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CA FINAL

SUBJECT- INDIRECT TAX

Test Code – FNJ 7353

BRANCH - () (Date :)

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ANSWER 1**MULTIPLE CHOICE QUESTIONS**

| Q.NO | ANSWER | MARKS |
|-------|--------|-------|
| 1.1 | b | 1 |
| 1.2 | a | 1 |
| 1.3 | a | 1 |
| 1.4 | c | 1 |
| 1.5 | c | 1 |
| 1.6 | d | 1 |
| 1.7 | c | 1 |
| 1.8 | d | 1 |
| 1.9 | b | 1 |
| 1.10. | b | 1 |

ANSWER 2**MULTIPLE CHOICE QUESTIONS**

| Q.NO | ANSWER | MARKS |
|-------|--------|-------|
| 2.1 | a | 2 |
| 2.2 | a | 2 |
| 2.3 | c | 2 |
| 2.4 | d | 2 |
| 2.5 | c | 2 |
| 2.6 | c | 2 |
| 2.7 | d | 2 |
| 2.8 | b | 2 |
| 2.9 | b | 2 |
| 2.10. | a | 2 |

ANSWER 3

As per section 51 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018 CT 13.09.2018, with effect from 01.10.2018, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs. 2,50,000:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
- (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
- (f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. 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 (Rs.) | Payment due (Rs.) | Tax to be deducted | | |
|--------|--|----------------------------|-------------------|--------------------|------------|------------|
| | | | | CGST (Rs.) | SGST (Rs.) | IGST (Rs.) |
| (i) | Supply of stationery to Fisheries Department, Kolkata (Note-1) | 2,60,000 | 15,000 | -- | | |
| (ii) | Supply of car rental services to Municipal Corporation of Delhi (Note-2) | 2,95,000 | 20,000 | -- | | |
| (iii) | Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3) | 5,90,000 | 25,000 | | | 500 |
| (iv) | Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4) | 6,49,000 | 50,000 | 500 | 500 | |
| (v) | Interior decoration of Andhra Bhawan located in Delhi (Note-5) | 12,39,000 | 12,39,000 | -- | | |
| (vi) | Supply of printed books and printed post cards to a West Delhi Post Office (Note-6) | 9,72,000 | | -- | | |
| (vii) | Maintenance of street lights in Municipal area of East Delhi (Note-7) | 3,50,000 | 3,50,000 | -- | | |

Notes:

1. No TDS where total value of supply under the contract does not exceed Rs. 2,50,000 :

Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= \text{Rs. } 2,60,000 \times 100 / 118$$

$$= \text{Rs. } 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed Rs. 2,50,000, tax is not required to be deducted.

2. No TDS where total value of supply under the contract does not exceed Rs. 2,50,000 :

Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= \text{Rs. } 2,95,000 \times 100 / 118$$

$$= \text{Rs. } 2,50,000$$

Since the total value of supply under the contract does not exceed Rs. 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= \text{Rs. } 5,90,000 \times 100 / 118$$

$$= \text{Rs. } 5,00,000$$

Since the total value of supply under the contract exceeds Rs. 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of Rs. 25,000, i.e. Rs. 500.

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= \text{Rs. } 6,49,000 \times 100 / 118$$

$$= \text{Rs. } 5,50,000 \text{ (rounded off)}$$

Since the total value of supply under the contract exceeds Rs. 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of Rs. 50,000, i.e. Rs. 1,000.

5. No TDS if the location of the supplier and the POS is in a State/UT which is different from the State/UT of registration of the recipient:

Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Section 12(3) of the IGST Act, 2017, inter alia, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient - Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. TDS only if total value of taxable supply in the contract exceeds Rs. 2,50,000, exempt supply not to be considered : If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds Rs. 2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each.

Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= \text{Rs. } 2,72,000 \times 100 / 118$$

$$= \text{Rs. } 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed Rs. 2,50,000, tax is not required to be deducted.

7. No TDS in case of exempt supply:

Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the supply is exempt.

The answer will remain unchanged even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

(14 MARKS)

ANSWER : 4(A)

As per Section 18(1) (b), in case of a person obtaining voluntary registration he shall be entitled to take credit of input tax in respect of input held in stock, or contained in semi finished or finished goods in stock on date immediately preceding the date of grant of registration i.e., 24th September, 2019.

A registered person shall not be entitled to take input tax credit in respect of any supply of goods or services or both to him after the expiry of 1 year from the date of issue of tax invoice relating to such supply. [Section 18(2)]

In view of the above provision eligible ITC available to B Ltd. will be computed as follows (amount in Rs.) –

| Particulars | CGST @ 6% | SGST @ 6% | IGST @ 18% |
|---|---------------|---------------|--------------|
| Input procured on 02.09.2019 lying in stock on 24 th September, 2019 | 4,500 | 4,500 | - |
| Input received on 21.02.2019 contained in semi Finished goods held in stock on 24 th September, 2019 | 7,500 | 7,500 | - |
| Inputs valued Rs. 2,00,000 contained in finished goods held in stock on 24 th September, 2019 [WN – 1] | - | - | - |
| Inputs valued Rs. 50,000 procured on 13.09.2019 lying in stock | - | - | 9,000 |
| Capital Goods procured on 12.09.2019 [WN – 2] | - | - | - |
| Total amount CGST / SGST/ IGST credit eligible on inputs | 12,000 | 12,000 | 9,000 |

Computation of Tax payable in cash by B Ltd. for the month of September, 2019 (amount in Rs.) :

| Particulars | | CGST | SGST |
|---|----------|------------|--------------|
| Output tax liability for September, 2019 | | 21,000 | 21,000 |
| Less : Eligible input tax Credit available on inputs in respect of - | | | |
| IGST | [WN – 3] | 9,000 | - |
| CGST | | 12,000 | - |
| SGST | | - | 12,000 |
| CGST / SGST payable in Cash | | Nil | 9,000 |

Working Notes :

- (1) Since Inputs of Rs. 2,00,000 has been purchased on 19.09.2018 invoice for same has been issued on 19.09.2018 hence one year has been elapsed on 18th September, 2019 from date of issue of invoice so no input tax credit shall be admissible in respect of said input.
- (2) There is no provision under Section 18(1)(b) to take input tax credit of capital goods lying in stock by the person who obtains voluntary registration.
- (3) As per section 49, 49A and 49B of CGST Act and Rule 88A of CGST Rules, Integrated tax shall first be utilized towards payment of integrated tax and the amount remaining, if any, may be utilized towards the payment of central tax and State tax/Union territory tax, in any order subject to the condition that the entire ITC on account of Integrated tax is completely exhausted first before the input tax credit on account of Central tax or State tax/ Union territory tax can be utilized. Since B Ltd. is not engaged in inter state outward supplies, therefore, the IGST credit is utilized towards payment of CGST first and when credit of IGST is fully utilized, then credit of CGST and SGST has been utilized.

(9 MARKS)**ANSWER : 4 (B)****Computation of assessable value –**

| | | | |
|--|----------|------------|--------------------|
| FOB Cost | | Yen | 2,00,000 |
| Add : Freight | [WN – 1] | Yen | 20,000 |
| Add : Design charges | [WN – 2] | Yen | 30,000 |
| Total (A) | | Yen | 2,50,000 |
| Exchange rate to be applied is 1 yen = Rs. 0.65, as notified by CBIC | [WN – 3] | Rs. | 0.6500 |
| Total sum in Indian Rs. | | Rs. | 1,62,500.00 |
| Add : Commission to the Agent [5% of FOB value of goods] | [WN – 4] | Rs. | 6,500.00 |
| Add : Development activities with respect to the imported machine | [WN – 5] | Rs. | - |
| Add : Insurance charges | [WN – 6] | Rs. | 10,000.00 |
| Total CIF Value / Assessable value | | Rs. | 1,79,000.00 |

Working Note :

- (1) Only the cost of transport of the imported goods up to the place of importation is includible for the purpose of valuation. Thus, transport cost from Mumbai port (place of importation) to the factory in Karnataka has not been included in the assessable value.
- (2) Value of design work undertaken elsewhere than in India is includible in the value of the imported goods.
- (3) Rate of exchange notified by the CBIC has been considered.
- (4) Buying commission is not includible in the value of the imported goods. Since the agent's commission does not represent buying commission, hence, it is includible.
- (5) Value of development work undertaken in India is not includible in the value of the imported goods. Hence, Rs. 1,00,000 expended in India for developmental activities have not been considered.
- (6) Insurance of the machine is includible in the assessable value.

(5 MARKS)

ANSWER : 5 (A)**Computation of Taxable Value of supply (amount in Rs.) :**

| | | |
|--|------|-----------------|
| Purchase Raw material 'A' from local dealer [Rs. 86,100 × 100 ÷ 105] | [WN] | 82,000 |
| Purchase Raw material 'B' from local dealer [Rs. 1,12,000 × 100 ÷ 112] | [WN] | 1,00,000 |
| Depreciation expenses [(Rs. 1,96,000 – Rs. 1,96,000 × 12 ÷ 112) × 15%] | | 26,250 |
| Other direct and indirect expense | | 55,460 |
| Total Cost of goods manufactured | | 2,63,710 |
| Cost of goods sold (70% of goods produced were sold) | | 1,84,597 |
| Add : Profit margin @ 5% of cost | | 9,230 |
| Taxable value of supply | | 1,93,827 |

Working Note : Credit will be available for CGST and SGST charged by local suppliers. Hence, the same is not to be included in the cost.

Computation of CGST and SGST payable after utilizing the available input tax credit.

| Particulars | CGST (Rs.) | SGST (Rs.) |
|---|----------------|----------------|
| Output tax liability @ 12% (being CGST 6% and SGST 6%) [Rs. 1,93,827 × 12%] | 11,630 | 11,630 |
| Less : Eligible input tax credit in respect of purchases of - | | |
| Raw material 'A' [82,000 × 5%] | 2,050 | 2,050 |
| Raw material 'B' [1,00,000 × 12%] | 6,000 | 6,000 |
| Capital Goods [1,75,000 × 12%] | 10,500 | 10,500 |
| CGST / SGST credit to be carried forward | - 6,920 | - 6,920 |

(5 MARKS)**ANSWER : 5(B)****The GST payable is as computed below (amount in Rs.) –**

| | | |
|-------|--|-----------------|
| (i) | 1,000 pieces at transaction value of Rs. 50 per piece (Retail sale price is not relevant as value for the purpose of calculating GST Liability is the transaction value charged from the buyers) | 50,000 |
| (ii) | 2,400 pieces at transaction value of Rs.50 per piece (Offering of extra quantity of the same product is to be treated in the nature of discount. This discount or value of free article/ extra quantity of the same product which is known at the time of recognition of supply shall not be included in the transaction value of supply so as to compute GST liability). | 1,20,000 |
| (iii) | Samples: 50 pieces are given free of cost [The goods or services or both which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act), hence no GST is payable] – Circular No. 92/11/2019 – GST, dated 07.03.2019. | |
| (iv) | Multi – packs : 200 packs at transaction value of Rs. 90 per pack (It has been clarified vide Circular No. 92/11/2019 – GST, dated 07.03.2019 , it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act. Since GST rate on tooth paste and tooth brush is 18%, hence 18% rate will be applicable). | 18,000 |
| | Total Transaction value | 1,88,000 |
| | GST payable @ 18% | 33,840 |

(4 MARKS)

ANSWER : 5 (C)

Arrival of vessels and aircrafts in India [Section 29] : The relevant provisions are as under –

- (1) **Person in charge to call/land conveyance at Custom port / Airport [Section 29(1)] :** The person – in – charge of a vessel or an aircraft entering India from any place outside India shall not cause or permit the vessel or aircraft to call or land –
- for the first time after arrival in India ; for
 - at any time while it is carrying passengers or cargo brought in that vessel or aircraft;
- at any place other than a customs port or a customs airport** as the case may be, unless permitted by the Board.
- (2) **Emergency landing of conveyance – Other than Custom Port / Airport [Section 29(2)]:** The above provisions shall not apply in relation to any vessel or aircraft which is compelled by **accident, stress of weather or other unavoidable cause** to call or land at a place other than a customs port or customs airport but the person – in – charge of any such vessel or aircraft –
- shall immediately **report the arrival** of the vessel or the landing of the aircraft **to the nearest Customs Officer or the officer – in- charge of a police station** and, shall on demand, produce to him the log book belonging to the vessel or the air craft;
 - shall not** without the consent of any such officer **permit any goods** carried in the vessel or the aircraft **to be unloaded** from, or any of the **crew or passengers to depart** from the vicinity of, the vessel or the aircraft, and
 - shall comply with any directions given by any such officer with respect to any such goods, and no passenger or member of the crew shall, without the consent of any such officer, leave the immediate vicinity of the vessel or the aircraft.

Passengers or crew members may leave the Place for Health or Safety Purposes : However, nothing in this section shall prohibit the departure of any crew or passengers from the vicinity of, or the removal of goods from, the vessel or aircraft where the departure or removal is necessary **for reasons of health, safety or the preservation of life or property.**

(5 MARKS)

ANSWER 6(A)

Computation of net GST liability of Surana & Sons for the period April 2019 – September 2019

| Particulars | (Rs.) |
|---|-----------------|
| GST payable on outward supply [Refer Working Note 1] | 3,18,000 |
| GST payable on legal services under reverse charge [Rs. 3,50,000 X 18%] [Tax on legal services provided by an advocate to a business entity, is payable under reverse charge by the business entity in terms of Notification No. 13/2017 CT (R) dated 28.06.2017. Further, such services are not eligible for exemption provided under Notification No. 12/2017 CT (R) dated 28.06.2017 as the turnover of the business entity [Surana & Sons] in the preceding financial year exceeds Rs. 20 lakh.] | 63,000 |
| Total GST liability | 3,81,000 |
| Less: Input tax credit (ITC) [Refer Working Note 3] | 7,53,000 |
| Less: Common credit attributable to exempt supplies during the period April 2019 – September 2019 [Refer Working Note 2] | 4,74,820 |
| Less: Tax paid in cash (Rs. 63,000 + Rs. 39,820) [As per section 49(4) of the CGST Act, 2017 amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of 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.] | 1,02,820 |

Working Note**1. Computation of GST payable on outward supply**

| Particulars | Value (Rs.) | GST (Rs.) |
|--|-------------|-----------------|
| Turnover of 'M' [liable to GST @ 12%] | 14,00,000 | 1,68,000 |
| Turnover of 'N' [Tax on 'N' is payable under reverse charge by the recipient of such goods] | 6,00,000 | Nil |
| Turnover of 'O' [liable to GST @ 12%] | 10,00,000 | 1,20,000 |
| Export of 'M' with payment of IGST @ 12% | 2,50,000 | 30,000 |
| Export of 'O' under letter of undertaking (LUT) [Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.] | 10,00,000 | Nil |
| Consultancy services provided to independent clients located in foreign countries under LUT. [The activity is an export of service in terms of section 2(6) of the IGST Act, 2017 as- <ul style="list-style-type: none"> the supplier of service is located in India; the recipient of service is located outside India; place of supply of service is located outside India (in terms of section 13(2) of the IGST Act, 2017); payment for the service has been received in convertible foreign exchange in Indian rupees wherever permitted by the RBI; and supplier of service and recipient of service are not merely establishments of distinct person. [Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.] | 20,00,000 | Nil |
| Sale of building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, 2017 and hence, is not liable to any tax] | 1,20,00,000 | Nil |
| Interest received on investment in fixed deposits with a bank [Exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017] | 4,00,000 | Nil |
| Sale of shares [Shares are neither goods nor services in terms of section 2(55) and 2(102) of the CGST Act, 2017. Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to any tax.] | 2,50,00,000 | Nil |
| Total GST payable on outward supply | | 3,18,000 |

Working Note 2

Computation of common credit attributable to exempt supplies during the period April 20XX – September 20XX

| Particulars | (Rs.) |
|---|----------|
| Common credit on inputs and input services -[Working Note 3] | 6,90,000 |
| Common credit attributable to exempt supplies (rounded off) = Common credit on inputs and input services x (Exempt turnover during the period / Total turnover during the period) = Rs.6,90,000 x Rs.1,33,50,000/ Rs.1,94,00,000 Exempt turnover = Rs. 1,33,50,000 and total turnover = Rs. 1,94,00,000 [Refer note below] | 4,74,820 |

Note:

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 Chapter V of the CGST Rules, 2017, 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 42 of the CGST Rules, 2017, the aggregate value of exempt supplies *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.

Therefore, value of exempt supply is computed as under :

| Particulars | Rs. |
|--|--------------------|
| Turnover of product N taxable under reverse charge basis | 6,00,000 |
| Sale of building [Being stamp duty value [Rs. 2,50,000 ÷ 2%] | 1,25,00,000 |
| Interest received on investment in fixed deposits with a bank [Exempt vide Notification No. 12/2017 – CT (R) dated 28 – 06 – 2017] | Nil |
| Sale of shares [1% of sales value of securities] | 2,50,000 |
| Value of exempt supply | 1,33,50,000 |

Total turnover = Rs. 1,94,00,000 (Rs. 14,00,000 + Rs. 6,00,000 + Rs. 10,00,000 + Rs. 2,50,000 + Rs. 10,00,000 + Rs.20,00,000 + Rs. 1,25,00,000 + Rs.4,00,000 + Rs.2,50,000)

Working Note 3

Computation of ITC available in the Electronic Credit Ledger of the Surana & Sons for the period April 2019 - September 2019

| Particulars | (Rs.) |
|--|-----------------|
| Common credit on inputs and input services [Tax on inputs - Rs. 4,20,000 (Rs. 35,00,000 x 12%) + Tax on input services – Rs. 2,70,000 (Rs. 15,00,000 x 18%)] | 6,90,000 |
| Legal services used in the manufacture of taxable product 'M' | <u>63,000</u> |
| ITC available in the Electronic Credit Ledger | 7,53,000 |

(9 MARKS)

ANSWER 6(B)

Duty free allowances allowed to Mr. Ram are as follows –

- (a) Under Rule 3, goods eligible for General free allowance are :
- used personal effects(excluding jewellery); and
 - other articles (other than those mentioned in Annexure I) upto Rs. 50,000.
- (b) Under Rule 6, Duty free allowance of Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III, upto an aggregate value of Rs. 1,00,000.

Under Rule 5, No duty free allowance in case of jewellery of Rs. 50,000 will be available, since he was not residing abroad for more than one year prior to his return to India.

Computation of Customs duty payable by Mr. Ram (amount in Rs.) :

| | |
|---|-----------------|
| 1) Used personal effects like clothes etc. | Nil |
| 2) Digital Video Disc player | 5,000 |
| 3) Music System | 55,000 |
| 4) Air-Conditioner | 45,000 |
| 5) Microwave Oven | 28,000 |
| 6) Fax Machine | 52,000 |
| 7) Domestic Refrigerator | 1,20,000 |
| 8) Jewellery (18 grams) | 75,000 |
| Total dutiable goods imported | 3,80,000 |
| Less: Total allowance [(i.e., Rs. 50,000(GFA) + Rs. 1,00,000(Transfer of residence))] | 1,50,000 |
| Value of goods on which duty is payable | 2,30,000 |
| Customs duty @ 38.5% (inclusive of SWS) | 88,550 |

(5 MARKS)**ANSWER 7(A)**

Rectification of errors apparent on the face of record [Section 161]: This section provides for rectification of mistakes/errors apparent on the face of record by any authority. It may be noted that this section overrides the entire Act, except for the provisions of Section 160 (discussed above).

| | |
|---|--|
| Documents covered u/s 161 | <p>→ Decision</p> <p>→ Order</p> <p>→ Any notice</p> <p>→ Certificate</p> <p>→ Any other document</p> |
| Rectifying Authority | 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. |
| Type of mistakes or errors which can be rectified | 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. |
| When does the Authority rectify the mistakes /errors | <p>The authority may rectify the mistake /error :</p> <p>→ Suo moto</p> <p>→ When such error or mistake is brought to its notice by a GST officer</p> <p>→ When such error or mistake is brought to notice by the affected person within a period of 3 months from the date of issue of such decision or order or notice or certificate or any other document, as the</p> |

| | |
|--|--|
| | case may be. |
| Time limit for rectification | No rectification can be done after a period of 6 months from the date of issue of such decision / order / notice/ certificate/ any other document. However, such time limit does not apply in cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake , arising from any accidental slip or omission. |
| Hearing if rectification goes adverse to assessee | Principles of natural justice should be followed by the authority carrying out such rectification, if such rectification adversely affects any person. |

(5 MARKS)

ANSWER 7(B)

Computation of GST Payable (amount in Rs.) –

| | |
|--|-----------------|
| Total Rent | 5,00,000 |
| Less : | |
| 1) Rent from vacant land used for agriculture [Exempt vide Entry No. 54 of Exemption Notification No. 12/2017 – CT (R)] | 50,000 |
| 2) Rent from land used for Appu Circus [Liable to GST] | Taxable |
| 3) Properties let for residential purposes [Exempt vide Entry No. 12 of Exemption Notification No. 12/2017 – CT (R)] | 70,000 |
| 4) Building let to hotel [Liable to GST] | Taxable |
| 5) Vacant land, given on lease to M/s. ABC Ltd. for construction of building at a later stage to be used for furtherance of business or commerce [Liable to GST] | Taxable |
| 6) Premises let to a religious body being temple trust [Liable to GST] | Taxable |
| 7) Premises let to a coaching centre [Liable to GST] | Taxable |
| 8) Building let to a theatre [Liable to GST] | Taxable |
| Total Taxable Value of Supply | 3,80,000 |
| GST payable @ 18% | 68,400 |

(4 MARKS)

ANSWER 7(C)

As per the provisions of Section 74 of the Customs Act, 1962

- (1) Since the computers have been taken into use and then re – exported duty drawback shall be allowed as per Section 74(2). 65% of the import duty paid will be allowed as drawback. Hence, the amount of drawback = Rs. 5,00,000 × 65% = Rs. 3,25,000.
- (2) In respect of goods imported by a person for his personal and private use, drawback of duty shall be equal to the import duty paid in respect of such goods as reduced by 4%, 3%, 2.5% and 2% for use for each quarter or part thereof during the period of first year, second year, third year, and fourth year respectively. Hence, 92% of the import duty so paid shall be allowed as drawback. Hence, duty drawback = Rs. 1,00,000 × 92% = Rs. 92,000.
- (3) No duty drawback shall be allowed on wearing apparel which has been taken into use and re – exported.

(5 MARKS)

ANSWER 8(A)

- (1) **Appeal to Appellate Authority :** As per Section 107(1) of the CGST Act, an appeal against a decision/order passed by any adjudicating authority under the CGST Act or SGST Act / UTGST Act is appealable before the Appellate Authority. Thus, Home Furnishers can file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax to Commissioner (Appeals).

Time Limit – 3 months, Condonation – 1 month : Further, such appeal can be filed within 3 months from the date of communication of such decision/ order. Thus, Home furnishers can file the appeal to Appellate Authority on or before 22.11.2019. Further, the Appellate Authority can also condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay.

- (2) **Authority before whom appeal is to be filed :** GST Law makes provisions for cross empowerment between CGST and SGST/ UTGST officers so as to ensure that if a proper officer of one Act (Say CGST) passes an order with respect to a transaction, he will also act as the proper officer of SGST for the same transaction and issue the order with respect to the CGST as well as the SGST/ UTGST component of the same transaction.

The law further provides that where a proper officer under one Act (Say CGST) has passed an order, any appeal/review/ revision/ rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Similarly, if any order is passed by the proper officer of SGST, any appeal/ review/ revision / rectification will lie with the proper officer of SGST only. Thus, Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].

- (3) **Requirement of pre – deposit :** Home Furnishers' view is not correct in law. Section 107 (6) of the CGST Act provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid –

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of Rs. 25 crore.

Since in the given case, Home Furnishers disagrees with the entire tax demanded, it has to make a pre – deposit of 10% of the amount of tax in dispute arising from the impugned order, i.e., 10% of Rs. 50,00,000 which is Rs. 5,00,000.

(5 MARKS)

ANSWER 8(B)

Computation of maximum refund admissible in respect of Zero – rated supplies (amount in Rs.) :

| | |
|---|----------------------|
| Net ITC i.e. input tax credit availed on inputs and input services during the relevant period [Rs. 2,50,000 + Rs. 50,000] | 3,00,000 |
| Turnover of zero – rated supply of goods i.e. value of zero – rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking | 15,00,000 |
| Turnover of zero – rated supply of services(advance received towards services to be supplied / exported after the current relevant period shall not be included, hence : Rs. 5,50,000 – Rs. 50,000) | 5,00,000 |
| Adjusted Total Turnover | |
| Turnover in State of goods and services [Rs. 35,00,000 + Rs.5,00,000] | Rs. 40,00,000 |
| Value of Zero rated supplies of goods and services (as computed above) | <u>Rs. 20,00,000</u> |
| Maximum refund = [(Item (ii) + Item(iii)) ÷ Item (iv)] × Item(i) | 1,00,000 |

(4 MARKS)

OR

ANSWER 8(B)

The relevant provisions are discussed as under –

- (1) **Officer empowered by Commissioner has power to arrest :** Commissioner is vested with the power to authorize (by an order) any CGST Officer to arrest a person, where there is a reason to believe that such person has committed the specified alleged offences.
- (2) **Person committing specified offences is liable to be arrested [Section 69(1)] :** The person committing an offence under section 132(1) (a)/(b)/(c)/(d) and punishable under Section 132(1)(i) and Section 132(1)(ii) or Section 132(2) can be arrested by a CGST officer upon authorization by the Commissioner.
This essentially means that a person can be arrested only where the tax evasion is **more than Rs. 2 crore**. However, the monetary limit shall not be applicable if the offences are committed again even after being convicted earlier i.e. repeat offender of the specified offences can be arrested irrespective of the tax amount involved in the case.
- (3) **Arrest of person in case of cognizable and non bailable offence [section 69(2)] :** Where a person is arrested under this Section for an offence specified under section 132(5) i.e. cognizable and non bailable offence, the officer authorized to arrest the person shall inform such person of the grounds of arrest and **produce him before a Magistrate within 24 hours**.
- (4) **Provisions relating to Bail in case of non – cognizable and bailable offence [Section 69(3)] :** Subject to the provisions of the Code of Criminal Procedure, 1973,
 - (a) Where a person is arrested under section 69(1) for any offence specified under section 132(4) i.e. non – cognizable and bailable offence, he shall be admitted to bail or in default of bail, forwarded to the custody of the magistrate.
 - (b) In case of a non – cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer – in – charge of a police station.

(4 MARKS)

ANSWER 8(C)

Yes, he can do so. In case of part duty free and part duty paid imports, both advance authorization and drawback are available.

Drawback can be obtained for any duty paid material, whether imported or indigenous, used in goods exported, as per prescribed drawback rates. Advance authorization can be used for importing duty free material.

Drawback allowed must be mentioned in the application for advance authorization. In such case, All Industry Brand Rates are not applicable. The manufacturer has to get specific brand rate fixed from the Commissioner for these exported goods.

(5 MARKS)