

PAPER – 19 : INDIRECT TAX LAWS AND PRACTICE

SUGGESTED ANSWERS

SECTION – A

1.

- (i) (C)
- (ii) (A)
- (iii) (B)
- (iv) (C)
- (v) (A)
- (vi) (A)
- (vii) (D)
- (viii) (A)
- (ix) (B)
- (x) (D)
- (xi) (D)
- (xii) (A)
- (xiii) (B)
- (xiv) (A)
- (xv) (C)

SECTION – B

2. (a)

Composite supply means a supply made by a taxable person to a recipient and:

- (a) Comprises two or more taxable supplies of goods or services or both, or any combination thereof.
- (b) are naturally bundled and supplied in conjunction with each other, in the ordinary course of business. This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.

Determination of tax liability on composite supplies:

A composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as rate of tax applicable to of such principal supply.

Mixed supply means:

- (a) Two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person
- (b) For a single price where such supply does not constitute a composite supply.
The individual supplies are independent of each other and are not naturally bundled

Determination of tax liability on mixed supplies:

A mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax.

2. (b)

Form GSTR-3B consists of Tables:

- 1. GSTIN number of Registered Person
- 2. Legal name of Registered Person

3. Summary of Outward Supply & Inward Supply under Reverse Charge Bifurcation of Inter-state outward supplies as follows:
 - (a) To unregistered Person
 - (b) To Composite taxable Person
 - (c) To UIN Holders
4. Summary of eligible ITC claim bifurcated into IGST, CGST & SGST/UTSGT and Cess
5. Summary of Exempted, Nil rated and Non-GST inward supplies
6. Details of payment of tax, which includes Category wise tax payable, ITC availed, TDS credit and Tax paid in cash along with interest and late fees (Though it is not applicable for initial 2return.)
7. Summary of tax category wise TDS/TCS credit

3. (a)

Total supply on which GST to be paid by Mr. Basant ₹ 32,19,500

3. (b)

Common credit ₹ 1,70,000

ITC to be reversed ₹ 50,433 (R/off)

4. (a)

Contents of Form GSTR-9C:

The GSTR-9C consists of two main parts:

- ” Part-A: Reconciliation Statement
- ” Part-B: Self-certification

Part-A: The Reconciliation Statement is divided into different parts as follows:

Part-I: Basic details:

Consists of FY, GSTIN, Legal Name and Trade Name. The taxpayer must also mention if he is subject to audit under any other law.

Part-II: Reconciliation of turnover declared in the Audited Annual Financial Statement with turnover declared in Annual Return (GSTR-9):

This involves reporting the gross and taxable turnover declared in the Annual return with the Audited Financial Statements. One must note that most often, the Audited Financial statements are at a PAN level. This might require the breakup of the audited financial statements at GSTIN level for reporting in GSTR-9C.

Part-III: Reconciliation of tax paid:

This section requires GST rate-wise reporting of the tax liability that arose as per the accounts and paid as reported in the GSTR-9 respectively with the differences thereof. Further, it requires the taxpayers to state the additional liability due to un-reconciled differences noticed upon reconciliation.

Part-IV: Reconciliation of Input Tax Credit (ITC):

This part consists of the reconciliation of input tax credit availed and utilised by taxpayers as reported in GSTR-9 and as reported in the Audited Financial Statement.

Further, it needs a reporting of Expenses booked as per the Audited Accounts, with a breakup of eligible and ineligible ITC and reconciliation of the eligible ITC with that amount claimed as per GSTR-9. This declaration will be after considering the reversals of ITC claimed, if any.

Part-B: Self-certification:

The amended section 44 clearly states now only self-certification of reconciliation statement in Form GSTR-9C is required. Earlier the same also required certification either by the Chartered accountant or the cost accountant.

The GST annual return should be accompanied by a self-certified reconciliation statement

4. (b)**Related persons****As per Explanation to Section 15 of CGST Act, 2017:**

- (a)** persons shall be deemed to be “related persons” if—
 - (i) such persons are officers or directors of one another’s businesses;
 - (ii) such persons are legally recognized partners in business;
 - (iii) such persons are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
- (b)** the term “person” also includes legal persons;
- (c)** persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Distinct persons

Distinct persons specified under section 25 of CGST Act, 2017:

Every place of business of a person where separate registration is obtained for output supply will be considered as distinct person.

Section 25(4), A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

Section 25(5), Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

5. (a)**(i) Bengaluru**

The place of supply of services by way of fixed telecommunication line is the location where the telecommunication line is installed for receipt of service.

(ii) Hyderabad

In a case where recipient of service is registered, the place of supply of service is the location of recipient.

(iii) Jaipur

The recipient being an unregistered person and the event held in India, the place of supply is the location where the event is held.

(iv) Delhi

The recipient being unregistered person, the place of supply is the location where goods handed over for their transportation.

5. (b)**Under normal Provision**

GST ₹ 92,700

As per Rule 32(3) of the CGST Rules, 2017

GST ₹ 1,80,000

Note: The GST liability of Mr. Ravi would not be reduced in the aforesaid option. Therefore, special provision under Rule 32(3) of CGST Rules, 2017 is not economical.

6. (a)**RODTEP Scheme Operating Principles:**

1. RoDTEP support will be available to eligible exporters at a notified rate as a percentage of Freight On Board (FOB) value. Rebate on certain export products will also be subject to value cap per unit of the exported product. However, for the purpose of calculation of duty credit, value of exported shall be least of the following: (a) FOB value of said goods, or (b) 1.5 times of the market price of the goods.
2. Identified export sectors and rates under RoDTEP cover 8555 tariff lines in addition to similar support being extended to apparel and made-ups exports under RoSCTL scheme of Ministry of Textiles.
3. Employment Oriented Sectors like Marine, Agriculture, Leather, Gems & Jewellery etc. are covered under the Scheme. Other sectors like Automobile, Plastics, Electrical / Electronics, Machinery etc. also get support. The entire value chain of textiles also gets covered through RoDTEP & RoSCTL.
4. Rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.
5. The determination of ceiling rates under the scheme will be done by a Committee in the Department of Revenue/Drawback Division with suitable representation of the DoC/DGFT, line ministries and experts, on the sectors prioritized by Department of Commerce and Department of Revenue.
6. No provision for remission of arrears or contingent liabilities is permissible under the Scheme to be carried over to the next financial year.
7. The rebate allowed is subject to the receipt of sale proceeds within time allowed under the Foreign Exchange Management Act, 1999 failing which such rebate shall be deemed never to have been allowed. The rebate would not be dependent on the realisation of export proceeds at the time of issue of rebate. However, adequate safeguards to avoid any misuse on account of non-realisation and other systemic improvements as in operation under Drawback Scheme, IGST and other GST refunds relating to exports would also be applicable for claims made under RoDTEP Scheme.

6. (b)**Supply by manufacturer**

1	Supply of goods against Advance Authorisation/Advance Authorisation for annual requirement/ DFIA
2	Supply of goods to units located in EOU/ STP/ EHTP/ BTP.
3	Supply of capital goods against EPCG authorisation

Supply by main/sub-contractors(s)

1	Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding (ICB).
2	Supply of goods to any project or for any purpose where import is permitted at zero basic customs duty provided supply is made against International Competitive Bidding.
3	Supply of goods to mega power projects
4	Supply of goods to UN or international organisations for their official use or supplied to projects financed by them.
5	Supply of goods to nuclear projects through national/international competitive bidding

7. (a)

Baggage duty

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.

Value of baggage of 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

7. (b)

- (a) Total customs duty payable ₹ 1,61,832
- (b) Interest payable ₹ 2,993

8. (a)

Taxable value of Supply ₹ 6,22,000

8. (b)

Input Tax Credit (ITC) ₹ 1,90,800

Refund ₹ 97,200