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Division A

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8. (a) 9. (a) 10. (d) 11. (c) 12. (d) 13. (a) 14. (b)
15. (d) 16. (b) 17. (d) 18. (b) 19. (b) 20. (a AND b)

Division B

1. (a) **Computation of net GST payable by M/s XYZ**

| Particulars | GST payable (Rs.) |
|---|-------------------|
| Gross GST liability [Refer Working Note 1 below] | 2,63,400 |
| Less: Input tax credit [Refer Working Note 2 below] | 2,00,000 |
| Net GST liability | 63,400 |

(1 MARK)

Working Notes

(1) **Computation of gross GST liability**

| Particulars | Value received (Rs.) | Rate of GST | GST payable (Rs.) |
|---|-------------------------|----------------|----------------------|
| Hiring charges for excavators | 18,00,000 | 12% | 2,16,000 |
| Service charges for supply of manpower for operation of excavators [Refer Note 1] | 20,000 | 12% | 2,400 |
| Service charges for soil testing and seismic evaluation [Refer Note 2] | 2,50,000 | 18% | 45,000 |
| Gross GST liability | | | 2,63,400 |

Notes:

- (i) Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) of the CGST Act, 2017 wherein the principal supply is the hiring out of the excavator.

As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.

- (ii) Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

(5 MARKS)

(2) Computation of input tax credit available for set off

| Particulars | GST paid (Rs.) | ITC available (Rs.) |
|---|----------------|---------------------|
| Annual maintenance services for excavators [Refer Note 1] | 1,00,000 | 1,00,000 |
| Health insurance for excavator operators [Refer Note 2] | 11,000 | - |
| Scientific and technical consultancy [Refer Note 1] | 1,00,000 | 1,00,000 |
| Total input tax credit available | | 2,00,000 |

Notes:

- (i) Section 17(5)(d) of the CGST Act, 2017 blocks credit on goods and/or services received by a taxable person for construction of an immovable property on his own account. Here, though the excavators are used for building projects, the same are not used by M/s XYZ on its own account for construction of immovable property; instead they are used for outward taxable supply of hiring out of machinery.

Therefore, the annual maintenance service for the excavators does not get covered by the bar under section 17 of the CGST Act, 2017 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.

- (ii) Section 17(5)(b)(iii) of the CGST Act, 2017 allows input tax credit on health insurance only when:

- (a) the Government notifies the services as obligatory for an employer to provide to its employees under any law for the time being in force; or
- (b) the said service is used for making an outward taxable supply of the same category of service or as part of a taxable composite or mixed supply.

Since, in the given case, the health insurance service does not fall under any of the above two categories, the credit thereon will not be allowed.

(4 MARKS)

- (b) Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. Activity without consideration is not a supply in terms of section 7(1)(a) of the CGST Act, 2017. However, Schedule I to the CGST Act, 2017 enlists the activities to be treated as supply even if made without consideration. Accordingly, Para 2. of Schedule I treats supply of goods or services or both between related persons or between distinct

persons as specified in section 25, when made in the course or furtherance of business as a supply even if made without consideration.

However, a brother who is not dependent on the person supplying the service, does not come within the purview of term family as defined under section 2(49) of the CGST Act, 2017 and hence, is not a related person. Therefore, the export of service to an independent brother without any consideration will not fall under para 2. of the Schedule I to CGST Act, 2017. Hence, the activity is not a supply and is thus, not liable to any tax.

(4 MARKS)

2.

(a) Computation of GST Liability of Honeycure Laboratories Ltd. for the month of January, 20XX

| Particulars | CGST (Rs.) | SGST (Rs.) | IGST (Rs.) |
|--|-----------------------------------|-----------------------------------|---------------------------------|
| Advance received for drug development services supplied to Orochem Ltd., a drug manufacturer, located in Delhi [Note - 1] | 45,000 [5,00,000 × 9%] | 45,000 [5,00,000 × 9%] | |
| Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Note - 2] | | | Nil |
| Supply of bulk drugs to wholesale dealers of drugs in Delhi [Note - 3] | 1,50,000 [60,00,000 × 2.5%] | 1,50,000 [60,00,000 × 2.5%] | |
| Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA [Note - 4] | | | Nil |
| Supply of drug development services to Unipharma Ltd., a drug manufacturer, located in Delhi [Note - 5] | 54,000 [6,00,000 × 9%] | 54,000 [6,00,000 × 9%] | |
| Supply of bulk drugs to consignment agents Cardinal Pharma Pvt. Ltd. and Rochester Medicos of Punjab and Haryana [Note - 6] | | | 4,95,000 [99,00,000 × 5%] |
| Supply of bulk drugs to Ronn Medicos of Gurgaon, Haryana [Note - 7] | | | 1,50,000 [30,00,000 × 5%] |
| Total GST liability | 2,49,000 | 2,49,000 | 6,45,000 |

(5 MARKS)

Notes:

1. Being an intra-State supply of services, supply of drug development services to Orochem Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January, 20XX.
2. Being an inter-State supply of goods, supply of bulk drugs to Novick Pharmaceuticals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017 CT dated 15.11.2017 has postponed the time of supply of advance received for suppliers of goods (excluding composition suppliers) till the time of issue of invoice. Thus, GST is not payable at the time of receipt of advance against supply of goods in case of such suppliers.

Accordingly, the time of supply of the advance received for bulk drugs to be supplied to Novick Pharmaceuticals is the time of issue of invoice, which is in March, 20XX. Thus, said advance will be taxed in March, 20XX and not in January, 20XX.
3. Being an intra-State supply of goods, supply of bulk drugs to wholesale dealers of drugs in Delhi is subject to CGST and SGST @ 2.5 % each.
4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the bulk drugs to Anchor Pharamaceuticals Inc. of USA under bond is export of goods. Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under bond is made without payment of integrated tax [Section 16(3)(a) of IGST Act].
5. Being an intra-State supply of services, supply of drug development services to Unipharma Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient. In the given case, since open market value is not available, value of bulk drugs supplied to consignment agents - Cardinal Pharma Ltd. and Rochester Medicos – will be Rs. 99,00,000

[90% of (Rs. 60,00,000 + Rs. 50,00,000)]. Further, being an inter-State supply of goods, supply of bulk drugs to the consignment agents is subject to IGST @ 5%.

7. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Honeycure Laboratories Ltd. owns 60% shares of Ronn Medicos, both are related persons.

Value of supply of goods between related persons (other than through an agent) is determined as per rule 28 of the CGST Rules. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Medicos is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Thus, open market value of the bulk drugs supplied to Ronn Medicos i.e., Rs. 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of bulk drugs to Ronn Medicos is subject to IGST @ 5%.

(4 MARKS)

(b) Computation of customs duty and integrated tax payable by ABC Industries Ltd.

| Particulars | Amount |
|--|-------------------|
| CIF value | 6,000 US \$ |
| Less: Freight | 1,200 US \$ |
| Less: Insurance | 1,800 US \$ |
| FOB value | 3,000 US \$ |
| Add: Freight (20% of FOB value) [Note 1] | 600 US \$ |
| Add: Insurance (actual) | 1,800 US \$ |
| CIF | 5,400 US \$ |
| Exchange rate as per CBIC [Note 2] | Rs. 70 per US \$ |
| Assessable value = Rs. 70 x 5,400 US \$ | Rs. 3,78,000 |
| Add: Basic customs duty @ 10% | Rs. 37,800 |
| Add: Social Welfare Surcharge @ 10% | Rs. 3,780 |
| Sub-total | Rs. 4,19,580 |
| Integrated tax u/s 3(7) of the Customs Tariff Act @ 12% of Rs.4,19,580[Note 4] | Rs. 50,349.60 |
| Total customs duty and integrated tax payable [Rs. 37,800 + Rs. 3,780 + Rs. 50,349.60] | Rs. 91,929.60 |
| Total customs duty and integrated tax payable (rounded off) | Rs. 91,930 |

Notes:

1. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
2. Rate of exchange determined by CBIC is considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
3. Rule 10(1)(b)(iv) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 inter alia provides that value of development work undertaken elsewhere than in India is includible in the value of the imported goods. Thus, development charges of Rs. 56,000 paid for work done in India have not been included for the purposes of arriving at the assessable value.
4. Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

(5 MARKS)

3. (a) **Computation of GST payable on amount paid for transportation by XYZ Ltd. when it avails the services of different transporters**

| Particulars | Freight [Rs.] | GST payable [Rs.] |
|--|------------------|-------------------------|
| Transportation of biscuits in a local mini van belonging to an individual [Only the transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is exempt from GST – Notification No. 12/2017 CT (R) & 9/2017 IT (R) both dated 28.06.2017.] | 54,000 | Nil |
| Transportation of biscuits by Indian Railways | 3,17,000 | 15,850 |
| Transportation of biscuits by GTA [GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017 IT (R) dated 28.06.2017.] | 3,00,000 | 15,000 |
| Transportation of biscuits by GTA @ 12% [When the GTA pays tax @ 12%, tax is payable by the GTA under forward charge and not by the recipient under reverse charge - Notification No. 10/2017 IT (R) dated 28.06.2017.] | 73,000 | 8,760 |
| Transportation of flour by GTA [Services provided by GTA by way of transport (in a goods carriage) of, inter alia, flour are exempt from GST vide Notification No. 9/2017 IT (R) dated 28.06.2017.] | 55,000 | Nil |
| Transportation of butter by GTA [Though services provided by GTA by way | 35,000 | 1,750 |

| | | |
|--|--------|---------------|
| of transport (in a goods carriage) of, inter alia, milk is exempt from GST vide Notification No. 9/2017 IT (R) dated 28.06.2017, road transport of butter will not be exempted as butter is milk product and not milk. GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017 IT (R) dated 28.06.2017.] | | |
| Transportation of baking powder by GTA [Services provided by a GTA by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs. 1,500, are exempt from GST vide Notification No. 9/2017 IT (R) dated 28.06.2017.] | 1,500 | Nil |
| Transportation of biscuits by GTA to sister concern [GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017 IT (R) dated 28.06.2017.] | 40,000 | 2,000 |
| Total tax payable by XYZ Ltd. on availing services of different transporters | | 43,360 |

(9 MARKS)

- (b)** The Customs Tariff has a set of six Rules for Interpretation of the Tariff Schedule and three General Explanatory Notes. The six Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The purpose of their inclusion in Customs Tariff is to standardize the manner in which the nomenclature in the schedule is to be interpreted so as to reduce classification disputes.

Rule 4 of the Rules of Interpretation is called as akin rule. This rule lays down that goods which cannot be classified in accordance with rules 1, 2 and 3 of the Rules of Interpretation shall be classified under the heading appropriate to the goods to which they are most akin. In other words, akin rule' is a residual rule which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.

(5 MARKS)

4. (a) (i) Section 54(3)(ii) of the CGST Act, 2017 allows refund of unutilized input tax credit (ITC) at the end of any tax period to a registered person where the credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund

on account of inverted duty structure, refund of ITC is granted as per the following formula -

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \text{Tax payable on such inverted rated supply of goods and services}$$

where-

“Net ITC” means ITC availed on inputs during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both.

“Adjusted total turnover” means the sum total of the value of:

- (a) the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services; &
- (b) the turnover of zero-rated supply of services determined in terms of specified manner and non-zero-rated supply of services,

excluding:

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under sub -rule (4A) or sub-rule (4B) or both, if any, during the relevant period.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = Rs. 5,00,000 × 5% = Rs. 25,000

Net ITC = Rs. 1,18,000 (Rs. 54,000 + Rs. 54,000 + Rs. 10,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]

Adjusted Total Turnover = Rs. 9,50,000 (Rs. 5,00,000 + Rs. 3,50,000 + Rs. 1,00,000)

Turnover of inverted rated supply of Product A = Rs. 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(Rs. 5,00,000 × Rs. 1,18,000) / Rs. 9,50,000] - Rs. 25,000

= Rs. 37,105 (rounded off)

(5 MARKS)

- (ii) 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, Ritesh 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 | |

Notes:

1. 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:
= Rs. 2,60,000 × 100 / 118
= Rs. 2,20,339 (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. 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 :
= Rs. 2,95,000 × 100 / 118
= 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:
= Rs. 5,90,000 × 100 / 118
= 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:
= Rs. 6,49,000 × 100 / 118
= Rs. 5,50,000 (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.

(4 MARKS)

(b) In EPCG scheme, first capital goods are imported without payment of customs duty and then export obligation is fulfilled.

In case of post export EPCG scheme, the capital goods are imported on full payment of applicable duties in cash. Later, basic customs duty paid on Capital Goods shall be remitted in the form of freely transferable duty credit scrips. **Capital goods imported under EPCG Authorisation for physical exports are also exempt from IGST and Compensation Cess upto 01.10.2018.**

In case integrated tax and compensation cess are paid in cash on imports under EPCG, incidence of the said integrated tax and compensation cess would not be taken for computation of net duty saved provided input tax credit is not availed.

These Duty Credit Scrips can be used for payment of applicable custom duties for imports. All other provisions of EPCG Scheme apply to post export EPCG scheme also.

Specific Export Obligation under this Scheme shall be 85% of the applicable specific EO [6 times of duties, taxes and cess saved on capital goods imported under EPCG scheme to be fulfilled in 6 years reckoned from authorization issue date]. Average EO remains unchanged.

Duty remission shall be in proportion to the Export Obligation fulfilled.

The advantage of the scheme is that the exporter does not have any specific export obligation when he imports capital goods on payment of full customs duty. Later, he gets remission on the basis of exports made by him.

(5 MARKS)

5. (a) (i) The provisions of section 76 of the CGST Act, 2017 make it mandatory on Subharti Enterprises to pay amount collected from other person representing tax under this Act, to the Government.

Section 76 of the CGST Act, 2017 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to

why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon. Interest is payable at the rate specified under section 50. Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

The proper officer shall issue an order within 1 year [excluding the period of stay order] from the date of issue of the notice. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(6 MARKS)

- (ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to Rs. 25,000. Therefore, penalty upto Rs. 25,000 can be imposed on Sagar, in the given case.

(3 MARKS)

- (b) In the case of Tirupati Udyog Ltd. v. UOI 2011 (272) E.L.T. 209 (A.P.), it is held that the clearances of goods from DTA to Special Economic Zone are not chargeable to export duty either under the SEZ Act, 2005 or under the Customs Act, 1962 on the basis of the following observations:-

- The charging section needs to be construed strictly. If a person is not expressly brought within the scope of the charging section, he cannot be taxed at all.
- SEZ Act does not contain any provision for levy and collection of export duty on goods supplied by a DTA unit to a Unit in a Special Economic Zone for its authorised operations. Since there is no charging provision in the SEZ Act providing for the levy of customs duty on such goods, export duty cannot be levied on the DTA supplier.
- Reading section 12(1) of the Customs Act, 1962 along with sections 2(18), 2(23) and 2(27) makes it apparent that customs

duty can be levied only on goods imported into or exported beyond the territorial waters of India.

Since both the SEZ unit and the DTA unit are located within the territorial waters of India, supplies from DTA to SEZ would not attract section 12(1) [charging section for customs duty].

The above view has also been confirmed in *Essar Steel v. UOI 2010 (249) ELT 3 (Guj.)* wherein the Departmental appeal has been dismissed by Supreme Court on 12.07.2010 - 2010 (255) ELT A115.

(5 MARKS)

6. **(a)** Section 87 of the CGST Act, 2017 stipulates that when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

Notwithstanding anything contained in the said order, for the purposes of the CGST Act, 2017, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order. The registration certificates of the said companies shall be cancelled with effect from the date of the said order.

(5 MARKS)

- (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 [Section 159(1) of the CGST Act, 2017]

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 of [Section 159(2) of the CGST Act, 2017].

(4 MARKS)

(c) DFIA is issued to allow duty free import of inputs, oil and catalyst which are required for production of export product. The goods imported are exempt ONLY from basic customs duty.

DFIA shall be issued on post export basis for products for which SION have been notified. Separate DFIA shall be issued for each SION and each port.

No DFIA shall be issued for an export product where SION prescribes 'Actual User' condition for any input.

Holder of DFIA has an option to procure the materials/ inputs from indigenous manufacturer/STE in lieu of direct import against Advance Release Order (ARO)/ Invalidation letter/ Back to Back Inland Letter of Credit. However, DFIA holder may obtain supplies from EOU/EHTP/BTP/STP/SEZ units, without obtaining ARO or Invalidation letter.

Drawback as per rate determined and fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product.

DFIA or the inputs imported against it can be transferred after the fulfillment of the export obligation. A minimum 20% value addition is required for issuance of DFIA except for items in gems and jewellery sector.

(5 MARKS)