

ANSWERS OF MODEL TEST PAPER 2

FINAL COURSE: GROUP – II

PAPER – 5: INDIRECT TAX LAWS

SOLUTIONS

Division A – Multiple Choice Questions

Question No.	Answer
1	(b) Kolkata office ₹ 10,000, Mumbai office ₹ 3,660
2	(c) ₹ 40,000
3	(a) ₹1,78,000
4	(d) ₹ 50 crores
5	(c) ₹ 2,160 payable as IGST.
6	(c) ₹ 1,58,400
7	(c) Input tax credit is not available
8	(b) GST is applicable and the place of supply is Gujarat.
9	(b) No, M/s Sudhankar Enterprises is not required to take registration under GST as its aggregate turnover is below the threshold limit for registration. However, it is required to obtain a unique enrolment number under GST.
10	(d) M/s Jaggi Enterprises is eligible for obtaining the CEN as it is registered in multiple States with same PAN. After obtaining CEN, it can use it for generating e-way bills and updating Part-B throughout the country.
11	(c) Yes, e-way bill is required to be generated mandatorily in case of inter-State transfer of goods by principal to job worker irrespective of value of consignment.
12	(b) Yes, M/s Jaggi Enterprises can generate a consolidated e-way bill containing the details of different EWBs even if all the EWBs have different validity periods and even if it is

		transporting consignments of different consignees in a single conveyance.
13	(c)	Lucas (P) Ltd.: ₹ 5 crore and Noah : ₹ 60 lakh
14	(a)	₹ 95
15	(d)	(i) and (ii)

Division B-Descriptive Questions

1. Computation of ITC available with Gehna Ltd.

S. No.	Particulars	Eligible input tax credit		
		CGST (₹)	SGST (₹)	IGST (₹)
1.	Raw Material			
	Purchased from local registered suppliers [Note 1(i)] (₹ 1,06,250 x 9%)	9,562.50	9,562.50	
	Purchased from local unregistered suppliers [Note 1(ii)]	Nil	Nil	
	Purchased from Punjab from registered supplier [Note 1(i)] (₹ 1,00,000 x 18%)			18,000
	Raw material imported from USA [Note 1(iii)]			22,732
2.	Consumables [Note 2] (₹ 1,56,250- ₹ 31,250) x 9%]	11,250	11,250	
3.	Monthly rent for the factory building to the owner in Rajasthan [Note 3]	9,000	9,000	
4.	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil
5.	Premium paid on life insurance policies taken for specified employees [Note 5] (₹ 2,00,000 x 9%)	18,000	18,000	-
Total		47,812.50	47,812.50	40,732

Add: Opening balance of ITC	<u>20,000</u>	<u>15,000</u>	<u>15,000</u>
Total ITC [Note 7]	67,812.50	62,812.50	55,732

Computation of net GST payable

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State supply	78,750	78,750	
Inter-State supply			67,500
Exports under LUT [Note 6]	Nil	Nil	Nil
Total output tax liability	78,750	78,750	67,500
Less: ITC	67,812.50	62,812.50	55,732
Net GST payable (rounded off)	10,938	15,938	11,768

Notes:

1. (i) Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available.
- (ii) Tax on procurements made by a registered person from an unregistered supplier is levied only in case of notified goods and services. Therefore, since no GST is paid on such raw material purchased, there does not arise any question of ITC on such raw material.
- (iii) IGST paid on imported goods qualifies as input tax. Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available.
2. ITC on consumables, being inputs used in the course or furtherance of business, is available. However, since levy of GST on high speed diesel has been deferred till a date to be notified by Government, there cannot be any ITC of the same.
3. ITC on monthly rent is available as the said service is used in the course or furtherance of business.
4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with Schedule III to the CGST Act, 2017. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.

5. ITC on life insurance service is available if the same is obligatory for an employer to provide to its employees under any law for the time being in force.
 6. Export of goods is a zero rated supply. A zero rated supply under LUT/bond is made without payment of IGST.
 7. Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available.
2. (a) In the given situation, three supplies are involved:
- (i) Services provided by Revive Pvt. Ltd. to audiences by way of admission to music concert.
 - (ii) Services provided by Sajal (P) Ltd. to Revive Pvt. Ltd. by way of organising the music concert.
 - (iii) Services provided by Hotel OPX to Sajal (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) 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 Revive Pvt. Ltd. (Ludhiana, Punjab) to audiences by way of admission to the music concert is the location of the Hotel OPX, i.e. Gurugram, Haryana.

Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply (400 tickets @ ₹ 5,000 per ticket)
= ₹ 20,00,000

IGST @ 18% on value of supply = ₹ 20,00,000 x 18% =
₹ 3,60,000.

- (ii) 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 person.

Therefore, the place of supply of services supplied by Sajal (P) Ltd. (Delhi) to Revive Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is the location of the registered person, i.e. Ludhiana (Punjab).

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply = ₹ 10,00,000

IGST @ 18% on value of supply = ₹ 10,00,000 x 18% = ₹ 1,80,000

- (iii) 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 OPX (Gurugram, Haryana) to Sajal (P) Ltd. (Delhi) by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel OPX, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable. Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = ₹ 4,00,000

CGST @ 9% on value of supply = ₹ 4,00,000 x 9% = ₹ 36,000

SGST @ 9% on value of supply = ₹ 4,00,000 x 9% = ₹ 36,000

If the price for the entry ticket is fixed at ₹ 450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is ₹ 450 as the inter-State services by way of right to admission to, *inter alia*, musical performance are exempt from IGST, if the consideration for right to admission to the event is not more than ₹ 500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

- (b) The value of the imported goods is determined under rule 8 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as Import Valuation Rules) if the same cannot be determined under the earlier rules. However, the order of application of rules 7 and 8 can be reversed at the request of the importer and with the approval of the proper officer.

Thus, request of Mr. T for determination of value under rule 8 is legally acceptable, if the same is also approved by the proper officer.

Assuming that the request of Mr. T has been approved by the proper officer, the assessable value of the imported goods under rule 8 will be the sum of-

- (a) the cost of materials and fabrication or other processing;
- (b) an amount for profit and general expenses
- (c) the cost or value of all other expenses under rule 10(2) of the said rules.

Computation of assessable value

Particulars	Amount (\$)
Cost of materials	2,000
Add: Fabrication charges	1,000
Other chargeable expenses	400
Other indirect costs	<u>250</u>

Cost of the goods at Mr. R's factory	3,650
<i>Add:</i> Net profit margin @ 20% of FOB, i.e. 25% of total cost Total cost till US port = Cost of the goods at factory + Freight from factory to US port and loading charges at US port = \$ 4,000 [\$ 3,650 + \$ 250 + \$ 100] FOB value = Total cost till port + profit = \$ 5,000 (\$ 4,000 + \$ 1,000)	1,000
<i>Add:</i> Freight & loading/unloading charges [In case of import by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are restricted to 20% of FOB value]	1,000
Insurance charges	<u>50</u>
Assessable value	5,700
Assessable value in Indian Rupees (Exchange rate - ₹ 70 per \$)	3,99,000

3. (a) (i) Total GST credit (CGST+ SGST + IGST) of ₹ 18,000 specifically attributable to Ganganagar Branch, Rajasthan will be distributed as IGST credit of ₹ 18,000 only to Ganganagar Branch, Rajasthan [Since recipient and input service distributor (ISD) are located in different states].
- (ii) IGST credit of ₹ 1,50,000, CGST credit of ₹ 15,000 and SGST credit of ₹ 15,000 specifically attributable to Mumbai Branch, Maharashtra will be distributed as IGST credit of ₹ 1,50,000, CGST credit of ₹ 15,000 and SGST credit of ₹ 15,000 respectively, only to Mumbai Branch, Maharashtra [Since recipient is located in the same State in which ISD is located].
- (iii) CGST credit of ₹ 60,000, SGST credit of ₹ 60,000 and IGST credit of ₹ 1,20,000 have to be distributed among the three branches and Mumbai Branch, Maharashtra in proportion of their turnover of the last quarter.

- Ganganagar Branch, Rajasthan will get: ₹ 48,000 [₹ 2,40,000 x (₹ 10,00,000/ ₹ 50,00,000)] as IGST credit.
 - Madhugiri Branch, Karnataka will get: ₹ 24,000 [₹ 2,40,000 x (₹ 5,00,000/ ₹ 50,00,000)] as IGST credit.
 - The credit attributable to a recipient is distributed even if such recipient is making exempt supplies.
 - Kosala Branch, UP will get: ₹ 72,000 [₹ 2,40,000 x (₹ 15,00,000/ ₹ 50,00,000)] as IGST credit.
 - Mumbai Branch, Maharashtra will get:
 ₹ 24,000 [₹ 60,000 x (₹ 20,00,000/ ₹ 50,00,000)] as CGST credit,
 ₹ 24,000 [₹ 60,000 x (₹ 20,00,000/ ₹ 50,00,000)] as SGST credit and
 ₹ 48,000 [₹ 1,20,000 x (₹ 20,00,000/ ₹ 50,00,000)] as IGST credit.
- (iv) ITC of ₹ 10,000 of March (last year) cannot be distributed in March this year as ITC available for distribution in a month is to be distributed in the same month.

- (b) It has been clarified vide a Circular that in case of printing of books where only content is supplied by the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

In case of supply of printed envelopes by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore, such supplies would constitute supply of goods.

Accordingly, the time of supply of books and envelopes will be governed by sections 12 and 13 of the CGST Act, 2017 respectively.

The time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, *Notification No. 66/2017 CT dated 15.11.2017* specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) of the CGST Act, 2017, i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31 of the CGST Act, 2017.

The invoice for supply of goods should be issued before or at the time of removal of goods for supply to the recipient, where supply involves movement of goods. Therefore, in the given case, the last date by which invoice ought to have been issued is 7th April. Thus, the time of supply of envelopes for the purpose of payment of tax is 7th April.

The time of supply of services is the earlier of the dates arrived at by methods (A) and (B), as follows:

- (A) Date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier, if the invoice is issued within the prescribed time.
- (B) Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services), whichever is earlier, if the invoice is not issued within the prescribed time.

Since in the given case, invoice for the services is not issued within 30 days, the time of supply for the advance received is the date of receipt of payment, i.e. 20th March being earlier than the date of provision of service. However, the time of supply for the balance payment is the date of provision of service, i.e. 10th April being earlier than the date of receipt of balance payment.

- (c) This issue has been addressed by the Supreme Court in the case of *Commissioner of Customs v. Tullow India Operations Ltd. (2005) 189 ELT 401 (SC)*. The Apex Court has observed that if a condition is not within the power and control of the importer and depends upon the acts of public functionaries, non-compliance of such a condition, subject to just exceptions cannot be held to be a condition precedent which would disable it from obtaining the benefit for all times to come.

In the given case also the certificate has not been granted within a reasonable time. Therefore, in view of the above-mentioned judgement, the importer M/s Clear Energy Ltd. cannot be blamed for the lapse by the authorities. The Directorate General of Hydrocarbons is under the Ministry of Petroleum and Natural Gas and such a public functionary is supposed to grant the essentiality certificate within a reasonable time so as to enable the importer to avail of the benefits under the notification.

4. (a) The supply of software is in the nature of OIDAR service.

The transaction is for personal consumption of Mr. Goldy and the payment has also been made from the personal bank account of Mr. Goldy and not from the bank account of his GST registered firm. Therefore, being an unregistered person receiving OIDAR service in taxable territory, Mr. Goldy is a non-taxable online recipient.

Services received from a provider of service located in a non-taxable territory by an individual in relation to any purpose other than commerce, industry or any other business or profession is exempt from IGST. However, such exemption is not available in case of OIDAR services.

Therefore, being an OIDAR service provided by a supplier located outside India and received by a non-taxable online recipient, the same is liable to GST.

Tax on service supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient is

payable by the recipient of such service under reverse charge. Therefore, tax on OIDAR services provided by the company located in USA to Mr Goldy, a non-taxable online recipient, will be payable by such company under forward charge.

- (b) As per para 3 of Schedule II to the CGST Act, 2017 any treatment or process which is applied to another person's goods is a supply of services and accordingly is subject to GST rate applicable for services.

In the given case, M/s Siddhi Tools (job worker) undertakes the process of mounting the steel cabinets of Anuj Pvt. Ltd. (principal) on metal frames. In view of para 3 of Schedule II to the CGST Act, 2017 cited above, the mounting activity classifies as a service even though the metal frames are also supplied as a part of the mounting activity. Accordingly, the job charges will be chargeable to GST at a rate of 18%, which is the applicable rate for services.

Further, the value of steel cabinets will not be included in the value of taxable supply made by M/s Siddhi Tools as the supply of cabinets does not fall within the scope of supply to be made by M/s Siddhi Tools. M/s Siddhi Tools is only required to mount the steel cabinets, which are to be supplied by Anuj Pvt. Ltd., on metal frames, which are to be supplied by it.

As regards sale of waste generated during the job work, since M/s Siddhi Tools is registered, the tax leviable on the supply will have to be paid by it. Such supply will be treated as supply of goods and subject to GST rate applicable for metal waste.

Accordingly, the GST liability of M/s Siddhi Tools will be computed as under:

Particulars	Amount (₹)
Job charges	5,00,000
GST @ 18% (A)	90,000
Sale of metal waste	45,000

GST @ 12% (B)	5,400
Total GST payable (A) + (B)	95,400

(c) As per Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

- (i) travel souvenirs; and
- (ii) Articles up to the value of ₹ 15,000 (excluding *inter alia* fire arms, cartridges of fire arms exceeding 50 and cigarettes exceeding 100 sticks), if carried on in person.

Computation of customs duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA)	<u>25,000</u>
Baggage than can be accommodated in GFA	1,85,000
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	<u>1,70,000</u>
Duty payable @ 38.50% (including 10% Social welfare surcharge)	<u>65,450</u>

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

5. (a) Due date for payment of tax for the month of April is 20th May.

Where self-assessed tax is not paid within 30 days from due date of payment of such tax, penalty equivalent to 10% of tax or ₹ 10,000, whichever is higher, is payable. Thus, option to pay tax within 30 days of issuance of SCN to avoid penalty, is not available in case of self-assessed tax.

Since in the given case, Henry & Co. has not paid the self-assessed tax within 30 days of due date [i.e. 20th May], penalty equivalent to:

- (i) 10% of tax, viz., ₹ 9,000 (10% of ₹ 90,000) or
- (ii) ₹ 10,000,

whichever is higher, is payable by him under the CGST Act, 2017. Equivalent amount of penalty is payable under the SGST/UTGST Act 2017.

Hence, the stand taken by the Department that penalty will be levied on Henry & Co. is correct, but the amount of penalty of ₹ 45,000 under the CGST Act, 2017 is not correct.

- (b)** An appeal against orders passed by the State Benches of the Tribunal would lie to the High Court if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the Principal Bench of the Tribunal would lie to the Supreme Court and not High Court. Only the Principal Bench of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Mr. Raman's case relates to place of supply, the appeal in his case would have been decided by the Principal Bench of the Tribunal. Thus, Mr. Raman will have to file an appeal with the Supreme Court and not with the High Court.

- (c)** In any of the following circumstances the goods shall be considered to have been removed improperly from a warehouse—

- (a) where any warehoused goods are removed from a warehouse in contravention of section 71 of the Customs Act, 1962;
- (b) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted to remain in a warehouse;
- (c) where any goods in respect of which a bond has been executed and which have not been cleared for home

consumption or export are not duly accounted for to the satisfaction of the proper officer.

6. (a) Yes, the concerned officer, jurisdictional officer or applicant aggrieved by any advance ruling may appeal to the Appellate Authority for Advance Ruling (AAAR) within 30 days [extendible by another 30 days] from the date on which such ruling is communicated to him in the prescribed form and manner.

The AAAR must pass an order confirming or modifying the ruling appealed against within a period of 90 days of the filing of an appeal, after hearing the parties to the appeal.

If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question under appeal. A copy of the advance ruling pronounced by the AAAR is sent to applicant, concerned officer, jurisdictional officer and to the Authority.

- (b) The authority shall discharge the following functions, namely:-
- (i) to determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer (hereinafter collectively referred to as 'benefit') by reducing the prices
 - (ii) to identify the taxpayer who has not passed on the benefit
 - (iii) to order
 - (a) reduction in prices
 - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be.

If the eligible person does not claim return of the amount or is not identifiable, the amount must be deposited in the Consumer Welfare Fund;

- (c) imposition of penalty
- (d) cancellation of registration
- (iv) to furnish a performance report to the GST Council by the 10th of the month succeeding each quarter [Rule 127 of the CGST Rules, 2017]

OR

Alternative Answer

- (b) Any decision, order, summons, notice or other communication under the CGST Act, 2017 and the rules made thereunder can be served by any one of the following methods:
- (a) Giving/tendering directly including by a courier to the addressee or authorised representative or to any adult member of family residing with the taxable person; or
 - (b) By Registered post/speed post/courier with acknowledgement due at the last known place of business or residence; or
 - (c) By Email to the e-mail address provided at the time of registration or as amended from time to time; or
 - (d) By making the same available at common portal; or
 - (e) Publication in newspaper circulating in the locality in which the addressee is last known to have resided, carried on business or personally worked for gain; or
 - (f) If none of the above modes is practicable then by Affixing at last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority concerned.

[Note: Any 4 points may be mentioned.]

- (c) Annual Advance authorisation would be issued to exporters having past export performance in at least preceding two financial years, to enable them to import the inputs required by them on annual basis.

Advance authorization for annual requirement shall only be issued for items, notified in standard input output norms (SION) and not on basis of *ad hoc* norms under self-declared authorisations where SION does not exist.

Annual Advance Authorisation in terms of CIF value of imports will be granted upto 300% of FOB value of physical exports in preceding financial year and/or FOR value of deemed exports in preceding year or ₹ 1 crore, whichever is higher.