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CA FINAL (Nov 2024)
GROUP II - PAPER 6
INDIRECT TAX LAWS
SUGGESTED ANSWERS
(Series 4)

PART - I (MCQs)

MCQ - 2 marks each														
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.
B	D	B	D	A	C	B	C	D	D	B	A	C	B	D

PART - II (Descriptive Answers)

1 Computation of GST liability of Skylark Pvt. Ltd. for the month of August 20XX

S. No.	Particulars	Value (₹ in crores)	CGST @ 6% (₹ in crores)	SGST @ 6% (₹ in crores)	IGST@ 12% (₹ in crores)
Goods					
(i)	Export of goods to ABC Ltd. in UK under a letter of undertaking (LUT) [Note 1]	50			Nil
(ii)	Supply of goods to Shanghai Jianguo Trading Company Ltd. [Note 2]	10			1.20
(iii)	Goods supplied to DEF Pvt. Ltd. located in a SEZ [Note 3]	20			Nil
(iv)	Sale within the State [Note 4]	60.18	3.6108	3.6108	-
(v)	Sale outside the State [Note 4]	40.12			4.8144
(vi)	Stock transfer from Noida to Delhi [Note 5]	4.5			0.54
(vii)	Goods sent for sale on approval basis on 15th February, 20XX [Note 6]	<u>4.00</u>			<u>0.48</u>
Total tax liability on goods [A]			3.6108	3.6108	7.0344
Services					
(i)	Export of services to Nepal under LUT [Note 7]	30			Nil
(ii)	Receipts from renting of buildings [Note 8]	<u>0.15</u>	<u>0.0135</u>	<u>0.0135</u>	

Total tax liability on services [B]			0.0135	0.0135	
Neither goods nor services					
(i)	Sale of securities [Note 9]	45	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50			Nil
Total tax liability on goods and services [(A) + (B)]			3.6243	3.6243	7.0344

Notes:

(1) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Receipt of consideration in foreign exchange is not a pre-requisite for export of goods. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

(2) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India (Gurugram, Haryana), the same are not exported.

Hence, the place of supply thereof will be governed by section 10 of the IGST Act, 2017 which prescribes the provisions for determining the place of supply of goods other than supply of goods imported into or exported from India. As per section 10(1)(d) of the IGST Act, 2017, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. Therefore, in the given case, the place of supply will be Gurugram, Haryana.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

(3) As per section 7(5)(b) of the IGST Act, 2017, supply of goods and/or services to a special economic zone (SEZ) unit is treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Therefore, supply of goods to a SEZ unit located within the same State shall be liable to IGST [Section 5(1) of the IGST Act, 2017].

Supply of goods and/or services to a SEZ unit is a zero rated supply in terms of section 16(1)(b) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

(4) Remaining turnover will be calculated as under

₹ 256 crore – (₹ 45 crore + ₹ 50 crore + ₹ 30 crore + ₹ 10 crore + ₹ 20 crore + ₹ 0.50 crore + ₹ 0.10 crore + ₹ 0.05 crore + ₹ 0.05 crore)

= ₹ 100.30 crore

Supply within the State - ₹ 100.30 crore x 3/5 = ₹ 60.18

Supply outside the State - ₹ 100.30 crore x 2/5 = ₹ 40.12

Supply within the State is intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST. Supply outside the State is inter-State supply chargeable to IGST [Section 7(1) of IGST Act, 2017 read with section 5(1) of the said Act].

(5) As per section 25(4) of the CGST Act, 2017, a person who has obtained 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'.

Schedule I to the CGST Act, 2017 specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

In the given case-

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of such goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Delhi, in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the stock transfer by Noida office to Delhi branch is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Rule 28 of the CGST Rules, 2017 prescribes the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be ₹ 4.5 crore and open market value and cost of production of the goods will be irrelevant.

- (6) As per section 31(7) of the CGST Act, 2017, where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In the given case, the time period of six months for goods sent on 15th February, 20XX expires on 15.08.20XX. Therefore, the invoice for the said goods shall be issued on 15.08.20XX and in terms of section 12(2)(a) of the CGST Act, 2017 read with Notification No. 66/2017 CT dated 15.11.2017, this date would also be the time of supply of such goods. Thus, such goods will be liable to tax in the month of August 20XX. Goods sent in the month of January would have been taxed in the month of July and goods sent in the month of March would be taxed in the month of September.

Here,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of the goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Haryana in terms of section 10(1)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

- (7) The given case is an export of service as per section 2(6) of the IGST Act, 2017, as-
- (i) the supplier of service is located in India (Noida);
 - (ii) the recipient of service is located outside India (Nepal);

- (iii) the place of supply of service is outside India (Place of supply of consulting service will be the location of recipient, i.e. Nepal);
- (iv) 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 (Receipt of export consideration in Indian rupees is permitted by RBI in the given case); and
- (v) 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.

Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

- (8) Letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of service in terms of para 2(b) of the Schedule II to the CGST Act, 2017. Services by way of renting of residential dwelling for use as residence to an unregistered person is exempt from tax. Therefore, rent of ₹ 10 lakh received from letting out of building for printing press will be liable to tax and rent of ₹ 5 lakh received from letting out of building for residential purposes to an unregistered person will be exempt from tax.

Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [Notification No. 12/2017 CT (R) dated 28.06.2017]. However, in the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (₹ 5 lakh), will be liable to tax.

In case of letting out of first and third buildings,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of the immovable property, i.e. Noida in terms of section 12(3)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Noida) are in the same State, the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST.

- (9) GST is leviable on supply of goods and/or services [Section 9(1) of the CGST Act, 2017]. Securities are specifically excluded from the definition of goods and services as provided under clause (52) and clause (102) respectively of section 2 of the CGST Act, 2017. Therefore, sale of securities will not be liable to GST.
- (10) Paragraph 7 of the Schedule III to CGST Act, 2017 provides that supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods.

2 (a)

Computation of gross GST liability of Vividh Pvt. Ltd.

Particulars	Value of supply (₹)	GST @ 18% (₹)
Services provided by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt vide exemption notification. Labour contracts for repairing, are thus, taxable .]	13,00,000	2,34,000
Fee received from students of competitive exam training academy [Fee received from students of competitive exam training academy is taxable as it is not an educational institution since competitive exam training does not lead to grant of a recognized qualification]	5,40,000	97,200
Buses each with seating capacity of 72 passengers given on hire to State Transport Undertaking [Services by way of giving on hire to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers, are exempt from GST vide exemption notification.]	6,00,000	Nil
Services on which tax is payable under reverse charge:		
Rent paid to Local Municipal Corporation [GST is payable under reverse charge in case of renting of immovable property services supplied by a local authority to a registered person.]	2,50,000	45,000
GTA services availed [Since GTA is paying tax @ 12%, tax is payable under forward charge by GTA only and not by Vividh Pvt. Ltd.]	1,80,000	Nil
Gross GST payable		3,76,200

2 (b)

Computation of assessable value of machine

Particulars	Amount (UK £)
Cost of the machine at the factory of the exporter	20,000
Add: Licence fee relating to the imported goods payable by the importer as a condition of sale [Note 1(i)]	900
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of £ 22,000] [Note 1(ii)]	4,400
Insurance charges [Taken at actuals]	<u>200</u>
CIF value	25,500

Add: Landing charges paid at the place of importation and handling charges associated with the delivery of the imported goods at the place of importation [Note 1(iii)]	Nil
Assessable value	25,500
Assessable value in Indian rupees @ ₹101 per £ [Note 2]	25,75,500

Notes:

(1) As per rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007-

(i) Licence fees related to the imported goods payable as a condition of the sale of the goods being valued is includible in the assessable value

(ii) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value.

Where such cost is not ascertainable, it shall be 20% of the free on board (FOB) value of the goods.

FOB value will be sum total of cost of machine, transport charges from factory to port of exportation, handling charges at the port of exportation and licence fee paid as a condition of sale of imported goods, which will be £ 22,000 [£ 20,000 + £ 600 + £ 500+ £ 900]

(iii) Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value. The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods.

(2) As per section 14 of the Customs Act, 1962, the rate of exchange notified by the CBEC on the date of presentation of bill of entry is to be considered for the purpose of conversion of assessable value into Indian currency.

3 (a) (i) Since in the given case, neither of the currencies exchanged is Indian Rupees, value of taxable supply, in terms of rule 32(2)(a) of the CGST Rules, 2017, is 1% of lower of the following:

(A) US dollar converted into Indian rupees at RBI reference rate
= US\$ 6,000 x ₹ 72 = **₹ 4,32,000**

(B) Singapore dollar converted into Indian rupees at RBI reference rate
= Singapore dollar 9,000 x ₹ 52 = **₹ 4,68,000**

Value of taxable service for the month of March 20XX = 1% of ₹ 4,32,000 = **₹ 4,320**

(ii) Computation of value of taxable supply

Particulars	₹	₹
Basic fare in case of domestic bookings [₹ 7,00,000 x 70%]	4,90,000	
Value of taxable supply @ 5% [A] [Rule 32(3) of the CGST Rules, 2017]		24,500
Basic fare in case of international bookings [₹ 15,00,000 x 60%]	9,00,000	

Value of taxable supply @ 10% [B]		90,000
[Rule 32(3) of the CGST Rules, 2017]		
Value of taxable supply [A] + [B]		1,14,500

- 3 (b)** As per section 10 of the CGST Act, 2017 read with rule 7 of the CGST Rules, 2017, a registered person opting for composition levy for goods pays tax at the rates mentioned below during the current FY, in lieu of the tax payable by him under regular scheme:

Manufacturers, other than manufacturers of notified goods	1% (½% CGST+ ½% SGST/UTGST) of the turnover in the State/Union territory
Trader	1% (½% CGST+ ½% SGST/UTGST) of turnover of taxable supplies of goods & services in the State/Union territory

Turnover prior to getting registered will not be considered for determining the turnover in a State/Union Territory.

(i) If Mr. Yash is a manufacturer

CGST = ₹ 100 lakh x 0.5% = ₹ 50,000

SGST = ₹ 100 lakh x 0.5% = ₹ 50,000

(ii) If Mr. Yash is a trader

CGST = ₹ 75 lakh (as 25% of turnover is exempt) x 0.5% = ₹ 37,500

SGST = ₹ 75 lakh (as 25% of turnover is exempt) x 0.5% = ₹ 37,500

- 3 (c)** As per rule 3 of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

- (i) travel souvenirs; and
(ii) Articles up to value of ₹ 15,000 (excluding, inter alia, cigarettes exceeding 100 sticks, cartridges of fire arms exceeding 50 and alcoholic liquor or wines in excess of two litres), if carried on in person.

Further, any article the value of which exceeds the duty free allowance admissible to such passenger or member under the Baggage Rules, 2016, is chargeable to customs duty @ 35% [Notification No. 26/2016 Cus. dated 31.03.2016]. The effective rate of duty becomes 38.5% after including social welfare surcharge @ 10% on customs duty.

Accordingly, the customs duty payable by Mr. Samuel will be calculated as under:

Computation of customs duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [Since the number of cigarettes does not exceed 100, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for general free allowance (GFA) or concessional rate of duty applicable to baggage vide Notification No. 26/2016 Cus. dated 31.03.2016, as the case may be.	8,000

Fire arms cartridge [Since the number of fire arms cartridge does not exceed 50, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage vide Notification No. 26/2016 Cus. dated 31.03.2016, as the case may be.]	15,000
One litre of wine [Since the quantity of wine does not exceed 2 litres, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage vide Notification No. 26/2016 Cus. dated 31.03.2016, as the case may be.]	<u>15,000</u>
Baggage within the scope of rule 3 of Baggage Rules, 2016	1,88,000
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	1,73,000
Customs duty payable @ 38.5%	66,605

- 4 (a) As per rule 89(4) of the CGST Rules, 2017, in case of zero-rated supply of goods without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Net ITC excludes ITC availed for which refund is claimed under rule 89(4A)/(4B) of the CGST Rules, 2017. Further, turnover of zero-rated supply of goods and adjusted total turnover exclude turnover of supplies in respect of which refund is claimed under 89 (4A)/(4B).

Accordingly, turnover of zero rated supply of goods = ₹ 5,00,00,000 [₹ 6,00,00,000 – ₹ 1,00,00,000];

Net ITC = ₹ 20,00,000 [₹ 25,00,000 – ₹ 5,00,000] and

Adjusted Total Turnover = ₹ 8,00,00,000 [₹ 6,00,00,000 + ₹ 3,00,00,000 – ₹ 1,00,00,000]

Thus, maximum refund amount under rule 89(4)

= ₹ 20,00,000 × ₹ 5,00,00,000 / ₹ 8,00,00,000 = ₹ 12,50,000

- 4 (b) Due date for payment of tax collected on 18.09.20XX is 20.10.20XX. However, since tax is actually paid on 26.11.20XX, **interest @ 18% p.a.** is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with Notification No. 13/2017 CT dated 28.06.2017. Amount of interest is:

= ₹ 80,000 × 18% × 37/365 = ₹ 1,460 (rounded off)

As per section 73(11) of CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, **penalty equivalent to**

(i) **10% of tax, viz., ₹ 8,000 or**

(ii) **₹ 10,000,**

whichever is higher,

is payable in terms of section 73(9) of CGST Act, 2017. Therefore, **penalty of ₹ 10,000** will

have to be paid by Checkernot. However, such penalty is payable when the PO issues an order in this behalf.

- 4 (c) Section 18 (dealing with provisional assessment) incorporates the principle of unjust enrichment in case of refund arising out of finalization of provisional assessment. Sub-section (5) of section 18 of Customs Act, 1962 provides that **if any amount is found to be refundable after finalisation of provisional assessment, such refund will be subject to doctrine of unjust enrichment.**

Further, section 28D places the **onus on the person who has paid duty to prove that he has not passed on the incidence of such duty.** In the absence of any proof from such person, section 28D deems that the burden of duty has been passed on to the buyer.

Therefore, in the given case, the **Department's action will be correct if M/s HIL does not produce any evidence** of bearing the burden of duty.

- 5 (a) (i) An appeal against the order passed by Joint Commissioner lies before **the Appellate Authority - Commissioner (Appeals).**

Chandan & Co. **cannot directly approach the High Court.** It needs to first file an appeal to Appellate Authority and then to Appellate Tribunal. However, a **writ petition can be filed directly** before the High Court for relief.

- (ii) The time-limit for filing an appeal in the given case is **3 months** from the date of communication of the order appealed against, i.e., 3 months from 1st May. Hence, the **appeal must be filed on or before 1st August.**

- (iii) No appeal can be filed before the Appellate Authority unless appellant – Chandan & Co. has paid **pre-deposit of ₹ 3,00,000**, computed as sum of the following:

(a) **Full amount** of tax, interest and penalty arising from the order as **admitted** by him, viz. **nil, and**

(b) **10% of the remaining tax** in dispute (₹ 30,00,000) arising from the order, viz. ₹ 3,00,000.

- 5 (b) (i) An electronic commerce operator (ECO) is required to collect TCS - an amount @ 1% (CGST 0.5% and SGST @ 0.5%) of the net value of taxable supplies made through it by other suppliers.

= ₹ 1,50,000 × 0.5%

= ₹ 750 (CGST) & ₹ 750 (SGST)

- (ii) A State Government is required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, exceeds ₹ 2,50,000. TDS to be deducted in the given intra-State supply (since place of supply and location of supplier is in Tamil Nadu) is as follows:

= ₹ (4,30,000 - 1,00,000) × 1%

= ₹ 3,300 (CGST) & ₹ 3,300 (SGST)

- (iii) Since, in the given case, the location of supplier and place of supply are in the same State, i.e., Kerala and location of recipient is in Andhra Pradesh,

Andhra Pradesh Government is not required to deduct TDS although the total value of supply under the contract is more than ₹ 2,50,000.

Note: In above question, it has been assumed that the value given is exclusive of GST, wherever applicable, since the rate of tax is not given in the question.

5 (c) When the imported goods are warehoused, the temporary **possession and the custody of the goods are passed on to the warehouse keeper**. However, the remaining titular rights of the goods vest with the owner.

Thus, the **owner has every access** to the goods.

In the course of his dealings with the goods, he may:

- (a) **inspect** the goods;
- (b) ensure that the **goods do not deteriorate or get damaged** during storage in the warehouse;
- (c) **sort** the goods; or
- (d) **show the goods for sale**.

6 (a) As per section 126(1) of the CGST Act, 2017, no penalty shall be leviable under the Act for minor breaches of tax regulations. In terms of Explanation (a) to section 126(1), a **breach shall be considered as “minor breach”, if tax involved is less than ₹ 5,000. Therefore, breach made by Mangeshwar is not a ‘minor breach’ since the amount involved is not less than ₹ 5,000. So, penalty is imposable.**

Any omission or mistake in documentation which is **easily rectifiable and made without fraudulent intent/gross negligence is not liable for penalty** in terms of section 126(1) of the CGST Act, 2017. However, penalty is imposable in the present case, since the omission in the documentation is not easily rectifiable and has occurred due to gross negligence.

As per section 126(5) of the CGST Act, 2017, **where there is a voluntary disclosure of breach**, prior to its discovery by the officer, the **proper officer may consider this fact as a mitigating factor** when quantifying the penalty. Since Mangeshwar has voluntarily disclosed the breach of procedural requirement to the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Therefore, the quantum of penalty will depend on the facts and circumstances of the case.

As per section 125 of the CGST Act, 2017, **when no specific penalty** has been specified for contravention of any of the provisions of the Act or any rules made there under, **it shall be liable to a penalty which may extend to ₹ 25,000. Therefore, general penalty upto ₹ 25,000 may be imposed on Mangeshwar.**

6 (b) The **matters on which the GST Council may make recommendations** under Article 279A of the Constitution of India are as under:

- (i) the **taxes, cesses and surcharges levied** by the Union, the States and the local bodies which may be subsumed in GST;
- (ii) the **goods and services that may be subjected to, or exempted** from GST;
- (iii) **model GST Laws, principles of levy, apportionment of GST levied on supplies** in

the course of inter-State trade or commerce and the principles governing the place of supply;

- (iv) the **threshold limit of turnover** below which goods and services may be exempted from GST;
- (v) the **rates including floor rates** with bands of GST;
- (vi) any **special rate or rates for a specified period**, to raise additional resources during any natural calamity or disaster;
- (vii) **special provision with respect to Special Category States**
- (viii) the **date on which the GST be levied on petroleum crude**, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
- (ix) **any other matter relating to the GST**, as the Council may decide.

6 (c) The first step in the classification of Almond Milk is to determine if the same would fall under Chapter 20 or 22 of the First Schedule of Customs Tariff Act, 1975. On a plain reading of Heading of Chapter 20 along with Explanatory Notes, it emerges that Chapter 20 is applicable to juices of ripe fruits and vegetables. **Therefore, it is important to determine if the “almond” qualifies to be a fruit or not.**

While in common parlance, we refer ‘almonds’ as dry fruits, however if we analyze Chapter 8 of the First Schedule of Customs Tariff Act, 1975, **it appears that ‘almonds’ are referred to as ‘nuts’ under sub-heading 0802.**

Therefore, the ‘almonds’ do not classify as ‘fruit’ for the purpose of classification under the HSN system.

Accordingly, the classification under Chapter 20 is completely ruled out. Now, the 3 entries relevant under Chapter 22 are:

- (a) 2202 99 20 – Fruit pulp or fruit juice based drink – As stated above, since almond is not a fruit but a nut for the purpose of classification, **this entry is ruled out.**
- (b) 2202 99 30 – Beverages containing milk – Admittedly, as per process specified above, the Almond Milk does not contain any milk. **Therefore, this entry is also ruled out.**
- (c) 2202 9100 or 2202 99 90 - Other non-alcoholic beverages other than tender coconut water – **The Almond milk will be classifiable under 2202 99 90 as Others.**

Therefore, the Almond Milk will be chargeable to 18% GST.