd. The value for the purpose of levy of IGST worked out by customs was ₹ 6,00,000. Clearance of the goods took place on 04/02/22.
6	Locally purchased taxable raw material stored in the factory got spoiled due to rain water in the factory and became unusable. J Ltd claimed and received insurance amount of ₹ 60,00 for the same. Value of the raw material at the time of the receipt was ₹ 70,000. Raw material was purchased from a party in Gujarat on 03/02/22 and payment was made on 07/02/22.
7	Company purchased a three-wheeler having capacity of 2 persons including driver (engine capacity 20CC) at a cost of ₹ 2,50,000 which is being used for transportation of staff of company from residence to factory and back. The vehicle was received on 05/02/22 and payment was made on the same date.
8	It has paid inward transportation expense of ₹ 30,000 to Mr. Z, a tempo owner who has not issued any consignment notes. He has issued a consolidated bill only on 03/02/22 and payment was made on 04/02/22.
9	It has supplied goods of value of ₹ 50,00,000 to V Ltd, Padra, Gujarat (includes ₹ 10,00,000 supplied to SEZ unit of V Ltd).
10	It has purchased goods from X Impex Ltd, Kadi, Gujarat for use as raw materials in its factory. The value of the goods is ₹ 30,00,000. Invoice is dated 02/02/22.
11	It has availed supply of manpower security services from Y Ltd, Vadodara, Gujarat, a registered taxable person. The amount paid is ₹ 1,00,000. The invoice was received on 01/02/22 and payment was made on the same day.

Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% excepting the supply received as a merchant exporter, Ignore compensation cess. J Ltd had an opening balance of ITC of CGST ₹ 20,000 and SGST ₹ 20,000 as on 01/02/2022. In respect of all the inward supplies, suppliers have uploaded their invoices in respective GSTR 1 and the supplies are reflected in GSTR 2A/2B. All the figures given above are exclusive of GST, wherever applicable.

Work out the admissible ITC and GST liability (CGST, SGST or IGST, as the case may be) payable in cash, by J Ltd Vadodara (Gujarat), for February, 2022. Ensure that all the items in the table are covered in your answer. Provide supporting explanatory note for your conclusion wherever required.

(14 marks)

Answer:

I. Statement showing computation of Gross GST payable under FCM by J Ltd. for the month of February 2022:

Particulars	Value	CGST	SGST	IGST
Export of goods to Spain under LUT [Treated as Zero rated supplies, without payment of GST. Such goods are procured by paying concessional tax @0.1% and it can be availed as ITC. Also, such goods can be exported only under LUT/Bond and cannot be exported on payment of IGST]	7,00,000	-	-	-
High Seas Sales to an Indian party [As per Sec. 7(2) read with Schedule III of CGST Act, supply of goods after the goods have been dispatched from the port of Origin located outside India but before clearance for home consumption, is neither supply of goods nor supply of services]	Not included in aggregate turnover	-	-	-
Sale of goods to a party in Turkey [As per Sec. 7(2) read with Schedule III to CGST Act, supply of goods from non-taxable territory to non-taxable territory without goods entering into India is neither supply of goods nor supply of services]	Not included in aggregate turnover	-	-	-
Technical Services to Mr. K [Technical Services provided to K Ltd. of Ahmedabad, is a taxable supply within the state, and as per Sec. 13(2), GST payable on advances]	Advance received not part of aggregate turnover	1,00,000 X 9% = 9,000	1,00,000 X 9% = 9,000	-
Supply of goods to V Ltd, SEZ [It is Zero rated supply and in the absence of information about LUT/Bond, it is treated as supply upon payment of IGST]	10,00,000	-	-	10,00,000 X 18% = 1,80,000
Supply of goods to V Ltd, (other than SEZ and intra state supply)	40,00,000	40,00,000 X 9% = 3,60,000	40,00,000 X 9% = 3,60,000	-
Total Gross GST liability under FCM	57,00,000	3,69,000	3,69,000	1,80,000

II. Statement showing computation of Gross GST payable under RCM by J Ltd. for the month of February 2022:

Particulars	CGST	SGST	IGST
Ocean Freight [Services provided by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India shall be taxable under RCM., Even though the applicable	-	-	18,000 [1,00,000 X 18%]

rate of GST in this case of 5%, as the question specifies 18% as the rate of GST, it is computed by considering 18%]			
RCM ITC shall be available on payment of tax.			

III. Statement showing computation of input tax credit available for utilization of J Ltd. for the month of February 2022:

Particulars	CGST	SGST	IGST
Purchase of goods from Manufacturing supplier @ 0.1% IGST (Note: It is assumed that the price at which J Ltd. has purchased such goods is ₹7,00,000)	-	-	₹7,00,000 × 0.1% = 700
Imported goods from China - CIF Value ₹ 5,00,000 [As the said goods are sold on high seas basis by the original importer (J Ltd.), the buyer (Indian party) who takes delivery of such goods shall pay customs duty incl. IGST and can avail ITC w.r.to the same but not by J Ltd.]	-	-	-
Commission paid to Mrs. T, an agent of J Ltd. for purchase of goods from Taiwan and sales to Turkey [As per Notification No. 9/2017-IT services provided by an intermediary when location of supplier and recipient of goods is outside India is exempted]	-	-	-
Import of goods from China [As per section 12 of customs Act, 1962 read with section 3 of Customs Tariff Act, 1975 Customs duty shall be levied on ₹6,00,000]	-	-	₹6,00,000 × 18% = 1,08,000
ITC on raw material purchased and destroyed [As per section 17(5)(h) of CGST Act, ITC shall not be availed in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Even though insurance compensation is received on the same, ITC not available and it is not a supply, as ITC not availed]	-	-	-
Three Wheeler, with an engine capacity of 20cc [It is not a motor vehicle, as per the definition of motor vehicle as per Motor Vehicles Act, 1988. Therefore, it is not a blocked ITC as per Sec. 17(5) and ITC available on the same. Also, it is assumed to be intrastate supply. "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; <u>but does not include</u> a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or <u>a vehicle having less than four wheels fitted with engine capacity of not exceeding 25 cubic centimetres.</u>]	₹2,50,000 × 9% = 22,500	₹2,50,000 × 9% = 22,500	-

Transportation services received [Service by way of transportation of goods, other than GTA or Courier agency is exempted as per Sec. 11 read with Notification No. 12/2017. As the supplier not issued consignment note, it is not a GTA service]	-	-	-
Purchase of goods from X Impex, Gujrat	30,00,000 X 9% = 2,70,000	30,00,000 X 9% = 2,70,000	-
Availment of Manpower security services from Y Ltd. [As the supplier is body corporate, the same is not covered under RCM in terms of Sec. 9(3) of CGST Act read with Notification No. 13/2017]	1,00,000 X 9% = 9,000	1,00,000 X 9% = 9,000	-
Total	3,01,500	3,01,500	1,08,700

Total ITC

Particulars	CGST	SGST	IGST
Opening balance of ITC	20,000	20,000	
ITC w.r.to inward supplies during the month (other than RCM)	3,01,500	3,01,500	1,08,700
ITC w.r.to inward supplies under RCM [Refer Statement II]			18,000
(-) Reversal of ITC – Does not arise as outward supply of J Ltd. do not contain exempted supplies			
Total ITC available for utilization	3,21,500	3,21,500	1,26,700

IV. Statement showing computation of net GST payable by J Ltd. for the month of February 2022:

Particulars	Statement Reference	CGST	SGST	IGST
Gross GST payable under FCM	I	3,69,000	3,69,000	1,80,000
(-) Input Tax Credit	III			
IGST Credit utilized				1,26,700
CGST Credit utilized		3,21,500		
SGST Credit utilized			3,12,500	
Liability to be discharged under FCM		47,500	47,500	53,300
Reverse Charge Mechanism liability (To be discharged only through Electronic Cash Ledger)	II	-	-	18,000
Net GST payable		47,500	47,500	71,300

Alternative View:

As the purchase price of inward supplies from a manufacturer is Maharashtra (Referred to in S. No. 1) is not provided, if we do not consider ₹7,00,000 as purchase price, then the ITC w.r.to IGST shall be 1,26,000 and the net IGST liability comes to 72,000

Question 2:

a) RAM Company Ltd, a registered supplier of Prayagraj (Uttar Pradesh), is a manufacturer of goods. The company provides the following information pertaining to GST paid on inward supplies during the month of April (current financial year):

S. No	Items	GST Paid in (₹)
(i)	Life Insurance premium paid by the company for the life insurance cover of factory employees as per the policy of the company. There is no legal obligation to provide insurance cover for employees.	1,50,000

(ii)	In the month of September of previous financial year, RAM Company Ltd. availed ITC of ₹ 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25 th September (previous financial year). The said raw material has not been received back from the job worker upto 30 th April (current financial year).	
(iii)	Raw materials purchased which are used for exempted goods supplied as zero-rated supply.	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.	30,000
(v)	Company purchased the capital goods for ₹ 4,00,000 and claimed depreciation of ₹ 44,800 (@ 10%).	48,000
(vi)	Raw materials purchased from Neha Traders (Invoice of Neha Traders is received in the month of April but goods were received in month of June)	20,000
(vii)	Car purchased for making further supply of such car. Such car is destroyed in accident while being used for test drive by potential customers.	30,000
(viii)	Goods used for setting up tele-communication towers	50,000

Other information:

All the above inward supplies except at S. No. (iii) above have been used in the manufacture of taxable goods. Compute the amount of net ITC available to RAM Company Ltd. for the month of April with necessary explanations for the treatment of all the items in the table as per the provisions of the CGST Act. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. (9 Marks)

Answer:

Computation of Eligible ITC for the month of April (Current financial year)

Particulars	Amount
ITC on Life insurance premium paid [As per section 17(5) of CGST Act, 2017 Life insurance and health insurance are blocked ITC. However, the same can be availed, if it is incurred by employer to employee under a statutory obligation. But, in the present case it is a policy of business and therefore, ITC is not available on the same]	Nil
ITC on goods sent to job work [As per section 19 read with section 143 of CGST Act, when inputs are sent to job worker, the processed goods shall be returned by the job-worker within 1 year from the date of dispatch to job-worker. As of April, (current year) 1 year is no elapsed from September, (previous year) and it is not a supply in April, (current year). Also, as ITC is already availed in September previous year, ITC not required to be availed at present]	Nil
Raw material purchased for zero rated supply of exempt product [ITC usually not available if the outward supply is exempted. However, when such exempted goods become zero-rated, supply ITC available in terms of Sec. 17(3) of CGST Act, as zero-rated supplies are treated as taxable supplies]	50,000
Works contract services [As per section 17(5), ITC shall not be allowed on works contract services. However, the same is eligible ITC if the expenditure is not capitalized but charged to P&L]	30,000

ITC on capital goods [As per sec. 16(3) of CGST Act, ITC not available on capital goods, if GST component is included for computing depreciation. In the present case depreciation is computed on 4,48,000 ITC not available]	Nil
Purchase of raw materials [As per sec. 16, one of the conditions for availment of ITC is that goods or services should be actually received. In the present case, even though invoice is in April month, but the goods are actually received in the month of June, therefore ITC not available in April month]	Nil
Car purchased and destroyed in an accident [As per sec. 17(5)(h) of CGST Act, motor vehicle purchased and used for further supply is eligible for ITC. However, as the purchased goods are destroyed in accident, ITC not available] Note: As there is no information, as to the date of purchase, it is assumed that car is purchased in the same month.	Nil
Goods for telecommunication towers [As per section 17(5), ITC not available on goods purchased and used for construction of immovable property. Plant and machinery is an exception, where ITC available. However, telecommunication towers and pipelines laid outside factory are excluded from plant and machinery. Therefore, ITC not available in the present case]	Nil
Total	50,000

- b) Mr. X, a chemical manufacturer, imports a machine from Germany on 12th January, 2019 for ₹ 20 Lakhs. Mr. X is eligible for concessional rate of customs duty on capital goods imported by him subjected to condition that he follows the Customs (Import of goods at concessional rate of duty) Rules, 2017. Machinery was put to use on 1st February, 2019. On 5th April, 2022, Mr. X wants to clear the machine for home consumption after having used the machine for the specified purpose for which it was imported. Mr. X requires your help in calculating the customs duty he will be liable to pay for such clearance as per rule 7 of Customs (Import of goods at concessional rate of duty) Rules, 2017. Concessional rate of basic customs duty is 5%. Normal rate of basic customs duty is 20%. Calculate the basic customs duty payable by Mr. X on clearance of such capital goods for home consumption on 5th April, 2022. Ignore interest calculation. (5 Marks)

Answer:

As per Rule 7 of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 as amended, when an importer imports goods at concessional rate of duty, the said importer, with the permission of the assistant/Deputy Commissioner of Customs having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service, may clear the imported capital goods, 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 @ 15% p.a., on the depreciated value allowed in straight line method, as specified below, namely : —

- for every quarter or part thereof in the first year @ 4%;
- for every quarter or part thereof in the second year @ 3%;
- for every quarter or part thereof in the third year @ 3%;
- for every quarter or part thereof in the fourth and fifth year @ 2.5%;
- and thereafter for every quarter or part thereof @ 2%.

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 upto the date of its clearance.

Particulars	Amount
Original value of capital goods	20,00,000
(-) Depreciation for the period 1 st Feb, 2019 to 5 th April, 2022	(8,50,000)
First year – 1 st Feb, 2019 to 31 st Jan, 2020 = 4 Quarters X 4% = 16%	
Second year – 1 st Feb, 2020 to 31 st Jan, 2021 = 4 Quarters X 3% = 12%	
Third year – 1 st Feb, 2021 to 31 st Jan, 2022 = 4 Quarters X 3% = 12%	
Fourth year – 1 st Feb, 2022 to 5 th April, 2022 = 1 Quarter X 2.5% = 2.5%	
Total depreciation = 20,00,000 X 42.5%	
Depreciated Value	11,50,000
Normal rate of duty	20%
Concessional rate of duty	5%
Differential duty [20% (-) 5%]	15%
Thus, Basic Customs Duty payable = 11,50,000 x 15%	1,72,500

Note: As the question does not specify about interest computation, it is not required. Also, as the question specifically is related to basic customs duty, addition of social welfare surcharge not required.

Question 3:

a) Determine the place of supply for the following independent cases:

- I. Festival Event, an event management company at Mumbai, organises two business promotion events for Prabhu Enterprises (Registered in Ahmedabad, Gujarat) at New Delhi and in Malaysia.
- II. Global Planners (Jodhpur, Rajasthan) is hired by Mr. John (unregistered person based in Kochi, Kerala) to plan and organize his son's wedding at Mumbai, Maharashtra. Will your answer be different if the wedding is to take place in Singapore?

(5 Marks)

Answer:

- (i) As per sec. 12(7) of IGST Act, 2017, in case of services by way of organization of an event is provided to a registered person, place of supply is the location of recipient.
In the present case, the event management services are provided to Prabhu Enterprises, Gujrat, a registered person. Thus, place of supply would be Gujrat, even though the event is held in New Delhi and Malaysia.
- (ii) As per Section 12(7) of IGST Act, 2017, in case of services by way of organization of an event is provided to an unregistered person and event is held in India, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.
In the present case, Mr. John (Recipient) is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Mumbai (Maharashtra). However, if his son's wedding takes place in Singapore, the place of supply is the location of recipient, i.e., Kochi (Kerala).

b) XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd, Mumbai since past two years. Consideration is settled by BA Ltd assignment wise. BA Ltd paid ₹ 37 lakhs to XYZ Consultancy on 10th January, 2022 on XYZ Consultancy for agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to GST.

You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in accordance with law. The technical services provided by XYZ consultancy is otherwise chargeable to IGST at the rate of 18% and XYZ have been discharging the GST liability on consultancy charges. It may be noted that BA Ltd is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.

(4 Marks)

Answer:

As per section 7(1)(a) of CGST Act 2017, all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

Also, as per section 2(31) of CGST Act 2017, consideration includes the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both.

Further, as per Sec. 7(1A) read with Schedule II of CGST Act 2017 agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is treated as supply of service.

In the present case, XYZ limited is receiving an amount of ₹37 lakhs from BA Ltd. for refraining of an act, thus, the same would be treated as consideration and forms part of Supply under Sec. 7(1)(a) as above. Further, as per Sec. 7(1A) read with schedule II to CGST Act, it is treated as supply of services. Therefore, the contention of XYZ Ltd. that such amount is not chargeable to GST is not valid.

As per Sec. 15 of CGST Act, 2017 read with Rule 35 of CGST Rules, 2017 the value of supply shall be ₹37,00,000 and is considered as inclusive of IGST as BA Ltd. is not ready to pay any further amount.

GST liability of XYZ consultancy = ₹37,00,000 × 18/118 = ₹5,64,407 (Rounded off)

c) KIP Chemical, Ahmedabad, Gujarat supplies goods to ACCP. Bharuch, situated in Dahej SEZ (Gujarat). Examine with reference to decided case law, whether such supply is chargeable to export duty under the provisions of Customs Act, 1962. Export (5 Marks)

Answer:

In the case of Tirupati Udyog Ltd. v. UOI, High Court of A.P held that the clearances of goods from DTA to Special Economic Zone are not chargeable to export duty either under the SEZ Act, 2005 or under the Customs Act, 1962 on the basis of the following observations: -

- ❖ The charging section needs to be construed strictly. If a person is not expressly brought within the scope of the charging section, he cannot be taxed at all.
- ❖ SEZ Act does not contain any provision for levy and collection of export duty on goods supplied by a DTA unit to a Unit in a Special Economic Zone for its authorised operations. Since there is no charging provision in the SEZ Act providing for the levy of customs duty on such goods, export duty cannot be levied on the DTA supplier.
- ❖ Reading section 12(1) of the Customs Act, 1962 along with various definitions, makes it apparent that customs duty can be levied only on goods imported into or exported beyond the territorial waters of India.

Since both the SEZ unit and the DTA unit are located within the territorial waters of India, supplies from DTA to SEZ would not attract section 12(1) [charging section for customs duty]. The above view has also been confirmed in Essar Steel v. UOI [maintained by SC].

Thus, KIP Chemical Ahmedabad supplying goods to ACCP Bharuch (SEZ) is not liable to export duty.

Question 4:

a) BSA Corporation is a Public Sector Undertaking registered in Karnataka. For entertainment events in Bengaluru and at Mumbai, BSA has given contract to Mr. A, a renowned artist, registered person in Maharashtra, to perform on contemporary Bollywood songs, BSA Corporation agreed to pay ₹ 12,39,000 and ₹ 18,29,000, inclusive of GST, for Mumbai and Bengaluru events respectively. BSA Corporation seeks your advice regarding amount of TDS to be deducted assuming GST Rate @ 18% (CGST @ 9%, SGST @ 9%, IGST @18%).

(5 Marks)

Answer:

As per section 51 of the CGST Act, 2017, a notified recipient is required to deduct CGST @ 1% + SGST @ 1% or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2,50,000. The notified recipients are -

- a department or establishment of the Central Government or State Government; or
- local authority; or
- Governmental agencies; or
- an authority or a board or any other body, -
 - set up by an Act of Parliament or a State Legislature; or
 - established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
 - Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
 - Public sector undertakings.

In the present case, BSA corporation is a PSU and falls under notified recipient. Also, as the Value of supply under the contract (Excl. GST) is ₹26,00,000 [(12,39,000 + 18,29,000) X 100/118] exceeds ₹ 2,50,000/-, TDS to be deducted and remitted by BSA Corporation.

As per Sec. 12(7) of IGST Act, 2017 POS in case of ancillary services in relation to organizing an event is the location of recipient, if the services are provided to a registered person. In the present case as BSA corporation is registered in Karnataka, Place of supply w.r.to services provided by Artist is Karnataka and it is in interstate supply as location of artist is Maharashtra and it is chargeable to IGST

BSA corporation is required to deduct TDS under Sec. 51 of CGST Act, 2017 @ 2% on the payment made/credited to the supplier. As per explanation to Sec. 51, for the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

Therefore, TDS payable by BSA Corporation = ₹26,00,000 X 2% = ₹52,000

b) Khurania Filling Station, having head office in Faridabad, Haryana has given details of transactions as under in a financial year:

Supply of petrol at Faridabad, Haryana	₹ 14,00,000
Value of inward supplies on which tax is payable on reverse charge basis	₹ 11,00,000
Supply of transformer oil at Faridabad, Haryana	₹ 2,50,000
Value of branch transfer from Faridabad, Haryana to Ludhiana, Punjab without payment of consideration	₹ 3,00,000
Value of taxable supplies at Mizoram branch	₹ 12,40,000

It argues that it does not have taxable turnover crossing threshold limit of ₹40,00,000 either at Faridabad, Haryana or Ludhiana, Punjab and including turnover at Mizoram branch. Therefore, there is no need to take registration.

Compute the aggregate turnover of Khurania Filling Station and indicate whether the firm is required to take registration. Give reasons for your conclusion. (4 Marks)

Answer:

As per Section 2(6) of CGST Act, 2017, aggregate turnover includes the aggregate value of:

- taxable supplies,
- exempt supplies,
- exports of goods and/or services and
- inter-State supplies

of persons having the same PAN, to be Computed on a All India basis.

And excludes-

value of inward supplies on which tax is payable by a person on reverse charge basis, central tax, State tax, Union territory tax, integrated tax and cess

Computation of Aggregate Turnover of Khuriana Filling station for a financial year.

Particulars	Amount (₹)
Sale of petrol at Faridabad, Haryana (Petroleum products are outside the scope of GST hence it is non-taxable supply. Exempt supply includes non-taxable supply. Aggregate turnover includes exempt supplies)	14,00,000
Inward supplies on which tax is payable on reverse charge (Aggregate turnover specifically excludes value of inward supplies on which tax is payable by a person on reverse charge basis.)	Nil
Supply of Transformer oil at Faridabad (Haryana) (Transformer oil is not a petroleum product and it is a taxable supply and included in the aggregate turnover)	2,50,000
Branch transfer to Place of business in Punjab [Supply made without consideration to distinct persons is a supply under Sec. 7(1)(c) of CGST Act, 2017 and the same is includible in the meaning of aggregate turnover]	3,00,000
Value of Taxable supplies at Mizoram Branch [Aggregate turnover shall be calculated on all India PAN basis; therefore, this transaction should be included in aggregate turnover]	12,40,000
Total	31,90,000

As per Sec. 22 of CGST Act, 2017 a person is liable to get registered, if their aggregate turnover exceeds threshold limit for registration. The applicable threshold limit for a person making taxable supplies from special category states (Manipur, Mizoram, Tripura and Nagaland) is ₹10,00,000.

As per Sec. 24 of CGST Act, 2017 persons making interstate taxable supply of goods is compulsorily required to get registered, irrespective of threshold limit.

In the present case Khurania Filling Station is making interstate supplies to their branch in Punjab, they are compulsorily required to get registered.

- c) Mission Life, an NGO, from Indore, M.P. has imported 800 MT of food products from Australia for free distribution to needy people in backward area of Sagar, M.P. under a Central Government scheme. Exporter from Australia has charged only US\$ 20 per MT to cover costs towards freight, insurance etc, and none towards cost of food products. Customs Department found that at or about the same time of importation, following imports of said food products of Australian origin have been made:

S. No	Quantity imported in MT	Unit CIF price in US \$
1	40	270
2	100	220
3	500	200
4	900	180
5	400	190
6	760	160

Discuss the various principles to determine the transaction value of aforesaid transaction under Customs Act, 1962 and determine the CIF price that can be considered for assessment in this case. (5 Marks)

Answer:

Determination of transaction value of the subject goods: -

In the instant case, while determining the transaction value of the goods, following factors need consideration: -

1. In the given case, US \$20 per metric tonne has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, we have to look for transaction value of identical goods under rule 4 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
2. Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports given during the relevant time, the goods are identical in description and of the same country of origin.
3. Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 40 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.
5. However, the unit prices in these 4 consignments are different. Rule 4(3) of Customs Valuation Rules, 2007 stipulates that in applying rule 4 of the said rules, if more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods. **Accordingly, the unit price of the consignment under valuation would be US \$ 160 per metric tonne.**

Thus, Assessable value would be \$ 128,000 [800 MT x 160 \$].

Question 5:

- a) Arjun has committed offence under CGST Act which can be compounded as per provisions of section 138(1) of the CGST Act, 2017. He has paid the tax amount of ₹ 10 lakhs involved in the offence. He wishes to apply to Commissioner for compounding the said offence. You are required to compute minimum and maximum compounding amount as per provisions of Section 138(2) of the CGST maximum Act, 2017 payable by Arjun. What are the consequences, if Arjun pays such compounding amount as may be determined by Commissioner. (5 Marks)

Answer:

As per Sec. 138 of CGST Act, the compounding fee shall be as such as may be prescribed by the commissioner, but the minimum compounding amount is ₹10,000 (or) 50% of tax involved, whichever is higher and the maximum compounding amount is ₹30,000 (or) 150% of tax involved, whichever is higher.

Therefore, in the present case, Mr. Arjun should pay the compounding amount as prescribed by the commissioner, where the minimum compounding fee is ₹5,00,000 and the maximum compounding fee is ₹15,00,000.

Also, Upon payment of compounding fee, no further proceedings shall be initiated against Mr. Arjun in respect of the same offence and if any criminal proceedings were initiated against Mr. Arjun, w.r.to such offence, it stands abated.

- b) Comet Chem of Ahmedabad handed over goods to transporter Ram Roadways to carry the same from Ahmedabad to Bharuch in Gujarat. The value of the goods is ₹ 80,000 which is chargeable to tax @ 18% GST (9% SGST 9% CGST) and in transit, proper officer intercepted the vehicle under Section 68 of CGST Act and seized the goods. Calculate the penalty payable under Section 129 of CGST Act, 2017 for release of the goods:

- If Comet Chem, Owner of goods comes forward for payment of penalty;
- If Comet Chem, Owner of goods does not come forward for payment of penalty. (4 Marks)

Answer:

As per Sec. 129 of CGST Act, penalty payable for release of goods when owner of the goods comes forward for payment of penalty, is 200% of tax payable on such goods. Therefore, penalty payable under CGST Act by Comet Chem, is ₹80,000 X 9% X 200% = ₹14,400.

Also, where owner of the goods does not come forward for the payment of penalty, detained/seized goods are released on payment of penalty equal to higher of the following:

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

In view of the same, the amount of penalty payable under CGST Act if Comet Chem does not come forward for the payment of penalty, as follows:

- (i) 50% of Value of goods = ₹80,000 X 50% = ₹40,000, or
- (ii) 200% of tax payable on such goods = ₹80,000 X 9% X 200% = ₹14,400

Whichever is higher i.e., ₹40,000

Note: Question did not ask about payment of penalty for release of conveyance. Therefore, that computation is not required to be shown in the answer.

ICAI RTP Nov 22 – Related Question (Before Correction):

10. Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Maharashtra on 10th January 2022. The value of the goods is ₹ 6,80,000 which are chargeable to GST @ 18% IGST. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68. However, the driver of the truck failed to tender any document in relation to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) specifying the penalty payable by Adinath Private Limited after giving it an opportunity of being heard.

You are required to determine the amount of penalty payable if Adinath Private Limited does not come forward for the payment of penalty. Further, discuss the suitable course of action for Ashok Transporters if it intends to get its truck released.

ICAI RTP Nov 22 – Related Answer (Before Correction):

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

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

or

- (ii) 200% of the tax payable on such goods [` 2,44,800 (200% of ₹ 6,80,000 × 18%)]

whichever is higher, i.e. ` 3,40,000.

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

In the given scenario, since the owner - Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 shall be levied. Further, the transporter of goods can get its truck released upon payment of the lower of the following:

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

Hence, Ashok Transporters can get its truck released upon payment of ` 1,00,000.

Sathish Gopina 2 months ago

In rtp 129 penalty was different sir

👍 1 🗨️ Reply

▲  • 1 reply

 **THARUN'S BRAINERY** 2 months ago

They computed without considering IGST

Just based on CGST alone the computation is finished

👍 1 🗨️ Reply

ICAI RTP Nov 22 – Related Question (After Correction):

10. Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Uttar Pradesh on 10th January 2022. The value of the goods is ₹ 6,80,000 which are chargeable to CGST & SGST@ 9% each. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68. However, the driver of the truck failed to tender any document in relation to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) specifying the penalty payable by Adinath Private Limited after giving it an opportunity of being heard.

You are required to determine the amount of penalty payable under CGST Act if Adinath Private Limited does not come forward for the payment of penalty. Further, discuss the suitable course of action for Ashok Transporters if it intends to get its truck released.

ICAI RTP Nov 22 – Related Answer (After Correction):

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

- (i) 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]
or
(ii) 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 × 9%)]
whichever is higher, i.e. ₹ 3,40,000.

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

In the given case, since the owner - Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 under CGST Act shall be levied. Further, the transporter of goods can get its truck released upon payment of the lower of the following under CGST Act:

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

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

- c) Kiara of Indian origin, came to India on tour with her baby 1 year. She brought following goods:

1.	Personal effects	50,000
2.	Used personal effects of infant	10,000
3.	New Camera	45,000
4.	Mobile Phone	12,500
5.	Cigarette sticks 70	1,000
6.	Wine – times	18,000
7.	Travel souvenirs	5,000
8.	Laptop	90,000

Indicate the taxability or taxable value in respect of each item in the table and calculate customs duty payable rounded off to the nearest rupee in accordance with law. There is no for any notes to support the conclusions regarding taxability or taxable amount.

(5 Marks)

Answer:

As per rule 3 of Baggage Rules, 2016, tourist of Indian origin is allowed duty free clearance of

- I. Travel souvenirs; and
- II. Articles up to the value of ₹ 50,000 (excluding Annexure I articles).

Computation of dutiable value of Kiara's Baggage and customs duty payable:

Particulars	Amount
Exempted baggage:	
Personal effects	Nil
Used personal effects of infants	Nil
Travel Souvenirs	Nil
Laptop – Exempted, being aged 18 years or more	Nil
Baggage eligible for General Free Allowance:	
New Camera	45,000
Mobile phone	12,500
Wine – 2 liters	18,000
Cigarettes – 70 sticks (Only > 100 sticks specified in Annex. I)	1,000
Total Value (before General Free Allowance)	76,500
(-) General Free Allowance – Tourist of Indian Origin	(50,000)
Dutiable Value of Baggage	26,500
Customs duty payable @ 38.5%	10,203

Question 6:

a) Can Mr. Venkat obtain advance ruling for the issue related to place of supply? Also list all issues for which advance ruling can be sought. (4 Marks)

Answer:

As per Sec. 97 of CGST Act, 2017 an applicant can obtain advance ruling by paying a fee of ₹5000 under CGST and ₹5,000 under SGST, w.r.to the following issues

- classification of any goods or services or both;
- applicability of a notification issued under the provisions of this Act;
- determination of time and value of supply of goods or services or both;
- admissibility of input tax credit of tax paid or deemed to have been paid;
- determination of the liability to pay tax on any goods or services or both;
- whether applicant is required to be registered;
- 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.

As place of supply is not covered in the above list, Mr. Venkat cannot obtain advance ruling for the issue related to place of supply.

(or)

Mr. Mahendra, a registered person came to know about QRMP (Quarterly Return-Monthly Payment) scheme but was unable to make a decision whether to opt for the same or not. Describe the eligibility criteria and benefits of QRMP Scheme to help Mr. Mahendra make a decision regarding the same. (4 Marks)

Answer:

Eligibility criteria for QRMP:

Quarterly Return Monthly payment (QRMP) scheme is an optional return filing scheme, introduced for small tax payers having aggregate turnover (PAN Based) of upto ₹5 Crores in the preceding financial year. However, they are required to deposit tax through Form GST PMT 06 challan on a monthly basis.

Also, registered persons under QRMP scheme must have furnished the return for the preceding month.

Benefits of QRMP Scheme:

- I. Reduction in compliance as the compliance which was ought to be done monthly, have been now filed quarterly;
- II. **Reduction in working capital:** Under fixed instalment system, certain % of previous month / quarter shall be payable as tax irrespective of actual sales. Further, interest will not be charged on shortfall from date from when short fall occurred.

b) Explain in what cases, assessment order passed by proper officer may be withdrawn under CGST Act, 2017 in cases of summary assessment and best judgements assessment? (5 Marks)

Answer:

Withdrawal of order in case of Best Judgement Assessment:

As per Sec. 62 of CGST Act, 2017 where a person fails to furnish the returns, even after the service of a notice in GSTR 3A, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement. Also, Where the registered person furnishes a valid return within thirty days of the service of the assessment order, the said assessment order shall be deemed to have been withdrawn.

Withdrawal of order in case of Summary Assessment:

As per Sec. 64 of the CGST Act, 2017, summary assessments can be initiated to protect the interest of revenue with the previous permission of Additional / Joint Commissioner when the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act, and delay by him in passing an assessment order may adversely affect the interest of revenue. Additional / Joint Commissioner withdraw summary assessment order on an application filed by taxable person within 30 days from the date of receipt of order or on his own motion, if he finds such order to be erroneous.

- c) What are the exceptions provided under sub-section 2 of section 27 of Customs Act, 1962 in which refund of duty and interest may be paid to the applicant? (5 Marks)

Answer:

As per section 27 of Customs Act, 1962 in following situations, the amount of duty and interest found refundable, instead of being credited to the Consumer Welfare Fund, is to be paid to the applicant:

- a) if imports were made by an individual for his personal use;
- b) if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26;
- c) if amount relates to drawback of duty payable under section 74 and 75;
- d) if the duty or interest was borne by a class of applicants which has been notified for such purpose in the Official Gazette by the Central Government.
- e) if the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where -
 - I. such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry; or
 - II. the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

Tharun's
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Important Note:

These suggested answers are prepared by me (Tharun Raj, IDT faculty) and slight differences may arise on account of assumptions taken by ICAI their suggested answers.