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**SUGGESTED SOLUTION**

**CA FINAL**

**SUBJECT- INDIRECT TAX**

**Test Code – FNJ 7420**

**BRANCH - () (Date :)**

**Head Office : Shraddha, 3<sup>rd</sup> Floor, Near Chinai College, Andheri (E), Mumbai – 69.**

**Tel : (022) 26836666**

**Division - A**  
**Multiple choice Questions**

**Case Scenario 1**

1. d
2. d
3. d
4. a
5. c

**Case Scenario 2**

1. d
2. a
3. c
4. d
5. c

**General MCQs**

1. d
2. d
3. d
4. d
5. d
6. a
7. c
8. c

**Division - B**

**ANSWER : 1**

**Computation of GST liability of ABC Ltd. (amount Rs.)**

Price of machine	[WN – 1]	40,00,000
Handling and loading charges	[WN – 2(a)]	10,000
Installation and commissioning charges	[WN – 2(b)]	1,00,000
Transportation cost	[WN – 3]	Nil
Additional warranty cost	[WN – 4]	3,00,000
Grant from DEF Ltd.	[WN – 5]	2,00,000

<b>Total price of the machine</b>		<b>46,10,000</b>
Less : 2% cash discount on price of machinery = Rs. 40,00,000 × 2%	[Note 6]	80,000
<b>Taxable value of supply</b>		<b>45,30,000</b>
<b>Tax liability for the month of August 2020</b>	[WN – 7]	
IGST @ 12%	[WN – 8 and [WN – 9]	5,43,600
Tax liability for the month of October 2020	[WN – 11]	
Interest collected @ 3% on Rs. 44,10,000	<b>[WN – 10]</b>	1,32,300
Cash discount recovered	<b>[WN – 10]</b>	80,000
Cum – tax value on interest and cash discount		<b>2,12,300</b>
IGST = (Rs. 2,12,300/112) × 12%		<b>22,746</b>
<b>Total IGST payable on the machinery</b>		<b>5,66,346</b>

#### Working Notes :

- (1) **Value – Transaction value** : The value of a supply is the transaction value i.e., the price actually paid or payable assuming ABC Ltd. and D Pvt. Ltd are not related and the price is the sole consideration for the supply.
- (2) **Handling Installation and Commissioning charges [Section 15(2)(c)]** :
  - (a) All incidental expenses charged by the supplier to the recipient of a supply are includible in the value of supply.
  - (b) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply.
- (3) **Transportation cost** : Transportation cost shall not form part of value of supply of the machinery as there is a separate service contract between the customer and the third – party service provider in relation to such transportation. The customer pays the freight directly to the service provider.  
The supplier (ABC Ltd.) in this case, merely arranges for the transport and does not provide the transport service on its own account. Tax will be separately levied on the supply of service of transportation of goods under reverse charge.
- (4) **Warranty cost** : Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded as per Section 15 of the CGST Act.
- (5) **Grants** : As per Section 15(2) (e), Subsidies directly linked to the price excluding subsidies provided by the Central Government and state Governments are includible in the value of supply.
- (6) **Cash discount** : It was deducted by ABC Ltd. upfront at the time of supply on 1<sup>st</sup> August, 2020 and hence, the same is excluded from the value of supply as it did not form part of the transaction value.
- (7) **Month for which tax payable** : It has been assumed that the invoice for the supply has been issued on 1<sup>st</sup> August, 2020, the date on which the supply is made. Thus, the time of supply of goods is 1<sup>st</sup> August, 2020 in terms of Section 12(1) (a) of the CGST Act, 2017.
- (8) **Place of supply and nature of tax** : In the given case –
  - (i) the location of the supplier is in Noida (UP); and
  - (ii) the place of supply of machinery is the place of installation of the machinery i.e., Gurugram (Haryana) in terms of Section 10(1)(d) of the IGST Act, 2017.

Therefore, the given supply is an inter – State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017].

Thus, the supply will be leviable to IGST in terms of Section 5(1) of the IGST, Act, 2017.

- (9) **Rate of tax :** The given supply is a composite supply involving supply of goods (machinery) and services (*handling and loading and installation and commissioning*) where the principal supply is the supply of goods.

As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.

- (10) Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017.  
Interest is charged for 3 months @ 1% p.m. as the consideration was paid on 31.10.2020. Interest is charged on the amount to be recovered from the recipient i.e. Rs. [40,000 + 10,000 + 1,00,000 + 3,00,000].

Further, cash discount recovered will also be includible in the value of supply as now the transaction value i.e., the price actually paid for the machinery is devoid of any discount.

Cum Tax value of Interest and Cash Discount : The cash discount not allowed and interest have to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

- (11) **Month for which tax liability arises :** As per Section 12(6) of the CGST Act, 2017 the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which the supplier receives such addition in value.

Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 31<sup>st</sup> October, 2020, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

**(14 MARKS)**

**ANSWER : 2(A)**

Computation of Input tax credit to be distributed for month of July, 2020 to various units as per Rule 39 of the CGST Rules, 2017 (Amounts in Rs.)

Particulars	Total Credit available				Unit : I Credit to be distributed as :			Unit : II (as IGST)	Unit : III (as IGST)	Unit : IV (as IGST)
	CGST	SGST	IGST	Total	CGST	SGST	IGST			
Input Service "A" [WN 1]	27,000	27,000	-	54,000	-	-	-	-	54,000	-
Input Service "B" [WN 2]	-	-	36,000	36,000	-	-	7,826	4,696	23,478	-
Input Service "C"	12,600	12,600	-	25,200	1,909	1,909	-	2,291	11,455	7,636
Input Service "D" (Ineligible ITC) [WN 3]	1,080	1,080	-	2,160	1,080	1,080	-			
<b>Total credit distributed</b>					<b>2,989</b>	<b>2,989</b>	<b>7,826</b>	<b>6,987</b>	<b>88,933</b>	<b>7,636</b>

**Working Notes :**

- (1) The credit of input tax attributable as input service to a particular unit shall be distributed only to that unit. Since Unit – III is exclusively engaged in supply of exempted goods, the total credit of Rs. 54,000 is distributable to it. Further as per Rule 39(1)(d) of CGST Rules, 2017, no differentiation is to be made whether the unit is registered or not, and therefore,

credit attributable to Unit III is distributed to that unit although it is not registered, which implies, it is a loss of credit.

- (2) As per Section 20(2)(b), the credit of tax attributable as input service to more than one unit but not to all the units shall be distributed only amongst such units to which the input service is attributable and such distribution shall be pro rata on the basis of the turnover of such units, to the total turnover of all such units during the relevant period. Hence, the credit of input service "B" is distributed to Unit – I, II and III.
- (3) Give that the service availed for employee on vacation during the month would not be eligible input services under Section 17(5) since the same is not under statutory obligation, the taxes relating to Invoice "D" should be distributed as ineligible input tax (Rs. 1,080 + Rs. 1,080), and the distribution must be done separately for CGST and SGST. Since the service is wholly attributable to Unit I, hence distributed only to such unit.

**Note :** The 'turnover in State' is arrived at a value for the 'relevant period'. Since all the 4 units were operational during the preceding financial year, the relevant period would be the preceding financial year.

(5 MARKS)

**ANSWER : 2(B)**

- (i) **Registration requirement :** Section 22(1) of the CGST Act, 2017 read with Notification No. 10/2019 CT dated 07.03.2019 inter alia provides that every supplier who is engaged in intra-State exclusive supply of goods is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods only when aggregate turnover in a financial year exceeds Rs. 40,00,000.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, 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 30.09.2020 is Rs. 45 lakh which is more than the applicable threshold limit of Rs. 40 lakh. Therefore, as per above mentioned provisions, the company should be liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31.10.2020, 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 01.11.2020 as the supply of goods become taxable from that day and the turnover of company is above Rs. 40 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of Rs. 40 lakh includes exempt turnover also.

Therefore, turnover of 'X' will be considered for determining the limit of Rs. 40 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.

- (ii) **Input tax credit eligibility :** Section 18(1) (a) of the CGST Act, 2017 provides that a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi – finished or finished

goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Thus, LMN Pvt. Ltd. cannot avail credit for additional machinery purchased exclusively for manufacturing X as input tax credit of only inputs is allowed when a person gets registered for the first time.

**ANSWER : 2(C)**

**Computation of assessable value –**

FOB cost		<b>Yen</b>	2,00,000
<b>Add : Freight</b>	[WN – 1]	Yen	20,000
<b>Add : Design charges</b>	[WN – 2]	Yen	30,000
<b>Total (A)</b>		Yen	2,50,000
Exchange rate to be applied is 1 yen = Rs. 0.65, as notified by CBIC	[WN – 3]	Rs.	0.6500
Total sum in Indian Rs.		Rs.	1,62,500.00
<b>Add : Commission to the Agent [5% of FOB value of goods]</b>	[WN – 4]	Rs.	6,500.00
<b>Add : Developmental activities with respect to the imported machine</b>	[WN – 5]	Rs.	-
<b>Add : Insurance charges</b>	[WN – 6]	Rs.	10,000.00
<b>Total CIF Value/ Assessable value</b>		<b>Rs.</b>	<b>1,79,000.00</b>

**Working Notes :**

- (1) Only the cost of transport of the imported goods up to the place of importation is includible for the purpose of valuation. Thus, transport cost from Mumbai port (place of importation) to the factory in Karnataka has not been included in the assessable value.
- (2) Value of design work undertaken elsewhere than in India is includible in the value of the imported goods.
- (3) Rate of exchange notified by the CBIC has been considered.
- (4) Buying commission is not includible in the value of the imported goods. Since the agent's commission does not represent buying commission, hence, it is includible.
- (5) Value of development work undertaken in India is not includible in the value of the imported goods. Hence, Rs. 1,00,000 expended in India for developmental activities have not been considered.
- (6) Insurance of the machine is includible in the assessable value.

**(5 MARKS)**

**ANSWER : 3(A)**

**Rectification of errors apparent on the face of record [Section 161] :** This Section provides for rectification of mistakes / errors apparent on the face of record by any authority. It may be noted that this section overrides the entire Act, except for the provisions of Section 160 (discussed above).

<b>Documents covered u/s 161</b>	Decision Order Any notice Certificate Any other document
<b>Rectifying Authority</b>	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 documents.

<b>Type of mistake or errors which can be rectified</b>	Error or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a decision on a debatable point of law is not a mistake apparent from the record.
<b>When dos the Authority rectify the mistakes /errors</b>	The authority may rectify the mistake/ error : → Suo moto → When such error or mistake is brought to its notice by a GST officer → When such error or mistake is brought to notice by the affected person within a period of 3 months from the date of issue of such decision or order or notice or certificate any other document, as the case may be.
<b>Time limit for rectification</b>	No rectification can be done after a period of 6 months from the date of issue of such decision /order /notice/certificate/ any other document. However, such time limit does not apply in cases where the rectification is purely in the nature of correction of a clerical or arithmetical error or mistake, arising from any accidental slip or omission.
<b>Hearing if rectification goes adverse to assessee</b>	Principles of natural justice should be followed by the authority carrying out such rectification, if such rectification adversely affects any person.

**(5 MARKS)**

**ANSWER : 3(B)**

**Export of product 'S'** :Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, 2017, ITC may be availed for making zero – rated supplies even if such supply may be an exempt supply. As per section 54(3)(i) of the CGST Act, 2017, a registered person may claim refund, of any unutilized ITC at the end of any tax period in the case of zero rated supply made without payment of tax.

Therefore, in the given case, Synotex Pvt. Ltd. will be eligible to claim ITC for export of exempt product 'S' in terms of section 16(2) of the IGST Act, 2017 and will thus, be able to claim refund of unutilized ITC in terms of section 54(3)(i) of the CGST Act, 2017.

As per rule 89(4) of the CGST Rules, 2017, refund of unutilized ITC in case of zero rated supply without payment of tax under letter of undertaking is granted in accordance with the following formula :

$$\text{Refund Amount} = \frac{\text{Turnover of zero rated supply of goods} + \text{Turnover of zero rated supply of services}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

(i)	Net ITC [i.e. ITC on inputs and input services but not ITC on capital goods]		7,00,000
(ii)	Turnover of zero – based supply of goods (product 'S') [Lower of the value of zero rated supply of goods (Rs. 12,00,000) or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier (Rs. 15,00,000)]		12,00,000
(iii)	Adjusted total turnover		
	Turnover of Product 'Q'	20,00,000	
	Turnover of Product 'S'	12,00,000	32,00,000
(iv)	<b>Maximum refund = [(Item (ii) + Item (iii))] × Item (i)</b>		<b>2,62,500</b>

**Circular No. 125/44/2019 – GST dated 18.11.2019** Provides that amount refundable to the applicant is least of the following amounts :

- (a) Maximum refund amount as per the formula in rule 89(4) of the CGST Rules [Rs. 2,62,500]
- (b) Balance in the electronic credit ledger at the end of the tax period for which the refund claim is being filed after GSTR – 3B for the said period has been filed [Rs. 5,80,000]
- (c) Balance in the electronic credit ledger at the time of filing the refund application [Rs. 3,00,000]

Thus, amount refundable to Synotex Pvt. Ltd. of unutilized ITC is Rs. 2,62,500.

**Supply of product 'Q' to Betty Enterprises, a 100% EOU :** Supplies to EOU is notified as deemed export under section 147 vide Notification No. 18/2017 – CT dated 18.10.2017. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules, 2017]. Therefore, since in the given case, Betty Enterprises (recipient) is claiming ITC, Synotex Pvt. Ltd. (supplier of deemed exports) cannot claim refund of ITC. Therefore, amount refundable to Synotex Pvt. Ltd. is Rs. 2,62,500.

**(4 MARKS)**

**ANSWER : 3(C)**

The relevant provisions relating to export in context of duty drawback are as under –

- (1) **Export :** As per Rule 2(c) of the Customs and Central Excise Duties Drawback Rules, 2017, “Export” means, -
  - (a) taking out of India to a place outside India, or
  - (b) taking out from a place in Domestic Tariff Area to a Special Economic Zone, and
  - (c) includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port or airport.
- (2) **Allowability of Drawback in case export goods get destroyed in transit :** ‘India’ includes territorial waters of India. When the export goods are destroyed before they cross the territorial waters of India, then the same will not be regarded as ‘export’, being the goods didn’t move out of India.

In case the goods are destroyed in high seas (i.e. beyond territorial waters of India), then the same shall be eligible for drawback since the export is completed. – Sum Industries v. CC. [1988] 35 ELT 241 (SC) and UOI v. Rajindra Dyeing & Printing Mills Ltd. [2005] 180 ELT 433 (SC).

**(5 MARKS)**

**ANSWER : 4(A)**

- (1) Service provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 are exempt vide Entry 7 of Notification No. 12/2017 – CT (Rate). Since the aggregate turnover of ABC Ltd. in preceding financial year does not exceed Rs. 20 lakhs, it is exempt from obtaining registration. Hence, no GST shall be levied on services provided by Government of Rajasthan to ABC Ltd.



- (2) Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed Rs. 5,000 are exempt. Vide entry 9 of Notification No. 12/2017 – CT (Rate). Hence, on said services no GST shall be levied.
- (3) Services provided by the Central Government, State government, Union Territory or local authority by way of tolerating non – performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract are exempt vide Entry 62 of Notification No. 12/2017- CT (Rate). Hence, no GST shall be payable on liquidated damages of Rs. 50,00,000 paid by PQR Ltd. to Jaipur municipal corporation.
- (4) Services provided by the Central government, State Government, Union territory or local authority by way of registration required under any law for the time being in force vide Entry 47 of Notification No. 12/2017 – CT (Rate). Hence, no GST shall be levied on fees paid for incorporation by XYZ Ltd.
- (5) Services by way of allocation of natural resources to an individual farmer for the purposes of agriculture have been exempted vide Entry 63 of Notification No. 12/2017 – CT (Rate). Such allocation / auctions to categories of persons other than individual farmers would be leviable to GST. Hence, Agro Care Ltd. will be liable to pay GST on Rs. 50,00,000 under reverse charge basis.
- (6) Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant overtime charges are exempt from GST vide Entry 65 of Notification No. 12/2017 - CT (Rate). Hence, on such charges no GST shall be levied.
- (7) XYZ Ltd. will be liable to pay GST on assignment of rights to use minerals in the State of Bihar.

**(5 MARKS)**

**ANSWER : 4(B)**

Where owner does not come forward for payment of such tax and penalty, the goods shall be released :

- On payment of the applicable tax and penalty equal to the 100% of the value of the goods reduced by the tax amount paid thereon,  

$$= [(Rs. 30,00,000 \times 100\%) - Rs. 3,60,000]$$

$$= Rs. 26,40,000$$
- In case of exempted goods, on payment of -
  - (a) an amount equal to 5% of the value of goods, or
  - (b) Rs. 25,000

Whichever is less.

$$= (Rs. 30,00,000 \times 5\%) \text{ i.e. } Rs. 1,50,000 \text{ or } Rs. 25,000 \text{ whichever is less}$$

$$= Rs. 25,000$$

**(4 MARKS)**

**ANSWER : 4(C)**

**Clearance of goods for home consumption [Section 47] :** The relevant provisions are discussed as under –

**(1) Order permitting clearance of goods for home consumption :** The relevant provisions are discussed as under ---

- Any goods entered for home consumption are not prohibited goods; and
  - The importer has paid the import duty, if any assessed thereon and any charges payable under this Act in respect of the same,
- the proper officer may make an order permitting clearance of the goods for home consumption.

Such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

**Deferred payment option to certain class of importers :** The Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.

The Central Government has notified the following importers to make deferred payment of import duty :

Importers certified under Authorized Economic Operator programme as AEO **(Tier – Two)** and AEO **(Tier – Three)**.

**Explanation :** ‘AEO’ means Authorized Economic Operator certified by the Directorate General of Performance Management under the Central Board of Excise and Customs.

**(2) Payment of duty electronically :** The Central Government, may by notification in the Official Gazette, specify the class or classes of importers who shall pay such duty electronically. The Central Government has notified the following classes of importers who shall pay duty electronically, namely –

- (a) Importers registered under Accredited Clients Programme, and
- (b) Importers paying customs duty of Rs. 10,000 or more per bill of entry.

**(3) Time limit for payment of duty and interest @ 15% p.a. on delayed payment of duty :** The importer shall pay the import duty –

- (a) On the date of presentation of the bill of entry in the case of self – assessment ; or
- (b) within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment; or
- (c) in the case of deferred payment, from such due date as may be specified by rules made in this behalf, and where the importer fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short – paid till the date of its payment, @ 15% per annum.

**Power to waive interest :** If the Board is satisfied that it is necessary in the public interest so to do, it may, by order for reasons to be recorded, waive the whole or part of any interest payable under this section.

**(5 MARKS)**

**ANSWER : 5(A)**

**(i) Yes.** As per Section 7(1)(b) of CGST Act, 2017, Supply includes import of services for a consideration whether or not in the course of furtherance of business. Hence, in the above case it will be treated as supply.

- (ii) **Yes.** As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal shall be treated as supply such goods on made without consideration. In view of the same supply of cars by ABC Motors Ltd. to Sunshine Cars Ltd. will qualify as supply.
- (iii) **Yes.** As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Import of services by a person from a related person or from any of his other establishment out side treated as supply even if made without consideration. Thus, management consultancy services received by ABC Associate will qualify as supply even though the head office has not charged anything from it and will be liable to GST.
- (iv) **No.** transaction in securities is neither supply of goods nor services. Securities are excluded from the definition of both goods as well as services. Hence, such transaction will not qualify as supply.
- (v) **No.** Actionable claims are covered in definition of goods. However, Schedule III excludes actionable claims other than lottery, gambling and betting from the scope of supply. Transfer of unsecured loans, therefore, would not amount to supply.

**(5 MARKS)**

**ANSWER : 5(B)**

Section 10(2A) of the CGST Act, 2017 provides an option to a registered person to pay CGST @ 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 1<sup>st</sup> April in any financial year, subject to specified conditions.

According to Explanation 2, for the purposes of determining the tax payable by a person under this section, the expression "turnover in State or turnover in Union Territory" shall not include the value of following supplies, namely :-

- (i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act ; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Thus, Care & Care Beauty Centre is eligible to pay tax under this notification upto the turnover of Rs. 50 lakh. The total tax payable by it is as under :-

Period	Tax Rate	Turnover	Tax liability
		(Rs.)	(Rs.)
1 <sup>st</sup> Quarter	Since turnover did not exceed Rs. 20 lakh, it was not required to obtain registration. Hence, no tax was required to be paid	20 lakh	Nil
2 <sup>nd</sup> Quarter	Effective rate is 6% (CGST + SGST / UTGST) as per section 10(2A) of the Act.	30 lakh [(50 – 20) lakh]	1,80,000
For the month of October, 2021	Normal rate of GST of 18% is to be applied	20 lakh [(70 – 50) lakh]	3,60,000
	<b>Total tax payable</b>		<b>5,40,000</b>

No, care & care Beauty Centre cannot opt for composition scheme under Section 10(1) from the next financial year. Fundamentally, the composition scheme can be availed in respect of goods and only one service namely, restaurant service. As regards services other than restaurant services are concerned, only marginal supply of the such services for a specified value along with the supply of goods and /or restaurant service, as the case may be, is permitted under section 10(1) of CGST Act, 2017. Therefore, a person engaged exclusively in supply of services other than restaurant services is not eligible to opt for composition scheme.

**(4 MARKS)**

**ANSWER : 5(C)****Computation of Customs duty payable by Mr. Fang (amount in Rs.):**

Particulars	Mr. Fang
(1) Personal effects	Exempt
(2) 1 laptop computer	Exempt
(3) 2 bottles of wine (Wine upto 2 litres can be accommodated in the GFA) (Rs. 6,000 ÷ 3 × 2) [WN – 1]	4,000
(4) Digital Camera	11,000
<b>Total dutiable goods imported</b>	<b>15,000</b>
Less : General free allowance under Rule 3	15,000
<b>Balance Goods on which duty is payable</b>	<b>Nil</b>
<b>Customs duty payable</b>	<b>Nil</b>

**Computation of Customs duty payable by Mrs. Fang (amounts in Rs.) :**

Particulars	Mr. Fang
(1) Personal effects	Exempt
(2) 1 laptop computer	Exempt
(3) 1 bottles of wine (Wine upto 2 litres can be accommodated in the GFA) (Rs. 6,000 ÷ 3 × 1) [WN – 1]	2,000
(4) Mobile	15,000
<b>Total dutiable goods imported</b>	<b>17,000</b>
Less : General free allowance under Rule 3	15,000
<b>Balance Goods on which duty is payable</b>	<b>2,000</b>
<b>Customs duty @ 38.5% (inclusive of SWS)</b>	<b>770</b>

**Computation of Customs duty payable in respect of the Child Jing (amount in Rs.) :**

Particulars	Mr. Fang
Used personal effects	Exempt
Total Value of dutiable goods	Nil
<b>Customs duty @ 38.5% (inclusive of SWS)</b>	<b>Nil</b>

**Working Notes :**

- (1) Since only 2 litres of wine can be accommodated in General Free Allowance, therefore, 2 litres is declared in the baggage of Mr. Fang and 1 litre in the baggage of Mrs. Fang.
- (2) The free allowance of one passenger cannot be pooled with that of other.
- (3) For infants only used personal effects shall be allowed duty free. It has been assumed that Mrs. & Mr. Fang and child Jing have brought three separate baggages for which separate declaration have been given to lower the incidence of customs duty.

**(5 MARKS)****ANSWER : 6 (A)**

The relevant provisions are discussed as under :

- **Service Supplier is an intermediary :** 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.

In this case, since XYZ Pvt. Ltd. is arranging or facilitating supply of goods between the PQR Inc. and the Chinese vendor, the said services can be classified as intermediary services.

- **Place of Supply is location of intermediary :** 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 determine in terms of Section 13 of the IGST Act, 2017.
- **Supply is intra – State supply :** 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 XYZ 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.

Therefore, since in the given case, both the location of XYZ 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.

- **Exemption in respect of said services :** Entry 12AA of Notification No. 9/2017 – IT (Rate)] provides that services provided by an intermediary when location of both Supplier and recipient of goods is outside the taxable territory are exempt subject to the following documentation which shall be maintained for a minimum duration of 5 years :

- (a) Copy of Bill of Lading
- (b) Copy of executed contract between Supplier/ Seller and Received / Buyer of goods
- (c) Copy of commission debit note raised by an intermediary service provider in taxable territory from service recipient located in non taxable territory
- (d) Copy of certificate of origin issued by service recipient located in non taxable territory
- (e) Declaration letter from an intermediary service provider in taxable territory on company letter head confirming that commission debit note raised relates to contract when both supplier and receiver of goods are outside the taxable territory.

Therefore, if the above documentation requirement are fulfilled by XYZ Pvt. Ltd., the intermediary services provided by it to PQR Inc. of US shall be exempt from tax.

**(5 MARKS)**

**ANSWER : 6(B)**

Section 37 of the CGST Act, 2017 stipulates that GSTR – 1 for a particular month is required to be filed on or before the 10<sup>th</sup> day of the immediately succeeding month, i.e. on a monthly basis.

However, presently, as a measure of easing the compliance requirement for small tax payers, GSTR – 1 has been allowed to be filed quarterly by small tax payers with aggregate annual turnover up to Rs. 1.5 crore in the preceding financial year or the current financial year. Tax payers with annual aggregate turnover above Rs. 1.5 crore will however continue to file GSTR – 1 on a monthly basis.

In view of the same, M/s. Cavenon Enterprises can file its GSTR – 1 on quarterly basis as its aggregate turnover does not exceed Rs. 1.5 crore in the preceding financial year.

Further, GSTR- 1 needs to be filed even if there is no business activity in a tax period. Thus, in the present case, even if no supply has been made by M/s. Cavenon Enterprises, a nil return is required to be filed for the relevant tax period.

**(3 MARKS)**

OR

(B) The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1) of the CGST Act, 2017, inter alia, stipulates that every registered person who causes movement of goods of consignment value exceeding Rs. 50,000.

- (i) In relation to a supply; or
- (ii) for reasons other than supply ; or
- (iii) due to inward supply from an unregistered persons,

Shall generate an electronic way bill (E – way Bill) before commencement of such movement.

CBIC has also clarified that even if the movement of goods is caused due to reasons others than supply [including replacement of goods under warranty], e – way bill is not mandatorily required to be generated as the movement of goods is caused due to reasons other than supply, is not correct.

(4 MARKS)

(C) **Privileges of Status Holders** : Status holders are granted certain benefits like :

(a) **Self declaration based Clearances and authorizations** : Authorization and custom clearances for both imports and exports on self – declaration basis.

(b) **Priority in SION fixation** : Fixation of Input Output Norms (SION) on priority i.e. within 60 days.

(c) **No need of negotiation of documents through banks – Only remittances through banks** : Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels.

(d) **Exemption form BG** : Exemption from furnishing of Bank Guarantee in Schemes under FTP.

(e) **Establishment of Export warehouses** : Two Star Export Houses and above are permitted to establish export warehouses.

(f) **ACP benefit** : Three Star and above Exports House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBIC.

(g) **Free of cost Export Supplies** : Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and Precious metals) on free of cost basis for export promotion subject to an annual limit as below:

- (i) Annual limit of 2% of average annual export realization during preceding 3 licensing years for all exporters [excluding the exporters of following sectors – (1) Gems and jewellery Sector, (2) Articles of Gold and precious metals sector].
- (ii) Annual limit of Rs. 1 crore or 2% of average annual export realization during preceding 3 licensing years, whichever is lower. [for exporters of the following sectors (1) Gems and Jewellery Sector, (2) Articles of Gold and precious metal sector].
- (iii) In case of supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO – PAHO and Government health programmes, the annual limit shall be upto 8% of the average annual export realization during preceding 3 licensing years.

The free of cost supplies made as above shall not be entitled to Duty Drawback or any other export incentive under any export promotion scheme.

(5 MARKS)