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Answer Paper	
Indirect Tax Laws	Duration: 65
Details: Test- 3	Marks: 35

## Instructions:

- All the questions are compulsory
- Properly mention test number and page number on your answer sheet, Try to upload sheets in arranged manner.
- In case of multiple choice questions, mention option number only Working notes are compulsory wherever required in support of your solution
- Do not copy any solution from any material. Attempt as much as you know to fairly judge your performance.

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**ANS 1:-**

**Computation of ITC available with Money Ltd. (amount in Rs.):**

Motor vehicles for transportation of persons having approved seating capacity of 7 persons (including driver) [WN -1]	Nil
Motor bus for transportation of persons having approved seating capacity of 14 persons (including driver) [WN-2]	1,40,000
Motor lorries for transportation of goods [WN-3]	2,80,000
Food and Beverages procured from Sweet Caterers for being used in dealer's meet [WN-4]	Nil
Services of repair and maintenance of motor lorries used for transportation of goods [WN-5]	36,000
Services of general insurance of motor vehicles for transportation of persons having approved seating capacity of 7 persons (including driver) [WN-6]	Nil
Services of servicing of motor vehicles for transportation of persons having approved seating capacity of 14 persons ( including driver) [WN-7]	54,000
<b>Total Input tax credit available</b>	<b>5,10,000</b>

**Working Notes:**

- (1) A per Section 17(5)(a),no Input tax credit is available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons

(including the driver), unless they are used for making the following taxable supplies, namely :-

**(A)** further supply of such motor vehicles; or

**(B)** Transportation of passengers; or

**(C)** Imparting training on driving such motor vehicles. Hence, no input tax credit is available on the said motor vehicles.

**(2)** As per Section 17(5)(a), no input tax credit is available in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver). Thus, input tax credit shall be admissible on motor bus.

**(3)** In respect of motor vehicle used for the purpose of transportation of goods, the same is not be covered under the ambit of blocked credit, hence input tax credit shall be admissible in respect of such motor vehicles.

**(4)** As per Section 17(5)(b), no input tax credit is available in respect of food and beverages except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply or if provision of such goods or services is obligatory for an employer to provide to its employees under any law for the time being in force. Hence, no input tax credit is available on food and beverages procured from Sweet Caterers for being used in dealer's meet.

**(5)** Since motor Lorries meant for transportation of goods is not covered under the ambit of blocked credit, hence services of repair and maintenance of motor Lorries is also eligible for credit.

**(6)** Services of general insurance of motor vehicles for transportation of persons having approved seating capacity of 7 persons (including driver) shall not be eligible for input tax credit since the same is covered under the ambit of blocked credit under Section 17(5)(ab) of the CGST Act, 2017.

**(7)** Since Input tax credit is eligible for motor vehicles for transportation of persons having approved seating capacity of 14 persons, hence services of servicing of such motor vehicles shall be eligible for input tax credit.

(7 Marks)

**ANS 2:-**

**Computation of maximum amount of refund admissible to Sachin Global (P) Ltd. (amount in Rs.):**

Particulars	WN	Amounts
Exports of product 'A' to UK	[WN-1]	Nil
Domestic supplies of taxable product 'B' during the period	[WN-2]	75,000
Supply of goods to Export Oriented Unit	[WN-3]	Nil
Export of exempt supplies	[WN-4]	1,14,000
<b>Total refund claim admissible</b>		<b>1,89,000</b>

**Working Notes:**

- (1) Refund of unutilized ITC is not allowed if the goods exported out of India are subjected to export duty:** Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Further, Sachin Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017. Therefore, as per clause (i) of first proviso to section 54(3) of the CGST Act, 2017, a registered person may claim refund, of any unutilised ITC in the case of zero rated supply at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilized ITC is not allowed if the goods exported out of India are subjected to export duty.

**(2) Refund of unutilised ITC is allowed in case of inverted duty structure :** Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except supplies of goods or services or both as may be notified by the Government on the recommendations of the GST Council [Clause (ii) of the first proviso to section 54(3) of the CGST Act, 2017].

Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula –

**Maximum Refund Amount =**

$$\frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \text{Tax payable on such inverted rated supply of goods and services}$$

where

"Net ITC" means ITC availed on inputs during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) or both.

"Adjusted total turnover" means the sum total of the value of:

- (a) the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services and
- (b) the turnover of zero-rated supply of services determined in terms of specified manner and non-zero rated supply of services, excluding:
  - (i) the value of exempt supplies other than zero-rated supplies; and
  - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period.

**The maximum amount of refund admissible on account of inverted duty structure (amount in Rs.):**

S.No.	Particulars	Amount in Rs.
1.	Net ITC i.e. input tax credit availed on inputs during the relevant period (Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]	3,50,000
2.	Turnover of inverted rated supply of goods	10,00,000
3.	Adjusted Total Turnover i.e. Rs.7,00,000 + Rs.10,00,000 + Rs.5,00,000 + Rs. 6,00,000	28,00,000
4.	Tax payable on such inverted rated supply of goods [ Rs.10,00,000 ×5%]	50,000
5.	<b>Maximum refund = [(Item (ii) ÷Item (iii)]× Item (i)] - [Item (iv)]</b>	<b>75,000</b>

**(3) Supply of goods to EOU - refund admissible to supplier only when disclaimer received from recipient :** As per section 2(39) of the CGST Act, 2017, deemed exports means such supplies of goods as may be notified under section 147 of the CGST Act, 2017. Supplies to EOU is notified as deemed export under section 147 vide Notification No. 48/2017-CT dated 18-10-2017. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules, 2017]. Therefore, since in the given case, the recipient is claiming ITC, Sachin Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.



**(4) Refund of ITC on account of zero rated supply:** Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. Section 54(3) of the CGST Act, 2017 allows refund of ITC in the case of zero rated supply made without payment of tax.

Rule 89(4) of the CGST Rules, 2017 stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST To Act, 2017, refund of ITC shall be granted as per the following formula:

$$\text{Refund Amount} = \frac{\text{Turnover of Zero – rated supply of goods} + \text{Turnover of Zero – rated supply of services}}{\text{Adjusted total Turnover}} - \text{Net ITC}$$

where

**“Net ITC”** means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under rule 89(4A) or (4B) or both.

**“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.

**The maximum amount of refund admissible on account of Zero-rated supply (amount in Rs.)**

S.No.	Particulars	Amount in Rs.
1.	Net ITC i.e. input tax credit availed on inputs and input services	5,32,000

	during the relevant period [ Rs.3,50,000 + Rs. 2,00,000 - Rs. 18,000]	
2.	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	6,00,000
3.	Adjusted Total Turnover [ Same as discussed above]	28,00,000
4.	<b>Maximum refund = [(Item (ii)) ÷ Item (iii)] × Item (i)</b>	<b>1,14,000</b>

(7 Marks)

**ANS 3:**

Section 74 of the CGST Act, 2017 provides an opportunity to the person chargeable with tax to pay tax, interest and penalty equivalent to 15% of such tax, before the issuance of notice. Such voluntary payment can be made even if the mistake is pointed out by the Department, before issue of SCN. In this question the suppression amount is presumed to be the tax amount.

**Stage -I: Clearance of dues as accepted by tax payer before issuance of show cause notice (amount in Rs.):**

Tax accepted on suppression for the month of January 2021	12,00,000
Due date of payment of tax	20-02-2021
Date of payment of tax	20-04-2021
No. of days of delay [21-02-2021 to 20-04-2021]	59 days
Rate of interest	18%



Quantum of interest (rounded off) [Rs.12,00,000× 59 ÷365× 18%]	34,915
Quantum of penalty payable [15% of tax]	1,80,000

**Stage-II: Payment of tax as determined by the department in adjudication order after 30 days of adjudication order:**

Tax accepted on suppression for the month of January 2021	2,00,000
Due date of payment of tax	20-02-2021
Date of payment of tax	27-06-2021
No. of days of delay [21-02-2021 to 20-04-2021]	127 days
Rate of interest	18%
Quantum of interest (rounded off) [Rs. 2,00,000 × 127 ÷365 ×18%]	12,526
Quantum of penalty payable (100% of tax) [Since the tax amount, along with the interest, paid after   30 days of communication of order, hence penalty shall be 100% of the tax.]	2,00,000

**(5 Marks)**

**ANS 4:**

According to Section 108 of the CGST Act, 2017, the Revisional Authority may, on his own motion, or upon information received by him, or on request from the SGST/UTGST Commissioner, call for and examine the record of any proceedings, and if he considers that any

decision or order passed under the Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue, and is illegal or improper, or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit, and after giving the person concerned an opportunity of being heard, and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

However, the Revisional Authority shall not exercise any power under this section, if the order has been subject to an appeal under Section 107 of the Act. In this case since the subject matter is pending in appeal before the Appellate authority, the Commissioner cannot exercise the power of revision under Section 108 of the Act. Thus, the action taken by the Commissioner is not valid as per the provisions of the CGST Act, 2017.

**(4 Marks)**

**ANS-5:**

**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 [WN-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	55,00,000
<b>(v) Maximum refund = [(Item (ii) + Item (iii)) ÷ Item (iv)] × Item (i)</b>	<b>81,818</b>

### Working Note:

**(1)** 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-

Particulars	Rs.	Rs.
(i) Taxable value of goods 'X' exported without payment of tax:		
<b>Lower of-</b>		
(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:		

<b>Lower of-</b>		
(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>

**(2) Adjusted Total Turnover [Circular No. 1470/03/2021 - GST dated 12-03-2021]:**

	<b>(Amount in Rs.)</b>
Turnover in State excluding turnover of Zero rated supply of goods and turnover of services	35,00,000
<b>Add:</b> Turnover of zero-rated supply of goods	10,00,000
<b>Add:</b> Value of Zero rated supply services and non-zero rated supply of services [Rs. 5,00,000 + Rs. 5,00,000]	10,00,000
<b>Adjusted Total Turnover</b>	<b>55,00,000</b>

**(7 Marks)**

**MCQ's**

**A-1: D**

**A-2: B**

**A-3: D**

**A-4: A**

**A-5: D**

**Explanation:** According to Section 61(3), in case no satisfactory explanation is furnished within a period of 30 days of being informed by the proper officer or such further period as may be permitted by him; or Where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may take recourse to any of the following provisions, namely:-

(a) proceed to conduct audit under Section 65 of the Act;

