TEST YOUR KNOWLEDGE

1. *Who is liable to pay GST?*
2. *What will happen if the deductor fails to issue TDS Certificate within the time prescribed?*
3. *Whether the rate of tax of 1% specified in section 52 is CGST or SGST or a combination of both CGST and SGST?*
4. *Explain matching concept for electronic commerce operator with suitable real life example?*
5. *What will be the availment of input tax credit in case of default in filing of return and payment of tax?*
6. *State whether Tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios -*
   (a) Titan sells watch on his own through its own website?
   (b) ABC limited who is dealer of Titan brand sells watches through flipkart, amazon etc.?

ANSWERS /HINTS

1. General rule - Supplier of goods or services is liable to pay GST.

   Specific circumstances –

   - Import supplies – Recipient of goods or services has to pay tax under reverse charge
   - The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies, of which shall be paid by the electronic commerce operator, if such services are supplied through it
   - TDS – If total value of supply under contract > ₹ 2.5 lakhs, then Central and State Government, Local authority, Government agencies is liable to deduct TDS and pay the same to the government
   - TCS - E-commerce operators are required to collect tax (TCS) on the aggregate value of supply reduced by returns in a month

2. As per section 51(4) of the CGST Act, 2017, if any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by

way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

3. The rate of TCS as specified in CGST Act, 2017 is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 2%.

4. As per section 52(8) of CGST Act, the details of outward supplies furnished by every operator for the month of tax collected shall be matched with the corresponding details of outward supplies furnished by concerned supplier.

   Example: PQR limited sold iphone 6S mobile via shopkart (e-commerce operator) to customers worth ₹ 55,60,000 for the month of November and some customers returned iphone worth ₹ 9,60,000, so net supply for the month of November would be ₹ (55,60,000-9,60,000) = ₹ 46,00,000.

   Now, as per section 52(4) of CGST Act, Shopkart will have to furnish statement, electronically, containing the net outward supply worth ₹ 46,00,000 up to 10th December which is to be matched with the details of outward supply furnished by PQR limited under section 39.

5. If there is default in payment of tax and filing of returns, input tax credit will become ineligible as per Section 16(2)(d) of the CGST Act, and interest will be calculated on gross tax payable.

6. Answers for both the scenarios is as follows:

   As per Section 52 of CGST Act, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of

   a. the Council, of the net value of taxable supplies made through it *by other suppliers* where the consideration with respect to such supplies is to be collected by the operator.

      Hence, if the person sells on his own, TCS won't be applicable.

   b. If ABC limited who is dealer of Titan brand sells watches through Flipkart, Amazon etc., then the provision of TCS will be applicable to flipkart, amazon.

TEST YOUR KNOWLEDGE

1. *How many types of electronic ledger are there?*
2. *What are the main features of GST payment process?*
3. *Explain the following terms in brief:*
   (a) *E-FPB*
   (b) *CPIN*
   (c) *CIN*
4. *Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?*
5. *Are principles of unjust enrichment applicable for payment made under GST?*
6. *State the name of output tax under GST, where any of the input tax credit under GST can be availed?*
7. *ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self assessed tax of Rs. 2,50,000 which was not paid.*

   Explain what are the implications for ABC limited as per relevant provisions?

ANSWERS/HINTS

1. (a) Electronic cash ledger
   (b) Electronic credit ledger
   (c) Electronic liability register
2. Refer para-Electronic Liability Register
3. Refer para-Electronic Cash Ledger
4. No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

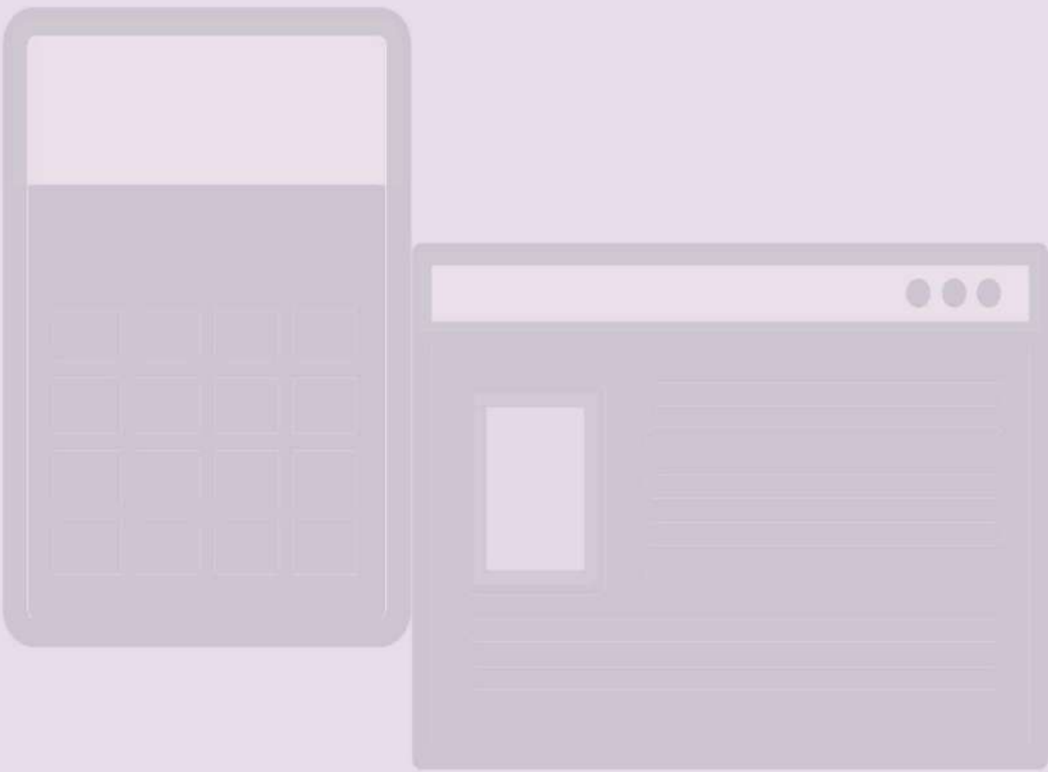
   As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

5. Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

6. IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

7. As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

   Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.



TEST YOUR KNOWLEDGE

1. *Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.*

2. *MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?*

3. *The aggregate turnover of Sangri Services Ltd. exceeded ₹20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.*

4. *Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advice him regarding same.*

5. *Discuss the provisions relating to issuance of refund voucher under CGST Act and rules thereunder.*

6. *Is a registered person liable to pay tax under reverse charge under section 9(3)/9(4) of the CGST Act required to issue an invoice? Discuss the relevant provisions under CGST Act and rules thereunder.*

7. *Discuss the provisions relating to issuance of credit and debit notes under CGST Act and rules thereunder.*

8. *What is the time period within which invoice has to be issued for supply of services?*

9. *What is the time period within which invoice has to be issued in a case involving continuous supply of goods?*

10. *What is the time period within which invoice has to be issued in a case involving continuous supply of services?*

11. *What is the time period within which invoice has to be issued where the goods being sent or taken on approval for sale?*

ANSWERS/HINTS

1. As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the invoice must be issued on or before 29th September.

2. Continuous supply of service means, *inter alia,* supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

   Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

   In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.

   Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

3. As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded ₹ 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

   As per section 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices. Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

4. A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with CGST Rules, 2017].

   Therefore, in the given case, Shyam Fabrics cannot issue tax invoice. Instead, it shall issue a Bill of Supply.

5. *Refer Para 3.*
6. *Refer Para 3.*
7. *Refer Para 4.*
8. *Refer Para 3.*
9. *Refer Para 3.*
10. *Refer Para 3.*
11. *Refer Para 3.*

TEST YOUR KNOWLEDGE

1. *Determine the effective date of registration in following cases:*

   (a) *The aggregate turnover of Dhampur Industries of Delhi has exceeded ₹ 20 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.*

   (b) *Mehta Teleservices is an internet service provider in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.*

2. *State the time-period within which registration needs to be obtained in each of the following independent cases:*

   (a) *Casual taxable person*

   (b) *Person making inter-State taxable supply*

3. *In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.*

4. *State which of the following suppliers are liable to be registered:*

   (a) *Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed ₹ 20 lakh during the financial year.*

   (b) *An agriculturist who is only engaged in supply of produce out of cultivation of land.*

5. *What are the advantage of taking registration in GST?*

6. *Can a person without GST registration collect GST and claim ITC?*

7. *If a person is operating in different States, with the same PAN number, can he operate with a single registration?*

8. *Can a person having multiple business verticals in a State obtain separate registrations for each business vertical?*

9. *Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?*

10. *Can the Department, through the proper officer, suo-moto proceed to register of a person?*

11. *Whether the registration granted to any person is permanent?*

12. *Is it necessary for the UN bodies to get registration under GST?*
13. *What is the responsibility of the taxable person making supplies to UN bodies?*
14. *What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?*
15. *What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?*
16. *Is there an option to take centralized registration for services under GST Law?*
17. *What could be the liabilities (in so far as registration is concerned) on transfer of a business?*
18. *At the time of registration, will the assessee have to declare all his places of business?*
19. *What will be the time limit for the decision on the on-line registration application?*
20. *What will be the time of response by the applicant if any query is raised in the online application?*
21. *Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?*

ANSWERS/HINTS

1. (a) Every supplier becomes liable to registration if his turnover exceeds ₹ 20 lakh [in a State/UT other than Special Category States] in a finacial year [Section 22]. Since in the given case, the turnover of Dhampur Industries exceeded ₹ 20 lakh on 1st September, it becomes liable to registration on said date.

   Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10 of the Chapter III - Registration of CGST Rules, 2017]. Therefore, the effective date of registration is 1st September.

   (b) Since in the given case, the turnover of Mehta Teleservices exceeds ₹ 20 lakh on 25th October, it becomes liable to registration on said date.

   Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

2. Section 25(1) of the CGST Act stipulates the time-period within which registration needs to be obtained in various cases. It provides the following time-limits:

In case of	registration needs to be obtained
a person who is liable to be registered under section 22 or section 24	within 30 days from the date on which he becomes liable to registration
a casual taxable person or a non-resident taxable person	at least 5 days prior to the commencement of business

In view of the aforesaid provisions:

(a) A casual taxable person must obtain registration at least 5 days prior to the commencement of its business.

(b) As per section 24 of the CGST Act, person making inter-State taxable supply is liable to get compulsorily registered. Therefore, such person must obtain registration within 30 days from the date on which he becomes liable to registration.

3. A Permanent Account Number is mandatory to be eligible for grant of registration. One exception to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

4. (a) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds ₹ 20 lakh in a State/UT [₹ 10 lakh in Special Category States] in a finacial year. However, as per section 24, a person supplying goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed ₹ 20 lakh during the financial year.

(b) As per section 23, an agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration.

5. Registration will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- Become eligible to avail various other benefits and privileges rendered under the GST laws.

6. No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.
7. No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and is liable to pay GST)
8. Yes. In terms of the proviso to sub-section (2) of section 25, a person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.
9. Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.
10. Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules, 2017.
11. Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.
12. Yes. In terms of section 25(9) of the CGST Act, all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal.

    The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

13. The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B) and the invoices of the same will be uploaded by the supplier.

14. In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

15. In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29(2)(e)].

16. No, the tax paper has to take separate registration in every State from where he makes taxable supplies.

17. The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

18. Yes. The principal place of business and place of business have been separately defined under section 2(89) & 2(85) of the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

19. If the information and the uploaded documents are found in order, the proper officer has to respond to the application within 3 common working days. If he communicates any deficiency or discrepancy in the application within such time, then the applicant will have to remove the discrepancy / deficiency within 7 days of such communication. Thereafter, for either approving the application or rejecting it, the proper officer has 7 days' time from the date when the taxable person communicates removal of deficiencies. In case no response is given by the proper officer within the said time line, the portal shall automatically generate the registration.

20. If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the

applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query/rectify the error/ answer the query within a period of 7 days from the date of receipt of deficiency intimation.

On receipt of additional document or clarification, the relevant tax authority will respond within 7 common working days from the date of receipt of clarification

21. Yes, as per section 29(5) of the CGST Act, every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher.

TEST YOUR KNOWLEDGE

1. *What is input tax?*

2. *What are the conditions necessary for obtaining ITC?*

3 *Can a person take ITC without payment of consideration for the supply along with tax to the supplier?*

4. *What is the time limit for taking ITC and reasons therefor?*

5. *What is the ITC entitlement of a newly registered person?*

6. *What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?*

7. *What happens where the details of inward supplies furnished by the recipient do not match with the outward supply details furnished by the supplier in his valid return?*

8. *A flying school imports an aircraft for use in its training activity, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that aircrafts fall within the definition of "conveyance" in section 2(34) of the Act and that ITC is not allowed on conveyances. Offer your comments.*

9. *A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?*

10. *A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.*

11. *A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory.*

    The turnover of the other products of the factory and exempted uniforms in July is ₹ 4 crore and ₹ 1 crore respectively, the ITC on thread and lining material procured in July is ₹ 5000 and ₹ 15000 respectively.

    Calculate the eligible ITC on thread and lining material.

12. *Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?*

13. *Genie Engineers had a mould delivered directly to a job worker from the supplier for making certain precision parts for use in the factory of Genie Engineers. As per agreement, the mould was to remain with the job worker as long as work was being sent to him.*

    After four years a departmental audit team that visited the job worker noticed the mould and traced it to Genie Engineers. GST was demanded from Genie Engineers for taking ITC without receiving the mould and furthermore for not bringing the mould back after three years of delivery to the job worker.

    How should they respond to this?

14. *Ceramity Ltd. has following units:*

    ***A:** Factory in Hassan, Karnataka; closed from 2017-18 onwards, no turnover.*

    ***B:** Factory in Tumkur, Karnataka; turnover of ₹ 27 crores in 2017-18;*

    ***C:** Service centre in Hyderabad, Telangana; turnover of ₹ 1 crore in 2017-18;*

    ***D:** Service centre in Chennai, Tamil Nadu; turnover of 2 crores in 2017-18;*

    Ceramity Ltd.'s corporate office functions as ISD. It has to distribute ITC of ₹ 9 lakh for December, 2018. Of this, an invoice involving tax of ₹ 3 lakh pertains to technical consultancy for Tumkur unit.

    What should be the distribution of the credit?

ANSWERS/HINTS

1. Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

2. Following four conditions are to be satisfied by the registered taxable person for obtaining ITC:

    (a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;

    (b) he has received the goods or services or both;

(c) the supplier has actually paid the tax charged in respect of the supply to the Government; and

(d) he has furnished the return under section 39.

3. Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

4. Refer point (vi) *"Time limit for availing ITC: Due date of filing return for the month of September of succeeding financial year or date of filing of annual return, whichever is earlier"* under Heading No. 3 *"Eligibility and Conditions for Taking Input Tax Credit [Section 16]"*.

5. A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

6. In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods, whichever is higher.

   However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

7. In case of mismatch, the communication is made to the both the parties. If the mismatch is not rectified, then the amount will be added to the output tax liability of recipient in the return for the month succeeding the month in which discrepancy is communicated.

8. Under section 17(5)(a)(i)(C) of the CGST Act, ITC is allowed on aircraft if they are used to make the taxable supply of imparting training on flying an aircraft. Therefore, the credit is correctly taken.

9. No. As per section 17(5)(a), ITC on motor vehicles can be availed only if the taxable person is in the business of transport of passengers or is providing the

services of imparting training on driving/flying/navigating motor vehicles or is in the business of supply of motor vehicles.

10. Under section 16(2) of the IGST Act, credit of input tax is allowed to be taken for inward supplies used to make zero rated supplies. Under section 17 of the CGST Act also, ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units are zero rated supplies in terms of section 16(1) of IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ.

11. Thread and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in terms of rule 43 of the CGST Rules, 2017.

    Credit attributable to exempt supplies = Common credit x (Exempt turnover/ Total turnover)

    Common credit = ₹ 15,000 + ₹ 5,000 = ₹ 20,000

    Exempt turnover = ₹ 1 crore

    Total turnover = ₹ 5 crore [₹ 1 crore + ₹ 4 crore]

    Credit attributable to exempt supplies = (₹ 1 crore /₹ 5 crore) x ₹ 20,000 = ₹ 4,000.

    Ineligible credit of ₹ 4,000 will be added to the output tax liability for the month of July. Credit of ₹ 16,000 will be eligible credit for the month of July.

12. Mr. A is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice [Section 18(1)(c)].

13. Genie Engineers should reply on the following lines:

    Under section 19(6) of CGST Act, the principal may take ITC on capital goods sent to a job worker for job work without being first brought to his place of business.

    The capital goods sent for job work should either be returned to the principal or must be supplied from the job worker's premises within 3 years from sending them to the job worker or direct receipt by the job worker from the supplier. If the above time-lines are not met, it is deemed that the capital goods were supplied by the principal to the job worker (in other words, tax will be payable on them) on the day they were sent out to the job worker [Section 19(6)].

However, sub-section (7) of section 19 provides that the time-limit of three years in sub-section (6) for bringing back the capital goods from the job worker does not apply to moulds.

Hence, Genie Engineers have correctly taken the ITC on moulds.

14. As per rule 39(d) of CGST Rules relating to ITC, -

- ₹ 3 lakh is attributable to Tumkur unit, and will be transferred to Tumkur unit only.
- Of the remaining ₹ 6 lakh, Hassan unit will not be entitled to any credit as ITC is distributed to only those recipients which supply goods and /or services.
- ₹ 6 lakh have to be distributed among Tumkur unit and the service centres in Hyderabad and Chennai in proportion of their turnover in the previous FY, that is, in 2017-18.
  - o Tumkur unit will get (27 crore / 30 crore) x 6 lakh = ₹ 5.4 lakh;
  - o Hyderabad service centre will get (1 crore /30 crore) x 6 lakh = ₹ 20,000; and
  - o Chennai service centre will get (2 crore /30 crore) x 6 Lakh = ₹ 40,000.

TEST YOUR KNOWLEDGE

1. *AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fess should not form part of the consideration for the sale as it is a separate activity.*

   Is his argument correct in the light of section 15?

2. *A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to ₹ 3 lakh a year compared to ₹ 5 lakh a year for other students.*

   What would be the taxable value of the service of coaching and instruction provided by the institution?

3. *Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.*

   The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

4. *Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.*

   Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

5. *Rajesh & Co. provides financial and management consultancy to a group of companies for an annual retainership fee of ₹ 15 lakh. It is given a room in the head office of the group for its exclusive use. Rajesh & Co. pays GST on the amount of ₹ 15 lakh.*

   Is the value for the service provided by Rajesh & Co., correct under GST laws? If not, please elaborate.

6. *Rare Polymers Private Ltd. was the only Indian company making and selling a polymer 'x' to companies, who used this as a raw material. However, the international*

prices of 'x' dropped, and the companies began to import it rather than buying from Rare Polymers.

The promoters then set up another company, which had a manufacturing unit that could use 'x', with common directors and senior management for better integration of functionality. Rare Polymers began to supply 'x' to this related concern at low margins. The related concern was not eligible for full ITC. GST was paid on the price charged.

Was the value adopted by Rare Polymers for supply of 'x' to its related concern, correct? Elaborate.

7. *The supplies of commodity 'y' to the market are channelled through a State Marketing Corporation which conducts an auction each day to arrive at the price. Gupta and Co. supplies commodity 'y' through the State Marketing Corporation.*

   How will this supply of 'y' by Gupta and Co. be valued for paying tax?

8. *Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of ₹ 900 but is redeemable for supplies worth ₹ 1000.*

   What is the value of supply of such coupon under GST laws?

9. *A pharmaceutical company supplies a drug intermediate to its own unit in another State for conversion into formulations. These supplies are taxable as per Schedule I of the CGST Act. The product is exclusive to this company, and there is no market sale in India of this drug intermediate.*

   How will the value of the supply of this drug intermediate be determined under GST laws?

ANSWERS/HINTS

1. Section 15(2) mandates the addition of certain elements to transaction value to arrive at taxable value. Clause (c) of section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services shall be included in taxable value.

   Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefor will be included in the taxable value. Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at taxable value of the consignment.

2. As per section 15(2)(e), the value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to ₹ 5 lakh a year.

3. This is a supply that is valued as per transaction value under section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The concept of transaction value has been expanded to include certain elements like interest which are actually payable. Once waived, the interest is not payable and is therefore, not to be added to transaction value.

4. The discounts were not known or agreed at the time of supply of goods to the dealers. Therefore, such discounts cannot be reduced from the price on which tax had been paid in terms of section 15(3).

5. Rajesh & Co. gets an office room free of cost, which is an additional non-monetary consideration for its services. The market value of the rent of the room must be added to the retainer fee (₹ 15 lakh) in order to arrive at the value of the taxable service provided by Rajesh & Co, as per rule 27 of the CGST Rules relating to valuation.

6. The value was not correct. The invoice value could not be the basis of valuation for a supply made to a related person if the recipient is not eligible for full ITC. Under rule 28(a) of the CGST Rules relating to valuation, the open market value of polymer 'x' should be the value of the taxable supply of 'x' to the related concern.

   In this particular case, the open market value is likely to be the price of imported 'x' plus customs duties, which should be adopted for valuation after excluding the component of IGST on import as per the definition of open market value in explanation (a) to the CGST Rules relating to valuation.

7. The State Marketing Corporation is an 'agent' in the meaning of the expression as defined in section 2(5), which includes an auctioneer. Therefore, the value of supply of 'y' will be determined in terms of rule 29 of CGST Rules relating to valuation.

   There is no open market for the first supply of commodity 'y', as it is compulsorily supplied to the State Marketing Corporation. Therefore, the choice before Gupta & Co. for valuing the supply of 'y' is between the open market value at which 'y' is sold by the State Marketing Corporation or 90% of price of goods of like kind and quality sold by the State Marketing Corporation to its unrelated customers.

If the value cannot be determined by either of the two methods, it needs to be determined on the basis of the cost plus 10% mark up as per rule 30 or on the basis of Best Judgement Method as per rule 31, in that order.

8. In terms of rule 32(6) of the CGST Rules relating to valuation, the value of a coupon is the money value of the goods redeemable against it. Therefore, though the coupon is sold for ₹ 900, its value is ₹ 1000.

9. Since the supply is made to a distinct person, the same will be valued in accordance with rule 28 of CGST Rules relating to valuation.

   There is no open market value of the drug intermediate as also there are no like goods. Therefore, value of supply of such drug intermediate will be determined in terms of clause (c) of rule 28 i.e., by using rule 30. Thus, the value of supply of such drug intermediate will be 110% of its cost of production or manufacture.

   However, if the recipient unit is eligible for full ITC, the value declared in the invoice will be deemed to be the open market value of the drug intermediate and thus, the invoice value will be the value of taxable supply.

TEST YOUR KNOWLEDGE

1. *Determine the time of supply in the following cases assuming that GST is payable under reverse charge:*

S. No.	***Date of receipt of goods***	***Date of payment by recipient of goods***	***Date of issue of invoice by supplier of goods***
	(1)	***(2)***	***(3)***
(i)	*July 1*	*August 10*	*June 29*
(ii)	*July 1*	*June 25*	*June 29*
(iii)	*July 1*	*Part payment made on June 30 and balance amount paid on July 20*	*June 29*
(iv)	*July 5*	*Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30*	*June 1*
(v)	*July 1*	*Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26*	*June 29*
(vi)	*August 1*	*August 10*	*June 29*

2. *Determine the time of supply in the following cases assuming that GST is payable under reverse charge:*

S. No.	***Date of payment by recipient for supply of services***	***Date of issue of invoice by supplier of services***
	(1)	***(2)***
(i)	*August 10*	*June 29*
(ii)	*August 10*	*June 1*

(iii)	*Part payment made on June 30 and balance amount paid on September 1*	*June 29*
(iv)	*Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30*	*June 1*
(v)	*Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26*	*June 29*

3. *Determine the time of supply in the following cases assuming that rate of GST changes from 18% to 20% w.e.f. June 1:*

<table>
<tr><th>S. No.</th><th>Date of supply of goods or services</th><th>Date of issue of invoice</th><th>Date of receipt of payment</th></tr>
<tr><td>(i)</td><td rowspan="3">May 28</td><td>June 9</td><td>July 25</td></tr>
<tr><td>(ii)</td><td>May 28</td><td>July 25</td></tr>
<tr><td>(iii)</td><td>June 9</td><td>May 26</td></tr>
<tr><td>(iv)</td><td rowspan="3">June 10</td><td>May 28</td><td>June 25</td></tr>
<tr><td>(v)</td><td>May 28</td><td>May 16</td></tr>
<tr><td>(vi)</td><td>June 9</td><td>May 28</td></tr>
</table>

4. *Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e., 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July.*

What is the time of supply of the transporter's service?

Note: Transporter's service is taxed on reverse charge basis.

5. *Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.*

   When is the time of supply of service?

6. *Investigation shows that 150 cartons of ceramic capacitors were despatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment.*

   What is the time of supply of the 150 cartons?

7. *An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and hands over the payment on the same date, which is entered in the accounts on the next day, 8th December.*

   What is the time of supply of the shoes?

8. *Sodexo meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months.*

   What is the date of supply of the coupons?

9. *A firm of lawyers issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November.*

   Identify the time of supply of the legal services.

   Note: Legal services are taxable on reverse charge basis.

10. *Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December.*

    What is the method to fix the time of supply of the service?

11. *An income-tax and money laundering case against Mr. XYZ, working in a multi-national company, reveals a large volume of undisclosed assets, which he claims as service income. On this basis, the GST authorities investigate the GST liability. Dates of provision of service, whether in the first half or the second half of the financial year being scrutinised by income-tax authorities, are not known. Mr. XYZ voluntarily pays GST during the investigation.*

    What is the time of supply of the services?

12. *I buy a set of modular furniture from a retail store. Invoice is issued to me and I make the payment. The furniture is to be delivered to me later in the week when a technician is available to assemble and install it. The next day the rate of tax applicable to modular furniture is revised upward, and the store sends me a supplementary invoice with the delivery note accompanying the furniture to collect the differential amount of tax.*

    Is this correct on store's part?

13. *An online portal, Best Info, raises invoice for database access on 21st February on Roy & Bansal Ltd. The payment is made by Roy & Bansal Ltd. by a demand draft sent on 25th February, which is received and entered in the accounts of Best Info on 28th February. Best Info encashes the demand draft and thereafter, gives access to the database to Roy & Bansal Ltd from 3rd March. In the meanwhile, the rate of tax is changed from 1st March 2017.*

    What is the time of supply of the service of database access by Best Info?

ANSWERS/HINTS

1.

S. No.	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods	Date immediately following 30 days from date of invoice	Time of supply of goods [Earlier of (1), (2) & (4)]
	(1)	**(2)**	**(3)**	**(4)**	**(5)**
(i)	July 1	August 10	June 29	July 30	**July 1**
(ii)	July 1	June 25	June 29	July 30	**June 25**
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	**June 30 for part payment made and July 1 for balance amount**
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	July 2	**June 28 (i.e., when payment is entered in the books of account of the recipient)**
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	**June 26 (i.e., when payment is debited in the recipient's bank account)**

(vi)	August 1	August 10	June 29	July 30	**July 30 (i.e., 31st day from issuance of invoice)**

2.

S. No.	**Date of payment by recipient for supply of services**	**Date of issue of invoice by supplier of services**	**Date immediately following 60 days from invoice**	**Time of supply of goods [Earlier of (1) & (3)]**
	(1)	**(2)**	**(3)**	
(i)	August 10	June 29	August 29	**August 10**
(ii)	August 10	June 1	August 1	**August 1**
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29	August 29	**June 30 for part payment and August 29 for balance amount**
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	**June 28 (i.e. when payment is entered in the books of account of the recipient)**

(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	**June 26 (i.e. when payment is debited in the recipient's bank account)**

3..

S. No.	**Date of supply of goods or services**	**Date of issue of invoice**	**Date of receipt of payment**	**Time of supply**	**Applicable rate**
(i)	May 28	June 9	July 25	**June 9**	20%
(ii)		May 28	July 25	**May 28**	18%
(iii)		June 9	May 26	**May 26**	18%
(iv)	June 10	May 28	June 25	**June 25**	20%
(v)		May 28	May 16	**May 16**	18%
(vi)		June 9	May 28	**June 9**	20%

4. Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of section 13(3):

- Date of payment
- 61st day from the date of issue of invoice

In this case, the date of payment precedes 61st day from the date of issue of invoice by the supplier of service. Hence, the date of payment, that is 17th June, will be treated as the time of supply of service [Section 13(3)(a)].

5. Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

   - Date of provision of service
   - Date of receipt of payment

   The payment was received on 5th January and the service was provided on 23rd April. Therefore, the date of payment, i.e., 5th January is the time of supply of the service in this case.

6. Time of supply of goods is the earlier of the following two dates in terms of section 12(2):

   - Date of issue of invoice/last date on which the invoice is required to be issued
   - Date of receipt of payment

   In this case since the invoice has not been issued, the time of supply will be the last date on which the invoice is required to be issued or date of receipt of payment, whichever is earlier.

   The invoice for supply of goods must be issued on or before the despatch of goods i.e., on 2nd August. Since there is no evidence of receipt of payment, time of supply of the goods will be 2nd August, the date when the invoice should have been issued.

7. Time of supply of goods is the earlier of the following two dates in terms of section 12(2):

   - Date of issue of invoice/last date on which the invoice is required to be issued
   - Date of receipt of payment

   In this case,

   Date of invoice: 2nd December

   Date of actual receipt of payment: 7th December.

   Date of recording payment in books of account : 8th December.

   Therefore, the date of receipt of payment will be 7th December (earlier of two dates namely, date of recording the payment in books of account and date of crediting of payment in bank account). However, as the invoice date is earlier than date of payment, the time of supply will be 2nd December.

8. As the coupons can be used for a variety of food items, which are taxed at different rates, the supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).

9. Time of supply of services that are taxable under reverse charge is earliest of the following two dates in terms of section 13(3):

   - Date of payment [3rd November]
   - 61st day from the date of issue of invoice [19th April]

   The date of payment comes subsequent to the 61st day from the issue of invoice by the supplier of service. Therefore, the 61st day from supplier's invoice has to be taken as the time of supply. This fixes 19th April as the time of supply.

10. The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2)(b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit. Therefore, the date of provision of service, i.e., 5th September, will be the time of supply.

11. Where it is not possible to determine the time of supply in terms of date of invoice or date of provision of service or date of receipt of payment or date of receipt of services in the books of account of the recipient, and where periodical return is not to be filed (Mr. XYZ, being an employee in a multi-national company, is not a registered person), the date of payment of tax is taken as the time of supply [Section 13(5)(b)].

    Therefore, the date when Mr. XYZ pays the GST will be the time of supply.

12. No the store is not correct in issuing supplementary invoice with revised rate of tax. The revised rate of tax is not applicable to the transaction, as the issuance of invoice as well as receipt of payment occurred before the supply. Therefore, in terms of section 14(b)(ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate of tax remains applicable.

13. As issuance of invoice and receipt of payment (entry of the payment in Best Info's accounts) occurred before the change in rate of tax, the time of supply of service by the online portal is earlier of the date of issuance of invoice (21st February) or date of receipt of payment (28th February) i.e., 21st February. This would be so even though the service commences after the change in rate of tax [Section 14(b)(ii)].

TEST YOUR KNOWLEDGE

1. *What is the place of supply where goods are removed?*
2. *What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?*
3. *What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?*
4. *The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.*

   What will be the place of supply of construction services?
5. *What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?*
6. *What is the place of supply of goods services by way of transportation of goods, including mail or courier?*
7. *What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?*
8. *What is the place of supply for mobile connection? Can it be the location of supplier?*
9. *A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali.*

   What is the place of supply?
10. *An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai.*

    What is the place of supply of insurance services?

ANSWERS/HINTS

1. As per section 10 (1)(a) of the IGST Act, the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

2. As per section 10(1)(b) of the IGST Act, it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.

3. As per section 10(1)(e) of the IGST Act, in respect of goods, the place of supply is the location at which such goods are taken on board.

   However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of sections 12(10) and 13(11) of the IGST Act.

4. Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf [Explanation to section 12(3) of the IGST Act, for domestic supplies].

5. In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person.

   However, if the recipient is not registered, the place of supply is the place where event is held. Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be taken as being in each state in proportion to the value of services so provided in each state [Explanation to section 12(7) of the IGST Act].

6. **In case of domestic supply**

   If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation [Section 12(8) of the IGST Act].

   In case of international supply

   The place of supply of transport services, other than the courier services, is the destination of goods. For courier, the place of supply of services is where goods are handed over to courier. However, if the courier services are performed even partially in India, the place of supply is deemed as India [Section 13(2), 13(6) and 13(9) of the IGST Act].

7. If the person is registered, the place of supply will be the location of recipient. If the person is not registered, the place of supply for the forward journey from

Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9) of IGST Act].

However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9) of the IGST Act].

8. **For domestic supplies**

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of service.

In case of pre-paid connections, the place of supply is the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e-payment, the location of recipient of service on record will be the taken as the place of service.

For international supplies

The place of supply of telecom services is the location of the recipient of service.

9. If the service is not linked to the account of person, place of supply will be Kullu i.e., the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply will be Mumbai, the location of recipient on the records of the supplier.

10. When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13) of the IGST Act].

TEST YOUR KNOWLEDGE

1. *An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?*

2. *RXL Pvt. Ltd. manufactures beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth ₹ 1,20,000 will be donated to a charitable organization.*

   Whether Ms. Ahana Kapoor will be required to pay any GST?

3. *Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:*

Particulars	**Gross amount charged (₹)**
Fees charged for yoga camp conducted by a charitable trust	*50,000*
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	*1,00,000*
Amount charged by cord blood bank for preservation of stem cells	*5,00,000*
Amount charged for service provided by commentator to a recognized sports body	*5,20,000*

4. *Examine whether GST is exempted on the following independent supplies of services:*

   (i) Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.

   (ii) Services provided by way of vehicle parking to general public in a shopping mall.

5. *Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:*

Customer	***Nature of services provided***	***Amount charged***
A	*Transportation of milk*	*₹ 20,000*
B	*Transportation of books on a consignment transported in a single goods carriage*	*₹ 3,000*
C	*Transportation of chairs for a single consignee in the goods carriage*	*₹ 600*

6. *When exemption from whole of tax collected on goods or services or both has been granted absolutely, can a person pay tax?*

ANSWERS/HINTS

1. Services provided to a recognized sports body by an individual *inter alia* as a referee in a sporting event organized by a recognized sports body is exempt from GST.

   Since in the first case, the football match is organized by Sports Authority of India, which is a recognized sports body, services provided by the individual as a referee in such football match will be exempt.

   However, when he acts as a referee in a charity football match organized by a local sports club, he would not be entitled to afore-mentioned exemption as a local sports club is not a recognized sports body and thus, GST will be payable in this case.

2. Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

   Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

3. **Computation of value of taxable supply**

Particulars	(₹)
Fees charged for yoga camp conducted by a charitable trust [Note-1]	Nil
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-3]	Nil
Service provided by commentator to a recognized sports body [Note-4]	5,20,000

Notes:

1. Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
2. Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
3. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from GST.
4. Services provided to a recognized sports body only by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST. Thus, services provided by commentators are liable to GST.

4. (i) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.

(ii) No. Services provided by way of vehicle parking to general public are not exempted from GST. Therefore, GST is payable on the same.

5.

Customer	Nature of services provided	Amount charged	Taxability
A	Transportation of milk	₹ 20,000	Exempt. Transportation of milk by goods transport agency is exempt.
B	Transportation of books on a consignment transported in a single goods carriage	₹ 3,000	GST is payable. Exemption is available for transportation of goods only where the consideration for transportation of goods on a consignment transported in a single goods carriage does not exceed ₹ 1,500.
C	Transportation of chairs for a single consignee in the goods carriage	₹ 600	Exempt. Transportation of goods where consideration for transportation of all goods for a single consignee does not exceed ₹ 750 is exempt.

6. No, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

TEST YOUR KNOWLEDGE

1. *State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:*

   (a) Services provided by an arbitral tribunal to any business entity.

   (b) Sponsorship services provided by a company to an individual.

   (c) Renting of immovable property service provided by the Central Government to a business entity.

2. *Can any person other than the supplier or recipient be liable to pay tax under GST?*

3. *A person availing composition scheme in Haryana during a financial year crosses the turnover of ₹ 75 lakh during the course of the year i.e. he crosses the turnover of ₹ 75 lakh in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?*

4. *A hotel owner provided accommodation in Haryana, through an electronic commerce operator – Cool Trips. The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act.*

   Who is the person liable to pay GST in this case?

   Would your answer be different if the Electronic Commerce Operator Cool Trips does not have a physical presence in India?

5. *Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed ₹ 75 lakh:*

   (i) Mohan is engaged in providing legal services in Rajasthan and is registered in the same State.

   (ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

6. *Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was ₹ 70 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advice Mohan Enterpises whether he can do so?*

ANSWERS/HINTS

1. (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.

   (b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.

   (c) GST on services provided or agreed to be provided by the Central Government, State Government, Union Territory, or local authority to any business entity located in the taxable territory is payable under reverse charge. However, renting of immovable property service is an exception to it. Therefore, in the given case, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – Central Government.

2. Yes, the Government can specify categories of services the tax on which shall be paid by the Electronic Commerce Operator, if such services are supplied through it and all the provisions of the GST law shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

   For this purpose, services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle and services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration, supplied through ECO have been notified.

3. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (₹ 75 lakh). He is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days from the day on which the threshold limit has been crossed.

4. Government may notify [on the recommendations of the GST Council] specific categories of services the tax on intra-State supplies of which shall

be paid by the electronic commerce operator if such services are supplied through it. Services by way of providing accommodation in hotels through electronic commerce operator is a specified service for said purpose.

Thus, person liable to pay GST in this case is the Electronic Commerce Operator Cool Trips. All the provisions of the GST law shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Electronic Commerce Operator -Cool Trips for any purpose in India.

5. (i) A supplier of services engaged in the supplies other than the supplies referred to in clause (b) of paragraph 6 of Schedule II of CGST Act i.e. supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, is not eligible for composition levy. Since Mohan provides legal services, he is not eligible for composition scheme.

   (ii) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.

16. A registered person with an aggregate turnover in a preceding financial year up to ₹ 75 lakh is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed ₹ 75 lakh, it is eligible for composition levy in the current year.

    However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Mohan Enterprises either have to opt for composition levy for both the verticals or under normal levy for both the verticals.

TEST YOUR KNOWLEDGE

1. *Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.*
2. *Discuss how GST resolved the double taxation dichotomy under previous indirect tax laws.*
3. *Enumerate the deficiencies of the existing indirect taxes which led to the need for ushering into GST regime.*
4. *Discuss the dual GST model introduced in India.*
5. *List the Central and State levies which will be subsumed in GST in India.*

ANSWERS/HINTS

1. Refer Para 6.
2. Refer Para 3.
3. Refer Para 3.
4. Refer Para 4.
5. Refer Para 4.

TEST YOUR KNOWLEDGE

1. *Under what circumstances can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?*
2. *What happens when the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period?*
3. *Who is responsible for the maintenance of proper accounts related to job work?*
4. *Shall a manufacturer or a job worker become liable to pay tax if the inputs or semi-finished goods sent for job work under the earlier law are returned after completion of job work after the appointed day?*
5. *When tax shall become payable in GST on manufactured goods sent to a Job worker for carrying out tests or any other process not amounting to manufacture under the earlier law?*

ANSWERS/ HINTS

1. The goods can be supplied directly from the place of business of job worker without declaring it as additional place of business in two circumstances namely where the job worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified by the Commissioner.
2. If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it would be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out by the principal (or on the date of receipt by the job worker where the inputs or capital goods were sent directly to the place of business of job worker). Thus the principal would be liable to pay tax accordingly.
3. It is completely the responsibility of the principal to maintain proper accounts of job work related inputs and capital goods.
4. No tax will be payable by the manufacturer or the job worker under the following circumstances: –
   (i) Inputs/ semi-finished goods are sent to the job worker in accordance with the provisions of the earlier law before the appointed day.

(ii) The job worker returns the same within six months from the appointed day (or within the extended period of maximum two months).

(iii) Both the manufacturer and the job worker declare the details of inputs held in stock by the job worker on the appointed day in the prescribed form.

The relevant sections are 141(1), 141(2) & 141 (4).

However, if the said inputs/semi- finished goods are not returned within six months (or within the extended period of maximum two months), the input tax credit availed is liable to be recovered.

5. Tax will be payable in GST on manufactured goods sent to a job worker prior to the appointed day for carrying out tests or any process not amounting to manufacture under the earlier law if such goods are not returned to the manufacturer within six months (or within the extended period of maximum two months) from the appointed day. Further, the input tax credit enjoyed by the manufacturer will liable to be recovered if the aforesaid goods are not returned within six months from the appointed day. – Section 141(3)

TEST OF KNOWLEDGE

1. *List the persons entitled to refund under section 55 of the CGST Act, 2017.*
2. *Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2) of the CGST Act, 2017.*
3. *Royal Industries wishes to claim refund of ITC accumulated on account of inverted duty structure. Can it do so? If yes, specify the time-limit within which the refund can be claimed by Royal Industries as provided under the CGST Act.*

   Note: Output supplies of Royal Industries are not nil rated/fully exempt supplies.
4. *A taxable person has mistakenly paid CGST and SGST for an inter-State supply. Subsequently, when he discovers the same, can he adjust the IGST liability against the wrongly paid CGST and SGST?*
5. *State the exceptions to the principle of unjust enrichment as applicable to refund claims.*

ANSWER / HINTS

1. Government may, on the recommendations of the Council, by notification, specify:

   (i) any specialised agency of the United Nations Organisation; or

   (ii) any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947; or

   (iii) Consulate or Embassy of foreign countries; and

   (iv) any other person or class of persons as may be specified in this behalf,

   who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified inward supplies of goods or services or both received by them [Section 55 of the CGST Act].
2. The amount of advance tax deposited by a casual taxable under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39 [Section 54(13)].

   Further, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him [Fourth proviso to rule 89(1)].

3. 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 Council, refund of the unutilized ITC is allowed [First proviso to section 54(3)]. Thus, in the given case, Royal Industries is entitled to refund.

   Further, a person claiming refund is required to file an application before the expiry of 2 years from the relevant date. The term 'relevant date' as explained in the Explanation to section 54 of the CGST Act, *inter alia*, stipulates that in case of refund of unutilized ITC on account of inverted duty structure is relevant date is the end of the financial year in which such claim for refund arises.

4. Section 77, *inter alia,* stipulates that a registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

   The IGST liability cannot be adjusted against the CGST and SGST wrongly paid.

5. The principle of unjust enrichment is applicable in all cases of refund except in the following cases:-

   i. Refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies.

   ii. Unutilized input tax credit in respect of (i) zero rated supplies made without payment of tax or, (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.

   iii. refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued.

   iv. refund of tax in pursuance of section 77 of CGST/SGST Act i.e. tax wrongfully collected and paid to Central Government or State Government.

   v. if the incidence of tax or interest paid has not been passed on to any other person.

   vi. such other class of persons who has borne the incidence of tax as the Government may notify.

TEST YOUR KNOWLEDGE

1. *What are the key features of return mechanism in GST?*
2. *What kind of inward supplies are required to be furnished in GSTR-2?*
3. *Can a recipient feed information in his GSTR-2 which has been missed by the supplier?*
4. *Mr. X, a composition tax payer, did not render any taxable supply during the quarter July-September. Is he required to file any goods and service tax return?*
5. *If a return has been filed, how can it be revised if some changes are required to be made?*
6. *Mr. A, a regular taxpayer, files his GSTR-1, GSTR-2 and GSTR-3 for the month of August, 2017 by the respective due dates. Mr. A receives a communication from the GST common portal on 28th September, 2017 that ITC of ₹ 15,000 claimed by him is in excess of the tax declared by Mr. B (supplier concerned) in his valid tax return. Mr. B has filed his Annual Return for financial year 2017-18 on 10th November, 2018.*

   Answer the following questions:

   (i) When is Mr. B required to rectify the discrepancy? Is there any maximum time limit beyond which the discrepancy cannot be rectified?

   (ii) What will happen if Mr. B does not rectify the discrepancy?
7. *Mr. Y, a registered person, has filed its GSTR-3 for the month of September on 19th November. Determine the amount of late fee payable, if any, by Mr. Y.*
8. *Which type of taxpayers need to file Annual Return?*
9. *Is an Annual Return and a Final Return one and the same?*
10. *Do Input Service Distributors (ISDs) need to file separate statement of outward and inward supplies with their return?*
11. *How does a taxpayer get the credit of the tax deducted at source on his behalf? Does he need to produce TDS certificate from the deductee to get the credit?*
12. *Is it compulsory for a taxpayer to file return by himself?*

ANSWERS/HINTS

1. The basic features of the return mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to ITC from returns of supplier to that of recipient, invoice-level information matching and auto-reversal of ITC in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

2. The details of inward supplies of goods or services or both furnished in GSTR-2 include the -

   (a) invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons including supplies taxable under reverse charge;

   (b) import of goods and services made; and

   (c) debit and credit notes, if any, received by the registered person from suppliers in respect of above supplies

3. Yes, the recipient can himself feed the invoices not uploaded by his supplier. The credit on such invoices will also be given provisionally but will be subject to matching. On matching, if the invoice is not uploaded by the supplier, both of them will be intimated. If the mismatch is rectified, provisional credit will be confirmed. But if the mismatch continues, the amount will be added to the output tax liability of the recipient in the returns for the month subsequent to the month in which such discrepancy was communicated.

4. Composition tax payer is required to furnish return u/s 39 for every quarter even if no supplies have been effected during such period. In other words, filing of Nil return is also mandatory.

   Therefore, Mr. X is required to file quarterly return even if he did not render any taxable supply during the quarter July-September.

5. In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1/2 in the tables specifically provided for the purposes of amending previously declared details.

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in "Amendment Tables" contained in GSTR-1 and GSTR-2.

6. (i) Mr. B can rectify the discrepancy in valid GSTR-3 for the month of September, 2017 in terms of section 42(5).

   As per section 39(9), the maximum time limit for the rectification of the discrepancy is the earlier of the following two dates:

   (a) Due date of filing of return for the month of September following the end of the financial year 2017-18 [i.e., 20th October, 2018]

   or

   (b) Actual date of filing of the relevant annual return i.e., 10th November, 2018.

   Thus, Mr. B cannot rectify the discrepancy beyond 20th October, 2018.

   (ii) If Mr. B does not rectify the discrepancy in his valid return for September, 2017, the excess ITC claimed by Mr. A will be added in the output tax liability of Mr. A in his GSTR-3 for the month of October, 2017. If Mr. B does not rectify the discrepancy by 20th October, 2018, Mr. A will never be able to reclaim ITC of ₹ 15,000.

7. As per section 47, any registered person who fails to furnish, *inter alia*, the returns required under section 39 by the due date is required to pay a late fee of ₹ 100 for every day during which such failure continues subject to a maximum amount ₹ 5,000.

   Due date of filing GSTR-3 for a month is 20th day of the succeeding month. Thus, there is a delay of 30 days [11 + 19] by Mr. Y in filing of GSTR-3 for the month of September. Hence, late fee of ₹ 3,000 (₹ 100 x 30) will be payable by Mr. Y.

8. All taxpayers filing return in GSTR-1 to GSTR-3, other than ISD's, casual/non-resident taxpayers, taxpayers under composition scheme, TDS/TCS deductors, are required to file an annual return. Casual tax payers, non-resident

taxpayers, ISDs and persons authorized to deduct/collect tax at source are not required to file annual return.

9. No. Annual Return has to be filed by every registered person paying tax as a normal taxpayer. Final Return has to be filed only by those registered persons who have applied for cancellation of registration. The Final return has to be filed within three months of the date of cancellation or the date of cancellation order.

10. No, the ISDs need to file only a return in Form GSTR-6 and the return has the details of credit received by them from the service provider and the credit distributed by them to the recipient units. Since their return itself covers these aspects, there is no requirement to file separate statement of inward and outward supplies.

11. Under GST, the deductor will be submitting the deductee wise details of all the deductions made by him in his return in Form GSTR-7 to be filed by 10th of the month next to the month in which deductions were made. The details of the deductions as uploaded by the deductor shall be auto populated in the GSTR-2 of the deductee.

    The taxpayer shall be required to confirm these details in his GSTR-2 to avail the credit for deductions made on his behalf. To avail this credit, he does not require to produce any certificate in physical or electronic form. The certificate will only be for record keeping of the taxpayer and can be downloaded from the Common Portal.

12. No. A registered taxpayer can also get his return filed through a Goods and Services Tax Practitioner.

TEST YOUR KNOWLEDGE

1. *Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth ₹ 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017.*
2. *Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74 of the CGST Act, 2017.*
3. *Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017? If yes, discuss the same.*
4. *A person is chargeable with tax in case of fraud. He decides to pay the amount of demand alongwith interest before issue of notice. Is there any immunity available to such person?*
5. *Briefly discuss the modes of recovery of tax available to the proper officer.*

ANSWERS/HINTS

1. It is mandatory to pay amount, collected from other person representing tax under GST law, to the Government. Every person who has collected from any other person any amount as representing the tax under GST law, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

   For any such amount not so paid, proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice.

   The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined alongwith interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

2. The provisions relating to 'relevant date' as contained in CGST Act, 2017 are as under:

   (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 2 years and 9 months from the due date of filing Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.

   (ii) In case of section 74 (cases involving fraud/suppression of facts/willful misstatement), the time-limit for issuance of SCN is 4 years and 6 months from the due date of filing of Annual Return for the Financial Year to which the demand pertains or from the date of erroneous refund.

3. The provisions relating to time-limit for adjudication of cases as contained in section 73 and 74 of the CGST Act, 2017 are as under:

   (i) In case of section 73 (cases other than fraud/suppression of facts/willful misstatement), the time limit for adjudication of cases is 3 years from the due date for filing of annual return for the financial year to which demand relates to [Section 73(10)].

   (ii) In case of section 74 (cases of fraud/suppression of facts/willful misstatement), the time limit for adjudication is 5 years from the due date for filing of annual return for the financial year to which demand relates to [Section 74(10)].

4. Yes. Person chargeable with tax, shall have an option to pay the amount of tax along with interest and penalty equal to 15% per cent of the tax involved, as ascertained either on his own or ascertained by the proper officer, and on such payment, no notice shall be issued with respect to the tax so paid [Section 74(6)].

5. The proper officer may recover the dues in following manner:

   (a) Deduction of dues from the amount owned by the tax authorities payable to such person.

   (b) Recovery by way of detaining and selling any goods belonging to such person;

   (c) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;

(d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.

(e) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.

(f) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.

(g) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.

(h) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

TEST YOUR KNOWLEDGE

1. *Who can order for carrying out "Inspection" and under what circumstances? Can any premises be inspected by CGST officers?*
2. *Who can order for search and seizure under the provisions of CGST Act?*
3. *What powers can be exercised by an officer during valid search?*
4. *What are the duties of the person to whom summons has been issued?*
5. *What is meant by the term "arrest"? When can the proper officer authorize 'arrest' of any person under CGST Act?*

ANSWERS/ HINTS

1. Refer Para -2
2. Refer Para -2
3. Refer Para -2
4. Refer Para -5
5. Refer Para - 4

TEST YOUR KNOWLEDGE

1. *Is summary assessment order to be necessarily passed against the taxable person?*
2. *Whether principal of natural justice is must to be followed before passing assessment order against the taxable person?*
3. *In what cases, assessment order passed by proper officer may be withdrawn?*
4. *What recourse may be taken by the officer in case proper explanation is not furnished for the discrepancy detected in the return filed, while conducting scrutiny under section 61 of CGST ACT?*
5. *Who can conduct audit of taxpayers?*

ANSWERS/HINTS

1. No. In certain cases, like when goods are under transportation or are stored in a warehouse, and the taxable person in respect of such goods cannot be ascertained, the person in charge of such goods shall be deemed to be the taxable person and will be assessed to tax.
2. Yes, principal of natural justice is must to be followed before passing assessment order against the taxable person seeking to impose any financial burden on him.
3. Assessment Order passed by proper officer may be withdrawn in the following cases:-

   (i) **Assessment of Non-filers of return** – The best judgment order passed by the Proper Officer under section 62 of CGST Act shall automatically stand withdrawn if the taxable person furnishes a valid return for the default period (i.e. files the return and pays the tax as assessed by him), within thirty days of the receipt of the best judgment assessment order

   (ii) **Summary Assessment** – A taxable person against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/Joint Commissioner within thirty days of the date of receipt of the order. If the said officer finds the order erroneous, he can withdraw it and direct the proper officer to carry out determination of tax liability in terms of section 73 or 74 of CGST Act. The Additional/Joint

Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

4. If the taxable person does not provide a satisfactory explanation within 30 days of being informed (extendable by the officer concerned) or after accepting discrepancies, fails to take corrective action in the return for the month in which the discrepancy is accepted, the Proper Officer may take recourse to any of the following provisions:

   (a) Proceed to conduct audit under section 65 of the Act;

   (b) Direct the conduct of a special audit under section 66 which is to be conducted by a Chartered Accountant or a Cost Accountant nominated for this purpose by the Commissioner; or

   (c) Undertake procedures of inspection, search and seizure under section 67 of the Act; or

   (d) Initiate proceeding for determination of tax and other dues under Section 73 or 74 of the Act.

5. There are three types of audit prescribed in the GST Act(s) as explained below:

   (a) **Audit by Chartered Accountant or a Cost Accountant:** Every registered person whose turnover exceeds the prescribed limit, shall get his accounts audited by a chartered accountant or a cost accountant. (Section 35(5) of the CGST Act)

   (b) **Audit by Department:** The Commissioner or any officer of CGST or SGST or UTGST authorized by him by a general or specific order, may conduct audit of any registered person. The frequency and manner of audit will be prescribed in due course. (Section 65 of the CGST Act)

   (c) **Special Audit:** If at any stage of scrutiny, inquiry, investigations or any other proceedings, if department is of the opinion that the value has not been correctly declared or credit availed is not with in the normal limits, department may order special audit by chartered accountant or cost accountant, nominated by department. (Section 66 of the CGST Act)

TEST YOUR KNOWLEDGE

1. *Is it mandatory for e-commerce operator to obtain registration?*
2. *Whether a supplier of goods or services supplying through e-commerce operator would be entitled to threshold exemption?*
3. *Will an e-commerce operator be liable to pay tax in respect of supply of goods or services made through it, instead of actual supplier?*
4. *Will threshold exemption be available to electronic commerce operators liable to pay tax on notified services?*
5. *Is every e-commerce operator required to collect tax on behalf of actual supplier?*

ANSWERS /HINTS

1. Yes. The benefit of threshold exemption is not available to e-commerce operators and they would be liable to be registered irrespective of the value of supply made by them.
2. No. The threshold exemption is not available to such suppliers and they would be liable to be registered irrespective of the value of supply made by them. This requirement, however, is applicable only if the supply is made through such electronic commerce operator who is required to collect tax at source.
3. Yes, but only in case of certain notified services. In such cases tax shall be paid by the electronic commerce operator if such services are supplied through it and all the provisions of the Act shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.
4. No. Threshold exemption is not available to e- commerce operator who are require to pay tax on notified services provided through them.
5. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

TEST YOUR KNOWLEDGE

1. *How shall the GST compliance rating score be determined?*
2. *When shall the power to collect statistics be exercised under GST laws?*
3. *When shall the particulars relating to any proceedings or prosecution be published under GST laws?*
4. *Explain the provisions relating to rectification of errors apparent on the face of record under section 161 of the CGST Act, 2017?*
5. *What is Anti-profiteering measure?*

ANSWERS/HINTS

1. As per section 149(2), the GST compliance rating score shall be determined on a scale of ten on the basis of prescribed parameters.
2. As per section 151, if the Commissioner considers that collection of statistics is necessary for the purpose of better administration of the Act, he may direct that statistics be collected.
3. When the Commissioner/authorised officer is of opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under the CGST Act in respect of such person, it may cause to be published such name and particulars [Section 159(1)]

   No publication under this section shall be made in relation to any penalty imposed under the CGST Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of [Section 159(2)].
4. Section 161 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 done 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.

5. As per section 171 of the CGST Act, any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. National Anti-profiteering Authority may examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

TEST YOUR KNOWLEDGE

1. *Whether CENVAT credit carried forward in the last return prior to GST under earlier law be available as ITC under the CGST Act? Explain.*
2. *A registered person purchased capital goods under the central excise law in the June quarter of 2017-18. Though the invoice had been received by 30th June, the capital goods were received on 5th July, 2017 (i.e., under GST regime).*

   Whether such a person will get full credit of CENVAT in GST regime? Elaborate.
3. *Sales return under Central Sales Tax Act, 1956 is allowable as deduction from the turnover within 6 months. If goods sold under earlier regime are returned in GST regime by a buyer within 6 months from appointed day, will the same become taxable in GST? Discuss.*
4. *What will be fate of any appeal or revision relating to a claim of CENVAT or output liability which is pending under the earlier law? Describe.*
5. *If any goods or services are supplied in GST regime in pursuance of a contract entered into under earlier law, which tax will be payable?*

ANSWERS/HINTS

1. As per section 140(1), a registered person, other than a person opting to pay tax under composition scheme, shall be entitled to take credit in his electronic credit ledger the amount of CENVAT credit carried forward in the return of the last period before the appointed day, subject to the following conditions:
   (i) the said amount of credit is admissible as ITC under the CGST Act;
   (ii) the registered person has furnished all the returns required under the earlier law for the period of 6 months immediately preceding the appointed date;
   (iii) the said amount of credit does not relate to goods manufactured and cleared under such exemption notifications as are notified by the Government.
2. Yes, the registered person will be entitled to ITC in 2017-18 (GST regime) provided such a credit was admissible as CENVAT credit under the central excise law and is also admissible as credit under the CGST Act [Section 140(2)].
3. Where tax has been paid under the earlier law [CST in this case] on any goods

at the time of sale, not being earlier than 6 months prior to the appointed day, and such goods are returned by the buyer after the appointed day, the sales return will be considered as a supply of the said buyer in GST and tax has to be paid on such supply, if, –

(i) the goods are taxable under the GST law; and

(ii) the buyer is registered under the GST law.

However, the seller is entitled to refund of such tax [CST, in this case] paid under the earlier law if the aforesaid buyer is an unregistered person under GST and the goods are returned within 6 months (or within the extended period of maximum two months) from the appointed day and the goods are identifiable [Section 142(1)].

4. Every proceeding of appeal, review or reference relating to a claim for CENVAT or any output tax liability initiated before, on or after the appointed day, will be disposed of in accordance with the earlier law and any amount of credit of CENVAT or output tax found admissible for refund will have to be refunded in accordance with the earlier law and will be paid in cash notwithstanding anything to the contrary contained in the earlier law. The refund will, however, be subject to the principle of unjust enrichment. In case any recovery is to be made then, unless recovered under earlier law, it will be recovered as an arrear of tax under GST [Sections 142(6) & 142(7)].

5. GST will be payable on such supplies in terms of section 142(10) of the CGST Act.

The discussion on the GST law in Modules 1-3 of this Study Material incorporates the content and images made available by the CBEC on its website www.cbec.gov.in namely, FAQs on GST, e-fliers issued on various aspects of GST, sectoral FAQs as also the user manuals and FAQs available on the GST common portal www.gst.gov.in, to the extent relevant to such discussion.

TEST YOUR KNOWLEDGE

1. *Which are the matters enumerated in Section 97 for which advance ruling can be sought?*
2. *What is the objective of having a mechanism of Advance Ruling?*
3. *To whom will the Advance Ruling be applicable?*
4. *What is the time period for applicability of Advance Ruling?*
5. *Can an advance ruling given be nullified?*

ANSWERS/ HINTS

1. Refer Para -3
2. Refer Para -1
3. Refer Para -8
4. Refer Para -8
5. Refer Para -9

TEST YOUR KNOWLEDGE

1. *Does CGST law provide for any appeal to a person aggrieved by any order or decision passed against him by an adjudicating authority under the CGST Act? Explain the related provisions under the CGST Act.*

2. *Describe the provisions relating to Departmental appeal to Appellate Authority under section 107 of the CGST Act.*

3. *Specify the amount of mandatory pre-deposit which should be made along with every appeal before the Appellate Authority and the Appellate Tribunal. Does making the pre-deposit have any impact on recovery proceedings?*

4. *With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.*

5. *The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement.*

ANSWER/HINTS

1. Yes. Any person aggrieved by any order or decision passed by an adjudicating authority under the CGST Act has the right to appeal to the Appellate Authority under section 107. The appeal should be filed within 3 months from the date of communication of such order or decision. However, the Appellate Authority has the power to condone the delay of up to 1 month in filing the appeal if there is sufficient cause for the delay. The appeal can be filed only when the admitted liability and 10% of the disputed tax amount is paid as pre-deposit by the appellant.

   However, no appeal can be filed against the following orders in terms of section 121:-

   (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;

   (b) an order pertaining to the seizure or retention of books of account, register and other documents; or

   (c) an order sanctioning prosecution under the Act; or

(d) an order passed under section 80 (payment of tax in installments).

2. Section 107(2) provides that Department can file a "review application/appeal" with the Appellate Authority.

   The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, examine the record of any proceedings in which an adjudicating authority has passed any decision/order to satisfy himself as to the legality or propriety of the said decision /order. The Commissioner may, by order, direct any officer subordinate to him to apply to the Appellate Authority within 6 months from the date of communication of the said decision/order for the determination of such points arising out of the said decision/order as may be specified him.

   The AA can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

   Such application shall be dealt with by the AA as if it were an appeal made against the decision/order of the adjudicating authority [Section 107(3)]. There is no requirement of making a pre-deposit in case of departmental appeal.

3. Section 107(6) 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.

   Section 112(8) lays down that no appeal can be filed before the Tribunal, unless the appellant deposits

   (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

   (b) 20% of the remaining amount of tax in dispute,

   in addition to the amount deposited before the AA, arising from the said order, in relation to which appeal has been filed.

Where the appellant has made the pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

4. Section 2(99) defines "Revisional Authority" as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108.

   Section 108 of the Act authorizes such "revisional authority" to call for and examine any order passed by his subordinates and in case he considers the order of the lower authority to be erroneous in so far as it is prejudicial to 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, can revise the order after giving opportunity of being heard to the noticee. The "revisional authority" can also stay the operation of any order passed by his subordinates pending such revision.

   The "revisional authority" shall not revise any order if-

   (a) the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or

   (b) the period specified under section 107(2) has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised.

   (c) the order has already been taken up for revision under this section at any earlier stage.

   (d) the order is a revisional order

5. The statement is partially correct.

   Though the Appellate Tribunal does have the power to refuse to admit an appeal, it cannot refuse to admit ANY appeal. It can refuse to admit an appeal where –

   - the tax or input tax credit involved or
   - the difference in tax or the difference in input tax credit involved or
   - the amount of fine, fees or penalty determined by such order,

   does not exceed ₹ 50,000.

TEST YOUR KNOWLEDGE

1. *What are the various type of offences which may be committed by a taxable person liable to penalty?*

2 *What is the quantum of penalty for an offence mentioned under section 122(1)?*

3 *Is there any penalty prescribed for a person other than the taxable person?*

4 *Mr. X, an unregistered person under GST purchases the goods supplied by Mr. Y who is a registered person without receiving a tax invoice from Mr. Y and thus helps in tax evasion by Mr. Y. What disciplinary action may be taken by tax authorities to curb such type of cases and on whom?*

5 *Suppose, in the above case, a disciplinary action is taken against Mr. X and an adhoc penalty of ₹ 20,000/- is imposed by issue of SCN without describing contravention for which penalty is going to be imposed and without mentioning the provisions under which penalty is going to be imposed. Should Mr. X proceed to pay for penalty or challenge SCN issued by department?*

ANSWERS/ HINTS

1 There are 21 offences which may be committed by a taxable person and may be classified into following categories based upon their nature:

Offences having nexus with invoice

(i) Issue of invoice or bill without making supply;

(ii) Issuing invoice or document using GSTIN of another person;

(iii) Making a supply without invoice or with false/ incorrect invoice;

Offences having nexus with payment of tax

(iv) Not paying any amount collected as tax for a period exceeding three months;

(v) Not paying tax collected in contravention of the CGST/SGST Act for a period exceeding 3 months;

(vi) Non deduction or lower deduction of tax deducted at source or not depositing tax deducted at source under section 51;

(vii) Non collection or lower collection of or non- payment of tax collectible at source under section 52;

(viii) Availing/utilizing input tax credit without actual receipt of goods and/or services;

(ix) Availing/distributing ITC by an Input Service Distributor in violation of Section 20;

(x) Fraudulently obtains any refund of tax;

(xi) Suppressing turnover;

Offences having nexus with Records and related information

(xii) Falsification/substitution of financial records or furnishing of fake accounts/ documents or Furnishing false information/return with intent to evade payment of tax;

(xiii) Failure to maintain accounts/documents in the manner specified in the Act or failure to retain accounts/documents for the period specified in the Act;

(xiv) Failure to furnish information/documents required by an officer in terms of the Act/Rules or furnishing false information/documents during the course of any proceeding;

(xv) Tampering/destroying any material evidence/documents;

(xvi) Obstructing or preventing any official in discharge of his duty;

Offences having nexus with Registration

(xvii) Failure to register despite being liable to pay tax;

(xviii) Furnishing false information regarding registration particulars either at the time of applying for registration or subsequently

Offences having nexus with Supply/Transport of goods

(xix) Transporting goods without prescribed documents;

(xx) Supplying/transporting/storing any goods liable to confiscation;

(xxi) Disposing of /tampering with goods detained/ seized/attached under the Act.

2. Section 122(1) provides that any taxable person who has committed any of the 21 offences mentioned thereunder, shall be liable to a penalty which shall be higher of the following amounts:

   (a) ₹ 10,000/-; or

(b) An amount equivalent to, any of the following (Applicable as the case may be) –

  (i) Tax evaded; or

  (ii) Tax not deducted under section 51 or short deducted or deducted but not paid to the Government; or

  (iii) Tax not collected under section 52 or short collected or collected but not paid to the Government; or

  (iv) Input tax credit availed of or passed on or distributed irregularly; or

  (v) Refund claimed fraudulently

However, Section 122(2) provides that if a registered person supplying goods or services has not paid any tax or short paid it or tax has been erroneously refunded to him, or ITC has been wrongly availed or utilized, for any reason other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, penalty shall be leviable for an amount higher of following:

(a) ₹ 10,000/-; or

(b) 10% of the tax due from such person

and in case of fraud, or any willful misstatement or suppression of facts to evade tax, penalty shall be equal to ten thousand rupees or the tax due from such person, whichever is higher.

3. Yes, Section 122(3) provides for levy of penalty extending to ₹ 25,000/- for any person who-

- aids or abets any of the 21 offences,
- deals in any way (whether receiving, supplying, storing or transporting) with goods that are liable to confiscation,
- receives or deals with supply of services in contravention of the Act,
- fails to appear before an authority who has issued a summon,
- fails to issue any invoice for a supply or account for any invoice in his books of accounts.

4. Both Mr. X and Mr. Y will be offender and will be liable to penalty as under:

Mr. X – Penalty under section 122(3) which may extend to ₹ 25,000/-;

Mr. Y – Penalty under section 122(1), which will be higher of following, namely

(i) ₹ 10,000/- or (ii) 100% of tax evaded.

5. The levy of penalty is subject to a certain disciplinary regime which is based on jurisprudence, principles of natural justice and principles governing international trade and agreements. Such general discipline is enshrined in section 126 of the Act. Accordingly—

   - no penalty is to be imposed without issuance of a show cause notice and proper hearing in the matter, affording an opportunity to the person proceeded against to rebut the allegations levelled against him,
   - the penalty is to depend on the totality of the facts and circumstances of the case, the penalty imposed is to be commensurate with the degree and severity of breach of the provisions of the law or the rules alleged,
   - the nature of the breach is to be specified clearly in the order imposing the penalty,
   - the provisions of the law under which the penalty has been imposed is to be specified.

   Since SCN issued to Mr. X suffers from lack of clarity about nature of breach which has taken place and about provision of law under which penalty has been imposed, SCN issued by department may be challenged.

TEST YOUR KNOWLEDGE

1. *Avataar Industries, a registered person under GST, has sold whole of its business to Rolex Manufacturers. Determine the person liable to pay GST, interest or any penalty under GST law [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.*

2. *ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. Raghav & Sons sells goods to Swami Associates on behalf of ABC Manufacturers Ltd. Determine the liability to pay GST payable on such goods as per the provisions of section 89 of the CGST Act.*

3. *A person, liable to pay GST, interest and penalty under GST law, dies. Determine the person liable to pay the GST, interest and penalty due from such person under GST law determined after his death if the business carried on by such person is continued after his death by his legal representative.*

4. *In the question 3. above, would your answer be different if the business carried on by the person who has died, is discontinued after his death.*

5. *What happens to the GST liability when the estate of a taxable person is under the control of Court of Wards?*

ANSWERS/HINTS

1. Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

   Thus, in the given case, Avataar Industries and Rolex Manufacturers shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay GST, interest or any penalty [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

2. Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.

Thus, in the given case, ABC Manufacturers Ltd. and Raghav & Sons shall, jointly and severally, be liable to pay GST payable on such goods.

3. Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

4. Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then if a business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

5. Where the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable is under the control of the Court of Wards/Administrator General/Official Trustee/Receiver or Manager appointed under any order of a Court, the tax, interest or penalty shall be levied and recoverable from such Court of Wards/Administrator General/Official Trustee/Receiver or Manager to the same extent as it would be determined and recoverable from a taxable person.

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