

PAPER – 8: INDIRECT TAX LAWS

Question No. 1 is compulsory

Answer any **five** questions from the remaining six questions.

Question 1

- (a) Vayu Ltd. provides you the following particulars relating to goods supplied by it to Agni Ltd.:

Particulars	₹
List price of the goods (exclusive of Taxes and discounts).	76,000
Special packing at the request of customer to be charged to the customer.	5,000
Duty levied by local authority on the sale of such goods.	4,000
CGST and SGST charged in invoice.	14,400
Subsidy received from a NGO (The price of ₹76,000 given above is after considering the subsidy)	5,000

Vayu Ltd. offers 3% discount of the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supplies made by Vayu Ltd.

(5 Marks)

- (b) Mr. NY, a supplier of goods pays GST under regular scheme. Mr. NY is not eligible for any threshold exemption. He has made the following outward taxable supplies during September 2017:

Particulars	Rate of Tax			Amount (₹)
	CGST	SGST	IGST	
Intra State Supply of goods				
Product A	6%	6%	-	8,00,000
Product B	9%	9%	-	2,00,000
Inter State Supply of goods				
Product A	-	-	12%	3,00,000
Product B	-	-	18%	1,50,000

The Suggested Answers for May, 2018 examination of Paper 8: Indirect Tax Laws are based on the position of GST law as amended up to 31.10.2017 and customs law as amended by the Finance Act, 2017 and notifications and circulars issued till 31.10.2017.

He has also furnished the following information in respect of supplies received by him during September 2017:

Particulars	Rate of Tax			Amount (₹)
	CGST	SGST	IGST	
Intra State Supply of goods				
Product A	6%	6%	-	2,00,000
Product B	9%	9%	-	1,00,000
Inter State Supply of goods				
Product A	-	-	12%	1,50,000
Product B	-	-	18%	80,000

Mr. NY has following ITCs with him at the beginning of September 2017:

Particulars	₹
CGST	40,000
SGST	28,000
IGST	44,600

Note:

- (i) Both inward and outward supplies are exclusive of taxes, wherever applicable.
(ii) All the conditions necessary for availing the ITC have been fulfilled.

Compute net GST payable by Mr. NY for the month of September 2017.

Make suitable assumptions wherever required.

(5 Marks)

- (c) Determine the place of supply for the following independent cases under the IGST Act, 2017:
- (i) Grand Gala Events, an event management company at Kolkata, organises two award functions for Kalyan Jewellers of Chennai (Registered in Chennai) at New Delhi and at Singapore.
- (ii) Perfect Planners (Bengaluru) is hired by Dr. Kelvin (unregistered person based in Kochi) to plan and organise his son's wedding at Mumbai.
- Will your answer be different if the wedding is to take place at Malaysia?
- (2^{1/2} x 2 = 5 Marks)**
- (d) Maxiline Corp, not being an EOU, had imported technical instruments from USA for ₹ 180 lakh on payment of duty. It had to subsequently send back the same to the supplier for repair. The supplier has agreed to provide discount of 50% of the fair cost of repairs, resulting in Maxiline Corp paying USD 15,000.

Following further particulars are available:

Particulars	Date	Rate of Duty	Inter Bank Exchange rate	Rate notified by CBEC
Bill of Entry	21-02-2018	20%	60	62
Aircraft arrival	26-02-2018	15%	62	61

IGST u/s 3(7) of Customs Tariff Act, 1975 -12%.

	Outwards (Amt. in ₹)	Inwards (Amt. in ₹)
Insurance	20,000	30,000
Air Freight	80,000	1,20,000

Other details available on records:

- Goods are reimported within 3 years of despatch for repair .
- Both the exported and imported goods are the same.
- There is no change in the ownership of technical instruments.
- The export is not from a public/private warehouse and repairs does not amount to manufacture.

Determine total duty payable with appropriate notes for your computation. (5 Marks)

Answer

- (a) **Computation of value of taxable supplies by Vayu Ltd.**

Particulars	₹
List price of the goods	76,000
Add: Special packing [Note 1]	5,000
Duty levied by local authority on sale of goods [Note 2]	4,000
CGST and SGST charged [Note 2]	-
Subsidy received from a NGO [Note 3]	5,000
Less: Discount offered	<u>2,280</u>
= 3% of List price = ₹ 76,000 × 3% [Note-4]	
Value of taxable supplies	87,720

Notes:

- Being incidental expenses charged by the supplier to the recipient of supply, packing charges are includible in the value as per section 15(2)(c) of the CGST Act, 2017.

2. Taxes, duties, etc. levied under any law for the time being in force other than CGST, SGST/UTGST, IGST are includible in the value as per section 15(2)(a) of CGST Act, 2017. Duty levied by local authority on sale of goods has been assumed to be recovered from Agni Ltd. and not included in the list price of the goods.
3. Subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15(2)(e) of CGST Act, 2017.
4. Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a) of CGST Act, 2017

(b) Computation of GST payable by Mr. NY for the month of September, 2017

S.No.	Particulars	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Intra-State supply of goods			
	Product A	48,000	48,000	
	Product B	18,000	18,000	
(ii)	Inter-State supply of goods			
	Product A			36,000
	Product B			<u>27,000</u>
	Total	66,000	66,000	63,000

Computation of total ITC available

S.No.	Particulars	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Opening balance	40,000	28,000	44,600
(ii)	Intra-State supply of goods			
	Product A	12,000	12,000	
	Product B	9,000	9,000	
(iii)	Inter-State supply of goods			
	Product A			18,000
	Product B			<u>14,400</u>
	Total	61,000	49,000	77,000

Computation of net GST payable (from cash ledger)

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST payable	66,000	66,000	63,000
Less: ITC	(61,000)-CGST	(49,000)-SGST	(63,000)-IGST
	(5,000)-IGST	(9,000)-IGST	
Net GST payable	Nil	8,000	Nil

Note: ITC of IGST has been used to pay IGST, CGST and SGST in that order.

- (c) (i) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient in terms of section 12(7)(a)(i) of IGST Act, 2017.

Since, in the given case, the award functions at New Delhi and Singapore are organized for Kalyan Jewellers (registered in Chennai), place of supply in both the cases is the location of Kalyan Jewellers i.e., Chennai.

- (ii) As per section 12(7)(a)(ii) of IGST Act, 2017, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Dr. Kelvin] is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Mumbai.

However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e. Kochi.

- (d) In case of re-importation of goods exported for repairs, duty is payable on fair cost of repairs carried out, insurance and freight charges, both ways, subject to fulfillment of specified conditions in terms of *Notification No. 94/96 Cus. dated 16.12.1996*.

Following conditions are to be satisfied in this regard :-

- The time limit for re-importation is 3 years
- The exported goods and the re-imported goods must be the same.
- The ownership of the goods should not have changed.

Since all the specified conditions are fulfilled in the given case, total duty payable will be computed as under:-

Computation of total duty payable by Maxiline Corp.

Particulars	
Fair cost of repairs (in dollars) = \$15,000/50%	\$ 30,000
	₹
Fair cost of repairs (in rupees) = \$30,000 × ₹ 62 [Note-1]	18,60,000.00
Add: Inward and outward insurance [₹ 20,000 + ₹ 30,000]	50,000.00
Add: Inward and outward air freight [₹ 80,000 + ₹ 1,20,000]	<u>2,00,000.00</u>
Assessable Value	21,10,000.00
Add: Basic customs duty (BCD) @15% [Note-2]	3,16,500.00
Add: Education cesses @ 3% of BCD	<u>9,495.00</u>

Value for computing IGST	24,35,995.00
IGST @ 12%	2,92,319.40
Total duty and tax payable = [₹ 3,16,500 + ₹ 9,495 + ₹ 2,92,319.40] (rounded off)	6,18,314

Notes:-

1. Rate of exchange notified by the CBEC on date of presentation of bill of entry would be the applicable rate in terms of third proviso to section 14(1) of the Customs Act, 1962.
2. Rate of duty is the rate in force on date of presentation of bill of entry or arrival of aircraft, whichever is later in terms of proviso to section 15(1) of the Customs Act, 1962.

Question 2

- (a) *Soren Enterprises is in possession of certain capital goods and purchases more of them as per the following particulars:*

Particulars	Input tax on capital goods (₹)	Status of its use
Capital Goods A	12,000	Exclusively used for non-business purpose.
Capital Goods B	24,000	Exclusively used for zero-rated supplies.
Capital Goods C	60,000	Used both for taxable and exempt supplies.
Capital goods D (has been exclusively used for 2 years for exempted supplies)	1,20,000	Now there is change in use, both for taxable and exempt supplies.
Capital goods E (has been exclusively used for 3 years for taxable supplies).	1,80,000	Now there is change in use, both for taxable and exempt supplies.

Useful life of all the above capital goods is considered as 5 years.

Apportion the input tax credit of capital goods, while being informed that aggregate value of exempt supplies during the tax period being ₹ 6,00,000 and total turnover during the tax period being ₹ 12,00,000. **(7 Marks)**

- (b) *Sarva Sugam Charitable Trust, a trust registered under section 12AA of the Income Tax Act, 1961 provides the following information relating to supply of its services for the month of August 2017:*

	₹
<i>Renting of residential dwelling for use as a residence</i>	18,00,000
<i>Renting of rooms for pilgrims (Charges per day ₹ 1,200)</i>	8,00,000
<i>Renting of rooms for devotees (Charges per day ₹ 750)</i>	6,00,000
<i>Renting of kalyana mandapam (Charges per day ₹ 15,000)</i>	12,00,000
<i>Renting of halls and open space (Charges per day ₹ 7,500)</i>	10,75,000
<i>Renting of shops for business (Charges per month ₹ 9,500)</i>	4,75,000
<i>Renting of shops for business (Charges per month ₹ 12,000)</i>	7,50,000

Compute the total taxable value of supply for the month of August 2017 assuming that the above amounts are exclusive of GST. **(5 Marks)**

- (c) *Moris Lal has imported goods from Germany and is finally re-assessed u/s 18(2) of the Customs Act, 1962 for two such consignments. Particulars are as follows:*

<i>Date of provisional assessment</i>	<i>12th December, 2017</i>
<i>Date of final re-assessment</i>	<i>2nd February, 2018</i>
<i>Duty demand for 1st consignment</i>	<i>₹ 1,80,000</i>
<i>Refund for the 2nd consignment</i>	<i>₹ 4,20,000</i>
<i>Date of refund made by the department</i>	<i>28th April, 2018</i>
<i>Date of payment of duty demanded</i>	<i>5th February, 2018</i>

Determine the interest payable and receivable, if any, by Moris Lal on the final re-assessment of the two consignments, with suitable notes thereon. **(4 Marks)**

Answer

- (a) **Apportionment of common credit pertaining to capital goods**

Particulars	ITC (₹)
Capital goods 'A' [Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017]	Nil
Capital goods 'B' [For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC of ₹ 24,000 is available]	-
Capital goods 'C' [Commonly used for taxable and exempt supplies]	60,000
Capital goods 'D'	72,000

[Owing to change in use from exclusively exempt to both taxable and exempt, credit to be reduced @ 5% per quarter or part thereof in terms of rule 43(1)(c) of CGST Rules, 2017] = ₹ 1,20,000 – ₹ 48,000 (₹ 1,20,000 × 5% × 8 quarters)	
Capital goods 'E'	<u>72,000</u>
[Owing to change in use from exclusively taxable to both taxable and exempt, credit to be reduced @ 5% per quarter or part thereof in terms of rule 43(1)(d) of CGST Rules, 2017] = ₹ 1,80,000 – ₹ 1,08,000 (₹ 1,80,000 × 5% × 12 quarters)	
Total common credit	2,04,000
Common credit for the tax period under rule 43(1)(e) of CGST Rules, 2017 = 2,04,000 ÷ 60	3,400
Common credit attributable to exempt supplies in a tax period in terms of rule 43(1)(g) of CGST Rules, 2017 = (Turnover of exempt supplies/Total turnover) × Common credit = (6,00,000/12,00,000) × ₹ 3,400	1,700

- (b) Notification No. 12/2017 CT (R) dated 28.06.2017 /Notification No. 9/2017 IT (R) dated 28.06.2017 [exemption notification] provides exemption to renting of precincts of a religious place meant for general public, owned/managed by, inter alia, an entity registered as a charitable trust under section 12AA of the Income-tax Act are exempt. However, exemption is not available if:

- (i) charges for rented rooms are ₹ 1,000 per day or more;
- (ii) charges for rented community halls, Kalyan mandapam, open area are ₹10,000 per day or more;
- (iii) charges for rented shops are ₹ 10,000 per month or more.

In view of the aforesaid provisions, value of supply of Sarva Sugam Charitable Trust for August, 2017 has been computed as under:

Computation of value of supply of Sarva Sugam Charitable Trust for August, 2017

Particulars	Amount (₹)
Renting of residential dwelling for use as residence [Exempt vide exemption notification]	Nil
Renting of rooms for pilgrims [Since charges per day are not below ₹ 1,000]	8,00,000
Renting of rooms for devotees [Since charges per day are below ₹ 1,000]	Nil
Renting of Kalyana Mandapam	12,00,000

[Since charges per day are not below ₹ 10,000]	
Renting of halls and open spaces	Nil
[Since charges per day are below ₹ 10,000]	
Renting of shops for business	Nil
[Since charges per month are below ₹ 10,000]	
Renting of shops for business	<u>7,50,000</u>
[Since charges per month are not below ₹ 10,000]	
Value of taxable supply	27,50,000

Note: The question does not specify whether the rooms/Kalyan Mandapam/Halls/Open space/shops owned by a trust registered under section 12AA of the Income-tax Act, 1961 are located within the precincts of the religious place meant for general public or not. In the above answer, it has been assumed that the immovable properties are situated inside the precincts of the religious place meant for general public.

However, the question can also be answered by assuming the various immovable properties to be situated outside the precincts of the religious place meant for general public.

- (c) As per section 18(3) of the Customs Act, 1962, an importer is liable to pay interest at the rate of 15% p.a. (Notification No. 33/2016-Cus. (NT) dated 01.03.2016), on any amount payable consequent to the re-assessment order from the first day of the month in which the duty is provisionally assessed till the date of payment.

Therefore, in the given case, Moris Lal is liable to pay following interest in respect of 1st consignment:

$$= ₹ 1,80,000 \times 15\% \times 67/365$$

$$= ₹ 4,956 \text{ (rounded off)}$$

If any amount refundable consequent to the re-assessment order is not refunded within 3 months from date of re-assessment of duty, interest is payable to importer on unrefunded amount at the specified rate till the date of refund of such amount in terms of section 18(4) of the Customs Act, 1962.

Since in the given case, refund has been made (28.04.2018) within 3 months from the date of re-assessment of duty (02.02.2018), interest is not payable to Moris Lal on duty refunded in respect of 2nd consignment.

Question 3

- (a) Raman Row, a registered supplier under GST in Mumbai, is directed by Nero Enterprises, Kolkata to deliver goods valued at ₹ 12,00,000 to Fabricana of Aurangabad in Maharashtra. Raman Row makes out an invoice at 9% tax rate under CGST and SGST respectively (scheduled rate) and delivers it locally in Maharashtra.

Discuss and comment on the above levy of tax and determine the tax liability of goods in the above circumstances. **(4 Marks)**

- (b) Determine the value of supply and the GST liability, to be collected and paid by the owner, with the following particulars:

	₹
Rent of the commercial building	18,00,000
Maintenance charges collected by local society from the owner and reimbursed by the tenant	2,50,000
Owner intends to charge GST on refundable advance, as GST is applicable on advance	6,00,000
Municipal taxes paid by the owner	3,00,000

GST rates applicable on renting of business premises is as follows:

CGST 9%

SGST 9%

Provide suitable explanations where required.

(4 Marks)

- (c) Sarani Weavers at Mumbai is an input service distributor and intends to distribute input tax credit u/s 20 of the CGST Act, 2017, for the month of March 2018. The following are the details available for such distribution:

Branch	Turnover of the last quarter (Amt. in ₹)	ITC specifically applicable to the branch (Amt in ₹)
Ganganagar Branch	10,00,000	IGST – ₹ 12,000 CGST – ₹ 3,000 SGST – ₹ 3,000
Madhugiri Branch	5,00,000	Nil
Kosala Branch	15,00,000	Nil
Mumbai HO	20,00,000	IGST – ₹ 1,50,000 CGST – ₹ 15,000 SGST – ₹ 15,000

Inputs /Input services used commonly by all branches against which ITC available is:

CGST - ₹ 60,000

SGST - ₹ 60,000

IGST - ₹ 1,20,000

ITC (IGST) of December 2017, ₹ 10,000 which was inadvertently left out, whether same can be considered for distribution in March, 2018.

Madhugiri branch uses inputs to manufacture exempted products.

All branches are outside Maharashtra. Turnover excludes duties & taxes payable to Central and State Government.

Determine the input tax distribution.

(4 Marks)

- (d) Gregory Peg of foreign origin has come on travel visa, to tour in India. He carries with him, as part of baggage, the following:

Particulars	Value in ₹
Travel Souvenir	85,000
Other articles carried on in person	1,50,000
120 sticks of cigarettes of ₹100 each	12,000
Fire arm with 100 cartridges (value includes the value of cartridges at @ ₹ 500 per cartridge).	1,00,000

Determine customs duty payable, if the effective rate of customs duty is 25.75% inclusive of education cess and secondary & higher education cess, with short explanations where required.

(4 Marks)

Answer

- (a) The supply between Raman Row (Mumbai) and Nero Enterprises (Kolkata) is a bill to ship to supply where the goods are delivered by the supplier [Raman Row] to a recipient [Fabricana (Aurangabad)] or any other person on the direction of a third person [Nero Enterprises]. In such a case, 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 vide section 10(1)(b) of IGST Act, 2017.

Accordingly, the place of supply between Raman Row (Mumbai) and Nero Enterprises (Kolkata) will be Kolkata and thus, it will be an inter-State supply liable to IGST. Hence, Raman Row should charge 18% IGST on ₹ 12,00,000, which comes out to ₹ 2,16,000.

This situation involves another supply between Nero Enterprises (Kolkata) and Fabricana (Aurangabad). The place of supply in this case will be the location of the goods at the time when the movement of goods terminates for delivery to the recipient i.e., Aurangabad in terms of section 10(1)(a) of IGST Act, 2017. Thus, being an inter-State supply, the same will also be chargeable to IGST.

- (b)

Particulars	Amount (₹)
Rent of the commercial building	18,00,000
Maintenance charges collected by the local society from the owner and reimbursed by the tenant [Being reimbursed by the tenant, such	2,50,000

charges ultimately form part of the rent paid by the tenant to the owner and thus, will form part of the value]	
Refundable advance [Being refundable, the advance is in the nature of security deposit which does not constitute consideration in terms of section 2(31) of the CGST Act, 2017 and thus, is not includible in the value]	Nil
Municipal taxes paid by the owner [Being an expenditure incurred by the supplier, the same is not includible in the value, assuming that such taxes are not charged to the recipient.]	<u>Nil</u>
Value of supply	20,50,000
CGST @ 9%	1,84,500
SGST @ 9%	1,84,500

Note: Rent and maintenance charges are assumed to be exclusive of GST.

(c) As per section 20 of the CGST Act read with rule 39 of CGST Rules, 2017:

- (i) Total GST credit (CGST+ SGST + IGST) of ₹ 18,000 specifically attributable to Ganganagar Branch will be distributed as IGST credit of ₹ 18,000 only to Ganganagar Branch. [since recipient and 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 HO 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 HO. [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 HO in proportion of their turnover of the last quarter.

Ganganagar Branch will get – ₹ 48,000 [$₹2,40,000 \times (10,00,000/50,00,000)$] as IGST credit

Madhugiri Branch will get - ₹ 24,000 [$₹2,40,000 \times (5,00,000/50,00,000)$] as IGST credit

The credit attributable to a recipient is distributed even if such recipient is making exempt supplies.

Kosala Branch will get - ₹ 72,000 [$₹2,40,000 \times (15,00,000/50,00,000)$] as IGST credit

Mumbai HO will get - ₹ 24,000 [$60,000 \times (20,00,000/50,00,000)$] as CGST credit, ₹24,000 [$60,000 \times (20,00,000/50,00,000)$] as SGST credit and ₹ 48,000 [$1,20,000 \times (20,00,000/50,00,000)$] as IGST credit.
- (iv) ITC of ₹ 10,000 of December, 2017 cannot be distributed in March 2018 as ITC available for distribution in a month is to be distributed in the same month.

Note:

- (1) In the above answer, Mumbai HO has been assumed as a Branch for the purpose of distribution of credit. However, it is also possible to answer the question by not assuming Mumbai HO as the branch for the purpose of distribution of credit. In that case, common credit will be distributed among Ganganagar, Madhugiri and Kosala branches.
- (2) The aggregate amount of input tax credit for inputs/ input services used commonly by all the branches is assumed to be the ITC pertaining to only input services.
- (d) As per rule 3 of Baggage Rules, 2016, tourist of foreign origin excluding infant is allowed duty free clearance of
- travel souvenirs; and
 - 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 @ 25.75% ⁴	<u>43,775</u>

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage [Notification No. 26/2016 Cus. dated 31.03.2016]. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Question 4

- (a) Rajesh Dynamics, having its head office in Chennai, carries on the following activities with respective turnovers in a financial year:

	₹
Supply of petrol at Chennai	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	9,00,000

⁴ The applicable rate on baggage as on 31st October, 2017 is 36.05%.

Supply of transformer oil at Chennai	2,00,000
Value of branch transfer from Chennai to Bengaluru without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000

It argues that it does not have taxable turnover crossing threshold limit of ₹ 20,00,000 either at Chennai or Bengaluru and including turnover at Manipur branch. It believes that the determination of aggregate turnover is not required for the purpose of obtaining registration but is required for determining composition levy.

Decide based on the above facts:

- (i) The aggregate turnover of Rajesh Dynamics.
- (ii) All conditions that fulfil the requirements for registration under CGST Act, 2017 in the given circumstances. **(4 Marks)**
- (b) Determine the time of supply from the following particulars:

8 th September	Community hall booked for a marriage, sum agreed ₹ 1,20,000, advance ₹ 20,000 recorded in the books of account.
10 th September	Advance amount credited in bank account.
2 nd November	Marriage held in the Community hall.
18 th December	Invoice issued for ₹ 1,20,000 indicating the balance of ₹ 1,00,000 payable
22 nd December	Balance ₹ 1,00,000 recorded in the books of account.
24 th December	Payment ₹ 1,00,000 credited to the bank account

(4 Marks)

- (c) Explain briefly the provisions regarding mandatory pre-deposit to be made before filing an appeal before Appellate Authority and Tribunal as per CGST Act, 2017. **(4 Marks)**
- (d) Jigsaw Puzzle has imported inputs, having CIF value of ₹ 25,00,000 without payment of duty under Advance Authorisation. Inputs are supplied free of cost valued at ₹ 5,00,000 to meet eventualities of quality issues arising during manufacture.

On manufacturing, the products are supplied to units in SEZ and realisation is in Indian currency.

Jigsaw Puzzle wants to know whether it is entitled to Advance Authorisation scheme and what should be the minimum value addition.

And you are required to compute FOR value of supplies to SEZ.

Jigsaw Puzzle has manufactured and supplied goods to international organisations in India from imported inputs for their office use. The payment for such supply is received in Indian currency. Can Advance Authorization be denied as payment has not been received in free foreign exchange? (4 Marks)

Answer**(a) Computation of aggregate turnover of Rajesh Dynamics**

Particulars	₹
Supply of petrol at Chennai [Being a non-taxable supply, it is an exempt supply and thus, includible in aggregate turnover vide section 2(6) of CGST Act, 2017]	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	Nil
Supply of transformer oil at Chennai	2,00,000
Value of branch transfer from Chennai to Bengaluru without payment of consideration [Being a taxable supply, it is includible in aggregate turnover]	1,50,000
Value of taxable supplies of Manipur Branch	<u>11,50,000</u>
Aggregate turnover	<u>33,00,000</u>

Rajesh Dynamics is liable to be registered in Chennai, Tamil Nadu, if his aggregate turnover in a financial year exceeds ₹ 20 lakh. However, since Rajesh Dynamics also makes supplies from Manipur, a specified Special Category State, the threshold exemption gets reduced to ₹ 10 lakh in terms of section 22(1) of CGST Act, 2017.

Rajesh Dynamics' argument that it is not liable to registration since the threshold exemption of ₹ 20 lakh is not being crossed either at Chennai, Bengaluru or Manipur is not correct as firstly, the aggregate turnover to be considered in its case is ₹ 10 lakh and not ₹ 20 lakh and secondly, the same is computed on all India basis and not State-wise.

Further, Rajesh Dynamics is also wrong in believing that aggregate turnover is computed only for the purpose of determining the eligibility limit for composition levy since the aggregate turnover is required for determining the eligibility for both registration and composition levy.

However, Rajesh Dynamics is compulsorily required to register under section 24 of the CGST Act, 2017 irrespective of the turnover limit as it is liable to pay tax on inward supplies under reverse charge and it also makes inter-State taxable supply.

- (b)** As per section 31(2) of the CGST Act, 2017 read with rule 47 of CGST Rules, 2017 a tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2)(b) of CGST Act, 2017, in a case where the invoice is not issued within the prescribed time, the time of supply of service is –

- (i) date of provision of service
or
- (ii) date of recording the payment in the books of account of the supplier
or
- (iii) date of crediting of payment in the supplier's bank account
whichever is earlier.

Therefore, the time of supply of service to the extent of advance of ₹ 20,000 is 8th September (date of recording the payment in the books of account) as it is earlier than the date of crediting of payment in the bank account and the date of provision of service.

The time of supply of service to the extent of the balance ₹ 1,00,000 is 2nd November, which is the date of provision of service as it is earlier than the other two events in this case.

- (c) As per section 107(6) of the CGST Act, 2017, no appeal shall be filed before Appellate Authority, unless the appellant pays:-

- (a) in full tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and
- (b) **10% of remaining tax** in dispute arising from the impugned order.

Section 112(8) of the CGST Act, 2017 provides that no appeal shall be filed before Tribunal, unless the appellant pays:-

- (a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him, and
- (b) **20% of the remaining tax** in dispute [in addition to amount deposited before Appellate Authority] arising from the order appealed against.

On making the pre-deposit as above, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

- (d) Advance authorisation (AA) can be issued for supplies made to SEZ units (as supplies made to SEZ units are considered as physical exports). The minimum value addition required to be achieved under AA is 15%. The FOR value of supplies made to SEZ units is computed as under:

Value addition = (FOR value of supply received – CIF value of inputs/CIF value of inputs) x 100

Notional value of free of cost inputs supplied by foreign buyer needs to be added to the CIF value of imported inputs to compute FOR value of the supplies made to SEZ units.

FOR value of supplies made to SEZ units = 30,00,000 x 115% = ₹ 34,50,000

Jigsaw Puzzles will, however, be not eligible for AA as the payment from SEZ unit is not realised from its Foreign Currency Account.

Supply of goods to international organisations in India from imported inputs for their office use is a deemed export eligible for grant of AA. However, AA can be issued only when the payment for such deemed exports is realised in free foreign exchange.

Question 5

- (a) (i) Checkernot has self-assessed tax liability under IGST Act, 2017, as ₹80,000. He fails to pay the tax within 30 days from the due date of payment of such tax.

Determine the interest and penalty payable by him explaining the provisions of law, with the following particulars available from his records:

Date of collection of tax 18th December, 2017

Date of payment of tax 26th February, 2018

No Show Cause Notice (SCN) has been issued to him so far, while he intends to discharge his liability, even before it is issued to him, on the assumption that no penalty is leviable on him as payment is made before issue of SCN. **(4 Marks)**

- (ii) Mangeshwar, registered under the CGST Act, 2017 has made a breach in payment of tax amounting to ₹ 6,100. Assessing Authority has imposed a penalty as per law applicable to the breach. Invoking the provisions of section 126, Mangeshwar argues that it is a minor breach and therefore, no penalty is imposable.

In another instance, Mangeshwar has omitted certain details in documentation that is not easily rectifiable. This has occurred due to the gross negligence of his accountant and he makes a plea that he was unaware of it and therefore no penalty should be levied.

Mangeshwar voluntarily writes accepting a major procedural lapse from his side and requests the officer to condone the lapse as the loss caused to the revenue was not significant.

Also a lapse on the part of Mangeshwar has no specific penalty provision under the CGST Act, 2017. He is very confident that no penalty should be levied without a specific provision under the Act.

Discuss, what action may be taken by the Assessing Authority under law for each of the above breaches. **(4 Marks)**

- (b) Discuss briefly provisions of CGST Act, 2017 regarding questions for which advance ruling can be sought. **(4 Marks)**
- (c) Discuss briefly the similarities and differences between Advance Authorisation and DFIA (Duty Free Import Authorisation) Schemes. **(4 Marks)**

Answer

- (a) (i) Due date for payment of tax collected on 18.12.2017 is 20.01.2018. However, since tax is actually paid on 26.02.2018, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with *Notification No. 13/2017 CT dated 28.06.2017*. Amount of interest is:

$$= ₹ 80,000 \times 18\% \times 37/365 = ₹ 1,460 \text{ (rounded off)}$$

As per section 73(11) of CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, *inter alia*, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

(i) 10% of tax, viz., ₹ 8,000 or

(ii) ₹ 10,000,

whichever is higher,

is payable in terms of section 73(9) of CGST Act, 2017. Therefore, penalty of ₹ 10,000 will have to be paid by Checkernot.

- (ii) As per section 126(1) of the CGST Act, 2017, no penalty shall be leviable under the Act for minor breaches of tax regulations. In terms of Explanation (a) to section 126(1), a breach shall be considered as "minor breach", if tax involved is less than ₹ 5,000. Breach made by Mangeshwar is not a 'minor breach' since the amount involved is not less than ₹ 5,000. So, penalty is imposable.

Any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent/gross negligence is not liable for penalty in terms of section 126(1) of the CGST Act, 2017. Thus, penalty is imposable in the present case, since the omission in the documentation is not easily rectifiable and has occurred due to gross negligence.

As per section 126(5) of the CGST Act, 2017, where there is a voluntary disclosure of breach, prior to its discovery by the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Since Mangeshwar has voluntarily disclosed the breach of procedural requirement to the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Therefore, the quantum of penalty will depend on the facts and circumstances of the case.

As per section 125 of the CGST Act, 2017, when no specific penalty has been specified for contravention of any of the provisions of the Act or any rules made there under, it shall be liable to a penalty which may extend to ₹ 25,000. Therefore, general penalty upto ₹ 25,000 may be imposed on Mangeshwar as when no specific penalty is provided for any contravention, a general penalty may be imposed.

- (b) As per section 97(2) of CGST Act, 2017, advance ruling can be sought for the following questions:-
- (a) classification of any goods or services or both
 - (b) applicability of a notification issued under the CGST Act
 - (c) determination of time and value of supply of goods or services or both
 - (d) admissibility of input tax credit of tax paid or deemed to have been paid
 - (e) determination of the liability to pay tax on any goods or services or both
 - (f) whether applicant is required to be registered
 - (g) whether any particular activity with respect to any goods and/or services, amounts to/results in a supply of goods and/or services, within the meaning of that term.

Note: Any of the four points may be mentioned.

- (c) **Similarity:** In both the schemes, duty free import of inputs, oil and catalyst required for export products is permitted.

Differences:

- (i) Advance Authorisation (AA) is not transferable. DFIA is transferable after export obligation is fulfilled.
- (ii) While AA requires 15% value addition, DFIA requires minimum 20% value addition.
- (iii) AA is available to gem and jewellery sector, but DFIA is not.
- (iv) DFIA cannot be issued where Standard Input Output Norms (SION) prescribe actual user condition.
- (v) AA can be issued even if SION for the product to be exported is not fixed. DFIA can be issued only if SION has been fixed for the product to be exported.

Question 6

- (a) *Write a brief note on Summary Assessment in certain special cases as per section 64 of the CGST Act, 2017.* **(4 Marks)**
- (b) *Discuss the provisions relating to issue of an invoice/document in the following circumstances:*
- (i) *Advance payment is received against a supply, but subsequently no supplies are made.*
 - (ii) *Goods are sent on approval for sale or return and are removed before the supply takes place.*

- (iii) Malcolm provides continuous supply of services to his client, where the due date of payment for such services is not ascertainable. No advance has been received in this behalf. **(4 Marks)**
- (c) Discuss briefly the procedure for issue of adjudication order under section 74(9) & (11) and the time limit for passing adjudication order under section 74(10) of the CGST Act, 2017. **(4 Marks)**
- (d) Infinity Corporation has imported goods and the following particulars are available for claiming duty drawback under sections 74 & 75 of Customs Act, 1962:

(a)	Custom duty has been paid on goods imported for use and have been out of customs control for 14 months	₹ 14,00,000
(b)	Raghuvveer exports manufactured goods having FOB value of ₹ 86,000. Rate of duty drawback on FOB value of exports Market value of the export product	40% ₹ 96,000

Determine duty drawback with explanations in the above cases.

(4 Marks)

Answer

- (a) As per section 64 of the CGST Act, 2017, summary assessments can be initiated to protect the interest of revenue with the previous permission of Additional /Joint Commissioner when the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act, and any delay by him in passing an assessment order may adversely affect the interest of revenue.

Additional/Joint Commissioner may withdraw summary assessment order on an application filed by taxable person within 30 days from the date of receipt of order or on his own motion, if he finds such order to be erroneous and may instead follow the procedures laid down in section 73 or section 74 to determine the tax liability of such taxable person.

Where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

- (b) (i) As per section 31(3)(e) of CGST Act, 2017, where advance payment is received against a supply for which receipt voucher has been issued, but subsequently no supplies are made and no tax invoice is issued in pursuance thereof, a refund voucher has to be issued to the person who had made the advance payment.
- (ii) As per section 31(7) of CGST Act, 2017, where the goods are sent on approval for sale or return and are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.

- (iii) As per section 31(5)(b) of CGST Act, 2017, in case of continuous supply of services, where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment.
- (c) The procedure for issue of adjudication order under section 74 of CGST Act, 2017 is as under:-

Where a show cause notice/statement is issued to a person chargeable with tax, he may furnish a representation to the proper officer in his defence, if he is of the view that he is not so liable to pay whole/part of the amount mentioned in the show cause notice.

The proper officer after considering the representation, if any, made by the person chargeable with tax, pass an order determining the amount of tax, interest and penalty due from such person [Section 74(9)].

Where any person served with an adjudication order pays the tax along with interest payable thereon under section 50 and a penalty equivalent to 50% of such tax within 30 days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded [Section 74(11)].

As per section 74(10) of CGST Act, 2017, the proper officer shall issue the adjudication order within 5 years from the due date for furnishing of Annual Return for the financial year to which the tax not paid/short paid/input tax credit wrongly availed/utilised relates to or within 5 years from the date of erroneous refund.

- (d) (a) As per section 74(2) of Customs Act, 1962 read with *Notification No. 19/65 Cus dated 06.02.1995* as amended, 65% of import duty is to be paid as duty drawback if goods are used after importation and have been out of customs control for export for a period of more than 12 months but not more than 15 months.

Therefore, amount of duty drawback = ₹ 14,00,000 x 65% = ₹ 9,10,000

- (b) Amount of duty drawback = ₹ 86,000 x 40% = ₹ 34,400

However, the drawback amount should not exceed one third of the market price of the export product as per rule 9 of Customs & Central Excise Duties Drawback Rules, 2017.

Thus, upper limit of drawback amount = ₹ 96,000/3 = ₹ 32,000

Thus, the amount of duty drawback in the present case will be restricted to ₹ 32,000

Question 7

Answer any **FOUR** from the following:

- (a) Mr. Bala, a registered person at Chennai wants to maintain proper accounts and records relating to GST. Advise him about the accounts and other records to be maintained under section 35(1) of the CGST Act, 2017. **(4 Marks)**

- (b) *What are cognizable and non-cognizable offences under section 132 of CGST Act, 2017?* **(4 Marks)**
- (c) *Explain the safeguards provided under section 69 of CGST Act, 2017, to a person who is placed under arrest?* **(4 Marks)**
- (d) *Chaintop Industries has challenged the imposition of anti-dumping duty retrospectively from the date prior to the date of imposition of anti-dumping duty on the grounds that it is unconstitutional. Explain whether it would succeed in its contention.* **(4 Marks)**
- (e) *Monotype traders wants to enter into export contracts with various custome . It intends to understand the currency denomination while entering into contracts with them and seeks your advice as to how it should ensure compliance.* **(4 Marks)**

Answer

- (a) Mr. Bala, is required to maintain a true and correct account of following under section 35(1) of the CGST Act, 2017:-

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) other prescribed particulars

The records may be maintained electronically. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business should be kept at such places of business.

- (b) As per section 132(5) of CGST Act, 2017, following offences are cognizable offences, provided amount of tax evaded or input tax credit wrongly availed/utilised or refund wrongly taken > ₹ 5 crores, namely:
- (a) Supply without issuance of invoice with the intention to evade tax
 - (b) Issuance of any invoice/bill without supply leading to wrongful availment/utilisation of ITC or refund of tax
 - (c) Availment of ITC using invoice/bill against which no supplies have been made
 - (d) Failure to pay the amount collected as tax to the Government beyond a period of 3 months from the due date of payment.

Further, section 132(4) of CGST Act, 2017 provides that all offences specified under section 132 are non-cognizable offences except the cognizable offences.

- (c) Section 69 of CGST Act, 2017 provides following safeguards to a person who is placed under arrest:
- (a) If a person is arrested for a cognizable offence, he must be informed of the grounds of arrest and be produced before a magistrate within 24 hours.
 - (b) If a person is arrested for a non-cognizable offence, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate.
 - (c) All arrest must be in accordance with the provisions of the Code of Criminal Procedure relating to arrest in terms of section 69(3) of CGST Act, 2017.
- (d) Section 9A(3) of the Customs Tariff Act, 1975 provides that the anti-dumping duty can be imposed with retrospective effect provided the 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 in the light of timing and volume of the imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied.

The duty can be levied retrospectively by issuing a notification but not beyond 90 days from the date of notification.

Thus, Chaintop Industries would succeed in its contention if all of the above conditions are not satisfied.

- (e) Monotype Traders can denominate all export contracts and invoices either in freely convertible currency or Indian rupees but export proceeds should be realised in freely convertible currency.

However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.

Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account.

Contracts for which payments are received through ACU shall be denominated in ACU Dollar. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/ Government of India line of credit.