

ANSWERS OF MODEL TEST PAPER 3
FINAL COURSE: GROUP – II
PAPER – 5: INDIRECT TAX LAWS
SOLUTIONS

Division A – Multiple Choice Questions

Question No.	Answer
1.	(b) ₹ 2,70,000
2.	(c) ₹ 13,32,000
3.	(c) No, Basilla Inc. is not required to obtain GST registration in India for discharging GST liability. GST liability of Basilla Inc. is nil.
4.	(a) Nil
5.	(a) ₹ 1,44,00,000
6.	(b) ₹ 1,80,00,000
7.	(c) Espon Inc. is providing online information and database access or retrieval service and tax on the same is to be paid by Espon India on reverse charge basis.
8.	(c) ₹ 1,17,00,000
9.	(b) ₹ 100 crore
10.	(b) there is no GST implication on the company and Ghanshyam Das.
11.	(a) April
12.	(b) no e-way bill is required to be issued.
13.	(a) Mr. Venkat should apply for a new registration under GST in the name M/s Tikhi Meethi Restaurant under his own PAN w.e.f. the date of succession and file Form GST ITC 02 for transfer of ITC to the new entity.
14.	(a) (i), (ii) and (iii)
15.	(b) ₹ 770

Division B – Descriptive Questions

1. **Computation of minimum net GST payable in cash by Jigar Infra Ltd. for April**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
<u>GST payable under forward charge</u>			
Goods purchased from Taiwan sold in Turkey without bringing into India [Neither treated as supply for goods nor as supply of services.]	-	-	-
Transfer of tiles to branch within Kerala [Such transfer is not a supply as the branch has the same GSTIN as that of the head office and thus, is not a distinct person]	-	-	-
Inter-State supply of pure labour services for construction of single commercial unit in Bengaluru [Services by way of pure labour contracts of construction of original works pertaining to a single residential unit otherwise than as a part of a residential complex is exempt. Hence, such services in relation to a commercial unit shall be taxable.]			2,70,000 [15,00,000 x 18%]
Supply of consignment in territorial waters [Where the supply is in the territorial waters, the place of supply is deemed to be in the coastal State where the nearest point of the appropriate baseline is located. Therefore, place of	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	

supply will be in Kerala being nearer to base line and hence, supply will be intra-State supply]			
Receipt of advance from customer in Kerala [Tax will be payable only on advance for services. In case of goods, tax is payable at the time of issuance of invoice and not at the time of receipt of advance.]	44,100 [7,00,000 x 70% x 9%]	44,100 [7,00,000 x 70% x 9%]	
Total output GST	98,100	98,100	2,70,000
Less: Input tax credit [Refer working note below]	98,100	98,100	18,900 (CGST)
[CGST credit be first utilized for payment of CGST liability and then for payment of IGST liability in that order. Similarly, SGST credit be first utilized for payment of SGST liability and then for payment of IGST liability in that order. ITC of CGST cannot be utilized for payment of SGST and vice versa.]	-	-	18,900 (SGST)
Net output GST payable in cash [A]	Nil	Nil	2,32,200

<u>GST payable under reverse charge</u>			
Tax on legal services is payable under reverse charge by the recipient of service.	63,000	63,000	
Tax on remuneration paid to director is payable under reverse charge by the recipient of the service.	<u>54,000</u>	<u>54,000</u>	
GST payable in cash under reverse charge [B] [Tax payable under reverse charge, being not an output tax,	1,17,000	1,17,000	

cannot be set off against ITC and thus, will have to be paid in cash.]			
Minimum net GST payable in cash [A] + [B]	1,17,000	1,17,000	2,32,200

Working Note:

Computation of ITC available with Jigar Infra Ltd. for April

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Goods purchased from Taiwan [No ITC since tax is not payable as goods do not become part of the landmass of the country.]	-	-	-
Services of an arbitral tribunal [Services provided by an arbitral tribunal to a business entity with an aggregate turnover up to threshold limit of registration in the previous financial year are exempt from GST. Thus, services provided by the arbitral tribunal to Jigar Infra Ltd., a business entity whose aggregate turnover in the previous financial year exceeds the applicable threshold limit for registration [viz. ₹ 20 lakh, being a supplier of goods and services in the State of Kerala] shall be liable to tax. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]	63,000 [7,00,000 x 9%]	63,000 [7,00,000 x 9%]	
Purchase of materials from Chirag Steels Ltd. [An e-invoice without IRN is not treated as invoice and hence, without a valid document, ITC cannot be claimed on such inputs]	-	-	

Purchase of truck [Motor vehicle used for transportation of goods is eligible for credit. However, since depreciation has been claimed on applicable taxes as well, ITC of tax paid on purchase of such truck cannot be claimed.]	-	-	
Payment of remuneration to independent director based at Cochin [Services provided by employee to employer in the course of his employment are not a supply. However, independent director is not an employee of the company and hence, remuneration paid to him is taxable. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Total ITC	1,17,000	1,17,000	

2. (a) (i) Section 10(1)(e) of the IGST Act, 2017 lays down that place of supply of goods supplied on board a conveyance like aircraft, train, vessel, or a motor vehicle, is the location where such goods have been taken on board. Thus, in the given case, the place of supply of the goods sold by Mr. Rana is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.
- (ii) As per section 11(a) of the IGST Act 2017, if the goods have been imported in India, the place of supply of goods is the place where the importer is located. Thus, in the present case, the place of supply of the goods imported by Sultan Pvt. Ltd. is Noida, Uttar Pradesh.
- (iii) As per section 12(8) of the IGST Act, 2017, the place of supply of services by way of transportation of goods,

including by mail or courier provided to an unregistered person, is the location at which such goods are handed over for their transportation.

Since in the given case, the recipient – Krishnadevaraya – is an unregistered person, the place of supply is the location where goods are handed to Nath Carriers over for their transportation, i.e. Kanpur.

- (iv) As per section 12(12) of the IGST Act, 2017, the place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services. Thus, in the given case, the place of supply is the location of the recipient of services in the records of the supplier bank, i.e. New Delhi.
- (v) As per section 13(4) read with section 13(6) of the IGST Act, 2017, where services supplied directly in relation to an immovable property are supplied at more than one location, including a location in the taxable territory, the place of supply is the location in the taxable territory. Since in the given case, the immovable properties are located in more than one location including a location in the taxable territory, the place of supply of architect service is the location in the taxable territory, i.e. Pune.

(b) Computation of assessable value, basic customs duty, social welfare surcharge and IGST

Particulars	Amount (\$)
FOB value computed by Customs Officer (including design and development charges)	17,500
<i>Add:</i> Commission paid to local agent in India [Includible since it is not a buying commission]	<u>2,100</u>
FOB value as per customs	19,600
<i>Add:</i> Air freight (\$ 19,600× 20%) [Restricted to 20% of FOB value since goods are imported by air.]	3,920

Add: Actual insurance charges	1,500
Assessable value in \$	25,020
Assessable value in rupees [\$ 25,020 × ₹ 75] [Rate of exchange notified by CBIC on the date of filing of bill of entry is considered.]	₹ 18,76,500

Particulars	₹
Add: Basic custom duty @ 15% on ₹ 18,76,500 [Rate of BCD is the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later]	2,81,475
Add: Social Welfare surcharge @ 10% on ₹ 2,81,475 (rounded off)	<u>28,148</u>
Total	21,86,123
Integrated tax @ 18% on ₹ 21,86,123 [rounded off]	3,93,502

3. (a)

S. No.	Particulars	Taxability
(i)	Transportation of students and staff of deemed university [Taxable since transportation services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent.]	Taxable
(ii)	Catering services provided to "Grade CBSE School" [Catering services provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt.]	Exempt
(iii)	Security services to "Ladder CBSE School" for its annual sports day held at Health Sports complex	Taxable

	[Security services provided to an educational institution providing pre-school education or education up to higher secondary school are exempt provided such services are performed in the premises of such institution. However, in this case, security services are being provided outside the school campus, and hence the same are taxable.]	
(iv)	Supply of online periodical science journal to school for its higher secondary students [Taxable since educational institutions providing service by way of pre-school education and education upto higher secondary school or equivalent are not eligible for exemption in respect of supply of online educational journals.]	Taxable
(v)	Services in relation to placement of students, to Government recognized vocational training college [Taxable since only services related to admission and conducting exams are exempt for vocational educational institutions.]	Taxable

(b) In the given case,

Date of receipt of payment is:-

(a) Date of entry of payment in books of account [17th March, 2024] or

(b) Date of credit of payment in bank account [20th March, 2024]
whichever is earlier, viz., 17th March, 2024.

Date of issue of invoice is 20th March, 2024 (since lodge decided to issue invoice on date of credit of payment in its bank account.)

Since in the given case of change in rate of tax (on 18th March, 2024):

- services have been supplied and payment has been received, before such change in rate

- but invoice is issued after the change in rate,
time of supply is date of receipt of payment, viz. 17th March, 2024.
Since the service of lodging upto a value of ₹ 1,000 was exempted at the time of supply, no GST is payable in the given case.

- (c) (i) Elite Car Decors is not liable to pay duty leviable on GPS devices pilfered since an importer is not liable to pay duty leviable on any imported goods pilfered after unloading and before proper officer makes order for clearance for home consumption.
- (ii) Abatement of duty on damaged imported goods is available if such imported goods are damaged accidentally after unloading but before examination for assessment by the customs authorities.

In the given case, since imported music systems are damaged after examination for assessment by the customs authorities, abatement of duty on such goods is not available.

4. (a) (i) A casual taxable person (CTP) is liable to be registered compulsorily under GST irrespective of the threshold limit.

However, CTPs making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process, have been exempted from obtaining registration if their aggregate turnover does not exceed ₹ 20 lakh [₹ 10 lakh for specified special category States].

Since, in the given case, the notified products were made by craftsmen by both hand and machines equally, they are not eligible for exemption and are required to obtain registration mandatorily.

- (ii) For a supplier exclusively engaged in intra-State supply of goods, the threshold limit of turnover to obtain registration in the States of Delhi, Andhra Pradesh and Tamil Nadu is ₹ 40 lakh. Aggregate turnover includes value of all taxable and exempt supplies under same PAN.

Thus, aggregate turnover of Mr. Chandu doing trading business across India

= ₹ (18 lakh + 10 lakh + 5 lakh + 6 lakh)

= ₹ 39 lakh.

Therefore, Mr. Chandu is not liable for registration as his turnover does not exceed ₹ 40 lakh.

- (b)** A Public Sector Undertaking is required to deduct tax @ 2% (on inter-State supplies) from payment made to the supplier of taxable services where the total value of such supply, excluding tax indicated in the invoice, under a contract, exceeds ₹ 2,50,000.

Value of supplies excluding tax are

₹ 10,50,000 (₹ 12,39,000 × 100/118) and

₹ 15,50,000 (₹ 18,29,000 × 100/118)

Further, in the given case, since the location of supplier is Maharashtra and place of supply of services provided by Mr. Mast Nath to Swathi Corporation is the location of recipient, viz. Karnataka, said services provided at both Mumbai and Bengaluru events are inter-State supplies.

Accordingly, in the given case, Swathi Corporation is required to deduct tax as follows:

(i) ₹ 10,50,000 × 2% = ₹ 21,000 (IGST)

(ii) ₹ 15,50,000 × 2% = ₹ 31,000 (IGST)

- (c)** (i) The contention of the importer is partially correct.

Anti-dumping duty cannot be imposed on imports made by 100% EOU. However, following circumstances are exception to the same:

(i) where it is specifically made applicable in such notifications or such impositions, as the case may be; or

(ii) where such article imported is either cleared as such into the DTA or used in the manufacture of any goods that are cleared into the DTA, and in such cases anti-dumping duty shall be levied on that portion of the article

so cleared or so used as was leviable when it was imported into India.

(ii) The claim of the importer's association is not correct. Anti-dumping duty can be levied with retrospective effect not beyond 90 days from the date of such notification, if Central Government is of the opinion that:

(a) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and

(b) the injury is caused by massive dumping of an article imported in a relatively short time which is likely to seriously undermine the remedial effect of anti-dumping duty liable to be levied owing to timing and volume of imported article dumped and other circumstances.

5. (a) (i) **Valid.** As per section 75 of the CGST Act, 2017, if the Appellate Authority concludes that the notice issued under section 74(1) of the CGST Act, 2017 is not sustainable for the reason that the charges of fraud has not been established, the proper officer can determine the tax payable by deeming as if the notice was issued under section 73(1).

(ii) **Incorrect.** As per section 75 of the CGST Act, 2017, the interest on the tax short paid or not paid shall be payable whether or not the same is specified in the order determining the tax liability.

(b) The decision of Mr. Pappu of making an appeal to the First Appellate Authority against the order of the RA is not valid in law. Any person aggrieved by an order passed against him by RA under CGST Act, 2017 may appeal to the Appellate Tribunal, the second level of appeal

The powers of the RA to revise the orders passed by the subordinate officers under section 108 of the CGST Act, 2017 are as under: -

(i) The RA may, on his own motion, or upon information received by him or on request from the SGST/ UTGST Commissioner, call for and examine the record of any proceedings.

- (ii) On examination of the case records, if RA is of the view that the decision/order passed by any officer subordinate to him is erroneous and illegal/improper or has not taken into account material facts, he may stay the operation of such order for such period as he deems fit.
- (iii) The RA, after giving the person concerned an opportunity of being heard and after making necessary further inquiry, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said order.

The RA can revise an order after the expiry of a period of 6 months from the date of communication of the said order but not later than expiry of a period of 3 years from the passing of the said decision/order.

In case of an order subject to an appeal before Appellate Authority (AA)/Tribunal/High Court/ Supreme Court, the RA can pass an order on any point which has not been raised and decided in the appeal, 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.

- (c) The amount of duty and interest found refundable is to be paid to the applicant only in following situations:
 - (a) if the importer or the exporter, as the case may be, has not passed on the incidence of such duty and interest to any other person.
 - (b) if imports were made by an individual for his personal use.
 - (c) if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26 of the Customs Act, 1962.
 - (d) if amount relates to drawback of duty payable.
 - (e) if the duty or interest was borne by a notified class of applicants.
 - (f) if excess duty paid by the importer before order permitting clearance of goods for home consumption is made where

such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry.

- (g) if excess duty paid by the importer before an order permitting clearance of goods for home consumption is made where the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.
- (h) if the buyer has not passed on the incidence of such duty and interest to any other person.

6. (a) The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 of the CGST Act, 2017 is as under:

1. Upon receipt of an application, the AAR shall send a copy of application to the officer in whose jurisdiction the applicant falls and call for all relevant records.
2. The AAR may then examine the application along with the records and may also hear the applicant. Thereafter he will pass an order either admitting or rejecting the application.
3. Application for advance ruling will not be admitted in cases where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.
4. If the application is rejected, it should be by way of a speaking order giving the reasons for rejection and only after giving an opportunity of being heard to the applicant.
5. If the application is admitted, the AAR shall pronounce its ruling on the question specified in the application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.

6. Before giving the ruling, AAR must hear the applicant or his authorized representative as well as the jurisdictional officers of CGST/ SGST.
 7. If there is a difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the Appellate Authority for hearing the issue
 8. The Authority shall pronounce its advance ruling in writing within 90 days from the date of receipt of application.
 9. A copy of the advance ruling duly signed by members and certified in prescribed manner shall be sent to the applicant, the concerned officer and the jurisdictional officer.
- (b)** Yes, the confidential information can be disclosed by the public servant for certain specific purposes in terms of section 158(3) of the CGST Act, 2017. Such specific purposes are given in brief hereunder:
- (i) For prosecution
 - (ii) For carrying out the objects of the CGST Act
 - (iii) For service of notice or recovery of demand
 - (iv) For furnishing information to Court in a proceeding where Government is a party
 - (v) For audit of tax receipts or refunds
 - (vi) For inquiry into the conduct of a GST officer
 - (vii) For enabling levy, realisation of any tax or duty
 - (viii) In lawful exercise of powers
 - (ix) For enquiry into a charge of misconduct by any professional
 - (x) For data entry on automated system
 - (xi) For fulfilling the requirement under any other law and in public interest.

OR

Alternative Answer

- (b) An officer of the rank of Joint Commissioner or above can authorize an officer in writing to carry out search and seize goods, documents, books or things. Such authorization can be given only where the Joint Commissioner/an officer above his rank has reasons to believe that any goods liable to confiscation or any documents or books or things relevant for any proceedings are hidden in any place. The Joint Commissioner/an officer above his rank empowered to authorize any officer to carry out search and seizure can himself also carry out search and seize such goods, documents or books or things.
- (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 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.