

ANSWERS OF MODEL TEST PAPER 6
FINAL COURSE: GROUP – II
PAPER – 5: INDIRECT TAX LAWS
SOLUTIONS

Division A – Multiple Choice Questions

Question No.	Answer
1	(a) ₹11,20,000
2	(a) ₹48,00,000/-
3	(c) 29 th October
4	(b) No GST is chargeable on usage of vacant godown of Hotel Division
5	(b) need not reverse the input tax credit so availed in Form GSTR-3B of the October month.
6	(a) ₹ 25 lakh
7	(a) Udaipur
8	(c) GST is exempt on the entire premium of ₹ 25 crores including location charges.
9	(b) no e-way bill is required to be issued.
10	(a) ₹6,50,000
11	(b) IGST ₹3,000
12	(a) ₹ 8.50 lakh
13	(b) ₹1,45,50,000
14	(a) Mumbai for both the event
15	(b) Only (ii) and (iii)

Division B: Descriptive Questions

1. Computation of minimum net GST payable in cash by Sachha and Sudh Limited to be paid in cash for the month of April, 2024

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	Output tax payable under forward charge				
(i)	Supplied goods to Matadeen and Sons [Since the contract is for delivery of goods at buyer's premises and includes transportation cost, it becomes a composite supply; the principal supply being the supply of goods. Thus, GST rate applicable on goods will be charged on the entire value of supply of ₹ 8,00,000 (contract price actually paid by buyer); Further, since goods are delivered on Bill to Ship to Model to Matadeen and Sons on the direction of a third person – Dhananjai	8,00,000 ²	72,000 [8,00,000 x 9%]	72,000 [8,00,000 x 9%]	

² It has been logically assumed that the transportation cost of ₹ 20,000 is included in the total contract value of ₹ 8,00,000.

	Associates, said third person is deemed to have received the goods and the place of supply is the principal place of business of such person, i.e. Chhattisgarh. Thus, it is an intra-State supply.]				
(ii)	Sale of used loading tempo to Suresh [Since ITC has not been taken on the tempo and depreciation has been claimed on it under the Income-Tax Act, 1961, value of supply is consideration received less depreciated value on the date of supply of tempo. However, since value of supply is negative [₹ 1,80,000 – ₹ 2,40,000], it is to be ignored.]	Nil			
(iii)	Intra-State supply of sponsorship service [Tax is payable under forward charge since	50,000	4,500 [50,000 x 9%]	4,500 [50,000 x 9%]	

	recipient of said services is a proprietary concern. Tax is not payable under reverse charge since recipient of said services is a not a partnership firm or body corporate.]				
(iv)	Fine for delayed supply of goods [There was no express contract. Fine received from Vipul, being liquidated damages is merely a payment to compensate the loss caused due to delayed supply of goods and is not a consideration for supply.]	-			
	Total output tax		76,500	76,500	
	Less: ITC available for set off [Refer note below.] [IGST credit is utilized for payment of SGST only in order to minimize the SGST liability. CGST and SGST credit are utilized for payment of		- (57,600)- CGST	(18,000) - IGST (57,600) -SGST	

	CGST and SGST liability respectively.]				
	Net output tax payable in cash		18,900	900	
	GST payable in cash under reverse charge				
	Add: Tax on services received from the advocate – Vikas Gupta - is payable under reverse charge by the recipient of service.				18,000
	Minimum net GST payable		18,900	900	18,000

Working note - Computation of eligible ITC available for set off

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Intra-State purchase of goods [ITC on goods ₹ 1,00,000 not received in April cannot be availed.]	6,00,000 [7,00,000-1,00,000]	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
(ii)	Freight paid to truck owner [No ITC is available since GST on service of transportation of goods by road received from a person other than a GTA is exempt.]	15,000	-	-	
(iii)	Rent paid to Indian Railway [It is an intra-State supply since the place of supply is location of	40,000	3,600 [40,000 × 9%]	3,600 [40,000 × 9%]	

	immovable property, i.e. Chhattisgarh and supplier – Indian Railways is in Chhattisgarh Tax is payable under forward charge. Further, ITC on services used in course or furtherance of business is allowed.]				
(iv)	Representational services received from Vikas Gupta [Services received by a <u>business entity</u> from advocates are not exempt. It is an inter-State supply since the supplier is in Delhi and place of supply is location of recipient, i.e. Chhattisgarh. Further, ITC on services used in course or furtherance of business is available.]	1,00,000			18,000 [1,00,000 × 18%]
(v)	Additional share holding acquired in subsidiary [It is neither supply of goods nor supply of services, which is covered under schedule III. ITC cannot be claimed since no GST is	-			

	payable on the same.]				
(vi)	Inter-State purchase of goods to be used for corporate social responsibility [ITC on goods to be used for discharge of corporate social responsibility is blocked under section 17(5)]	-			
	Total ITC available		57,600	57,600	18,000

2. (a) Computation of GST liability of Mr. Ayush

	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
(i)	Service provided to Nuba Pvt. Ltd. [Tax on services provided in the capacity of an independent director is payable by the recipient – Nuba Pvt. Ltd. under reverse charge mechanism and not by Mr. Ayush.]	-	
(ii)	Supply of transportation of railway equipment by vessel [Taxable, since it is not specifically exempt. Transportation of specified goods by vessel from one place in India to another are exempt. However, railway equipment is not a specified good. Exemption earlier available to transportation of railway equipment by vessel from one place in India to another was withdrawn.]	10,800	10,800
(iii)	Storage/warehousing of processed tea [Taxable, since storage/warehousing of only agricultural produce is exempt]	6,300	6,300

	but processed tea is not an agricultural produce.]		
(iv)	Health care services of providing rooms by his clinical establishment [Exempt, since room charges do not exceed ₹ 5,000 per day.]	-	-
(v)	Services of a guest house for lodging purposes [Taxable, since exemption with respect to services provided by guest house for lodging purposes with value of supply up to ₹ 1,000 per day, was withdrawn.]	6,480	6,480

- (b) (i) The value of supply of services by Head Office (HO) to its Branch Office (BO) [HO and BO being the distinct persons], shall be the open market value (OMV) of such supply.

Further, where the recipient - BO - is eligible for full input tax credit (ITC), the value declared in the invoice by HO shall be deemed to be OMV of such services.

Moreover, the cost of any particular component of said services including the salary cost of the HO employees involved in providing the said services is not required to be mandatorily included in the value of the services in the invoice.

- (ii) If HO has not issued a tax invoice to the BO and the recipient - BO - is eligible for full ITC, the value of service by HO to BO may be deemed to be declared as Nil and may be deemed as OMV of such services.

(c) **Computation of the assessable value of imported machine**

Particulars	Amount (₹)
CIF value (re-negotiated price) [Since the contract price was re-negotiated owing to early delivery of the machine, transaction value, being price actually paid or payable for the goods, will be re-negotiated price, i.e. [\$ 22,000 (20,000 + \$ 2,000) x ₹ 83]	18,26,000
Less: Air freight [\$ 5,000 x ₹ 83]	4,15,000
Less: Insurance [\$ 12,000 x ₹ 83]	<u>99,600</u>

FOB value (in rupees)	13,11,400
<i>Add:</i> Inspection charges [Not includible in value since only the payments actually made as a condition of sale of imported goods by buyer to seller are includible and inspection charges are not required for making the goods ready for shipment.]	<u>Nil</u>
FOB value as per Customs	13,11,400
<i>Add:</i> Air Freight (20% of ₹ 13,11,400) [Air freight cannot exceed 20% of FOB value.]	2,62,280
<i>Add:</i> Insurance [Actual insurance charges paid are includible.]	99,600
Transport charges from Delhi airport to Mumbai airport [Cost of transport charges associated with transshipment of imported goods to another customs station in India are not includible.]	<u>Nil</u>
Assessable value (in ₹)	16,73,280

3. (a) Where an exempt supply of goods by a registered person becomes a taxable supply, such person shall be entitled to take ITC, *inter alia*, in respect of capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable i.e. Nov 30.

ITC on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.

Thus, Vijay Pvt. Ltd. can take following amount of ITC on additional machinery purchased exclusively for manufacturing “V2Z” by making an electronic declaration in prescribed form specifying the details of capital goods on the day immediately preceding the date from which such supply becomes taxable within 30 days of becoming eligible to avail ITC:

$$\begin{aligned}
 &= (\text{₹ } 45 \text{ lakh} \times 18\%) - (\text{₹ } 45 \text{ lakh} \times 18\% \times 5\% \times 2 \text{ quarters}) \\
 &= \text{₹ } 8,10,000 - \text{₹ } 81,000 \\
 &= \text{₹ } 7,29,000
 \end{aligned}$$

- (b) (i) Lending of securities under the Securities Lending Scheme is not a transaction in securities as it does not involve disposal of securities. It is not excluded from the definition of services and amounts to supply.

Consequently, lending of securities for consideration to Kala Enterprise amounts to supply.

- (ii) Since the invoice for further supply of goods is being issued by the agent – Romi. in his own name, the provision of goods from the principal – Patta Limited. - to the agent – Romi - would fall within the purview of Schedule I of the CGST Act, 2017 and would amount to supply even though made without consideration.

Further, supply of goods by Romi to the customer for consideration amounts to supply.

- (iii) Since any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act to refrain cannot be considered for providing services in the course of employment, amount received by Miss Chhaya from Dilasa Limited amounts to supply under the GST law.

- (c) Where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported goods have been destroyed, otherwise than as a result of pilferage at any time before clearance for home consumption, the duty shall be remitted on such goods.

In the given case, since loss of sports car is forever and beyond recovery due to fire, Rustam can claim remission of customs duty upon proving the loss to the satisfaction of the Assistant Commissioner or Deputy Commissioner.

Further, since duty has already been paid in the given case, he can claim refund after getting the remission orders.

Further, Rustam can claim remission or refund of duty even if he warehoused the sports car and fire occurred there after the payment of duty but before actual clearance therefrom.

4. (a) The electronic credit ledger can be used for making payment of only output tax which is the tax chargeable on taxable outward supply, but excludes tax payable on reverse charge mechanism. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the GST law.

Accordingly, electronic credit ledger can be used for any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the GST law.

Thus, in view of the above-mentioned provisions, the contention of MN Ltd. is not correct.

Computation of amount payable in cash is as under: -

Particulars	CGST (₹)	SGST (₹)
GST payable on outward supplies	10,000	10,000
GST payable as consequence of proceeding instituted under GST law	<u>5,000</u>	<u>5,000</u>
Total	15,000	15,000
Less: ITC in Electronic Credit ledger	<u>(15,000)</u>	<u>(15,000)</u>
Balance	Nil	Nil
Add: GST payable on reverse charge supplies	6,000	6,000
Add: Interest for default in late filing of GSTR-3B	500	500
Add: Penalty	<u>500</u>	<u>500</u>
Total amount payable in cash	<u>7,000</u>	<u>7,000</u>

- (b) The place of supply of the services supplied in respect of goods which are temporarily imported into India for repairs and are exported after such repairs without being put to any use in India where supplier is in India and recipient is located outside India, is the location of the recipient of services, location outside India i.e. China.

Thus, place of supply of repair services provided to Titen Ltd. in the given case is China.

Further, said repair services shall qualify as “export of services” since:

- supplier is in India,
- both recipient and place of supply are outside India,
- the payment for service is received in convertible foreign exchange, and
- supplier and recipient are not merely establishments of a distinct person.

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores will have a Dynamic QR code.

However, no Dynamic QR code is required in case of exports.

In the given case, although the aggregate turnover of Sunita Industries exceeds ₹ 500 crore in preceding FY 2022-23, it is still not mandatorily required to have a Dynamic QR code requirement on the invoice for said services as Dynamic QR code requirement is not applicable to exports.

- (c) In case of provisional assessment of duty, if any amount refundable upon finalization of assessment to the importer is not refunded within 3 months from the date of final assessment of duty, interest @ 6% per annum shall be paid on such unrefunded amount till the date of refund of such amount.

No interest is payable on security deposits for provisional release of goods, etc.

Thus, in the given case, the amount of interest receivable by Mr. Sahil is as under:-

16th January, 2024 to 25th March, 2024 (Both inclusive)

Period of delay = 70 days

Thus, interest = ₹ 50,000 × 6% × 70/366

= ₹ 574 (rounded off)

5. (a) In the given case, Swastik Tours and Travel has committed the following offences:

- Availing of ITC using the fake invoices received without receipt of goods/services
- Falsification or substitution of financial records with an intention to evade payment of tax due or evasion of tax

Here, the amount of tax evaded/ITC wrongly availed is Rs. 4 crore (₹ 3.60 crore + ₹ 0.4 crore), i.e. it exceeds ₹ 2 crore but does not exceed ₹ 5 crore.

Further, where the offence committed by the person falls under more than one category, the compounding amount shall be the amount determined for the offence for which higher compounding amount has been prescribed.

Thus, the compounding amount will be as follows:

- For the offence of availing of ITC using the fake invoices received without receipt of goods/services, compounding amount is 40% of the amount of ITC wrongly availed.
- For the offence of falsification or substitution of financial records with an intention to evade payment of tax due or evasion of tax, compounding amount is 40% [higher of 25% or 40%] of the amount of tax evaded].

Thus, Swastik Tours and Travel should have deposited the following amount of tax evaded/ITC wrongly availed as the compounding amount:

= 40% of ₹ 4 crore

= ₹ 1.60 crore

Since Swastik Tours and Travel has deposited lesser compounding amount than required, the rejection of its request for compounding by the Commissioner is justified.

(b) (i) An appeal may be filed to the Commissioner (Appeals) against an adjudicating order if such an order is passed by the Additional or Joint Commissioner.

However, where the order is passed by the Assistant Commissioner, the appeal is to be filed to any officer not below the rank of Joint Commissioner (Appeals).

Thus, in the given case, appeal cannot be filed to the Commissioner (Appeals), but to any officer not below the rank of Joint Commissioner (Appeals).

- (ii) An appeal to the Appellate Authority may be filed manually only if-
 - (i) the Commissioner has so notified, or
 - (ii) the decision or order to be appealed against is not available on the common portal.

Therefore, in light of the facts of the given case, the appeal cannot be filed manually.

- (c) The action of the Department of rejecting the refund claim is correct.

The facts of the given case are similar to a Supreme Court judgment³ wherein the Court held that unless an assessment order has been reviewed and/or modified in an appeal, that assessment order stands, and the duty is payable only as per that assessment order.

A refund claim is not an appeal proceeding.

Further, the officer considering the refund claim, cannot not review the assessment order.

Thus, refund claims based on challenge to an order of assessment are liable to be rejected.

- 6. (a) On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, allow payment of tax and other amounts due by such person in maximum 24 monthly instalments, on payment of interest and subject to prescribed conditions and limitations.

If there is default in payment of any one instalment on due date, then the whole outstanding balance shall become due and payable immediately.

³ *Priya Blue Industries Limited vs Commissioner of Customs 2004 (172) ELT 145 (SC)*

The facility of payment in instalments shall not be allowed where –

- (a) the taxable person has already defaulted on the payment of any amount under the GST law, for which the recovery process is on.
 - (b) the taxable person has not been allowed to make payment in instalments in the preceding financial year.
 - (c) the amount for which instalment facility is sought is less than ₹ 25,000.
 - (d) the amount payable is self-assessed tax.
- (b) The following precautions should generally be observed when summoning a person: -
- (i) A summon should not be issued for appearance where it is not justified. The power to summon can be exercised only when there is an inquiry being undertaken and the attendance of the person is considered necessary.
 - (ii) Repeated summons should be avoided. As far as practicable, the statement of the accused/ witness should be recorded in minimum number of appearances.
 - (iii) The time of appearance given in the summons should be respected. No person should be made to wait for long hours before his statement is recorded unless decided as a matter of strategy.
 - (iv) Statements should preferably be recorded during office hours; however, an exception could be made regarding the time and place of recording statement having regard to the facts in the case.

(b) Alternative Answer

Inspection can be carried out upon a written authorization given by an officer of the rank of Joint Commissioner or above.

A Joint Commissioner or an officer higher in rank can give such authorization only if he has reasons to believe that the person concerned has done one of the following to evade tax:

- i. suppressed any transaction of supply;

- ii. suppressed stock of goods in hand;
- iii. claimed excess input tax credit;
- iv. contravened any provision of the CGST Act to evade tax;
- v. a transporter or an owner/operator of a warehouse/godown/any other place has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax.

(c) Status Holder is an exporter recognized for export performance by a Regional Authority. Status Holders are exporter firms recognised on the basis of their export performance as business leaders who have excelled in international trade and have successfully contributed to country's foreign trade.

All exporters of goods, services and technology having an import-export code (IEC) number, on the date of application, shall be eligible for recognition as a status holder based on export performance.

An applicant may be categorized as status holder on achieving the threshold export performance in the current and preceding three financial years as indicated below:

Status category	Export Performance (Threshold In USD Million)
One Star Export House	3
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800