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Division A

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Division B

1. (a) (i) Notification No. 12/2017 CT(R) dated 28.06.2017 (hereinafter referred to as exemption notification) which exempts various services from GST leviable thereon exempts select services provided to an educational institution.

Here, the “educational institution” means an institution providing services by way of,-

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;

The select services which are exempt when provided to an educational institution are-

- (i) transportation of students, faculty and staff;
- (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
- (iii) security or cleaning or house-keeping services performed in such educational institution;
- (iv) services relating to admission to, or conduct of examination by, such institution;
- (v) supply of online educational journals or periodicals

However, the services mentioned in point (i), (ii) and (iii) are exempt only when the same are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Also, the supply of online educational journals or periodicals are not exempt from GST when provided to-

- (i) pre-school education and education up to higher secondary school or equivalent; or
- (ii) education as a part of an approved vocational education course.

In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are approved by The All India Council

for Technical Education (AICTE). Therefore, since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution in terms of the exemption notification.

Similarly, Nanhi Mutthi and Gyan Vaibhav, being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification.

However, Bright Minds, being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on goods and services received by these educational institutions during April 20XX- September 20XX is computed as under:

Particulars	KIT	Nanhi Mutthi	Bright Minds	Gyan Vaibhav
	(Rs.)	(Rs.)	(Rs.)	(Rs.)
Printing services for printing the question papers (paper and content are provided by the Institutions)	Exempt		18,000 [1,50,000 x 12%]	Exempt
Paper procured for printing the question papers – [Supply of select services to educational institutions is exempt and not supply of goods to such educational institutions]	51,600 [4,30,000 x 12%]		30,960 [2,58,000 x 12%]	41,280 [3,44,000 x 12%]
Courier services for sending the admit cards for the examination, to the students	Exempt			
Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt			
Rent for exam centers taken on rent like schools etc, for conducting examination	Exempt		18,000 [1,00,000 x 18%]	
Subscription for online educational journals [Nanhi Mutthi has taken the subscription for online periodicals on child development and experiential learning]	Exempt	14,400 [80,000 x 18%]	39,600 [2,20,000 x 18%]	4,320 [2,40,000 x 18%]
Hire charges for buses used to transport	86,400	Exempt	23,400	Exempt

students and faculty from their residence to college and back	[4,80,000 x 18%]		[1,30,000 x 18%]	
Catering services for running a canteen in the campus for students Catering service provided to preschool and the higher secondary school is exempt irrespective of whether the same is provided within or outside the premises of the preschool and the higher secondary school	16,000 [3,20,000 x 5%]	Exempt	9,000 [1,80,000 x 5%]	Exempt
Security and housekeeping services for the institution(s) Security and housekeeping service provided to pre-school and the higher secondary school for the student event organised in a banquet hall will be taxable as only the security and housekeeping service provided within the premises of the pre-school and the higher secondary school are exempt.	1,08,000 [6,00,000 x 18%]	Exempt	67,500 [3,75,000 x 18%]	14,400 [80,000 x 18%]
Total GST payable on goods and services received by the educational institutions	2,62,000	14,400	2,06,460	60,000

(5 Marks)

- (ii) (1) Sl. No. 1 of Notification No. 12/2017 CT (R) dated 28.06.2017 exempts services provided by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities. Here, “charitable activities” means activities relating to inter alia advancement of educational programmes or skill development relating to,-
- (A) abandoned, orphaned or homeless children;
 - (B) physically or mentally abused and traumatized persons;
 - (C) prisoners; or
 - (D) persons over the age of 65 years residing in a rural area;

In the given case, though Sarvshiksha Trust is registered under section 12AA of the Income-tax Act, 1961, none of the educational institutions run by it are providing services by way of charitable activities. As is seen from the relevant extract of the definition of the charitable activities given above, only when the education is provided relating to the persons mentioned therein, it becomes charitable activity under GST laws. However, in the given case, education is not provided to any specific group or category of persons as specified above, but to all the categories of

children/candidates approaching the college / preschool / coaching institute / higher secondary school. Therefore, the education services provided by the Sarvshiksha Trust is not exempt under Sl. No. 1 of the exemption notification.

- (2) Sl. No. 66 of Notification No. 12/2017 CT(R) dated 28.06.2017 also exempts services provided by an educational institution to its students, faculty and staff. All the educational institutions run by the Sarvshiksha Trust except Bright Minds are educational institutions in terms of the exemption notification (as explained under point (i) above). Therefore, the education services, transport services and catering services provided by KIT, Nanhi Mutthi, and Gyan Vaibhav to its students will all be exempt from GST under Sl. No. 66 of the exemption notification. Thus, only the educational services provided by Bright Minds will be liable to GST @ 18%. The catering services provided by Bright Minds will be liable to GST @ 5%.
- (3) No input tax credit (ITC) will be availed on inputs and input services used in providing exempt education services, i.e. education services by KIT, Nanhi Mutthi, and Gyan Vaibhav. Only Bright Minds will be entitled to avail ITC on inputs and input services used in providing taxable education services. However, as per the information given in the question, while providing the catering service, Bright Minds has not availed any ITC of catering service received by it from third parties.
- (4) Since there are no common inputs and input services being used for providing taxable and exempt services, the need for reversal of ITC attributable to exempt supplies will not arise.

In the light of the foregoing provisions, the net GST liability of Sarvshiksha Trust, which will comprise of only the tax liability of Bright Minds, is computed as under:

Particulars	Bright Minds (Rs.)
Tuition fee	20,00,000
Transport fee charged from students	1,30,000
Value of output supply taxable @ 18%	21,30,000
GST liability @ 18% [A]	3,83,400
Value of output supply taxable @ 5% [Charges for food]	2,40,000
GST liability @ 5% [B]	12,000
Total GST liability [A]+[B]	3,95,400
Less: ITC [Total tax payable by Bright Minds on the service received by it as computed in point (i) above less the tax payable on catering charges (Rs. 2,06,460 - Rs. 9,000)]	1,97,460

Net GST payable from Electronic Cash Ledger**1,97,940****(5 Marks)**

- (b)** Yes, the contention of the Department is correct. As per Notification No. 12/2017 CT (R) dated 28.06.2017, carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce is exempt under GST.

Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators, but by rice millers. Milling of paddy into rice also changes its essential characteristics.

Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. In view of the above, it is clarified by CBIC that milling of paddy into rice is not eligible for exemption under said notification. Thus, GST is payable on the said activity.

(4 Marks)

- 2. (a)** Computation of net GST liability of Surana & Sons for the period April 20XX – September 20XX

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
Common credit attributable to exempt supplies during the period April 20XX – September 20XX [Refer Working Note 2]	4,74,820
Total GST liability	8,55,820
Less: Input tax credit (ITC) [Refer Working Note 3]	7,53,000
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	1,02,820

charge cannot be set off against the input tax credit and thus, will have to be paid in cash.]

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
<p>Consultancy services provided to independent clients located in foreign countries under LUT.</p> <p>[The activity is an export of service in terms of section 2(6) of the IGST Act, 2017 as-</p> <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; and • supplier of service and recipient of service are not merely establishments of distinct person. <p>[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.]</p>	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	4,00,000	Nil

vide Notification No. 12/2017 CT (R) dated 28.06.2017]		
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 -[Refer Working Note 3 below]	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 in the given case will be the sum of value of output supply on which tax is payable under reverse charge (Rs. 6,00,000), value of sale of building (Rs. 2,50,000 / 2 x 100 = Rs. 1,25,00,000) and value of sale of shares (1% of Rs. 2,50,00,000 = Rs. 2,50,000), which comes out to be Rs. 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 20XX- September 20XX**

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'	63,000
ITC available in the Electronic Credit Ledger	7,53,000

(9 Marks)**(b) Computation of assessable value of machine imported by Shubham & Co. Ltd.**

Particulars	Amount (£)
Price of the machine	10,000
Add: Engineering and design charges paid in UK [Note 1]	500
Licence fee relating to imported goods payable by the buyer as a condition of sale (20% of price of machine) [Note 1]	2,000
Total	12,500
	Amount (Rs.)
Value in Indian currency [£12,500 x Rs.100] [Note 2]	12,50,000
Add: Materials and components supplied by the buyer free of cost [Note 1]	20,000
FOB	12,70,000
Add: Freight [Note 3]	2,54,000
Insurance paid to the insurer in India [Note 1]	6,000
CIF value	15,30,000
Assessable value (rounded off)	15,30,000.00

Notes:

- Engineering and design charges paid in UK, licence fee relating to imported goods payable by the buyer as a condition of sale, materials and components supplied by the buyer free of cost and actual insurance charges paid are all includible in the assessable value [Rule 10 of the Customs (Determination of Value of Imported Goods) Rules, 2007].
- As per explanation to section 14(1) of the Customs Act, 1962, assessable value should be calculated with reference to the rate of exchange notified by the CBIC.
- If the goods are imported by air, the freight cannot exceed 20% of FOB value [Fifth proviso to rule

10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].

4. Buying commission is not included in the assessable value [Rule 10(1)(a) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
5. Only ship demurrage charges on chartered vessels are included in the cost of transport of the imported goods. Thus, demurrage charges for delay in clearing the machine from the airport will not be includible in the assessable value [Explanation to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].

(5 Marks)

3. (a) As per explanation to rule 33 of the CGST Rules, 2017, a “pure agent” means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil ALL the above conditions in order to qualify as a pure agent.

In the given case, Rudra Logistics has been authorised by the recipient of supply - Rolly Polly Manufacturers Ltd. - to incur, on its behalf, the expenses incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient, i.e. expenses mentioned in S.No. (ii) to (vii). Further, Rudra Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Rudra Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Rudra Logistics qualifies as a pure agent.

Further, rule 33 of the CGST Rules, 2017 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of Supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the

payment to the third party on authorisation by such recipient;

- (II) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Rudra Logistics as a pure agent of Rolly Polly Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Rudra Logistics will be computed as under:

Particulars	Amount (Rs.)
Agency charges	5,00,000
Add: Unloading of machine at Kandla port, Gujarat	Nil
Add: Charges for transport of machine from Kandla port, Gujarat to its Rudra Logistics' godown in Ahmedabad, Gujarat	Nil
Add: Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	Nil
Add: Customs duty	Nil
Add: Dock charges	Nil
Add: Port charges	Nil
Add: Hotel expenses	45,000
Add: Travelling expenses	50,000
Add: Telephone expenses	2,000
Value of supply	5,97,000

However, if Rudra Logistics charges Rs. 13,00,000 as a lump sum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd., Rudra Logistics would incur expenses (ii) to (vii) for its own interest (as the agreement requires it to get the imported machine cleared from the customs station and bring the same to the Rolly Polly Manufacturers Ltd.'s warehouse). Thus, Rudra Logistics would not be considered as a pure agent of Rolly Polly Manufacturers Ltd. for said services.

Consequently, in that case, value of supply will be Rs. 13,00,000.

(9 Marks)

- (b) Yes, the import duty already paid can be claimed back on five mainframe computer systems imported by Pinnacle Pvt. Ltd. in accordance with the provision of section 74 of Customs Act.

Under this section, it is provided that when goods capable of being easily identified, which have been imported into India and upon which duty has been paid on importation are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation, 98% of such duty shall be paid back as drawback. However, the goods should be identified to the satisfaction of Assistant Commissioner of Customs as the goods that were imported and the goods should have entered for export within two years from the date of payment of duty on the importation thereof.

Further, it is provided in the section that 98% of drawback shall be allowed only in those cases where the goods have not been used at all after the importation. Various percentages have been fixed by the Government as the amount of drawback payable in respect of goods that are used after their importation.

In the instant case, all the conditions specified in provisions of section 74 are satisfied. The goods are identifiable, import duty has been paid and they are scheduled to be exported within the prescribed time limit. However, the goods have been used for some time. Here, the period between the date of clearance for home consumption and the date when the goods are placed under the customs control for export is more than 9 months, but not more than 12 months. Therefore, Pinnacle Pvt. Ltd. will be eligible for the drawback claim at the rate of 70% (rate notified by the Government in such case) of the import duty paid.

(5 Marks)

4. (a) (i) As per section 2(68) of the CGST Act, 2017, job work means any treatment or process undertaken by a person on **goods belonging to another registered person** and the expression "job worker" shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the principal. Thus, the job worker is expected to work on the goods sent by the principal.

Therefore, when the goods are manufactured by Sudama Industries Ltd. for Plasto Manufacturers, it is job work as the manufacturing process is undertaken on inputs (plastic and moulds) supplied by the principal (Plasto Manufacturers) and when goods are manufactured for Solid Pipes, it is manufacture on own account as the pipes are manufactured from company's own raw material. Further, manufacture on job work basis is a supply of service in terms of para 3 of Schedule II to the CGST Act, 2017 and manufacture of pipes on own account is a supply of goods.

(2½ Marks)

- (ii) It has been clarified vide Circular No. 38/12/2018 GST dated 26.03.2018 that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

(1 Mark)

- (iii) Section 143 of the CGST Act, 2017 provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work. Subsequently, on completion of the job work, the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools). Thus, the provision relating to return of goods is not applicable in case of moulds, dies, jigs, fixtures and tools.

If the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out.

Therefore, sending of plastic and moulds by Plasto Manufacturers to Sudama Industries Ltd. (job worker) is not supply as the manufactured pipes are received back within the stipulated time and the provisions relating to return of goods are not applicable in case of moulds.

Rule 45 of the CGST Rules provides that the inputs, semi-finished goods or capital goods being sent for job work shall be sent under the cover of a challan issued by the principal.

Therefore, Plasto Manufacturers need not issue a taxable invoice for sending the inputs to Sudama Industries Ltd. but should send the inputs under the cover of a challan.

(3 Marks)

(iv) As per section 15(2)(b) of the CGST Act, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both, is includible in the value of supply. However, Sudama Industries Ltd. should not include the value of free of cost plastic supplied by Plasto Manufacturers in its job charges as Sudama Industries Ltd. is manufacturing the plastic pipes on job work basis. The scope of supply of the Sudama Industries Ltd. is to manufacture plastic pipes from the **raw material supplied by the Plasto Manufacturers**. Thus, at no point of time was Sudama Industries Ltd. (supplier of job work service) liable to pay for the raw material and therefore, the value thereof should not be included in its job charges even though the same has been incurred by Plasto Manufacturers (recipient of job work service).

(2½ Marks)

(b) As per rule 3 of the 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 Rs. 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 Rs. 50,000 per passenger. Thus, duty liability of Mr. Roy and his wife is nil for the used personal effects worth Rs. 80,000 and 2 music systems each worth Rs. 50,000.

As per rule 5 of the Baggage Rules, 2016, the jewellery allowance is as follows:

Jewellery brought by	Duty free allowance
Gentleman Passenger	Jewellery upto a weight of 20 grams with a value cap of Rs. 50,000
Lady Passenger	Jewellery upto a weight of 40 grams with a value cap of Rs. 1,00,000

However, the jewellery allowance is applicable only to a passenger residing abroad for more than 1 year.

Consequently, there is no duty liability on the jewellery brought by Mr. Roy as he had stayed abroad for period exceeding 1 year and weight of the jewellery brought by him is 20 grams with a value less than Rs. 50,000.

However, his wife is not eligible for this additional jewellery allowance as she had stayed abroad for

a period of less than a year. Thus, she has to pay customs duty on the entire amount of jewellery brought by her as she has already exhausted the general duty free baggage allowance of Rs. 50,000 allowed under rule 3.

(5 Marks)

5.

(a)

(i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c) of the CGST Act, 2017]. Therefore, it is not mandatory for a person seeking advance ruling to be registered.

(2 Marks)

(ii) Section 97(2) of the CGST Act, 2017 stipulates the questions/matters on which advance ruling can be sought. It provides that advance ruling can be sought for, inter alia, determining the classification of any goods or services or both. Therefore, Ranjan can seek the advance ruling for determining the classification of the goods proposed to be supplied by him.

Further, section 103 of the CGST Act provides that an advance ruling pronounced by AAR is binding only on the applicant who had sought it and on the concerned officer or the jurisdictional officer in respect of the applicant. This implies that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

(3 Marks)

(iii) Section 103(2) of the CGST Act, 2017 stipulates that the advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed. Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/question, it will be binding till the time the law, facts and circumstances supporting the original advance ruling remain same.

(2 Marks)

(iv) No, the tax advisor's view is not correct. As per section 100 of the CGST Act, 2017, if the applicant is aggrieved with the finding of the AAR, he can file an appeal with Appellate Authority for Advance Ruling (AAAR). Similarly, if the concerned/ jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

Such appeal must be filed within 30 days from the receipt of the advance ruling. The

Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

(2 Marks)

- (b) As per explanation to rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the chief reasons on the basis of which the proper officer can raise doubts on the truth or accuracy of the declared value may include:-
- (a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
 - (b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;
 - (c) the sale involves special discounts limited to exclusive agents;
 - (d) the mis declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
 - (e) the non declaration of parameters such as brand, grade, specifications that have relevance to value;
 - (f) the fraudulent or manipulated documents.

(5 Marks)

6.

- (a) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under CGST Act, dies, then:
- **business is continued after his death:** if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act.
 - **business is discontinued after his death:** if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(4 Marks)

- (b) Section 161 of the CGST Act lays down that 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 decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any GST

officer or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.

However, no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document. Further, the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.

Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

(5 Marks)

- (c) The Foreign Trade Policy is closely knit with the Customs laws of India. However, the policy provisions per-se do not override tax laws. The exemptions extended by FTP are given effect to by issue of notifications under respective tax laws (e.g., IGST Act, CGST Act, SGST/UTGST Act, Customs Tariff Act, 1975, Central Excise Act, 1944, Customs Act, 1962 etc.). Thus, actual benefit of the exemption depends on the language of exemption notifications issued by the CBIC.

In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance/ Tax Authorities cannot question the decision of authorities under the Ministry of Commerce (so far as the issue of authorization etc. is concerned).

Decision of Director General of Foreign Trade (DGFT) is final and binding in respect of (a) Interpretation of any provision of foreign trade policy or provision of Handbook of Procedures, Appendices, Aayat Niryat Forms (b) Classification of any item in ITC(HS).

(5 Marks)