

## PAPER – 5: INDIRECT TAX LAWS

### PART – I MCQs

1. Chirag imported a machine from China at ₹ 100 lakh in May, 2023 on payment of all duties of customs. The said machine was exported (sent back) to the supplier for repairs in August, 2023 and re-imported without any re-manufacturing or reprocessing in March, 2024 after repairs as per the terms of warranty. The repairs were carried out free of cost but 50% of the cost of material was to be borne by Chirag. Following details are available in relation to the repairs:

Fair cost of repair (excluding cost of material)	₹ 4,00,000
Cost of material used in repairs	₹ 5,00,000
Actual insurance and freight paid towards send back to supplier	₹ 1,00,000
Actual insurance and freight paid toward re-importation	₹ 1,20,000

Value for the purpose of levy of customs duty for such repairs under section 20 of the Customs Act, 1962:

- A. ₹ 11,20,000  
B. ₹ 8,70,000/-  
C. ₹ 7,50,000/-  
D. ₹ 7,70,000/-
- (2 Marks)**
2. Keshav of Bengaluru imported 2000 pieces of certain dutiable goods from China during the month of April, 2024. The Central Government has imposed Anti-Dumping Duty from 1<sup>st</sup> April, 2024 by way of notification in the Official Gazette under section 9A of the Customs Tariff Act 1975. Details regarding import are as below:

Particular	Amount per piece
Normal Value (Comparable price in China)	\$ 120
Export Price	\$ 60

Landed Value of dumped item	\$75
Fair Selling price (Non injurious price)	\$ 105

Rate of exchange relevant for conversion is ₹ 80 per \$

Maximum Amount of anti- dumping to be payable by Keshav on 2,000 pieces of dutiable goods is:

- A. ₹ 48,00,000/-
- B. ₹ 96,00,000/-
- C. ₹ 72,00,000/-
- D. ₹ 24,00,000/-

**(2 Marks)**

3. Madhav Associates has taken GST registration on 1<sup>st</sup> January 2023 but failed to furnish GST returns. Owing to this, the proper officer cancelled its registration on 31<sup>st</sup> July 2023 and order of cancellation of registration was served to Madhav Associates on the same date.

Up to which date an application for revoke the cancellation of registration can be filed assuming no extension in time-limit has been granted?

- A. 30<sup>th</sup> August 2023
- B. 31<sup>st</sup> August 2023
- C. 29<sup>th</sup> October 2023
- D. 30<sup>th</sup> October 2023

**(2 Marks)**

**Case Scenario: I**

Data Limited commenced business of trading of goods in the State of Assam on 1<sup>st</sup> April, 2023. Aggregate turnover of the company crossed ₹ 20 lakh on 31<sup>st</sup> May, 2023 and ₹ 40 lakh on 15<sup>th</sup> July, 2023. The company made the application for registration under GST law on 25<sup>th</sup> July, 2023 and the registration certificate was granted on 30<sup>th</sup> July, 2023. The company has opted to file return on monthly basis under regular scheme. The company was exclusively engaged in supply of taxable goods only.

The company had following input tax credit lying in the books related to input and input service on different dates:

Particulars	Amount in (₹)			
	30th May, 2023	14th July, 2023	24th July, 2023	29th July, 2023
Input held in stock	10,000	15,000	20,000	40,000
Input services	4,000	6,000	12,000	14,000

During the month of January 2024, the company has installed solar panel at the office premises. Details regarding the installation of solar panel were as follow:

Particulars	Amount
List Price of the solar panel	₹ 5,50,000
<b>Additional information not adjusted or given effect in the list price</b>	
(a) Trade discount recorded in invoice @ 3% on list price.	
(b) Local taxes paid ₹ 15,000.	
(c) Cost of packing, outward freight, loading-unloading and installation charges ₹ 12,000 as a condition of sale.	
(d) State Government subsidy directly linked to the price ₹ 70,000.	

Apart from the above, Data Limited received ₹ 2,00,000 as advance payment on 2<sup>nd</sup> January, 2024 from Mr. Prem, a customer, with respect to the taxable supply of goods of ₹ 10,00,000. The company removed the goods on 9<sup>th</sup> January, 2024 and issued the invoice on 10<sup>th</sup> January, 2024. Goods were received by Mr. Prem on 11<sup>th</sup> January, 2024 and Mr. Prem had made the balance payment of ₹ 8,00,000 on 20<sup>th</sup> January, 2024 through NEFT.

In addition to the above, due to oversight, the company failed to disclose a self-assessed outward supply of ₹ 2,00,000 while filing the GSTR-3B for the month of August, 2023. Balance of input tax credit for the month of August, 2023 in the electronic credit ledger was of ₹ 10,000/- each under CGST and SGST which remains till date of deposit of tax. Company filed the return for the month of August, 2023 on the due date of return on 20<sup>th</sup> September, 2023. The company disclosed this supply in the return (GSTR 3B) for the month of January, 2024 and paid the net tax (after set off of ITC of ₹ 10,000 each CGST and SGST) with interest in the GSTR 3B filed on 18<sup>th</sup> February, 2024.

The proper officer issued show cause notice on 25<sup>th</sup> February, 2024 demanding the penalty for late deposit of tax on escaped supply relating the month of August, 2023.

Note: All amounts given above are exclusive of taxes, wherever applicable. All supplies are intra-State and chargeable to GST @ 9% each under CGST and SGST.

From the information given above, choose the most appropriate answer for the following Q Nos. 4 to 9 with reference to GST law:

4. Amount of opening input tax credit available for availment and utilization on registration:

- A. ₹ 15,000
- B. ₹ 21,000
- C. ₹ 54,000
- D. ₹ 40,000

**(2 Marks)**

5. In relation to the transaction with Mr. Prem, time of supply of goods for purpose of payment of tax will be:

- A. For ₹ 2,00,000 - 02.01.2024 and for ₹ 8,00,000-09.01.2024
- B. 09.01.2024 for both ₹ 2,00,000 and ₹ 8,00,000
- C. 10.01.2024 for ₹ 2,00,000 and ₹ 8,00,000
- D. For ₹ 2,00,000 - 02.01.2024 and for ₹ 8,00,000-10.01.2024

**(2 Marks)**

6. Amount of total penalty which could be leviable under section 73 of the CGST Act, 2017 with respect to the payment of tax on delayed disclosure of outward supply (total for both CGST and SGST)

- A. ₹ 20,000
- B. ₹ 3,600
- C. ₹ 10,000
- D. Nil

**(2 Marks)**

7. What is the effective date of registration of the company?

- A. 15<sup>th</sup> July, 2023

- B. 25<sup>th</sup> July, 2023  
 C. 31<sup>st</sup> May, 2023  
 D. 30<sup>th</sup> July, 2023 **(2 Marks)**
8. What is value of inward supply of Solar Panel under section 15 the CGST Act, 2017?  
 A. ₹5,45,500  
 B. ₹5,60,500  
 C. ₹4,90,500  
 D. ₹4,75,500 **(2 Marks)**
9. Amount of total interest (CGST+SGST) to be paid (nearest to rupees one) under section 50 of the CGST Act, 2017 with respect to delayed disclosure of outward supply :  
 (Assume 365 days in the year)  
 A. ₹1,192 (₹596 each under CGST and SGST)  
 B. ₹1,184 (₹592 each under CGST and SGST)  
 C. ₹2,680 (₹1,340 each under CGST and SGST)  
 D. ₹2,664 (₹1,332 each under CGST and SGST) **(2 Marks)**

**Case Scenario:- II**

Pukhraj Gupta is a registered supplier of goods and services under GST in the State of Karnataka. He provided the following details of outward transactions belong to the financial year 2023-2024:

<b>Particulars</b>	<b>Amount (₹)</b>
Taxable supply	1,40,00,000
Exempted Supply	3,50,000
Interest received on Unsecured loan (not included in above)	2,00,000
Transfer goods to the residence of his brother, a well-known professional.	Free of cost but the open market value is ₹40,000

During the month of April, 2024, Pukhraj Gupta provided the following outward supplies:

<b>Particulars</b>	<b>Amount (₹)</b>
Taxable supply of goods	4,00,000
Insurance agent service to Samta Insurance Company registered under GST	30,000
Interest received for late payment from various customers	10,000
Recovery agent service to Vipul Limited, a trader of goods	40,000
Security and housekeeping service provided to Bachpan School (upto higher secondary), an unregistered person under GST, at its Annual Day function held at Vallabh Convention centre being outside the school campus.	50,000

<b>Particulars</b>	<b>Amount (₹)</b>
Renting of motor vehicle designed to carry passenger provided to M Sea Limited wherein cost of fuel is included (applicable rate of tax CGST @ 2.50% and SGST 2.50%)	80,000
Received with reference to a contract of ₹ 5,00,000 for taxable supplies awarded by a public sector undertaking (PSU) registered u/s 51 of the CGST Act, 2017 in the State of Tamil Nadu, taxable supplies was made in the State of Karnataka as per instruction of the PSU.	1,50,000

Further, on 20<sup>th</sup> April, 2024, he hired Perfect Wedding Planner of Japan to plan and organize his son's wedding under a composite contract of all events of marriage.

Pre-wedding program was organized at Mumbai while the marriage and reception held at Paris (France)

In addition to the above, proper officer has issued an order under the CGST Act, 2017 dated 10<sup>th</sup> April, 2024 and raised a demand of ₹ 33 lakh (Tax - ₹ 20 lakh, Interest - ₹ 3 lakh and penalty ₹ 10 lakh) in respect of an intra-State transaction. The above amounts are related to the CGST only.

*Pukhraj Gupta admitted the tax demand of ₹5 lakh and interest demand of ₹2 lakh and disputed the remaining tax and interest demand and entire penalty demanded.*

*Pukhraj Gupta wants to file an appeal before the Appellant Authority.*

*All amounts given above are exclusive of taxes, wherever applicable.*

*From the information given above, choose the most appropriate answer for the following Q. Nos. 10 to 15 with reference to GST law:*

10. *What is the taxable value of supply for the month of April, 2024 in the hands of Pukhraj Gupta?*

- A. ₹6,50,000
- B. ₹6,10,000
- C. ₹6 00,000
- D. ₹5,60,000

**(2 Marks)**

11. *Amount of TDS require to be deducted under section 51 by the PSU:*

- A. CGST ₹750 and SGST ₹750
- B. IGST ₹3,000
- C. CGST ₹1,500 and SGST ₹1,500
- D. No TDS required to be deducted under section 51 of the CGST Act, 2017.

**(2 Marks)**

12. *What is the maximum amount of pre-deposit (of CGST only) to be made for filing the appeal before the Appellant Authority under the GST law?*

- A. ₹8.50 lakh
- B. ₹10 lakh
- C. ₹9.60 lakh
- D. ₹12.20 lakh

**(2 Marks)**

13. What is the aggregate turnover of the financial year 2023-2024 under section 2(6) of the CGST ACT 2017?

- A. ₹ 1,45,90,000
- B. ₹ 1,45,50,000
- C. ₹ 1,43,50,000.
- D. ₹ 1,43,90,000

**(2 Marks)**

14. What is the place of supply in respect of transaction with Perfect Wedding organization Planner?

- A. Mumbai for both the event
- B. Karnataka for both the event
- C. For Pre-wedding- Mumbai and for marriage and reception- Paris
- D. Japan for both the event

**(2 Marks)**

15. Which of following outward supplies provided by Mr. Pukhraj Gupta are NOT subject to payment of tax under reverse charge mechanism (RCM)?

- (i) Insurance agent service
- (ii) Recovery agent service
- (iii) Security and housekeeping service
- (iv) Renting of motor vehicle

Choose the most appropriate answer.

- A. Only (ii), (iii) and (iv)
- B. Only (ii) and (iii)
- C. Only (ii) and (iv)
- D. Only (iii)

**(2 Marks)**



**Answer Key**

1. A
2. A
3. C
4. A
5. B
6. A
7. A
8. B
9. C
10. A
11. B
12. A
13. B
14. A
15. B

**PART – II Descriptive Questions**

- (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 the Finance Act, 2023 including significant notifications and circulars and other legislative amendments made upto 30.04.2024 and (ii) Customs law as amended by the Finance Act, 2023 and significant notifications and circulars and other legislative amendments made upto 30.04.2024.

**Question 1**

Sachha and Sudh Limited is a registered supplier of taxable goods and services at Raipur in the state of Chhattisgarh under regular scheme. Head office of the company is at Raipur whereas its branch office situated at Ludhiana, Punjab. It furnished the following information for various activities or transaction made during the month of April, 2024:

S. No.	Particulars	Amount (₹)
	OUTWARD TRANSACTIONS	
(i)	Supplied goods to Matadeen and Sons in the State of Rajasthan on the instruction of Dhananjai Associates, a registered person under GST in the State of Chhattisgarh. The contract for such supply was for the delivery of goods at buyer's premises and included a fixed transportation cost of ₹20,000 irrespective of the actual freight paid. It is indicated separately in the invoice issued in this respect of supply of goods.	8,00,000
(ii)	Amount received for sale of the loading tempo, used for transportation of goods, to Mr. Suresh. Loading tempo was purchased at ₹4,80,000 and its depreciated value at the time of sale was ₹2,40,000. No GST credit was taken. Delivery of the loading tempo was given at registered office of the company.	1,80,000

(iii)	Provided intra-State supply of sponsorship service to Vidhi Agency, a proprietary concern of Raipur.	50,000
(iv)	Received as fine from Vipul, a registered person, for delayed supply of goods. Such payment was made as a compensation for margin loss caused due to price reduction between due date and actual date of supply. There was no express contract in this respect.	50,000
<b>INWARD TRANSACTIONS</b>		
(i)	Intra-State purchase of goods from various registered persons. (Out of this ₹ 7,00,000, goods of ₹ 1,00,000 was received on 1 <sup>st</sup> May, 2024 due to riots in the area but all the invoices were received by 30th April, 2024.)	7,00,000
(ii)	Rent paid to Indian Railway for office premises situated in the State of Chhattisgarh.	40,000
(iii)	Representational service from Mr. Vikas Gupta, an advocate of Delhi and unregistered person under GST, towards dealing the GST appeal matters with the Commissioner (Appeal)	1,00,000

Additional information: The company paid ₹ 15,000 towards actual freight to Mr. Shailendra of Chhattisgarh, a truck owner and unregistered person in respect of supply of goods to Matadeen & Sons in the State of Rajasthan. Mr. Shailendra had not issued the consignment note.

- (i) On 15<sup>th</sup> April, 2024, the company acquired 1% additional share holding in one of its subsidiary company for a consideration of ₹ 10,00,000
- (ii) The company made inter-State purchase of goods of ₹ 1,00,000 to be used for discharge of corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

Notes:

Assume rates of CGST, SGST and IGST are 9%, 9% and 18% for both inward and outward supply of goods and services except transportation service which is chargeable at 2.5%, 2.5% and 5% CGST, SGST and IGST respectively.

Both inward and outward supplies given above are exclusive of taxes.

All the conditions necessary for availing the ITC have been fulfilled.

There was no opening balance of any input tax credit.

Compute the minimum net GST payable in cash by Sachha and Sudh Limited for the month of April, 2024 by considering that company wants to pay minimum amount of SGST as far as possible legally.

Working notes and correct provision of law for each point should form the part of your answer along with applicable provisions of place of supply under GST law.

**(14 Marks)**

**Answer**

**Computation of minimum net GST payable in cash by Sachha and Sudh Limited to be paid in cash for the month of April, 2024**

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	<b>Output tax payable under forward charge</b>				
(i)	Supplied goods to Matadeen and Sons [Since the contract is for delivery of goods at buyer's premises and includes transportation cost, it becomes a composite supply; the principal supply being the supply of goods. Thus, GST rate applicable on goods will be charged on the entire value of supply of ₹ 8,00,000 (contract price actually paid by buyer).	8,00,000 <sup>1</sup>	72,000 [8,00,000 x 9%]	72,000 [8,00,000 x 9%]	

<sup>1</sup> It has been logically assumed that the transportation cost of ₹ 20,000 is included in the total contract value of ₹ 8,00,000.

	Further, since goods are delivered on Bill to Ship to Model to Matadeen and Sons on the direction of a third person – Dhananjai Associates, said third person is deemed to have received the goods and the place of supply is the principal place of business of such person, i.e. Chhattisgarh. Thus, it is an intra-State supply.]				
(ii)	Sale of used loading tempo to Suresh [Since ITC has not been taken on the tempo and depreciation has been claimed on it under the Income-Tax Act, 1961 <sup>2</sup> , value of supply is consideration received less depreciated value on the date of supply of tempo. However, since value of supply is negative [₹ 1,80,000 – ₹ 2,40,000], it is to be ignored.]	Nil			

<sup>2</sup> It has been assumed that depreciation has been claimed under the Income-Tax Act, 1961 and depreciation given in question is depreciation claimed as per the Income-tax Act, 1961.

(iii)	Intra-State supply of sponsorship service [Tax is payable under forward charge since recipient of said services is a proprietary concern. Tax is not payable under reverse charge since recipient of said services is a not a partnership firm or body corporate.]	50,000	4,500 [50,000 x 9%]	4,500 [50,000 x 9%]	
(iv)	Fine for delayed supply of goods [There was no express contract. Fine received from Vipul, being liquidated damages is merely a payment to compensate the loss caused due to delayed supply of goods and is not a consideration for supply.]	-			
	Total output tax		76,500	76,500	
	Less: ITC available for set off [Refer note below.] [IGST credit is utilized for payment of SGST only in order to minimize the SGST liability. CGST and SGST credit are utilized for payment of CGST		- (57,600)- CGST	(18,000) - IGST (57,600) -SGST	

	and SGST liability respectively.]				
	Net output tax payable in cash		18,900	900	
<b>GST payable in cash under reverse charge</b>					
	<i>Add:</i> Tax on services received from the advocate – Vikas Gupta - is payable under reverse charge by the recipient of service.				18,000
	<b>Minimum net GST payable</b>		<b>18,900</b>	<b>900</b>	<b>18,000</b>

**Working note - Computation of eligible ITC available for set off**

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Intra-State purchase of goods [ITC on goods ₹ 1,00,000 not received in April cannot be availed.]	6,00,000 [7,00,000 - 1,00,000]	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
(ii)	Freight paid to truck owner [No ITC is available since GST on service of transportation of goods by road received from a person other than a GTA is exempt.]	15,000	-	-	
(iii)	Rent paid to Indian Railway [It is an intra-State supply since the place	40,000	3,600 [40,000 × 9%]	3,600 [40,000 × 9%]	

	of supply is location of immovable property, i.e. Chhattisgarh and supplier – Indian Railways is in Chhattisgarh Tax is payable under forward charge. Further, ITC on services used in course or furtherance of business is allowed.]				
(iv)	Representational services received from Vikas Gupta [Services received by a business entity <sup>3</sup> from advocates are not exempt. It is an inter-State supply since the supplier is in Delhi and place of supply is location of recipient, i.e. Chhattisgarh. Further, ITC on services used in course or furtherance of business is available.]	1,00,000			18,000 [1,00,000 × 18%]
(v)	Additional share holding acquired in subsidiary [It is neither supply of goods nor supply of services, which is covered under	-			

<sup>3</sup> It has been assumed that the aggregate turnover of Sachha and Sudh Limited exceeded such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.



	Schedule III. ITC cannot be claimed since no GST is payable on the same.]				
(vi)	Inter-State purchase of goods to be used for corporate social responsibility [ITC on goods to be used for discharge of corporate social responsibility is blocked under section 17(5)]	-			
	Total ITC available		57,600	57,600	<b>18,000</b>

**Question 2**

- (a) Mr. Ayush is a registered supplier in Ahmedabad (Gujarat) under GST law. He provides the following information pertaining to various outward supplies made by him during the month of March, 2024:

S. No.	Particulars	Amount (₹)
(i)	Vijay Vayapar Chamber of Commerce organized a business summit. Nuba Pvt. Ltd., manufacturer of readymade garments, sponsored the summit and paid sponsorship fee of ₹ 1,80,000 to Vijay Vayapar Chamber of Commerce. Mr. Ayush, an independent director of Nuba Private Ltd., provided the services to the company in relation to this and Nuba Private Ltd. paid ₹ 40,000 to him as remuneration.	40,000
(ii)	Supply of railway equipments by way of transportation by a vessel from one place in India to another.	1,20,000
(iii)	Services by way of storage/warehousing of processed tea used for beverage as green tea.	70,000

(iv)	Health care services by his clinical establishment of providing rooms having room charges ₹ 3,100 per day to a person receiving health care services.	3,00,000
(v)	Services of a guest house, for lodging purposes, having value of supply of a unit of accommodation ₹ 800 per day	72,000

All above amounts are exclusive of GST. All the supplies are intra-State supply and assume the rate of taxes are IGST @ 18% and CGST & SGST @ 9% each.

From the above information, compute the GST liability of each item separately, on which tax to be paid by Mr. Ayush for the month of March, 2024.

Correct provision of law should form the part of your answer. **(5 Marks)**

- (b) M/s Ronak Ltd. having a registered head office in Maharashtra, provides a service to its branch office in Kerala in the month of April, 2024 by way of carrying out administrative work with the use of service of the employees working in the head office. However, the head office has not included the salary cost of employees involved in providing the said services while issuing tax invoice to its branch office.

You are required to decide the following:

What will be the value of service and also discuss whether the salary cost of head office employees involved in providing the said services has to be mandatorily included in the computation of value of service provided by head office to branch office (when full ITC is available to the concerned branch office)?

What will be the value of service if head office has not issue invoice to the branch office?

Also discuss in brief the relevant provisions of GST law. **(5 Marks)**

- (c) Sneha International Ltd., Bombay imported a drill machine from USA (by air). Machinery reached Delhi airport from where it was transhipped to Mumbai airport. Contracted CIF price of machine was US \$ 20,000 which was to be delivered in February 2024. But on request of Sneha International Ltd.,

supplier agreed to deliver the machine in January 2024 for which US \$ 2000 was charged over and above the contracted CIF price.

Other information is given below:-

S. No.	Particulars	Amount
(i)	Air freight	\$ 5000
(ii)	Insurance charges paid	\$1200
(iii)	Inspection charges of drill machine paid by the supplier (The same was neither mentioned in the terms of contract nor required for making the goods ready for shipment).	\$500
(iv)	Transport charges from Delhi airport to Mumbai Airport	₹ 50000

You are required to determine the assessable value of imported machine (rounded off to nearest one rupee) under the Customs Act, 1962 from the particulars given above.

Notes:-

- (a) Rate of exchange to be taken as ₹ 83 for one \$
- (b) Brief reasoning for treatment of each item should form part of your answer. **(4 Marks)**

### Answer

#### (a) Computation of GST liability of Mr. Ayush

	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
(i)	Service provided to Nuba Pvt. Ltd. [Tax on services provided in the capacity of an independent director is payable by the recipient – Nuba Pvt. Ltd. under	--	--

	reverse charge mechanism and not by Mr. Ayush. <sup>4</sup> ]		
(ii)	Supply of transportation of railway equipment by vessel [Taxable, since it is not specifically exempt. Transportation of specified goods by vessel from one place in India to another are exempt. However, railway equipment is not a specified good. Exemption earlier available to transportation of railway equipment by vessel from one place in India to another was withdrawn.]	10,800	10,800
(iii)	Storage/warehousing of processed tea [Taxable, since storage/warehousing of only agricultural produce is exempt but processed tea is not an agricultural produce.]	6,300	6,300
(iv)	Health care services of providing rooms by his clinical establishment [Exempt, since room charges do not exceed ₹ 5,000 per day.]	-	-
(v)	Services of a guest house for lodging purposes [Taxable, since exemption with respect to services provided by guest house for lodging purposes with value of supply up to ₹ 1,000 per day, was withdrawn.]	6,480	6,480

<sup>4</sup> It has been assumed that services provided by Mr. Ayush are in the capacity of director of that company. However, where such services are assumed to be provided by Mr. Ayush in his personal capacity, tax on the same will be paid by Mr. Ayush under forward charge.

- (b) (i) The value of supply of services by Head Office (HO) to its Branch Office (BO) [HO and BO being the distinct persons], shall be the open market value (OMV) of such supply.

Further, where the recipient - BO - is eligible for full input tax credit (ITC), the value declared in the invoice by HO shall be deemed to be OMV of such services.

Moreover, the cost of any particular component of said services including the salary cost of the HO employees involved in providing the said services is not required to be mandatorily included in the value of the services in the invoice.

- (ii) If HO has not issued a tax invoice to the BO and the recipient - BO - is eligible for full ITC, the value of service by HO to BO may be deemed to be declared as Nil and may be deemed as OMV of such services.

(c) **Computation of assessable value**

Particulars	Amount (₹)
CIF value (re-negotiated price) [Since the contract price was re-negotiated owing to early delivery of the machine, transaction value, being price actually paid or payable for the goods, will be re-negotiated price, i.e. [ $\$ 22,000 (20,000 + \$ 2,000) \times ₹ 83$ ]	18,26,000
Less: Air freight [ $\$ 5,000 \times ₹ 83$ ]	4,15,000
Less: Insurance [ $\$ 12,000 \times ₹ 83$ ]	99,600
<b>FOB value (in rupees)</b>	<b>13,11,400</b>
Add: Inspection charges [Not includible in value since only the payments actually made as a condition of sale of imported goods by buyer to seller are includible and inspection charges are not required for making the goods ready for shipment.]	Nil
FOB value as per Customs	13,11,400
Add: Air Freight (20% of ₹ 13,11,400) [Air freight cannot exceed 20% of FOB value.]	2,62,280

Add: Insurance [Actual insurance charges paid are includible.]	99,600
Transport charges from Delhi airport to Mumbai airport [Cost of transport charges associated with transshipment of imported goods to another customs station in India are not includible.]	<u>Nil</u>
<b>Assessable value (in ₹)</b>	<b>16,73,280</b>

**Question 3**

- (a) *Vijay Pvt. Ltd. of Chennai, Tamil Nadu, exclusively manufactures and sells product 'V2Z' which is exempt from GST vide notifications with certain taxable supplies. The company sells product 'V2Z' only within Tamil Nadu and it is registered under GST under regular scheme. Further, all the inward supplies of the company are taxable under forward charge. The company expects the sales to grow in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery exclusively used for manufacturing 'V2Z' on 1<sup>st</sup> August, 2023. The purchase price of such machinery was ₹ 45 lakh (exclusive of GST@ 18%).*

*However, with effect from 1<sup>st</sup> December, 2023, exemption available on 'V2Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. Can Vijay Pvt. Ltd take input tax credit on additional machinery purchased exclusively for manufacturing 'V2Z'? If yes, then when and how much credit can be availed?*

*Advice Vijay Pvt. Ltd. on the above issues with reference to the provisions of GST law.*

*Correct provisions of law should form the part of your answer. (5 Marks)*

- (b) *Decide with reason whether following independent transactions amount to supply or not as per the provision, rules, circulars and notification issued under the GST law:*
- (i) *Satyam has lent securities to Kala Enterprises for a consideration of ₹ 10,000 towards lending of securities under the Securities Lending Scheme, 1997 through an approved intermediary. Ignore the transaction between Satyam and intermediary.*

- (ii) Patta Limited made supply of goods to its agent, Romi, without consideration. Romi issued invoice for the further supply of goods to the customers in his own name. Romi also disclosed the name of principal in the invoice issued.
- (iii) Dilasa Limited recruited Miss Chhaya as senior relationship manager. At the time of joining as senior relationship manager, the company paid ₹ 3,00,000 towards "Not joining" Milan Limited, a stiff competitor of Dilasa Limited. **(5 Marks)**
- (c) Rustam imported a sports car from Japan. He paid the applicable customs duty and an order for home consumption was issued. At the time of actual clearance for home consumption, he found that the sports car was destroyed due to a fire occurred at the customs station. The loss of sports car is forever and beyond recovery.

Rustam seeks your advice on how to deal with the situation under the provisions of the Customs Act, 1962.

Whether your answer would differ if Rustam warehoused the sports car due to delay in legal formalities after complying with the relevant provisions of the Customs Act, 1962 and the fire occurred there after the payment of duty but before actual clearance therefrom? **(4 Marks)**

### Answer

- (a) Where an exempt supply of goods by a registered person becomes a taxable supply, such person shall be entitled to take ITC, *inter alia*, in respect of capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable i.e. Nov 30, 2023.

ITC on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.

Thus, Vijay Pvt. Ltd. can take following amount of ITC on additional machinery purchased exclusively for manufacturing "V2Z" by making an electronic declaration in prescribed form specifying the details of capital goods on the day immediately preceding the date from which such supply becomes taxable within 30 days of becoming eligible to avail ITC:

$$= (\text{₹ } 45 \text{ lakh} \times 18\%) - (\text{₹ } 45 \text{ lakh} \times 18\% \times 5\% \times 2 \text{ quarters})$$

= ₹ 8,10,000 – ₹ 81,000

= ₹ 7,29,000

- (b) (i)** Lending of securities under the Securities Lending Scheme is not a transaction in securities as it does not involve disposal of securities. It is not excluded from the definition of services and amounts to supply.

Consequently, lending of securities for consideration to Kala Enterprise amounts to supply.

- (ii)** Since the invoice for further supply of goods is being issued by the agent – Romi. in his own name, the provision of goods from the principal – Patta Limited. - to the agent – Romi - would fall within the purview of Schedule I of the CGST Act, 2017 and would amount to supply even though made without consideration.

Further, supply of goods by Romi to the customer for consideration amounts to supply.

- (iii)** Since any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act to refrain cannot be considered for providing services in the course of employment, amount received by Miss Chhaya from Dilasa Limited amounts to supply under the GST law.

- (c)** Where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported goods have been destroyed, otherwise than as a result of pilferage at any time before clearance for home consumption, the duty shall be remitted on such goods.

In the given case, since loss of sports car is forever and beyond recovery due to fire, Rustam can claim remission of customs duty upon proving the loss to the satisfaction of the Assistant Commissioner or Deputy Commissioner.

Further, since duty has already been paid in the given case, he can claim refund after getting the remission orders.

Further, Rustam can claim remission or refund of duty even if he warehoused the sports car and fire occurred there after the payment of duty but before actual clearance therefrom.



**Question 4**

- (a) M/S MN Ltd has a balance of ₹ 30,000 as CGST and ₹ 30,000 SGST in the electronic credit ledger in the beginning of April 2024. During the month of April, 2024, M/S MN Ltd has following liabilities:-

<b>Particulars</b>	<b>CGST (₹)</b>	<b>SGST (₹)</b>
GST Payable on outward supplies	10,000	10,000
GST payable as a consequence of proceeding instituted under the provision of GST law	5,000	5,000
GST payable on reverse charge supplies	6,000	6,000
Interest for default in late filing of GSTR-3B	500	500
Penalty	500	500
<b>TOTAL</b>	<b>22,000</b>	<b>22,000</b>

There is no input tax credit for the month of April 2024.

M/S MN Ltd is of the view that since opening balance in the electronic credit ledger is sufficient to discharge the whole liability for the month of April 2024, it is not required to deposit any tax for the above month.

Explain with reasons whether the contention of M/S MN Ltd is correct in view of the applicable provisions of the CGST Act, 2017.

If not, what would be the amount payable in cash for the month of April, 2024?

Also discuss in brief, the relevant provision of GST law.

**(5 Marks)**

- (b) Sunita Industries, registered in the State of Gujarat, receives machinery for repair in its workshop located in Surat, Gujarat on 4<sup>th</sup> April, 2024 from Titen Ltd., an automobile manufacturing company based in China. Titen Ltd. is not registered in India. The repair work was carried out by Sunita Industries for which it was paid in convertible foreign exchange. The aggregate turnover of Sunita Industries was ₹ 450 crore in the preceding financial year 2023-2024 but for the financial year 2022-2023 the turnover was ₹ 562 crore.

While raising the invoice for the said consideration, the accountant of Sunita Industries approaches you as to whether the Dynamic Quick Response (QR) code is mandatorily required on said invoice?

*You are required to advise him on the same by explaining the relevant provisions of GST law with reference to Dynamic Quick Response code along with applicable provisions of place of supply.* **(5 Marks)**

- (c) *Mr. Sahil, an importer, had made provisional payment of customs duty of ₹ 2,00,000 under section 18 of the Customs Act, 1962 on 17<sup>th</sup> July, 2023, along with a security of ₹ 1,00,000 towards provisional release of goods. Final assessment was completed on 15<sup>th</sup> October, 2023 with a duty assessed as ₹ 50,000. The refund order of ₹ 50,000 and the order of release of security of ₹ 1,00,000 was issued on the same day (15<sup>th</sup> October, 2023).*

*Mr. Sahil had filed a refund application on 20<sup>th</sup> October, 2023 along with necessary documents. On perusal of the refund application, proper officer had found some deficiencies which were communicated to Mr. Sahil.*

*Mr. Sahil had submitted the required additional documents and proper officer had issued an acknowledgement on 5<sup>th</sup> November, 2023. Refund was paid to him on 25<sup>th</sup> March, 2024.*

*You are required to compute interest receivable by Mr. Sahil under section 27A of the Customs Act, 1962 on amount of duty and on amount of security if any.*

*Calculation should be nearest to one rupee and assume 366 days in the year.* **(4 Marks)**

**Answer**

- (a) The electronic credit ledger can be used for making payment of only output tax which is the tax chargeable on taxable outward supply, but excludes tax payable on reverse charge mechanism. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the GST law.

Accordingly, electronic credit ledger can be used for any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the GST law.

Thus, in view of the above-mentioned provisions, the contention of MN Ltd. is not correct.

Computation of amount payable in cash is as under: -

Particulars	CGST (₹)	SGST (₹)
GST payable on outward supplies	10,000	10,000
GST payable as consequence of proceeding instituted under GST law	<u>5,000</u>	<u>5,000</u>
Total	15,000	15,000
<i>Less:</i> ITC in Electronic Credit ledger	<u>(15,000)</u>	<u>(15,000)</u>
Balance	Nil	Nil
<i>Add:</i> GST payable on reverse charge supplies	6,000	6,000
<i>Add:</i> Interest for default in late filing of GSTR-3B	500	500
<i>Add:</i> Penalty	<u>500</u>	<u>500</u>
Total amount payable in cash	<b><u>7,000</u></b>	<b><u>7,000</u></b>

**(b) ALTERNATIVE-I**

**Where it is assumed that the machinery is exported without being put to any use in India:**

The place of supply of the services supplied in respect of goods which are temporarily imported into India for repairs and are exported after such repairs without being put to any use in India where supplier is in India and recipient is located outside India, is the location of the recipient of services, location outside India i.e. China.

Thus, place of supply of repair services provided to Titen Ltd. in the given case is China.

Further, said repair services shall qualify as "export of services" since:

- supplier is in India,
- both recipient and place of supply are outside India,
- the payment for service is received in convertible foreign exchange, and
- supplier and recipient are not merely establishments of a distinct person.

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores will have a Dynamic QR code.

However, no Dynamic QR code is required in case of exports.

In the given case, although the aggregate turnover of Sunita Industries exceeds ₹ 500 crore in preceding FY 2022-23, it is still not mandatorily required to have a Dynamic QR code requirement on the invoice for said services as Dynamic QR code requirement is not applicable to exports.

**ALTERNATIVE-II**

**Where it is assumed that the machinery is exported after being put to use in India:**

The place of supply of the services supplied which are required to be made physically available by the recipient to the supplier for repairs and are exported after such repairs if put to any use in India where supplier is in India and recipient is located outside India, is the location where goods are situated at the time of supply of services.

Thus, place of supply of repair services provided to Titen Ltd. in the given case is Gujarat.

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crores will have a Dynamic QR code.

However, in cases, where an invoice is issued to recipient outside India, for supply of services, for which place of supply is in India and the payment is received by supplier, in convertible FOREX, such invoice may be issued without having a Dynamic QR Code.

In the given case, although the aggregate turnover of Sunita Industries exceeds ₹ 500 crore in preceding FY 2022-23, it is still not mandatorily required to have a Dynamic QR code requirement on the invoice for said services.

- (c) In case of provisional assessment of duty, if any amount refundable upon finalization of assessment to the importer is not refunded within 3 months from the date of final assessment of duty, interest @ 6% per annum shall be paid on such unrefunded amount till the date of refund of such amount.

No interest is payable on security deposits for provisional release of goods, etc.

Thus, in the given case, the amount of interest receivable by Mr. Sahil is as under:-

16<sup>th</sup> January, 2024 to 25<sup>th</sup> March, 2024 (Both inclusive)

Period of delay = 70 days

Thus, interest = ₹ 50,000 × 6% × 70/366

= ₹ 574 (rounded off)

**Note:** Please read 'section 27A in the question as section 18.

#### Question 5

- (a) *Swastik Tours and Travel is registered taxable person under GST in the State of Punjab. Its gross receipts from the overseas package tours for the month of February 2024 amounted to ₹ 50 crore. Out of this ₹ 50 crore, ₹ 10 crore were received from registered persons. While filing GSTR-1 for the month-of February 2024, it tampered the amount of invoices issued to unregistered persons and reported only ₹ 20 crore on account of B to C transactions (i. e, transaction with unregistered persons), thus, understating the tax liability by ₹ 3.60 crore (i.e. 18% of 20 crore). Moreover, while filing GSTR-3B for the same month, it availed ITC of ₹ 0.40 crore on account of fake invoices received without receipt of goods/services.*

*GST Department initiated prosecution proceedings against Swastik Tours and Travel for the above offence.*

*Swastik Tours and Travel deposited the amount of tax due along with the interest and penalty and ₹ 1 crore as compounding amount being amount equivalent to 25% of tax evaded and requested the commissioner for compounding of offence. Other conditions required for compounding the amount were duly complied with.*

*Even then commissioner rejected the request of Swastik Tours and Travel on the plea that compounding amount deposited by Swastik Tours and Travel is less than the minimum amount to be deposited for compounding of offence.*

*You are required to examine the case and comment upon the rejection of request of Swastik Tours and Travel as per the provisions of section 138 of the CGST Act, 2017 read with relevant rule of the CGST Rules, 2017.*

*Also discuss the relevant legal provision in brief. **(5 Marks)***

- (b) *Miss Meena is aggrieved by the order passed by the Assistant Commissioner and wants to file an appeal with Commissioner (Appeals). Her accountant, who looked after her GST related matters including filing of GST returns /other compliances online, is on leave for one month. So, she decides to file the appeal manually.*

*The order against which appeal is to be filed is available on the GST portal. There was no such notification issued by the commissioner that appeal can be filed manually.*

*With reference to the provisions of GST law, you are required to ascertain:-*

- (i) *Whether Miss Meena can file an appeal to the commissioner (Appeals) in this case?*
- (ii) *Whether decision taken by Miss Meena to manually file an appeal is valid?*

*Also explain the relevant legal provisions in support of your answer.*

**(5 Marks)**

- (c) *Mr. Charanjit, an importer, filed a claim for refund of custom duty paid under protest which was assessed on the value of imported machinery.*

*The assessment order on the basis of which duty was payable by Mr. Charanjit had neither been reviewed nor modified in any appeal. The department rejected the claim for refund filed by Mr. Charanjit.*

*Discuss with the help of the decided case law, if any, whether the action of Department rejecting the claim is correct in law? Give reason for support of your answer.*

*What other options are available to Mr. Charanjit?*

*Note: Name of the case law is not mandatory to be part of your answer.*

**(4 Marks)**

**Answer**

**(a)** In the given case, Swastik Tours and Travel has committed the following offences:

- Availing of ITC using the fake invoices received without receipt of goods/services
- Falsification or substitution of financial records with an intention to evade payment of tax due or evasion of tax

Here, the amount of tax evaded/ITC wrongly availed is Rs. 4 crore (₹ 3.60 crore + ₹ 0.4 crore), i.e. it exceeds ₹ 2 crore but does not exceed ₹ 5 crore.

Further, where the offence committed by the person falls under more than one category, the compounding amount shall be the amount determined for the offence for which higher compounding amount has been prescribed.

Thus, the compounding amount will be as follows:

- For the offence of availing of ITC using the fake invoices received without receipt of goods/services, compounding amount is 40% of the amount of ITC wrongly availed.
- For the offence of falsification or substitution of financial records with an intention to evade payment of tax due or evasion of tax, compounding amount is 40% [higher of 25% or 40%] of the amount of tax evaded].

Thus, Swastik Tours and Travel should have deposited the following amount of tax evaded/ITC wrongly availed as the compounding amount:

= 40% of ₹ 4 crore

= ₹ 1.60 crore

Since Swastik Tours and Travel has deposited lesser compounding amount than required, the rejection of its request for compounding by the Commissioner is justified.

- (b) (i) An appeal may be filed to the Commissioner (Appeals) against an adjudicating order if such an order is passed by the Additional or Joint Commissioner.

However, where the order is passed by the Assistant Commissioner, the appeal is to be filed to any officer not below the rank of Joint Commissioner (Appeals).

Thus, in the given case, appeal cannot be filed to the Commissioner (Appeals), but to any officer not below the rank of Joint Commissioner (Appeals).

- (ii) An appeal to the Appellate Authority may be filed manually only if-
- (i) the Commissioner has so notified, or
  - (ii) the decision or order to be appealed against is not available on the common portal.

Therefore, in light of the facts of the given case, the appeal cannot be filed manually.

- (c) The action of the Department of rejecting the refund claim is correct.

The facts of the given case are similar to a Supreme Court judgment<sup>5</sup> wherein the Court held that unless an assessment order has been reviewed and/or modified in an appeal, that assessment order stands, and the duty is payable only as per that assessment order.

A refund claim is not an appeal proceeding.

Further, the officer considering the refund claim, cannot not review the assessment order.

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<sup>5</sup> *Priya Blue Industries Limited v. Commissioner of Customs 2004 (172) ELT 145 (SC)*



Thus, refund claims based on challenge to an order of assessment are liable to be rejected.

Mr. Charanjit has alternative option of:

(i) filing appeal against the assessment order with which he is aggrieved.

or

(ii) request the competent officer to review the assessment order.

**Question 6**

(a) *Describe the provision of payment of tax and other amount in installment under section 80 of the CGST Act, 2017.*

*Also discuss, under what circumstances such payment facility shall not be allowed.* **(6 Marks)**

(b) *Discuss in brief the precautions to be observed while issuing summons under the GST law.* **(4 Marks)**

OR

*Under the GST law who can order for carrying out inspection and under what circumstances?* **(4 Marks)**

(c) *Define Status Holder under Foreign Trade Policy. Which categories of exporter firms are eligible for recognition as a Status Holder and what are the criteria towards recognition as Status Holder?*

*Also state what would be the minimum threshold limit of export performance of Status holders for various categories of Star Export House.* **(4 Marks)**

**Answer**

(a) On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, allow payment of tax and other amounts due by such person in maximum 24 monthly instalments, on payment of interest and subject to prescribed conditions and limitations.

If there is default in payment of any one instalment on due date, then the whole outstanding balance shall become due and payable immediately.

The facility of payment in instalments shall not be allowed where –

- (a) the taxable person has already defaulted on the payment of any amount under the GST law, for which the recovery process is on.
  - (b) the taxable person has not been allowed to make payment in instalments in the preceding financial year.
  - (c) the amount for which instalment facility is sought is less than ₹ 25,000.
  - (d) the amount payable is self-assessed tax.
- (b)** The following precautions should generally be observed when summoning a person: -
- (i) A summon should not be issued for appearance where it is not justified. The power to summon can be exercised only when there is an inquiry being undertaken and the attendance of the person is considered necessary.
  - (ii) Repeated summons should be avoided. As far as practicable, the statement of the accused/ witness should be recorded in minimum number of appearances.
  - (iii) The time of appearance given in the summons should be respected. No person should be made to wait for long hours before his statement is recorded unless decided as a matter of strategy.
  - (iv) Statements should preferably be recorded during office hours; however, an exception could be made regarding the time and place of recording statement having regard to the facts in the case.

**(b) Alternative Answer**

Inspection can be carried out upon a written authorization given by an officer of the rank of Joint Commissioner or above.

A Joint Commissioner or an officer higher in rank can give such authorization only if he has reasons to believe that the person concerned has done one of the following to evade tax:

- i. suppressed any transaction of supply;
- ii. suppressed stock of goods in hand;
- iii. claimed excess input tax credit;

- iv. contravened any provision of the CGST Act to evade tax;
  - v. a transporter or an owner/operator of a warehouse/godown/any other place has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax.
- (c) Status Holder is an exporter recognized for export performance by a Regional Authority. Status Holders are exporter firms recognized on the basis of their export performance as business leaders who have excelled in international trade and have successfully contributed to country's foreign trade.

All exporters of goods, services and technology having an import-export code (IEC) number, on the date of application, shall be eligible for recognition as a status holder based on export performance.

An applicant may be categorized as status holder on achieving the threshold export performance in the current and preceding three financial years as indicated below:

Status category	Export Performance (Threshold in USD Million)
One Star Export House	3
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800