

J.K. SHAH[®]

**TEST
SERIES**



SUGGESTED SOLUTION

CS PROFESSIONAL

Subject – Advanced Tax

Topic – GST-I

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Answer to Q1.A.

Section 20 of the CGST Act, 2017 provides mechanism for the distribution of input tax credit by the Input tax distributor (ISD). Input Tax Credit to be distributed by XYZ Ltd. a registered ISD on different Units for July, 2020 is detailed as below;

Particulars	Total Credit	Credit to be distributed (Amount in Rs.)		
		Mumbai	Jabalpur	Delhi
CGST paid on the services used for Mumbai office Only	300000	300000	-	-
IGST, CGST and SGST paid on the services used for all units in operation during the year (see note)	1200000	600000	360000	240000
Total	1500000	900000	360000	240000

Note : The input-tax credit has been distributed on all the units on the pro-rata basis of the turnover of each of the Units in the ratio of 5:3:2.

(5 marks)

Answer to Q1.B.

- (i) Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators are exempt. [Entry 47A of Notification No. 12/2017-CT (Rate)]
- (ii) Services by way of collecting or providing news by an Independent journalist, Press Trust of India or United News of India are exempt. [Entry 49 of Notification No. 12/2017-CT (Rate)]
- (iii) Services by an organizer to any person in respect of organizing business exhibition outside India are exempt. [Entry 52 of Notification No. 12/2017-CT (Rate)],
- (iv) Services by way of Slaughtering of animals are exempt. [Entry 56 of Notification No. 12/2017-CT (Rate)]
- (v) Services by way of providing information under the Right to Information Act, 2005 are exempt. [Entry 65A of Notification No. 12/2017-CT (Rate)]

(5 marks)

Answer to Q1.C.

Summary Assessment is stated under Section 64 of the CGST Act, 2017. The authorized office is required to obtain prior permission of additional commissioner or joint commissioner to take this assessment. To protect the interest of revenue, a GST officer can proceed to assess the tax liability of a person showing a tax liability with any evidence. The officer can also issue an assessment order if he has proof that the delay in assessment can adversely affect the interest of revenue.

Section 64 of the CGST Act, 2017 provides that: The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Provided that 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.

Rule 100 (3): The order of assessment under sub-section (1) of section 64 shall be issued in FORM GST ASMT-16 and a summary of the order shall be uploaded electronically in FORM GST DRC-07.

On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

Rule 100 (4): The person referred to in sub-section (2) of section 64 may file an application for withdrawal of the assessment order in FORM GST ASMT-17 (5): The order of withdrawal or, as the case may be, rejection of the application under sub-section (2) of section 64 shall be issued in FORM GST ASMT-18.

(5 marks)

Answer to Q2.A.

- (i) No, Commissioner (Appeals) being the first appellate authority does not have power to remand the case back to the adjudicating authority for fresh adjudication. The power is not given to Commissioner (Appeals) by Statute. However, Power to remand has been specifically given to Appellate Tribunal under Section 113 of the CGST Act, 2017.
- (ii) Yes, Commissioner (Appeals), if satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the specified period, allow it to be presented within a further period of one month under section 107(4) of the CGST Act, 2017.

(4 marks)

Answer to Q2.B.

Total Input Tax (Rs. 30,00,000 x 18%) = Rs. 5,40,000

Asset already used for 9 months and 10 days = 4 Quarters

Less: Tax credit not allowed (Rs. 5,40,000 x (4 x 5%)) (Rs. 1,08,000)

Amount of Tax credit allowed Rs. 4,32,000

(4 marks)

Answer to Q2.C.

- (i) Yes, as per Section 138 of the CGST Act, 2017 E-way bill is required to be carried during movement of goods exceeding Rs. 50,000, which is generated on the GST Portal. The person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount to carry with him such documents and devices as may be prescribed by the Government. On interception of the conveyance, the person in charge shall produce the prescribed documents and devices for verification and allow inspection of goods by the proper officer. Rule 138A of the CGST Rules, 2017 provides for the following documents and devices to be carried:-

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

- (ii) The validity period of e-way bill is tabulated as under :

Sr. No.	Distance	Validity Period
1	Upto 100 km	One day in cases other than Over Dimensional Cargo
2	For every 100 km. or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo
3	Upto 20 km	One day in case of Over Dimensional Cargo
4	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo

As per the notification No. 94/2020 dated December 22, 2020, the validity period of e-waybill will be changed from 100 KM per day to 200 KM per day from January 01, 2021.

(4 marks)

Answer to Q2.D.

Composite Supply or Mixed Supply

- (i) Composite Supply: Sale of car with warranty coverage is a composite supply as both supplies are naturally bundled and sale of car is a principal supply.
- (ii) Mixed Supply: Gift pack with chocolates and books are not bundled due to natural necessities and hence they are mixed supply.
- (iii) Mixed Supply: Refrigerator and power stabilizer are not inseparable and are not bundled due to natural necessities. They are mixed supply.
- (iv) Composite Supply: Hotel Funtoosh providing accommodation with complimentary breakfast is a composite supply as the principal supply is supply of service i.e. accommodation.

(v) (4 marks)

Answer to Q2.E.

As per section 25(2) of CGST Act, 2017 as amended w.e.f. 1.2.2019, a person seeking registration for GST shall be granted single registration in each state. Where a person has multiple business places in a state, all such business places shall be included in the single registration with such business place given the status of a principal business place.

However, proviso to Section 25(2) provides that a person having multiple business places may be granted separate registration for each business place in a State or Union territory subject to the conditions as may be prescribed.

In the present case, both the units of SAM Ltd. are located in Nashik and Nagpur in the State of Maharashtra. In case SAM Ltd. wish to have separate registration for each such business place, it can be granted by the authorities. Hence both the units can take separate registration for its units located in Nashik and Nagpur.

(4 marks)

Answer to Q3.A.

The definition of supply given under section 7 of CGST Act, 2017 is an inclusive one. It does not specify that supply is to be made by one person to another. So, self-supplies are to be treated as supply in terms of section 7 of CGST Act. Establishment of same person in different states to be treated as establishment of distinct person [Section 25(5) of CGST Act, 2017]

Further, section 25(5) of CGST Act, 2017 provides that where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory or in the same state or Union territory provided such establishment is separately registered in GST, then such establishments shall be treated as establishments of distinct persons.

Clause (2) of Schedule I of CGST Act, 2017 inter alia provides that supply of goods & services between distinct persons as specified in section 25 made in the course or furtherance of business is to be treated as supply even if made without consideration.

The legal position is thus crystalized that Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration and Intra-state self-supplies shall also be taxable provided the recipient is separately registered as business vertical.

In view of the above discussed legal position, Inter State transfer of stock made by ACD Sweets Ltd. i.e. to its shop located in City “W” in Tamil Nadu are taxable under GST. Assuming that the shops of ACD Sweets Ltd. Located in City “Y” and City “Z” in Kerala are not separately registered, self-supplies made to such shops are not taxable under GST.

(5 marks)

Answer to Q3.B.

Determination of value under CGST Rules, 2017 Capital Forex Pvt. Ltd. doing the business as Authorized Money Changers require to value for the services so provided under any of sub-rule (a) or (b) of Rule 32(2) of the CGST Rules, 2017. Capital Forex Pvt. Ltd. as given in the question has opted to value the services as per Rule 32(2)(b), which is explained hereunder:-

Sr.No.	Currency Exchanged	Value of Supply
1	Up-to Rs. 1,00,000	1% of the gross amount of currency exchanged OR amount of Rs. 250 whichever is higher
2	Exceeding Rs. 1,00,000 and up-to Rs. 10,00,000	Rs. 1000 + 0.50% of the (gross amount of currency exchanged above Rs. 1,00,000)
3	Exceeding Rs.10,00,000	Rs. 5,500 + 0.1% of the (gross amount of currency exchanged above Rs. 10,00,000) OR the amount of Rs. 60,000 whichever is lower

Thus, the value of supply in the given cases would be computed as under:

- i) Gross amount of currency exchanged = Rs. 70 x 1,400 = Rs. 98,000. Gross amount of currency exchanged is less than Rs. 1,00,000, value of supply is 1% of the gross amount of currency exchanged i.e. 1% of Rs. 98,000 or Rs. 250, whichever is higher = Rs.980
- ii) Gross amount of currency exchanged = Rs. 69.50 x 2,500 = Rs. 1,73,750. Since the gross amount of currency exchanged exceeds Rs. 1,00,000 but is less than Rs. 10,00,000, value of supply is Rs. 1,000 +0.50% of (Rs. 1,73,750 - Rs. 1,00,000) = Rs. 1,369

(5 marks)

Answer to Q3.C.

Company Secretary to act as Goods & Services Tax Practitioner (GSTP) Section 48(1) of the Central Goods & Services Act,2017 (CGST) provides for “the manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of

removal and other conditions relevant for their functioning shall be such as may be prescribed.” Pursuant to Section 48 of CGST Act, 2017, read with Rule 83 of the Central Goods and Services Tax Rules, 2017, any person who has passed the Final Examination of the Institute of Company Secretaries of India (ICSI) is eligible for enrolment as a Goods & Services Tax Practitioner by making an application in Form GST PCT-01 on the common portal either directly or through a Facilitation Centre notified by the Commissioner for enrolment.

A Goods & Services Tax Practitioner is eligible to undertake the following tasks:

- a) furnish details of outward and inward supplies;
- b) furnish monthly, quarterly, annual or final return;
- c) make deposit for credit into the electronic cash ledger;
- d) file a claim for refund;
- e) file an application for amendment or cancellation of registration;
- f) furnish information for generation of e-way bill;
- g) furnish details of Challan in FORM GST ITC-04;
- h) file an application for amendment or cancellation of enrolment under rule 58; and
- i) file an intimation to pay tax under the composition scheme or withdraw from the said scheme.

Company Secretary to represent before the Appellate Authority Under Section 116 of Central Goods & Services Tax Act, 2017, read with Rule 84 of Central Goods & Services Tax Rules, 2017, a Company Secretary is entitled to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act.

(5 marks)