

PAPER – 8: INDIRECT TAXLAWS

1. Question paper comprises of **6** questions. Answer question no. 1 which is compulsory and any **4** questions out of the remaining **5** questions.
2. Working notes should form part of the answer.
3. All the questions should be answered on the basis of position of (i) GST laws as amended by significant notifications/circulars issued till 31st October, 2018 and (ii) Customs law as amended by Finance Act, 2018 and significant notifications/circulars issued till 31st October, 2018.

Question 1

- (a) Vansh Shoppe is a registered supplier of both taxable and exempted goods, registered under GST in the State of Rajasthan. Vansh Shoppe has furnished the following details for the month of April, 2019;

		₹
(1)	Details of sales:	
	Sales of taxable goods	50,00,000
	Sales of goods not leviable to GST	10,00,000
(2)	Details of goods purchased for being sold in the shop:	
	Taxable goods	45,00,000
	Goods not leviable to GST	4,00,000
(3)	Details of expenses:	
	Monthly rent payable for the shop	3,50,000
	Telephone expenses paid (₹ 30,000 for land line phone installed at the shop and ₹ 20,000 for mobile phone given to employees for official use)	50,000
	Audit fees paid to a Chartered Accountant (₹ 35,000 for filing of income tax return & the statutory audit of preceding financial year and ₹ 25,000 for filing of GST return)	60,000
	Premium paid on health insurance policies taken for specified employees of the shop. The Government has not notified such health insurance service under section 17(5)(b)(iii)(A) CGST Act, 2017	10,000
	Freight paid to goods transport agency (GTA) for inward transportation of non-taxable goods	50,000
	Freight paid to goods transport agency (GTA) for inward transportation of taxable goods	1,50,000
	GST paid on goods given as free samples	5,000

All the above amounts are exclusive of all kind of taxes, wherever applicable.

All the purchases and sales made by Vansh Shoppe are within Rajasthan. All the purchases are made from registered suppliers. All the other expenses incurred are also within Rajasthan.

Assume, wherever applicable, for purpose of reverse charge payable by Vansh Shoppe, the CGST, SGST and IGST rates as 2.5%, 2.5% and 5% respectively. CGST, SGST and IGST rates to be 6%, 6% and 12% respectively in all other cases.

There is no opening balance in the electronic cash ledger or electronic credit ledger.

Assume that all the necessary conditions for availing the ITC have been complied with. Ignore interest, if any.

You are required to compute the following:

- (1) Input Tax Credit (ITC) credited to Electronic Credit Ledger
- (2) Common credit
- (3) ITC attributable towards exempt supplies out of common credit
- (4) Net GST liability for the month of April, 2019

(10 Marks)

- (b) Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises.

Briefly explain the following:

- (a) the place of supply under IGST Act, 2017; (b) the nature of supply:- whether inter-State or intra-State and
- (c) whether CGST/SGST or IGST as would be applicable in this case.

(4 Marks)

Answer

(a) (1) Computation of ITC credited to Electronic Credit Ledger

ITC of input tax attributable to inputs and input services intended to be used for business purposes is credited to the electronic credit ledger. Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes, for effecting exclusively exempt supplies and on which credit is blocked under section 17(5) of the CGST Act, 2017 is not credited to electronic credit ledger [Sections 16 and 17 of the CGST Act, 2017].

In the light of the aforementioned provisions, the ITC credited to electronic credit ledger of Vansh Shoppe is calculated as under:

Particulars	Amount (₹)	CGST @ 6% (₹)	SGST @ 6% (₹)
GST paid on taxable goods	45,00,000	2,70,000	2,70,000
Goods not leviable to GST [Since non-taxable, no GST is paid]	4,00,000	Nil	Nil
GST paid on monthly rent for shop	3,50,000	21,000	21,000
GST paid on telephone expenses	50,000	3,000	3,000
GST paid on audit fees	60,000	3,600	3,600
GST paid on premium of health insurance policies	10,000	Nil	Nil
[ITC on life insurance service is blocked if the Government has not notified such services under section 17(5)(b)(iii)(A) of the CGST Act].			
GST paid on goods given as free samples [ITC on goods disposed of by way of free samples is blocked under section 17(5) of the CGST Act, 2017]	5,000	Nil	Nil
Particulars	Amount (₹)	CGST @ 2.5% (₹)	SGST @ 2.5% (₹)
Freight paid to GTA for inward transportation of non-taxable goods under reverse charge [Since definition of exempt supply under section 2(47) of the CGST Act, 2017 specifically includes non-taxable supply, the input service of inward transportation of non-taxable goods is being exclusively used for effecting exempt supplies.]	50,000	Nil	Nil
Freight paid to GTA for inward transportation of taxable goods under reverse charge	1,50,000	3,750	3,750
ITC credited to the electronic ledger		3,01,350	3,01,350

(2) Computation of common credit

Common Credit = ITC credited to Electronic Credit Ledger – ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies [Section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017].

Particulars	CGST (₹)	SGST (₹)
ITC credited to Electronic Credit Ledger	3,01,350	3,01,350
Less: ITC on taxable goods	2,70,000	2,70,000
Less: ITC on freight paid to GTA for inward transportation of taxable goods	3,750	3,750
Common credit	27,600	27,600

(3) Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period / Total turnover during the tax period) [Section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017].

Particulars	CGST (₹)	SGST (₹)
ITC attributable towards exempt supplies [₹ 27,600 x (₹ 10,00,000/₹ 60,00,000)]	4,600	4,600

(4) Computation of net GST liability for the month of April, 2019

Particulars	CGST (₹)	SGST (₹)
<i>GST liability under forward charge</i>		
Sale of taxable goods [₹ 50,00,000 x 6%]	3,00,000	3,00,000
Add: Ineligible ITC [ITC out of common credit, attributable to exempt supplies]	<u>4,600</u>	<u>4,600</u>
Total output tax liability under forward charge	3,04,600	3,04,600
Less: ITC credited to the electronic credit ledger	3,01,350	3,01,350
Net GST payable [A]	3,250	3,250
<i>GST liability under reverse charge</i>		
Freight paid to GTA for inward transportation of taxable goods [₹ 1,50,000 x 2.5%]	3,750	3,750
Freight paid to GTA for inward transportation of non-taxable goods	1,250	1,250

[₹ 50,000 x 2.5%]		
Total output tax liability under reverse charge [B]	5,000	5,000
Net GST liability [A] + [B]	8,250	8,250
Note: Amount available in the electronic credit ledger may be used for making payment towards output tax [Section 49 of the CGST Act, 2017]. However, tax payable under reverse charge is not an output tax in terms of definition of output tax provided under section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.		

- (b) The supply between Asha Enterprises (Kota, Rajasthan) and Deep Traders (Jalandhar, Punjab) is a bill to ship to supply where the goods are delivered by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] on the direction of a third person [Deep Traders].

In case of such supply, it is deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person [Section 10(1)(b) of the IGST Act, 2017]. Thus, the place of supply between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) will be Jalandhar, Punjab.

Since the location of supplier and the place of supply are in two different States, the supply is an inter-State supply in terms of section 7 of the IGST Act, 2017, liable to IGST.

This situation involves another supply between Deep Traders (Jalandhar, Punjab) and Jyoti Sons (Patiala, Punjab). In this case, since the supply involves movement of goods, place of supply will be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, i.e. Patiala, Punjab [Section 10(1)(a) of the IGST Act, 2017].

Since the location of supplier and the place of supply are in the same State, the supply is an intra-State supply in terms of section 8 of the IGST Act, 2017, liable to CGST and SGST.

Question 2.

- (a) Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January, 2019:
- Supply of a laptop bag along with the laptop to a customer of Mumbai for ₹ 55,000 (exclusive of GST).
 - Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.
 - 100 kits are given as free gift to Jaipur customers on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35,

but the open market value of such kit of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the goods contained in the kit.

- (iv) Event management services provided free of cost for brother's son marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000, but the open market value of such services and of services of like kind and quality is not available.
- (v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers [₹ 20 (exclusive of GST) for each chair and each cooler] from Mrs. Kajal's godown at Jaipur to the Function Garden, Ajmer. The cost of transportation of chairs and coolers is paid by Mrs. Kajal to an unregistered Goods Transport Agency (GTA).

Interest of ₹ 6,400 (inclusive of GST) was collected by Mrs. Kajal from Ram Fancy Store, Kota for the payment received with a delay of 30 days.

Assume rates of GST to be as under:-

S. No.	Particulars	Rate of CGST (%)	Rate of SGST (%)	Rate of IGST (%)
1.	Laptop	9	9	18
2.	Laptop bag	14	14	28
3.	Hair oil	9	9	18
4.	Beauty soap	14	14	28
5.	Hair comb	6	6	12
6.	Event management service	2.5	2.5	5
7.	Service of renting of chairs and coolers	6	6	12
8.	Transportation service	2.5	2.5	5

From the above information, compute the GST liability (CGST and SGST and /or IGST, as the case may be) of Mrs. Kajal for the month of January, 2019. **(9 Marks)**

- (b) ABC Industries Ltd. of Mumbai imported one machine through vessel from Japan, in the month of September, 2018.

The following particulars are made available:

S. No.	Particulars	Amount in Japanese Yen (¥)
(i)	Cost upto port of exportation incurred by exporter	6,00,000
(ii)	Loading charges at port of exportation	25,000
(iii)	Freight charges from port of export to port of import in India.	1,00,000

Following additional amounts paid by ABC Industries Ltd:-

S. No.	Particulars	Amount in Indian rupees (₹)
(i)	Designing charges, necessary for such machine, paid to consultancy firm in New Delhi	8,00,000
(ii)	Commission paid (not the buying commission) to local agent of exporter.	1,25,000
(iii)	Actual landing charges paid at the place of importation.	15,000
(iv)	Actual insurance charges paid to the place of importation are not ascertainable.	-
(v)	Lighterage charges paid at the port of importation	20,000

Other Information :

(i)	Rate of basic customs duty is 10%
(ii)	Rate of social welfare surcharge is 10%
(iii)	Integrated tax leviable under section 3(7) of Customs Tariff Act, 1975 is 12%.
(iv)	Ignore GST compensation cess.
(v)	Rate of exchange to be taken is 1 Japanese Yen (¥) = ₹ 0.65

Arrive at the total customs duty, including integrated tax payable under section 3(7) of the Customs Tariff Act, 1975 with appropriate working notes. **(5 Marks)**

Answer

(a) Computation of GST liability of Mrs. Kajal for the month of January, 2019

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a) of the CGST Act, 2017 and is an inter-State supply. Accordingly, IGST @ 18% will be charged]	55,000			9,900

(ii)	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b) of the CGST Act, 2017. Also, it's an intra-State supply. Accordingly, CGST and SGST @ 14% each will be charged.] Further, interest of ₹ 6,400 ¹ charged for delayed payment as collected from Ram Fancy Store will be included in the value of supply in terms of section 15(2) of the CGST Act, 2017.	5,05,000	70,700	70,700	
	Therefore, total value of supply = ₹ 5,05,000 [₹ 5,00,000 + (₹ 6,400 × 100/128)]				
(iii)	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I of the CGST Act as the gifts are given to unrelated customers without consideration]		Nil	Nil	Nil
(iv)	Event management services provided free of cost for brother's son marriage [Cannot be considered as supply under section 7 read with Schedule I of the CGST Act as the service is provided to unrelated person without consideration.]		Nil	Nil	Nil
(v)	Chairs and coolers hired out to Function Garden [Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt [Notification No. 12/2017 CT(R) dated 28.06.2017].	3,30,000	19,800	19,800	

¹ It has been assumed that interest on delayed payment received has been collected in the month of January, 2019 itself and is inclusive of GST.

	However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Also, it's an intra-State supply. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers, viz. CGST and SGST @ 6% each.]				
(vi)	Transportation of chairs and coolers by GTA [GST on GTA services availed is payable under reverse charge mechanism since GST is payable @ 5% ² . Being an intra-State supply, CGST and SGST will be chargeable @ 2.5% each ³ .]	30,000 (₹ 20 × 1,500)	750	750	
	Total GST liability		91,250	91,250	9,900

Notes:

- (1) The above answer is based on the assumption that either the event management services are provided to brother for his son's marriage and brother is not wholly dependent on Mrs. Kajal or such services are provided directly to brother's son for his marriage. However, it is also possible to assume that the services are provided to brother for his son's marriage and brother is wholly dependent on Mrs. Kajal.
- (2) As per section 2(30) of the CGST Act, 2017, composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), service of hiring out of chairs & coolers is taxable while transportation service is exempt (being provided by a person other than a GTA), it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.

² It has been most logically assumed that Mrs. Kajal has not charged, from Function Garden, any mark-up on the cost of transportation paid by her to the unregistered GTA.

³ It has been assumed that the unregistered GTA from whom the GTA services have been availed is located in the State of Rajasthan.

(b) **Computation of assessable value of the imported goods**

	Japanese Yen
Cost upto port of exportation	6,00,000
Add: Loading charges at the port of exportation [Note-1]	25,000
Total in Japanese Yen	6,25,000
	₹
Total in Indian rupees @ ₹ 0.65 per Japanese Yen	4,06,250.00
Add: Commission paid to local agent of exporter [Note-3]	1,25,000.00
FOB value as per customs	5,31,250.00
Add: Freight charges from port of export to port of import in India [Note-1] [1,00,000 Japanese Yen × 0.65 = ₹ 65,000]	65,000.00
Add: Lighterage charges paid by the importer at port of importation [Note-1]	20,000
Add: Insurance charges @ 1.125% of FOB [₹ 5,31,250 × 1.125%] [Note-4]	5,976.56
CIF value	6,22,226.56
Assessable Value (rounded off)	6,22,227
Add: Basic customs duty @ 10% of ₹ 6,22,227 (rounded off) (A)	62,223
Add: Social welfare surcharge @ 10% of ₹ 62,223 (rounded off) (B)	6,222
Total	6,90,672
Add: Integrated tax @ 12% of ₹ 6,90,672 (rounded off) (C)	82,881
Total custom duty and integrated tax payable [(A) +(B) + (C)] (rounded off)	1,51,326

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)]. Further, explanation to rule 10(2), *inter alia*, clarifies that cost of transport of the imported goods includes lighterage charges.
- (2) Design and engineering work is includible in the assessable value only when the same is undertaken elsewhere than in India and necessary for the production of the imported goods [Rule 10(1) of the CVR].

- (3) Buying commission is not included in the assessable value [Rule 10(1) of the CVR]. Commission paid to local agent of exporter is includible in the assessable value since it is not buying commission.
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Rule 10(2) of the CVR].
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Rule 10(2) of the CVR].

Question 3.

- (a) *Siddhi Ltd. is a registered manufacturer engaged in taxable supply of goods. Siddhi Ltd. purchased the following goods during the month of January, 2019. The following particulars are provided:*

S. No.	Particulars	Input tax (₹)
1.	Capital goods purchased on which depreciation has been taken on full value including input tax thereon	15,000
2.	Goods purchased from Ravi Traders (Invoice of Ravi Traders is received in month of January, 2019, but goods were received in month of March, 2019)	20,000
3.	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
4.	Goods used for setting up telecommunication towers being immovable property	50,000
5.	Goods purchased from Pooja Ltd. (Full payment is made by Siddhi Ltd. to Pooja Ltd. against such supply, but tax has not been deposited by Pooja Ltd.)	10,000
6.	Truck purchased for delivery of output goods	80,000

Determine the amount of input tax credit (ITC) available by giving necessary explanations for treatment of various items as per the provisions of the CGST Act, 2017. You may assume that all the necessary conditions for availing the ITC have been complied with by Siddhi Ltd.

(5 Marks)

- (b) *Dev Enterprises is the supplier of water coolers. Dev Enterprises supplied water coolers to Vimal Traders for consideration of ₹2,95,000 (inclusive of GST @ 18%). Vimal Traders also gave some materials to Dev Enterprises as consideration for such supply whose value was ₹10,000 (exclusive of GST).*

Dev Enterprises has supplied the same goods to another person at price of ₹ 2,97,360 (inclusive of GST @ 18%).

You are required to:

- (1) Determine the value of goods supplied by Dev Enterprises to Vimal Traders as per the provisions of the CGST Act, 2017.
 - (2) What would your answer be if price of ₹ 2,97,360 is not available at the time of supply of goods to Vimal Traders? Explain briefly. **(4 Marks)**
- (c) From the following particulars, you are required to determine reward under Merchandise Exports from India Scheme (MEIS) under Foreign Trade Policy 2015-2020:
- (1) Exports of handloom products through notified courier with FOB value of ₹ 5,15,000 per consignment.
 - (2) Exports of goods which are subject to minimum export price with FOB value of ₹ 50,000.
 - (3) Exports of goods where FOB value declared in shipping bill is ₹ 8,00,000. FOB value realised with exchange gain is ₹ 8,20,000.
 - (4) Exports of books through foreign post office with FOB value of ₹ 4,95,000 per consignment
 - (5) Biotechnology Park products exported through DTA units of ₹ 3,00,000
 - (6) Supplies made from DTA units to SEZ units of ₹ 2,00,000
 - (7) Rate of reward under MEIS is 7%. **(5 Marks)**

Answer

(a) **Computation of ITC available with Siddhi Ltd.**

S. No.	Particulars	Input tax (₹)
1.	Capital goods [Since depreciation has been claimed on the tax component of the value of the capital goods, ITC of such tax cannot be availed in terms of section 16 of the CGST Act, 2017.]	Nil
2.	Goods purchased from Ravi Traders [ITC in respect of goods not received cannot be availed (Section 16 of the CGST Act, 2017). Since the goods have been received in the month of March 2019, ITC thereon can be availed in March 2019 and not January 2019 even though the invoice for the same has been received in January 2019]	Nil

3.	Cars purchased for making further supply [Though ITC on motor vehicles used for further supply of such vehicles is not blocked, ITC on goods destroyed for whichever reason is blocked (Section 17(5) of the CGST Act, 2017).]	Nil
4.	Goods used for setting telecommunication towers [ITC on goods used by a taxable person for construction of immovable property on his own account is blocked even when such goods are used in the course or furtherance of business (Section 17 of the CGST Act, 2017).]	Nil
5.	Goods purchased from Pooja Ltd. [ITC can be claimed provisionally in January 2019 since all the conditions necessary for availing the same have been complied with (Section 16 of the CGST Act, 2017). However, the claim will get confirmed only when the tax charged in respect of such supply has been actually paid to the Government.]	10,000
6.	Trucks purchased for delivery of output goods [ITC on motor vehicles used for transportation of goods is not blocked (Section 17(5) of the CGST Act, 2017).]	80,000
	Total ITC available with Siddhi Ltd.	90,000

Note: The above answer is based on the assumption that the ITC available is to be computed for the month of January, 2019. However, since the question does not specify the period for which ITC available is to be computed, the question may also be answered without referring to any particular period.

- (b) (1) In the given case, price is not the sole consideration for the supply. Apart from monetary consideration, the buyer has given some material to the supplier as consideration for such supply. Hence, the value of the supply cannot be determined on the basis of the transaction value in terms of section 15(1) of the CGST Act, 2017.

Here, the value will be determined with the help of rule 27 of the CGST Rules, 2017 (Valuation Rules) which specifies that where the consideration for a supply is not wholly in money, the value will be the open market value.

Open market value of a supply means the full value in money, excluding the applicable GST, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

Therefore, in the given case, the open market value of the goods supplied is ₹ 2,52,000 (₹ 2,97,360 x 100/118) and is therefore, the value of such goods.

- (2) Rule 27 further provides that if open market value of the supply is not known, the value of the supply will be the consideration in money plus the money equivalent to the non-monetary consideration, if such amount is known at the time of supply.

Therefore, the value in the given case will be $(₹ 2,95,000 \times 100/118) + ₹ 10,000$, which is ₹ 2,60,000.

(c) **Computation of rewards under MEIS**

Particulars	Amount eligible for reward (₹)
Export of handloom products through courier ⁴ with FOB value ₹ 5,15,000 [Export of handloom products of FOB value upto ₹ 5,00,000 per consignment is entitled for reward under MEIS.]	5,00,000
Export of goods which are subject to minimum export price [Ineligible for MEIS]	Nil
Export of goods where FOB value declared in shipping bill is ₹ 8,00,000 and FOB value realized is ₹ 8,20,000 [FOB value declared in the shipping bill or the FOB value realized, whichever is lower is considered for MEIS rewards]	8,00,000
Export of books through foreign post office ⁵ with FOB value of ₹ 4,95,000 [Export of books of FOB value upto ₹ 5,00,000 per consignment is entitled for reward under MEIS.]	4,95,000
Biotechnology Park products exported through DTA units [Ineligible for MEIS]	Nil
Supplies made from DTA units to SEZ units [Ineligible for MEIS]	Nil
Total amount eligible for MEIS reward	17,95,000
MEIS reward @ 7%	1,25,650

Question 4

- (a) *Yash Shoppe, a registered supplier of Jaipur, is engaged in supply of various goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017.*

⁴ It has been assumed that exports have been made using e-commerce platform.

⁵ It has been assumed that exports have been made using e-commerce platform.

You are required to briefly explain the provisions relating to tax deduction at source under section 51 of the CGST Act, 2017 and also determine the amount of tax, if any, to be deducted from each of the receivables given below (independent cases) assuming that the payments as per the contract values are made on 31.10.2018. The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively.

- (1) Supply of computer stationery to Public Sector Undertaking (PSU) located in Mumbai. Total contract value is ₹ 2,72,000 (inclusive of GST)
 - (2) Supply of air conditioner to GST department located in Delhi. Total contract value is ₹ 2,55,000 (exclusive of GST)
 - (3) Supply of generator renting service to Municipal Corporation of Jaipur. Total contract value is ₹ 3,50,000 (inclusive of GST) **(5 Marks)**
- (b) Happy Company is a registered supplier of electric goods. It has three stores for electric goods in Jodhpur (Rajasthan) namely Ram Store, Shyam Store, Mohan Store. It receives an order for supply of electric goods worth ₹ 1,40,000 (exclusive of GST @ 18%) from Kishan Sons of Bhopal (Madhya Pradesh). Happy Company found that order worth ₹ 43,000 can be fulfilled from the company's Ram Store, order worth ₹ 45,000 can be fulfilled from its Shyam Store and remaining goods worth ₹ 52,000 can be sent from its Mohan Store. All three stores are instructed to issue separate invoices for the goods sent to Kishan Sons. The goods are transported to Kishan Sons in Bhopal in a single conveyance owned by Shiv Transporters.
- You are required to advise Happy Company with regard to issuance of e-way bills as per the provisions of the CGST Act, 2017. **(4 Marks)**
- (c) Laxmi Company imported goods valued at ₹ 10,00,000 vide a Bill of Entry presented before the proper officer on 15th December, 2018, on which date the rate of customs duty was 20%. The proper officer decided that the goods should be subject to chemical or other test and therefore, the same were provisionally assessed at a value of ₹ 10,00,000 and Laxmi company paid provisional duty of ₹ 2,00,000 on the same date. Laxmi Company wants to voluntarily pay duty of ₹ 1,50,000 on 20th January, 2019.
- (1) Can Laxmi Company provisionally pay the duty and what are the conditions which are to be complied before such payment is made?
 - (2) Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 assuming that the payment of ₹ 1,50,000 as stated above is made on 20th January, 2019 and that the final duty is assessed on 31st January, 2019 at ₹ 4,00,000 and the balance duty is paid on the same day. **(5 Marks)**

Answer

- (a) As per section 51 of the CGST Act, 2017, Government departments, agencies, local authority and notified persons are required to deduct tax @ 2% (1% CGST + 1% SGST/UTGST) or IGST @ 2% from payment made to the supplier of taxable goods and/

or services where the total value of such supply [excluding tax and compensation cess indicated in the invoice], under a contract, exceeds ₹ 2,50,000.

Since in the given case, Yash Shoppe is supplying goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No.	Particulars	Total contract value due to be received [excluding GST] (₹)	Tax to be deducted		
			CGST @ 1% (₹)	SGST @ 1% (₹)	IGST @ 2% (₹)
(1)	Supply of computer stationery to PSU in Mumbai [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] does not exceed ₹ 2,50,000, tax is not required to be deducted.]	2,42,857 [2,72,000 × 100 / 112]	--	--	
(2)	Supply of air conditioner to GST Department in Delhi [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	2,55,000	--		5,100
(3)	Supply of a generator renting service to Municipal Corporation of Jaipur [Since the total value of supply under the contract [excluding CGST and SGST (being intra-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	3,12,500 [3,50,000 × 100 / 112]	3,125	3,125	

- (b) Rule 138 of the CGST Rules, 2018 stipulates that e-way Bill is mandatorily required to be generated if the goods are moved, *inter alia*, in relation to a supply and the consignment value [including CGST, SGST/UTGST, IGST and cess charged] exceeds ₹ 50,000.

Further, the *FAQs on E-way Bill* issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, multiple e-way bills have to be generated - one e-way bill

for each invoice. Each invoice is considered as separate consignment for the purpose of generating e-way bills.

In the given case, consignment value of goods supplied against separate invoices from Ram Store, Shyam Store and Mohan Store is ₹ 50,740 [₹ 43,000 × 118%], ₹ 53,100 [₹ 45,000 × 118%] and ₹ 61,360 [₹ 52,000 × 118%] respectively.

Thus, Happy Company is required to prepare 3 separate e-way bills since value of each invoice exceeds ₹ 50,000.

- (c) (1) Provisional assessment of duty is permitted in case where the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test [Section 18 of the Customs Act, 1962]. Thus, Laxmi Company can pay the duty on provisional basis.

Before, the provisional assessment of duty, the importer must furnish such security as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed/re-assessed and the duty provisionally assessed.

- (2) Section 18 of the Customs Act, 1962 further stipulates that the importer is liable to pay interest, on any amount payable consequent to the final assessment order @ 15% p.a. from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.

Accordingly, amount of interest payable will be

$$= [₹ 1,50,000 \times 15\% \times 51/365] + [₹ 50,000 \times 15\% \times 62/365]$$

$$= ₹ 3,144 + ₹ 1,274$$

$$= ₹ 4,418$$

Question 5

- (a) From the following details, calculate the amount to be paid, for release of goods detained or seized under section 129 of the CGST Act, 2017, if owner of the goods does not come forward for payment of applicable tax and penalty

Details are as follows:

Particulars	Amount (₹)
Value of goods	30,00,000
Applicable GST on such goods	5,40,000
GST already paid on such goods	3,60,000

Would your answer be different if goods were exempted from GST and value remains the same namely ₹ 30,00,000? **(5 Marks)**

- (b) On 05.07.2018, a show cause notice for ₹ 5,00,000 was issued to Mr. Vijay Kumar Sharma demanding short payment of GST of ₹ 4,50,000 for the month of January, 2018 and also interest of ₹ 50,000.

Mr. Sharma raised objections and after personal hearing on 30.08.2018, adjudicating authority passed the final order for ₹ 3,50,000 for GST, without any reference with regard to payment of interest.

Mr. Sharma deposited the tax of ₹ 3,50,000 on 02.09.2018 and informed the department on the same day. Subsequently, on 15.09.2018, department demanded payment of interest of ₹ 60,000 on GST of ₹ 3,50,000.

Mr. Vijay Kumar Sharma is not ready to pay any interest. His contention is that he is not liable for interest because he deposited all the amount specified in the final adjudication order.

Examine with a brief note the validity of the action taken by the Department with reference to provisions of the CGST Act, 2017. **(4 Marks)**

- (c) Briefly explain the procedure in appeal to be followed by the Commissioner (Appeals) under section 128A of the Customs Act, 1962. **(5 Marks)**

Answer

- (a) If owner of the goods does not come forward for payment of applicable tax and penalty, the amount to be paid for release of goods detained or seized under section 129 of the CGST Act, 2017 is applicable GST and penalty equal to 50% of the value of the goods reduced by the tax amount paid thereon.

Therefore, in the given case, the amount payable = [₹ 5,40,000 + 50% of ₹ 30,00,000] – ₹ 3,60,000 = ₹ 16,80,000

However, in case of exempted goods, amount to be paid for release of goods detained is equal to 5% of the value of goods or ₹ 25,000, whichever is less.

= 5% of ₹ 30,00,000 or ₹ 25,000, whichever is less

= ₹ 1,50,000 or ₹ 25,000, whichever is less

= ₹ 25,000

- (b) As per section 75 of the CGST Act, 2017, the interest on the tax short paid has to be paid whether or not the same is specified in the order determining the tax liability.

Thus, in view of the same, Mr. Vijay Kumar Sharma will have to pay the interest even though the same is not specified in the final adjudication order. His contention that he is not liable for interest because he deposited all the amount specified in the final adjudication order is not valid in law.

However, the amount of interest demanded in the order cannot be in excess of the amount specified in the notice.

Therefore, in the given case, Department cannot demand the interest in excess of the amount specified in the notice, which will be ₹ 50,000.

- (c) The procedure in appeal to be followed by the Commissioner (Appeals) under section 128A of the Customs Act, 1962 is as under:-

Commissioner (Appeals) shall give an opportunity to the appellant to be heard if he so desires. He may allow the appellant to go into any ground of appeal not specified in the grounds of appeal, if the omission was not willful or unreasonable.

He shall pass an order:

- (a) confirming, modifying or annulling the decision or order appealed against; or
- (b) referring the matter back to the adjudicating authority with directions for fresh adjudication or decision

He shall not pass any order enhancing the penalty, fine etc. without hearing the appellant. He shall not pass any order requiring the appellant to pay any duty not levied, short-levied or erroneously refunded without giving a notice to the appellant.

The order disposing of the appeal shall be in writing and shall state the points for determination, the decision and the reasons thereof. He shall, where it is possible to do so, hear and decide every appeal within a period of 6 months from the date on which it is filed.

On the disposal of the appeal, the order passed shall be communicated to the appellant, the adjudicating authority, Principal Chief Commissioner/ Chief Commissioner and Principal Commissioner/ Commissioner.

Question 6

- (a) *Briefly explain whether an appeal could be filed before the Appellate Authority against order of Authority for Advance Ruling (AAR), with reference to sections 100 and 101 of the CGST Act, 2017. (4 Marks)*
- (b) *Explain the recourse that may be taken by the officer in case proper explanation is not furnished for the discrepancy detected in the return filed, while conducting scrutiny under section 61 of the CGST Act, 2017. (5 Marks)*

OR

Explain the provisions relating to rectification of error apparent on the face of record under section 161 of the CGST Act, 2017. (5 Marks)

- (c) *Explain the modes for service of notice, order, etc. under section 153 of the Customs Act, 1962. (5 Marks)*

Answer

- (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) If proper explanation is not furnished for the discrepancy detected in return filed, while conducting scrutiny under section 61 of the CGST Act, 2017, the proper officer may:
- (i) conduct audit of the registered person under scrutiny,
 - (ii) direct the registered person under scrutiny to get his records including books of account examined and audited by the Chartered Accountant or a Cost Accountant,
 - (iii) the Chartered Accountant or a Cost Accountant shall be a person/firm as nominated by the Commissioner,
 - (iv) exercise the powers of inspection, search and seizure with respect to registered person under scrutiny, or
 - (v) proceed to determine the tax and other dues of the registered person under scrutiny.

OR

- (b) Section 161 of the CGST Act, 2017 lays down that any authority, who has passed/issued any order, notice, decision, certificate or any other document, may rectify any error which is apparent on the face of record, in such documents, either on its own motion or where such error is brought to its notice by any officer appointed under GST law or by the affected person.

Such rectification of errors which is apparent on the face of record, in such documents, is to be made within a period of three months from the date of issue of such document. Such rectification cannot be done after a period of 6 months from the date of issue of such document.

However, where rectification is purely in the nature of correction of a clerical/arithmetical error, arising from any accidental slip/omission, then the limitation period does not arise. Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

- (c) The notice, order, etc. may be served in any of the following modes under section 153 of the Customs Act, 1962, namely:—
- (i) by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;

- (ii) by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;
- (iii) by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;
- (iv) by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business;
- (v) by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.