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CA FINAL

SUBJECT- INDIRECT TAX

Test Code – FNJ 7415

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### ANSWER 1

Q.NO	MARKS	ANSWER
1.1	1	C
1.2	1	C
1.3	1	B
1.4	1	D
1.5	1	C
1.6	1	D
1.7	1	A
1.8	1	B
1.9	1	A
1.10.	1	B

### ANSWER 2

Q.NO	MARKS	ANSWER
2.1	2	A
2.2	2	C
2.3	2	C
2.4	2	B
2.5	2	B

### ANSWER 3

Q.NO	MARKS	ANSWER
3(i)	2	C
3(ii)	2	B
3(iii)	2	D
3(iv)	2	A
3(v)	2	C

**ANSWER 4(A)**

Computation of GST liability of Skylark Pvt. Ltd. for the month of August 2020 :

No.	Particulars	Value (Rs. in Cr.)	CGST @ 6% (Rs.in Cr.)	SGST @ 6% (Rs. in Cr.)	IGST @ 12% (Rs. in Cr.)
<b>Goods</b>					
(i)	Export of goods to ABC Ltd. in UK [W.N. 1] under a letter of undertaking (LUT)	50.00	-	-	Nil
(ii)	Supply of goods to Shanghai Jianguo Trading Company Ltd. [WN – 2]	10.00	-	-	1.20
(iii)	Goods supplied to DEF Pvt. Ltd. located in a SEZ [WN – 3]	20.00	-	-	Nil
(iv)	Sale within the State [WN – 4]	60.18	3.6108	3.6108	-
(v)	Sale outside the State [WN – 4]	40.12			4.81440
(vi)	Stock transfer from Noida to Delhi [WN – 5]	4.50			0.54
(vii)	Goods sent for sale on approval basis on 15 <sup>th</sup> February, 2020 [WN – 6]	4.00			0.48
Total tax liability on goods [A]			3.6108	3.6108	7.0344
<b>Service</b>					
(i)	Export of service to Nepal under a LUT [Note 7]	30.00			Nil
(ii)	Receipts from renting of buildings [Note 8]	0.15	0.0135	0.0135	
Total tax liability on services [B]			0.0135	0.0135	
<b>Neither goods nor services</b>					
(i)	Sale of securities [Note 9]	45.00	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50			Nil
Total Tax liability on goods and Services [(A) + (B)]			3.6243	3.6243	7.0344

**Working Notes :****(1) Export of goods is zero rated – exported under LUT without payment of tax**

**(2) Supply of goods to China based company – POS is place of installation :** to As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India. (Gurugram, Haryana), the same are not exported.

Hence, the place of supply thereof will be governed by section 10 of the IGST Act, 2017 which prescribes the provisions for determining the place of supply of goods other than supply of goods imported into or exported from India. As per Section 10(1)(d) of the IGST Act, 2017, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. Therefore, in the given case, the place of supply will be Gurugram, Haryana.

**Interstate supply :** Supply the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter - State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of the Act].

**(3) Goods supplied to SEZ – deemed interstate supply :** As per section 7(5)(b) of the IGST Act, 2017, supply of goods and /or service to a special economic zone (SEZ) unit is treated to be

supply of goods and/or services in the course of inter – State trade or commerce. Therefore, supply of goods to a SEZ unit located within the same State shall be liable to IGST [Section 5(1) of the IGST Act, 2017].

**Zero rated supply :** Supply of goods and/ or services to a SEZ unit is a zero rated supply in terms of section 16(1)(b) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3) (a) of that Act.

- (4) **Computation of remaining turnover : Remaining turnover will be calculated as under**  
Rs. 256 crore – (Rs. 45 crore + Rs. 50 crore + Rs. 30 crore + Rs. 10 crore + Rs. 20 crore + Rs. 0.50 crore + Rs. 0.10 crore + Rs. 0.05 crore + Rs. 0.05 crore) = Rs. 100.30 crore

Supply within the State – Rs. 100.30 crore  $\times$  3/5 = Rs. 60.18 crore

Supply outside the State – Rs. 100.30 crore  $\times$  2/5 = Rs. 40.12 crore

Supply within the State is intra – State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST. Supply outside the State is inter – State supply chargeable to IGST [Section 7(1) of IGST Act, 2017 read with section 5(1) of the said Act].

- (5) **Stock Transfer between distinct persons – Deemed supply :** As per section 25(4) of the CGST Act, 2017 a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as ‘distinct persons’.

Schedule I to the CGST Act, 2017 specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and / or services between ‘distinct persons’ as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business in one such activity included in Schedule I under para 2.

Nature of supply – Inter state supply : In the given case –

(a) the location of the supplier is in Noida (Uttar Pradesh), and

(b) the place of supply is the location of such goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Delhi in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the stock transfer by Noida office to Delhi branch is an inter – State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is liable to IGST in terms of section 5(1) of the IGST Act, 2017.

**Valuation – Invoice Value deemed to be open market value as recipient entitled to full ITC :** Rule 28 of the CGST Rules, 2017 prescribed the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be Rs. 4.5 crore and open market value and cost of production of the goods will be irrelevant.

- (6) **Sale on approval – deemed supply after 6 months :** As per section 31 (7) of the CGST Act, 2017, where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In the given case, the time period of six months for goods sent on 15<sup>th</sup> February, 2020 expires on 15.08.2020. Therefore, the invoice for the said goods shall be issued on 15.08.2020 and in terms of section 12(2) (a) of the CGST Act, 2017 read with Notification No. 66/2017 – CT dated 15.11.2017, this date would also be the time of supply of such goods.

Thus, such goods will be liable to tax in the month of August 2020. Goods sent in the month of January would have been taxed in the month of July and goods sent in the month of March would be taxed in the month of September.

**Nature of supply – Inter state supply :** Here, -

- (a) the location of the supplier is in Noida (Uttar Pradesh); and
- (b) the place of supply is the location of the goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Haryana in terms of section 10(1)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter – State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

**(7) Export of services :** The given case is an export of service as per section 2(6) of the IGST Act, 2017, as –

- (a) the supplier of service is located in India (Noida);
- (b) the recipient of service is located outside (Nepal);
- (c) the place of supply of service is outside India (Place of supply of consulting service will be the location of recipient, i.e. Nepal);
- (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 (Receipt of export consideration in Indian rupees is permitted by RBI in the given case); 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.

Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

**(8) Letting of premises for commercial purpose liable to GST while for residential purpose – Exempt :** Letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of service in terms of para 2(b) of the Schedule II to the CGST Act, 2017. Services by way of renting of residential dwelling for use as residence is exempt from tax [Notification No. 12/2017 – CT (R) dated 28.06.2017]. Therefore, rent of Rs. 10 lakh received from letting out of building for printing press will be liable to tax and rent of Rs. 5 lakh received from letting out of building for residential purpose will be exempt from tax.

Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [Notification No. 12/2017 CT (R) dated 28.06.2017]. However, In the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (Rs. 5 lakh), will be liable to tax.

**Nature of supply – Intrastate supply :** In case of letting out of first and third buildings,

- (a) the location of the supplier is in Noida (Uttar Pradesh); and
- (b) the place of supply is the location of the immovable property, i.e. Noida in terms of section 12(3)(a) of the IGST Act, 2017.

Since, the location of the supplier (Uttar Pradesh) and the place of supply (Noida) are in the Same State, the same is an intra – State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST.

- (9) **Transaction in securities – not liable to GST** : GST is leviable on supply of goods and / or services (Section 9(1) of the CGST Act, 2017]. Securities are specifically excluded from the definition of goods and services as provided under clause (52) and clause (102) respectively of section 2 of the CGST Act, 2017. Therefore, sale of securities will not be liable to GST.
- (10) **Merchant trading transactions - not liable to GST** : Paragraph 7 of the schedule III to CGST Act, 2017 provides that supply of goods from a place in the non - taxable territory to another place in the non – taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods.

(14 Marks)

**ANSWER 5(A)**

As per Section 18(1)(d), where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi – finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

As per Rule 40(1)(a) of CGST Rules, 2017, the input tax credit on capital goods, shall be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

Computation of Input tax credit relating to CGST / SGST/ IGST available to M/s. XYZ in respect of inputs and capital goods will be as follows :

Particulars	CGST	SGST	IGST	Total Eligible Credit
	(Rs.)	(Rs.)	(Rs.)	(Rs.)
ITC on the value of inputs lying in stock [since all inputs were acquired within 1 year prior to the effective date on which the goods became taxable, hence, entire ITC would be allowed.]	-	-	12,000	12,000
ITC on the value of inputs contained in semi – finished goods [W.N. – 1]	5,100	5,100	-	10,200
ITC on value of inputs lying in stock of finished goods stock [Inputs received on 31.01.2020 lying in finished goods in stock on 16.06.2020 as all inputs were acquired within 1 year prior to the effective date on which the goods become taxable, therefore, entire ITC would be allowed]	9,300	9,300		18,600
Credit (IGST) available on capital goods [W.N. - 2]	-	-	81,600	81,600
<b>Total Input tax credit available</b>	<b>14,400</b>	<b>14,400</b>	<b>93,600</b>	<b>1,22,400</b>

**Working Notes :**

- (1) **ITC on the value of inputs contained in semi – finished goods** - Out of the total stock of Rs. 1,35,000, inputs totaling to Rs. 50,000 are older than 1 year from the effective date on which the goods became taxable. Therefore, ITC to this extent stands disallowed. ITC on

inputs contained in stock of Rs. 85,000 would be eligible. (Eligible credit = Rs. 8,100 × Rs. 85,000 ÷ Rs. 1,35,000 each in respect of CGST and SGST]

**(2) Credit available in respect of capital goods (amount in Rs.) :**

Date of invoice of capital goods	10.12.2019
Date from which the exempt goods become taxable	17.06.2020
No. of quarters or part thereof from date of invoice	3
Percentage points to be reduced (5% per quarter)	15%
IGST paid on the capital goods used exclusively in relation to goods exempted up to 16.06.2020	96,000
ITC to be reduced by 15%	14,400
<b>Amount of Input tax credit available in respect of capital goods</b>	<b>81,600</b>

**Note :** As per Section 2(92), “quarter” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.

**(9 MARKS)**

**ANSWER 5(B)**

Computation of Assessable value & customs duty –

FOB Cost	£	8,000
<b>Add:</b> Design and development charges paid in UK	£	500
<b>Total</b>		<b>8,500</b>
Exchange rate to be applied is 1 £ (Pound) = Rs. 100, as notified by CBIC on date of presentation of bill of entry	Rs.	100
Total sum in Indian Rs.	Rs.	8,50,000
<b>Add :</b> commission to the Agent @ 2% of FOB cost × Rs. 100 per pound	Rs.	16,000
FOB value as per customs	Rs.	<b>8,66,000</b>
<b>Add :</b> Insurance charges (1.125% of Customs FOB)	Rs.	9,742.50
<b>Add :</b> Air freight (Restricted to 20% of Customs FOB)	Rs.	1,73,200
<b>Total CIF Value being Assessable Value</b>	Rs.	<b>10,48,942.50</b>
<b>Add :</b> Basic Customs duty @ 10% (Rate of Custom duty is applicable of the date of presentation of Bill of Entry since it is presented after arrival of aircraft) [1]		1,04,864.25
<b>Add:</b> SWS @ 10% of [1] [2]	Rs.	10,489.43
<b>Total for Integrated tax leviable u/s 3(7)</b>	Rs.	<b>11,64,326.18</b>
<b>Add :</b> Integrated tax @ 12% of Rs. 11,64,326. 18 [4]	Rs.	1,39,719.14
<b>Total imported cost (rounded off)</b>	Rs.	<b>13,04,045.32</b>
<b>Total customs duty payable = [1] + [2]+[3]+[4] (rounded off)</b>	Rs.	<b>2,55,102</b>

**(5 MARKS)**

**ANSWER 6(A)**

(i) As per section 2(68) of the CGST Act, 2017, job work means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the principal. Thus, the job worker is expected to work on the goods sent by the principal.

Therefore, when the goods are manufactured by Sudama Industries Ltd. for Plasto Manufacturers, it is job work as the manufacturing process is undertaken on inputs (plastic and moulds) supplied by the principal (Plasto Manufacturers) and when goods are manufactured for Solid Pipes, it is manufacture on own account as the pipes are manufactured from company's own raw material. Further, manufacture on job work basis is a supply of service in terms of para 3 of Schedule II to the CGST Act, 2017 and manufacture of pipes on own account is a supply of goods.

**(2 ½ MARKS)**

- (ii) It has been clarified vide Circular No. 38/12/2018 GST dated 26.03.2018 that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

**(1 MARK)**

- (iii) Section 143 of the CGST Act, 2017 provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work. Subsequently, on completion of the job work, the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools). Thus, the provision relating to return of goods is not applicable in case of moulds, dies, jigs, fixtures and tools.

If the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out.

Therefore, sending of plastic and moulds by Plasto Manufacturers to Sudama Industries Ltd. (job worker) is not supply as the manufactured pipes are received back within the stipulated time and the provisions relating to return of goods are not applicable in case of moulds.

Rule 45 of the CGST Rules provides that the inputs, semi-finished goods or capital goods being sent for job work shall be sent under the cover of a challan issued by the principal.

Therefore, Plasto Manufacturers need not issue a taxable invoice for sending the inputs to Sudama Industries Ltd. but should send the inputs under the cover of a challan.

**(3 MARKS)**

- (iv) As per section 15(2)(b) of the CGST Act, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both, is includible in the value of supply. However, Sudama Industries Ltd. should not include the value of free of cost plastic supplied by Plasto Manufacturers in its job charges as Sudama Industries Ltd. is manufacturing the plastic pipes on job work basis. The scope of supply of the Sudama Industries Ltd. is to manufacture plastic pipes from the raw material supplied by the Plasto Manufacturers. Thus, at no point of time was Sudama Industries Ltd. (supplier of job work



service) liable to pay for the raw material and therefore, the value thereof should not be included in its job charges even though the same has been incurred by Plasto Manufacturers (recipient of job work service).

(2 ½ MARKS)

**ANSWER 6(B)**

Computation of maximum refund admissible in respect of Zero – rated supplies (amount in Rs.) :

(i)	Net ITC i.e. input tax credit availed on inputs and input services during the relevant period [Rs. 2,50,000 + Rs. 50,000]		3,00,000
(ii)	Turnover of zero – rated supply of goods i.e. value of zero – rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking [W.N. 1]		10,00,000
(iii)	Turnover of zero – rated supply of services (advance received towards services to be supplied / exported after the current relevant period shall not be included, hence : Rs. 5,50,000 – Rs. 50,000)		5,00,000
(iv)	Adjusted Total Turnover		
	Turnover in State excluding turnover of services Rs. [35,00,000 + 8,00,000 + 2,50,000]	45,50,000	
	Value of Zero rated supply services and non – zero rated supply of services [Rs. 5,00,000 + Rs. 5,00,000]	10,00,000	55,50,000
(v)	Maximum refund = [(Item (ii) + Item (iii) ÷ Item(iv)) × Item (i)]		<b>81,081</b>

**Working Note :** The turnover of zero – rated supply of goods” means the value of zero rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under rule 89(4A) or (4B) or both. Hence, the turnover of Zero rated supply of goods shall be determined as under (Amt. Rs.)

(i) Taxable value of goods ‘X’ exported without payment of tax : Lower of		
(a) Value of Zero – rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking	8,00,000	
(b) 1.5 times the value of like goods domestically supplied by the Kalaji Manufacturers [Rs. 5,00,000 × 1.5]	7,50,000	7,50,000
(ii) Taxable value of goods ‘Y’ exported without payment of tax : Lower of :		
(a) Value of zero – rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking	2,50,000	
(b) 1.5 times the value of like goods domestically supplied by the Kalaji Manufacturers [Rs. 2,00,000 × 1.5]	3,00,000	2,50,000
<b>Taxable value of goods exported without payment of tax under bond</b>		<b>10,00,000</b>

(5 MARKS)

**ANSWER 7(A)****Computation of Value of taxable supply and GST Liability (amount in Rs.)**

Total Receipts	25,00,000
<b>Less :</b> Receipts of 'Gyan sagar' an industrial training institute (ITI) affiliated to the National council for Vocational Training (NCVT), are not liable to GST, since the same are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate)	-1,20,000
<b>Less :</b> Receipts of 'Edu – care' a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC) are exempt vide Entry 69 of Notification No. 12/2017 = CT (Rate).	-1,80,000
<b>Less :</b> Receipts of 'Abhigyan Skill Centre' an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Rajasthan, not liable to GST, since the same are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	-2,00,000
<b>Less :</b> Receipts of 'Mission', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council of Vocational Training – Not liable to GST, since the same is exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	-1,00,000
<b>Less :</b> Receipts of 'Scinart' a Commercial coaching institute providing commercial coaching in the field of arts and science shall be liable for GST.	Taxable
<b>Less :</b> Receipts of 'Commerce concepts' a Commercial coaching institute providing coaching in the field of commerce shall be liable for GST irrespective of the fact that a certificate was awarded to each trainee after completion of the training.	Taxable
<b>Less :</b> Receipts of Gurukul school providing education upto higher secondary shall be exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).]	-6,00,000
<b>Less :</b> Receipts of 'Play Kids' school providing education upto primary level i.e. Rs. 8 lakhs are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate). However, receipts from renting of premises by the school to commercial coaching centre shall be liable for GST.	- 8,00,000
<b>Value of taxable supply</b>	<b>5,00,000</b>
<b>GST Payable @ 18%</b>	<b>90,000</b>

**(5 MARKS)****ANSWER 7(B)**

The duties of National Anti-profiteering Authority are as under:-

- (i) to determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer (collectively referred to as 'benefit') by reducing the prices
- (ii) to identify the taxpayer who has not passed on the benefit
- (iii) to order
  - (a) reduction in prices
  - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount.

If the eligible person does not claim return of the amount or is not identifiable, the amount not returned would be recovered and deposited in the Consumer Welfare Fund.

- (c) imposition of penalty
- (d) cancellation of registration
- (iv) to furnish a performance report to the GST Council by the 10th of the month succeeding each quarter

(5 MARKS)

**ANSWER 7(C)**

As per Regulation 4(1) of Bill of Entry (Electronic Integrated Declaration) Regulations, 2011, the importer shall file the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.

As per Regulation 4(3) of the said regulation, where the bill of entry is not filed within the above time limit and the proper officer of Customs is satisfied that there was no sufficient cause for such delay, the importer shall be liable to pay charges for late presentation of the bill of entry @ Rs. 5,000 per day for the initial 3 days of default and @Rs. 10,000 per day for each day of default thereafter.

In this case since the vessel arrived at custom station on 01.05.2020, the bill of entry was required to be presented on 02.05.2020. The company has presented the bill of entry on 06.05.2020, there is delay of 4 days, hence the company will be liable to pay charges amounting to Rs. 25,000 (Rs. 5,000 × 3 + Rs. 10,000 for the 4<sup>th</sup> day) for such delay.

(4 MARKS)

**ANSWER 8(A)**

(1) **Appeal to Appellate Authority** : As per Section 107(1) of the CGST Act, an appeal against a decision / order passed by any adjudicating authority under the CGST Act or SGST Act/ UTGST Act is appealable before the Appellate Authority. Thus, Home Furnishers can file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax to Commissioner (Appeals).

**Time Limit – 3 months, Condonation – 1 months** : Further, such appeal can be filed within 3 months from the date of communicate of such decision/ order. Thus, Home Furnishers can file the appeal to Appellate Authority on or before 22.11.2020. Further, the Appellate Authority can also condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay.

(2) **Authority before whom appeal is to be filed** : GST law makes provisions for cross empowerment between CGST and SGST/ UTGST officers so as to ensure that if a proper officer of one Act (say CGST) passes an order with respect to a transaction, he will also act as the proper officer of SCST for the same transaction and issue the order with respect to the CGST as well as the SGST/ UTGST component of the same transaction.

The law further provides that where a proper officer under one Act (Say CGST) has passed an order, any appeal / review/ revision/ rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Similarly, if any order is passed by the proper officer of SGST, any appeal/ review/ revision/ rectification will lie with the proper officer of

SGST only. Thus, Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].

- (3) Requirement of pre – deposit :** Home Furnisher’s view is not correct in law. Section 107(6) of the CGST Act provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid –
- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
  - (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of Rs. 25 crore.

Since in the given case, Home Furnishers disagrees with the entire tax demanded, it has to make a pre deposit of 10% of the amount of tax in dispute arising from the impugned order, i.e. , 10% of Rs. 50,00,000 which is Rs. 5,00,000.

**(5 MARKS)**

**ANSWER 8(B)**

The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 of the CGST Act, 2017 is as under:-

1. Upon receipt of an application, the AAR shall send a copy of application to the officer in whose jurisdiction the applicant falls and call for all relevant records.
2. The AAR may then examine the application along with the records and may also hear the applicant. Thereafter he will pass an order either admitting or rejecting the application.
3. Application for advance ruling will not be admitted in cases where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.
4. If the application is rejected, it should be by way of a speaking order giving the reasons for rejection and only after giving an opportunity of being heard to the applicant.
5. If the application is admitted, the AAR shall pronounce its ruling on the question specified in the application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.
6. Before giving the ruling, AAR must hear the applicant or his authorized representative as well as the jurisdictional officers of CGST/SGST.
7. If there is a difference of opinion between the two members of AAR, they shall refer the point or points on which they differ to the Appellate Authority for hearing the issue
8. The Authority shall pronounce its advance ruling in writing within 90 days from the date of receipt of application.
9. A copy of the advance ruling duly signed by members and certified in prescribed manner shall be sent to the applicant, the concerned officer and the jurisdictional officer.

**(4 MARKS)**

### ANSWER 8(C)

Duty free allowances allowed to Mr. Ram are as follows –

- (a) Under Rule 3, goods eligible for General free allowance are :
- (i) Used personal effects (excluding jewellery); and
  - (ii) other articles (other than those mentioned in annexure1) upto Rs. 50,000.
- (b) Under Rule 6, Duty free allowance of Used personal and household articles, other than mentioned in Annexure 1 or Annexure II but including articles mentioned in Annexure III, upon an aggregate value of Rs. 1,00,000.

Under Rule 5, No duty free allowance in case of jewellery of Rs. 50,000 will be available, since he was not residing abroad for more than one year prior to his return to India.

### Computation of Customs duty payable by Mr. Ram (amount in Rs.)

1. Used personal effects like clothes etc.	Nil
2. Digital Video Disc player	5,000
3. Music System	55,000
4. Air – Conditioner	45,000
5. Microwave Oven	28,000
6. Fax Machine	52,000
7. Domestic Refrigerator	1,20,000
8. Jewellery (18 grams)	75,000
<b>Total dutiable goods imported</b>	<b>3,80,000</b>
<b>Less : Total allowance (i.e., Rs. 50,000 (GFA) + Rs. 1,00,000 (transfer of residence))</b>	<b>1,50,000</b>
<b>Value of goods on which duty is payable</b>	<b>2,30,000</b>
<b>Customs duty @ 38.5% (inclusive of SWS)</b>	<b>88,500</b>

(5 MARKS)

### ANSWER 9(A)

The place of supply of Services will be as under –

- (1) As per Section 13(8)(b) of IGST Act, 2017, place of supply of intermediary services is the location of supplier of service. Commission agent of goods are covered under Section 13(8)(b) of IGST Act, 2017. Thus, the place of supply of services provided or agreed to be provided by Tradeget (as commission agent of goods) to foreign company will be the location of supplier of service i.e., Jaipur.
- (2) Section 13(3) (a) of IGST Act, 2017, provides that the place of supply of services provided in respect of goods that are required to be made physically available by the recipient of service to the supplier of service in order to supply the service, is the location where the services are actually performed.

However, Section 13(3)(a) does not apply in the case of a service supplied in respect of goods that are temporarily imported into India for repairs and are exported after the repairs without being put to any used in India, other than that which is required for such repair. Consequently, such a case will be covered under Section 13(2) (default provision) and the place of supply of service will be the location of recipient of service.

In the given case, goods have been temporarily imported by Kamal Repair Centre and have been re – exported after the repairs without being put to any use in Mumbai. Therefore, place of supply of repair services carried out by Kamal Repair Centre will be determined by Section 13(2). Consequently, the place of supply of service will be the location of recipient of service i.e. China.

- (3) As per Section 13(8)(c) of IGST Act, 2017, the place of supply of service consisting of hiring of all means of transport including Yachts but excluding –
- (i) Aircrafts, and
  - (ii) vessels,
- upto a period of one month, is the location of the supplier of service.

Therefore, services of hiring of aircraft and vessel (except yachts), irrespective of the period of hire, will be covered under Section 13(2) of IGST Act, 2017 (default provision) and the place of supply of service will be the location of the recipient of service.

In the given case, since SCI, a shipping company located in Mumbai (recipient and service) has taken vessel on hire from foreign shipping line of Japan, the place of supply of aforesaid hiring services will be Mumbai (location of service recipient).

**(5 MARKS)**

**ANSWER 9(B)**

The following points are to be taken note of –

- (i) The question clearly states that only basic customs duty, SWS thereon and anti – dumping duty are leviable on the goods in question and no other duty viz. Integrated tax u/s 3(7) or GST Compensation cess u/s 3(9) of CTA, 1975 is leviable.
- (ii) No SWS is imposable on anti – dumping duty.

**Keeping into mind the aforesaid, the relevant computations are as under (amounts in Rs.) –**

CIF value of the consignment being Assessable Value under Customs Laws (in Indian Rs.) [US \$ 1,20,000 × Rs. 65]	78,00,000
<b>Add : Basic Customs Duty @ 10%</b>	7,80,000
<b>Add : SWS @ 10% on Basic Customs Duty</b>	78,000
Landed Value/ Cost of the goods	[A] 86,58,000
Cost of commodity for the purpose of anti – dumping notification [2,500 kg. × US \$ 80 per Kg. × Rs. 65 per dollar]	[B] 1,30,00,000
<b>Antidumping duty [B – A]</b>	<b>43,42,000</b>

**(4 MARKS)**

**OR**

**ANSWER 9(B)**

Rule 138(1) of the CGST Rules, 2017 provides that e – way Bill is mandatorily required to be generated if the goods are moved, inter alia, in relation to supply and the consignment value exceeds Rs. 50,000. Further, explanation 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/ UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Accordingly, in the given case, the consignment value will be as follows :

S. No.	Particulars	Consignment Value (Rs.)	
(i)	Taxable value of supplies indicated on tax invoice : Add : GST @ 18%	35,000 6,300	41,300
(ii)	Value of exempt supplies [The same shall not be included]		-
(iii)	Value of goods to be sent to job worker on delivery challan		15,000
	<b>Consignment value for the purpose of generating E – way bill</b>		<b>56,300</b>

Since the movement of goods is in relation to supply of goods and the consignment value exceeds Rs. 50,000, e – way bill is mandatorily required to be issued in the given case. Besides this, where goods are sent by a Principal located in one State or Union territory to a job located in any other State or Union territory, the e – way bill shall be generated either by the Principal or the job worker, if registered, irrespective of the value of the consignment. Thus, in this case E – way bill is required to be generated.

(4 MARKS)

### ANSWER 9(C)

The SEIS benefit is computed below :

	Gross	Expenses in foreign exchange	NFE of current year
	(\$)	(\$)	(\$)
Supply from India to US – Eligible	30,000	5% i.e. 1,500	28,500
Supply from India to service consumer of US in India – Eligible	12,000	5% i.e., 600	11,400
Supply from India through commercial branch in a city of US	Ineligible	Ineligible	Ineligible
Supply from India through presence of employees in another city of US	Ineligible	Ineligible	Ineligible
Loan from US	Ineligible	Ineligible	Ineligible
Realization on behalf of client	Ineligible	Ineligible	Ineligible
<b>Total</b>	<b>42,000</b>	<b>2,100</b>	<b>39,900</b>
<b>Credit scrip entitled @ 7% of \$ 39,900</b>			<b>2,793</b>

(4 MARKS)