aglasem.com

FOR CA FINAL EXAM PREPARATION

# CA Final 2022 Suggested Answers · Paper 8 Indirect Tax Laws (Old Scheme)

EXAM
**CA Final**

YEAR
**2022**

TYPE
**Suggested Answers**

SUBJECT
**Paper 8 Indirect Tax Laws (Old Scheme)**

DATE
**November 2022**

## PAPER – 8: INDIRECT TAX LAWS

(i) *Question paper comprises of **6** questions. Answer Question No. 1 which is compulsory and any **4** questions out of the remaining **5** questions.*

(ii) *Working notes should form part of the answer.*

(iii) *All questions should be answered on the basis of the position of (i) GST law as amended by significant notifications/circulars issued and by the amendments made by the Finance Act, 2021 which have become effective, till 30.04.2022 and (ii) Customs law as amended by the Finance Act, 2021 and significant notifications/circulars and other legislative amendments made upto 30.04.2022.*

### Question 1

*The details of transactions of J Ltd., Vadodara (Gujarat), a registered taxable person, during the month of February, 2022, are as under:*

| S. No. | Particulars |
|---|---|
| 1. | Purchased goods from a manufacturer in Maharashtra as a merchant exporter (on payment of 0.1% IGST) and exported the same directly to an importer of Spain under LUT. FOB value is ₹7,00,000. Invoice for the supply to J Ltd. was received on 5/2/22 and payment was made on 8/2/22. |
| 2. | Imported goods from China with CIF value of ₹5,00,000. The goods were sold for ₹5,10,000 as high sea sales to an Indian party on 21/2/22. |
| 3. | Purchased goods from a party in Taiwan. Sold the goods to a party in Turkey without bringing the goods to India. Purchase value was ₹5,00,000 and the sale price was ₹ 7,00,000. J Ltd paid sales commission of ₹ 50,000 to Mrs. T, their agent in connection with this transaction. The transaction was completed in the third week of February. (The figures in rupees have been given after conversion though transaction was in convertible foreign currency). |
| 4. | J Ltd. has agreed to provide technical services to Mr. K of Ahmedabad who is an unregistered person in connection with the manufacturing operations to be undertaken by him for a consideration of ₹5,00,000 and has received an advance of ₹1,00,000 for the same on 2/2/22. |
| 5. | It has imported raw materials from China. CIF value of the goods for the purpose of Customs included ₹1,00,000 as ocean freight paid by J Ltd. The value for the purpose of levy of IGST worked out by Customs was ₹6,00,000. Clearance of the goods took place on 4/2/22. |
| 6. | Locally purchased taxable raw material stored in the factory got spoiled due to rainwater in the factory and became unusable. J Ltd. claimed and received on insurance amount of ₹60,000 for the same. Value of the raw material at the time of |

© The Institute of Chartered Accountants of India

| | |
|---|---|
| | *receipt was ₹ 70,000. Raw material was purchased from a party in Gujarat on 3/2/22 and payment was made on 7/2/22.* |
| *7.* | *Company purchased a three-wheeler having capacity of 2 persons including driver (engine capacity 20CC) at a cost of ₹ 2,50,000 which is being used for transportation of staff of company from residence to factory and back. The vehicle was received on 5/2/22 and payment was made on the same date.* |
| *8.* | *It has paid inward transportation expense of ₹ 30,000 to Mr. Z, a tempo owner who has not issued any consignment notes. He has issued a consolidated bill only on 3/2/22 and payment was made on 4/2/22.* |
| *9.* | *It has supplied goods of value of ₹ 50,00,000 to V Ltd. Padra, Gujarat (includes ₹ 10,00,000 supplied to SEZ unit of V Ltd).* |
| *10.* | *It has purchased goods from X Impex Ltd. Kadi, Gujarat for use as raw materials in its factory. The value of the goods ₹ 30,00,000. Invoice is dated 2/2/2022.* |
| *11.* | *It has availed supply of manpower security services from Y Ltd. Vadodara, Gujarat, a registered taxable person. The amount paid is ₹ 1,00,000. The invoice was received on 1/2/2022 and payment was made on the same day.* |

*Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% except the supply received as a merchant exporter. Ignore compensation cess. J Ltd. had an opening balance of ITC of CGST of ₹ 20,000 and SGST of ₹ 20,000 as on 1/2/2022. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in GSTR-2A/2B. All the figures given above are exclusive of GST, wherever applicable.*

*Work out the admissible ITC and GST liability [CGST, SGST or IGST, as the case may be] payable in cash, by J Ltd, Vadodara (Gujarat), for February, 2022.*

*Ensure that all the items in the table are covered in your answer. Provide supporting explanatory notes for your conclusion wherever required.* ***(14 Marks)***

**Answer**

| **I. Computation of admissible ITC for February, 2022** | | | | |
|---|---|---|---|---|
| **Particulars** | **Value (₹)** | **CGST (₹)** | **SGST (₹)** | **IGST (₹)** |
| Opening balance | | 20,000 | 20,000 | |
| Goods purchased as merchant exporter<br>[Merchant exporter is eligible to take ITC of IGST paid @ 0.1%.[1]] | 7,00,000 | -- | -- | 700 |

[1] In the absence of the value of supply of goods purchased as a merchant exporter, FOB value of export of such goods has been taken as their purchase price for computing the ITC amount.

© The Institute of Chartered Accountants of India

| | | | | |
|---|---|---|---|---|
| Goods imported from China<br>[No ITC since tax is not payable. In case of high sea sales, IGST is paid by the last high sea sales buyer who files the bill of entry for home consumption.] | Nil | -- | -- | -- |
| Goods purchased from Taiwan<br>[No ITC since tax is not payable as goods do not become part of the landmass of the country.] | Nil | -- | -- | -- |
| Sales commission paid to agent - Mrs. T[2]<br>[Since service provider - Mrs. T is an intermediary in the given transaction, place of supply is location of Mrs. T, i.e. outside India. Thus, tax is not payable under reverse charge on said services.] | 50,000 | -- | -- | -- |
| Imported raw material from China<br>[Input tax, *inter alia,* includes IGST charged on import of goods.[3]] | 6,00,000 | | | 1,08,000<br>[6,00,000 × 18%] |
| Raw material spoiled[4]<br>[ITC is blocked under section 17(5) on destroyed goods.] | -- | -- | -- | -- |
| Three-wheeler purchased[5]<br>[ITC on a three-wheeler with engine capacity of 20cc is allowed as it is not a motor vehicle and is used in course or furtherance of business[6].] | 2,50,000 | 22,500<br>[2,50,000 × 9%] | 22,500<br>[2,50,000 × 9%] | -- |

[2] Since the transaction was undertaken in convertible foreign exchange, it is logical to infer that Mrs. T is located outside India.

[3] It has been assumed that the contract for import of goods from China is on CIF basis.

[4] Insurance amount received is an actionable claim. Thus, it is treated neither as supply of goods nor as supply of services.

[5] It has been assumed that purchase of three-wheeler is an intra-State supply. Alternatively, it is also possible to assume that purchase of three-wheeler is an inter-State supply. In that case, IGST of ₹ 45,000 will be available as ITC.

[6] It has been assumed that the depreciation has not been claimed on GST paid on said capital goods, under the Income-tax Act, 1961.

© The Institute of Chartered Accountants of India

| | | | | |
|---|---|---|---|---|
| Inward transportation from Mr. Z<br>[Services of transportation of goods without issue of consignment note is not covered under services of GTA and hence exempt. Thus, no ITC is available.] | -- | -- | -- | -- |
| Raw material purchased from X Impex Ltd., Gujarat<br>[ITC on goods used in course or furtherance of business is allowed.] | 30,00,000 | 2,70,000<br>[30,00,000 × 9%] | 2,70,000<br>[30,00,000 × 9%] | |
| Manpower security services from Y Ltd.<br>[Since security services are provided by a body corporate, tax on the same is not payable under reverse charge.] | 1,00,000 | 9,000<br>[1,00,000 × 9%] | 9,000<br>[1,00,000 × 9%] | |
| Total ITC available | | 3,21,500 | 3,21,500 | 1,08,700 |
| **II. Computation of GST liability payable in cash, by J Ltd.** | | | | |
| **GST payable on outward supplies** | | | | |
| Export of goods to Spain under LUT<br>[No IGST is payable.] | 7,00,000 | | | Nil |
| High sea sales of goods imported from China<br>[Neither treated as supply for goods nor as supply of services.] | Nil | -- | -- | -- |
| Goods purchased from Taiwan sold in Turkey without bringing into India<br>[Neither treated as supply for goods nor as supply of services.] | Nil | -- | -- | -- |
| Advance received for the technical services to be provided to Mr. K<br>[Tax on the services to be provided is payable at the time of receipt of advance.] | 1,00,000 | 9,000<br>[1,00,000 × 9%] | 9,000<br>[1,00,000 × 9%] | |

© The Institute of Chartered Accountants of India

| | | | | |
|---|---|---|---|---|
| Goods supplied to SEZ unit of V Ltd.<br>[Supply to SEZ unit is a zero-rated supply[7].] | 10,00,000 | | | Nil |
| Supply of goods to V Ltd., Gujarat | 40,00,000 | 3,60,000 [40,00,000 × 9%] | 3,60,000 [40,00,000 × 9%] | |
| **Total output tax** | | **3,69,000** | **3,69,000** | **Nil** |
| *Less:* ITC*<br>[Credit of IGST can be utilized towards payment of CGST and SGST liability in any order and in any proportion. Credit of CGST and SGST can be utilized only after IGST credit has been fully utilized. Thereafter, credit of CGST and SGST is utilised for payment of CGST and SGST liability respectively. CGST credit cannot be utilized for payment of SGST and *vice versa*.] | | 54,350 (IGST) | 54,350 (IGST) | |
| | | 3,14,650 (CGST) | | |
| | | | 3,14,650 (SGST) | |
| Net GST payable | | Nil | Nil | Nil |
| ***Add:* GST payable on inward supplies** | | | | |
| Imported raw material from China | 6,00,000 | | | 1,08,000 [6,00,000 × 18%] |
| **Total net GST payable in cash** | | **Nil** | **Nil** | **1,08,000** |

***Note:** ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order. Therefore, there can be multiple ways of setting off of IGST credit against CGST and SGST. However, total amount of net GST payable in cash will be same in each case.*

**Question 2**

*(a) RAM Company Ltd., a registered supplier of Prayagraj (Uttar Pradesh), is a manufacturer of goods. The company provides the following information pertaining to GST paid on inward supplies during the month of April (current financial year):*

[7] It has been assumed that goods have been supplied to SEZ without payment of tax.

© The Institute of Chartered Accountants of India

| *Serial No.* | *Items* | *GST paid in (₹)* |
|---|---|---|
| *(i)* | *Life insurance premium paid by the company for the life insurance cover of factory employees as per the policy of the company. There is no legal obligation to provide insurance cover for employees.* | *1,50,000* |
| *(ii)* | *In the month of September of previous financial year, RAM Company Ltd. availed ITC of ₹ 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25th September (previous financial year). The said raw material has not been received back from the job worker upto 30th April (current financial year).* | |
| *(iii)* | *Raw materials purchased which are used for exempted goods supplied as zero-rated supply.* | *50,000* |
| *(iv)* | *Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.* | *30,000* |
| *(v)* | *Company purchased the capital goods for ₹ 4,00,000 and claimed depreciation of ₹ 44,800 (@ 10%).* | *48,000* |
| *(vi)* | *Raw materials purchased from Neha Traders (Invoice of Neha Traders is received in the month of April but goods were received in month of June)* | *20,000* |
| *(vii)* | *Car purchased for making further supply of such car. Such car is destroyed in accident while being used for test drive by potential customers.* | *30,000* |
| *(viii)* | *Goods used for setting up tele-communication towers* | *50,000* |

***Other information:***

*All the above inward supplies except at S.No.(iii) above have been used in the manufacture of taxable goods.*

*Compute the amount of net ITC available to RAM Company Ltd. for the month of April with necessary explanations for the treatment of all the items in the table as per the provisions of the CGST Act. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.* ***(9 Marks)***

*(b) Mr. X, a chemical manufacturer, imports a machine from Germany on 12th January, 2019 for ₹ 20 lakh. Mr. X is eligible for concessional rate of customs duty on capital goods imported by him subject to the condition that he follows the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Machinery was put to use on 1st February, 2019. On 5th April, 2022, Mr. X wants to clear the machine for home consumption after having used the machine for the specified purpose for which it was imported. Mr. X requires your*

© The Institute of Chartered Accountants of India

*help in calculating the customs duty he will be liable to pay for such clearance as per rule 7 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Concessional rate of basic customs duty is 5%. Normal rate of basic customs duty is 20%. Calculate the basic customs duty payable by Mr. X on clearance of such capital goods for home consumption on 5th April, 2022. Ignore interest calculation.* ***(5 Marks)***

**Answer**

**(a) Computation of ITC available to RAM Company Ltd. for the month of April**

| S. No. | Particulars | ITC (₹) |
|---|---|---|
| (i) | Life insurance premium paid by the company for factory employees<br>[ITC is blocked under section 17(5) since it is not obligatory for the employer to provide life insurance service to its employees under any law.] | Nil |
| (ii) | Raw material sent to job worker<br>[ITC taken in the month of September last year is valid since. Further, since 1 year period from of the date of receipt of inputs by the job worker has yet not lapsed in April, there will be no tax liability on such inputs.] | Nil |
| (iii) | Raw materials used for zero rated supply<br>[ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply] | 50,000 |
| (iv) | Work contractor's service<br>[ITC on works contract services supplied for construction of an immovable property is blocked. Repairs of building debited to P & L Account does not amount to 'construction' and it is not blocked under section 17(5), hence ITC is available] | 30,000 |
| (v) | Capital goods purchased in respect of which depreciation is claimed[8] on the tax component<br>[ITC is not available when depreciation has been claimed on the tax component of the cost of capital goods under the Income-tax Act.] | Nil |
| (vi) | Goods purchased from Neha Traders<br>[ITC is available assuming that that invoice is received in the month of April in the current financial year, but goods were received in the | 20,000 |

[8] under the Income-tax Act, 1961

© The Institute of Chartered Accountants of India

| | | |
|---|---|---|
| | month of June in the preceding financial year.[9]] | |
| (vii) | Cars purchased for making further supply<br>[Though ITC on motor vehicles used for further supply of such vehicles is not blocked, ITC on goods destroyed is blocked under section 17(5)] | Nil |
| (viii) | Goods used for setting telecommunication towers<br>[ITC on goods used by a taxable person for construction of immovable property (other than plant and machinery) on his own account is blocked. Since plant & machinery excludes telecommunication tower, ITC is blocked under section 17(5). Further, such goods are not used in course or furtherance of business.] | Nil |
| | **Total ITC available** | **1,00,000** |

**(b) Computation of basic customs duty payable by Mr. X**

An importer who has imported the capital goods availing benefit of an exemption notification, may clear such goods after using them for specified purpose, on payment of duty equal to difference between the duty leviable on such goods without exemption and duty already paid at the time of importation, along with interest, on the depreciated value allowed in straight line method, as below:

(i) for every quarter in the first year @ 4%;

(ii) for every quarter in the second year @3%;

(iii) for every quarter in the third year @ 3%;

(iv) for every quarter in the fourth and fifth year @ 2.5%;

(v) and thereafter for every quarter @ 2%.

Thus, depreciation % will be computed as follows:

2019 : 4 quarter x 4= 16%

2020 : 4 quarter x 3= 12%

2021 : 4 quarter x 3= 12%

2022 : 2 quarter x 2.5= 5%

Total depreciation % will be 45%

[9] It is also possible to assume that that invoice is received in the month of April in the current financial year, but goods are received in the month of June of the same financial year. In that case, the ITC with respect to said goods will be available in the month of June when goods will be received, and no ITC is available in April.

© The Institute of Chartered Accountants of India

Depreciation amount will be : 45% of ₹ 20 Lakh = ₹ 9 lakh

Depreciated value of the machine is

₹ 20 Lakh – ₹ 9 lakh = ₹ 11 lakh

Accordingly, basic customs duty payable by Mr. X will be computed as follows:

= [₹ 11 lakh × 20%] - [₹ 20 lakh × 5%]

= ₹ [2.20-1.00] lakh

**= ₹ 1.20 lakh**

**Question 3**

*(a) Determine the place of supply for the following independent cases:*

*I. Festival Event, an event management company at Mumbai, organises two business promotion events for Prabhu Enterprises (registered in Ahmedabad, Gujarat) at New Delhi and in Malaysia.*

*II. Global Planners (Jodhpur, Rajasthan) is hired by Mr. John (unregistered person based in Kochi, Kerala) to plan and organize his son's wedding at Mumbai, Maharashtra. Will your answer be different if the wedding is to take place in Singapore?* ***(5 Marks)***

*(b) XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past two years. Consideration is settled by BA Ltd. assignment wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10th January, 2022 for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to GST.*

*You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in accordance with law. The technical services provided by XYZ Consultancy is otherwise chargeable to IGST at the rate of 18% and XYZ have been discharging the GST liability on consultancy charges. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to the amount already agreed.* ***(4 Marks)***

*(c) KIP Chemical, Ahmedabad, Gujarat supplies goods to ACCP, Bharuch, situated in Dahez SEZ (Gujarat). Examine with reference to decided case law, whether such supply is chargeable to export duty under the provisions of Customs Act, 1962.* ***(5 Marks)***

**Answer**

**(a) (I)** When service of organization of event is provided to a registered person, the place of supply is location of recipient, whether event is held in India or outside India.

© The Institute of Chartered Accountants of India

Thus, in the given case, place of supply of:

- event held at New Delhi is Ahmedabad, Gujarat, and
- event held at Malaysia is Ahmedabad, Gujarat.

**(II)** When service of organization of event is provided to an unregistered person, the place of supply is location where the event is held when event is held in India and place of supply is location of recipient where event is held outside India.

Thus, in the given case, place of supply:

- if wedding takes place at Maharashtra is Mumbai, Maharashtra, and
- if wedding takes place at Singapore is Kochi, Kerala.

**(b)** In the given case, XYZ Consultancy is providing the service of agreeing to the obligation to refrain from an act to BA Ltd. against a consideration of ₹ 37 lakh. Therefore, the same is liable to tax. Thus, view taken by XYZ Consultancy is incorrect.

Since the place of supply of said services is the location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies liable to tax @ 18%[10].

GST liability (IGST) of XYZ Consultancy is:

= ₹ 37,00,000[11] × 18/118

= ₹ 5,64,407 (rounded off)

**(c)** Supply made by KIP Chemical, Gujarat, to ACCP situated in Dahez SEZ, Gujarat is not chargeable to export duty.

In a judicial pronouncement[12], it is held that the clearances of goods from DTA to SEZ are not chargeable to export duty on the basis of the following observations:-

- The charging section under Customs Act needs to be construed strictly.
- If a person is not expressly brought within the scope of the charging section, he cannot be taxed at all.

Customs duty can be levied only on goods imported into or exported beyond the territorial waters of India. Since both the SEZ unit and the DTA unit are located within the territorial

---

[10] Rate of tax applicable on service of agreeing to the obligation to refrain from an act.

[11] Since GST has not been separately collected for the supply, consideration has been assumed to be inclusive of tax.

[12] *vide Tirupati Udyog Ltd. v. UOI 2011 (272) E.L.T. 209 (A.P.).* View taken in said case has also been confirmed in *Essar Steel v. UOI 2010 (249) ELT 3 (Guj.)* [maintained by SC] wherein the Departmental appeal has been dismissed by Supreme Court on *12.07.2010 - 2010 (255) ELT A115.*

© The Institute of Chartered Accountants of India

waters of India, supplies from DTA to SEZ would not attract charging section for customs duty. Since there is no charging provision in the SEZ Act providing for levy and collection of export duty on goods supplied by a DTA unit to a Unit in a SEZ, export duty cannot be levied on the DTA supplier.

**Question 4**

(a) *BSA Corporation is a Public Sector Undertaking registered in Karnataka. For entertainment events in Bengaluru and at Mumbai, BSA has given contract to Mr. A, a renowned artist, registered person in Maharashtra, to perform on contemporary Bollywood songs. BSA Corporation agreed to pay ₹12,39,000 and ₹18,29,000, inclusive of GST, for Mumbai and Bengaluru events respectively. BSA Corporation seeks your advice regarding amount of TDS to be deducted assuming GST rate @ 18% (CGST @ 9%, SGST @ 9%, IGST @l8%).*

***(5 Marks)***

(b) *Khurania Filling Station, having its head office in Faridabad, Haryana has given details of transactions as under in a financial year:*

| | |
|---|---|
| *Supply of petrol at Faridabad, Haryana* | *14,00,000* |
| *Value of inward supplies on which tax is payable on reverse charge basis* | *11,00,000* |
| *Supply of transformer oil at Faridabad, Haryana* | *2,50,000* |
| *Value of branch transfer from Faridabad, Haryana to Ludhiana, Punjab without payment of consideration* | *3,00,000* |
| *Value of taxable supplies at Mizoram branch* | *12,40,000* |

*It argues that it does not have taxable turnover crossing threshold limit of ₹ 40,00,000 either at Faridabad, Haryana or Ludhiana, Punjab and including turnover at Mizoram branch. Therefore, there is no need to take registration.*

*Compute the aggregate turnover of Khurania Filling Station and indicate whether the firm is required to take registration. Give reasons for your conclusion.* ***(4 Marks)***

(c) *Mission Life, an NGO, from Indore, M.P. has imported 800 MT of food products from Australia for free distribution to needy people in backward area of Sagar, M.P. under a Central Government scheme.*

*Exporter from Australia has charged only US$ 20 per MT to cover costs towards freight, insurance etc. and none towards cost of food products. Customs Department found that at or about the same time of importation, following imports of said food products of Australian origin have been made:*

© The Institute of Chartered Accountants of India

| *S. No* | *Quantity imported in MT* | *Unit CIF price in US$* |
|---|---|---|
| *1.* | *40* | *270* |
| *2.* | *100* | *220* |
| *3.* | *500* | *200* |
| *4.* | *900* | *180* |
| *5.* | *400* | *190* |
| *6.* | *760* | *160* |

*Discuss the various principles to determine the transaction value of aforesaid transaction under the Customs Act, 1962 and determine the CIF price that can be considered for assessment in this case.* ***(5 Marks)***

**Answer**

**(a)** A Public Sector Undertaking is required to deduct tax @ 2% (on inter-State supplies) from payment made to the supplier of taxable services where the total value of such supply, excluding tax indicated in the invoice, under a contract, exceeds ₹ 2,50,000.

Value of supplies excluding tax are

₹ 10,50,000 (₹ 12,39,000 × 100/118) and

₹ 15,50,000 (₹ 18,39,000 × 100/118)

Further, in the given case, since the location of supplier is Maharashtra and place of supply of services provided by Mr. A to BSA Corporation is the location of recipient, viz. Karnataka, said services provided at both Mumbai and Bengaluru events are inter-State supplies.

Accordingly, in the given case, BSA Corporation is required to deduct tax as follows:

(i) ₹ 10,50,000 × 2% = **₹ 21,000** (IGST)

(ii) ₹ 15,50,000 × 2% = **₹ 31,000** (IGST)

**(b)**

| **Particulars** | **Amount (₹)** |
|---|---|
| Supply of petrol at Faridabad, Haryana<br>[Supply of petrol being a non-taxable supply is an exempt supply. Value of exempt supply is includible in aggregate turnover.] | 14,00,000 |
| Value of inward supplies on which tax is payable under reverse charge<br>[Inward supplies taxable under reverse charge are excludible.] | Nil |
| Supply of transformer oil at Faridabad, Haryana | 2,50,000 |
| Inter-State branch transfer without consideration | 3,00,000 |

© The Institute of Chartered Accountants of India

| | |
|---|---|
| [Supplies made between distinct persons is deemed supply and thus, includible.] | |
| Taxable supplies from Mizoram branch<br>[Supplies made under same PAN are includible.] | 12,40,000 |
| **Aggregate turnover** | **31,90,000** |

Enhanced threshold limit of aggregate turnover to obtain registration of ₹ 40 lakh gets reduced to ₹ 10 lakh if the supplier is also engaged in making supplies from special category State of Mizoram. In the given case, the aggregate turnover of Khurania Filling Station exceeds applicable threshold limit of ₹ 10 lakh. Further, since Khurania Filling Station is required to pay tax under reverse charge, it is liable to obtain registration compulsorily irrespective of its quantum of turnover. Moreover, since Khurania Filling Station is making inter-State branch transfer[13], it is liable to obtain registration compulsorily irrespective of its quantum of turnover.

Thus, Khurania Filling Station is liable to obtain registration in all the States from where it makes a taxable supply.

**(c)** While determining the transaction value of the goods, following factors need consideration:-

1. In the given case, US $20 per metric tonne has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, transaction value of identical goods has to be determined.
2. Value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports given during the relevant time, the goods are identical in description and of the same country of origin.
3. Further, the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.
4. As far as the quantities are concerned, the consignments of 40 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for consideration.
5. However, the unit prices in these 4 consignments are different. If more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods. Accordingly, the unit price of the consignment under valuation would be US $ 160 per metric tonne.

[13] In case where it is assumed that inter-State branch transfer from Faridabad to Ludhiana is of taxable goods.

© The Institute of Chartered Accountants of India

CIF value of 800 metric tonnes is as follows:

= 800 x 160 = **US $ 1,28,000**

**Question 5**

(a) *Arjun has committed offence under CGST Act which can be compounded as per provisions of section 138(1) of the CGST Act, 2017. He has paid the tax amount of ₹ 10 lakh involved in the offence. He wishes to apply to Commissioner for compounding the said offence. You are required to compute minimum and maximum compounding amount as per provisions of section 138(2) of the CGST Act, 2017 payable by Arjun. What are the consequences, if Arjun pays such compounding amount as may be determined by Commissioner?* ***(5 Marks)***

(b) *Comet Chem of Ahmedabad handed over goods to transporter Ram Roadways to carry the same from Ahmedabad to Bharuch in Gujarat.*

*The value of the goods is ₹ 80,000 which is chargeable to tax @ 18% GST (9% SGST + 9% CGST) and in transit, proper officer intercepted the vehicle under section 68 of CGST Act and seized the goods.*

*Calculate the penalty payable under section 129 of CGST Act, 2017 for release of the goods:*

- *If Comet Chem, owner of goods, comes forward for payment of penalty.*
- *If Comet Chem, owner of goods, does not come forward for payment of penalty.*

***(4 Marks)***

(c) *Kiara of Indian origin, came to India on tour with her baby of 1 year. She brought following goods:*

| | | |
|---|---|---|
| *1.* | *Personal effects* | *50,000* |
| *2.* | *Used personal effects of infant* | *10,000* |
| *3.* | *New camera* | *45,000* |
| *4.* | *Mobile phone* | *12,500* |
| *5.* | *Cigarette sticks 70* | *1,000* |
| *6.* | *Wine - 2 litres* | *18,000* |
| *7.* | *Travel souvenirs* | *5,000* |
| *8.* | *Laptop* | *90,000* |

*Indicate the taxability or taxable value in respect of each item in the table and calculate customs duty payable rounded off to the nearest rupee in accordance with law. There is no need for any notes to support the conclusions regarding taxability or taxable amount.*

***(5 Marks)***

© The Institute of Chartered Accountants of India

**Answer**

**(a)** (i) Minimum limit for compounding amount is higher of:-

- 50% of tax involved, viz., ₹ 5,00,000 (₹ 10 lakh × 50%) or
- ₹ 10,000,

i.e. ₹ 5,00,000.

(ii) Maximum limit for compounding amount is higher of: -

- 150% of tax involved, viz., ₹ 15,00,000 (₹ 10 lakh × 150%) or
- ₹ 30,000

i.e. ₹ 15,00,000.

If Arjun pays such compounding amount as may be determined by Commissioner, no further proceedings shall be initiated under this Act against him in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

**(b)** When Comet Chem. - owner of goods - comes forward for the payment of penalty, penalty payable under section 129 of CGST Act is 200% of the tax payable on such goods, i.e., ₹ 14,400 [200% of (₹ 80,000 × 9%)].

i.e. ₹ 14,400

When Comet Chem. - owner of goods - does not come forward for the payment of penalty, penalty payable under section 129 of CGST Act is higher of:

(i) 50% of value of goods, i.e., ₹ 40,000 (50% of ₹ 80,000) or

(ii) 200% of the tax payable on such goods, i.e., ₹ 14,400 [200% of (₹ 80,000 × 9%)].

i.e. ₹ 40,000

**(c)**

| **Particulars** | **₹** |
|---|---|
| Personal effects | Nil |
| Used personal effects of infant | Nil |
| New camera | 45,000 |
| Mobile phone | 12,500 |
| Cigarette sticks 70 | 1,000 |
| Wine -2 litres | 18,000 |
| Travel souvenirs | Nil |
| Laptop | Nil |

© The Institute of Chartered Accountants of India

| | |
|---|---|
| Total | 76,500 |
| *Less:* General Free Allowance | 50,000 |
| Baggage on which duty is payable | 26,500 |
| Duty payable on baggage @ 38.50% (including 10% Social welfare surcharge) [rounded off] | **10,203** |

**Note:** In the above solution, it has been assumed that Kiara is returning from a country other than Nepal, Bhutan and Myanmar. However, in case it is assumed that Kiara is returning from Nepal, Bhutan or Myanmar, General Free Allowance is ₹ 15,000 instead of ₹ 50,000. In that case, duty payable on baggage @ 38.50% will be ₹ 23,678.

**Question 6**

*(a) Can Mr. Venkat obtain advance ruling for the issue related to place of supply? Also list all issues for which advance ruling can be sought.* ***(4 Marks)***

*OR*

*Mr. Mahendra, a registered person, came to know about QRMP (Quarterly Return-Monthly Payment) scheme but was unable to make a decision whether to opt for the same or not. Describe the eligibility criteria and benefits of QRMP Scheme to help Mr. Mahendra make a decision regarding the same.* ***(4 Marks)***

*(b) Explain in what cases, assessment order passed by proper officer may be withdrawn under CGST Act, 2017 in cases of summary assessment and best judgements assessment?*

***(5 Marks)***

*(c) What are the exceptions provided under sub-section (2) of section 27 of the Customs Act, 1962 in which refund of duty and interest may be paid to the applicant?* ***(5 Marks)***

**Answer**

**(a)** No, Venkat cannot obtain advance ruling for issue related to place of supply[14].

Advance Ruling can be sought for the following questions:

(a) Classification of any goods or services or both;

(b) Applicability of a notification issued under provisions of the GST law;

[14] The above answer is based on the view taken by the CBIC in its e-flyer issued on 'advance ruling'. However, it is also possible to take a view that the question relating to determination of the liability to pay tax on goods and/or services as provided under section 96(2)(e) of the CGST Act, 2017 encompasses within its ambit the question relating to place of supply. This is so because place of supply is one of the factors to determine as to whether the supply is leviable to CGST & SGST or IGST. In that case, conclusion will be that Venkat can obtain advance ruling for issue related to place of supply.

© The Institute of Chartered Accountants of India

(c) Determination of time and value of supply of goods or services or both;

(d) Admissibility of input tax credit of tax paid or deemed to have been paid;

(e) Determination of the liability to pay tax on any goods or services under the GST law;

(f) Whether applicant is required to be registered;

(g) Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

**Alternative Answer**

**(a) Eligibility criteria for QRMP scheme**

Registered persons,

- other than supplier of online information and database access or retrieval services (OIDAR) located in non-taxable territory and providing such services to a non-taxable online recipient and whose aggregate annual turnover (PAN based) is up to ₹ 5 crore in the preceding financial year.
- who have opted to furnish quarterly returns under QRMP scheme
- who have furnished the last return due on the date of exercising such option

are eligible to opt for QRMP scheme.

**Benefits of QRMP scheme**

- It is a trade facilitation measure and eases the process of doing business.
- It will significantly reduce the compliance burden on such taxpayers as now the taxpayers need to file GSTR-3B returns and Form GSTR-1 - on quarterly basis only 4 times a year.

**(b)** Where the registered person furnishes a valid return for the default period within 30 days of the service of the best judgment assessment order, the said order shall be deemed to have been withdrawn but the liability for payment of interest on delayed payment of tax or for payment of late fee shall continue.

The summary assessment order may be withdrawn by Additional Commissioner/Joint Commissioner, –

(a) on an application filed by taxable person for its withdrawal within 30 days from the date of receipt of order; or

© The Institute of Chartered Accountants of India

(b) on his own motion, where he finds such order to be erroneous and may instead follow the procedures laid down in section 73/74 to determine the tax liability of such taxable person.

**(c)** The amount of duty and interest found refundable is to be paid to the applicant only in following situations:

(a) if the importer or the exporter, as the case may be, has not passed on the incidence of such duty and interest to any other person.

(b) if imports were made by an individual for his personal use.

(c) if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26.

(d) if amount relates to drawback of duty payable.

(e) if the duty or interest was borne by a notified class of applicants.

(f) if excess duty paid by the importer before order permitting clearance of goods for home consumption is made where such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry.

(g) if excess duty paid by the importer before an order permitting clearance of goods for home consumption is made where the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

(h) if the buyer has not passed on the incidence of such duty and interest to any other person.

© The Institute of Chartered Accountants of India