

Mock Test Paper - Series I: March, 2024

Date of Paper: 13 March, 2024

Time of Paper: 2 P.M. to 5 P.M.

FINAL COURSE: GROUP – II

PAPER – 5: INDIRECT TAX LAWS

ANSWERS

Part-I

Question No.	Answer
1	(d) CGST = Nil; SGST = Nil & IGST = Nil
2	(b) CGST = Nil; SGST = Nil & IGST = ₹ 58,000
3	(b) A) ₹ 1,30,000; B) ₹ 1,25,000 and C) ₹ 1,40,000
4	(a) 1) Bangalore, 2) Hyderabad & 3) Hyderabad
5	(c) 1) 3 rd July, 2) 20 th July & 3) 23 rd July
6	(a) ₹ 1,76,800
7	(b) ₹ 2,82,000
8	(c) ₹ 31,000
9	(d) nil
10	(b) 105,000
11	(c) ₹ 1,63,82,500
12	(b) ₹ 75,000
13	(a) Vihaan
14	(d) Cost of transport, loading, unloading and handling charges – ₹ 20; and Cost of insurance - ₹ 10
15	(d) ₹ 1,46,560

Part-II

1. Computation of ITC available with Suyogya Pvt. Ltd. for the given tax period

S. No.	Particulars	Value of supply ₹	ITC			
			CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
1.	Opening balance of ITC		50,000	26,000	35,000	1,11,000
2.	Raw Materials	4,00,000	--	--	72,000	72,000

	[₹ 4,50,000 – ₹ 50,000] [Refer Note 1]					
3.	Rent paid for the factory building [Refer Note 2]	1,00,000	9,000	9,000	--	18,000
4.	Consumables [Refer Note 3]	75,000	6,750	6,750	--	13,500
5.	Security services [Refer Note 4]	70,000	Nil	Nil	Nil	Nil
6.	General insurance of cars manufactured [Refer Note 5]	2,50,000	22,500	22,500	--	45,000
7.	Works contract services [Refer Note 6]	1,60,000	14,400	14,400	--	28,800
8.	Audit fee [Refer Note 7]	50,000	Nil	Nil	Nil	Nil
9.	Bank charges [Refer Note 8]	10,000	900	900	--	1,800
10.	Membership of Automobile Association [Refer Note 9]	10,000	900	900	--	1,800
Total ITC available for the tax period			1,04,450	80,450	1,07,000	2,91,900

Computation of net GST payable

Particulars	Value of supply	CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
Intra-State sales in Gujarat	14,00,000	1,26,000	1,26,000	--	2,52,000
Inter-State sales other than Gujarat	6,00,000	--	--	1,08,000	1,08,000
Exports under LUT [Note 10]	10,00,000	Nil	Nil	Nil	Nil
Income from services provided to Gujarat	2,50,000	22,500	22,500	--	45,000

Government [Note 11]					
Total output tax liability		1,48,500	1,48,500	1,08,000	4,05,000
Less: ITC available for being set off [Note 12, Note 13 and Note 14]		(1,04,450)	(80,450)	(1,07,000)	(2,91,900)
Net GST payable from Electronic Cash Ledger		44,050	68,050	1,000	1,13,100

Notes:

1. Credit of input tax paid on raw materials used in the course or furtherance of business is available. However, ITC is not available on raw material purchased from composition dealer in terms of section 17(5) of the CGST Act, 2017.
2. ITC on rent paid is available as the said service is used in the course or furtherance of business.
3. ITC on consumables, being inputs used in the course or furtherance of business, is available.
4. Since in the given case, security services have been provided by a body corporate - Safe and Secure Solutions Pvt. Limited to a registered person - Suyogya Pvt. Ltd., GST on the same is payable under forward charge. However, since Safe and Secure Solutions Pvt. Limited is not registered under GST, it would not have charged GST on the said services and hence, no ITC is available.
5. ITC on motor vehicles for transportation of persons is allowed in terms of section 17(5) of the CGST Act, 2017 provided such vehicles are further supplied by the supplier. ITC is allowed on general insurance services relating to motor vehicles, ITC on which is allowed [Section 17(5) of the CGST Act, 2017].
6. Section 17(5) blocks ITC in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Further, the term "plant and machinery" means, *inter alia*, machinery fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation/structural support. Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by Suyogya Pvt. Ltd. as the same is used for construction of plant and machinery which is not blocked under section 17(5) of the CGST Act, 2017.
7. Audit fee are the services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms

of section 16 of the CGST Act, 2017. M/s Chandiook & Associates is required to issue an e-invoice for audit services as e-invoicing is mandatory for the registered persons whose aggregate turnover in any of the preceding financial years from 2017-18 onwards exceed ₹ 5 crores. However, an e-invoice without IRN is not treated as an invoice and hence, without a valid document, ITC cannot be claimed on such input services.

8. Bank charges are services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available. However, ITC can be claimed only on the basis of valid documents. In case of a banking company, a consolidated tax invoice issued for supply of services made during a month at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the supplier and the recipient is deemed to be a tax invoice. Thus, ITC pertaining to the banking services received is allowed.
9. As per section 17(5) of the CGST Act, 2017, ITC is blocked on membership of a club, health and fitness centre. The membership fee paid by a automobile company to Automobile Association is not covered under said section as it is distinct from membership of a club. Hence, ITC thereon is available.
10. Export of goods is a zero-rated supply in terms of section 16 of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax.
11. Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration are exempt from GST. However, in the given case, since the total expenditure borne by the Gujarat Government is less than 75%, services provided to it by Suyogya Pvt. Ltd. are liable to GST.
12. Since export of goods is a zero-rated supply, apportionment of ITC is not required and instead, full credit will be available.
13. ITC of-
 - (i) IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.
 - (ii) CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.
 - (iii) SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.
14. Since the value of taxable supply other than zero-rated supply in the given tax period (₹ 14 lakh + ₹ 6 lakh + ₹ 2.50 lakh) does not exceed ₹ 50 lakh, provisions of rule 86B of the CGST Rules, 2017 are not

applicable and Suyogya Ltd. can discharge its entire output tax liability for said period from the electronic credit ledger.

- *15 CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies. Rate of CGST, SGST and IGST applied is 9%, 9% and 18% except in case of renting of cars wherein the rate of CGST and SGST applied is 2.5% and 2.5% respectively.

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

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

- (ii) As per section 12 of the 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. Tripti] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Mumbai, Maharashtra.

- (iii) As per section 13 of the IGST Act, 2017, place of supply of services requiring physical presence of goods on which the services are to be performed is the location where the service is actually performed. Thus, in given case, the place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed, i.e. New Delhi.

- (iv) As per section 13 of the IGST Act, 2017, place of supply of services supplied directly in relation to an immovable property is the location of immovable property located or intended to be located. Thus, in given case, the place of supply is the location of immovable property, i.e. Pune.

- (v) As per section 13 of the IGST Act, 2017, place of supply of services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month is the location of the supplier of services. Thus, in given case, the place of supply is the location of the supplier of services, i.e. London.

(b) Computation of assessable value of the imported goods

	Particulars	US \$
(i)	Cost of the machine at the factory of Peter Inc.	10,000.00

(ii)	Transport charges up to port	500.00
(iii)	Handling charges at the port	<u>50.00</u>
	FOB	10,550.00
(iv)	Freight charges up to India	1,000.00
(v)	Insurance charges @ 1.125% of FOB [Note 1]	<u>118.69</u>
	CIF	11,668.69
		₹
	CIF in Indian rupees @ ₹ 70/ per \$	₹ 8,16,808.30
	Assessable Value	₹ 8,16,808.30
	Assessable Value (rounded off)	8,16,808

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of goods.
- (2) Buying commission is not included in the assessable value.

3. (a) The value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment of ITC under section 17(3) of the CGST Act, 2017 is determined as follows:

As per section 17(3) of the CGST Act, 2017, value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred in section 17(3), the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, *inter alia*, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

In view of the aforesaid provisions, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment under section 17(3) is as follows:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Excluded from value of exempt supply by virtue of explanation to rule 43]	--	--
Sale of securities [1% of ₹ 4,50,000] [Includible as per section 17(3). Value of exempt supply in respect for security is 1% of the sale value of such security.]	4,500	--
Sale of agricultural land [Includible as per section 17(3). Value of exempt supply in respect of land is the value adopted for paying stamp duty.]	--	1,85,00,000
Sale of old factory building [Includible as per section 17(3). Value of exempt supply in respect of building is the value adopted for paying stamp duty.]	75,00,000	--
Transfer of actionable claims (other than casinos, online gaming and horse racing) [Excluded from value of exempt supply by virtue of explanation to section 17(3).]	--	--
Total value of exempt supply	75,04,500	1,85,00,000

- (b) (1) Services provided to a Governmental Authority by way of slum improvement and upgradation is specifically exempt from GST vide exemption notification under GST law.
- (2) Services provided by an educational institution to its students, faculty and staff are exempt from GST vide exemption notification. Educational Institution has been defined to mean, *inter alia*, an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

Since Banarsidas College provides education as part of a curriculum for obtaining a qualification recognised by Indian law, the services provided by it to its staff by way of conducting personality development course would be exempt from GST, it being an educational institution.

- (3) Since RPSD College provides education as a part of a curriculum for obtaining a qualification recognised by Indian law, the transport services provided by RPSD College to its students are exempt from GST.
- (4) Services provided to an educational institution, by way of, *inter alia*, house-keeping services performed are exempt from GST vide exemption notification provided such services are performed in such educational institution. However, such exemption is available only when the said services are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

In view of the above discussion, house-keeping services provided to Bloom Montessori Play School are exempt from GST since housekeeping services have been performed in such play school itself.

- (5) Services provided to an educational institution by way of supply of online educational journals or periodicals is exempt from GST vide exemption notification. However, such exemption is not available to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Therefore, supply of online journal to students of UKG class of Seeds Montessori School is not exempt from GST.

- (c) The abatement of duty is allowed under the Customs Act, 1962, where it is shown to the satisfaction of the Assistant/Deputy Commissioner of Customs that, *inter alia*, any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination, on account of any accident not due to any wilful act, negligence or default of the importer.

Thus, in view of the above-mentioned provisions, the stand taken by the proper officer of refusing the claim for abatement is not valid in law.

The duty to be charged on the damaged goods shall be reduced in proportion to the reduction in the value of goods on account of damage.

Thus, in the given case, the amount of total duty payable

$$= [\text{₹ } 2,00,000 / \text{₹ } 8,00,000] \times \text{₹ } 2,00,000 = \text{₹ } 50,000$$

4. (a) No, the view of Upasana Export House that the activity of sending the goods out of India for exhibition is a zero-rated supply, is not correct.

As per section 7 read with Schedule I of the CGST Act, 2017, any activity/transaction is considered as supply only when it is made in the course or furtherance of business and made for a consideration, except for activities enumerated in Schedule I of the CGST Act, 2017.

Section 16 of the IGST Act, 2017 defines “zero rated supply” as any of the following supplies of goods or services or both, namely:–

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Thus, only such “supplies” which are either “export” or are “supply to SEZ unit/ developer” would qualify as zero-rated supply.

In view of the above provisions, CBIC vide a circular clarified that the activity of sending/ taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as “zero rated supply” as per the provisions contained in section 16 of the IGST Act.

The said circular further clarified that the activity of sending/taking goods out of India for exhibition is in the nature of **“sale on approval basis”** wherein the goods are sent/ taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.

In case of the goods being sent or taken on approval for sale, the invoice shall be issued before/at the time of supply or 6 months from the date of removal, whichever is earlier. The goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan.

In view of the said provisions, Upasana Export House is not required to issue invoice at the time of taking the goods out of India since the activity of merely sending/ taking the taxable goods out of India is not a supply. However, the goods shall be accompanied with a delivery challan.

Further,

- (i) In case the entire quantity of goods (100 units) sent to USA is not sold but brought back by Upasana Export House in February, i.e. within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.
- (ii) In case, the entire quantity of goods (100 units) sent to USA is not sold and brought back by Upasana Export House in August, i.e. after 6 months from the date of removal, a tax invoice is required to be issued for entire 100 units of taxable goods in accordance with the applicable provisions within the specified time period.

(b) A2S Manufacturing unit should reply on the following lines:

The principal may take ITC on capital goods sent to a job worker for job work without being first brought to his place of business.

The capital goods sent for job work should either be returned to the principal or must be supplied from the job worker's premises within 3 years [extendible by another 2 years] from sending them to the job worker or direct receipt by the job worker from the supplier. If the above time-lines are not met, it is deemed that the capital goods were supplied by the principal to the job worker (in other words, tax will be payable on them) on the day they were sent out to the job worker .

However, the time-limit of three years for bringing back the capital goods from the job worker does not apply to moulds.

Accordingly, A2S Manufacturing unit have correctly availed the ITC in respect of the moulds delivered to their job worker and not brought back even after completion of four years.

(c) As per Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, used personal effects and travel souvenirs; and articles [other than certain specified articles], upto the value of ₹ 50,000 if these are carried on the person or in the accompanied baggage of the passenger.

Thus, there is no customs duty on used personal effects and travel souvenirs and general duty free baggage allowance is ₹ 50,000 per passenger. Thus, duty liability of Mr. Prashank and his son is nil for the used personal effects worth ₹ 1,20,000 and 2 music systems each worth ₹ 50,000.

As per Baggage Rules, 2016, the jewellery allowance is applicable only to a passenger residing abroad for more than 1 year. For the jewellery

brought by a gentleman passenger, the duty free allowance is jewellery upto a weight of 20 grams with a value cap of ₹ 50,000.

Consequently, there is no duty liability on the jewellery brought by Mr. Prashank as he had stayed abroad for period exceeding 1 year and weight of the jewellery brought by him is 10 grams with a value less than ₹50,000.

5. (a) As per section 129 of the CGST Act, 2017, when owner of goods does not come forward for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- (i) 50% of value of goods or
- (ii) 200% of the tax payable on such goods.

In view of the same, the amount of penalty payable (each under CGST and SGST) if Robecco Limited does not come forward for the payment of penalty is as follows:

- (i) 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]
or
- (ii) 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 × 9%)]

whichever is higher, i.e. ₹ 3,40,000 (each under CGST and SGST).

Conveyance shall be released on payment by the transporter the penalty as mentioned in the order or ₹ 1 lakh, whichever is less.

In the given case, since the owner - Robecco Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 (each under CGST and SGST) shall be levied.

Further, the transporter of goods can get its truck released upon payment of the lower of the following under the CGST Act, 2017:

- (i) penalty as mentioned in the order [₹ 3,40,000] or
- (ii) ₹ 1,00,000

Hence, Sambhav Transporters can get its truck released upon payment of ₹ 1,00,000 (each under CGST and SGST).

- (b) ABC audit team did not exercise due diligence to ascertain that the input tax credit availed by X Ltd. is not in compliance with the GST provisions. Instead, ABC relied on the certificate issued by its own associate firm which justified the incorrect input tax credit claim by X Ltd. In such a scenario both ABC and the associate firm, which issued the certificate

to justify the input tax credit claim, were aiding and abetting X Ltd. in wrongful availment of credit, which is an offence punishable with penalty under 122 of the CGST Act, 2017. This offence may also be punishable with imprisonment and fine depending on the amount of default involved and subject to specified conditions. Further, ABC as well as its associate firm may be held guilty of professional misconduct.

- (c)** Yes, interest is to be paid to the applicant in case any duty ordered to be refunded to an applicant is not refunded within 3 months from the date of receipt of application for refund. The government is permitted to fix such interest between 5% and 30%.

Currently, the rate of interest is 6% .

The interest is to be paid for the period beginning from the date immediately after the expiry of 3 months from the date of receipt of such application, till the date of refund of such duty. For the purpose of payment of interest, the application is deemed to have been received on the date on which a complete application, as acknowledged by the proper officer of Customs, has been made.

- 6. (a)** 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.

- (b)** When the Commissioner/authorised officer is of opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under the CGST Act in respect of such person, it may cause to be published such name and particulars.

No publication under this section shall be made in relation to any penalty imposed under the CGST Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed off.

OR

Alternative Answer 6(b)

- (b) (i)** Any authority who has passed or issued any decision or order or notice or certificate or any other document may rectify any error which is apparent on the face of record in such documents.
- (ii)** Errors or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a decision on a debatable point of law is not a mistake apparent from the record.
- (c)** Status holders are eligible the following privileges under FTP:
- (1) Authorisation and custom clearances for both imports and exports on self-declaration basis.
 - (2) Fixation of Input Output Norms on priority i.e., within 60 days by Norms Committee.
 - (3) Exemption from compulsory negotiation of documents through banks. Exception are remittance/ receipts.
 - (4) Exemption from furnishing of Bank Guarantee in Schemes under FTP unless otherwise specified.
 - (5) Two Star Export Houses and above are permitted to establish export warehouses as per the guidelines of Department of Revenue.
 - (6) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) /Letter of Intent (LOI)) as originating from India with a view to qualify for preferential treatment under specified agreements.
 - (7) Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to a specified annual limit.
 - (8) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.

Note – Any four points may be mentioned.