

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

Division A

Answer Key

Question No.	Answer
1	(d) Surat, Gujarat.
2	(b) (i) Surat, Gujarat and (ii) Mumbai, Maharashtra
3	(b) ₹ 67.50
4	(c) ₹ 35,55,967.50
5	(a) Total aggregate turnover of VTTL is ₹ 2,00,75,375.
6	(c) Only 3 rd
7	(d) Ineligible credit of CGST and SGST of ₹ 4,000 each will be distributed as ineligible credit of CGST and SGST of ₹ 4,000 each to Unit Kunj.
8	(c) IGST credit of ₹ 1,72,000
9	(b) Satara, Maharashtra; CGST and SGST
10	(b) ₹ 2,16,000
11	(d) Supply other than composite and mixed supply; respective tax rate applicable to each item
12	(b) 5 th May
13	(d) every registered person
14	(d) Only (iii)
15	(a) (i), (ii), (iii) and (iv)
16	(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) of the CGST Rules, 2017].
- (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) of the CGST Rules, 2017].
- (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) of the CGST Rules, 2017].
- (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 of the CGST Rules, 2017].
- (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) of the CGST Rules, 2017].
- (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) of the CGST Rules, 2017].
- (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) of the CGST Rules, 2017 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) of the CGST Rules, 2017].

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

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

- (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) of the CGST Rules, 2017].

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	5,40,000	97,200

[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.]		
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
<i>Services on which tax is payable under reverse charge:</i>		
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 has opted to pay 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

(b) Computation of export duty

Particulars	Amount (US \$)
FOB price of goods [Note 1]	1,00,000
	Amount (₹)
Value in Indian currency (US \$ 1,00,000 x ₹ 70) [Note 2]	70,00,000
Export duty @ 8% [Note 3]	5,60,000

Notes:

- As per section 14(1) of the Customs Act, 1962, assessable value of the export goods is the transaction value of such goods which is the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation.
 - As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by the CBIC on the date of presentation of shipping bill of export.
 - As per section 16(1)(a) of the Customs Act, 1962, in case of goods entered for export, the rate of duty prevalent on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation, is considered.
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. 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), export of services means the supply of any service when, –

- 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) In case of services supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient, tax is payable under reverse charge by the person located in the taxable territory [Notification No. 10/2017 IT (R) dated 28.06.2017]. Hence, in the given case, since the business support services are provided by Green Inc (located in non-taxable territory) to Mint Ltd. (person other than non-taxable online recipient and located in taxable territory), tax is payable under reverse charge by Mint Ltd.

The time of supply of services taxable under reverse charge is the earlier of the following:

- Date of payment, or
- Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.

In view of the aforesaid provisions, the time of supply in each of the given cases will be as under:

CASE	Time of supply
CASE I	Since Mint Ltd makes the payment within 60 days of the date of issue of invoice, the time of supply is the date of payment, i.e. 22 nd September.
CASE II	As Mint Ltd. makes the payment after 60 days from the date of invoice, time of supply is the date immediately following the said period of 60 days, i.e. 61 st day which is 18 th October.

- (c) **The two different situations here are (i) damage after unloading and (ii) deterioration after unloading.**

The abatement of duty is allowed **under section 22(b)** of the Customs Act, 1962 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) **Computation of aggregate turnover of Rajesh Dynamics:**

Particulars	₹
Supply of petrol at Chennai, Tamil Nadu [Being a non-taxable supply, it is an exempt supply and thus, includible in aggregate turnover vide section 2(6) of the CGST Act 2017]	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	Nil
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration [Being a taxable supply, it is includible in aggregate turnover]	1,50,000
Value of taxable supplies of Manipur Branch	11,50,000
Aggregate turnover	33,00,000

Rajesh Dynamics is not liable to be registered in Chennai, Tamil Nadu, if his aggregate turnover in a financial year does not exceed ₹ 40 lakh. However, since Rajesh Dynamics also makes taxable supplies from Manipur, a specified Special Category State, the threshold exemption gets reduced to ₹ 10 lakh in terms of section 22(1) of the CGST Act 2017 [Notification No.10/2019-CT dated. 07.03.2019].

Rajesh Dynamics' argument that it is not liable to registration since the threshold exemption of ₹ 40 lakh is not being crossed either at Chennai, Tamil Nadu, Bengaluru, Karnataka or Manipur is not correct as firstly, the aggregate turnover to be considered in its case is ₹ 10 lakh and not ₹ 40 lakh and secondly, the same is computed on all India basis and not State-wise.

Apart from this, Rajesh Dynamics is also wrong in believing that aggregate turnover is computed only for the purpose of determining the eligibility limit for composition levy since the aggregate turnover is required for determining the eligibility for both registration and composition levy.

Last but not the least, Rajesh Dynamics is compulsorily required to register under section 24 of the CGST Act 2017 irrespective of the turnover limit as it is liable to pay tax on inward supplies under reverse charge and it also makes inter-State taxable supply.

- (b) No, as per the provisions under section 52 of the CGST Act 2017, the TCS provisions shall trigger only when the ECO is receiving the consideration for supply from the recipient of supply. In the present case, the supplier i.e. the hotel is directly receiving the consideration from the recipient of the services i.e. X. Hence, the present transactions shall not trigger the TCS provisions under section 52 of the CGST Act 2017.
- (c) As per rule 3 of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of
- travel souvenirs; and
 - Articles up to the value of ₹ 15,000 (excluding *inter alia* fire arms, cartridges of fire arms exceeding 50 and cigarettes exceeding 100 sticks), if carried on in person.

Computation of customs duty payable	₹
Travel souvenir	Nil

Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA)	<u>25,000</u>
Baggage than can be accommodated in GFA	1,85,000
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	<u>1,70,000</u>
Duty payable @ 38.50% (including 10% Social welfare surcharge)	<u>65,450</u>

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage [Notification No. 26/2016 Cus. dated 31.03.2016]. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

5. (a) The provisions of section 76 of the CGST Act 2017 make it mandatory on Subharti Enterprises to pay amount collected from other person representing tax under this Act, to the Government.

Section 76 of the CGST Act 2017 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon. Interest is payable at the rate specified under section 50. Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

The proper officer shall issue an order within 1 year [excluding the period of stay order] from the date of issue of the notice. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

- (b) Genie Engineers should reply on the following lines:

Under section 19(6) of the CGST Act 2017, the principal may take ITC on capital goods sent to a job worker for job work without being first brought to his place of business.

The capital goods sent for job work should either be returned to the principal or must be supplied from the job worker's premises within 3 years [extendible by another 2 years] from sending them to the job worker or direct receipt by the job worker from the supplier. If the above time-lines are not met, it is deemed that the capital goods were supplied by the principal to the job worker (in

other words, tax will be payable on them) on the day they were sent out to the job worker [Section 19(6)].

However, sub-section (7) of section 19 of the CGST Act 2017 provides that the time-limit of three years in sub-section (6) for bringing back the capital goods from the job worker does not apply to moulds.

Accordingly, Genie Engineers have correctly availed the ITC in respect of the moulds delivered to their job worker and not brought back even after of four years.

- (c) Acme Sales received an order finalizing provisional assessment on the basis of a verification report, and requiring payment of ₹ 12 lakh. They did not contest this order, but made the payment, and allowed the appeal period of sixty days to lapse. After appeal became time-barred they filed a claim for refund in which they challenged the order. This was a backdoor method of seeking relief against the order; it also asked an officer of the same rank to review the order passed; and it sought to bypass the time limitation for appeal by presenting the appeal as a claim for refund. The Supreme Court has held, in the case of *Priya Blue Industries Limited, 2004 (172) ELT 145 (SC)*, that such a refund claim is not permissible for all these reasons. A person who is aggrieved with an assessment order cannot seek refund without filing an appeal against the assessment order.
6. (a) Section 35(1) of the CGST Act 2017 stipulates that a true and correct account of following is to be maintained:
- (a) production or manufacture of goods;
 - (b) inward and outward supply of goods or services or both;
 - (c) stock of goods;
 - (d) input tax credit availed;
 - (e) output tax payable and paid
 - (f) such other particulars as may be prescribed.
- (b) Section 69 of the CGST Act 2017 provides following safeguards to a person who is placed under arrest:
- (a) If a person is arrested for a cognizable offence, he must be informed of the grounds of arrest and be produced before a magistrate within 24 hours.
 - (b) If a person is arrested for a non-cognizable offence, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate.
 - (c) All arrest must be in accordance with the provisions of the Code of Criminal Procedure relating to arrest in terms of section 69(3) of the CGST Act 2017.
- (c) Status holders are eligible for privileges as under:
- (a) Authorisation and custom clearances for both imports and exports on self-declaration basis.
 - (b) Fixation of Input Output Norms on priority i.e. within 60 days by Norms Committee.
 - (c) Exemption from compulsory negotiation of documents through banks. Exception are remittance/ receipts.
 - (d) Exemption from furnishing of Bank Guarantee in Schemes under FTP unless otherwise specified.
 - (e) Two Star Export Houses and above are permitted to establish export warehouses.

- (f) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) /Letter of Intent (LOI)) as originating from India with a view to qualify for preferential treatment under specified agreements.
- (g) Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to a specified annual limit.
- (h) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.