



FINAL – MAY 2018 INDIRECT TAX LAWS

Test Code –F62

Branch () (Date : 15.02.2018)

(50 Marks)

Note: All questions are compulsory.

Question 1 (5 Marks)

Sale of Unutilized Material: The provisions are as under –

- (a) Disposal of unutilized Material: In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be –
 - (i) Transferred to another EOU / EHTP / STP / BTP / SEZ unit.
 - (ii) Disposed off in DTA with approval of Customs authorities on payment of applicable duties and submission of import authorization; or
 - (iii) Exported.

Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit. (2 marks)

- (b) Disposal of Capital goods: Capital goods and spares that have become obsolete or surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ unit or disposed off in DTA on payment of applicable duties.

Benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed. (1 mark)

- (c) In case of Destruction of goods – No duty payable: No duty shall be payable in case capital goods, raw materials, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / permission of Customs authorities. Destruction as stated above shall not apply to gold, silver, platinum, diamond, precious and semi-precious stones. (1 mark)
- (d) Disposal of packing material: Disposal of used packing material will be allowed on payment of duty on transaction value. (1 mark)

Question 2 (5 Marks)

Questions for which advance ruling can be sought [section 97(2)] : Advance Ruling can be sought for the following questions – (1/2 mark for each point)

- (a) Classification of any goods or services or both;
- (b) Applicability of a notification issued under provisions of this Act;
- (c) Determination of time and value of supply of goods or services or both;
- (d) Admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) Determination of the liability to pay tax on any goods or services under the Act;

- (f) Whether applicant is required to be registered under the Act;
- (g) Whether any particular thing done by the applicant with respect to any goods or services amounts to result in a supply of goods or services, within the meaning of that term.

Question 3 (4 Marks)

Liability in case of transfer of business [Section 85]:

(1) Liability arising prior to transfer – Joint and several liability of transferor and transferee [Section 85(1)]:

- Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever,
- The taxable person and the person to whom the business is so transferee shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter (2 marks)

(2) Liability arising post transfer – Transfer liable for tax dues [Section 85(2)] : Where the transferee of a business carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services of both effected by him with effect from the date of such transfer.

Further, if he is a registered person under this act, apply within the prescribed time for amendment of his certificate registration. (2 marks)

Question 4 (8 Marks)

Contents of informations in GSTR – 1 – [Explanation to Section 37 read with Rule 59(2) of CGST rules]: The kinds of details of outward supplies which are furnished in CSTR – 1 are as under –

(1) invoice wise and consolidated details : The registered person is required to furnish details of invoices and revised invoices issued in relation to supplies made by him to registered and unregistered persons during a month in GSTR - 1 in the following manner :

	Invoice – wise details of ALL	Consolidated details of ALL
(i)	Inter State and Intra – State supplies made to registered persons i.e. B2B supplies	Intra – state supplies made to registered persons for each rate of tax Inter state supplies made to unregistered persons with invoice value upto ₹ 2,50,000 for each rate of tax separately for each state.
(ii)	Interstate supplies made to unregistered persons with invoice value exceeding ₹ 2,50,000 i.e. B2B supplies	

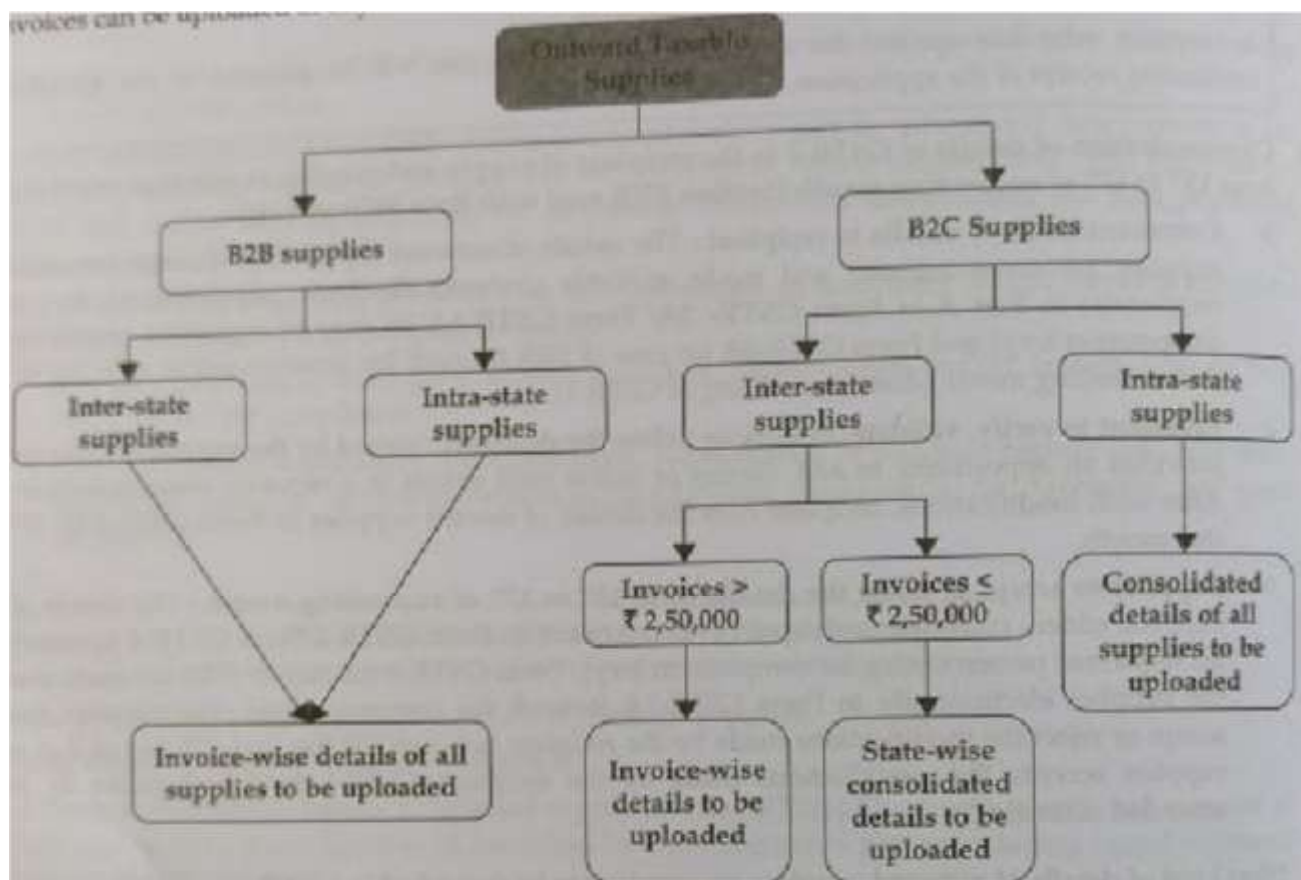
Thus uploading of invoices depends on whether the supply is B2B or B2C plus whether the supply is intra-State or Interstate.

B2B means business to business transaction. In such type of transactions, the recipient is also a registered supplier and hence, takes ITC	B2C means business to consumer transaction. In such type of transaction, the recipient is consumer or unregistered and hence, will not take or cannot take ITC
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B2B supplies : for such supplies, all invoices will have to be uploaded irrespective of whether they are intra – state or inter - state supplies. This is so because the recipient will take ITC and thus, invoice matching is required to be done.

B2B supplies : For B2B supplies uploading in general may not be required as the buyer will not be taking ITC. However, still in order to implement the destination based principle, invoices of value more than ₹ 25 lakh in inter –state B2B supplies will have to be uploaded. For inter –state invoices below ₹ 2.5 lakhs, State wise summary will be sufficient and for all intra – State invoices, only consolidated details will have to be given.

Invoices can be uploaded at any time during the tax period and not just at the time of filing. (4 marks)



- (2) Debit notes and credit notes: The registered person is required to furnish details of debit and credit notes if any, issued during the month for invoices issued previously. (1 mark)
- (3) Other aspects: The following aspects are to be noted : (3 marks)
- (a) Invoices can be modified, deleted any number of times till the submission of GSTR – 1 of a tax period the uploaded invoice details are in draft version till the GSTR -1 is submitted and can be changed irrespective of due date.
- (b) There is no need to upload scanned copies of invoices. Only certain prescribed fields of information from invoices need to be uploaded e.g. invoice no. date, value, taxable value, rate of tax, amount of tax etc. In case there is no consideration, but the activity is a supply by virtue of Schedule 1 of CGST Act, the taxable value have to be worked out as prescribed and uploaded.
- (c) Description of each item in the invoice will not be uploaded. Only HSN code in respect of supply of goods and accounting code in respect of supply of services will have to be field. The same depends upon the annual turnover of preceding financial year. As per notification No. 12/3017/ - CT dated 28-6-2017, the number of digits of HSN code to be quoted are as under :

Annual turnover in the preceding financial year	Number of Digits of HSN Code
Upto ₹ 1.5 crore	Nil
More than ₹ 1.5 crore and upto ₹ 5 crore	2
More than ₹ 5 crore	4

Question 5 (4 Marks)

If any tax order to be refunded under section 54(5) to any applicant, and such tax is not refunded within 60 days from the date of receipt of application under section 54(1), interest at @6% p.a. shall be payable in respect of such refund from the date of immediately after the expiry of 60 days from the date of receipt of application till the date of refund of such tax. (1 ½ mark)

Amount of refund	[A]	5,00,000
Date of making application	[B]	01-10-2017
60 days period from the date of application expires on	[C] = [E] + 60days	30-11-2017
Date of making refund	[D]	25-12-2017
No. of days for which interest to be granted	[E] = [D] – [C]	25
Interest on refund @6%	[A] x [E] x 6% ÷ 365	2,055

The relevant computation is as follows (amount in ₹) – (2 ½ mark)

Question 6 (4 Marks)

Computation of GST liability:

particulars	CGST(₹)	SGST(₹)	IGST(₹)
Inter- state – sale: (1 mark)			
Goods 'A' sold to Kolkata (IGST@12%)	-	-	4,800
Goods 'B' sold to Kolkata (IGST@18%)	-	-	4,500
Inter- state- sale : (1 mark)			
Goods 'b' sold within state (CGST/SGST@9% each)	3,150	3,150	-
Less: Eligible input tax credit [(₹ 60,400x100/112)x12%] [(₹ 82,600x100/118)x18%]	2,700	2,700	12,600
Net amount of CGST/SGST/IGST (1 mark)	450	450	-3,300
Less: IGST used to set off payment liability of CGST and SGST in order	450	450	-900
Net amount of IGST credit to be carried forward (1 mark)	Nil	Nil	-2,400

Question 7 (4 Marks) (2 marks for each point)

Period of retention of account [section36]:

- (1) Account to be kept for 72 months from the due date of furnishing of annual return: Every registered person required to keep and maintain books of account or other record in accordance with provisions of section

35(1) shall retain them until the expire of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and record

For example : if the annual return for the FY 2017-18 are filed on say 15/-12-2018, then the books of accounts and other record are to be maintained till 31-12-2024.

- (2) Accounts pertaining to subject matter of appeal etc. - to be kept for period of CNE year after final disposal of such appeal etc. or for 72 months from the due date furnishing of annual return whichever ever period expires later : A registered person,-
- Who is a party to an appeal or revision or any other proceeding before any Appellate Authority or Revisional authority or Appellate tribunal or court, whether filed by him or by the commissioner or is under investigation for an offence under chapter XIX,
 - Shall retain the books off account and other record pertaining to the subject- matter of such appeal or revision or proceeding or investigation for-

- A period of 1 year after final disposal of such appeal or revision or proceeding or investigation, or
- For the period specified above i.e until the expiry of 72 months from the due date of furnishing of whichever is later.

Question 8 (8 Marks)

As per section 18(4), where any registered person who has availed input tax credit and the good or service or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of input held in stock and inputs contained in semi-finished goods held in stock and on capital goods taking useful life of capital goods 54 years, on the day immediately preceding the date of such exemption.

The balance of input tax credit, if any lying in his electronic credit ledger shall lapse. (2 marks)

Accordingly, Royal Ltd. will have to pay an amount computed as following: (5 marks)

-Particular	₹
Input lying in stock (credit = ₹ 1,12,000 x 12 ÷ 112) (Net price; exclusive of tax)	12,000
Inputs in process (₹ 80,610 x 12 ÷ 112)	8,640
Inputs contained in finished goods lying in stock (₹ 5,60,000 x 50% x 12 ÷ 112)	30,000
Input tax on Capital goods used for 9 months taking residual life as 5 years (₹ 72,000 x 51 ÷ 60) (51 months being remaining life of capital goods) (Rule 44 of CGST Rules, 2017)	61,200
Amount to be paid by Royal Ltd.	1,11,840

The aforesaid amount can be paid by utilizing the Balance in Electronic credit Ledger. The balance credit

₹ 1,52,000 - ₹ 1,11,840 = ₹ 40,160 shall lapse.

If balance in Electronic credit Ledger is ₹ 1,00,000: If the balance Electronic credit Ledger as on 01 – 05 – 2018 is ₹ 1,00,000 then, Royal Ltd. will have to pay in cash an amount of = ₹ 1,11,840 - ₹ 1,00,000 =

₹ 11,840. (1 mark)

Question 9 (4 Marks)

In case any exporter or importer in the country violates any provision of the Foreign Trade Policy or that matter any other law in force, like Central Excise or Customs or Foreign Exchange, his IEC number can be cancelled by the office of DGFT and thereupon that exporter or importer would not be able to transact any business in export and import. The premises where any violation of the provisions of FTP has taken place or is expected to take place can be searched and the suspicious material seized. (3 marks)

Violations would cover situations when import or export has been made by unauthorized persons who are not legally allowed to carry out import or export or when any person carries out or admits to carry out any import or export in contravention of the basic FTP. (1 mark)

Question 9 (5 Marks)

Yes, PQR Ltd. can avail input tax credit on receipt of taxable supply of goods. But it is required to pay the consideration along with tax within 180 days from the date of issue of invoice. (1 mark)

- If PQR Ltd. does not make payment within 180 days from the date of invoice: As per Rule 37 of CGST Rules, 2017, a registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to make payment to the supplier within 180 days from the date of issue of

invoice shall furnish the details of such supply and the amount of input tax credit proportionate to such unpaid amount, availed of, in FROM GSTR – 2 in succeeding month after expiry of 180 days.

In this case since PQR Ltd. does not make any payment within 180 days from date of invoice i.e. upto 11th May 2018, therefore amount equal to input tax credit availed by PQR Ltd. shall be added towards its output tax liability along with interest for the month of June, 2018 in which details of such supplies are required to be furnished.

Interest shall be calculated @ 18% [as given u/s 50(1) for the period starting from date of availing credit till the date when input tax credit added to the output tax liability is paid. (3 marks)

Particulars		₹
Amount of Input tax		12,000
[A]		15 – 12 – 2017
Date of availing credit		15 – 06 – 2018
[B]		182
Date of payment of ITC added to output tax liability		1,077
[C]		
No. of days for which interest to be paid	[D] = [B] –	
[C]		
Interest @ 18% to be paid on 15 – 06 – 2018 ($\frac{12000 \times 18\% \times 182}{365}$)		

- ii. Re – credit of Input tax if payment made after 180 days: If PQR Ltd. makes payment of 15 – 09 – 2018 that is after 180 days from date of issue of invoice, then it shall be entitled to avail the credit of input tax. (1 mark)
