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SUGGESTED SOLUTION

CA FINAL – MAY'19

SUBJECT- IDT

Test Code - **FNJ 7144**

BRANCH - () (Date :)

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Answer 1:

- 1) A
- 2) C
- 3) B
- 4) A
- 5) C
- 6) B
- 7) C
- 8) D
- 9) C
- 10) G
- 11) A
- 12) B
- 13) B
- 14) C
- 15) D
- 16) B
- 17) D
- 18) A
- 19) A
- 20) B
- 21) C
- 22) A
- 23) C
- 24) B
- 25) C
- 26) A
- 27) A
- 28) C
- 29) B
- 30) C

Answer : 2

(A) The place of supply shall be determined as follows :

Service supplied	Supplier	Recipient	Place of supply	Reason
Organisation of the event	BB Ltd. of Delhi	AISA of Bengaluru	Bengaluru	As per section 12(7) for services by way of organisation of an event supplied to a registered person, the place of supply shall be the location of such person.
Assigning of sponsorship	AISA Bengaluru	XYZ Ltd. Rajasthan	Rajasthan	As per Section 12(7) where services ancillary to organisation of events or assigning of sponsorship to such events is supplied to a registered person, the place of supply shall be the location of such person.
Admission to the event	AISA Bengaluru	Mr. A of Chennai	Gurgaon	As per Section 12(6) in case of services provided by way of admission to an event, the place of location shall be the place where the event is actually held.

(5 MARKS)

(B) The amount of drawback is computed herein below –

Goods	Workings	Drawback Rs.
a) Motor car for personal use [Sec 74]	<ul style="list-style-type: none"> • Not put to use • Drawback Rate = 98% Note : If section 26A applies, full refund of Rs. 4,50,000 can be claimed	4,41,000 [98% of Rs. 4,50,000]

(b) (i) Music Player (assumed for personal use) [Sec 74]	<ul style="list-style-type: none"> Use = 4 months = 2 quarters of 1st year Drawback Rate = 100% - 4% × 2 = 92% 	11,040 [92% of Rs. 12,000]
(b) (ii) Music Player (if not for personal use) [Sec 74]	<ul style="list-style-type: none"> Use = 4 months [3 to 6 months] Drawback Rate = 85% 	10,200 [85% of Rs. 12,000] [Not rational assumption]
(c) Metal [Secs. 75 & 76]	<ul style="list-style-type: none"> Gross = 1,000 Kg. × Rs. 60 per Kg. = Rs. 60,000 Market Price/ Wholesale price of Goods = Rs. 40,000 [as per section 2(30), wholesale price is taken to be the market price] 	NIL (As per section 76, since market price Rs. 40,000 is less than drawback Rs. 60,000, no drawback shall be allowed.)

(5 MARKS)

ANSWER : 3

(A) Computation of GST liability

1. Services by way of breeding of fish – It is agriculture – Not taxable [Exempt under Entry 54]	Exempt
2. Service of rearing of horses – It doesn't amount to agriculture – Taxable	Rs. 8 lakh
3. Supply of farm labour – Not taxable [Exempt under Entry 54]	Exempt
4. Job – work in relation to agriculture – Exempted	Exempt
5. Leasing of vacant land for storage of agricultural produce – Not taxable [Exempt under Entry 54]	Exempt
6. Loading and unloading of agricultural produce – Not taxable [Exempt under Entry 54]	Exempt
7. Farmer education and training – Not taxable [Exempted under Entry 54]	Exempt
8. Various testing services in relation to agriculture (Rs. 1 lakh for seed testing, Rs. 1.5 lakh for soil testing and Rs. 2.5 lakh for testing of plant samples) – Not taxable [Exempt under Entry 54]	Exempt
9. Loading, Unloading, Packing, etc. of paddy Rs. 25,000, rice Rs. 75,000 – For paddy, it is in exempt under Entry 54 and for rice it is exempt under Entry 24 of Mega Exemption – No tax	Exempt
10. Warehousing of bamboo (minor forest produce) – Not taxable [Exempt under Entry 24A]	Exempt
11. Artificial Insemination of cows (Rs. 1 lakh) and horses (Rs. 2 lakh) – For cows, it is in exempt under Entry 55A and for horses, it is not exempt	Rs. 2 lakh
12. Ripening of Fruits – Not taxable [Exempt under Entry 57]	Exempt
Taxable value	Rs. 10 lakh
GST thereon @ 18%	Rs. 1,80,000

(10 MARKS)

(B) As per Section 39(9), if any registered person, after furnishing the return u/s 39(1)/(2)/(3)/(4)/ or (5) discovers any omission or any incorrect particulars therein, he shall rectify the same in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed.

Thus, there is no scope for filing of revised return but the rectification can be made in the month in which it is discovered. Herein, the rectification can be made in the return for the month of December.

However, time limit has been prescribed within which the rectification can be made, being earlier of.

- Due date for furnishing or return for the month of September or second quarter following the end of the financial year = 20 – 10 – 2019 ;or
- The actual date of furnishing of relevant annual return, whichever is earlier.

(5 MARKS)

(C)

FOB Price [Cost \$ 10,000 + Transport in foreign country \$ 500 + Handling in foreign country for loading goods in ship \$ 50] [FoB comprises of all such charges upto the stage foreign supplier ships the goods and the risk is assumed by the importer]	\$ 10,550.00
Exchange rate notified by the CBIC (in force on date of presentation of bill of entry)	Rs. 45.00
	Rs.
FoB price in Indian Rs.	4,74,750.00
Add : Buying commission [Not includible in view of provisions of Rule 10(1)(a)]	NIL
Customs FoB	4,74,750.00
Add : Cost of transport / handling under Rule 10(2)(a) [1,000 \$ × Rs. 45]	45,000.00
Add : Insurance under Rule 10(2)(b) @ 1.125% of Customs FoB, assuming unascertainable	5,340.94
CIF or Assessable Value	5,25,090.94

(5 MARKS)

ANSWER : 4

(A) Computation of Input tax credit eligible for the tax period October, 2018 (Rs.)

Particulars		CGST	SGST	IGST
T	Total Input tax credit in a tax period	1,08,000	1,08,000	54,000
T1	Credit exclusively used for supply of services for personal use	10,800	10,800	5,400
T2	Credit exclusively used for exempt supply	18,000	18,000	7,200
T3	Credit availed on input which are ineligible under Section 17(5)	18,000	18,000	6,300
C1	Amount of Input tax credited to electronic credit ledger [T – [T1 + T2 + T3]]	61,200	61,200	35,100
T4	Credit on input services exclusively used for supplying taxable services (Including Zero rated supplies) [T4]	54,000	54,000	3,600
C2	Common credit of input and input services C2 = C1 – T4	7,200	7,200	31,500
	Total inadmissible common credit as per Rule 42(1) [D1 + D2] [See Note]	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 added to output tax liability of X Ltd. is [D1 + D2]	2,160	2,160	9,450

Working Note – Attribution: Portion out of common credit used for exempted/ personal / non – business use

Particulars		CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
E	Value of Exempted supply of services (interest is not included)	15,00,000	15,00,000	15,00,000
F	Total Turnover for October, 2018	60,00,000	60,00,000	60,00,000
D1	Credit attributable towards exempt supplies D1 = [E/F] × C2	1,800	1,800	7,875
D2	Credit attributable for supplies made for non business purpose as per Rule 42(1) is deemed at [D2 = 5% × C2]	360	360	1,575
	Total inadmissible common credit as per Rule 42 (1) (D1 + D2)	2,160	2,160	9,450

(10 MARKS)

(B) Computation of amount of redemption fine and total payment

Market Value	Rs. 5,00,000
Total cost of the goods to importer (Value/ cost before duty Rs. 3,00,000 + Duty Rs. 1,20,000)	Rs. 4,20,000
Margin of profit	Rs. 80,000

Proposed amount of fine = 50% of Margin of profit = Rs. 80,000 × 50%	Rs. 40,000
Maximum Fine [Section 125 (1) = 'Market price of goods 5,00,000 – Duty chargeable 1,20,000	Rs. 3,80,000
Since proposed amount of fine is less than the maximum amount of fine permissible under section 125, the redemption fine payable by the importer would be Rs. 40,000.	Rs. 40,000
Total payment to be made by importer to clear consignment = Duty Rs. 1,20,000 + Fine Rs. 40,000	Rs. 1,60,000

(6 MARKS)

- (C) **Date of registration is 10th August** : As per sec. 25 read with CGST Rules, 2017, if an applicant submits application for registration within 30 days from date he becomes liable to registration, effective date of registration is date on which he becomes liable to registration. Since Pari & Son's turnover exceeded Rs. 20 lakh on 10th August, it become liable to registration on same day. Further, it applied for registration within 30 days of becoming liable to registration, effective date of registration = date on which he becomes liable to registration, i.e. 10th August.

Revision of invoices issued between date of becoming liable to registration to date of actual registration :

- As per sec. 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than date of issuance of certificate of registration to him, may issue Revised Tax Invoices.
- Revised Tax Invoices shall be issued in 1 month from date of issuance of registration in respect of taxable supplies effected during period starting from effective date of registration till the date of issuance of certificate of registration. Thus, Pari & son's has to issue the Revised Tax Invoices in respect of taxable supplies effected during period starting from effective date of registration (10th August) till the date of issuance of certificate of registration (1st September) within 1 month from date of issuance of certificate of registration, i.e. on or before 1st October.

ANSWER : 5

(A) **CC v. Aban Loyd Chiles Offshore Ltd. [2017 (346) E.L.T. 513 (S.C.)]**

Facts : Assessee purchased rigs for use in oil field of ONGC. Assessee brought same to port for repairs, with permission from Commissioner under Not. 153/94 – Cus. And after repairs, same was moved out of port for 2 times. On repairs and return for third time, department argued that it amounted to 'import of goods' and liable to duty.

Held : (1) If rig is used for operations within territorial waters of India, rig would be 'an imported goods meant for home consumption' u/s 46. Expression 'consumption' does not involve complete using up of commodity and would include putting the commodity to use to any type of utility within the territory of India. However, mere repair of a vessel is not putting the vessel to use in India and would not result in home consumption as the vessel was not utilized within the territory of India. Repairs are carried on the vessel and not to utilize the vessel. It would not amount to utilization or operation of the vessel/rig in India. **Thus, it cannot be said that rig was imported into India for home consumption and therefore, same is not liable to duty.** There is difference between vessel / aircraft conveyance, no customs duty is payable on value of such vessel/ aircraft.

- (2) However, even if it does not amount to import, it is required to comply with procedure under Customs Act, 1962. Since there was violation of other provision and there was unloading without permission of officers, confiscation and redemption fine was upheld.
- (3) Rig engaged in operations outside territorial waters of India would be foreign going vessel ; but, rig carrying on operations within territorial waters of India is not foreign going vessel.

(5 MARKS)

(B) The position is as follows –

Offence	Amount involved	Bailability	Punishment	Punishment for repeat offence
Falsifying Financial	4 lakh	Bailable & Non cognizable	Imprisonment for upto 6 months or with fine	Imprisonment for a term which may

records			or both	extend to 5 years and with fine
Non – payment of collected tax	520 lakh > 5 crore	Non – Bailable cognizable assuming dues are pending for more than 3 months	Imprisonment for upto 5 years and with fine	Imprisonment for a term which may extend to 5 years and with fine

(5 MARKS)

(C) The principle in relation to **Doctrine of promissory estoppel v. Public Interest** is :

- (i) Exemptions are granted in public interest. Therefore, they may be withdrawn in public interest.
- (ii) Principle of promissory estoppel, which means that the Government cannot withdraw the promise made, doesn't apply to withdrawal of exemptions granted for a period/ purpose, which are withdrawn before expiry of that period / purpose owing to overriding public interest.
- (iii) But, an exemption cannot be withdrawn unreasonably or arbitrarily and withdrawal of exemption promised for a period can be challenged on that ground. Govt. must prove that withdrawal was in public interest.
- (iv) Plea of promissory estoppel fails when public interest intervenes.
- (v) Huge loss of public revenue is ground in public interest & exemption may be withdrawn for that reason.

On similar facts, in Unicorn Industries v. UOI [2013] 290 ELT 33 (Sikkim), that withdrawal of assured 10 years Exemption granted to units located in Sikkim was held unconstitutional because assessee had made investments based on promises by Government and such promise could not be withdrawn without any justification. The Government can curtail/ reduce/ restrict benefits of 10 – year exemption only from date of amendment and said amendment would apply only to units established after amendment. However, as regards units already established owing to promise made, benefit cannot be curtailed arbitrarily.

Therefore, M/s. AKS co. (P) Ltd. appears to be correct in its contention.

(5 MARKS)

(D) Time of supply of goods in each of the above cases has been given in following table –

	DoI	DoP	ToS
1.	Earlier of – (a) 15.12.2018 (actual) : OR (b) Date of supply (5.12.2018) or 6 months from removal (1.6.2019), whichever is earlier = 5.12.2018 = i.e., 5.12.2018	25.12.2018	5.12.2018
2.	Earlier of – (a) 15.12.2018 (actual); Or (b) Date of supply (15.12.2018) or 6 months from removal (1.6.2019), whichever is earlier = 15.12.2018 = i.e., 15.12.2018	12.12.2018	12.12.2018 [ToS = DoI = 15.12.2018 in case of non – composition dealer]
3.	Earlier of – (a) 25.7.2019 (actual); OR (b) Date of supply (25.7.2019) or 6 months from removal (1.6.2019), whichever is earlier = 1.6.2019 = i.e. 1.6.2019	20.07.2019	1.6.2019

(5 MARKS)

ANSWER : 6

(A) As per Section 75(12), in a case where the amount of GST payable has been self – assessed in the return, but not paid either in full or in part, the same shall be recovered along with interest thereon, in any of the modes specified in section 79. Impliedly, therefore, there is no need for notice u/s 73 or 74.

In view of the above, the following three issues raised herein are answered below :

- (i) **Direct recovery of admitted dues** : Since dues are admitted in return, there is no need for issuance of any notice. Hence, direct recovery u/s 79 is valid.

- (ii) **Time – limit** : Since section 73 to 74 does not apply i.e. there is no need for issuance of any notice, there is no question of any time – bar. So, recovery may be initiated forthwith within reasonable time – limit.
- (iii) **Interest** : Interest is to be paid mandatorily as per section 50, as interest is automatic and mandatory. Moreover, this is the mandate of section 75 (12) also.

(5 MARKS)

(B) As per Foreign Trade Policy, supply of domestically manufactured goods –

- (a) by an Indian Sub – contractor (say Mr. M)
 (b) to any Indian or foreign main contractor (here, Mr. A).
 (c) directly at the designated project's / Agency's site,

Shall also be eligible for deemed export benefit provided name of sub – contractor is indicated either originally or subsequently (but before the date of supply of such goods) in the main contract. In such cases payment shall be made directly to sub – contractor by the Project Authority. Since aforesaid conditions are fulfilled, Mr. M can also claimed benefit of deemed exports.

(4 MARKS)

(C) Managing Director of a company its employee. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be related persons if such persons are employer and employee. As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, Supply of goods or service between related persons is treated as supply even if it is without consideration. However, gifts upon Rs. 50,000 in value in a financial year by an employer to an employee when made in the course or furtherance of business shall be treated as Supply even if made without consideration. Thus, the said transaction will qualify as supply and liable to GST.

No GST, if it amounts to perquisites : However, there would be no GST, if it amounts to perquisites allowed by company to MD and same forms part of salary in the hands of the employee i.e., MD.

(4 MARKS)

(D) The question can be solved making two assumptions –

- (i) **Assumption 1** : Mr. and Mrs. Kapoor brought separate baggage & made separate declaration u/s 77 :
- In this case, GFA under Rule 3 (return from Germany and passengers appear to be Indian residents) of Rs. 50,000 each will be available to Mr. and Mrs. Kapoor separately.
 - Used personal effects, Travel Souvenirs and one laptop shall be exempt.
 - It is assumed that, out of non – exempt items. Mr. Kapoor brought personal computer and liquor ; while Mrs. Kapoor brought new camera.
 - Any other alternative allocation to avail full GFA of Rs. 50,000 under Rule 3 for each passenger may also be taken for the purpose of solution.
- (ii) **Assumption 2** : They have brought single baggage and made single declaration u/s 77, so that GFA shall be available only one time and will not be separately available for each passenger.

Computation of customs duty [Assumption 1 i.e. ,Separate Baggage is better view as per tax planning]

	Separate Baggage		Single Baggage for Mr. & Mrs. Kapoor
	Mr. Kapoor	Mrs. Kapoor	
Used personal effects like clothes / Travel Souvenir	Exempt	Exempt	Exempt
A personal computer	51,000	-	51,000
A laptop computer	Exempt	Exempt	Exempt
Two litres of liquor (Liquor more than 2 litres is covered by Annex. I. Liquor upto 2 litres formspart of bona fide baggage and is eligible for GFA.)	10,000	-	10,000
New camera	-	52,400	52,400
Gross Value of Bona fide baggage	61,000	52,400	1,13,400
Less : General Free Allowance under Rule 3	50,000	50,000	50,000
Dutiable Value	11,000	2,400	63,400
Duty @ 38.5%	4,235	924	24,409

Total Duty under Assumption 1 = Rs. 4,235 + Rs. 924 = Rs. 5,159. The lower duty is due to availability of GFA twice leading to benefit of Rs. 50,000 × 38.5% = Rs. 19,250

(7 MARKS)