

FINAL COURSE: GROUP - II
PAPER – 5: INDIRECT TAX LAWS

1. *Question paper comprises of two parts – Part-I and Part-II.*
2. *Part-I comprises of Case Scenario based Multiple-Choice Questions (MCQs).*
3. *Part-II comprises of questions which require descriptive type answers.*
4. *Working Notes should form part of the answers. However, in answers to Questions in Part I, working notes are not required.*
5. *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, 2023 which have become effective, till 30.04.2024 and (ii) Customs law as amended by the Finance Act, 2023 and significant notifications/circulars and other legislative amendments made upto 30.04.2024.*

Case scenario 1

Nirav Ltd. is registered with the jurisdictional GST authorities in the State of Rajasthan and operates in multiple businesses. The principal business of Nirav Ltd. is works contract service being provided to the customers by way of fabricating and installing the body for large transportation vehicles. The chassis of the vehicles are provided by the customers to Nirav Ltd. Nirav Ltd. procures the material for fabrication and installs the same on the chassis against a lumpsum agreed amount for material as well as services.

In addition to the above business, Nirav Ltd., registered as GTA, is also engaged in providing services of transportation of goods by road through its own fleet of trucks. GST is chargeable on such services @ 5%. Nirav Ltd. has not exercised the option to pay GST on the same.

During the month of January, Nirav Ltd. undertook the following transactions:

- (i) Provided services of transportation of goods to Manohar Ltd., a registered person under GST in the State of Gujarat and received an amount of ₹ 10,00,000 as consideration for the same.
- (ii) Purchased tyres for its own fleet of trucks used for providing services of transportation of goods by road and paid an amount of ₹ 1,00,000 for such purchases.
- (iii) Purchased a machinery with an advance technology for fabrication of body for luxury buses amounting to ₹ 50,00,000. The machinery is installed at Nirav Ltd.'s premises and the same was purchased from BLM Ltd., a registered

person in the State of Rajasthan. BLM Ltd. procured such machinery from Saket Ltd., a registered person under GST in the State of Maharashtra. The delivery was made by Saket Ltd. directly at the premises of Nirav Ltd. and installation work was carried out by the engineers of Saket Ltd. The amount charged by Saket Ltd. from BLM Ltd. was ₹ 42,00,000.

- (iv) Nirav Ltd. procured certain engineering services for its fabrication business through electronic mode from Basilla Inc., a company located in Italy. The consideration paid to Basilla Inc. was ₹ 15,00,000.

Further, certain goods were sent by Nirav Ltd. for carrying out repair work on the same to Basilla Inc. The consideration paid for such repair work was ₹ 5,00,000.

- (v) Provided services of transportation of goods to BPZ Ltd., its related party and received an amount of ₹ 5,00,000. The arm's length amount of such services provided to third party unrelated customers was ₹ 7,00,000.
- (vi) Nirav Ltd. sold scrap relating to fabrication business amounting to ₹ 5,00,000.
- (vii) Purchased goods relating to fabrication business for ₹ 10,00,000 out of which goods worth ₹ 1,00,000 were stolen from the premises of Nirav Ltd.
- (viii) Received an advance of ₹ 10,00,000 for fabrication work on new chassis and ₹ 3,00,000 towards transportation of goods services from Karim Ltd., a registered person under GST in the State of Madhya Pradesh.

The opening balance of input tax credit for the relevant tax period for Nirav Ltd. is nil. All the above amounts are exclusive of GST, wherever applicable.

The applicable GST rate on all inward and outward supplies is 18% unless specified otherwise. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 5 below:

1. Determine the net GST liability, payable in cash, of Nirav Ltd. for the month of January.
 - (a) ₹ 5,40,000
 - (b) ₹ 2,70,000
 - (c) Nil
 - (d) ₹ 7,38,000
2. What shall be the total eligible input tax credit available to Nirav Ltd. for the month of January?
 - (a) ₹ 10,80,000
 - (b) ₹ 10,62,000
 - (c) ₹ 13,32,000
 - (d) ₹ 9,00,000

3. Whether Basilla Inc. is required to obtain registration in India to discharge GST liability? If yes, compute the amount of GST liability to be discharged by it in the month of January?
 - (a) Yes, as online information database access and retrieval service provider. GST payable is ₹ 3,60,000
 - (b) Yes, as online information database access and retrieval service provider. GST payable is ₹ 2,70,000
 - (c) No, Basilla Inc. is not required to obtain GST registration in India for discharging GST liability. GST liability of Basilla Inc. is nil.
 - (d) Yes, as normal taxpayer. GST payable is ₹ 3,60,000
4. Determine the GST liability of Nirav Ltd. on services of transportation of goods provided to BPZ Ltd.
 - (a) Nil
 - (b) ₹ 90,000
 - (c) ₹ 1,26,000
 - (d) ₹ 36,000
5. In case of the machinery sold and fabricated by Saket Ltd., the place of supply and tax charged shall be:
 - (a) Location of Saket Ltd.; IGST of ₹ 7,56,000
 - (b) Location of Nirav Ltd.; IGST of ₹ 7,56,000
 - (c) Location of BLM Ltd.; IGST of ₹ 9,00,000
 - (d) Location of Saket Ltd.; CGST of ₹ 3,78,000 and SGST of ₹ 3,78,000

Case scenario 2

Espon Inc. is an entity incorporated in USA and is engaged in provision of various information technology related services directly as well as through its subsidiaries located across the world. In India, Espon India, a subsidiary of Espon Inc., is registered under GST in the State of Karnataka under GST and is providing services to various customers in India.

Espon Inc. provides cloud-based storage services to its customers (business entities and non-business entities) in India. The customers can subscribe to the services by making online payment directly to Espon Inc.'s bank account through internet banking and other modes. The terms and conditions for such services are entered between Espon Inc. and the customer directly without involvement of any third party.

In case of any issue, the customers can call and log the issue at the customer help centre which is operated by Espon India on principal to principal basis. For operation of such customer help centre, Espon India is paid on cost plus 10% basis by Espon Inc. on monthly basis.

Further, Espon India is engaged in promotion and marketing of cloud-based storage services on principal to principal basis in India for Espon Inc. The payment

for such services is made by Espon Inc. to Espon India on monthly basis at cost plus 20%. The promotional and marketing activities are carried out in the name of Espon Inc., without any reference to operations of Espon India.

Espon Inc. owns online space for advertisement on internet. Espon Inc. has agreed to sell such online advertising space to Espon India for an amount of ₹ 5,00,00,000 per month. Espon India sells such advertising space to its customers in India on its own account. The contractual arrangement for sale of such advertising space is between the customer and Espon India.

Espon Inc. provides technology support to Espon India and charges royalty from Espon India for such technology support at a fixed charge of ₹ 25,00,000 per month. The royalty paid is exclusively related to the business of advertising space of Espon India.

In addition to above information, during the month of January:

- (I) Espon India has incurred following expenses:
 - 1. Expenses exclusively related to operation of call centre – ₹ 75,00,000
 - 2. Expenses exclusively related to promotion and marketing services for Espon Inc. – ₹ 50,00,000
- (II) Espon India earned an income of ₹ 8,00,00,000 from sale of online advertising space in India.
- (III) Espon Inc. earned an income of ₹ 10,00,00,000 from non-taxable online recipient customers, from cloud-based storage services in India.

The opening balance of input tax credit for the relevant tax period for Espon India and Espon Inc. is nil.

Note: In the aforesaid case scenario,

- (i) GST is applicable on all inward and outward supplies @ 18% (ignore bifurcation of intra-State and inter-State supply) unless otherwise specified:
- (ii) Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.
- (iii) All the amounts are exclusive of GST, wherever applicable, unless otherwise provided.
- (iv) Exports made by Espon India, if any, are through furnishing of LUT without payment of IGST.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 6 to 8 below:

- 6. What shall be the output tax liability, without any adjustment of input tax credit, if any, by Espon India for the month of January?
 - (a) ₹ 1,44,00,000
 - (b) ₹ 2,38,50,000
 - (c) ₹ 1,69,65,000
 - (d) ₹ 1,66,50,000

7. What shall be the net GST liability of Espon Inc. for the month of January?
- (a) Nil
 - (b) ₹ 1,80,00,000
 - (c) ₹ 1,84,50,000
 - (d) ₹ 2,74,50,000
8. Please select the correct statement specifically in relation to sale of online advertisement space service provided by Espon Inc. to Espon India:
- (a) Espon Inc is providing online information and database access or retrieval service and is thus, required to register in India under GST and discharge GST on forward charge basis.
 - (b) Espon Inc is providing online information and database access or retrieval service electronically and place of supply in such case is the location of supplier which is outside taxable territory in present scenario. Therefore, no GST is payable on such services.
 - (c) Espon Inc. is providing online information and database access or retrieval service and tax on the same is to be paid by Espon India on reverse charge basis.
 - (d) Espon Inc. is providing online information and database access or retrieval service and tax on the same is to be paid by Espon India in capacity of an agent of Espon Inc.

Case Scenario 3

M/s Malik Rao & Company is a partnership firm of advocates, registered under GST in Mumbai, Maharashtra. In the month of April, the firm has supplied services amounting to ₹ 15 lakh. The following information is provided in relation to the some of the services provided:

S. No.	Particulars	Value of service (₹)
1.	Incense Power (P) Ltd. (Registered in Telangana in the preceding financial year as per the provisions of section 22 of the CGST Act, 2017) Provided consultation for preparation of an affidavit in relation to construction of a hotel building in the State of Maharashtra.	50,000
2.	Sultan India (P) Ltd. (Registered in Gujarat in the preceding financial year as per the provisions of section 22 of the CGST Act, 2017) Filed a suit in the Gujarat High Court on behalf of the company	200,000
3.	Ms. Kavya (Registered under GST as a salon service provider in Maharashtra in the preceding financial year as per the provisions of section 22 of the CGST Act, 2017)	-

	Service amounting to ₹ 1 lakh was provided in the month of February for which invoice was issued on 15 th February. However, payment is made by the client on 5 th April. The firm has charged ₹ 10,000 as penalty (exclusive of GST) for delayed payment of consideration. Said penalty is also paid by the client on 5 th April. Apart from this, as per the agreement with the client, the firm had paid ₹ 20,000 as attestation charges on behalf of the client, mentioned separately on the invoice, which were reimbursed by the client in the month of February itself.	
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Note: The turnover of M/s Malik Rao & Company in the previous financial year was ₹ 50 lakh. The firm is engaged solely in providing legal services and it does not import/export any services from/to outside India.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 9 to 12 below:

9. Whether the service provided to Sultan India (P) Ltd. is exempt under GST? If not, whether tax is payable under reverse charge?
- (a) Yes, all services provided by an advocate firm are exempt from GST.
 - (b) No, since service is provided to a business entity that is registered under GST in the preceding financial year as per the provisions of section 22 of the CGST Act, 2017. Further, tax shall be payable by M/s Malik Rao & Company under forward charge.
 - (c) Yes, any service provided by an advocate firm to a business entity is exempt under GST.
 - (d) No, since service is provided to a business entity that is registered under GST in the preceding financial year as per the provisions of section 22 of the CGST Act, 2017. Further, tax shall be payable by Sultan India (P) Ltd. under reverse charge.
10. What shall be the time of supply for supplies made to Ms. Kavya in respect of original amount ₹ 1 lakh and penalty amount of ₹ 10,000?
- (a) For whole amount of ₹ 1,10,000: 15th February
 - (b) For ₹ 1 lakh: 15th February and for ₹ 10,000: 5th April
 - (c) For whole amount of ₹ 1,10,000: 5th April
 - (d) For ₹ 1 lakh: 15th April and for ₹ 10,000: 5th April
11. What shall be the value of supply provided to Ms. Kavya in terms of section 15 of the CGST Act, 2017?
- (a) ₹ 110,000
 - (b) ₹ 100,000
 - (c) ₹ 130,000
 - (d) ₹ 120,000

12. Which of the following statements is/are correct in law?
- (i) M/s Malik Rao & Company is eligible to opt for composition levy under sub-sections (1) and (2) of section 10 of the CGST Act, 2017.
 - (ii) M/s Malik Rao & Company is not eligible to opt for composition levy under sub-sections (1) and (2) of section 10 of the CGST Act, 2017.
 - (iii) M/s Malik Rao & Company is eligible to opt for composition levy under sub-section (2A) of section 10 of the CGST Act, 2017.
 - (iv) M/s Malik Rao & Company is not eligible to opt for composition levy under sub-section (2A) of section 10 of the CGST Act, 2017.
- (a) (i)
(b) (i) and (iv)
(c) (ii) and (iv)
(d) (ii) and (iii)
13. Mr. Vikram, a registered person under GST, was the proprietor of M/s Tikhi Meethi Restaurant. He died and left behind his wife and son, on 15th August. His son, Mr. Venkat wants to continue the business of the deceased father.
- The GST consultant of M/s Tikhi Meethi Restaurant gives advice to Mr. Venkat as to how he can continue the business of his deceased father.
- Which of the following options is correct in accordance with the provisions of GST law?
- (a) Mr. Venkat should apply for a new registration under GST in the name M/s Tikhi Meethi Restaurant under his own PAN w.e.f. the date of succession and file Form GST ITC 02 for transfer of ITC to the new entity.
 - (b) Mr. Venkat can get the authorized signatory changed by approaching to the Proper Officer and can continue the same business.
 - (c) Mr. Venkat should close the old firm and start new business under different name.
 - (d) Mr. Venkat should do the business with his mother as the new proprietor of the M/s Tikhi Meethi Restaurant, and Mr. Venkat should act as a Manager.
14. Parth Ltd. sent certain goods abroad for repairs. Parth Ltd. has been advised by their consultants that they will have to pay customs duty (i.e. basic customs duty, IGST & GST compensation cess) only on fair cost of repairs, cost of materials used in repairs (whether such costs are actually incurred or not), freight and insurance charges, both ways, on re-import of exported goods under Notification No. 45/2017 Cus dated 30.06.2017 provided they fulfill following conditions:
- (i) The re-importation is done within 3 years from date of export or, if time is extended, within 5 years.
 - (ii) The exported and re-imported goods are same.

(iii) The ownership of goods should not have changed.

Which one of the above-mentioned conditions is/are correct? Choose the most appropriate option.

- (a) (i), (ii) and (iii)
 - (b) (ii) and (iii)
 - (c) (i) and (iii)
 - (d) Only (ii)
15. After visiting Australia for a month, Mrs. and Mr. Mehta (Indian residents aged 36 and 35 years respectively) brought to India used personal effects valued at ₹ 90,000 and a personal computer for ₹ 52,000. What is the customs duty payable? Ignore Agriculture infrastructure and development cess.
- (a) ₹ 20,020
 - (b) ₹ 770
 - (c) ₹ 35,420
 - (d) ₹ 54,670

Part-II – Descriptive Questions (70 Marks)

Question paper comprises of 6 questions.

Answer Question No. 1 which is compulsory and any 4 questions out of the remaining 5 questions.

1. Jigar Infra Ltd., a registered supplier under GST in the State of Kerala, is engaged in the construction business. He availed legal services relating to a business dispute and paid ₹ 7,00,000 as consideration for the same. He also purchased construction materials amounting to ₹ 15,00,000 from Chirag Steels Ltd., registered in the State of Andhra Pradesh. Further, for transport of materials, it purchased a new truck from a dealer in Cochin, Kerala by making payment of ₹ 12,00,000.

It provides the following information relating to its outward supply for the month of April:

S. No.	Particulars	Amount (₹)
(i)	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. (The figures in rupees have been given after conversion though transaction was in convertible foreign currency).	
(ii)	Transferred one load of tiles to its branch in Cochin, Kerala, from its head office at Trivandrum, Kerala. Both places are under the same GST registration.	7,50,000

(iii)	Provided pure labour services of construction of single commercial unit not forming part of any complex to a customer in Bengaluru (Karnataka).	15,00,000
(iv)	Supplies a consignment of marbles in the territorial waters to Surya Builders LLP. The said territorial waters is located at a distance of 11 nautical miles from the baseline of State of Kerala and 12 nautical miles from the baseline of State of Tamil Nadu.	6,00,000
(v)	Received an advance for future supplies of goods and services from a customer in Kerala. Out of such advance 70% is related to future supplies of services.	7,00,000

The company provided the following additional information:

- (i) Paid ₹ 6,00,000 as remuneration to an independent director based at Cochin during the month.
- (ii) The company claimed depreciation under the Income-tax Act, 1961 on the new truck purchased including all applicable taxes.
- (iii) E-invoice portal shows that Chirag Steels Ltd.'s GST number is liable to issue e-invoice. However, the supplier did not issue e-invoice and issue a manual invoice. The invoice was reflected in GSTR-2B.
- (iv) Turnover of Jigar Infra Ltd. for the previous financial year was ₹ 180 lakh.
- (v) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services.
- (vi) All the amounts given above are exclusive of taxes wherever applicable.

From the information given above, you are required to compute the minimum net GST liability payable in cash (CGST, SGST or IGST, as the case may be) for the month of April. Reason for treatment needs to be given.

(14 Marks)

2. (a) Determine place of supply along with reasons in the following independent cases:
- (i) Mr. Rana (New Delhi) boards the New Delhi-Kota train at New Delhi. Mr. Rana sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.
 - (ii) Sultan Pvt. Ltd. imports electric food processors from China for its Kitchen Store in Noida, Uttar Pradesh. Sultan Pvt. Ltd. is registered in Uttar Pradesh.
 - (iii) Mr. Krishnadevaraya, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Krishnadevaraya's family is stationed in Kanpur, Uttar Pradesh. He hires Nath Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal.

- (iv) Chintu Sharma, a resident of New Delhi, opens his saving account in New Delhi branch of Sadda Bank after undergoing the KYC process. He goes to Amritsar for some official work and withdraws money from Sadda Bank's ATM in Amritsar thereby crossing his limit of free ATM withdrawals.
- (v) Mr. Gappu, an architect (New Delhi), enters into a contract with Mr. Hanry of New York to provide professional services in respect of immovable properties of Mr. Hanry located in Pune and New York.

(10 Marks)

- (b) A non-resident Indian from USA donated food processing machinery to Balaji Charitable Trust (BCT). BCT, however, paid commission to local agent in India.

Assistant Commissioner of Customs determined the FOB value of machine at US \$ 17,500 including design and development charges. Design and development is undertaken in USA and necessary for the production of imported goods. The trust accepted the value determined. Actual air freight paid was US \$ 4,000 and insurance cost was US \$ 1,500. Other details available are given below:

- (i) Commission paid to local agent of the exporter is US\$ 2,100 (paid in ₹ 1,57,500).
- (ii) Date of Bill of Entry presentation is 25th March, 2024. On this date, rate of BCD is 10%. Rate of exchange notified by CBIC is ₹ 75 per US \$; Reserve Bank Rate is ₹ 76 per US \$.
- (iii) Date of arrival of aircraft at customs station is 5th April, 2024.
On this date, rate of BCD is 15%, rate of exchange notified by CBIC is ₹ 74 per US \$; Reserve Bank Rate is ₹ 75 per US \$.
- (iv) Social welfare surcharge is leviable @ 10% and applicable IGST rate is 18%

Compute the assessable value under the Customs Act and also calculate basic customs duty payable, social welfare surcharge and IGST on import of machine. Assume that no exemption is available on this transaction and make suitable assumptions, if required. **(4 Marks)**

3. (a) Rainbow Services Limited, registered under GST, is engaged in providing various services to various educational institutions. The company provides the following information in respect of services provided during the month of April 2024:

S. No.	Description of services provided
(i)	Transportation of students & staff of 'Prudence', a deemed University
(ii)	Catering services provided to 'Grade CBSE School'

(iii)	Security services provided to 'Ladder CBSE School', for its annual sports day held at Health Sports Complex owned by Government of India
(iv)	Supply of online periodical science journal to 'Credit CBSE School' for its higher secondary students
(v)	Services, in relation to placement of students, to 'Standard', a Government recognized vocational training college

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

(5 Marks)

- (b) Kinjal checked-in at the 'Laze Tourist Lodge' in Madurai on 15th March, 2024. The room rent for the same was ₹ 900 per day for a single room. She checked-out on 17th of March, 2024 and payment in respect to the same was received by the lodge via cheque at the time of checking-out and entered in the books on the same date. The lodge decided to issue her the invoice on the same date when the amount would get credited in its bank account.

The lodging of hotel rooms which was exempted upto ₹ 1,000 earlier became chargeable to tax from 18th March, 2024.

Under the GST law, determine the time of supply and taxability of the service of lodging in the hands of 'Laze Tourist Lodge' if the cheque gets credited into the bank account of 'Laze Tourist Lodge' on 20th of March, 2024.

Note: Assume that all the days covered in the above case are working days.

(5 Marks)

- (c) Elite Car Decors imported car music systems and GPS devices from Germany. The importer submits the following issues for your consideration:

- (i) 10 GPS devices were pilfered after unloading and before the proper officer has made an order for clearance for home consumption.
- (ii) 30 music systems were damaged after unloading and examination for assessment by the customs authorities but before actual home clearance. It may be noted that the imported music systems have not been warehoused.

Elite Car Decors seeks your expert advice with reason regarding the impact on customs duty on the said goods.

(4 Marks)

4. (a) Decide with reason whether the registration is required under CGST Act, 2017 in the following independent cases:
- (i) A casual taxable person (CTP) has provided inter-State supply of notified products being textiles hand printing amounting to ₹ 19.25 lakh during the month of January. Those products were made by craftsmen by both hand and machines equally. CTP had obtained

PAN and generated e-way bill for supply.

- (ii) Mr. Chandu of Delhi doing trading business across India and his intra-state turnover details are as below,

- (1) Taxable supplies made from Delhi - ₹ 18 lakh.
- (2) Exempt supplies made from Andhra Pradesh - ₹ 10 lakh.
- (3) Both taxable and exempt supplies made from Tamilnadu - ₹ 5,00,000 and ₹ 6,00,000 respectively.

It may be noted that Mr. Chandu makes only intra-State supplies across India. **(5 Marks)**

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

(5 Marks)

- (c) With reference to the Customs Act, 1962, decide the validity of the following independent cases with proper legal provisions:

- (i) Smooth Rubber Limited is a 100% EOU located in a Special Economic Zone. It imported certain items from China for its production process. Customs officer proposed to impose anti-dumping duty on such imports. The importer contends that no anti-dumping duty can be imposed on imports by a 100% EOU under any circumstances.
- (ii) Customs Department proposed to impose anti-dumping duty retrospectively in respect of certain items. Importer's association claimed that anti-dumping duty cannot be levied with retrospective effect under any circumstances. **(4 Marks)**

5. (a) Discuss the validity of the following independent cases under the provisions of CGST Act, 2017:

- (i) CGST officer had issued a notice under section 74(1) of the CGST Act, 2017 against which appeal was preferred by the assessee. Appellate Authority concluded that the notice issued under section 74(1) of the CGST Act, 2017 was not sustainable for the reason that charges of fraud had not been established. Now the officer wishes to determine the tax payable by treating the said notice as if it was issued under section 73(1) of the CGST Act, 2017. Is the action of the officer valid?
- (ii) CGST officer issued an adjudication order which did not specify payment of interest on the tax short paid by the registered person. So, the assessee contends that interest cannot be demanded as

the said order is silent on the same. Is the contention of the assessee correct? **(5 Marks)**

- (b) Mr. Pappu is aggrieved by the order of the Revisional Authority (RA) and wants to make an appeal to the First Appellate Authority.

While commenting on the decision of Mr. Pappu, you are also required to state the powers of the Revisional Authority to revise the orders passed by the subordinate officers under section 108 of the CGST Act, 2017.

What is the time period for the Revisional Authority to exercise the power of revision? **(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? **(4 Marks)**

6. (a) Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98 of the CGST Act, 2017. **(6 Marks)**

- (b) Section 158(1) of the CGST Act, 2017 lays down that the information obtained by a public servant from the record of any proceeding under the CGST Act, 2017 is confidential and cannot be disclosed.

Is there any exception to this rule? Discuss in brief. **(4 Marks)**

OR

- (b) Who can order for search and seizure under the provisions of the CGST Act, 2017? **(4 Marks)**
- (c) State salient aspects of Advance authorisation for annual requirements to exporters. **(4 Marks)**

FINAL COURSE: GROUP – II
PAPER – 5: INDIRECT TAX LAWS
Part-I Multiple Choice Questions

Question No.	Answer
1.	(b) ₹ 2,70,000
2.	(c) ₹ 13,32,000
3.	(c) No, Basilla Inc. is not required to obtain GST registration in India for discharging GST liability. GST liability of Basilla Inc. is nil.
4.	(a) Nil
5.	(b) Location of Nirav Ltd.; IGST of ₹ 7,56,000
6.	(a) ₹ 1,44,00,000
7.	(b) ₹ 1,80,00,000
8.	(c) Espon Inc. is providing online information and database access or retrieval service and tax on the same is to be paid by Espon India on reverse charge basis.
9.	(d) No, since service is provided to a business entity that is registered under GST in the preceding financial year as per the provisions of section 22 of the CGST Act, 2017. Further, tax shall be payable by Veranta India (P) Ltd. under reverse charge.
10.	(c) For whole amount of ₹ 1,10,000: 5 th April
11.	(a) ₹ 110,000
12.	(c) (ii) and (iv)
13.	(a) Mr. Venkat should apply for a new registration under GST in the name M/s Tikhi Meethi Restaurant under his own PAN w.e.f. the date of succession and file Form GST ITC 02 for transfer of ITC to the new entity.
14.	(a) (i), (ii) and (iii)
15.	(b) ₹ 770

1. **Computation of minimum net GST payable in cash by Jigar Infra Ltd. for April**

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
<u>GST payable under forward charge</u>			
Goods purchased from Taiwan sold in Turkey without bringing into India [Neither treated as supply for goods nor as supply of services.]	-	-	-
Transfer of tiles to branch within Kerala [Such transfer is not a supply as the branch has the same GSTIN as that of the head office and thus, is not a distinct person]	-	-	-
Inter-State supply of pure labour services for construction of single commercial unit in Bengaluru [Services by way of pure labour contracts of construction of original works pertaining to a single residential unit otherwise than as a part of a residential complex is exempt. Hence, such services in relation to a commercial unit shall be taxable.]			2,70,000 [15,00,000 x 18%]
Supply of consignment in territorial waters [Where the supply is in the territorial waters, the place of supply is deemed to be in the coastal State where the nearest point of the appropriate baseline is located. Therefore, place of supply will be in Kerala being nearer to base line and hence, supply will be intra-State supply]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Receipt of advance from customer in Kerala [Tax will be payable only on advance for services. In case of goods, tax is payable at the time of issuance of invoice and not at the time of receipt of advance.]	44,100 [7,00,000 x 70% x 9%]	44,100 [7,00,000 x 70% x 9%]	
Total output GST	98,100	98,100	2,70,000

Less: Input tax credit [Refer working note below]	98,100	98,100	18,900 (CGST)
[CGST credit be first utilized for payment of CGST liability and then for payment of IGST liability in that order. Similarly, SGST credit be first utilized for payment of SGST liability and then for payment of IGST liability in that order. ITC of CGST cannot be utilized for payment of SGST and vice versa.]	-	-	18,900 (SGST)
Net output GST payable in cash [A]	Nil	Nil	2,32,200
GST payable under reverse charge			
Tax on legal services is payable under reverse charge by the recipient of service.	63,000	63,000	
Tax on remuneration paid to director is payable under reverse charge by the recipient of the service.	<u>54,000</u>	<u>54,000</u>	
GST payable in cash under reverse charge [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]	1,17,000	1,17,000	
Minimum net GST payable in cash [A] + [B]	1,17,000	1,17,000	2,32,200

Working Note:

Computation of ITC available with Jigar Infra Ltd. for April

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Goods purchased from Taiwan [No ITC since tax is not payable as goods do not become part of the landmass of the country.]	-	-	-
Services of an arbitral tribunal [Services provided by an arbitral tribunal to a business entity with an aggregate turnover up to threshold limit of registration in the previous financial year are exempt from GST. Thus, services provided by the arbitral tribunal to Jigar Infra Ltd., a business entity whose aggregate turnover in the	63,000 [7,00,000 x 9%]	63,000 [7,00,000 x 9%]	

previous financial year exceeds the applicable threshold limit for registration [viz. ₹ 20 lakh, being a supplier of goods and services in the State of Kerala] shall be liable to tax. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]			
Purchase of materials from Chirag Steels Ltd. [An e-invoice without IRN is not treated as invoice and hence, without a valid document, ITC cannot be claimed on such inputs]	-	-	
Purchase of truck [Motor vehicle used for transportation of goods is eligible for credit. However, since depreciation has been claimed on applicable taxes as well, ITC of tax paid on purchase of such truck cannot be claimed.]	-	-	
Payment of remuneration to independent director based at Cochin [Services provided by employee to employer in the course of his employment are not a supply. However, independent director is not an employee of the company and hence, remuneration paid to him is taxable. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Total ITC	1,17,000	1,17,000	

2. (a) (i) Section 10(1)(e) of the IGST Act, 2017 lays down that place of supply of goods supplied on board a conveyance like aircraft, train, vessel, or a motor vehicle, is the location where such goods have been taken on board. Thus, in the given case, the place of supply of the goods sold by Mr. Rana is the location at which the goods are taken on board, i.e. New Delhi and not Jaipur where they have been sold.
- (ii) As per section 11(a) of the IGST Act 2017, if the goods have been imported in India, the place of supply of goods is the place where the importer is located. Thus, in the present case, the place of supply of the goods imported by Sultan Pvt. Ltd. is Noida, Uttar Pradesh.

- (iii) As per section 12(8) of the IGST Act, 2017, the place of supply of services by way of transportation of goods, including by mail or courier provided to an unregistered person, is the location at which such goods are handed over for their transportation.

Since in the given case, the recipient – Krishnadevaraya – is an unregistered person, the place of supply is the location where goods are handed to Nath Carriers over for their transportation, i.e. Kanpur.

- (iv) As per section 12(12) of the IGST Act, 2017, the place of supply of banking and other financial services, including stock broking services to any person is the location of the recipient of services in the records of the supplier of services. Thus, in the given case, the place of supply is the location of the recipient of services in the records of the supplier bank, i.e. New Delhi.
- (v) As per section 13(4) read with section 13(6) of the IGST Act, 2017, where services supplied directly in relation to an immovable property are supplied at more than one location, including a location in the taxable territory, the place of supply is the location in the taxable territory. Since in the given case, the immovable properties are located in more than one location including a location in the taxable territory, the place of supply of architect service is the location in the taxable territory, i.e. Pune.

(b) Computation of assessable value, basic customs duty, social welfare surcharge and IGST

Particulars	Amount (\$)
FOB value computed by Customs Officer (including design and development charges)	17,500
Add: Commission paid to local agent in India [Includible since it is not a buying commission]	<u>2,100</u>
FOB value as per customs	19,600
Add: Air freight (\$ 19,600 × 20%) [Restricted to 20% of FOB value since goods are imported by air.]	3,920
Add: Actual insurance charges	1,500
Assessable value in \$	25,020
Assessable value in rupees [\$ 25,020 × ₹ 75] [Rate of exchange notified by CBIC on the date of filing of bill of entry is considered.]	₹ 18,76,500

Particulars	₹
Add: Basic custom duty @ 15% on ₹ 18,76,500 [Rate of BCD is the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later]	2,81,475
Add: Social Welfare surcharge @ 10% on ₹ 2,81,475 (rounded off)	<u>28,148</u>
Total	21,86,123
Integrated tax @ 18% on ₹ 21,86,123 [rounded off]	3,93,502

3. (a)

S. No.	Particulars	Taxability
(i)	Transportation of students and staff of deemed university [Taxable since transportation services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent.]	Taxable
(ii)	Catering services provided to “Grade CBSE School” [Catering services provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt.]	Exempt
(iii)	Security services to “Ladder CBSE School” for its annual sports day held at Health Sports complex [Security services provided to an educational institution providing pre-school education or education up to higher secondary school are exempt provided such services are performed in the premises of such institution. However, in this case, security services are being provided outside the school campus, and hence the same are taxable.]	Taxable
(iv)	Supply of online periodical science journal to school for its higher secondary students [Taxable since educational institutions providing service by way of pre-school education and education upto higher secondary school or equivalent are not eligible for exemption in respect of supply of online educational journals.]	Taxable

(v)	Services in relation to placement of students, to Government recognized vocational training college [Taxable since only services related to admission and conducting exams are exempt for vocational educational institutions.]	Taxable
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(b) In the given case,

Date of receipt of payment is:-

(a) Date of entry of payment in books of account [17th March, 2024] or

(b) Date of credit of payment in bank account [20th March, 2024]

whichever is earlier, viz., 17th March, 2024.

Date of issue of invoice is 20th March, 2024 (since lodge decided to issue invoice on date of credit of payment in its bank account.)

Since in the given case of change in rate of tax (on 18th March, 2024):

- services have been supplied and payment has been received, before such change in rate
- but invoice is issued after the change in rate,

time of supply is date of receipt of payment, viz. 17th March, 2024.

Since the service of lodging upto a value of ₹ 1,000 was exempted at the time of supply, no GST is payable in the given case.

- (c)** (i) Elite Car Decors is not liable to pay duty leviable on GPS devices pilfered since an importer is not liable to pay duty leviable on any imported goods pilfered after unloading and before proper officer makes order for clearance for home consumption.
- (ii) Abatement of duty on damaged imported goods is available if such imported goods are damaged accidentally after unloading but before examination for assessment by the customs authorities.

In the given case, since imported music systems are damaged after examination for assessment by the customs authorities, abatement of duty on such goods is not available.

- 4. (a)** (i) A casual taxable person (CTP) is liable to be registered compulsorily under GST irrespective of the threshold limit.

However, CTPs making inter-State taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process, have been exempted from obtaining registration if their aggregate turnover does not exceed ₹ 20 lakh [₹ 10 lakh for specified special category States].

Since, in the given case, the notified products were made by craftsmen by both hand and machines equally, they are not eligible for exemption and are required to obtain registration mandatorily.

- (ii) For a supplier exclusively engaged in intra-State supply of goods, the threshold limit of turnover to obtain registration in the States of Delhi, Andhra Pradesh and Tamil Nadu is ₹ 40 lakh. Aggregate turnover includes value of all taxable and exempt supplies under same PAN.

Thus, aggregate turnover of Mr. Chandu doing trading business across India

$$= ₹ (18 \text{ lakh} + 10 \text{ lakh} + 5 \text{ lakh} + 6 \text{ lakh})$$

$$= ₹ 39 \text{ lakh.}$$

Therefore, Mr. Chandu is not liable for registration as his turnover does not exceed ₹ 40 lakh.

- (b) 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

$$₹ 10,50,000 \text{ (₹ 12,39,000} \times 100/118 \text{) and}$$

$$₹ 15,50,000 \text{ (₹ 18,29,000} \times 100/118 \text{)}$$

Further, in the given case, since the location of supplier is Maharashtra and place of supply of services provided by Mr. Mast Nath to Swathi 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, Swathi Corporation is required to deduct tax as follows:

- (i) $₹ 10,50,000 \times 2\% = ₹ 21,000 \text{ (IGST)}$

- (ii) $₹ 15,50,000 \times 2\% = ₹ 31,000 \text{ (IGST)}$

- (c) (i) The contention of the importer is partially correct.

Anti-dumping duty cannot be imposed on imports made by 100% EOU. However, following circumstances are exception to the same:

- (i) where it is specifically made applicable in such notifications or such impositions, as the case may be; or
- (ii) where such article imported is either cleared as such into the DTA or used in the manufacture of any goods that are cleared into the DTA, and in such cases anti-dumping duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.

- (ii) The claim of the importer's association is not correct. Anti-dumping duty can be levied with retrospective effect not beyond 90 days from the date of such notification, if Central Government is of the opinion that:
 - (a) there is a history of dumping which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and
 - (b) the injury is caused by massive dumping of an article imported in a relatively short time which is likely to seriously undermine the remedial effect of anti-dumping duty liable to be levied owing to timing and volume of imported article dumped and other circumstances.

5. (a) (i) **Valid.** As per section 75 of the CGST Act, 2017, if the Appellate Authority concludes that the notice issued under section 74(1) of the CGST Act, 2017 is not sustainable for the reason that the charges of fraud has not been established, the proper officer can determine the tax payable by deeming as if the notice was issued under section 73(1).

(ii) **Incorrect.** As per section 75 of the CGST Act, 2017, the interest on the tax short paid or not paid shall be payable whether or not the same is specified in the order determining the tax liability.

(b) The decision of Mr. Pappu of making an appeal to the First Appellate Authority against the order of the RA is not valid in law. Any person aggrieved by an order passed against him by RA under CGST Act, 2017 may appeal to the Appellate Tribunal, the second level of appeal

The powers of the RA to revise the orders passed by the subordinate officers under section 108 of the CGST Act, 2017 are as under: -

- (i) The RA may, on his own motion, or upon information received by him or on request from the SGST/ UTGST Commissioner, call for and examine the record of any proceedings.
- (ii) On examination of the case records, if RA is of the view that the decision/order passed by any officer subordinate to him is erroneous and illegal/improper or has not taken into account material facts, he may stay the operation of such order for such period as he deems fit.
- (iii) The RA, after giving the person concerned an opportunity of being heard and after making necessary further inquiry, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said order.

The RA can revise an order after the expiry of a period of 6 months from the date of communication of the said order but not later than expiry of a period of 3 years from the passing of the said decision/order.

In case of an order subject to an appeal before Appellate Authority (AA)/Tribunal/High Court/ Supreme Court, the RA can pass an order on any point which has not been raised and decided in the appeal, before the expiry of a period of 1 year from the date of the order in such appeal or before the expiry of a period of 3 years from the date of initial order, whichever is later.

- (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 of the Customs Act, 1962.
 - (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.
6. (a) The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 of the CGST Act, 2017 is as under:
- 1. Upon receipt of an application, the AAR shall send a copy of application to the officer in whose jurisdiction the applicant falls and call for all relevant records.
 - 2. The AAR may then examine the application along with the records and may also hear the applicant. Thereafter he will pass an order either admitting or rejecting the application.
 - 3. Application for advance ruling will not be admitted in cases where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.
 - 4. If the application is rejected, it should be by way of a speaking order giving the reasons for rejection and only after giving an opportunity of being heard to the applicant.

5. If the application is admitted, the AAR shall pronounce its ruling on the question specified in the application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.
 6. Before giving the ruling, AAR must hear the applicant or his authorized representative as well as the jurisdictional officers of CGST/ SGST.
 7. If there is a difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the Appellate Authority for hearing the issue
 8. The Authority shall pronounce its advance ruling in writing within 90 days from the date of receipt of application.
 9. A copy of the advance ruling duly signed by members and certified in prescribed manner shall be sent to the applicant, the concerned officer and the jurisdictional officer.
- (b)** Yes, the confidential information can be disclosed by the public servant for certain specific purposes in terms of section 158(3) of the CGST Act, 2017. Such specific purposes are given in brief hereunder:
- (i) For prosecution
 - (ii) For carrying out the objects of the CGST Act
 - (iii) For service of notice or recovery of demand
 - (iv) For furnishing information to Court in a proceeding where Government is a party
 - (v) For audit of tax receipts or refunds
 - (vi) For inquiry into the conduct of a GST officer
 - (vii) For enabling levy, realisation of any tax or duty
 - (viii) In lawful exercise of powers
 - (ix) For enquiry into a charge of misconduct by any professional
 - (x) For data entry on automated system
 - (xi) For fulfilling the requirement under any other law and in public interest.

OR

Alternative Answer

- (b)** An officer of the rank of Joint Commissioner or above can authorize an officer in writing to carry out search and seize goods, documents, books or things. Such authorization can be given only where the Joint Commissioner/an officer above his rank has reasons to believe that any goods liable to confiscation or any documents or books or things relevant for any proceedings are hidden in any place. The Joint Commissioner/an officer above his rank empowered to authorize any officer to carry out

search and seizure can himself also carry out search and seize such goods, documents or books or things.

- (c) Annual Advance authorisation would be issued to exporters having past export performance in at least preceding two financial years, to enable them to import the inputs required by them on annual basis.

Advance authorization for annual requirement shall only be issued for items, notified in SION and not on basis of *ad hoc* norms under self-declared authorisations where SION does not exist.

Annual Advance Authorisation in terms of CIF value of imports will be granted upto 300% of FOB value of physical exports in preceding financial year and/or FOR value of deemed exports in preceding year or ₹ 1 crore, whichever is higher.