

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

Division A

Answer Key

Question No.	Answer
1	(d) ₹ 5,05,000
2	(a) Nil
3	(c) August 20
4	(d) ₹ 9,000
5	(c) ₹ 97,200
6	(d) ₹ 2,16,900
7	(a) ₹ 3,800
8	(c) ₹ 87,254
9	(d) Eagle Air is required to pay CGST of ₹ 45,000 and SGST of ₹ 45,000 and full credit shall be allowed to Boom Pvt. Ltd.
10	(c) Sunshine India shall be liable to pay GST of ₹ 90,000 and Eagle Air shall be liable to pay GST of ₹ 1,80,000.
11	(a) ₹ 95,00,000
12	(b) ₹ 11,00,000
13	(d) (i), (ii), (iii)
14	(a) ₹485
15	(d) 800
16	(c) Similar goods must always be produced by the same person who produced the goods being valued.

Division B

1. Computation of ITC available with Aux-Supply Pvt. Ltd. for the tax period

S. No.	Particulars	ITC			
		CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
1.	Opening balance of ITC	15,000	8,000	9,000	32,000
2.	Raw Material				
	Raw material purchased from Bihar [Refer Note 1(i)]			14,400	14,400
	Raw material imported from China [Refer Note 1(ii)]			29,970	29,970

	Raw material purchased from unregistered suppliers within West Bengal [Refer Note 1(iii)]	Nil	Nil		Nil
	Raw material destroyed due to seepage [Refer Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material purchased from West Bengal [Refer Note 1(i)] [₹ 3.5 - ₹ 1.5 - ₹ 0.80 - ₹ 0.30 - ₹ 0.05] = ₹ 0.85]	7,650	7,650		15,300
	Total ITC for raw material	7,650	7,650	44,370	59,670
3.	Consumables [Refer Note 2]	9,000	9,000		18,000
4.	Transportation charges for bringing the raw material to factory [Refer Note 3]	1,500	1,500		3,000
5.	Salary paid to employees on rolls [Refer Note 4]	Nil	Nil	Nil	Nil
6.	Premium paid on life insurance policies taken for specified employees [Refer Note 5]	14,400	14,400	-	28,800
7.	Audit fee [Refer Note 6]	4,500	4,500	-	9,000
8.	Telephone expenses [Refer Note 6]	2,700	2,700		5,400
9.	Bank charges [Refer Note 6]	900	900		1,800
	Total ITC available for the tax period	55,650	48,650	53,370	1,57,670

Computation of net GST payable

Particulars	CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
On Intra-state sales in West Bengal	63,000	63,000		1,26,000
On Inter-state sales other than West Bengal			54,000	54,000
On exports under LUT [Note 7]	Nil	Nil	Nil	Nil
Total output tax liability	63,000	63,000	54,000	1,80,000
Less: ITC available for being set off [Note 8 and Note 9]	(55,650)	(48,650)	(53,370)	(1,57,670)
Net GST payable from Electronic Cash Ledger [A]	7,350	14,350	630	22,330
GST payable on inward supply of GTA services under reverse charge through Electronic Cash Ledger [Note 3 and 10] [B]	1,500	1,500		3,000

Net GST payable through Electronic Cash Ledger [A] + [B]	8,850	15,850	630	25,330
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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(1).
(ii) IGST paid on imported goods qualifies as input tax in terms of section 2(62)(a). Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16(1).
(iii) Tax on intra-State procurements made by a registered person from an unregistered supplier is levied only on notified categories of goods and services. [Section 9(4)].
(iv) ITC is not available on destroyed inputs in terms of section 17(5)(h).
2. Consumables, being inputs used in the course or furtherance of business, input tax credit is available on the same in terms of section 16(1). However, levy of CGST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2)]. Hence, there being no levy of GST on diesel, there cannot be any ITC.
3. In respect of intra-State road transportation of goods undertaken by a GTA, who has not paid CGST @ 6%, for any person registered under the GST law, CGST is payable under reverse charge by the recipient of service. The person who pays or is liable to pay freight for the transportation of goods is treated as the person who receives the service [Notification No. 13/2017 CT (R) dated 28.06.2017]. Thus, Aux-Supply Pvt. Ltd. will pay GST under reverse charge on transportation service received from GTA.

Further, tax payable under section 9(3) of the CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62). Thus, input tax paid under reverse charge on GTA service will be available as ITC in terms of section 16(1) as the said service is used in course or furtherance of business.

Furthermore, intra-State services by way of transportation of goods by road except the services of a GTA and a courier agency are exempt from CGST vide Notification No. 12/2017 CT (R) dated 28.06.2017. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
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 para 1 of 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 supply of life insurance service is not blocked if it is obligatory for an employer to provide such service to its employees under any law for the time being in force. [Proviso to section 17(5)(b)]. Therefore, GST paid on premium for life insurance policies will be available as ITC in terms of section 16(1) as the said service is used in the course or furtherance of business.
6. Audit fee, telephone expenses and bank charges are all services used in the course or furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1).
7. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].
8. Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].

9. As per section 49(5) read with rule 88A, ITC of-
- IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.
 - CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.
 - SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.
10. Section 49(4) lays down that the amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, tax payable under reverse charge cannot be set off against the ITC and thus, will have to be paid in cash.
- *11. CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies.

2. (a) **Computation of GST liability of M/s SIP for the month of March:**

S. No.	Particulars	CGST (₹)	SGST (₹)
1.	Loading, unloading, packing and warehousing of potato chips [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, potato chips is not an agricultural produce.]	1,350 [15,000 × 9%]	1,350 [15,000 × 9%]
2.	Fees paid for yoga camp [Services provided by a charitable trust registered under section 12AB of the Income-tax Act by way of advancement of yoga are exempt.]	--	--
3.	Interest received on fixed deposits [Services of extending fixed deposits in so far as the consideration is represented by way of interest are exempt.]	--	--
4.	Professional services provided to foreign diplomatic mission located in India [Not specifically exempt.]	4,500 [50,000 × 9%]	4,500 [50,000 × 9%]
5.	Recovery agent services provided to ABC Finance Ltd., an NBFC [Since such services are being provided to an NBFC, tax on the same is payable by recipient - ABC Finance Ltd. - under reverse charge (RCM).]	--	--
6.	Security services provided to XYZ Ltd., a registered person [Since such services are being provided by a non-body corporate to a registered person, tax on the same is payable by recipient - XYZ Ltd. - under reverse charge (RCM).]	--	--

7.	Receipts from running an educational institution (including receipts for residential dwelling service) [Services provided by an educational institution and services by way of renting of residential dwelling for use as residence are exempt.]	--	--
8.	Renting of motor vehicle service [Since services of renting of motor vehicle including cost of fuel with tax payable @ 2.5% CGST/SGST is being provided by a non-body corporate to a body corporate, tax on the same is payable by recipient – NPS Ltd. – under RCM.]	--	--
	Total GST liability	5,850	5,850

(b) Computation of assessable value of the imported goods

		US \$
(i)	Cost of the machine at the factory	10,000.00
(ii)	Transport charges up to port	500.00
(iii)	Handling charges at the port	<u>50.00</u>
	FOB	10,550.00
(iv)	Freight charges up to India	1,000.00
(v)	Insurance charges @ 1.125% of FOB [Note 1]	<u>118.69</u>
	CIF	11,668.69
		₹
	CIF in Indian rupees @ ₹ 70/ per \$	₹ 8,16,808.30
	Assessable Value	₹ 8,16,808.30
	Assessable Value (rounded off)	8,16,808

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
- (2) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
3. (a) In the given case, the service provider is outside India, and the service recipient is in India. Thus, the place of supply will be determined on the basis of the provisions of section 13. Since the given service does not get covered under any of the specific provisions of section 13, the place of supply thereof will be governed by the default provision, i.e. place of supply of services will be the location of the recipient of service, which in this case is Rajasthan (India).

Further, the given case is import of service in terms of section 2(11) as the supplier of service is located outside India, the recipient of service is located in India and the place of supply of service is in India. Since the services are imported for a consideration from an unrelated person, the same tantamounts to supply in terms of section 7(1)(b) of CGST Act and are liable to GST.

As per reverse charge *Notification No. 10/2017 IT(R) dated 28.06.2017*, if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the tax is payable by the recipient of service under reverse charge.

Therefore, TN Ltd. will pay GST under reverse charge on £ 8000 paid by it to the attorney in UK.

- (b) Since K Ltd. holds 51% shares of WS Inc., K Ltd. and WS Inc. are 'associated enterprises' as per section 92A of the Income-tax Act, 1961. As per second proviso to section 13(3), in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply is the earlier of the following two dates:

Date of entry in the books of account of the recipient of supply [which is K Ltd. in the present case]	30 th September
OR	OR
Date of payment [by K Ltd. in the present case]	23 rd December

Thus, time of supply is 30th September.

(c) **Computation of assessable value and total duty payable**

Special provisions relating to payment of concessional duty in case of re-importation of goods exported for repairs are not applicable in the given case as the goods exported for repairs and the re-imported goods are not the same.

Therefore, full customs duty will be payable on the machine received as replacement.

Particulars	(₹)
Value of new machine (FOB) ¹	55,00,000
Add: Freight charges	2,00,000
Insurance charges @ 1.125% of FOB [₹ 55,00,000 × 1.125%] [Insurance charges have been included @ 1.125% of FOB value since actual charges are not ascertainable]	<u>61,875</u>
Assessable Value	57,61,875
Add: Basic customs duty @ 10% of ₹ 57,61,875 (rounded off) (A)	5,76,188
Social welfare surcharge @ 10% of ₹ 5,76,188 (rounded off) (B)	<u>57,619</u>
Total	63,95,682
Add: Integrated tax @ 12% of ₹ 63,95,682 (rounded off) (C)	<u>7,67,482</u>
Total duty payable [(A) + (B) + (C)] (rounded off)	14,01,289

4. (a) **Computation of aggregate turnover of M/s Jay Enterprises for the FY**

Particulars	₹
Supply of diesel on which VAT is levied by Rajasthan Government [Note-1]	1,00,000
Supply of goods, after the completion of job work, from the place of Jay Enterprises, directly by the principal [Note-2]	Nil
Export supply to England [Note-3]	5,00,000
Supply to its own additional place of business in Rajasthan ² [Note-4]	Nil
Outward supply of services on which GST is to be paid by recipient under reverse charge [Note-5]	1,00,000

¹ It has been most logically assumed that value of the machine is its FOB value.

²The above solution has been worked out on the assumption that supply to another place of business is without consideration (as per general business practices).

Aggregate turnover	7,00,000
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Notes:-

1. As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of diesel, being a non-taxable supply, is an exempt supply and exempt supply is specifically includible in aggregate turnover in terms of section 2(6).
2. Supply of goods after completion of job work by a principal by declaring the place of business of job worker its additional place of business shall be treated as the supply of goods by the principal in terms of explanation (ii) to section 22.
3. Export supplies are specifically includible in the aggregate turnover in terms of section 2(6).
4. Supply made without consideration to units within the same State is a not a supply and hence not includible in aggregate turnover.
5. Outward supplies taxable under reverse charge would be part of the “aggregate turnover” of the supplier of such supplies. Such turnover is not included as turnover in the hands of recipient.

Since M/s. Jay Enterprises is engaged in supply of goods and services and Rajasthan is not a Special Category State, the applicable turnover limit for registration, in the given case, will be ₹ 20 lakh as. Although, the aggregate turnover of M/s Jay Enterprises does not exceed ₹ 20 lakh, it is compulsorily required to register in terms of section 24(i) irrespective of the turnover limit as it is engaged in making inter-State supply of goods in the form of exports to England.

- (b) Every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of
- (i) the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.
Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.
 - (ii) If XYZ limited who is dealer of Tipan brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.
- (c) Tourist of foreign origin, excluding infant, is allowed duty free clearance of:
- (i) used personal effects and travel souvenirs; and
 - (ii) Articles up to the value of ₹ 15,000 (excluding, *inter alia*, wine in excess of 2 litres), if carried on in person or in the accompanied baggage of the passenger.

In view of the said provisions, customs duty shall be computed as follows

Particulars	₹
Used personal effects	Nil
Travel souvenirs	Nil
Laptop [One laptop computer is exempt when imported into India by a passenger ≥ 18 years of age]	Nil
1.5 litres wine	5,000

[Wine upto 2 litres can be accommodated in GFA]	
Mobile phone [Can be accommodated in GFA]	<u>9,000</u>
Total value	14,000
Less: GFA	<u>15,000</u>
Baggage on which duty is payable	<u>Nil</u>
Duty payable on baggage @ 38.50%	<u>Nil</u>

5. (a) No appeal shall be filed before the Appellate Authority, unless the appellant has paid—
- full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order, subject to a maximum of ₹ 25 crore.

Further, no appeal can be filed before the Tribunal, unless the appellant deposits³

- full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- 20% of the remaining amount of tax in dispute, in addition to the amount deposited before the Appellate Authority, arising from the said order, subject to a maximum of ₹ 50 crore, in relation to which appeal has been filed.

In view of the above provisions, the amount of pre-deposit to be made by Krish Pvt. Ltd. for filing the appeal to the Appellate Authority is ₹ 20 crore [10% of ₹ 200 crore (tax in dispute)]. Equivalent amount has to be paid for SGST too. Thus, a total of ₹ 40 crore has to be paid by the company as pre-deposit for filing the appeal to the Appellate Authority.

Further, the amount of pre-deposit to be made by Krish Pvt. Ltd. for filing the appeal before the Tribunal is ₹ 40 crore [20% of ₹ 200 crore (tax in dispute)]. Equivalent amount has to be paid for SGST too. Thus, a total of ₹ 80 crore has to be paid by the company as pre-deposit for filing the appeal to the Appellate Tribunal.

- (b) When owner of goods does not come forward for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of penalty equal to higher of the following:

- 50% of value of goods or
- 200% of the tax payable on such goods.

Equivalent amount of penalty under SGST Act is also leviable.

In view of the same, the amount of penalty payable if Adi Private Limited does not come forward for the payment of penalty is as follows:

- 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]

or

- 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 × 9%)]
whichever is higher, i.e. ₹ 3,40,000.

Equivalent amount of penalty under SGST Act is also payable.

³ It may be noted that the Appellate Tribunal has not been constituted so far and thus, no appeals can be filed before it.

- (c) Yes, Sun Traders can show the goods to the local vendor for sale. 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) Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35(1) shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later..

- (b) When the Commissioner/authorised officer is of opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under the CGST Act in respect of such person, it may cause to be published such name and particulars.

No publication under this section shall be made in relation to any penalty imposed under the CGST Act until the time for presenting an appeal to the Appellate Authority has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

- (c) Import of samples of even 'restricted' items, is allowed without import authorisation. Exceptions are defence / security items, seeds, bees, and new drugs; these need authorisation. Duty free import of samples upto Rs. 3,00,000 for all exporters shall be allowed subject to terms and conditions of customs notification as amended.

Import of gifts (including those purchased from e-commerce portals) through post / courier, where customs clearance is sought as gifts, is prohibited. Exceptions are 'rakhi' and life-saving medicines. Gifts, however, can be imported upon payment of applicable customs duties. If duty leviable on rakhi is upto Rs. 100, no duty will be collected on the same.