

Paper 11- Indirect Taxation

Answer to MTP_Intermediate_Syllabus 2016_June 2020_Set 2

Paper 11- Indirect Taxation

Full Marks: 100

Time allowed: 3 hours

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

Working notes should form part of the answer.

Section – A

Answer question No. 1 which is compulsory and any four from rest of this section.

1. Answer the following questions:

(A) Multiple choice questions:

[5×1=5]

- (i) Transfer of right in goods or of undivided share in goods without the transfer of title thereof is treated as:
- (a) Supply of goods
 - (b) Supply of services
 - (c) Neither supply of goods nor supply of services
 - (d) Partly supply of goods and partly supply of services
- (ii) Which of the following supplies of goods is subject to reverse charge?
- (a) Silk yarn
 - (b) Cotton yarn
 - (c) Nylon
 - (d) All of the above
- (iii) Value of services rendered is ₹3,00,000. Date of issue of invoice is 12.9.2019. Advance received is ₹75,000 on 25.8.2019. Balance amount received on 12.9.2019. What is the time of supply for ₹3,00,000?
- (a) 12.9.2019 for ₹3,00,000
 - (b) 25.8.2019 for ₹3,00,000
 - (c) 25.8.2019 for ₹75,000 and 12.9.2019 for ₹2,25,000
 - (d) Any of the above
- (iv) On making the payment, the input tax credit which was reversed earlier can be re-availed within:
- (a) 180 days
 - (b) 1 year
 - (c) 20th October of the next financial year or the date of filing annual return, whichever is earlier
 - (d) No time limit
- (v) E-way bill should be generated where there is a movement of goods of value more than:
- (a) ₹25,000
 - (b) ₹50,000
 - (c) ₹75,000
 - (d) ₹1,00,000

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Answer:

- (i) (b)
- (ii) (a)
- (iii) (c)
- (iv) (d)
- (v) (b)

(B) Say True or False for the following question:

[5×1=5]

- (i) Where advance payment is received, the registered person shall issue a receipt voucher.
- (ii) No E-way bill is required to be generated where the goods being transported are specified in Annexure.
- (iii) Validity of GST registration certificate is 5 years.
- (iv) Payment of interest can be done by debiting electronic credit ledger.
- (v) Government of India is empowered to levy and collect GST on supplies in the course of Inter-state trade or commerce.

Answer:

- (i) True
- (ii) True
- (iii) False
- (iv) False
- (v) True.

(C) Match the following:

[5×1=5]

	Column 'A'		Column 'B'
1.	IGST	A.	Exempted supply
2.	Acupuncture treatment	B.	Outward supply
3.	GSTR-1	C.	Subsumed in GST
4.	Luxury Tax	D.	Collected by Central Government
5.	Fresh Milk	E.	Taxable supply of services

Answer:

- 1. D.
- 2. E.
- 3. B.
- 4. C.
- 5. A.

(D) Fill in the blanks:

[5×1=5]

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- (i) As per Article _____, the power to levy GST has been given to the Parliament as well as to Legislature of every State.
- (ii) Under section 25 of CGST Act, 2017, every place of business of a person where separate registration is obtained for output supply will be considered as _____.
- (iii) _____ supply means the supply of goods or services, which constitute the predominant element of a composite supply and to which another supply is ancillary/secondary.
- (iv) A registered person making supply of exempted goods or services or both shall issue _____.
- (v) Goods and Services Tax (GST) has been implemented in India w.e.f. _____.

Answer:

- (i) 246A
(ii) Distinct person
(iii) Principal
(iv) Bill of Supply
(v) 1st July, 2017

2. (a) (i) What are the taxes subsumed in GST?
(ii) What are the functions of the GSTN?

[4+4=8]

Answer:

- (i) Taxes subsumed in GST

(A) Central taxes subsumed in GST

1. Central Excise Duty
2. Additional Excise Duty
3. Service Tax
4. Additional Custom Duty known as Countervailing Duty

(B) State Taxes subsumed in GST

1. Sales Tax
2. Purchase tax
3. Luxury tax
4. Octroi and Entry Tax

- (ii) Functions of the GST Council are as follows:

1. Filing of registration application,
2. Filing of return,
3. Creation of challan for tax payment,
4. Settlement of IGST payment,
5. Generation of business intelligence and analytics.

- (b) M/s C Ltd. of Chennai being a trader provided the following information relating to the preceding financial year is as follows:

Particulars	Value
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	(₹ in Lakh)
Intra-state supply of taxable goods	20
Intra-state supply of exempted goods	30
Intra-state supply of taxable services	5
Intra-state outward supply of services on which recipient is liable to pay GST	4
Export of goods	35
Inter-state inward supply of goods	200
CGST & SGST paid	2

M/s C Ltd. is eligible for composition scheme in the current financial year? [7]

Answer:

Statement showing aggregate turnover of M/s C Ltd. in the preceding financial year

Particulars	Value (₹ in Lakh)	Remarks
Intra-state supply of taxable goods	20	Addable into aggregate turnover as per section 2(6) of the CGST Act, 2017
Intra-state supply of exempted goods	30	-do-
Intra-state supply of taxable services	5	-do-
Intra-state outward supply of services on which recipient is liable to pay GST	4	-do-
Export of goods	35	Treated as inter-state supply of goods and hence addable into the aggregate turnover.
Inter-state inward supply of goods	Nil	Not addable. Since, it is not the turnover of M/s C Ltd.
CGST & SGST paid	Nil	Not addable
Aggregate Turnover	94	

3. (a) Asha Ltd. Supplies raw material to a job worker Kareena Ltd. After completing the Job-work, the finished products of 5,000 packets are returned to Asha Ltd. putting the retail sale price as 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. Under GST law from the following details:

Particulars	Value in ₹
Cost of raw materials supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. Paid certain technology transfer fees to 'Reena Ltd.', so that	22,500

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'Kareena Ltd.' Can use the said technology in the given job-work operation.	
Note: Kareena Ltd offered a discount 2000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. Made full payment at the time of issue of invoice.	

[7]

Answer:

Statement showing transaction value of Kareena Ltd.	
Particulars	Value in ₹
Cost of raw materials supplied	Exempted supply
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to job worker	Exempted supply
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Technology fee	22,500
Sub-total	37,000
Less: Discount	(2,000)
Transaction value(i.e. sole consideration)	35,000
Note: it is very clear that principal to job worker and job worker to principal cannot be treated as supply as per section 143 of the CGST Act, 2017.	

- (b) ABC & Associates, a Cost Accountant firm issued invoice for services rendered to Mr. Ram on 5th August 2019. Determine the time of supply in following independent cases:
- The provision of services was completed on 1st July 2019.
 - The provision of services was completed on 15th July 2019.
 - Mr. Ram made the payment on 3rd July 2019, where provisions of services were remaining to be completed.
 - Mr. Ram made the payment on 15th August 2019, where provisions of services were remaining to be completed.

[8]

Answer:

- 1st July 2019 will be the time of supply of services as invoice is not issued within the time frame of 30 days.
- 5th August 2019 will be the time of supply of services as invoice is issued within the time frame.
- 3rd July 2019 will be the time of supply of services as payment received before the invoice date.
- 5th August 2019 will be the time of supply of services as invoice is issued before the completion of provisions of services.

4. (a) What are the contents of a tax invoice as per GST Law?

[7]

Answer:

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The contents of tax invoice are given in Rule 46 of CGST Rules, 2017, which are subject to Sec. 31 are as:

- Name, address, GSTIN of the supplier
- Date of issue
- Name, address, GSTIN of the recipient
- Description of goods/services
- Quantity and unit in case of goods
- Total value of goods and services
- Amount of tax charged
- Address of delivery where the same is different from the place of supply
- Whether the tax is payable on reverse charge basis
- Signature or digital signature of the supplier or his authorized representative

(b) M/s X Ltd. becomes liable to pay tax on 1st December, 2019 and has obtained registration on 15th December, 2019.

The GST paid goods lying in the premises of M/s X Ltd. as on 30th November, 2019 are as follows:

Particulars	Value in ₹ (Excluding tax)	GST ₹
Raw materials	2,00,000	36,000
Capital goods	5,00,000	1,40,000
Raw material lying work in progress	3,00,000	54,000
Raw material lying in Finished goods	12,00,000	2,16,000

You are required to answer the following:

- Eligible amount of input tax credit.
- Time limit to submit declaration on common portal.
- Whether any certification required while availing the credit, if so from whom. [8]

Answer:

- Eligible ITC is ₹3,06,000
(2,16,000 + 54,000 + 36,000)
- Declaration in Form GST ITC-01 on or before 14th January should be submitted on common portal of GSTN.
- Declaration regarding input tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, state tax, union territory tax and integrated tax exceeds ₹2,00,000.

In the given case, ITC declared is ₹3,06,000. Therefore, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Note: M/s X Ltd. cannot take ITC on capital goods.

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5. (a) List out the category of persons who are not liable for registration under GST. State at least six category of persons who are required to compulsorily register under GST law.

[3+6=9]

Answer:

Persons not liable for registration:

- (i) Section 23(1)(a): Any person engaged exclusively in the business of supplying of goods or services or both they are not liable to tax or wholly exempt from tax under CGST or IGST.
- (ii) Section 23(1)(b): An agriculturist, to the extent of supply of produce out of cultivation of land.
- (iii) Section 23(2): The Government may on the recommendation of the GST Council.

Compulsory registration in certain cases:

- (i) Person making any inter-state taxable supply.
- (ii) Casual taxable persons making taxable supply.
- (iii) Person who are required to pay tax under reverse charge.
- (iv) Non-Resident taxable person making taxable supply.
- (v) Input service distributor, whether or not separately registered under CGST.
- (vi) Person who are required to pay tax under Section 9(5) of CGST Act (i.e., Electronic Commerce Operator).

- (b) Whether the following transaction can be treated as service? Give reason.

1. Sale of newly constructed ready to occupy flats for ₹1.5 crore per flat (including undivided share of land) after issue of completion certificate by competent authority.
2. Sale of lottery tickets by distributor of State Govt.
3. Manufacture of alcoholic liquor for human consumption on job work basis.
4. Sale of mobile SIM cards in bulk by distributor of mobile telephone operator.
5. Transfer of unsecured loan for consideration.
6. Sale of land.

[6]

Answer:

1. NO, if entire amount is received after issuance of completion certificate, then, it is not a service. It is a sale of immovable property.
2. NO, sale of lottery tickets is a sale of goods.
3. YES, Job work is a service as it is a treatment on others' goods.
4. YES, SIM cards are not goods and therefore, they are service and part of telecom services.
5. NO, transfer of unsecured loan for consideration is actionable claim and goods. But, it is outside GST and covered in negative list (Schedule III).
6. NO, sale of land is outside GST as it is covered within negative list. Mere transfer of title of immovable property is not a service.

6. (a) ABC Fabricators has its factory located in Gujarat. It has temporarily imported certain goods from its customer located in China and re-exported them to China after carrying out the necessary repairs without putting them to any use in Gujarat. Examine what would be the place of supply of service in the given case. Will your answer be different if the repaired goods are re-exported after being put to use in Gujarat for some time? [4+4=8]

Answer:

In the given case, since goods have been temporarily imported by ABC Fabricators and have been re-exported after the repairs without being put to any use in Gujarat (taxable territory), place of supply of repair services carried out by ABC Fabricators will be determined by Sec 13(2) of IGST Act, 2017. Consequently the place of supply of service will be the location of service receiver, viz China (non-taxable territory).

However, if repaired goods are re-exported after being put to use, the place of supply of service will be determined according to Sec 13(3) (a) of IGST Act, 2017, if the use to which such goods are put to is not required for such repair.

Therefore in such a case, the place of supply of service will be the location where the service is actually performed, which in the given case is Gujarat.

However, if the use is of such nature, which is necessary for carrying out the repairs, the place of supply of service will again be determined as per Sec 13(2) of IGST Act, 2017.

- (b) Uber operating radio taxi service in India. In the month of Nov 2019, the following services are rendered by it.

- (i) Free services provided to new customers who travelled for the first time. However, payment made to taxi drivers ₹10,00,000.
- (ii) Hire charges collected from customers is ₹12,25,500. Payment made to taxi drivers ₹11,00,000.

Uber appointed X Pvt. Ltd as their representative in India.

You are required to find:

- (1) Who is liable to pay GST?
- (2) Taxable value of supply.
- (3) Net GST liability.

[7]

Answer:

- (1) X Pvt. Ltd being recipient of service is liable to pay GST.
- (2) & (3) Taxable value of supply:

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Particulars	Value in ₹	Remarks
Free services provided to new customers. However, payment made to taxi drivers	10,00,000	Reverse charge applicable
Hire charges	12,25,500	Gross value is subject to GST
Gross value of bills	22,25,500	
CGST 2.5%	52,988	(22,25,500 x 2.5/105)
SGST 2.5%	52,988	(22,25,500 x 2.5/105)
Taxable value of supply	21,19,524	

7. Short note (Answer any three questions)

[3x5=15]

- (a) Manner of issuing invoice
- (b) Compulsorily Audit
- (c) Electronic credit ledger
- (d) Validity period of E-way bill

Answer:

(a) Manner of issuing invoice [Rule 48 of the CGST Act, 2017]:

- (1) The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely by marking on the face of the invoice
 - Original for Recipient;
 - Duplicate for Transporter; and
 - Triplicate for Supplier.
- (2) The invoice shall be prepared in duplicate, in the case of supply of services, on the following manner namely
 - Original for Recipient; and
 - Duplicate for Supplier.
- (3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in FORM GSTR-1.

(b) Compulsorily Audit – Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a Chartered Accountant or a Cost Accountant.

As per Rule 80(3) of the CGST rules, 2017 every registered person whose aggregate turnover during a financial year exceeds 2 crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified in FORM GSTR-9C, electronically through the common portal either directly or through a facilitation centre notified by the Commissioner.

Any department of the Central or State Government/ Local authority which is subject to audit by CAG need not get their books of accounts audited by a CA/ CMA.

(c) The Input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with Sec. 41, to be maintained in such manner as may be prescribed.

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The amount available in the e-credit ledger may be used for making any payment towards output tax under this Act or under the IGST Act in such manner and subject to such conditions and within such time as may be prescribed.

(d) Validity period of E-way bill:

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less than 100kms	1 Day
	For every additional 100kms or part thereof	Additional 1 Day
For Over dimensional cargo	Less than 20kms	1 Day
	For every additional 20kms or part thereof	Additional 1 Day

Section – B

Answer question No. 8 which is compulsory and any one from rest of this section.

8. Answer the following questions:

[5×1=5]

- (i) The limit of exclusive economic zone of India is _____ from the nearest point of the baseline.
- (a) 200 nautical miles
 - (b) 12 nautical miles
 - (c) 24 nautical miles
 - (d) 100 nautical miles
- (ii) Where the insurance amount is not available, for ascertaining the assessable value for customs duty, the percentage of FOB value to be taken is:
- (a) 1
 - (b) 1.125
 - (c) 1.5
 - (d) 2
- (iii) Basic custom duty on imported goods is levied at the rates specified in the:
- (a) First Schedule of the Customs Tariff Act, 1975
 - (b) Second Schedule of the Customs Tariff Act, 1975
 - (c) Customs Act, 1962
 - (d) Customs Manual, 2001
- (iv) _____ means where goods are cast into sea to reduce weight of ship to prevent it from sinking and the thrown goods sink.
- (a) Jetsam
 - (b) Overload
 - (c) Underload
 - (d) None of the above

- (v) All goods, derelict, Jetsam, flotsam and wreck brought (or) coming into India, shall be dealt with as if they were _____ into India:
- (a) Exported
 - (b) Imported
 - (c) No duty
 - (d) Exempted from tax

Answer:

- (i) (a)
- (ii) (b)
- (iii) (a)
- (iv) (a)
- (v) (b)

9. (a) Explain provisions relating to 'pilferage' in customs law. [3]

Answer:

Section 13 of Customs Act provides that if imported goods are pilfered after unloading but before order for clearance is passed by Customs Officer for clearance for home consumption or deposit in a warehouse, no duty is payable on the goods, unless the pilfered goods are restored to importer.

Under Section 13, normally duty is not paid. However, if duty is paid before examination of goods, refund can be claimed if goods are found to be pilfered during examination but before order for clearance are made.

- (b) A commodity is imported into India from a country covered by a notification issued by the Central Government under section 9A of the Customs Tariff Act, 1975. Following particulars are made available:

CIF value of the consignment: US\$ 25,000

Quantity imported: 500 kgs.

Exchange rate applicable: ₹ 60 = US\$ 1

Basic customs duty: 12%

Social welfare surcharge applicable as per the Finance Act, 2018.

As per the notification, the anti-dumping duty will be equal to the difference between the costs of commodity calculated @ US\$ 70 per kg. and the landed value of the commodity as imported.

Appraise the liability on account of normal duties, cess and the anti-dumping duty.

Assume that only 'basic customs duty' (BCD) and Social welfare surcharge are payable. IGST @12% is also to be applicable. [12]

Answer:

Statement showing land value of imported goods and customs duties:

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Particulars	US \$
CIF value	25,000
	Value in ₹
Assessable value (i.e. 25,000 x ₹ 60)	15,00,000
Add: Basic customs duty 12% on assessable value	1,80,000
Add: Social welfare cess @10% on basic customs duty	18,000
Landed value (or value of imported goods)	16,98,000
Anti-dumping duty (₹ 21,00,000 – ₹ 16,98,000)	4,02,000
Market value of imported goods (500 kgs x ₹ 60 x US \$70) = ₹ 21,00,000	
Open Market Value	21,00,000
Add: IGST @12% on ₹ 21,00,000	2,52,000
Total	23,52,000

Total customs duty payable is ₹8,52,000 (i.e. ₹1,80,000+ ₹18,000 + ₹4,02,000 + ₹2,52,000)

10. (a) From the following data, find out the assessable value of imported goods.

	Particulars	US \$
1	Cost of the machine at the factory of the exporting country	20,000
2	Transport charges incurred by the exporter from his factory to the port for shipment	500
3	Handling charges paid for loading the machine in the ship	50
4	Buying commission paid by the importer	50
5	Freight charges from exporting country to India (including handling charges \$100)	1,000
6	Exchange rate to be considered: 1\$ =₹48	

[7]

Answer:

FOB price (Cost + Transport + Handling)	\$20,550
Exchange rate notified by the CBIC	₹48
	₹
FOB Price in Indian ₹	9,86,400
Add: Buying commission (not included)	Nil
Customs FOB	9,86,400
Add: cost of transport / handling under Rule 10 (2)(a) [1000\$ x ₹48]	48,000
Add: insurance @1.125% of FOB, assuming unascertainable	11,097
CIF or Assessable Value	10,45,497

(b) An importer imported some goods on 1st January, 2019 and the goods were cleared from Mumbai port for warehousing on 8th January, 2019 by submitting bill of entry, exchange rate was ₹50 per US\$. FOB value US\$10,000. The rate of duty on 8th January, 2019 was 20%. The goods were warehoused at Pune and were cleared from Pune warehouse on 31st May, 2019, when rate of BCD was 12% and exchange rate was ₹68.75 per 1US\$. IGST @12% is applicable.

You are required to find:

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(i) The total customs duty payable.

(ii) The interest if any payable.

[8]

Answer:

	USD
FOB	10,000
Add: 20% freight on FOB	2,000
Add: 1.125% insurance on FOB	112.5
CIF or Assessable Value	12,112.5

	₹	
Assessable value	6,05,625	(i.e. 12,112.5 x ₹50)
Add: BCD 12%	72,675	(i.e. 6,05,625 x 12%)
Add: 10% SWS	7,268	(i.e. 72,675 x 10%)
Transaction value subject to GST	6,85,568	
Add: IGST	82,268	(i.e. 6,85,568 x 12%)
Value of import	7,67,836	
Value of Custom duties	1,62,211	
Interest (i.e. 1.62,211 x 15% x 54/365)	3,600	

Working note: From 8th January 2019 to 31st may 2019 = 144-90 = 54 days