MOCK TEST PAPER 1

FINAL (NEW) COURSE: GROUP – II

PAPER 8: INDIRECT TAX LAWS

SUGGESTED ANSWERS

Division A

Answer Key

Question No.	Answer
1.1	**(b)** No, M/s Gajanan Enterprises is not required to take registration under GST as its aggregate turnover is below the threshold limit for registration. However, it is required to obtain a unique enrolment number under GST.
1.2	**(b)** for 72 months from the due date of furnishing of Annual Return for the year pertaining to such accounts and records.
1.3	**(c)** Yes, e-way bill is required to be generated irrespective of the value of the consignment.
1.4	**(b)** Yes, M/s Speedofast Enterprises can generate a consolidated e-way bill containing the details of different EWBs even if all the EWBs have different validity periods and it is transporting consignments of different consignors and consignees in a single conveyance.
1.5	**(a)** Yes, within 15 days from the generation of unique e-way bill number
2.1	**(d)** No, since service is provided to a business entity that is registered under GST in the preceding financial year under section 22 of the CGST Act, 2017. Further, tax shall be payable by Veranta India (P) Ltd. under reverse charge.
2.2	**(c)** For whole amount of ₹ 1,10,000: 5th April
2.3	**(a)** ₹ 110,000
2.4	**(c)** (ii) and (iv)
3	**(a)** Mr. Pal should get himself registered under GST in the name and style M/s. Spiceton Restaurant under his own PAN and file Form GST ITC-02.
4	**(d)** (i), (ii), (iii)
5	**(c)** (iii)
6	**(c)** 18%, inter-State supply
7	**(b)** (iii) and (iv)
8	**(b)** None of above
9	**(c)** The provisions are also applicable even if goods are destroyed at the warehouse.

Division B

1. Computation of ITC available with Pari Ltd.

S. No.	Particulars	Eligible input tax credit		
		CGST (₹)	SGST (₹)	IGST (₹)
1.	**Raw Material**			
	Purchased from local registered suppliers [Note 1(i)] (₹ 1,06,250 x 9%)	9,562.50	9,562.50	

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	Purchased from local unregistered suppliers [Note 1(ii)]	Nil	Nil	
	Purchased from Punjab from registered supplier [Note 1(i)] (₹ 1,00,000 x 18%)			18,000
	Raw material imported from USA [Note 1(iii)]			22,732
2.	Consumables [Note 2] (₹ 1,56,250- ₹ 31,250) x 9%]	11,250	11,250	
3.	Monthly rent for the factory building to the owner in Rajasthan [Note 3]	9,000	9,000	
4.	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil
5.	Premium paid on life insurance policies taken for specified employees [Note 5] (₹ 2,00,000 x 9%)	18,000	18,000	-
Total		47,812.50	47,812.50	40,732
Add: Opening balance of ITC		20,000	15,000	15,000
Total ITC [Note 7]		**67,812.50**	**62,812.50**	**55,732**

Computation of net GST payable

Particulars	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
Intra-State supply	78,750	78,750	
Inter-State supply			67,500
Exports under LUT [Note 6]	Nil	Nil	Nil
Total output tax liability	**78,750**	**78,750**	**67,500**
Less: ITC	67,812.50	62,812.50	55,732
Net GST payable	**10,937.50**	**15,937.50**	**11,768**

Notes:

1. (i) Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16.

   (ii) Tax on procurements made by a registered person from an unregistered supplier is levied only in case of notified goods and services in terms of section 9(4). Therefore, since no GST is paid on such raw material purchased, there does not arise any question of ITC on such raw material.

   (iii) IGST paid on imported goods qualifies as input tax in terms of section 2(62). Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16.

2. ITC on consumables, being inputs used in the course or furtherance of business, is available. However, since levy of GST on high speed diesel has been deferred till a date to be notified by Government, there cannot be any ITC of the same.

3. ITC on monthly rent is available as the said service is used in the course or furtherance of business.

4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.

5. ITC on life insurance service is available if the same is obligatory for an employer to provide to its employees under any law for the time being in force as per proviso to section 17(5)(b).

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6. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under bond is made without payment of IGST in terms of section 16(3)(a).

7. Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available as per section 17(2).

2. (a) No, the opinion of the job worker is not fully correct. Section 7(1A) of the CGST Act provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1) of the CGST Act, they shall be treated either as a supply of goods or supply of services as referred to in Schedule II of the CGST Act. Any processing activity carried on any other person's goods is treated as supply of service in terms of Schedule II. The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work. These goods are not supply *per se*, but being used in the processing activity carried out by it.

Thus, the activity undertaken by the job worker, in the given case, squarely falls within the purview of Schedule II and shall be considered as supply of service by the job worker to Nandeeshwar Manufacturers.

(b) Computation of amount payable under composition scheme

(i) If M/s Heeralal and Sons is a manufacturer:

Tax is to be paid @ 1% (½% CGST+ ½% SGST) of the turnover in the State as under:

1% of ₹ 32,00,000 [₹ 15,00,000 + 17,00,000]

= ₹ 32,000 [CGST = ₹ 16,000 and SGST = ₹ 16,000]

(ii) If M/s Heeralal and Sons is a trader:

Tax is to be paid @ 1% (½% CGST + ½%SGST) of the turnover of **taxable supplies** of goods and services in the State as under:

= 1% of ₹ 15,00,000

= ₹ 15,000 [CGST = ₹ 7,500 and SGST = ₹ 7,500]

(c) Computation of customs duty and integrated tax payable by ABC Industries Ltd.

Particulars	Amount
CIF value	6,000 US $
Less: Freight	1,200 US $
Less: Insurance	1,800 US $
FOB value	3,000 US $
Add: Freight (20% of FOB value) [Note 1]	600 US $
Add: Insurance (actual)	1,800 US $
CIF	5,400 US $
Exchange rate as per CBIC [Note 3]	₹ 70 per US $
Assessable value = ₹ 70 x 5,400 US $	₹ 3,78,000
Add: Basic customs duty @ 10%	₹ 37,800
Add: Social Welfare Surcharge @ 10%	₹ 3,780
Sub-total	₹ 4,19,580
Integrated tax @ 12% of ₹ 4,19,580[Note 5]	₹ 50,349.60
Total customs duty and integrated tax payable [₹37,800 + ₹ 3,780 + ₹ 50,349.60]	₹ 91,929.60
Total customs duty and integrated tax payable (rounded off)	₹ 91,930

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Notes:

1. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
2. Rate of exchange determined by CBIC is considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
3. Rule 10(1)(b)(iv) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 *inter alia* provides that value of development work undertaken elsewhere than in India is includible in the value of the imported goods. Thus, development charges of ₹ 56,000 paid for work done in India have not been included for the purposes of arriving at the assessable value.
4. Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

3. (a) (i) As per section 12(7)(a)(ii) of the IGST Act, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Mr. Murthy] is unregistered and event is held in India, place of supply is the location where the event is actually held, i.e. Bengaluru, Karnataka. The location of the supplier and the location of the recipient is irrelevant in this case.

(ii) However, if product launch takes place outside India [Bangkok], the place of supply will be the location of recipient, i.e. Pune, Maharashtra.

(iii) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient vide section 12(7)(a)(i) of the IGST Act.

Therefore, if Mr. Murthy is a registered person, then in both the cases, i.e. either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the location of recipient, i.e. Pune, Maharashtra.

(b) No, the store is not correct in issuing supplementary invoice with revised rate of tax. The revised rate of tax is not applicable to the transaction, as the issuance of invoice as well as receipt of payment occurred before the supply. Therefore, in terms of section 14(b)(ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate of tax remains applicable.

(c) The facts of the case are similar to the case of *BPL Display Devices Ltd. v. CCEx., Ghaziabad (2004) 174 ELT 5 (SC)* wherein the Supreme Court has held that the benefit of the notifications cannot be denied in respect of goods which are intended for use for manufacture of the final product but cannot be so used due to shortage or leakage.

The Apex Court has held that no material distinction can be drawn between loss on account of leakage and loss on account of damage. The benefit of said exemption cannot be denied as inputs were intended for use in the manufacture of final product but could not be so used due to shortage/leakage/damage. It has been clarified by the Supreme Court that words "for use" have to be construed to mean "intended for use".

Therefore, the importer can claim the benefit of the notification in respect of the entire lot of the inputs imported including those that were damaged in transit.

4. (a) Rule 138(1) of the CGST Rules, 2017 provides that e-way Bill is mandatorily required to be generated if the goods are moved, *inter alia*, in relation to supply and the consignment value exceeds ₹ 50,000. Further, explanation 2 to rule 138(1) stipulates that the consignment value of

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goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Accordingly, in the given case, the consignment value will be as follows:

= ₹ 48,000 × 118%

= ₹ 56,640.

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be issued in the given case.

(b) Section 22(1) of the CGST Act provides that every supplier is liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds the threshold limit.

Section 25(1) of the CGST Act provides that a supplier whose aggregate turnover in a financial year exceeds the threshold limit in a State/UT is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit).

Where the application is submitted within the said period, the effective date of registration is the date on which the person becomes liable to registration vide rule 10(2) of the CGST Rules, 2017; otherwise it is the date of grant of registration in terms of rule 10(3) of the CGST Rules, 2017.

In the given case, since Pari & Sons have applied for registration on 27th August which is within 30 days from the date of becoming liable to registration (10th August), its effective date of registration is 10th August.

Further, every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices in respect of taxable supplies effected during this period within one month from the date of issuance of registration certificate [Section 31(3)(a) read with rule 53(2) of CGST Rules, 2017].

In view of the same, Pari & Sons may issue revised tax invoices against the invoices already issued during the period between effective date of registration (10th August) and the date of issuance of registration certificate (1st September), on or before 1st October.

(c) **(a) Not valid.** As per section 9B of the Customs Tariff Act, 1975, no article shall be subjected to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization.

(b) Not valid. As per section 9B of the Customs Tariff Act, 1975, countervailing or anti-dumping duties shall not be levied by reasons of exemption of such articles from duties or taxes borne by the like articles when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes.

(c) Valid. As per section 9B of the Customs Tariff Act, 1975, no definitive countervailing duty or anti-dumping duty shall be levied on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favored nation agreement, unless a determination has been made in the prescribed manner that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.

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5. **(a)** The written submissions in reply to SCN issued to Rajul Associates are as follows:

i. The show cause notice (SCN) issued for normal period of limitation under section 73(1) of the CGST Act is not sustainable.

ii. The SCN under section 73(1) of the CGST Act can be issued at least 3 months prior to the time limit specified for issuance of order under section 73(10) of the CGST Act. The adjudication order under section 73(10) of the CGST Act has to be issued within 3 years from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

The due date for furnishing annual return for a financial year is on or before the 31st day of December following the end of such financial year [Section 44]. Thus, SCN under section 73(1) of the CGST Act can be issued within 2 years and 9 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

iii. The SCN has been issued for the period between 01.07.2017 to 31.12.2017 which falls in the financial year (FY) 2017-18. Due date for furnishing annual return for the FY 2017-18 is 31.12.2018 and 3 years' period from due date of filing annual return lapses on 31.12.2021. Thus, SCN under section 73(1) of the CGST Act ought to have been issued latest by 30.09.2021.

iv. Since the notice has been issued after 30.09.2021, the entire proceeding is barred by limitation and deemed to be concluded under section 75(10) of the CGST Act.

(b) Section 107(6) of the CGST Act provides that no appeal shall be filed before Appellate Authority, unless the appellant pays*:-

(a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and

(b) 10% of remaining tax in dispute arising from the impugned order subject to a maximum of ₹ 25 crore, in relation to which the appeal has been filed.

**Equivalent amount is required to be deposited with respect to SGST liability.*

Thus, in Case-I, XY Company has to make a pre-deposit of 10% of ₹ 6,00,000, which is ₹ 60,000 (i.e. CGST ₹ 30,000 and SGST ₹ 30,000) assuming that XY Company disagrees with the entire tax demanded.

However, when XY Company admits the liability of only ₹ 2,00,000 (CGST + SGST) and disputes the balance tax demanded of ₹ 4,00,000, it has to make a pre-deposit of:

(i) ₹ 2,00,000 + ₹ 20,000 [proportionate penalty on tax admitted] + interest @ 18% p.a. payable on the tax admitted for the period of delay, and

(ii) 10% of ₹ 4,00,000 which is ₹ 40,000.

(c) (1) As per the Baggage Rules, 2016, an Indian resident arriving from a 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] up to a value of ₹ 50,000 carried as accompanied baggage [General duty free baggage allowance].

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

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

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(3) (i) Accordingly, there will be no customs duty on used personal effects (worth ₹ 1,40,000) of Mrs. and Mr. Iyer and laptop computer brought by them will be exempt from duty.

(ii) Duty payable on personal computer after exhausting the duty free baggage allowance will be ₹58,000 – ₹ 50,000 = ₹ 8,000.

(iii) Effective rate of duty for baggage =38.50% [including Social Welfare Surcharge]

(iv) Therefore, total customs duty = ₹ 3,080.

6. **(a)** Section 87 of the CGST Act stipulates that when two or more companies are amalgamated/ merged in pursuance of an order of court or Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied/ received any goods and/or services to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

For the purposes of the CGST Act, 2017, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order. The registration certificates of the said companies shall be cancelled with effect from the date of the said order.

(b) Assessment order passed by the proper officer may be withdrawn in following cases:-

(i) **Assessment of non-filers of returns** - The best judgement order passed by the proper officer under section 62 of the CGST Act shall automatically stand withdrawn where a registered person files a valid return within 30 days of the service of the best judgment assessment order. However, the liability for payment of interest under section 50(1) of the CGST Act, 2017 or for payment of late fee under section 47 of the CGST Act, 2017 shall continue.

(ii) **Summary assessment -** As per section 64(2) of the CGST Act, 2017, a taxable person against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/ Joint Commissioner within 30 days of the date of receipt of the order.

If the said officer finds the order erroneous, he can withdraw it and direct the proper officer to carry out determination of tax liability in terms of section 73 or 74 of the CGST Act. The Additional/ Joint Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

(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.

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