

MOCK TEST PAPER 2
FINAL COURSE: GROUP – II
PAPER 8: INDIRECT TAX LAWS
SUGGESTED ANSWERS

Division A

Answer Key

Question No.	Answer
1.1	(a) ₹ 98 lakh
1.2	(d) Mr. Rakesh is entitled to take the ITC of inputs held in stock on 1 st April, 2021.
1.3	(d) ₹ 2,70,000
1.4	(c) (ii) and (iii)
1.5	(d) No input tax credit is available.
2.1	(a) 18%
2.2	(c) 13 th February
2.3	(b) Yes. Since provision of service and issue of invoice is after the change in rate of tax, new rate shall be applicable.
2.4	(a) DP Ltd. can seek advance ruling to determine the time and value of supply of air conditioners. After seeking advance ruling, if it is aggrieved with the finding of the Authority for Advance Ruling (AAR), it can also file an appeal with Appellate Authority for Advance Ruling (AAAR).
3	(c) (i), (iii), (iv)
4	(b) \$ 5,00,000
5	(d) (i), (ii), (iii) and (iv)
6	(b) subject to both GST and central excise duty.
7	(a) ₹ 95
8	(a) (i), (ii) and (iii)
9	(b) date of presentation of bill of entry

Division B

1.

S. No.	Particulars	ITC (₹)
(i)	Amount of ITC credited to Electronic Credit Ledger, for the month of October	
	Machinery 'U' - 'A' [Note 1]	36,000
	Machinery 'V' [Note 2]	18,000
	Machinery 'W' [Note 3]	-
	Machinery 'Y' [Note 4]	-
	Machinery 'Z' [Note 5]	-

	Raw Material used for manufacturing 'Alpha' [Note 6]	27,000
	Raw Material used for manufacturing 'Beta' [Note 6]	-
	Raw Material used for manufacturing 'Gama' [Note 6]	<u>18,000</u>
	Amount of ITC credited to Electronic Credit Ledger, for the month of October	99,000
(ii)	Aggregate value of common credit (T_c) – Note 7	
	Value of 'A' for Machinery 'U' purchased on 1 st October	36,000
	Value of 'A' for Machinery 'Z' purchased on 1 st October 2 years ago for effecting both taxable and exempt supplies	54,000
	Input tax claimed on Machinery 'Y' purchased on 1 st October 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1 st October in the current year [Note 8]	<u>72,000</u>
	Aggregate value of common credit (T_c)	1,62,000
(iii)	Common credit attributable to exempt supplies, for the month of October	
	Common credit for the month of October (T _m) [Note 9]	2,700
	Common credit attributable to exempt supplies, for the month of October (T_e) – Note 10	1,080
(iv)	Computation of GST liability of the company for October payable through Electronic Cash Ledger	
	IGST payable on 'Alpha' [₹ 9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 x 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for the month of October [Note 11]	<u>1,080</u>
	Total output tax liability of October	2,71,080
	Less: ITC available in the Electronic Credit Ledger	<u>99,000</u>
	IGST payable from Electronic Cash Ledger	1,72,080

Notes:

- (1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c)].
- (2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b)].
- (3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a)].
- (4) Machinery 'Y' is being used for effecting both taxable and exempt supplies from 1st October. Prior to that it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.

- (5) Machinery 'Z' is being used for effecting both taxable and exempt supplies from 1st October two years ago. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (6) ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will not be credited in the electronic credit ledger [Rule 42].
- (7) The aggregate of the amounts of 'A' credited to the electronic credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'T_c', shall be the common credit in respect of such capital goods [Rule 43(1)(d)].
- (8) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'T_c' [Proviso to rule 43(1)(d)].
- (9) ITC attributable to a month on common capital goods during their useful life (T_m) shall be computed in accordance with rule 43(1)(e) as under:

$$= T_c \div 60$$

$$= ₹ 1,62,000 \div 60$$

$$= ₹ 2,700$$

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods

- (10) The amount of common credit attributable towards exempted supplies, be denoted as 'T_e', and shall be calculated as:

$$T_e = (E \div F) \times T_r^* \text{ where,}$$

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period [Rule 43(1)(g)].

$$= T_r \times \frac{\text{Turnover of exempt supplies during the month of October}}{\text{Total turnover of Zingle Pvt. Ltd. during the month of October}}$$

$$= ₹ 2,700 \times \frac{10,00,000}{25,00,000} = ₹ 1,080$$

- (11) Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit [Rule 43(1)(h)].

**Prior to the amendment vide Notification No. 16/2020 CT dated 23.03.2020 clause (f) of rule 43(1) provided that the amount of ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'T_r' and shall be the aggregate of 'T_m' for all such capital goods. However, clause (f) has been omitted vide the said notification. Consequently, the term "T_r" becomes redundant in the formula provided in rule 43(1)(g). However, for the sake of computation of common credit attributable to exempt supply, value of 'T_m' has been used here. It may be noted that as per the erstwhile clause (f) of rule 43(1) value of 'T_r' was the aggregate of 'T_m'.*

2. (a) As per explanation to rule 33 of the CGST Rules, 2017, a "pure agent" means a person who-
- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;

- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil all the above conditions in order to qualify as a pure agent.

In the given case, Bhaskar Logistics has entered into a contractual agreement with recipient of supply, Singla Manufacturers Ltd., to incur, on behalf of such recipient, the expenses mentioned in S. No. (ii) to (vii) incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient. Further, Bhaskar Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Bhaskar Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Bhaskar Logistics qualifies as a pure agent.

Further, rule 33 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- (I) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (II) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Bhaskar Logistics as a pure agent of Singla Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Bhaskar Logistics is as follows:

Particulars	Amount (₹)
Agency charges	5,00,000
<i>Add:</i> Unloading of machine at Kandla port, Gujarat	Nil
Charges for transport of machine from Kandla port, Gujarat to its godown in Ahmedabad, Gujarat	Nil
Charges for transport of machine from Bhaskar Logistics' Ahmedabad godown to the warehouse of Singla Export Import House in Mumbai, Maharashtra	Nil
Customs duty	Nil
Dock charges	Nil
Port charges	Nil
Hotel expenses	45,000
Travelling expenses	50,000
Telephone expenses	2,000
Value of supply	5,97,000

Yes, the answer would be different. If lump sum amount of ₹ 13,00,000 is paid then the value of supply shall be ₹ 13,00,000 and tax shall be charged on value of supply since individual cost are not given.

(b) Computation of assessable value of product 'Alpha'

Particulars		Amount
Ex-factory price of the goods		8,500 US \$
Freight from factory of the exporter to load airport (airport in the country of exporter)	250 US \$	
Loading and handling charges at the load airport	250 US \$	
Freight from load airport to the airport of importation in India	<u>4,500 US \$</u>	
Total cost of transport, loading and handling charges associated with the delivery of the imported goods to the place of importation	5,000 US \$	
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (restricted to 20% of FOB value) [Note 1]		1,800 US \$
Insurance (actual)		<u>2,000 US \$</u>
CIF for customs purpose		12,300 US \$
Value for customs purpose		12,300 US \$
Exchange rate as per CBIC [Note 2]		₹ 70 per US \$
		Amount (₹)
Assessable value (₹ 70 x 12,300 US \$)		8,61,000
Add: Basic customs duty @ 10% [Note 3]		86,100
Add: SWS @ 10%		<u>8,610</u>
Value for the purpose of levying integrated tax [Note 4]		9,55,710
Add: Integrated tax @ 12%		1,14,685.2
Total duty & tax payable (rounded off)		2,09,395

Notes:

- (1) In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods. [Fifth proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
FOB value in this case is the ex-factory price of the goods (8,500 US \$) plus the cost of transport from factory to load airport (250 US \$) plus loading and handling charges at the load airport (250 US \$) which is 9,000 US \$.
- (2) Rate of exchange determined by CBIC is to be considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
- (3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- (4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1962]. SWS leviable on integrated tax have been exempted.

3. (a) As per section 13(2) of the IGST Act, 2017, in case where the location of the supplier of services or the location of the recipient of services is outside India, the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services. Sub-sections (3) to (13) provide the mechanism to determine the place of supply in certain specific situations.

The given case does not fall under any of such specific situations and thus, the place of supply in this case will be determined under sub-section (2) of section 13 of the IGST Act, 2017. Thus, the place of supply of services in this case is the location of recipient of services, i.e. USA.

As per section 2(6) of the IGST Act, 2017, export of services means the supply of any service when,—

- (a) the supplier of service is located in India;
- (b) the recipient of service is located outside India;
- (c) the place of supply of service is outside India;
- (d) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Since all the above five conditions are fulfilled in the given case, the same will be considered as an export of service.

- (b) (i) Services provided to an educational institution, by way of, *inter alia*, house-keeping services performed are exempt from GST vide exemption notification where such services are performed in such educational institution. However, such exemption is available only when the said services are provided to a pre-school education and a higher secondary school or equivalent.

In view of the above discussion, house-keeping services provided to Yash Public School (play school) are exempt from GST since housekeeping services have been performed in such play school itself.

- (ii) Services provided to an educational institution by way of supply of online educational journals or periodicals is exempt from GST vide exemption notification. However, such exemption is not available to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Therefore, supply of online journal to students of UKG class of Addhyan Public School is not exempt from GST.

- (c) The abatement of duty is allowed where it is shown to the satisfaction of the Assistant/Deputy Commissioner of Customs that, *inter alia*, any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination, on account of any accident not due to any wilful act, negligence or default of the importer.

Thus, in view of the above-mentioned provisions, the stand taken by the proper officer of refusing the claim for abatement is not valid in law.

The duty to be charged on the damaged goods shall be reduced in proportion to the reduction in the value of goods on account of damage.

Thus, in the given case, the amount of total duty payable

$$= [\text{₹ } 1,50,000 / \text{₹ } 7,50,000] \times \text{₹ } 1,50,000 = \text{₹ } 30,000$$

The abatement of duty is allowed in case of deterioration only if such deterioration occurs before or during the unloading of goods. Since in this case, imported goods have deteriorated before

clearance for home consumption but after unloading, abatement of duty will not be allowed and full duty will have to be paid.

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

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

shall, generate an electronic-way bill (E-way Bill) before commencement of such movement.

CBIC *vide FAQs on E-way Bill* has also clarified that even if the movement of goods is caused due to reasons other than supply [including replacement of goods under warranty], e-way bill is required to be issued.

Thus, in the given case, since the consignment value exceeds ₹ 50,000, e-way bill is required to be mandatorily generated. Therefore, the claim of Super Electricals Ltd. that e-way bill is not mandatorily required to be generated as the movement of goods is caused due to reasons other than supply, is not correct.

- (b) As per section 51 read with section 20 of the IGST Act, 2017 and *Notification No. 50/2018 CT 13.09.2018*, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2,50,000:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; or
- (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
- (f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Parekh Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	--		

(ii)	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000	--		
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500

Notes:

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 2,60,000 \times 100 / 118$$

$$= ₹ 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,95,000 \times 100 / 118$$

$$= ₹ 2,50,000$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 5,90,000 \times 100 / 118$$

$$= ₹ 5,00,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

(c) Computation of total duties payable under the Customs Act

S. No.	Particulars	(₹)
1	Landed price	25,00,000
2	Add: Basic customs duty @ 10%	2,50,000
3	Add: Safeguard duty @ 30% on ₹ 25,00,000	7,50,000
4	Add: Social welfare surcharge (SWS) @ 10 % on ₹ 2,50,000 [While calculating SWS, safeguard duty is excluded]	25,000
5	Add: Integrated tax 12% of ₹ 35,25,000 (₹ 25,00,000 + ₹ 2,50,000 + ₹ 7,50,000 + ₹ 25,000) [Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable SWS]	4,23,000
6	Total customs duties and tax payable [₹ 2,50,000 + ₹ 7,50,000 + ₹ 25,000 + ₹ 4,23,000]	14,48,000

5. (a) Due date for payment of tax for the month of April is 20th May.

As per section 73 of the CGST Act, 2017, where self-assessed tax is not paid within 30 days from due date of payment of such tax, penalty equivalent to 10% of tax or ₹ 10,000, whichever is higher, is payable. Thus, option to pay tax within 30 days of issuance of SCN to avoid penalty, is not available in case of self-assessed tax.

Since in the given case, Bharat & Co. has not paid the self-assessed tax within 30 days of due date [i.e. 20th May], penalty equivalent to:

- (i) 10% of tax, viz., ₹ 9,000 (10% of ₹ 90,000) or
- (ii) ₹ 10,000,

whichever is higher, is payable by him. Thus, penalty payable is ₹ 10,000.

Hence, the stand taken by the Department that penalty will be levied on Bharat & Co. is correct, but the amount of penalty of ₹ 45,000 is not correct.

- (b) As per section 117(1) of the CGST Act, 2017, an appeal against orders passed by the State Bench or Area Benches of the Tribunal would lie to the High Court if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the National Bench or Regional Benches of the Tribunal would lie to the Supreme Court and not High Court. As per section 109(5) of the Act, only the National Bench or Regional Benches of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Mr. Arjun's case relates to place of supply, the appeal in his case would have been decided by the National Bench or Regional Bench of the Tribunal. Thus, Mr. Arjun will have to file an appeal with the Supreme Court and not with the High Court.

- (c) As per Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar is allowed duty free clearance of-
- (i) Used personal effects and travel souvenirs without any value limit.
 - (ii) Articles [other than certain specified articles] upto a value of ₹50,000 carried as accompanied baggage [General duty-free baggage allowance].

Further, such general duty-free baggage allowance of a passenger cannot be pooled with the general duty free baggage allowance of any other passenger.

One laptop computer when imported into India by a passenger of the age of 18 years or above (other than member of crew) as baggage is exempt from whole of the customs duty [Notification No. 11/2004 Cus. dated 08.01.2004].

Accordingly, there will be no customs duty on used personal effects (worth ₹ 90,000) of Mrs. and Mr. X and laptop computer brought by them will be exempt from duty.

Duty payable on personal computer after exhausting the duty free baggage allowance will be ₹ 52,000 – ₹50,000 = ₹2,000.

Effective rate of duty for baggage = 38.5% [including social welfare surcharge @ 10%]

Therefore, total customs duty = ₹770

6. (a) During the course of any proceeding under this Act, the duly empowered officer can have access to any business premises, which may be required for the purpose of such enquiry. During such access, the officers can inspect the books of accounts, documents, computers, computer programs, computer software and such other things as may be required.

It is the duty of the persons in charge of such premises to furnish the required documents. Similarly, the persons in charge of business premises are also duty bound to furnish such documents to the

audit party deputed by the proper officer or the Chartered Accountant or Cost Accountant, who has been deputed by the Commissioner to carry out special audit. The following records are covered by this provision and are to be produced, if called for.

- (i) the records prepared and maintained by the registered person and declared to the proper officer in the prescribed manner.
 - (ii) trial balance or its equivalent.
 - (iii) statements of annual financial accounts, duly audited.
 - (iv) cost audit report, if any.
 - (v) the income - tax audit report, if any.
 - (vi) any other relevant record.
- (b)** As per section 121 of the CGST Act, 2017, no appeal shall lie against any decision taken or order passed by a CGST officer if such decision taken or order passed relates to any one or more of the following matters, namely:—
- (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
 - (b) an order pertaining to the seizure or retention of books of account, register and other documents; or
 - (c) an order sanctioning prosecution under the CGST Act; or
 - (d) an order passed under section 80 (payment of tax in instalments).
- (c)** The provisions in respect of prohibition and regulation of drawback as contained in section 76 of the Customs Act, 1962 are explained hereunder:
- (1) No drawback is allowed in respect of any goods, the market price of which is less than the amount of drawback due thereon. This provision has been made to prohibit export of cheap goods at inflated price to get benefit of higher duty drawback. Further, drawback is also not allowed where the amount of drawback in respect of any goods is less than ₹ 50.
 - (2) If the Central Government is of the opinion that goods of any specified description in respect of which drawback is claimed are likely to be smuggled back into India, it may, not allow drawback in respect of such goods or alternatively allow the drawback subject to certain restrictions and conditions.