

Question 1

- A) As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds ` 20 lakh.

However, if such taxable supplies are made from any of the specified special category States, namely, States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ` 10 lakh.

In the given question, since Rishabh Enterprises is engaged in making taxable supplies from Maharashtra which is not a specified Special Category State, the threshold limit for obtaining registration is ` 20 lakh.

The threshold limit is not reduced to ` 10 lakh in this case, as sale of alcoholic liquor for human consumption from Uttarakhand (one of the specified Special Category States) are non-taxable supplies in terms of section 9(1) of CGST Act, 2017.

As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

(2 marks)

In the light of the afore- mentioned provisions, the aggregate turnover of Rishabh Enterprises is computed as under: **(3 marks)**

Computation of aggregate turnover of Rishabh Enterprises

Particulars	Turnover of February (₹)	Cumulative turnover of February & March (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [` 5,50,000 + ` 6,50,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand [Note-1]		5,00,000
Add: Interest received from banks on the Fixed Deposits [Note-2]	1,00,000	2,00,000 [` 1,00,000 + ` 1,00,000]

Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [` 1,50,000 + ` 2,00,000]
Aggregate Turnover	8,00,000	22,50,000

Notes:

1. As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.
2. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt vide *Notification No. 12/2017 CT (R) dated 28.06.2017*. Thus, interest received from banks on the fixed deposits is an exempt supply and is, therefore, includible while computing the aggregate turnover.

Rishabh Enterprises was not liable to be registered in the month of February since its aggregate turnover did not exceed ` 20 lakh in that month. However, since its aggregate turnover exceeds ` 20 lakh in the month of March, it should apply for registration within 30 days from the date on which it becomes liable to registration.

B) Conditions and restriction for composition levy [Rule 5]:

(1) Conditions which are to be satisfied for composition levy [rule 5 (1)]: the person exercising the option to pay tax under section 10 shall comply with the following conditions, namely:-

- (a) he is neither a casual taxable person nor a non-resident taxable person;
- (b) the goods held in stock by him on the appointed day have not been purchased in the course of inter-state trade or commerce or imported from a place outside India or received from his branch situated outside the state or from his agent or principal outside the state, where the option is exercised under rule 3(1);
- (c) the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under section 9(4);
- (d) he shall pay tax under section 9 (3)/(4) (reverse charge) on inward supply of goods or services or both;
- (e) he was not engaged in the manufacture of goods as notified under section 10(2)(e) **i.e. ice cream, pan masala and tobacco**, during the preceding financial year;
- (f) he shall mention the words **“composition taxable person, not eligible to collect tax on suppliers”** at the top of the bill of supply issued by him; and
- (g) he shall mention the words **“composition taxable person”** on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or place of business. **(4 mark)**

(2) No need to file fresh intimation every year [rule 5(2)]: The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules. **(1 mark)**

- C)
- ‘Clear first-Pay later’ i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have a seamless wharf to warehouse transit in order to facilitate just-in-time manufacturing. This scheme is in force w.e.f. 16th November, 2016. **(1 mark)**
- (ii) Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty (eligible importers).

As a part of the ease of doing business focus of the Government of India, the CBEC has rolled out the AEO (Authorized Economic Operator) programme. **(1 ½ marks)**

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBEC.

(iii) The due dates for payment of deferred duty are – **(1 ½ marks)**

S. No.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty,	
		inclusive (excluding	of the period (holidays) as mentioned in section 47(2)
1.	1 st day to 15 th day of any month	16 th day of that month	
2.	16 th day till the last day of any month other than March	1 st day of the following month	
3.	16 th day till the 31 st day of March	31 st March	

(iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the bill of entry. **(1 mark)**

D) The relevant provisions are as under –

(1) Investment criteria – minimum investment ` 1 crore: Only projects having a minimum investment of ` 1 crore in plant & machinery shall be considered for establishment as EOUs.

However, this shall not apply to existing units in EHTP / STP / BTP, Handicrafts / Agriculture / Floriculture / Aquaculture / Animal Husbandry / Information Technology, Services, Brass Hardware and Handmade jewellery sectors.

BoA may also allow establishment of EOUs with a lower investment criteria. **(1 mark)**

(2) Applications and Approvals:

Applications to UAC in specified cases – Disposal of applications within 15 days: Applications for setting up of units under EOU scheme shall be approved or rejected by the Units Approval Committee within 15 days as per criteria indicated in Handbook of Procedures (HBP).

Other cases – Approval by BOA: In other cases, approval may be granted by BoA set up for this purpose as indicated in HBP.

EOU requiring industrial license: Proposal for setting up EOU requiring industrial license may be granted approval by DC after clearance of proposal by BoA and DIPP within 45 days. **(3 mark)**

(3) Conversion of DTA unit into an EOU / EHTP / STP / BTO: Applications for conversion into an EOU / EHTP / STP / BTP unit from existing DTA units, having an investment of ` 50 crores and above in plant and machinery or exporting ` 50 crores and above annually, shall be placed before BoA for a decision **(1 mark)**

Question 2

A) Section 22(1) of the CGST Act, 2017 *inter alia* provides that every supplier, whose aggregate turnover in a financial year exceeds ` 20,00,000, is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services.

However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a) of CGST Act, 2017.

In the given case, the turnover of the company for the half year ended on 30.09.20XX is ` Rs 40 lakh which is more than the threshold limit of ` 20 lakh. Therefore, as per section 22 of CGST Act 2017, the company will be liable to registration. However, since SNP Pvt. Ltd. supplied exempted goods till 31.10.20XX, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3) of the CGST Act, 2017.

However, the position will change from 01.11.20XX as the supply of goods become taxable from that day and the turnover of company is above ` 20 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of ` 20 lakh includes exempt turnover also.

Therefore, turnover of 'Z' will be considered for determining the limit of ` 20 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01.11.20XX (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

Further, the company cannot avail exemption of ` 20 lakh from 01.11.20XX as the GST law does not provide any threshold exemption from payment of tax but threshold exemption from obtaining registration (which in this case had been crossed).

B) The general provision relating to import of goods and services are as under:

(1) Import of goods and/ or services – Deemed to be inter-state supply: Under the GST regime, Article 269A of the Constitution provides that the supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter – state trade or commerce for levy of integrated tax. So import of goods or services will be treated as deemed inter-state supplies and would be subject to integrated tax.

Accordingly, section 7 of the IGST Act stipulates that import of goods/ services into the territory of India shall be treated as supply of goods / services in the course of inter-state trade or commerce. Resultantly, import of goods or services will be treated as deemed inter-state suppliers and would be subject to integrated tax

(2) Mechanism for levy of IGST on goods / services: While IGST on import of services would be leviable under the IGST Act, the levy of the IGST on import of goods would be levied under the Customs Act, 1962 read with the Custom Tariff Act, 1975. The importers of services will have to pay tax on reverse charge basis. However, in respect of import of online information and database access or retrieval services (OIDAR) by unregistered, non-taxable recipients, the suppliers located outside India shall be responsible for payment of taxes.

C) The relevant provisions are discussed as under – (2 MARKS EACH)

- (a) **Cognizable Offence:** A cognizable offence is a criminal offence in which the police is empowered to register an FIR, investigate, and arrest an accused without a court issued warrant.
- (b) **Non – cognizable Offence:** A non – cognizable offence is an offence in which police can neither register an FIR, investigate, nor effect arrest without the express permission or directions from the court.

- (c) **Bailable Offence:** A bailable offence is a criminal offence in which the accused shall be offered to be released on suitable bail upon his arrest by the police or the court informing about his right to be so released.
- (d) **Non – bailable Offence:** A non – bailable offence is an offence in which the accused person shall not be automatically entitled to be released on bail. However, it does not mean that the court may not order him to be released on suitable bail – without any conditions.

Question 3

A)

Computation of export duty(2 mark)

Particulars	Amount (US \$)
Assessable Value	50,000
	Amount (`)
Assessable Value = US \$ 50,000 x ` 65	32,50,000
Export duty @ 10%	3,25,000

Notes:- (2 mark)

1. The transaction value i.e., FOB price of export goods is considered as assessable value in terms of section 14(1) of the Customs Act, 1962.
2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by CBEC on date of presentation of shipping bill of export.
3. The rate of duty prevalent on the date of let export order is considered for computing export duty in terms of section 16(1)(a) of the Customs Act, 1962.

B)

The High Court in a case of *Akanksha Syntex (P) Ltd. v Union of India 2014 (300) ELT 49 (P&H)* has addressed the issue that whether unconditional release of goods can be claimed under section 110(2) in a case where goods have been ordered to be released provisionally under section 110A of the Customs Act, 1962.

It made the following significant observations in that case: **(2 marks)**

- (i) Section 110(2) of the Customs Act, 1962 strikes a balance between the Revenue's power of seizure of goods and an individual's right to get the seized goods released by prescribing a limitation period of 6 months from the date of seizure if no show cause notice (SCN) within that period has been issued under section 124 (a) of the Customs Act, 1962 for confiscation of the goods.
- (ii) Any order for provisional release shall not take away the right of the assessee to get his seized goods released where SCN is not issued under section 124 within 6 months [or extended period].
- (iii) The remedy of provisional release is independent of remedy of claiming unconditional release under section 110(2) of the Customs Act, 1962.

Therefore, in view of the afore-mentioned observations of the High Court, the stand taken by the Department is not correct.

However, Bombay High Court took a contrary view in case of *Jayant Hansraj Shah v. Union of India and Others 2008 (229) E.L.T. 339 (Bom.)*. It rejected the plea of the petitioner of unconditional release of the seized goods, with the following observations:- **(2 mark)**

- (i) It is only in the case where no provisional order is passed for release of the seized goods and if no notice is issued under section 124(a) for confiscation of the goods, will the section 110(2) apply and the respondent will be bound to release the goods.
- (ii) Any other reading of the section would mean that a person whose goods are seized would seek a provisional release of the goods, get an order of provisional release, allow the authorities to proceed to believe on that basis that such person seeks to release the goods provisionally and on the expiry of the period of six months if notice is not issued under section 124(a) then contend that the terms for provisional release of the goods are no longer binding as the period of six months has expired and no notice has been served.
- (iii) The period of notice is only when the respondents seek to confiscate the goods. If there be a provisional release order it is not within the jurisdiction of the respondents to proceed to issue the notice under section 124. There fore, as procedure for confiscation could not have been initiated pursuant to the order of provisional release the contention that the goods should be released has to be rejected.

Note: Students may answer on the basis of either of the case laws, i.e. *Akanksha Syntex (P) Ltd. v Union of India 2014 (300) ELT 49 (P&H)* or *Jayant Hansraj Shah v. Union of India and Others 2008 (229) E.L.T. 339 (Bom.)*.

C) Place of supply of services provided directly in relation to immovable property or boat or vessel [Section 12(3) of IGST Act, 2017]: In respect of the following services the place of supply shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located: **(2 marks for each point)**

(1) Services directly in relation to an immovable property, including -

(i) Services provided by –

- (a) Architects,**
- (b) Interior decorators,**
- (c) Surveyors,**
- (d) Engineers, and**
- (e) Other related experts or estate agents,**

(ii) Any services provided by way of grant of rights to use immovable property; or for carrying out or co-ordination of construction work; or

(2) Services by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

(3) Services by way of accommodation in any immovable property for organizing –

- Any marriage or reception or matters related there to,
- Official, social, cultural, religious or business function

Including services provided in relation to such function at such property; or

(4) Any services ancillary to the services mentioned above.

Thus, in all above cases, location of the immovable property or the boat or the vessel is the place of supply.

If the services have been supplied for an immovable property which is yet to be constructed/ developed (e.g. architect's services for drawing the plan of a building), the place where such immovable property is intended to be located is the place of supply.

If Immovable property is located or intended to be located outside India – POS shall be the location of recipient: If the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Immovable property located at more than one State or Union Territory [Explanation]: where the immovable property or boat or vessel is located in more than one State or Union Territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to –

- The value of services separately collected or determined in terms of the contract or agreement entered into in this regard, or
- In the absence of such contract or agreement, on such other basis as may be prescribed.

The above explanation is applicable where the immovable property extends to more than one location, for example, a railway line, a national highway or a bridge on a river may originate in one state and end in the other state or a house boat stay may traverse in more than one State.

Question 4

A) Bar on subsequent application for settlement in certain cases [Section 127L]: Where –

(i) an order of settlement provides for the imposition of a penalty on the person who made the application for settlement, on the ground of concealment of particulars of his duty liability; or **(1 mark)**

Explanation: The concealment of particulars of duty liability relates to any such concealment made from the Custom officer. **(1 mark)**

(ii) after the passing of an order of settlement in relation to a case, as aforesaid, such person is convicted of any offence under this Act in relation to that case; or **(1 mark)**

(iii) the case of such person is sent back to the Custom Officer having jurisdiction by the Settlement Commission under section 127-l, **(1 mark)**

Then, he shall not be entitled to apply for settlement in relation to any other matter.

B) Documentary requirements and conditions for claiming input tax credit [Rule 36(1)]: The relevant provision are discussed as under –

(1) Documents on basis of which Input tax credit can be availed [Rule 36(1)]: The Input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely, -

- a) An invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- b) Invoice issued by recipient (receiving goods and. Or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge) ;
- c) A debit note issued by a supplier in accordance with the provisions if Section 34;
- d) A bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- e) An Input Service Invoice or Input Service Distributors credit note or any document issued by an Input Service Distributors. **(2 mark)**

(2) Documents must contain prescribed particulars and relevant information to be furnished by registered person [Rule 36(2)]: Input tax credit shall be availed by a registered person only if –

- a) All the applicable particulars are contained in the said document, and
 b) The relevant information, as contained in the said document, is furnished in **FORM GSTR-2** by such person.
(1 mark)

(3) ITC cannot be availed on tax demands on account of fraud etc. [Rule 36(3)]: No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts. **(1 mark)**

Note: Section 16 and the CGST rules do not specify that a particular copy of the invoice alone will form the basis of taking ITC. However, rule 48 of the CGST Rules specifies that the original copy is for the recipient of goods. The original copy may preferably be kept for record to support the credit entry.

c)

Computation of net GST payable by M/s XYZ(4 mark)

Particulars	GST payable (₹)
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

Working Notes

Computation of gross GST liability(1 mark)

Particulars	Value received (₹)	Rate of GST	GST payable (₹)
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: (3 mark)

- (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%.

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

Particulars	GST paid (₹)	ITC available (₹)
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.

Question 5

A) Access to business premises [Section 71]:

(1) Access to business premises to inspect books of accounts, documents etc. [Section 71(A)]: Any officer under this Act, authorized by the proper officer not below the rank of Joint Commissioner, -

- Shall have access to any place of business of a registered person
- To inspect books of account, documents, computers, computers programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place,
- For the purpose of carrying out any audit, scrutiny, verification and checks
- As may be necessary to safeguard the interest of revenue **(1 mark)**

(2) Records, audit reports etc. to be submitted to auditors for security [Section 71(2)]: Every person in charge of place referred to in Section 71(1) shall, on demand, make available to –

- The officer authorized under Section 71(1), or
- The audit party deputed by the proper officer, or
- A cost accountant or chartered accountant nominated under Section 66 –

The following records –

- (i) records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
- (ii) trial balance or its equivalent;
- (iii) statements of annual financial accounts, duly audited, wherever required;
- (iv) cost audit report, if any, under section 148 of the Companies Act, 2013;
- (v) the income-tax audit report, if any under section 44AB of the Income-tax Act, 1961; and
- (vi) Any other relevant record. **(2 mark)**

(3) Records to be made available within 15 days: Such records etc. shall be made available –

(a) For the security by the officer or audit party or the chartered accountant or cost accountant

(b) Within a period not exceeding 15 working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant **(1 mark)**

B) Attachment of debts and shares, etc. [Rule 151]:

(1) Attachment of debt/ share/ movable property not in possession of defaulter [Rule 151(1)]: A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in **FORM GST DRC _ 16** prohibiting -

- In the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;
- In the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;
- In the case of any other movable property, the person in possession of the same from giving it to the defaulters. **(2 mark)**

(2) Service of attachment order [Rule 151(2)]: A copy of such order shall be affixed on some conspicuous part of the officer of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same. **(1 mark)**

(3) Payment by debtor to proper – deemed payment to defaulter Officer [Rule 151(3)]: A debtor, prohibited under Rule 151(1)(a), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter. **(1 mark)**

C) Determination of the method of valuation [Rule 3]:

(1) Transaction value: As per rule 3(1), the value of the export goods shall be the transaction value. However, such transaction value is subject to the provision of Rule 8 i.e. the proper officer has a right to reject such transaction value.

According to Section 14(1), transaction value means the '**price actually paid or payable**' for goods when sold for export from India for delivery at the time and place of exportation, where the buyer and seller of the goods are not related, and price is the sole consideration for the sale.

(2) Valuation in case of related persons: The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.

(3) Valuation when transaction value not acceptable: In case the transaction cannot be determined, then the value shall be determined proceeding sequentially through Rules 4 to 6. **(3 mark)**

Determination of export value by comparison [Rule 4]:

(1) The value of the export goods shall be based on the transaction value of "goods of like kind and quality" exported at or about the same time to other buyers in the same destination country of importation or, in its absence, another destination country of importation, adjusted in accordance with provisions given below. **(1 mark)**

(2) adjustments to be made: In determining the value of export goods as above the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-

- a) Difference in the dates of exportation,
- b) Difference in commercial levels and quantity levels,
- c) Difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
- d) Difference in domestic freight and insurance charges depending on place of exportation. **(2 mark)**

Computed Value [Rule 5]: If the value cannot be determined under Rule 4, it shall be based on a computed value, which shall be include in the following:

- a) Cost of production, manufacture or processing of export goods;
- b) Charges, if any, for the design or brand;
- c) An amount towards profit. **(2 mark)**

Question 6

A) Section 2(13) of the IGST Act, 2017 defines "intermediary" to mean a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account. **(1 mark)**

In this case, since ABC Pvt. Ltd. is arranging or facilitating supply of goods between the foreign customer and the Indian vendor, the said services can be classified as intermediary services.

If the location of the supplier of services or the location of the recipient of service is outside India, the place of supply is determined in terms of section 13 of the IGST Act, 2017. Since, in the given

case, the recipient of supply is located outside India, the provisions of supply of intermediary services will be determined in terms of section 13 of the IGST Act, 2017. **(2 mark)**

As per section 13(8)(b), the place of supply in case of intermediary services is the location of the supplier i.e., the location of ABC Pvt. Ltd. which is New Delhi. Further, as per section 8(2) of the IGST Act, 2017, supply of services where the location of the supplier and the place of supply of services are in the same State is treated as intra-State supply. **(1 mark)**

Therefore, since in the given case, both the location of ABC Pvt. Ltd. and the place of supply of the service provided by it are in New Delhi, the supply of service will be an intra-State supply leviable to CGST & SGST.

Assuming that the given rate of exchange is prevailing on the date of time of supply of services, the CGST and SGST liability will be worked out as under:

CGST = ` 5,85,000 (1,00,000 x 65 x 9%)

SGST = ` 5,85,000 (1,00,000 x 65 x 9%)**(2 mark)**

B) Stores [Section 2(38)]: “Stores” means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

The statutory provisions relating to stores are contained in Sections 85 to 90 which are as follows:-

(1) Stores may be allowed to be warehoused without assessment of duty [Section 85]: Where any imported goods are entered for warehousing and the importers makes and subscribes to a declaration that the goods are to be supplied as stores to vessel or aircrafts without payment of import duty, the proper officer may permit the goods to be warehoused without being assessed to duty. **(1 mark)**

(2) Transit and Transshipment of stores [Section 86]: Any stores imported in a vessel or aircraft may, without payment of duty, remain on board such vessel or aircraft while it is in India. Any stores imported in a vessel or aircraft may be transferred to any vessel or aircraft as stores for consumption therein as provided in Section 87 or Section 90, with the permission of the proper officer. **(01 mark)**

(3) Imported stores may be consumed on board of a foreign-going vessel or aircraft [Section 87]: Any imported stores on board of foreign-going vessel or aircraft (other than stores meant for ship of Indian Navy to which Section 90 applies) may be consumed there on as stores without payment of duty. **(1 mark)**

(4) Drawback on export of stores [Section 88]: If any stores are “taken on board any foreign-going vessel or aircraft as stores”, then the same shall be regarded as export and duty drawback shall be allowed of the import duty so paid. However, in case of fuel and lubricating oil taken on board any foreign-going aircraft as stores, 100% drawback shall be admissible under Section 74. **(1 mark)**

(5) Stores to be free of export duty [Section 89]: Goods produced or manufactured in India and required as stores on any foreign-going vessel or aircraft may be exported free of duty in such quantities as the proper officer may determine, having regard to the size of the vessel / aircraft, the number of passengers and crew and the length of the voyage or journey on which the vessel or aircraft is about to depart. **(1 mark)**

C) The time limit for issue of invoice is as under –

(1) Time limit for issuance of invoice in case of suppliers of goods [Section 31(1)]: A registered person supplying taxable goods shall issue invoice **before or at time of**, -

- a) Removal of goods for supply to the recipient, where the supply involves movement of goods; or
- b) Delivery of goods or making available thereof to the recipient, in any other case. **(1 ½ mark)**

(2) Issuance of invoice in case of continuous supply of goods [Section 31(A)]: In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued **before or at the time** each such statement is issued or, as the case may be, each such payment is received. **(2 mark)**

Continuous supply of goods [Section 2(32)]: “Continuous supply of goods” means a supply of goods –

- Which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the suppliers invoices the recipient on a regular or periodic basis, and
- Includes supply of goods as the Government may, subject to such conditions, as it may, by notification, specify

(3) Goods sent on approval – Invoice requirement [Section 31(7)]: Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued –

- Before or at the time of supply , or
- 6 months from the date of removal,

Whichever is earlier. (1 ½ mark)

Question 7

A) (i) Consequent to omission of section 62 of the Customs Act, 1962 by the Finance Act, 2016, the warehouses are now under record based controls and not under the physical control (under lock of customs) of the customs officer. The licensee of a private warehouse has the custody and control of the warehouse and goods kept therein. However, a class of warehouses, known as special warehouses under section 58A of the Customs Act, 1962. Thus, the intention of the proper officer is not fully correct. **(2 marks)**

- (ii) In the given case, Sankesh Collaborators can cancel the bond executed by it provided the transferee executes the bond under section 59 for an amount equal to thrice the duty amount involved and furnish prescribed security. **(2 marks)**

B) As per explanation to Section 12(3) of IGST Act, 2017, where the immovable property is located in more than one state, the supply of service shall be treated as made in each of the states in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf. **(3 marks)**

Therefore, the place of supply of construction services of the road from Delhi to Mumbai shall be in each of the states where the service is supplied. **(1 mark)**

C) **Deemed registration [Section 26]: The provisions of deemed registrations are as under –**

- (1) **RC/UIN granted under SGST/UTGST Act – Deemed registration under CGST Act [Section 26(1)]:** The grant of registration or the UIN under the SGST Act or the UTGST Act shall be deemed to be grant of registration or the UIN under this Act subject to the condition that the application for registration or the UIN has not been rejected under this Act within the time specified in 25(10). **(2 marks)**
- (2) **Rejection of registration application under SGST / UTGST Act – Deemed rejection under CGST Act [Section 26(2)]:** Any rejection of application for registration or the UIN under the SGST Act or the UTGST Act Shall be deemed to be a rejection of application for registration under this act **(2 marks)**

D) **No tax invoice if the value is less than `200 [Section 31(3)(b) read with 4th proviso to Rule 46]:** A registered person may not issue a Tax Invoice if:

- i. Value of the goods or services or both supplied is less than `200,
- ii. The recipient is unregistered; and
- iii. The recipient does not require such invoice.

Instead such registered person shall issue a **Consolidated Tax Invoice** for such suppliers at the close of each day in respect of all such supplies. **(2 marks)**

Thus, small taxpayers, like small retailers, doing a large number of small transactions for up to a value of `200 per transaction to unregistered customers need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transaction done during the day. However, they should also issue an invoice when the customer demands.

Above provision are also applicable to Bill of Supply. **(2 marks)**

E) **No.** According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In the case, there are two transactions – where we purchase the goods from the vendors, and where we sell it through our website. **(2 marks)**

For the first transaction, GST is leviable, and will need to be paid to our vendor, on which credit is available for us. The second transaction is a supply on our own account and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates. **(2 marks)**