



J.K. SHAH[®]
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SUGGESTED SOLUTION

CA FINAL NOV'19

SUBJECT- INDIRECT TAX

Test Code -

BRANCH - () (Date :)

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PART A : Multiple Choice Questions

ANSWER 1.

(2*10 = 20 marks)

1. D
2. A
3. A
4. D
5. C
6. C
7. C
8. A
9. D
10. A

ANSWER 2.

(1*10 = 10 marks)

1. C
2. D
3. C
4. D
5. B
6. B
7. D
8. B
9. C
10. D

PART B : DESCRIPTIVE QUESTIONS

----- (70 MARKS)

ANSWER : 1

(A) Computation of Input tax credit eligible for the tax period October, 2019 (amount in Rs.) :

Particulars	CGST	SGST	IGST
Total Input tax in a tax period [T]	1,08,000	1,08,000	54,000
Less :			
Tax on input services exclusively used for effecting supply of services for personal use [T ₁]	10,800	10,800	5,400
Tax on input services exclusively used for effecting exempt supply of services [T ₂]	18,000	18,000	7,200
Tax on inputs which are ineligible under section 17(5) [T ₃]	18,000	18,000	6,300
Amount of Input tax credited to the electronic credit ledger [C₁] C₁ = T – [T₁ + T₂ + T₃]	61,200	61,200	35,100
Less : Credit on input services exclusively used for supplying taxable services (including Zero rated supplies) [T ₄]	54,000	54,000	3,600
Common credit of input and input services used for providing supply of services [C₂] C₂ = C₁ – T₄	7,200	7,200	31,500
Total inadmissible common credit as per Rule 42(1) [D ₁ + D ₂] [WN]	2,160	2,160	9,450
Net eligible common credit C₃ = C₂ – [D₁ + D₂]	5,040	5,040	22,050
Total credit eligible i.e. [T₄ + C₃]	59,040	59,040	25,650
Amount to be reversed by the X Ltd. in FORM GSTR – 3B [D₁ + D₂]	2,160	2,160	9,450

(6 MARKS)

Working Note : Calculation of Amount of Input tax credit towards exempt supplies and supply made for non business use (amount in Rs.) :

Particulars		CGST	SGST	IGST
Aggregate Value of Exempted supply of services	[E]	15,00,000	15,00,000	15,00,000
Total Turnover for October, 2019	[F]	60,00,000	60,00,000	60,00,000
Credit attributable towards exempt supplies	D ₁ = [E + F] × C ₂	1,800	1,800	7,875
Credit attributable for supplies made for non business purpose as per Clause (j) of Rule 42(1)	[D ₂ = 5% × C ₂]	360	360	1,575
Total inadmissible common credit as per Rule 42(1)	[D₁ + D₂]	2,160	2,160	9,450

(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 dependant 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)

ANSWER : 2

(A) In the given situation, three supplies are involved :

- (i) Services provided by Musicera Pvt.Ltd. to audiences by way of admission to music concert.
- (ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organizing the music concert.
- (iii) Services provided by Hotel Dumdum to supriya (P) Ltd. by way of accommodation in the Hotel lawns for organizing the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under :

- (i) As per the provisions of section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to, inter alia, a cultural event shall be the place where the event is actually held.

Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows :

Consideration for supply (400 tickets @ Rs. 5,000 per ticket) = Rs. 20,00,000
IGST @ 18% on value of supply = Rs. 20,00,000 × 18% = Rs. 3,60,000.

- (ii) Section 12(7) (a) (i) of IGST Act, 2017 stipulates that the place of supply of services provided by way of organization of, inter alia, a cultural event to a registered person is the location of such person.

Therefore, the place of supply of services supplied by Supriya (P) Ltd. to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organizing the music concert is the location of the recipient, i.e. Ludhiana (Punjab).

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows :

Consideration for supply = Rs. 10,00,000

IGST @ 18% on value of supply = Rs. 10,00,000 × 18% = Rs. 1,80,000

- (iii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, inter alia, any cultural function shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriay (P) Ltd. by way of accommodation in Hotel lawns for organizing the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable. Therefore, CGST and SGST leviable will be computed as follows :

Consideration for supply = Rs. 4,00,000

CGST @ 9% on value of supply = Rs. 4,00,000 × 9% = Rs. 36,000

SGST @ 9% on value of supply = Rs. 4,00,000 × 9% = Rs. 36,000

If the price for the entry ticket is fixed at Rs. 450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is Rs. 450 as the inter – State services by way right to admission to, inter alia, musical performance are exempt from IGST vide Notification No. 9/2017 IT(R) dated 28.06.2017, if the consideration for right to admission to the event is not more than Rs. 500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

(3*3= 9 MARKS)

(B) Computation of customs duty payable thereon (amount in Rs.) :

Assessable value of sodium nitrite imported	30,00,000
Add : Basic custom duty @ 10% (Rs. 30,00,000 × 10%)	3,00,000
Add : Safeguard Duty	9,00,000
Add : Social Welfare Surcharge @ 10% of BCD [No SWS is leviable on safeguard duty]	30,000
Total for IGST	42,30,000
IGST u/s 3(7) of Customs Tariff Act (Rs. 42,30,000 × 18%)	7,61,400
Total Customs Duty Payable (Rs. 3,00,000 + Rs. 9,00,000 + Rs. 30,000 + Rs. 7,61,400)	19,91,400

Working Note : Safeguard duty is imposable in the given case since share of imports of sodium nitrite from the developing country **is more than 3%** of the total imports of sodium nitrite into India.

(5 MARKS)

ANSWER : 3

(A) Computation of Value of taxable supply and GST liability (amount in Rs.) -

Total Receipts	25,00,000
Less : Receipts of 'Gyan sagar' an industrial training institute (IT) affiliated to the National Council for Vocational Training (NCVT), are not liable to GST, since the same are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	(-) 1,20,000
Less : Receipts of 'Edu – care' a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC) are exempt vide Entry 69 of Notification No. 12/2017 – CT (Rate).	(-) 1,80,000
Less : Receipts of 'Abhigyan Skill Centre' an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Rajasthan, not liable to GST, since the same	(-) 2,00,000

are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	
Less : Receipts of ‘Mission’, an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training – Not liable to GST, since the same is exempt vide Entry 66 of Notif. No. 12/2017 – CT (Rate).	(-)1,00,000
Less : Receipts of ‘Scinart’ a Commercial coaching institute providing commercial coaching in the field of arts and science shall be liable for GST.	Taxable
Less : Receipts of ‘Commerce concepts’ a Commercial coaching institute providing coaching in the field of commerce shall be liable for GST irrespective of the fact that a certificate was awarded to each trainee after completion of the training.	Taxable
Less : Receipts of Gurukul school providing education upto higher secondary shall are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	(-) 6,00,000
Less : Receipts of ‘Play Kids’ school providing education upto primary level i.e. Rs. 8 lakhs are exempt vide entry 66 of Notification No. 12/2017 – CT (Rate). However, receipts from renting of premises by the school to commercial coaching centre shall be liable for GST.	(-) 8,00,000
Value of taxable supply	5,00,000
GST payable @ 18%	90,000

(9 MARKS)

- (B) As per Rule 6, at request of importer, Rule 8 may be applied before Rule 7. Hence, request of Mr. X to apply Rule 8 is valid and since Rule 8 data is available, the Customs Authorities cannot insist upon valuation as per Rule 7.

Computation of value as per Rule 8 :

1.	Cost of materials incurred by Mr. Paul	\$	2,000
2.	Fabrication charges incurred by Mr. Paul	\$	1,000
3.	Other chargeable expenses incurred by Mr. Paul	\$	400
4.	Other indirect costs incurred by Mr. Paul	\$	250
5.	Freight from Mr. Paul’s factory to US Port	\$	250
6.	Loading charges at US Port	\$	100
	Total Cost incurred by Mr. Paul	\$	4,000
7.	Normal net profit margin of Mr. Paul [20% of FOB or 25% of cost = 25% of \$ 4,000]	\$	1,000
	FOB Price		5,000
8.	Air freight from US Port to Indian [Air freight cannot exceed 20% of FOB, hence, restricted to 20% of \$ 5,000] [Rule 10(2)(a)]		1,000
9.	Insurance from US Port to Indian port [Rule 10(2)(b)]	\$	50
	CIF / Assessable Value under Customs		6,050
10.	Exchange Rate	\$	65
	Assessable Value under Customs		3,93,250

(5 MARKS)

ANSWER : 4 (A)

- (i) The principle of unjust enrichment is applicable in all cases of refund except in the following cases :-
- (a) Refund of tax paid on zero – rated supplies of goods or services or both or on inputs or input services used in making such zero – rated supplies.

- (b) Unutilized input tax credit in respect of (i) zero rated supplies made without payment of tax or, (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued.
- (d) refund of tax in pursuance of section 77 of CGST / SGST Act, i.e. tax wrongfully collected and paid to Central Government or State Government.
- (e) If the incidence of tax or interest paid has not been passed on to any other person.
- (f) Such other class of persons who has borne the incidence of tax as the Government may notify.

(5 MARKS)

(II) Determine of amount of fine in lieu of confiscation :

- (a) As per first proviso to Section 130(2) of CGST Act, 2017, in case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is the market value of the goods confiscated, less the tax chargeable thereon.

Therefore, in the given case, maximum fine leviable :

$$= \text{Rs. } 40,00,000 - \text{Rs. } 4,80,000 = \text{Rs. } 35,20,000$$

- (b) As per third proviso to Section 130(2) of CGST Act, 2017, In case where conveyance used for carriage of such goods is liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is equal to tax payable on the goods being transported thereon.

Therefore, in the given case, **maximum fine leviable = Rs. 4,80,000.**

(4 MARKS)

- (B)** The differences between transit and transshipment has been summarized in the table hereunder -

Basis of difference	Transit	Transshipment
Statutory provision	Section 53 of the Customs Act, 1962 provides for transit of goods and conveyance.	Section 54 of the Customs Act, 1962 provides for transshipment of goods.
Conveyance	In case of transit of goods, goods are allowed to remain on the same conveyance.	In case of transshipment of goods, the conveyance changes i.e. the goods are unloaded from one conveyance and loaded in another conveyance.
Documentation	In case of transit, the record already made in the ship's / aircraft's manifest continues. The imported goods are shown in the manifest as the same bottom cargo. Thus, there is continuity in the records and there is no chance of the control over such transit goods being lost.	In transshipment of goods, continuity in the records is not maintained as the goods are transferred to another conveyance.
Supervision	No supervision is required for transit goods.	Transshipment takes place under the supervision of the proper officer.
Additional Formalities	No additional conditions or formalities are required.	Specific conditions are imposed if the goods are deliverable at Indian port.
Port	Transit is allowed in every port normally.	Transshipment is allowed in specified ports only.

(5 MARKS)

ANSWER : 5 (A)

- (I) Beauty Cosmetics Ltd. would be required to prepare two separate e – way bills since each invoice value exceeds Rs. 50,000 and each invoice is considered as one consignment for the purpose of generating e – way bills.

The FAQs on E – way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e – way bills have to be generated. In other words, for each invoice, one e – way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved . Multiple invoices cannot be clubbed to generate one e – way bill. However, after generating all these e – way bills, one consolidated e – way bill can be prepared for transportation purpose, if goods are going in one vehicle.

(5 MARKS)

- (II) 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 1 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)**(B)**

Computation of Customs duty payable by Mrs. A (amount in Rs.) :

Personal effects like clothes of Mrs. A	Exempt
Used personal effects of infant	Exempt
Laptop	Exempt
Travel souvenirs	Exempt
Wine (upto 2 litres can be accommodated in GFA)	5,000
Mobile	20,000

Digital camera	60,000
Cigars (upto 25 nos. Can be accommodated in GFA)	1,340
Total dutiable goods imported (that can be accommodated in GFA)	86,340
Less : General Free Allowance under Rule 3	50,000
Balance goods on which duty is payable	36,340
Customs duty @ 38.5% (inclusive of SWS)	13,991

(5 MARKS)

ANSWER : 6 (A)

(I) Section 107(6) 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.

Section 112(8) lays down that no appeal can be filed before the Tribunal, unless the appellant deposits.

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) 20% of the remaining amount of tax in dispute,

In addition to the amount deposited before the AA, arising from the said order, in relation to which appeal has been filed.

Where the appellant has made the pre – deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

(4 MARKS)

(II) The cost to the ultimate consumer under two schemes is as under -

Particulars	Normal GST Scheme (Rs.)	Composition Scheme*(Rs.)
Cost of goods sold (*No credit under composition scheme, hence, cost of goods sold will be higher)	50,00,000	52,50,000
Add : Costs of maintaining records	1,20,000	50,000
Add : Normal Expenses	3,00,000	3,00,000
Total Cost	54,20,000	56,00,000
Sales (inclusive of all taxes)	60,00,000	60,00,000
Less : Tax (GST = Rs. 60 lakh × 5 ÷ 105) ; (Composite Tax = Rs. 60 Lakh × 1%)	2,85,714	60,000
Sales (net of taxes)	57,14,286	59,40,000
Profit of the dealer (Sales, net of taxes – Total Costs)	2,94,286	3,40,000

Conclusion : It is apparent that while cost to ultimate consumer, in both the cases remains same, the profit of the dealer is higher if the dealer opts for composition scheme. Hence, composition scheme should be opted.

(5 MARKS)

(B) The mandatory documents for export / import of goods from /into India are as under -

(1) Mandatory documents required for export of goods from India :

- (a) Bill of Lading / Airway Bill/ Lorry Receipt / Railway Receipt / Postal Receipt.
- (b) Commercial Invoice cum Packing List [Separate Commercial Invoice and Packing List would also be accepted.]
- (c) Shipping Bill / Bill of Export.

(2) Mandatory documents required for import of goods into India :

- (a) Bill of Lading / Airway Bill / Lorry Receipt/ Railway Receipt / Postal Receipt.
- (b) Commercial Invoice cum Packing List [Separate Commercial Invoice and Packing List would also be accepted.]
- (c) Bill of Entry

(3) Additional documents required for restricted goods : For export or import of specific goods or category of goods, which are subject to any restrictions/ policy conditions or require NOC or product specific compliances under any statute, the regulatory authority concerned may notify additional documents for purposes of export or import.

(4) Additional documents to ensure legal compliance : In specific cases of export or import, the regulatory authority concerned may electronically or in writing seek additional documents or information, as deemed necessary to ensure legal compliance.

(5) The above stipulations are effective from 1st April, 2015.

(5 MARKS)