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CA INTERMEDIATE

SUBJECT- INDIRECT TAX

Test Code – CIM 8689

BRANCH - () (Date :)

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ANSWER 1

Q.NO	ANSWER	MARKS
1.1	A	2
1.2	A	1
1.3	B	1
1.4	A	1
1.5	B	1
1.6	D	1
1.7	D	1
1.8	D	2

ANSWER 2(A)

(a) Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons[Section 25(4) of the CGST Act]. In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I of the CGST Act.

(3 MARKS)

(b) Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be “related persons” if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person.**

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman’s brother is a well-known lawyer and is not wholly /mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman’s brother to him would not be treated as supply under section 7 read with Schedule I of the CGST Act

(3 MARKS)

(c) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman’s brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

(2 MARKS)

ANSWER 2(B)

(a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.

(2 MARKS)

(b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge.

Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company

(2 MARKS)

- (c) GST on services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.

(2 MARKS)

ANSWER 3(A)

- (i) Renting of immovable property would be treated as supply of services in terms of Schedule- II of CGST Act, 2017.
- (ii) As per Schedule-II of CGST Act, 2017, transfer of right in goods without transfer of title in goods would be treated as supply of services.
- (iii) As per Schedule-II of CGST Act, 2017, works contract services would be treated as supply of services.
- (iv) As per Schedule-II of CGST Act, 2017, temporary transfer of permitting use or enjoyment of any intellectual property right would be treated as supply of services.
- (v) As per Schedule-II of CGST Act, 2017, transfer of title in goods under an agreement which stipulates that property shall pass at a future date would be treated as supply of goods.

(1*5 = 5 MARKS)

ANSWER 3(B)

Section 10 of the CGST Act, 2017 provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crore (Rs. 75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates. However, if, inter alia, such registered person is engaged in the supply of services other than restaurant services, he shall not be eligible to opt for composition levy.

In the given case, since Mr. Ajay is a supplier of repair services, he is not eligible for composition scheme even though his aggregate turnover in the preceding FY does not exceed Rs. 1.5 crore. Therefore, he has to discharge his tax liability under regular provisions at the applicable rates.

However, with effect from 01.04.2019, Notification No. 2/2019 CT (R) dated 07.03.2019 has provided an option to a registered person whose aggregate turnover in the preceding financial year is upto Rs. 50 lakh and who is not eligible to pay tax under composition scheme, to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] on first supplies of goods and/or services upto an aggregate turnover of Rs. 50 lakh made on/after 1st April in any FY, subject to specified conditions.

Thus, in view of the above-mentioned provisions, Mr. Ajay is eligible to avail the benefit of concessional payment of tax under Notification No. 2/2019 CT (R) dated 07.03.2019 as his aggregate turnover in the preceding FY does not exceed Rs. 50 lakh and he is not eligible to opt for the composition scheme.

Thus, the amount of tax payable by him under Notification No. 2/2019 CT (R) dated 07.03.2019 is Rs. 2,10,000 [6% of Rs. 35 lakh].

A registered person cannot opt for Notification No. 2/2019 CT (R) dated 07.03.2019, if inter alia, he is engaged in making any inter-State outward supplies. However, there is no restriction on inter-State procurement of goods. Hence, answer will remain the same even if Mr. Ajay procures few items from neighbouring State of Madhya Pradesh.

(6 MARKS)

ANSWER 4 (A)

Under the earlier indirect tax regime, despite the introduction of the principle of taxation of value added in India – at the Central level in the form of CENVAT and at the State level in the form of State VAT - its application always remained piecemeal and fragmented on account of the following reasons:

1. Double taxation of a transaction as both goods and services as the distinction between goods and services was often blurred, e.g. software was liable to both VAT and service tax.
2. CENVAT did not include chain of value addition in the distributive trade below the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes. To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.
3. Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.
4. There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT.
5. VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy.
6. CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

(6 MARKS)

ANSWER 4 (B)

1. Services by an employee to the employer in the course of or in relation to his employment is neither treated as supply of goods nor supply of services as it is covered under schedule III (negative list) of the CGST Act, 2017
2. Actionable claims, other than lottery, betting and gambling is not treated as supply of goods as per Schedule III (negative list) of the CGST Act, 2017
3. Construction of complex, building, civil structure is treated as supply of services as per list contained in Schedule II of CGST Act, 2017.
4. Stock transfers or branch transfers is treated as supply of goods (deemed supply) as per Schedule I of CGST Act, 2017.

(4*1 = 4 MARKS)