

FINAL EXAMINATION

June 2018

P-18(ITP)
Syllabus 2016

Indirect Tax Laws and Practice

Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicate full marks.

Wherever necessary, you may make suitable assumptions and state them clearly in your answer.

Working Notes should your part of the answer.

Section-A

Answer Question No. 1 which is **compulsory** and any **four** from the rest of this section.

1. Choose the correct answer with **justification/workings** wherever applicable:

2×7=14

(i) GST is a _____ based tax.

(a) Territory

(b) Origin

(c) Destination

(d) None of the above

(ii) A new supplier has taxable intra-State sales, exempt intra-State sales and export sales of goods. He should get himself registered under GST law, where

(a) the aggregate value of taxable intra-State goods exceeds ₹ 20 lakhs.

(b) the aggregate value of taxable as well as exempt intra-State goods exceeds ₹ 20 lakhs.

(c) the aggregate value of all the three items exceeds ₹ 20 lakhs.

(d) the aggregate value of taxable intra-State goods as well as export sales exceeds ₹ 20 lakhs.

(iii) Following is an intra-State supply:

(a) Goods sent from Delhi to another dealer in Delhi.

(b) Goods sent from Delhi to a SEZ in Noida, Uttar Pradesh.

(c) Goods sent from Delhi to Chandigarh branch (Haryana) of the same supplier.

(d) None of the above

Please Turn Over

- (iv) A casual taxable person is required to obtain registration where he makes
- (a) Taxable inter-State supply.
 - (b) Taxable inter-State or intra-State supply.
 - (c) Taxable inter-State or intra-State supply whose proposed value exceeds ₹ 20 lakhs.
 - (d) In none of the above situations.
- (v) Subbu, a registered supplier based at Erode coached the staff of a software company in Hyderabad, which is registered. The classes were held at Erode. The place of supply is:
- (a) As mutually agreed upon
 - (b) As decided by the Department, whichever is more favourable to them.
 - (c) Erode
 - (d) Bengaluru
- (vi) Advance ruling can be declared to be void by the Authority if it has been obtained by an applicant/appellant by:
- (a) Fraud
 - (b) Suppression of facts
 - (c) Misrepresentation of facts
 - (d) Any one of the above
- (vii) For the year 2017-18 due date of filling of annual return is 31.12.2018. The books and records of 2017-18 must be maintained till
- (a) 31.03.2024
 - (b) 31.12.2024
 - (c) 31.12.2026
 - (d) 31.03.2034

2. (a) What is the difference in tax consequence between intra-State (from HO to branch in same State) and inter-State stock transfers (from HO to branch in different State) of the same supplier, which is a private limited company? What kind of GST will be levied?

- (b) Sakshitha Pvt. Ltd., a registered supplier, furnish the following details relating to supplies effected during December, 2017:

8

Particulars	Amount (₹)
Sale price charged to customers within State (Excluding GST)	10,00,000
Service charges levied in the invoices	11,000
Packing and forwarding expenses incidental to sale	14,200
Weighment charges, shown separately in invoices	7,800
Commission charged to buyers	15,000
Prompt payment discount, indicated in invoice 1%, if payment made within 1 month.	

The rates of taxes for the goods supplied are as under:

Particulars	Rate
CGST	6%
SGST	6%
IGST	12%

Additional information: 60% of the customers did not make the payment within one month from the date of supply. Hence the supplier recovered the prompt payment discount offered to them.

3. (a) Mr. X a dealer dealing with intra-State supply of goods and services has place of business in India furnished the following information in the financial year 2017-18:
- Sale of taxable goods by Head Office located in Chennai for ₹ 1,00,000.
 - Supply of taxable services by Branch office at Bengaluru for ₹ 50,000.
 - Supply of goods exempted from GST ₹ 10,000.
 - Export of goods and services for ₹ 2,00,000.
 - Sale of goods acting as agent on behalf of principal for ₹ 15,00,000.
- Advice Mr. X whether he is required to register himself under GST law.

7

- (b) Vimala Transports & Co., a partnership firm based at Chennai, is running a regular tourist bus service, carrying passengers and goods from Chennai to Bengaluru in Karnataka State and Trivandrum in Kerala State, with effect from 1st September, 2017.

The firm wants to know whether such inter-State movement of various modes of conveyance carrying goods or passengers or both, between distinct persons as specified in section 25(4) of the CGST Act [except in cases where such movement is for further supply of the same conveyance], is coming under IGST.

You are required to advise the firm suitably.

7

4. (a) (i) Explain the concept of recovery in installments under Section 80 of CGST Act 2017 giving the circumstances in which such facility can be allowed and will not be allowed to the defaulter.

5

- (ii) Write a brief note on provisional assessment under section 60 of the CGST Act, 2017.

4

- (b) Balaji & Co., a partnership firm, intend to start a business in Rajasthan, for supply of garments, mostly meant for overseas buyers. As regards the classification of the goods, there some difficulties in determination. Can the firm seek advance ruling from the Authority for Advance ruling in respect of the issue of classification of goods? Can the firm also seek ruling on issues involving place of supply of goods?

5

5. (a) Enumerate and Explain the types of Audits envisaged under GST law.

10

- (b) Admission to True Theater is ₹ 90 per ticket for a Tamil Movie as well as for a Hindi Movie plus entertainment tax 10% on Tamil Movies and 20% on other languages. In the month of November, True Theater sold 2000 tickets of Tamil Movies and 1500 tickets of Hindi Movies. Find the value of taxable supply of service. Applicable rate of GST 18% & 28% respectively. Find the GST liability if any?

4

6. (a) Achutha Motors Pvt. Ltd., have been served a show cause notice (SCN) on 2nd November, 2021 under section 73(1) of the CGST Act, 2017, alleging that the supplier had made short remittances of GST for the months of September, October and November, 2017. The department has afforded a personal opportunity of being heard on 15th November, 2021.

The company seeks you expert advice in drafting the written submissions to be tendered at the time of personal hearing, in respect of the SCN. You are required to draft the reply on their behalf. You may assume that there is no change in legal position during November, 2021 and that it remains the same as it is at present.

8

- (b) Which are the input goods and services on which a registered dealer cannot claim Input Tax credit under Section 17(5) of CGST Act, 2017. Give any six points/items.

6

7. (a) State the duties and powers of the Anti-profiteering Committee under GST law. 6
- (b) Shankar Texmaco P Ltd. (STPL), having its registered office at Salem, Tamil Nadu, is a manufacturer of dyeing machinery. It manufactures and installs the machinery at the places opted by the buyers. For each machine manufactured and installed by it, STPL gets a subsidy of ₹ 3 lakhs.

Poorni Dyers Ltd. (PDL), having their registered office at Coimbatore, Tamil Nadu have ordered a machinery from STPL, to be erected at their place of manufacture at Palghat, Kerala. The base price of the machine is ₹ 25 lakhs. For each machinery, there is a separate handling charge of ₹ 50,000.

PDL have opted to take an additional warranty for ₹ 20,000 for an extended service period of 1 year, in addition to the free warranty provided by STPL.

The installation costs of ₹ 80,000 charged by STPL, will be met by PDL.

STPL offers a cash discount of 2%, where the payment is made within a month. If the payment is not so made, it not only recovers the discount earlier offered, but also charges interest at 18% for the period of delay.

A machinery was supplied on 21st November, 2017, the tax invoice also being issued the same day.

Ascertain the transaction value of the machine sold to MTL and the GST payable [SGST & CGST or IGST] by STPL. You are further informed that MTL made the actual payment only on 10th January, 2018.

You are informed that the GST rates applicable for the product as under:

8

SGST	6%
CGST	6%
IGST	12%

Section-B

(Customs duty and FTP)

Answer Question No. 8 which is **compulsory** and any **two** from the rest in this section.

8. Choose the most appropriate option for the following [Option to be given in capital letters A, B, C or D] and give brief **reason/justification** for your choice the correct choice or conclusion [1 mark for the correct choice and 1 mark for reason] : 2×3=6
- (i) For filing an appeal before the Commissioner (Appeals), the amount of pre-deposit required under the Customs Act, 1962 is
- (A) 5% of the demand, subject to a maximum of ₹ 5 crore
- (B) 5% of the demand, subject to a maximum of ₹ 7.5 crore
- (C) 7.5% of the demand, subject to a maximum of ₹ 7.5 crore
- (D) 7.5% of the demand, subject to a maximum of ₹ 10 crore

- (ii) Where a person of Indian origin stays abroad for 36 months and returns to India on 21-1-2017 for having residence in India, the GFA for used household articles (Baggage) is

(A) ₹ 1 lakh

(B) ₹ 3 lakhs

(C) ₹ 5 lakhs

(D) None of the above

- (iii) Anti-dumping duty payable by a SEZ in respect of an import is

(A) Nil

(B) 5% of the customs duty

(C) 7.5% of the customs duty

(D) 10% of the customs duty

9. (a) Explain the importance of Inland Container Terminal (ICT) and Container Freight Station as an infrastructure facility for export or import. Distinguish between the two.

2+4=6

- (b) An importer imported some goods for subsequent sale in India at \$ 10,000 on Assessable value basis. Relevant exchange rate and rate of duty are as follows:

Particulars	Date	Exchange rate declared by the CBEC	Rate of Basic Customs Duty
Date of submission of bill of entry	25th February, 2018	₹ 58/USD	10%
Date of entry inwards granted to the vessel	5th March, 2018	₹ 58.75/USD	12%

Calculate Assessable value and Customs Duty in Indian rupees? (Education cess is 2% & SAH education cess is 1%)

6

10. (a) (i) The assessee imported furnace oil and supplied the same to sister unit for generation of electricity, which is used by the assessee. The assessee claimed exemption on import of furnace oil. The assessee also obtained a clarification from Development Commissioner for claiming exemption. However, irrespective of the clarification from Development Commissioner, a show cause notice (SCN) demanding duty was issued on the assessee more than 1 year (i.e. longer limitation) after he had imported furnace oil on behalf of its sister unit.

Is the issue of the SCN in the extended period of limitation valid in law?

4

- (ii) The assessee filed an appeal to Commissioner, but mistakenly gave it to the adjudicating officer who had passed the original order, who sent it to the Commissioner after few days delay. The appellate authority rejected the appeal on the ground that the appeal was not received in time in his office.

Is the rejection of appeal justified?

4

- (b) Under Indian FTP, write a brief note on Advance Authorisation.

4

11. (a) (i) Mr. Amol owns a sole proprietorship firm, 'Safe and Super Importers'. Mr. Amol has never been to any place outside India. The firm proposes to import a product. Mr. Amol is not sure of the correct classification of the product under Customs Tariff. His Tax Consultant has informed him that the said classification issue has been decided by the CESTAT in a different case. However, Mr. Amol does not want to take any chances and is desirous of obtaining a ruling from the Authority for Advance Ruling under section 28H of the Customs Act, 1962 with respect to the classification of the product to be imported by it.

In the light of recent amendments, state whether Safe and Super Importers can seek advance ruling in the present case under the Customs Act, 1962?

3

- (ii) Basant, a non-resident intends to provide a taxable service under a joint venture in collaboration with a non-resident, but has entertained some doubts above its valuation.

Aarohi, Basant's friend, has obtained an 'Advance Ruling' from the Authority for Advance Ruling on an identical point. Basant proposes to follow the same ruling in his case. Basant has sought your advice as his consultant whether he could follow the ruling given in the case of Aarohi. Explain with reasons.

3

- (iii) Explain relevance of Boat Note as per Boat Note Regulations.

2

- (b) The Scope of Foreign trade policy 2015-2020 provides direction to promote Indian Exports. In this context outline the Scope of FTP.

4