

**Mock Test Paper - Series I: March, 2025**

**Date of Paper: 19<sup>th</sup> March, 2025**

**Time of Paper: 2 P.M. to 5 P.M.**

**FINAL COURSE: GROUP – II**

**PAPER – 5: INDIRECT TAX LAWS**

**SOLUTIONS**

**Division A – Multiple Choice Questions**

<b>Question No.</b>	<b>Answer</b>
<b>1</b>	<b>(b)</b> The service is chargeable to tax and PQR Pvt. Ltd. will discharge the tax liability.
<b>2</b>	<b>(a)</b> Yes. However, it could have provided services up to a value of ₹ 11,12,500 under composition levy during the current financial year.
<b>3</b>	<b>(c)</b> ₹ 13,626
<b>4</b>	<b>(c)</b> ii
<b>5</b>	<b>(a)</b> POS for transaction between M/s Abhinay Enterprises and M/s Suraj Enterprises is the location of principal place of business of M/s Abhinay Enterprises, i.e. Gujarat and IGST is leviable on such supply. POS for transaction between M/s Abhinay Enterprises and PQR Pvt. Ltd. is the location at which the movement of goods terminates i.e. at the place of business of PQR Pvt. Ltd., i.e. Lucknow, Uttar Pradesh and IGST is leviable on such supply.
<b>6</b>	<b>(d)</b> on Himgiri Solutions under reverse charge and GST of ₹ 9,18,000 shall be paid by Aspire Solutions.
<b>7</b>	<b>(a)</b> Sitting fees paid to the directors is liable to GST under reverse charge and the salary paid to executive directors shall not be liable to GST.
<b>8</b>	<b>(c)</b> ₹ 9,36,000
<b>9</b>	<b>(c)</b> ₹ 35,00,000
<b>10</b>	<b>(c)</b> ₹ 9,36,000
<b>11</b>	<b>(a)</b> 5 <sup>th</sup> January; 28%

12	(b)	Punjab, Gujarat
13	(b)	7 <sup>th</sup> February
14	(c)	(ii) or (iii)
15	(a)	20,50,000

### Division B-Descriptive Questions

#### 1. (i) Computation of ITC credited to Electronic Credit Ledger

ITC of input tax attributable to inputs and input services intended to be used for business purposes is credited to the electronic credit ledger. Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes, for effecting exclusively exempt supplies and on which credit is blocked under section 17(5) of the CGST Act, 2017 is not credited to electronic credit ledger [Sections 16 and 17 of the CGST Act, 2017].

In the light of the aforementioned provisions, the ITC credited to electronic credit ledger of Vedant Shoppe is calculated as under:

Particulars	Amount (₹)	CGST @ 6% (₹)	SGST @ 6% (₹)
GST paid on taxable goods	45,00,000	2,70,000	2,70,000
Goods not leviable to GST [Since non-taxable, no GST is paid]	4,00,000	Nil	Nil
GST paid on monthly rent for shop	3,50,000	21,000	21,000
GST paid on telephone expenses	50,000	3,000	3,000
GST paid on Chartered Accountant Fee	60,000	3,600	3,600
GST paid on premium of health insurance policies as per company policy [ITC on health insurance service is allowed only if it is obligatory for employers to provide such services to its employees under any law for the time being in force-Provido to section 17(5)(b) of the CGST Act, 2017].	10,000	Nil	Nil

Taxable Goods given as free samples [ITC on goods disposed of by way of free samples is blocked under section 17(5)(h) of the CGST Act, 2017]	5,000	Nil	Nil
<b>Particulars</b>	<b>Amount (₹)</b>	<b>CGST @ 2.5% (₹)</b>	<b>SGST @ 2.5% (₹)</b>
Freight paid to GTA for inward transportation of non-taxable goods under reverse charge [Since definition of exempt supply under section 2(47) of the CGST Act, 2017 specifically includes non-taxable supply, the input service of inward transportation of non-taxable goods is being exclusively used for effecting exempt supplies.]	50,000	Nil	Nil
Freight paid to GTA for inward transportation of taxable goods under reverse charge	1,50,000	3,750	3,750
<b>ITC credited to the electronic ledger</b>		<b>3,01,350</b>	<b>3,01,350</b>
Less: ITC reversal [ITC out of common credit, attributable to exempt supplies] (Refer point no. 2 & 3 below)		(4,600)	(4,600)
<b>Net ITC available</b>		<b>2,96,750</b>	<b>2,96,750</b>

(ii) **Computation of common credit available for apportionment**

Common Credit = ITC credited to Electronic Credit Ledger – ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies [Section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017].

<b>Particulars</b>	<b>CGST (₹)</b>	<b>SGST (₹)</b>
ITC credited to Electronic Credit Ledger	3,01,350	3,01,350
Less : ITC on taxable goods	2,70,000	2,70,000
Less: ITC on freight paid to GTA for inward transportation of taxable goods	3,750	3,750
<b>Common credit</b>	<b>27,600</b>	<b>27,600</b>

(iii) **Computation of ITC attributable towards exempt supplies out of common credit**

ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/ Total turnover during the tax period)[Section 17 of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017].

Particulars	CGST (₹)	SGST (₹)
ITC attributable towards exempt supplies [₹ 27,600 x (₹ 10,00,000/₹ 60,00,000)]	4,600	4,600

(iv) **Computation of net GST liability for the month**

Particulars	CGST (₹)	SGST (₹)
<i>GST liability under forward charge</i>		
Supply of taxable goods [₹ 50,00,000 x 6%]	3,00,000	3,00,000
Total output tax liability under forward charge	3,00,000	3,00,000
Less: ITC	2,96,750	2,96,750
<b>Net GST payable [A]</b>	<b>3,250</b>	<b>3,250</b>
<i>GST liability under reverse charge</i>		
Freight paid to GTA for inward transportation of taxable goods [₹ 1,50,000 x 2.5%]	3,750	3,750
Freight paid to GTA for inward transportation of non-taxable goods [₹ 50,000 x 2.5%]	1,250	1,250
<b>Total tax liability under reverse charge [B]</b>	<b>5,000</b>	<b>5,000</b>
<b>Net GST liability [A] + [B]</b>	<b>8,250</b>	<b>8,250</b>
<b>Note:</b> Amount available in the electronic credit ledger may be used for making payment towards output tax [Section 49 of the CGST Act, 2017]. However, tax payable under reverse charge is not an output tax in terms of definition of output tax provided under section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.		

2. (a) As per explanation to rule 33 of the CGST Rules, 2017, a “pure agent” means a person who-

- (i) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (ii) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (iii) does not use for his own interest such goods or services so procured; and
- (iv) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil **all** the above conditions in order to qualify as a pure agent.

In the given case, Shiva Logistics has entered into a contractual agreement with recipient of supply, Malceto Manufacturers Ltd., to incur, on behalf of such recipient, the **expenses mentioned in S. No. (ii) to (vii)** incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient. Further, Shiva Logistics does not hold any title to said services and does not use them for his own interest.

Lastly, Shiva Logistics receives only the actual amount incurred to procure such services in addition to agency charges. Thus, Shiva Logistics qualifies as a pure agent.

Further, rule 33 of the CGST Rules, 2017 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-

- (I) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

- (II) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, expenses (ii) to (vii) incurred by Shiva Logistics as a pure agent of Malceto Manufacturers Ltd. shall be excluded from the value of supply.

Accordingly, value of supply made by Shiva Logistics is as follows:

Particulars	Amount (₹)
Agency charges	5,00,000
Add: Unloading of machine at Kandla port, Gujarat	Nil
Charges for transport of machine from Kandla port, Gujarat to its godown in Ahmedabad, Gujarat	Nil
Charges for transport of machine from Shiva Logistics' Ahmedabad godown to the warehouse of Malceto Export Import House in Mumbai, Maharashtra	Nil
Customs duty	Nil
Dock charges	Nil
Port charges	Nil
Hotel expenses	45,000
Travelling expenses	50,000
Telephone expenses	2,000
Value of supply	5,97,000

Yes, the answer would be different. If lump sum amount of ₹ 13,00,000 is paid then the value of supply shall be ₹ 13,00,000 and tax shall be charged on value of supply since individual cost are not given.

**(b) Computation of Assessable Value**

Particulars	Amount
FOB value computed by Customs Officer (including design and development charges)	20,000 US \$

Exchange rate [Note 1]	₹ 70 per \$
	₹
FOB value computed by Customs Officer (in rupees)	14,00,000.00
Add: Commission payable to agent in India	<u>12,500.00</u>
FOB value as per Customs	14,12,500.00
Add: Air freight (₹ 14,12,500 × 20%) [Note 2]	2,82,500.00
Add: Insurance (1.125% of ₹ 14,12,500) [Note 3]	<u>15,890.63</u>
CIF value for customs purposes	17,10,890.63
Assessable value	17,10,890.63

**Note:**

1. Rate of exchange notified by CBIC on the date of filing of bill of entry has to be considered [Third proviso to section 14 of the Customs Act, 1962].
2. In case of goods imported by air, freight cannot exceed 20% of FOB value [fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
3. Insurance charges, when not ascertainable, have to be 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].

**3. (a) Computation of ITC available with RMN Company Ltd. for the month of April**

Particulars	ITC (₹)
Life Insurance premium paid by the company on the life of factory employees [Note 1]	Nil
Raw materials purchased [Note 2]	Nil
Raw materials used for zero rated supply [Note 3]	50,000
Work contractor's service [Note 4]	30,000
Capital goods purchased in respect of which depreciation is claimed on the tax component [Note 5]	Nil
Goods sent to job worker's premises [Note 6]	=
<b>Total ITC available</b>	<b><u>80,000</u></b>

**Notes:**

- (1) ITC on life insurance service is available only when it is obligatory for an employer to provide said services to its employees under any law for the time being in force. Since it is not obligatory for the employer in the instant case and thus, the ITC thereon is blocked [Second proviso to section 17(5)(b) of the CGST Act, 2017].
- (2) ITC cannot be taken since invoice is missing and delivery challan is not a valid document to avail ITC [Section 16(2)(a) of the CGST Act, 2017 ].
- (3) ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply [Section 16(2) of the CGST Act, 2017].
- (4) ITC is blocked on works contract services when supplied for construction of an immovable property. However, “construction” includes only that repairs which are capitalized along with the said immovable property.

In this case, since repairs of building is debited to P & L Account, the same does not amount to ‘construction’ and hence ITC thereon is available [Section 17(5)(c) of the CGST Act, 2017].

- (5) ITC is not available when depreciation has been claimed on the tax component of the cost of capital goods under the Income-tax Act [Section 16(3) of the CGST Act, 2017].
- (6) The principal is entitled to take ITC of inputs sent for job work even if the said inputs are directly sent to job worker. However, where said inputs are not received back by the principal within a period of 1 year of the date of receipt of inputs by the job worker, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were received by the job worker [Sub-sections (2) and (3) of section 19 of the CGST Act, 2017].

Hence, the ITC taken by RMN Company Ltd. in the month of September last year is valid and since one year period has yet not lapsed in April, there will be no tax liability on such inputs.



- (b) (i) Time of supply of the goods is 12<sup>th</sup> June being the earliest of the three stipulated dates namely:
- date of receipt of goods,
  - date of payment and
  - date immediately following 30 days of issuance of invoice.
- (ii) As per section 12(4) of the CGST Act, 2017, the time of supply of vouchers exchangeable for goods is-
- Date of issue of the voucher, if the supply that it covers is identifiable at that point, or
  - Date of redemption of the voucher in other cases,

In the given case, As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the time of supply of the coupon will be the date on which the employee redeems it against food / provision items of his choice.

- (c) The facts of the case are similar to the case of *Board of Trustees v. UOI (2009) 241 ELT 513 (Bom HC DB)*, wherein the High Court held that considering the language of section 45(3) of the Customs Act, 1962, the liability to pay duty is of the person, in whose custody the goods remain as an approved person under section 45 of the Act. Therefore, section 45(3) of the Customs Act, 1962 applies only to the private custodians who are required to be approved by Principal Commissioner/ Commissioner of Customs under section 45(1). Accordingly, the major ports and airports covered under Major Port Trust Act, 1963 who do not require any approval under section 45(1), are not covered by section 45(3). Thus, the Department cannot demand duty from Port Trust on the pilferage under section 45(3) of the Customs Act, 1962.

Section 45(3) of the Customs Act, 1962 holds the custodian responsible only in respect of the customs duty in respect of pilfered goods. It does not extend to the value of goods lost. However, the Port Trust, as bailee of the goods, is liable for value of the goods to the importer.

4. (a) Rule 86 of the CGST Rules, 2017 provides that where a registered person has claimed refund of any unutilized amount (i.e. ITC) from the electronic credit ledger

in accordance with the provisions of section 54 of the CGST Act, the amount to the extent of the claim shall be debited in the said ledger.

If the refund so filed is rejected, either fully or partly, the amount so debited to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer.

In the present case, M/s Surajbhan & Co., have made zero-rated supply without payment of IGST for ₹ 10,14,000 and the refund for the same has been rejected by the proper officer.

Therefore, contention of Mr. Abhay is not sustainable as debit entry in the Electronic Credit Ledger has not been made as per sub-rule (3) of Rule 86 towards “refund of any unutilized amount”.

- (b) Mr. Narayan’s invoices show that he collected duty of ₹ 250 per unit on 1,000 items. However, he paid duty on 200 items more. This payment, in the normal course, was made before the order permitting the clearance of the goods. It would be evident from the bill of entry that the amount paid was more than the amount of duty assessed. Thus Mr. Narayan’s case falls within the exception to unjust enrichment listed at clause (g) of the first proviso to section 27(2) of the CGST Act, 2017. He will be able to refute the charge of unjust enrichment. Furthermore, clause (a) of the same sub-section provides that the doctrine of unjust enrichment will not apply to the refund of duty and interest, if any, paid on such duty if such amount is relatable to the duty and interest paid by the importer/exporter, if he had not passed on the incidence of such duty and interest to any other person. Mr. Narayan’s invoices and other documentary evidences will show how much duty he collected from his customers, hence he may be covered by this clause also to escape the bar of unjust enrichment.

- (c) **Computation of import duty payable by Vishal**

Particulars	Amount (US \$)
Assessable value	1,00,000
	<b>Amount (₹)</b>
Value in Indian currency (US \$ 1,00,000 x ₹ 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000

Add: Social welfare surcharge @ 10% on ₹ 6,52,000	<u>65,200</u>
Total customs duty payable	<u>7,17,200</u>

**Notes:**

1. 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 prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.
2. Goods which are not removed within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [*Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)*]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

As per section 61 of the Customs Act, 1962, if goods remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit of goods in warehouse under section 60 is made, interest is payable @ 15% p.a., on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of 90 days commencing from the date of order made under 60 expires on	19 <sup>th</sup> August
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
<b>Interest payable = ₹ 7,17,200 × <math>\frac{15}{100} \times \frac{56}{365}</math> (rounded off)</b>	<b>₹ 16,505</b>

5. (a) (i) Failure to pay any amount collected as tax beyond 3 months from due date of payment is a specified offence as per clause (d) of Section 132(1) of the CGST Act, 2017.

In the present case, failure to deposit the tax ₹ 4 lakh (₹ 245 lakh – ₹ 241 lakh). As the amount of failure does not exceed ₹ 200 lakh therefore,

failure to deposit ₹ 4 lakh collected as tax by 'Amit' will not be punishable with imprisonment as per section 132(1) of the CGST Act, 2017.

Further, falsification of financial records by 'Amit' is a specified offence as per section 132(1)(d) and punishable with imprisonment upto 6 months or with fine or both as per clause (iv) of section 132(1) of the CGST Act, 2017 assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017 and the said offence is bailable in terms of section 132(4) of the CGST Act, 2017.

- (ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds ₹ 500 lakh in terms of section 132(1)(d) read with clause (i) of section 132(1) of the CGST Act, 2017.

Since the amount of tax evaded by 'Suresh' exceeds ₹ 500 lakh (₹ 550 lakh - ₹ 30 lakh), 'Suresh' is punishable with an imprisonment for a term which may extend to 5 years and with fine. It has been assumed that amount of ₹ 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax.

Such offence is non-bailable in terms of section 132(5) of the CGST Act, 2017.

If 'Amit' and 'Suresh' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017.

Such imprisonment shall also be of at least 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court.

- (b) Section 107(6) of the CGST Act, 2017 read with section 20 provides that no appeal shall be filed with the Appellate Authority unless the applicant has paid in full, such part of the 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 said order subject to a maximum of ₹ 50 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 50 crore (for tax in dispute) where IGST demand is involved.

In the given case, the amount of pre-deposit for filing an appeal with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

(i) ₹ 28 crore [10% of the amount of tax in dispute, viz. ₹ 280 crore]

or

(ii) ₹ 50 crore,

whichever is less.

= ₹ 28 crore.

Further, section 112(8) of the CGST Act, 2017 provides that no appeal shall be filed with the Appellate Tribunal unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 20% of the remaining amount of tax in dispute, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 100 crores.

Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

(i) ₹ 56 crores [20% of the amount of tax in dispute, viz. 280 crores]

or

(ii) ₹ 100 crores,

whichever is less.

= ₹ 56 crores.

(c) The Government may by notification under section 25 of the Customs Act, 1962 prescribe preferential rate of duty in respect of imports from certain preferential areas. The importer will have to fulfill the following conditions to make the imported goods eligible for preferential rate of duty:

(i) At the time of importation, he should make a specific claim for the preferential rate.

- (ii) He should also claim that the goods are produced or manufactured in such preferential area.
- (iii) The area should be notified under section 4(3) of the Customs Tariff Act, 1975 to be a preferential area.
- (iv) The origin of the goods shall be determined in accordance with the rules made under section 4(2) of the Customs Tariff Act, 1975.

- 6. (a)** As per section 64 of the CGST Act, 2017, summary assessments can be initiated to protect the interest of revenue with the previous permission of Additional/Joint Commissioner when the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act, and any delay by him in passing an assessment order may adversely affect the interest of revenue.

Additional/Joint Commissioner may withdraw summary assessment order on an application filed by taxable person within 30 days from the date of receipt of order or on his own motion, if he finds such order to be erroneous and may instead follow the procedures laid down in section 73 or section 74 of the CGST Act, 2017 to determine the tax liability of such taxable person.

Where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

- (b)** Section 161 of the CGST Act, 2017 lays down that any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any GST officer or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.

However, no such rectification shall be made after a period of six months from the date of issue of such decision or order or notice or certificate or any other document. Further, the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.

Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

**OR**

**Alternative Answer**

- (b) The Commissioner can authorize an officer to arrest a person if he has reasons to believe that the person has committed an offence attracting a punishment prescribed under section 132(1) (a), (b), (c), (d) or section 132(2) of the CGST Act, 2017 and the tax evaded / input tax credit wrongly availed or utilized or refund wrongly taken exceeds ₹ 2 crore. This essentially means that a person can be arrested only where the tax evasion is more than ₹ 2 crore and the offences are specified offences namely, making supply without any invoice; issue of invoice without any supply; amount collected as tax but not paid to the Government beyond a period of 3 months and taking input tax credit without receiving goods and services. However, the monetary limit shall not be applicable if the offences are committed again (even after being convicted earlier), i.e. repeat offender of the specified offences can be arrested irrespective of the tax amount involved in the case.

- (c) Where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing. Such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date.

However, if no such intimation is given within 1 month from the date of retirement, the liability of such partner shall continue until the date on which such intimation is received by the Commissioner [Section 90 of the CGST Act, 2017].