

GST Bare Act Pages 120 (CGST + IGST)

V/s.

Direct Tax Bare Act Pages 1065

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CA Amit Jain is renowned faculty of Narayan Commerce Academy, Pune. He is rank holder CA and 2nd Global Rank Holder in Professional Gateway Exam of CIMA, UK.

He is also qualified Diploma in IFRS (ACCA, UK), Diploma in Business Finance, Certificate in Derivatives.

He is ex Top Management personnel of Multinational and Indian companies with practical experience of GST implementation in Big Corporate. He is ex-member of IMA CFO forum.

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Additional Questions & Answers

These are apart from Examples in main book

Chapter 1: - GST in India – An Introduction

ICAI Test your knowledge

This chapter includes "6 Q & A" of GST main book.

Q1. Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Ans. It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

List I Union List	List II State List	List III Concurrent List
It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws. Entries 82 to 91 of List I enumerate the subjects where the Central Government has power to levy taxes. Income tax is levied by virtue of Entry 82 - Taxes on income other than agricultural income and customs duty vide Entry 83 - Duties of customs including export duties of the Union List.	It contains the matters in respect of which the State Government has the exclusive right to make laws. Entries 45 to 63 of List II enumerate the subjects where the State Governments have the power to levy taxes. <u>Parliament has a further power to make any law for any part of India not comprised in a State even if such matter is included in the State List.</u>	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Q2. Discuss how GST resolved the double taxation dichotomy under previous indirect tax laws.

Ans.

- A comprehensive tax structure covering both goods and services viz. Goods and Service Tax (GST) addresses these problems. Simultaneous introduction of GST at both Centre and State levels has integrated taxes on goods and services for the purpose of set-off relief and ensures that both the cascading effects of CENVAT and service tax are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.
- In the GST regime, the major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services".

Q3. Enumerate the deficiencies of the existing indirect taxes which led to the need for ushering into GST regime.

Ans.

- In the earlier indirect tax regime, a manufacturer of excisable goods charged excise duty and value added tax (VAT) on intra-State sale of goods. However, the VAT dealer on his subsequent intra-State sale of goods charged VAT (as per prevalent VAT rate as applicable in the respective State) on value comprising of (basic value + excise duty charged by manufacturer + profit by dealer). Further, in respect of tax on services, service tax was payable on all 'services' other than the Negative list of services or otherwise exempted.
- The earlier indirect tax framework in India suffered from various shortcomings. Under the earlier indirect tax structure, the various indirect taxes being levied were not necessarily mutually exclusive.

To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied. Though CENVAT and State-Level VAT

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were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.

- Moreover, CENVAT was applicable only at manufacturing level and not at distribution levels. The erstwhile sales tax regime in India was a combination of origin based (Central Sales Tax) and destination based multipoint system of taxation (State-Level VAT). Service tax was also a value added tax and credit across the service tax and the central excise duty was integrated at the central level.
- Despite the introduction of the principle of taxation of value added in India at the Central level in the form of CENVAT and at the State level in the form of State VAT - its application remained piecemeal and fragmented on account of the following reasons:
 - Non-inclusion of several local levies in State VAT such as luxury tax, entertainment tax, etc.
 - Cascading of taxes on account of (i) levy of Non-VATable CST and (ii) inclusion of CENVAT in the value for imposing VAT
 - No CENVAT after manufacturing stage
 - Non-integration of VAT & service tax
 - Double taxation of a transaction as both goods and services

Q4. Discuss the dual GST model introduced in India.

Ans. India has adopted a Dual GST model in view of the federal structure of the country. Centre and States will simultaneously levy GST on taxable supply of goods or services or both which, takes place within a State or Union Territory. Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services. Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the State of Jammu and Kashmir.

Q5. List the Central and State levies which will be subsumed in GST in India.

Ans.

Central levies to be subsumed	State levies to subsumed
• Central Excise Duty & Additional Excise Duties • Service Tax • Excise Duty under Medicinal & Toilet Preparation Act • CVD & Special CVD • Central Sales Tax • Central surcharges and Cesses in so far as they relate to supply of goods & services	• State surcharges and cesses in so far as they relate to supply of goods & services • Entertainment Tax (except those levied by local bodies) • Tax on lottery, betting and gambling • Entry Tax (All Forms) & Purchase Tax • VAT/ Sales tax • Luxury Tax • Taxes on advertisements

Other Questions

Q6. What is GSTN and its role in the GST regime? Discuss functions of GSTN.

Ans. GSTN stands for Goods and Services Tax Network (GSTN). It is not-for profit company incorporated under provisions of Sec 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made up site/ portal which has been notified as common GST electronic portal (U/s 146 of CGST Act)

Thus, GSTN has provided IT infrastructure under GST law. GST portal developed by it is used by Central Government as well as by the State Governments. **GST portal is referred as 'common portal'**. This portal is the taxpayer interface with the Government.

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Additional Questions & Answers

These are apart from Examples in main book

GSTN is providing facilities to taxpayers as well as Government. Following are some important functions which are performed by GSTN

- I. Facilitation of registration;
- II. Payment of GST;
- III. Returns filing;
- IV. Maintenance of ledgers of taxpayers;
- V. Running the matching engine for matching, reversal and reclaim of input tax credit;
- VI. Providing analysis of tax payers' profile;
- VII. Sharing of information in taxpayers returns with Centre and State Governments / tax authorities;
- VIII. Providing various MIS reports to the Central and the State Governments based on the tax payer return information;
- IX. Computation and settlement of IGST (transfer of funds in between Central Tax Account, State Tax Accounts and Integrated Tax Account);

Not operational

Q7. What is the difference in between 'Nil rated', 'Zero rated' supply of goods and services?

Ans. There exist a difference between a 'Nil rated' and a 'Zero rated' supply as per GST law. 'Nil rated supply' means a supply of goods or services which has Nil rate in tariff or exempt by notification.

'Zero rated supply' means a supply of goods or services for export or to SEZ units or SEZ developers. {Section 16 of GST}.

Q8. List the class of officers that the Government can appoint, by notification, under the CGST Act, 2017.

Ans. The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—

- (a) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,
- (b) Chief Commissioners of Central Tax or Directors General of Central Tax,
- (c) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,
- (d) Commissioners of Central Tax or Additional Directors General of Central Tax,
- (e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,
- (g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
- (h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and
- (i) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act.

In this regard, Government has issued following notifications-

- i. Notification No. 2/2017-Central Tax, dated 19-Jun-2017 to appoint Central Tax officers and assign their jurisdiction.
- ii. Notification No. 14/ 2017-Central Tax, dated 1-Jul-2017 to appoint the officers in the Directorate General of Goods and Services Tax Intelligence, Directorate General of Goods and Services Tax and Directorate General of Audit.

Q9. Is there any provision for cross empowerment of officers of State and Central Government under GST?

Ans. Yes. As per Section 6 (1) of CGST Act, 2017, the officers appointed under the SGST / UTGST Act are authorised to be the proper officers for the purposes of CGST/IGST Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify. Similar provisions in the SGST/UTGST Act empower the central government officials to be the proper officers under the SGST/UTGST Act.

This is for efficient management

Q10. ABC Furnishers, registered under GST, has been served a demand order under GST by Central GST Officer. Does ABC Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?

Ans. GST law makes provisions for cross empowerment between CGST and SGST/UTGST officers so as to ensure that if a proper officer of one Act (say CGST) passes an order with respect to a transaction, he will also act as the proper officer of SGST for the same transaction and issue the order with respect to the CGST as well as the SGST/UTGST component of the same transaction. The law further provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Similarly, if any order is passed by the proper officer of SGST, any appeal/review/revision/rectification will lie with the proper officer of SGST only. Thus, ABC Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].

Q11. Which are the commodities proposed to be kept outside the purview of GST?

Ans. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of **alcoholic liquor for human consumption**. So, alcoholic liquor for human consumption is kept out of GST by way of definition of GST in constitution.

Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out and GST Council shall decide the date from which they shall be included in GST.

Non-taxable supply

Q12. ITC Ltd. a company manufactures Cigarette and supply it to the distributor Mr. A for Rs. 2,00,000 on which ITC Ltd. charged excise as well as GST. Mr. A further supplied to the retailer Mr. Z for Rs. 2,50,000 and charged GST. Explain whether treatment by ITC Ltd. & distributor Mr. A is correct?

Ans. In case of Tobacco and Tobacco product manufacturing, it will be subject to GST & Central Excise Duty. Therefore treatment by ITC Ltd. on supply of the tobacco and tobacco product is correct. Since distributor Mr. A is not involved in manufacturing, he can avail ITC only of GST. In case of further supply by Mr. A to the retailer Mr. Z, it would be subject to GST only. Therefore Mr. A tax treatment is correct.

Q13. Determine whether the following activities fall under the ambit of 'works contracts'.

- Erection & installation of structural designs to the complex which involved material.
- Fabrication works relating to the structure of complex no material is involved.
- Assembling of units pertaining to movable property which involved material and goods.

Ans.

- Yes, the given activity is in relation to an immovable property thus qualifies as a works contract.
- No, even though the given activity of fabrication is in relation to immovable **property but material is not involved**. Thus it is not works contract.
- No, the activity of assembling units will not qualify as works contract as it is in relation to a movable property.

Q14. What is IGST?

Ans. Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on inter-State supply of goods or services or both. Under Article 269-A of the Constitution, the GST on supplies in the course of inter- State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the GST Council.

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Additional Questions & Answers

These are apart from Examples in main book

Q15. What would be the role of GST Council?

Ans. For introduction of harmonized GST in India, GST Council was constituted in Sep, 2016. GST Council is a constitutional authority constituted under Article 279-A of Constitution of India. GST Council comprises the Union Finance Minister (who will be the Chairman of the Council), the Union Minister of State (Revenue) and the State Finance/Taxation Ministers to make recommendations to the Union and the States on

- i. the taxes, cesses and surcharges levied by the Centre, the States and the local bodies which may be subsumed under GST;
- ii. the goods and / or services that may be subjected to or exempted from the GST;
- iii. the date on which the GST shall be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel;
- iv. model GST laws, principles of levy, apportionment of IGST and the principles that govern the place of supply ;
- v. the threshold limit of turnover below which the goods and / or services may be exempted from GST;
- vi. the rates of GST;
- vii. any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster;
- viii. special provision with respect to the North-East States, J&K, Himachal Pradesh and Uttarakhand; and
- ix. any other matter relating to the GST, as the Council may decide.

Remember these also includes works related for implementation of GST regime i.e. Model Tax laws etc.

Questions from GST Main Book

Q16. Enumerate the places that may be covered or included under the scope of 'place of business'?

Ans. Place of business would include the following places: -

- a. place from where business is ordinarily carried on,
 - b. warehouse,
 - c. godown,
 - d. any other place used for storing goods or place to provide or receive goods or services by taxable person,
 - e. place where books of accounts are maintained by taxable person (it may be place of business of agency or professional)
 - f. place from where a taxable person is engaged in business through agent by whatever name called (like commission agent, C & F agent, consignment agent etc.)
- It will include any one or more or all of the aforementioned place.

Q17. Whether 'securities' are goods or services?

Ans. It may be noted that in terms of Section 2(52) of CGST Act, 2017, securities are not considered as goods. According to Section 2(102), they are also not covered under services.

Q18. What is agricultural produce?

Ans. As per Notification No. 12/2017 – Central Tax (Rate), 'agricultural produce' means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.

Q19. Which goods/sectors are kept outside GST?

Ans.

- Alcoholic liquor for human consumption
- Petroleum crude
- High speed diesel
- Motor spirit (commonly known as petrol)
- Natural gas
- Aviation turbine fuel
- Actionable claims except lotteries, betting and gambling
- Specified Real Estate
- Securities [However 'transaction in securities' have been included in the scope of exempt supplies while determining pro rata reversal of input tax credits used for making both taxable and exempt supplies]
- Money

These includes
Schedule III and
exclusions in
"Goods" &
"Services"
definition

Additional Questions & Answers

These are apart from Examples in main book

Chapter 2: - Supply under GST

ICAI Test your knowledge

This chapter includes
"15 Q & A" of GST
main book. Do refer
"26 examples" in GST
main book.

Q1. What is the taxable event under GST?

Ans. Taxable event under GST is supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies

Q2. What is the tax treatment of composite supply and mixed supply under GST?

Ans. Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.

Q3. Supply of all goods and/or services is taxable under GST. Discuss the validity of the statement.

Ans. The statement is incorrect. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

Q4. Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Ans. Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

Q5. Examine whether the following activities would amount to supply under section 7 of the CGST Act:

- Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.
- Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.
- Raman is an Electronic Commerce Operator in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.
- Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Ans.

- Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of clothes and toys to children living in slum area would not amount to supply under section 7 of the CGST Act.
- Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act]. In view of the same, factory and depot of Sulekha Manufacturers are

establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 of the CGST Act.

- (c) Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act read with Schedule I.

- (d) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would be treated as supply under section 7 of the CGST Act as the same are provided in course or furtherance of business though received from a related person.

Q6. State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Renting of immovable property
- (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.
- (c) Transfer of right in goods without transfer of title in goods.
- (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Ans.

- (a) Supply of services
- (b) Supply of goods
- (c) Supply of services
- (d) Supply of goods

Q7. Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.
- (b) A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.

Ans. Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act]. In view of the same,

- (a) since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.
- (b) since supply of toothbrush along with the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.

Additional Questions & Answers

These are apart from Examples in main book

Q8. Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.

Ans. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Other Questions

Q9. Differentiate between a taxable supply & non-taxable supply under GST?

Ans.

Taxable Supply	Non-Taxable Supply
➤ As per Section 2 (108) of CGST Act, means supply of goods or services or both which is leviable to GST under this Act. ➤ Falls under the purview of 'supply' as per Section 7 of CGST Act. i.e. supply of computer, mobile etc.	➤ As per Section 2 (78) of CGST Act, means supply of goods or services or both which is not leviable to GST under this Act or under IGST Act. ➤ Doesn't fall under the purview of 'supply' as per Section 7 of CGST Act. i.e. supply of petrol or diesel

Q10. Please explain Importation of services for consideration with example?

Ans. Import of free services from Google and Facebook, without any consideration, are not considered as supply.

It is important to note that downloading 'Hollywood Movie' from foreign website for consideration for personal use would be a supply of service, even though same is not in the course or furtherance of business.

Exemption provided
(Refer to Chapter 4 exemption list)

Conclusion with exception of importing the service is supply – "Test of consideration" should be checked and "Business Test" is not needed in this case.

Q11. Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Ans. Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. **In case title is not transferred, the transaction would be treated as supply of service.**

Temporary
'Service'
&
permanent
'Goods'

In some cases, possession may be transferred immediately but title may be transferred at a future date like in the case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

Q12. In respect of exchange of goods, let say gold chain for restaurant services, will the transaction be taxable as two different supplies or will it be taxable only in the hands of the main supplier?

Ans. Yes, the transaction of exchange is specifically included in the scope of supply U/s 7. So, exchange could be taxable both ways. **(A different view can also be possible depending upon the facts of the case)**

Q13. ABC Ltd. is an authorized dealer of motor vehicles and is having registered office in Delhi and UP. Certain motor vehicles are taken from Delhi (show-room) to UP (show-room) for sale from UP. Whether this interstate movement of vehicles would amount to supply of goods?

Ans. Under GST law, scope of supply has been defined under section 7 of CGST Act. Supply as defined U/s 7 covers, supply of goods between deemed distinct persons, i.e., different premises of same person which are separately registered under GST law. Such transaction amounts to supply even in the absence of any consideration. As per facts given, Delhi-registered premise has transferred goods to UP registered premise. Such stock-transfer from Delhi-registered premise to

UP registered premise shall amount to supply of goods. Such stock-transfer being interstate transfer shall be treated as 'inter-state supply' and will attract IGST liability.

Q14. ABC Ltd. is an aircraft operator operating pan-India air travel services. It has registered offices in different states. It sent some parts and accessories of aircraft from its Delhi registered premise to Maharashtra registered premise. Whether this transaction would amount to supply of goods under GST?

Ans. Under GST law, scope of supply has been defined under section 7 of CGST Act. Supply as defined U/s 7 covers, supply of goods between deemed distinct persons, i.e., different premises of same person which are separately registered under GST law. Such transaction amounts to supply even in the absence of any consideration. As per facts given, Delhi-registered premise has transferred goods (parts and accessories of aircraft) to Maharashtra registered premise. Such stock-transfer from Delhi-registered premise to Maharashtra registered premise shall amount to supply of goods. Such stock-transfer being inter-State transfer shall be treated as 'inter-State supply' and will attract IGST liability.

Q15. ABC is providing service of transportation of goods/passengers which is taxable under GST in hands of ABC. It has registered offices in different states which are treated as deemed distinct persons under GST law. Whether inter-state movement of any conveyance carrying goods/passengers from one registered premise to another registered premise will amount to supply of such conveyance under GST law? (e.g. Bus carrying passenger from Mumbai, Maharashtra bus terminal to Bangalore, Karnataka bus terminal, dropping passengers there and then picking passengers from Bangalore, Karnataka bus terminal to Mumbai, Maharashtra bus terminal. In this case, whether inter-statement movement of bus from Mumbai, Maharashtra bus terminal to Bangalore, Karnataka bus terminal would amount to supply?

Ans. Under GST law, scope of supply has been defined under section 7 of CGST Act. Only transactions falling within scope laid down in Sec 7 will amount to supply. As per given facts, ABC is registered supplier of transportation services. During course of such service, conveyance moves from one registered premises to another registered premise. This transaction of inter-state movement of vehicles is not involving any further supply of such conveyance. Such inter-state movement will not amount to supply within the meaning of Section 7 of CGST Act.

This has been clarified through Circular No. 1/1/2017-IGST dated 7-7-2017.

Q16. Discuss whether the following activities constitute 'Supply' in accordance with Section 7 of CGST Act:

- Mr. A sold electronic gadgets to ABC Co.
- ABC Ltd. entered into a hire purchase agreement with XYZ Ltd. for supply of a machine unit.
- Mr. A purchase a smart TV of 12 inch from LG store and in return gave away his old TV.
- ABC disposed scrap part of electric unit to a scrap dealer.
- Supply of Beer Shampoo

Ans.

- Yes, term 'sale' is included in 'Supply'.
- Yes, it is supply as per Section 7 (1) and it is classified as supply of goods as per section 7 (1A) read with Schedule II.
- Yes, as the above supply falls under barter (if money is also involved then 'exchange') transaction which is also included under the scope of supply.
- If the disposal is in course or furtherance of business of ABC then it shall be considered as supply.
- Yes, it is supply. Supply of alcoholic liquor for human consumption is out of the scope of GST.

Additional Questions & Answers

These are apart from Examples in main book

Q17. Determine whether the following activities fall under the scope of business?

- i. ABC is engaged in the manufacture of auto parts for industrial purpose.
- ii. ABC acquired capital goods lying in stock of Mr. A as on takeover of business of Mr. A.
- iii. ABC provides a free trekking camp to non-members of the club.
- iv. Essel world charges Rs. 500 as an entry fee for amusement park.
- v. Goods sold in store maintained by the company for the welfare of the employees.
- vi. Activities of Pune Race Club for horse race collected Rs. 5 Lakhs through licensed book marker or totalizer or activities of licensed book marker in such a club.

Ans.

- i. Yes, the given activity of manufacture has been included in the definition of business.
- ii. Yes, as per the definition of business supply or acquisition of goods including capital goods and services in connection with commencement or closure of business, included in business.
- iii. No, as per the definition of business, provision of services to members as in return for subscription fee, included in business. In given case, free trekking camp is being organized for non-member of the club.
- iv. Yes, as per the definition of business, admission for a consideration of person to any premises is included in the definition of business.
- v. Yes, turnover of goods sold in the store maintained by the company for the welfare of the employees is incidental to main business.
- vi. Yes, activities by a race club are cover in definition of business.

Q18. Mr. A buys a laptop for his personal use and after a year sells it to a laptop dealer. Will it constitute supply?

Ans. As per section 7 (1) (a), when any sale, transfer, barter etc. is made for a consideration in the course or furtherance of business then it would be treated as supply & liable to GST.

In the given case, sale of laptop by Mr. A to a laptop dealer shall not be considered as supply, as such sale is not in course or furtherance of business of Mr. A. Thus it is not supply & not subject to GST.

Q19. "Transaction in money, per se, is outside the ambit of GST." — Explain.

Ans. Transaction only in money do not constitute service and not chargeable to GST. However, the related activity, for which a separate consideration is charged, is subject to GST.

For example, a foreign exchange dealer while exchanging one currency for another also charges a commission (Often inbuilt in the difference between the purchase price and selling price of forex). Similarly, allowing others to use money for consideration in form of interest is also a supply of service transaction.

See
Valuation
Rule 32

Normal
interest is
exempt
though

Q20. State whether the following activities will be considered as a supply in relation to 'Money' in accordance with GST Act.

- i. Mr. A borrows an amount of Rs. 1 Lakh from one of his relative and agrees to repay the entire amount after a year.
- ii. Mr. A applied for loan from ICICI Bank against which a processing fees and interest is charged by the bank.
- iii. Mr. A exchanged Indian Rupees against purchase of US \$ for which authorized dealer charged commission.

Ans.

- i. No, the activity of borrowing from a relative is without any charge of interest and hence it will be considered as merely a transaction in money.
- ii. Yes, the activity of borrowing loan amount for which a consideration in form of processing fee has been charged by ICICI Bank shall be considered as a supply of service, as

consideration in relation to use of money. Interest is also supply but it is exempt (refer to Chapter 4 exemption list).

- iii. Yes, the activity of exchange of currency for which a commission is charge will be considered as supply of service.

Q21. State whether the following activities will be considered as a 'Consideration' in accordance with GST Act.

- Reliance Jio offers free mobile handset on payment of security deposit of Rs. 5,000. It is refundable after 3 years.
- ABC football club gift worth Rs. 3 Lakhs to Mr. A for joining ABC football club.
- ABC Ltd. is manufacturing fertilizers used for agriculture purpose. State Government has given 30% subsidy on sale of such fertilizer.
- ABC Ltd. a trading concern, has supplied the product to Mr. A at subsidize rate of Rs. 1,00,000 (open market value Rs. 1,25,000). Subsidy is given by XYZ organization.

Ans.

- No, as the amount of deposit in the given case is not applied by the supplier towards the mobile handset provided. It is not subject to GST.
- Yes, such gift is in response to an offer to join the football club, is subject to GST.
- As per section 2 (31) of CGST Act, pertaining to 'consideration' clearly excludes the value of subsidy received from the Central or State Government. Thus in the given case the amount of subsidy shall be excluded from the value of consideration.
- As per section 2 (31) of CGST Act, pertaining to 'consideration' clearly excludes the value of subsidy received from the Central or State Government. But in given case subsidy is given by person other than the Central or State Government. Thus subsidy is treated as consideration.

Q22. Tips music company charged a late fee as a penalty for late return of a DVD to its customer. Will the late fee charged to its customer be considered as a part of consideration?

Ans. As per Section 2 (102), service means anything other than goods, money & securities. Thus, late, fee, fine, penalty charged by the supplier for any reason would be treated as supply for consideration & liable to GST.

Q23. Mr. A is the owner of a truck valued at Rs. 10,00,000. He transfers the right to operate the truck to Mr. B for a consideration but the ownership of the truck is not transferred. Determine whether it will be considered as a supply?

Ans. It is supply as per Section 7 (1) as it is a transfer which involve consideration. It is transfer of rights in goods without transfer of title, so it will be classified as supply of service according to Schedule II of CGST Act, 2017.

Logic,
temporary
'service' &
permanent
'goods'

Q24. Discuss whether GST is applicable in the following transaction

- Mr. A transfers 3,000 debentures of A Ltd. to Mr. B for a consideration of Rs. 3,00,000.
- Mr. A transfers a plot of land situated in Chennai to Mr. B for a consideration of Rs. 90 lakh. Consideration is, however, payable in instalments.
- Mr. A, a registered person in GST, is a flower dealer in Kochi. He sells roses for decoration purposes for Rs. 50,000 to an interior decorator.

Ans.

- GST is applicable on supply of goods or services or both. Debentures are securities. Under GST law, securities are neither 'goods' (as defined u/Sec 2(52)) nor 'services' (as defined u/Sec 2(102)). Thus, transfer of debentures (securities) is not subject to GST.
- Plot of land, being immovable property, is not 'goods' as defined U/s 2(52) of CGST Act. However, it is covered by definition of 'service' as given U/s 2(102) of CGST Act. However,

Additional Questions & Answers

These are apart from Examples in main book

transaction of sale of land are out of scope of supply under GST law {Sec 7(2) of CGST Act read with Schedule III of CGST Act}. Thus, sale consideration is not subject to GST.

Although
exempt

- iii. "Flowers" are goods. It is subject to GST. • • •

Q25. Examine whether the following activities would amount to supply under section 7 of the CGST Act:

- Mr. A, a proprietor, has received the architect services for his house in Orissa from an architect located in Paris at an agreed consideration of \$ 10,000.
- ABC Pvt. Ltd. received technical support services from its head office located in USA. The head office has rendered such services free of cost to its branch office.
- Mr. A is an Electronic Commerce Operator in Kolkata (GST registered). His son who is settled in Dubai is a well-known lawyer. Mr. A has taken legal advice from him free of cost with regard to his family dispute.
- Would your answer be different in above case, if Mr. A has taken advice in respect of his business unit in Kanyakumari?

Ans.

- Supply of service by foreign architect to Mr. A (Indian service recipient), service received in India constitutes 'import of service' as place of supply of such service is in India. Though such import is not in course of or furtherance of business of Mr. A, this transaction of import of service will fall within the scope of supply as defined U/s 7(1)(b) of CGST Act.
- Foreign Head Office situated at USA has provided technical support service to its Indian branch office. Under GST law, foreign head office (establishment of a person outside India) and Indian branch office (establishment of same person in India) shall be treated as 'deemed distinct persons (establishment of distinct persons)' [Explanation to Sec 8 of IGST Act]
Import of any service without consideration amounts to supply in terms of Sec 7(1)(c) read with Schedule I (Para 4) if it is in the course or furtherance of business.
Presuming that ABC Pvt. Ltd. is a taxable person (either registered under GST or liable to be registered), the import of service by ABC Pvt. Ltd. from its other establishment outside India (which is deemed distinct entity) which is in course or furtherance of business will constitute supply, even if no consideration has been charged for such supply.
- In the given case, Mr. A being ECO is a taxable person. It has received legal advice for his personal matter and therefore this is not import of service in the course or furtherance of business. It would not amount to supply though he has imported such service from his son, who is a related person under GST law.
Thus, such import of service will not fall within the scope of supply under section 7 read with Schedule I of the CGST Act.
- In the above case, if Mr. A (taxable person under GST) has taken advice from his son (related person) with regard to his business, then such import would be treated as supply under section 7 of the CGST Act read with Schedule I (Para 4).

Q26. Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017?

- Mr. A received Vaastu consultancy services for his residence located at Hyderabad from Mr. B of Washington. The amount paid for the said service is US \$ 10,000.
- Mr. A received Vaastu consultancy services for his residence located at Hyderabad from his brother, Mr. B residing in New York. Mr. A had not paid any money to Mr. B.
- Mr. A received Vaastu consultancy services for his business premises located at Hyderabad from his brother, Mr. B residing in New York. Mr. A had not paid any money to Mr. B.

Ans.

- (i) Import of service for Consideration not in the course or furtherance of business, would amount to supply as per Sec 7(1)(b) of CGST Act
- (ii) Import of service without Consideration not in the course or furtherance of business, would not amount to supply as per Sec 7(1)(c) of CGST Act read with Schedule I (para 4)
- (iii) Import of service without Consideration in the course or furtherance of business but not from related person or from own establishment outside India, would not amount supply as per Sec 7(1)(c) of CGST Act read with Schedule I (para 4). Mr. B, brother of Mr. A, is not considered as 'related person' under GST law unless he is wholly dependent upon Mr. A.

Q27. Mr. A, an air-conditioner dealer in Ahmedabad, needs 4 ACs for his newly constructed house in Nadiad. Therefore, he transfers 4 ACs [ITC availed] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017. Further, a Mr. B, approached Mr. A, to sell an AC to Mr. A for Rs. 5,000. Mr. B had bought the said AC six months before, for his residence. Does sale of the AC by Mr. B to Mr. A amount to supply under section 7 of the CGST Act, 2017

Ans. Section 7 defines the scope of 'supply'. In general, supply covers those transactions where goods or services or both are supplied for consideration in course of or furtherance of business (Sec 7(1)(a)). Besides that, scope of supply has been extended to cover certain specified transactions which are undertaken even without any consideration {Sec 7(1)(c) read with Schedule 1}. One such transaction without consideration is where business assets on which ITC has been availed are transferred or disposed of permanently. In view of said provisions, the answer to given situations are as follows:

- Permanent transfer of ACs by Mr. A from its stock for personal use at its residence, though without consideration, would amount to supply.
- Such sale will not qualify as supply under section 7 of the CGST Act, 2017 as although it is made for a consideration, but it's not in the course or furtherance of business.

Always remember if ITC taken then you have to pay Output Tax

Q28. ABC Ltd. (GST registered FMCG manufacturer) has started canteen services exclusively for its employees. The canteen running expenses were recovered from its employees without any profit margin. Your opinion is sought as to whether recovery of food expenses from employees for the canteen services provided by the it will be taxable under GST law.

Ans. ABC Ltd. is GST registered FMCG manufacturer. Now, it has started canteen services for its employee. It is providing food on cost-to-cost basis. Further, provisioning of food is not under contract of employment, i.e., it is not paid towards cost of employee to company (it is not payment of salary in kind). Such activity will amount to supply for following reasons:

- Such supply is in the course or furtherance of business. 'Business' has been defined U/s 2(17) to include activities incidental or ancillary to main business. Thus, provisioning of food to employee merits treatment of business, it being an incidental or ancillary activity to main business of FMCG manufacturing of ABC Ltd.
- Business activity may be carried out on cost-to-cost basis.
- Supply of food/ catering services if being done for consideration, such transaction falls under scope of supply as per Sec 7(1)(a) of CGST Act.

Thus, recovery of food expenses from the employees for the canteen services provided by ABC Ltd. would be taxable as a supply of service under GST. **{This is ruling given by AAR}**

Q29. Mr. Amit is CFO of Sodexo. For the financial year 2018-19, CTC of Mr. Amit (as per appointment letter) is as follows —

Salary Rs. 1,00,00,000

Residential accommodation worth Rs. 12,00,000

Conveyance & others reimbursement Rs. 3,00,000

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On January 1, 2019, Sodexo gifts a new car to Mr. Amit (worth Rs 18 Lakhs). Gift of car is not covered in appointment letter.

Mr. Amit owns a commercial premises. He has given on rent to Sodexo @ monthly rent being Rs. 2,00,000. Determine the amount of GST liability:-

- Salary received including Residential accommodation, conveyance & other reimbursements provided by Sodexo to Mr. Amit
- Rent received on account of renting of commercial flat by Mr. Amit to Sodexo
- Gift of car by Sodexo to Mr. Amit

Ans. Taxability in hands of Mr. Amit:-

- Supply of employment services by Mr. Amit to Sodexo is out of scope of supply {Sec 7(2) of CGST Act read with Schedule III of CGST Act}. Thus, it will not attract any GST liability. This includes residential accommodation, conveyance & other reimbursements provided to Mr. Amit
- Transaction of renting services by Mr. Amit to Sodexo falls within the scope of supply, renting being a commercial activity undertaken by Mr. Amit (Sec 7(1)(a) of CGST Act). Thus, it will attract GST liability.
- Gift of car is not covered by employment contract. Though Sodexo has not charged anything from Mr. Amit, but still transaction will fall within the scope of supply as it being related party transaction {Sec 7(1)(c) read with Schedule I (Para 2)}. Further, the value of car being in excess of Rs. 50,000, such gift will attract GST on full value of car.

Whatever written in appointment letter or employment contract is under Schedule III

Q30. Discuss whether GST is applicable in the following transactions :-

- Mr. A owns a house in a residential colony. It is given on rent to A Ltd. for Rs. 2,00,000 p.m. As per the written agreement. A Ltd. can use the property for commercial purposes.
- Mr. A gives his vacant plot of land situated in a residential colony in Hyderabad to ABC Ltd. ABC Ltd. is a car distributor and plot of land is used by it for parking unsold cars.
- Mr. A owns an agricultural land. It is given rent to Mr. B uses the land for agricultural activities.

Ans.

- Renting of immovable property constitutes 'supply of service'. It attracts levy of GST. Though, renting of residential dwelling units for use as residence is exempt, that exemption is not applicable to this case since A Ltd. use the property for commercial purposes. Thus, rent is chargeable to GST.
- Renting of immovable property constitutes 'supply of service'. It attracts levy of GST. Though, renting of residential dwelling units for use as residence is exempt, that exemption is not applicable to this case since it is being used as car parking (not for use as residence). Thus, rent is chargeable to GST.
- Renting of immovable property constitutes 'supply of service'. It attracts levy of GST. However, renting of agriculture land for agricultural activities has been exempted from GST.

Refer chapter 4 for exemption on list

Q31. Mr. Sumit (GST registered trader) is in the business of selling electronic goods. He closes down his business on March 31, 2019. Value of unsold stock of electronic goods on that date is Rs. 10 lakhs. Discuss the applicability of GST on this unsold stock.

Ans. In terms of Section 7(1A) read with Schedule II (para 4(c)) of CGST Act, a person ceasing to be a taxable person (i.e., getting de-registered) is deemed to have made supply of goods lying with him as closing stock. Mr. Sumit is registered under GST. He closes his business on March 31, 2019. At the time of transfer, he has closing stock Rs. 10 lakhs. Mr. Sumit shall be deemed to have supplied such unsold stock immediately before he ceases to be a taxable person.

Remember logic explained in lecture of output & input tax nexus

Q32. Whether software is regarded as supply of goods or services in GST?

Ans. In terms of Section 7(1A) read with Schedule II of CGST Act (Para 5), development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information

technology software and temporary transfer or permitting the use or enjoyment of any intellectual property right are treated as services.

But, if a pre-developed or pre-designed software is supplied in any medium/storage (commonly bought off-the shelf), the same is treated as a supply of goods classifiable under heading 8523.

Q33. State whether the following activities are covered within scope of supply or not:

- Supply of services by Court for which it charges fees;
- Supply of services by Income Tax Appellate Tribunal for which it charges fees;
- Supply of services by Arbitral Tribunal for which it charges fee from business entity who is seeking arbitration of his business dispute through it;

Ans.

- It is excluded from scope of supply – Sec 7(2) read with Schedule III of CGST Act (Para 2)
- It is excluded from scope of supply – Sec 7(2) read with Schedule III of CGST Act (Para 2)
- It is not excluded from scope of supply since Arbitral Tribunal is not a tribunal which has been established under any law (the party seeking arbitration creates it for their own personal purposes) . Services of arbitral tribunal fall within the scope of supply and attracts charge of GST.

Q34. Mr. A is owner of ABC Printing press. Discuss GST treatment of following activities carried out by Mr. A:-

- Purchase of paper & other printing materials, printing calendars by using such paper and other materials & supplying calendars in market. The consideration received from such supply is Rs. 10,00,000.
- Purchase of paper & other printing materials, printing books for Taxongo Ltd. (the content of book belongs to Taxongo Ltd.) and supplying books after printing to Taxongo Ltd. The consideration received from such supply is Rs. 10,00,000.

Ans. According to CBIC's Circular No. 11/11/2017-GST dated 20.10.2017, GST treatment of given activities shall be as follows:

- Purchase of paper & other printing materials, printing calendars thereon and supplying calendars in market. The consideration received is Rs. 10,00,000. It is case of manufacture of calendars and sale thereof. Thus, it is simple case of supply of goods.
- Purchase of paper & other printing materials, printing books for Taxongo Ltd. (the content of book belongs to Taxongo Ltd) and supplying same to Taxongo Ltd. The consideration received is Rs. 10,00,000. ABC Printing press cannot be said to be have made out sale of books as they are not owning the content of book.

ABC Printing press is carrying out printing activity on paper belonging to it. Thus, this supply is composite supply {supply of paper (goods) and supply of printing (service)}. Printing service being principal service, the composite supply shall be treated as 'supply of service' (Sec 8 of CGST Act).

Printing
for self:
Supply of
goods

Printing
for
Others:
Supply
of
services

Additional Questions & Answers

These are apart from Examples in main book

Questions from GST Main Book

Q35. Why is distinction between supply of goods & services in GST Important?

Ans. Goods are tangible & Services are Intangible, there are separate rules in respect of: -

- ✓ Supply of goods & services
- ✓ Time of supply of goods & services
- ✓ Place of supply of goods & services

Q36. What is meant by Taxable event in a Law?

Ans. A taxable event in the law is the event, happening of which triggers applicability of provisions of the law. For e.g. under Income Tax Act, taxable event is earning of income. Thus, earning of income is the triggering point and once a person earns any income, he is covered by the provisions of Income-tax Act, unless otherwise excluded from the purview of the law or exempted from the levy of tax.

Take another example, under VAT Act, taxable event was sales. Sales was the triggering point and once a transaction was covered under sale, provision of VAT used to apply unless the transaction was excluded from the purview of the law or exempted from the levy of tax.

Similarly, under GST, supply is the triggering point and once any activity is covered under supply, all provisions of the law are applicable unless the activity is excluded from purview of law i.e. alcohol for human consumption or activity is exempted from levy of GST.

Q37. What is the meaning of 'license'?

Ans. 'License' is a permission by one person to another to do some act which would be illegal without such permission (Intellectual property rights i.e. copyright, patents, trademark etc.). As per Supreme Court judgement (BPCL V/s Chembur service station), "If agreement creates the interest in the property, it is a lease but in case it only permits the other to use the property of which the legal possession continues with the owner, it is license."

Q38. A bank takes charge of the property of the borrower as per loan agreement. It then goes on to sell the movable goods so taken over (inventory), How will this transaction be dealt in GST?

Ans. The transactions of sale of movable goods taken over by bank would be considered as taxable supply. The loan taker must pay GST on such transaction treating it as supply of goods.

Q39. What is barter & how is it different from sale?

Ans. As per section 7(1)(a) of CGST Act, supply includes barter and subject to tax.

Barter means exchanging one thing with another. In old times, barter was very common since fiat currency (legal currency) was not there. It is exchange of goods for goods or goods for services etc. In such type of transactions, there is no consideration in money terms. Examples: -

- ✓ An interior designer provide service to his CA clients in exchange for his GST return/compliances by said CA;
- ✓ A CA student exchange his IDT pen drive lecture with another CA student DT pen drive.

Q40. Whether stipend paid to article will be covered as supply?

Ans. No, Government has clarified through FAQ that stipend paid to article/interns will be considered as salary, so it will be employer-employee transaction and thus will not be subject to GST.

Q41. Give example of distinct person as per the GST Act?

Ans. ABC Limited has 2 factories in Rajasthan, 1 in Delhi & 1 in Maharashtra. As per GST Act, ABC will have 1 registration for 2 factories in Rajasthan, 1 for Delhi & 1 for Maharashtra. The factories at Rajasthan, Delhi & Maharashtra will be treated as distinct person for any transactions since they

have separate registration but 2 factories in Rajasthan will not be treated as distinct person since they have 1 registration.

Q42. How to treat transaction of sale of land & building under the GST Act?

Ans. Sale of land and, subject to para 5 (b) of Schedule II, sale of building is neither supply of goods nor a supply service as per para 5 of Schedule III of CGST Act.

Para 5 (b) of Schedule II of CGST Act covers supply of building before completion or before occupancy. Thus, sale of completed building after completion certificate will not be subject to GST.

Q43. What will be tax treatment of salary to partners under the GST Act?

Ans. Working partners are entitled to draw salary from the firm. On the basis of provisions of Partnership Act, it is settled that a partner is not 'employee' of the firm and salary is only share of profit. It has been clarified vide S. Nos. 58 & 71 of Tweet FAQ released by CBEC on 26th June 2017 that GST is not payable on salary to partners.

Q44. ABC Ltd. was amalgamated with DEF Ltd. On account of amalgamation Mr. A a shareholder received 10,000 shares of DEF Ltd. in exchange of 5000 shares of ABC Ltd. Can it be considered as supply?

Ans. Shares (Securities) are excluded from the definition of both goods as well as services. Hence, this transaction can't be considered as supply.

Q45. ABC Ltd. a banking company transfers bad loan (unsecured) to ARC Ltd. Can it be considered as supply?

Ans. Actionable claims are covered in definition of goods. However, schedule III excludes claims other than lottery, gambling and betting from the scope of supply. So, above transfer can't be considered as supply.

Q46. A Charitable trust, engaged in providing medical relief free of cost, donates books and stationary to children living in slum area? Can it be considered as supply?

Ans. Section 7 of the CGST Act, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of books and stationary to children living in slum are would not amount to supply.

Q47. A Taxable person, ceases to be a taxable person. What will be treatment for any goods forming part of the assets?

Ans. Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless – (a) the business is transferred as going concern to another person; or (b) the business is carried on by a personal representative who is deemed to be a taxable person {Transfer of entire business is not subject to GST. Only goods transferred are subject to GST}.

Q48. Decide whether following activities are supply or not: -

- i. Free seminar to educate people for mutual fund.
- ii. An individual buy a car for personal purpose and after a year, sells it to a car dealer.
- iii. ABC Ltd. donated old office furniture to Charitable Hospital. ABC Ltd. has taken ITC on such office furniture.
- iv. Mr. A gift Rs. 75,000 to his son on his birthday.
- v. Mr. A gave his flat on leave & license agreement to Mr. B.
- vi. Employer has paid notice period amount to employee on termination.
- vii. A local club supplies snacks to its members during AGM for a nominal amount.
- viii. Mr. A gives computer (claimed ITC) brought for office use, to his friend on his birthday.

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- ix. ABC Ltd. give gift voucher of Rs. 1,00,000 to it employee Mr. A. If let say amount is Rs. 45,000 then what will be your answer.
 - x. Mr. A has taken voluntarily registration. He sells computers.
- A.**
- i. No, as per Section 7 (1) (a) of CGST Act, 2017, supply includes supply of goods and services for a consideration in the course or furtherance of business. In this case, there is no consideration, so it cannot constitute a supply.
 - ii. No, as per Section 7 (1) (a) of CGST Act, 2017, this is not in the course or furtherance of business. So, it cannot constitute a supply.
 - iii. Yes, as per Section 7 (1) (c) read with Schedule I of CGST Act, 2017 permanent transfer or disposal of business assets where ITC has been availed shall be treated as supply even if made without consideration. So, in current case even though ABC Ltd. donated old furniture to Charitable Hospital, it shall be treated as supply.
 - iv. No, as per Section 7 (1) (c) read with Schedule I of CGST Act, 2017 supply of goods or services between related person is treated as supply even it is without consideration when made in course or furtherance of business. Gift to son Rs. 75,000 will not qualify as supply since it is not made in course or furtherance of business.
 - v. Yes, as per Section 7 (1) (d) of CGST Act, 2017, leasing or renting out building including commercial, industrial or residential complex for business or commerce would be treated as supply of service. In given case Mr. A gave his residential house on leave & license agreement so it would constitute supply of service. But, leasing for residential purpose is exempt under Entry 12 of Notification No. 12/2017- CT (Rate).
 - vi. No, as per Section 7 (2) read with Schedule III of CGST Act 2017, services by an employee to employer during his employment would not be regarded as supply. So, notice period amount are treated as amount paid during the employment, so would not constitute supply.
 - vii. Yes, as per para 7 of Schedule II of CGST Act, 2017 supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated a supply of goods. So, if a local club supplies snacks during AGM to its members for a nominal payment would constitute supply of goods.
 - viii. Yes, as per section 7 (1) (c) read with Schedule I, permanent transfer or disposal of business assets where ITC credit has been availed on such assets qualifies as a supply even though made without consideration. Such transaction will be treated as supply as ITC has been availed on computer.
 - ix. Yes, as per Section 7 (1) (c) read with Schedule I if CGST Act, 2017, supply of goods or services between related person is treated as supply even it its without consideration. Employer & employee are related person as per Section 15 of CGST Act, 2017. Thus, gift voucher of Rs. 1,00,000 will qualify as supply.
Gifts not exceeding Rs. 50,000 in value in a financial year by an employer to employee shall not be treated as supply so if amount is Rs. 45,000 then it will not be treated as supply.
 - x. Yes, a taxable person is a person who is registered or liable to be registered U/s 22 or 24. Therefore, even a person not liable to be registered but has taken voluntary registration, is also a taxable person. Thus, selling of computer would be liable to GST.

Q49. ABC Ltd. is an authorized dealer of motor vehicles and is having registered office in Delhi. It is also running authorized service station of motor vehicles registered in UP. Certain motor vehicles are taken from Delhi (show-room) to UP (service-station) for repairs. Whether this inter-state movement of vehicles would amount to supply of goods under GST?

Ans. As per given facts, registered supplier of motor vehicle has taken his motor vehicle for repairs at its other registered premises (authorized service station in UP). Post-repair, he will bring back goods to his registered show-room in Delhi. This transaction of inter-state movement of vehicles for repairs will not amount to supply within the meaning of Section 7 of CGST Act. [Circular No. 1/1/2017-IGST dated 7-7-2017.]

Chapter 3: - GST in India – An Introduction

ICAI Test your knowledge

This chapter includes "29 Q & A" of GST main book

Q1. State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

- Services provided by an arbitral tribunal to any business entity.
- Sponsorship services provided by a company to an individual.
- Renting of immovable property service provided by the Central Government to a registered business entity.

Ans.

- 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.
- GST on sponsorship services provided by any person to anybody 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.**
- GST on services supplied by Central Government, State Government, Union territory/ local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.

Q2. A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs. 1 crore during the course of the year i.e. he crosses the turnover of Rs. 1 crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Ans. 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 (Rs. 1 crore). 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.

Q3. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 1 crore:

- Mohan is engaged in providing only legal services in Rajasthan and is registered in the same State.
- Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

Ans.:

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

Q4. Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was Rs. 90 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 Enterprises whether he can do so?

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Ans. A registered person with an aggregate turnover in a preceding financial year up to Rs. 1 crore is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed Rs. 1 crore, 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.

Other Questions

Q5. ABC Associates, tax consultant of XYZ Ltd., have advised them that reverse charge mechanism is applicable only to services. Examine the validity of the advice given by ABC Associates.

Ans. No, reverse charge applies to supplies of both goods and services, as notified by the Government on the recommendations of the GST Council. Notification no. 4/2017-CT (Rate) and 13/2017-CT (Rate) have been issued. Similar notifications have been issued under IGST Act also. Reverse charge also applies to supplies received by a registered person from unregistered persons (it is deferred upto 30-09-2019).

Reverse charge on Goods is out of syllabus

Q6. Is reverse charge applicable on payment of advance?

Ans. According to Section 12 (3) of CGST Act, time of supply in case of reverse charge with respect to goods, shall be earliest of the following dates:

- (a) the date of receipt of goods; or
- (b) the date of payment, or
- (c) the date immediately following thirty days (31st day) from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

According to Section 13 (3) of CGST Act, time of supply in case of reverse charge with respect to service, shall be earliest of the following dates:

- (a) the date of payment, or
- (b) the date immediately following sixty days (61st day) from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier

Keeping in mind above provisions U/s 12 (3) & 13 (3) of CGST Act, it is clear that reverse charge is applicable even in case of payment in advance subject to aforementioned provisions.

Q7. In accordance with the provisions of GST Act, give answers to the following with respect to reverse charge:

- (a) Is reverse charge GST payable for both i.e. CGST & SGST (UTGST)?
- (b) Is reverse charge GST payable for inter-State supply?
- (c) In case supplier aggregate turnover is less than threshold exemptions, still recipient has to pay reverse charge?

Ans.

- (a) Yes. GST in India is a dual-tax and the provisions of CGST Act are mirrored in SGST/UTGST Act.
- (b) Yes. Identical provision of Section 9 (3) & 9 (4) of CGST Act, are available in IGST Act in Section 5 (3) & Section 5 (4).
- (c) Reverse charge is applicable for notified goods & services irrespective of supplier aggregate turnover. Reverse charge liability is on recipient of goods and services.

Q8. State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory and supply is intra-state supply:

GTA can also opt for forward charge @ 12%

Who is recipient for GTA services = Person who pays (or is liable to pay) consideration – Consignor (supplier of goods) or consignee (recipient of goods)

- i. Service of transportation of goods by road provided by a GTA (registered) provided to a company which is GST Registered.
- ii. Service of transportation of goods by road provided by a GTA (unregistered) provided to a company which is GST Registered.

Ans.

- i. **Yes, the recipient company shall be liable to pay applicable GST.** GTA services have been subject to 'reverse charge' as per provisions of Sec 9(3) of CGST Act. In terms of notification issued thereunder, service of transportation of goods by road by GTA to a body corporate shall attract reverse charge. Thus, in given case, **even if GTA is GST registered**, his service to company (company is body corporate) shall attract reverse charge.
- ii. **Yes, the recipient company shall be liable to pay applicable GST.** GTA services have been subject to 'reverse charge' as per provisions of Sec 9(3) of CGST Act. In terms of notification issued thereunder, service of transportation of goods by road by GTA to a body corporate shall attract reverse charge. Thus, in given case, **even if GTA is GST unregistered**, his service to company (company is body corporate) shall attract reverse charge.

Q9. Mr. A is a senior advocate in Calcutta High Court. During October 2018, he provides legal service to ABC associates (a firm of advocates in Mumbai) for a fee of Rs. 5,00,000. Turnover of ABC associates for preceding financial year is Rs. 36 lakh.

Ans. Legal services provided by senior advocate to a business entity is exempt if aggregate turnover in previous year of such business entity is upto Rs. 20 lakhs. In aforementioned case, the recipient advocate firm is a business entity with aggregate turnover exceeding Rs. 20 lakhs. Thus, services to such advocate firm is not exempt. GST shall be payable in given situation.

However, such service are subject to reverse charge where client of advocate firm shall be deemed to be the recipient of such service (he being the actual litigant/applicant/ petitioner) and hence, shall be liable to pay GST on services of senior advocate.

Q10. ABC Ltd., Mumbai had appointed a senior advocate Mr. Amit for representation of company's legal matter at Calcutta High Court. Determine the GST liability? Would your answer differ if ABC Ltd. appoints one Mumbai advocate and he further outsource this to senior advocate Mr. Amit?

Ans. As per Section 9 (3) of CGST Act, in case of services provided by an individual advocate including a senior advocate by way of legal services directly or indirectly to any business entity located in the taxable territory. The liability to pay GST shall be upon the recipient i.e. reverse charge is applicable. In the given case, the business entity ABC Ltd. shall be liable to pay tax under reverse charge.

Even though if Mr. Amit provides these services through another advocate, ABC Ltd. shall be liable to pay tax under reverse charge.

Q11. ABC Ltd. is GST registered with aggregate turnover of Rs. 4 crores. It has received the following services from different persons during January 2019:-

- i. Service by Department of Posts by way of speed post
- ii. For transportation of goods, ABC Ltd. paid Rs. 50,000 to Indian Railways.
- iii. ABC Ltd. has taken a commercial property on rent from the Maharashtra State Government for which company is paying rent of Rs. 1,00,000 p.m.
- iv. ABC Ltd. has taken security services for factory in MIDC, Chakan from the Maharashtra State Government for which consideration is Rs. 1,00,000.
- v. ABC Ltd. has taken security services for for factory in MIDC, Chakan from the Tops Security for which consideration is Rs. 1,00,000.

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Discuss the applicability of reverse charge to the above transactions.

Ans.

- i. Nature of service is speed post provided by Department of Posts. RCM not applicable to these services. Supplier has to pay GST as forward charge.
- ii. Nature of service is transportation of goods provided by Indian Railways. RCM not applicable to these services. Supplier has to pay GST as forward charge.
- iii. Nature of service is renting of immovable property provided by Maharashtra State Government. ABC Ltd. shall be liable to pay GST as reverse charge.
- iv. Nature of service is security services provided by Maharashtra State Government. **ABC Ltd. shall be liable to pay GST as reverse charge.**
- v. Nature of service is security services provided by Tops Security Ltd. **RCM not applicable to these services. Supplier has to pay GST as forward charge.**

Q12. Salim Khan a renowned writer and author of novels transferred the copyright of his one published novel to Yashraj Films for a consideration. Examine the tax implications as per GST Act?

Ans. As per section 9(3) of CGST Act read with relevant notifications, services supplied by an author by way of transfer or permitting the use or enjoyment of copyright covered under sec. 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like reverse charge shall be applicable. Thus in the given case the liability to pay GST shall be upon Yashraj Films as it is the recipient of service.

Q13. A hotel owner is providing following services:

- i. Room renting for lodging purposes;
- ii. Banquet renting for business seminars;
- iii. Restaurant services;

His aggregate turnover from all the above services is 90 lakhs. Hotel owner has now started providing above services through makemyatra.com (Australia based website). Whether in such case in respect of any of service provided through ECO, ECO shall be liable to pay GST in terms of Sec 9(5) of CGST Act?

Ans. As per section 9(5) of CGST Act, ECO is liable to pay GST only in respect of notified services supplied through ECO. One of the notified service is service 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 U/s 22(1) of the CGST Act. So, in above mentioned cases:-

- i. ECO shall not be liable to pay GST. Since aggregate turnover of hotel is more than threshold exemption and it is liable to take GST registration U/s 22 (1) of CGST Act. Thus, GST shall be payable by hotel under forward charge.
- ii. Banquet renting service has not been notified, thus ECO shall not be liable to pay GST. Thus, GST shall be payable by hotel under forward charge.
- iii. Restaurant service has not been notified, thus ECO shall not be liable to pay GST. Thus, GST shall be payable by hotel under forward charge.

Q14. Mr. A is an insurance agent of ABC General Insurance Ltd. Commission earned by him in FY 2018-19 is Rs. 30,00,000 from the ABC General Insurance Ltd. Please discuss:

- i. Is Mr. A liable to pay GST on full 30,00,000?
- ii. Is Mr. A liable to take GST registration?

Ans. Services of insurance agent to insurance company are subject to reverse charge as stipulated U/s 9(3) of CGST Act or Sec 5(3) of IGST Act. Thus, services of Mr. A are subject to reverse charge under GST law.

- i. Mr. A, the supplier of service, is not liable to pay GST. ABC General Insurance Ltd., the recipient of service, is liable to pay GST under reverse charge.
- ii. Mr. A is not liable to pay GST and hence, he is exempted from requirement of obtaining GST registration [Sec 23(2) of CGST Act read with N/N 5/2017-CT].

Exclusive
supplier of
services
which are
subject to
RCM

Q15. ABC Associates a recovery agent taken on board by XYZ Bank, Mumbai. The following service supplied by ABC Associates in the month of January 2018:

- i. Fee of Rs 10,00,000 for supply of services in relation to recovery of dues from the defaulting Borrowers.
- ii. Supply of services with regard to demand for recovery or taking possession of the security from defaulting Borrowers, for which separate fee charged from the bank Rs. 5,00,000.

Answer the following:

- (a) Is it supply of service?
- (b) If so, who is liable to pay GST?
- (c) What is the GST liability if tax rate is 18%?

Ans.

- (a) Yes. It is taxable supply of service.
- (b) XYZ Bank being recipient of service is liable to pay GST under RCM.
- (c) GST liability = Rs. 2,70,000 [(Rs. 10,00,000 + 5,00,000) × 18%]

Q16. Whether the following supplier are eligible to opt for composition scheme (state reasons also)

- i. Supplier of consultancy services (intra-state supply).
- ii. Supplier of restaurant/catering services (intra-state supply) – serving only food and non-alcoholic beverages;
- iii. Supplier of restaurant/catering services (intra-state supply) – serving food and non-alcoholic as well as alcoholic beverages;
- iv. Supplier of handicraft goods (intra-state supply);

Assume: All suppliers are fulfilling the turnover limit as required under Composition Scheme.

Ans.

- i. Supplier of services (other than restaurant and catering) are disqualified for composition scheme. Thus, supplier of consultancy services is not eligible for composition scheme.
- ii. Supplier of services of restaurant and catering are qualified for composition scheme. Thus, such supplier is eligible for composition scheme.
- iii. Though supplier of services of restaurant and catering are qualified for composition scheme, but supplier engaged in making non-taxable supply is not eligible. Supply of alcoholic beverages is non-taxable supply under GST. Thus, restaurant serving food and non-alcoholic as well as alcoholic beverages shall not be eligible for composition.
- iv. Supplier of any goods (making intra-state supply) is eligible to opt for composition scheme. Thus, supplier of handicraft goods is eligible to opt for composition scheme.

Q17. Discuss whether payment of GST under Composition Scheme is possible in the cases given below:-

- i. Mr. A is a artist. A Trade Fair is organized by Bombay Exhibition in Mumbai. Mr. A wants to display and sell his paintings in Trade Fair. His turnover in Trade Fair is not likely to be more than Rs. 15 lakhs. He wants to opt for Composition Scheme.
- ii. Mr. A is in the business of manufacture of pan masala. With effect from February 2019, he wants to manufacture biscuits for rural market along with pan masala. He wants to opt for Composition Scheme with effect from April 2019. His annual turnover (even after commencement of biscuits manufacture) will not be more than Rs. 72 lakhs.
- iii. Mr. A is in the business of manufacture of biscuits. He is registered under GST under normal provisions. His annual turnover is not more than Rs. 50 lakhs. With effect from April 2019, he wants to opt for Composition Scheme. He owns a flat in a commercial building and gets monthly rent of Rs. 1,00,000.
- iv. Mr. A is in the business of manufacture of garments. His turnover is Rs. 60 Lakhs. He sells his entire stock through Infibeam, an ECO. He is registered under normal provisions of GST. Can he opt for composition scheme?

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- v. In above case, whether composition scheme will be available if 99% garments manufactured by Mr. A are sold directly to Dmart Supermarket and Only 1% garments are sold through ECO Infibeam.

Ans.

- i. Mr. A is a "casual taxable person". A casual taxable person making taxable supply in India has to take compulsorily registration U/s 24 of CGST Act. For casual taxable person, there is no threshold limit of aggregate turnover. He is liable to pay GST even if his turnover is not likely to more than Rs. 15 lakhs. As per Sec 10 of CGST Act, a casual taxable person is not eligible to avail composition scheme.
- ii. Mr. A manufactures pan masala. A manufacturer of ice-cream, pan masala and tobacco products, cannot opt for Composition Scheme.
- iii. Mr. A has turnover from manufacture of biscuits. Besides, he has rental income from commercial property which is chargeable to GST. Mr. A, registered person, is engaged in supply of commercial renting service and thus, he cannot opt for composition scheme.
- iv. Mr. A cannot opt for Composition Scheme. Section 10(2) prohibits a person who is engaged in making any supply of goods through an ECO to opt for Composition Scheme.
- v. Mr. A cannot opt for Composition Scheme. Section 10(2) prohibits a person who is engaged in making any supply of goods through an electronic commerce operator to opt for Composition Scheme.

Q18. Mr. A registered in Jaipur, who is selling goods from Jaipur to Pune. Turnover of Mr. A is Rs. 50 Lakhs in the preceding financial year. Whether Mr. A is eligible for Composition Scheme? Whether your answer will change if Mr. A is making purchases from Pune and selling goods in Jaipur?

Ans. Mr. A is eligible for composition scheme from aggregate turnover perspective since his aggregate turnover in the preceding FY is not exceeding Rs. 1 Crore (Rajasthan is normal State).

But, since Mr. A is making inter-State outward supply, he is not eligible to opt for composition as per Sec 10(2) of CGST Act.

If Mr. A is making purchase from Pune then he is eligible for composition as there is restriction on outward interstate supply not on inward interstate supply.

Q19. Shubhlaxmi Foods is engaged in supplying restaurant/catering service in Maharashtra. In the preceding financial year, it has a turnover of Rs. 90 lakh from the restaurant/catering service and Rs. 10 lakh from the supply of farm labour in said State. Further, it has also earned a bank interest of Rs. 10 lakh from the fixed deposits. Shubhlaxmi Foods wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi Foods on the same.

Would your answer be different if Shubhlaxmi Foods is engaged in milling of paddy into rice on job work basis instead of supply of farm labour and the turnover from the said activity is Rs. 9 lakh?

(CA Final - RTP Nov 2018)

Ans. As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1 crore (Rs 75 lakhs in special category states other than J&K and Uttarakhand) may opt to pay composition scheme. Such person shall be so eligible if he is not attracting any disqualification as specified in Sec 10(2) of CGST Act. One such disqualification is if he is engaged in supply of any service other than restaurant/catering services. Condition of non-supply of any service (other than restaurant/catering services) was making it difficult for supplier to avail composition scheme as even receipt of interest by business was making them ineligible as interest is also consideration of service, though exempted under GST law. Keeping in mind difficulty in implementation of provisions of composition scheme, Central Government has issued REMOVAL OF DIFFICULTY ORDER (order No. 1/2017) relaxing this condition and providing that if service supplied is exempted service, then supply of such exempted service will not make person ineligible. Also, it has been provided that 'turnover' of such exempted

service shall not be considered while determining ATO of previous year based on which eligibility of supplier is determined under composition scheme.

In the given case, the two other services provided by Shubhlaxmi Foods apart from the restaurant/catering services, viz. the services of supply of farm labour and services by way of extending deposits where the consideration is represented by way of interest, are exempt from GST (vide N/N. 12/2017 CT (R)). Thus, in view of the aforementioned order, since other services supplied by Shubhlaxmi Foods apart from restaurant/catering services are exempt services, Shubhlaxmi Foods is not ineligible for the composition scheme. Further, in computing his aggregate turnover in order to determine the eligibility of Shubhlaxmi Foods for composition scheme, value of supply of exempt services - supply of farm labour and bank interest shall not be taken into account. Thus, the aggregate turnover of Shubhlaxmi Foods is Rs. 90 lakhs (turnover from restaurant/catering services). From the aforesaid discussion, it can be inferred that Shubhlaxmi Foods is eligible for composition scheme.

Supply of milling of paddy into rice: Such job-work service is not exempt under GST. That being so, supply of such service will make supplier ineligible for composition scheme as per Sec 10(2) of CGST Act.

Questions from GST Main Book

Q20. XYZ Ltd. is a **manufacturing concern** in Mumbai. In FY 17-18 total value of supplies including inward supplies taxed under reverse charge basis are Rs. 1,05,00,000, please see below break up?

Particulars	Amount
Intra State Supplies	40,00,000
Intra State Supplies made which are subject to 0% CGST	40,00,000
Intra State Supplies which are wholly exempt	20,00,000
Value of inward supplies which is payable under RCM	5,00,000

Explain whether XYZ Ltd. is eligible to opt for composition scheme in FY 18-19?

A. As per Section 2(6) of the CGST Act, 2017, "aggregate turnover" doesn't include value of inward supplies on which reverse charge is applicable so aggregate turnover is computed as under: -

Particulars	Amount
Intra State Supplies	40,00,000
Intra State Supplies made which are subject to 0% CGST	40,00,000
Intra State Supplies which are wholly exempt	20,00,000
Value of inward supplies which is payable under RCM	NIL
Total	1,00,00,000

Since, aggregate turnover doesn't exceed Rs. 1,00,00,000 during the FY 17-18, so XYZ Ltd. is entitled for composition scheme.

Q21. XYZ Ltd. is a **manufacturing concern** in Mumbai. It opted for composition in FY 18-19. Total value of supplies including inward supplies taxed under reverse charge basis are Rs. 90,00,000, please see below break up?

Particulars	Amount
Intra State Supplies @ 5%	40,00,000
Intra State Supplies @ 12%	10,00,000
Intra State Supplies made which are subject to 0% CGST	20,00,000
Intra State Supplies which are wholly exempt	10,00,000
Value of inward supplies which is payable under RCM @ 5%	10,00,000

Compute composition tax liability and total tax liability?

A.

Particulars	Amount
Intra State Supplies @ 5%	40,00,000
Intra State Supplies @ 12%	10,00,000
Intra State Supplies made which are subject to 0% CGST	20,00,000

Additional Questions & Answers

These are apart from Examples in main book

Intra State Supplies which are wholly exempt	10,00,000
Value of inward supplies which is payable under RCM @ 5%	NIL
Aggregate Turnover	80,00,000
Rate of Tax @ 1% (CGST+SGST)	80,000

XYZ Ltd. has to pay tax under reverse charge section 9 (3) of CGST Act, 2017 Rs. 50,000

(10,00,000*5%). Total Tax Liability is Rs. 80,000+Rs. 50,000 = Rs. 1,30,000

Q22. XYZ Ltd. had opted for payment of tax under composition scheme during 2017-18. Its turnover during 17-18 was as follows: -

- (a) Supply of manufactured goods Rs. 20 Lacs
- (b) Supply of traded goods Rs. 10 Lacs
- (c) Supply of service Rs. 10 Lacs
- (d) Export of goods Rs. 15 Lacs

On all these supplies SGST @ 6% & CGST rate is 6%. Calculate the tax liability.

A. Composition Scheme is not available if a taxable person is exporting goods or supplying services. Hence, he is liable to pay tax on Rs. 40 Lacs (20+10+10) as follows – SGST @ 6% = Rs. 2,40,000 and CGST @ 6% = Rs. 2,40,000.

He can make export of goods without payment of tax.

Q23. Please discuss provision related to alcoholic liquor for human consumption & for industrial consumptions.

A. The constitutional amendment put alcoholic liquor for human consumption out of the purview of GST i.e. this product will continue to fall under the ambit of State Excise Duty. It should be noted that alcoholic liquor for industrial consumption and non-alcoholic beverages are covered within the gamut of GST.

Q24. What happens if a taxable person who has opted to pay taxes under the composition scheme crosses the threshold limit of Rs. 75 lakhs/1 crore during the year?

A. In such case, from the day the taxable person crosses the threshold, the permission granted earlier is deemed to stand withdrawn, and he shall be liable to pay taxes under the regular scheme i.e. section 9, from such day.

Q25. A hotel provided accommodation in Himachal Pradesh, through an electronic commerce operator – Makemyatra.com. The hotel 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? Will your answer be different if the Electronic Commerce operator Makemyatra.com does not have a physical presence in India?

A. As per Section 9 (5) of the CGST Act, 2017, person liable to pay GST in this case is the Electronic Commerce Operator (ECO) i.e. Makemyatra.com. All the provisions of the GST Law shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of such services. If Makemyatra.com does not have a physical presence in India, person liable to pay tax is the person representing Makemyatra.com.

Q26. Who is responsible to pay taxes?

A. The persons responsible for payment of taxes are as under –

1. Supplier: The person effecting taxable supplies is liable to pay taxes.
2. Recipient – Reverse Charge: Section 9 (3) of the CGST Act, 2017 inter alia provides that, the Government may, on the recommendations of the council, by notification specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.
In terms of Section 9 (4), all registered recipient of goods or services or both is liable to pay tax under reverse charge in the event supplier of goods is not registered. It must be noted that Central Government vide Notification No. 22/2018-CT (Rate) dated 06-08-2018 & No. 23/2018 – IT (Rate) dated 06-08-2018, has exempted intra-State & inter-State supplies of goods or

services or both received by a registered person from any supplier, who is not registered, from the whole of the central tax leviable thereon under Section 9 (4) of the CGST Act 2017/ under Section 5(4) of the IGST Act, 2017 till 30-09-2019.

3. E-Commerce Operator: U/s 9 (5) of CGST Act, 2017, categories of services have been notified by the Government on the recommendation of the Council, the tax on which is paid by the electronic commerce operator as if such services are supplied through it.

Q27. ABC Ltd., a manufacturing concern had affected intra-State taxable supply of Rs. 40,00,000 and inter-State supply of Rs. 20,00,000 in FY 2017-18. The company wants to opt for composition scheme. Please advise ABC Ltd. whether they can opt for composition scheme or not?

A. As per provisions of Section 10 of CGST Act, 2017, a manufacturer can opt for composition scheme if he is not engaged in making any inter-State outward supplies of goods. In this case, since ABC Ltd. has affected interstate taxable supply of goods, hence it cannot opt for composition scheme.

Q28. What are the consequences, if a taxable person violates the conditions prescribed for composition scheme?

A. Following are the consequences for non-compliance with the conditions specified for composition scheme:

- a. Shall be liable to pay additional taxes at the rates applicable to regular taxable person;
- b. Shall be liable to pay penalty; and
- c. The amount of tax and penalty shall be recovered in terms of Section 73 or 74 of the CGST Act, 2017.

Q29. State the clarifications made vide CGST (Removal of Difficulties Order), 2017 Order No. 1/2017 dated 13-10-2016-CT, in respect of Composition scheme?

A. This notification has provided two clarifications in respect of composition scheme, which are as under:

- If a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act (i.e. restaurant services) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall be eligible for the composition scheme U/s 10 subject to fulfilment of all other conditions specified therein.
- In computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account

Q30. ABC Ltd. a **trading concern** in Rajasthan has opted for composition scheme furnishes you with the following information for Financial Year 2017-18. It required you to determine its tax liability. The details are: -

Particulars	Amount
Intra State Supplies of Goods 'A' (Tax Rate @ 5%)	10,00,000
Intra State Supplies of Goods 'B' (Tax Rate @ 12%)	35,00,000
Intra State Supplies which are wholly exempt	20,00,000
Intra State Supplies of Goods 'C' (Tax Rate @ 18%)	10,00,000
Value of inward supplies on which tax payable under RCM (Tax Rate 18%)	10,00,000

A.

Particulars	Amount
Intra State Supplies of Goods 'A' (Tax Rate @ 5%)	10,00,000
Intra State Supplies of Goods 'B' (Tax Rate @ 12%)	35,00,000
Intra State Supplies which are wholly exempt (No tax for composition trader)	NIL
Intra State Supplies of Goods 'C' (Tax Rate @ 18%)	10,00,000
Aggregate Turnover	55,00,000
CGST @ 0.5% & SGST @ 0.5% = 1% [A]	55,000
Tax payable as reverse Charge (Rs. 10,00,000*18%) [B]	1,80,000
Total Tax Liability [A+B]	2,35,000

Additional Questions & Answers

These are apart from Examples in main book

Q31. Comment on chargeability of following transaction: -

- i. ABC Ltd. availed service of XYZ Ltd. (Goods Transport Agency) for transportation of goods by road from Pune to Mumbai.
- ii. ABC Ltd. paid Rs. 1,00,000 towards legal services provided by partnership advocate firm AZB.
- iii. ABC Ltd. paid Rs. 1,00,000 to independent director.
- iv. Government has provided Business support services to ABC Ltd. for Rs. 1,00,000.
- v. ABC Ltd. paid Rs. 1,00,000 towards sponsorship of exhibition. If Mr. A has paid Rs. 1,00,000 towards sponsorship of exhibition then whether your comment will differ.
- vi. Government has given commercial property on monthly rent for Rs. 1,00,000.
- vii. ABC Insurance company pay Rs. 1,00,000 commission to Mr. A whose turnover is lesser than threshold limit for registration.
- viii. ABC Ltd. has availed Manpower services from XYZ Ltd. Will your answer differ if service provider is Mr. A.
- ix. Works contract services provided by ABC Ltd. to XYZ Ltd.
- x. Security services by Mr. A to ABC Ltd.
- xi. Insurance company selling insurance policies through an ECO and paying commission to ECO.

A.

- i. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9 (3) since it is liable to pay freight for transportation of goods so ABC Ltd. shall be treated as recipient of service. If GTA has paid GST under forward charge @ 12% then it is not subject to reverse charge.
- ii. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9 (3). Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly, are subject to reverse charge except where legal services provided to business entity whose aggregate turnover is upto Rs. 20 Lacs are exempt, vide Entry No. 45 Notification No. 12/2017-CT (Rate) and Entry no. 47 of Notification No. 9/2017-IT (Rate).
- iii. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9 (3). Services supplied by a director of a company or a body corporate to the said company or the body corporate, are subject to reverse charge.
- iv. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9 (3). Services supplied by the Central Government, State Government, Union Territory or local authority to a business entity, are subject to reverse charge.
- v. In this case sponsorship is received by ABC Ltd. so they are subject to reverse charge U/s 9 (3). If it is provided to Mr. A then GST will be payable by supplier of service. Service provided by way of sponsorship to anybody corporate or partnership firm are subject to reverse charge.
- vi. It is subject to reverse charge U/s 9 (3).
- vii. In this case ABC Insurance company will be liable to pay GST under reverse charge basis U/s 9 (3). It cannot claim exemption since it is recipient of service.
- viii. XYZ Ltd. is liable to pay GST. Even if it is provided by Mr. A, treatment remain same i.e. service provide Mr. A, is liable to pay GST.
- ix. ABC Ltd. is liable to pay GST as service provider.
- x. Mr. A is liable to pay GST as service provider.
- xi. 'ECO' shall not be termed as 'insurance agent' unless such 'ECO' is licensed under Section 42 of Insurance Act. Unless 'ECO' can be termed as 'insurance agent', RCM shall not be applicable.

Q32. Whether a Restaurant is supplying liquor/alcohol is eligible for Composition Scheme?

A. A Restaurant is supplying liquor/alcohol is not eligible for Composition Scheme because according to the provisions of the Act, composition scheme cannot be availed on those goods and services on which GST is not levied and liquor/alcohol are out of the scope of GST. Person has no choice to go to Composition Scheme; rather he has an only window of regular scheme which is mandatory if he falls under the criteria of aggregate turnover.

Q33. Mr. A, a retailer who keeps on inventories, presents the following expected information for the year –

Purchase of goods: Rs. 60 Lacs (GST @ 5%)

Sales (at fixed selling price inclusive of all taxes): Rs. 72 Lacs (GST @ 5%)

Discuss whether he should opt for composition scheme if composite tax is 1% of turnover.

Expenses of keeping detailed statutory records required under the GST Laws will be Rs. 1,44,000 p.a., which shall get reduced to Rs. 60,000 if composition scheme is opted for. Other expenses are Rs. 3,60,000 p.a.

A: The cost to the ultimate consumer under two schemes is as under –

	Normal GST Scheme	Composition Scheme*
Cost of goods sold (*No credit under compositions scheme, hence, cost of goods sold will be higher)	60,00,000	63,00,000
Add: Costs of Maintaining records	1,44,000	60,000
Add Normal Expenses	3,60,000	3,60,000
Total Costs	65,04,000	67,20,000
Sales (inclusive of taxes)	72,00,000	72,00,000
Less Tax (GST = $72,00,000 \times 5/105$); Composition Tax = $(72,00,000 \times 1\%)$	3,42,857	72,000
Sales (Net of Taxes)	68,57,143	71,28,000
Profit	3,53,143	4,08,000

Since profit under composition scheme is higher so dealer should opt for composition scheme.

Q34. Will a taxable person be eligible to opt for composition scheme only for one out of 3 business verticals?

A. No. Composition scheme would become applicable for all the business verticals / registrations which are separately held by the person with same PAN.

Q35. Can composition scheme be availed if the taxable person has inter-State inward supplies?

A. Yes. Composition scheme is applicable subject to the condition that the taxable person does not engage in making inter-state outward supplies, while there is no restriction on making any inter-State inward supplies.

Q36. How to compute 'aggregate turnover' to determine eligibility for composition scheme?

A. The methodology to compute aggregate turnover is given in Section 2(6). However, since composition scheme is applicable only to suppliers making intra-state supplies, 'aggregate turnover' means 'Value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies (except interest income as discussed above), exports of goods or services or both or inter-state supplies of a person having the same PAN (i.e., across India) excluding CGST, IGST, SGST, UGST and cess.

Q37. Can a person paying tax under composition scheme make supplies of goods to SEZ?

A. No. Supplies to SEZ from domestic tariff area (DTA) will be treated as inter-State supply. A person paying tax under composition scheme cannot make inter-State outward supply of goods. Thus, for making supplies to an SEZ unit, a person needs to take registration as a regular taxpayer. The supplies to SEZ will be zero rated and the supplier will be entitled to make supplies without payment of tax or if he pays tax, he will be entitled to refund of tax so paid.

Q38. Mr. A is a whole-time director of ABC Ltd. Salary is Rs. 5,00,000 per month. Besides he gets sitting fees for Board's meetings. During Dec'17 and Mar'18, sitting fees is Rs. 1,00,000 for five meetings. Find out GST liability if any.

A. Mr. A being whole time director is an employee of company. The remuneration received by him (including sitting fees for Board's meeting) is in the course of employment contract. Supply of such services is out of scope of supply in view of provisions laid down in Sec 7(2) of CGST Act read with Schedule III of CGST Act. Thus, GST is not applicable to the transaction.

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Additional Questions & Answers

These are apart from Examples in main book

Q39. Mr. A has written a book which is published by ABC Ltd. of Mumbai. You are required to find the following: (a) who is liable to pay GST? (b) Rework, if publisher is located in Paris, then who is liable to pay GST?

A. (a) ABC Ltd. of Mumbai being recipient of service is liable to pay GST under RCM.

(b) RCM shall not be applicable in this case as recipient is not located in taxable territory. Thus, Mr. A shall be liable to pay GST. However, such supply will qualify as 'export of service' provided payment received in convertible foreign currency. Such supply of service shall be zero-rated (as per provisions of Sec 16 of IGST Act, 2017). In that event, Mr. A shall be entitled to supply such service without payment of IGST.

Q40. A tourist from USA visits India and purchases a handicraft wooden item in Mumbai. How it is going to be taxed under GST?

A. In terms of proviso to section 8(1), supplies made to a tourist shall not be treated as intra-state supply even when location of the supplier and the place of supply of goods are in the same State or same Union territory.

In terms of sec 7(5)(c) of IGST Act, 2017, where supply of goods or services or both is in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

In this case, even though the place of supply and location of supplier are in the same State, it will be treated as inter-State transaction and will be liable to IGST.

Q41. What happens if the receiver of goods and/or services is required to pay tax under Reverse Charge but is not a registered dealer?

A. All taxpayers required to pay tax under reverse charge have to register for GST and the threshold of Rs 20 Lakhs is not applicable to them.

Q42. Is Input Tax Credit allowed under Reverse Charge?

A. Tax paid on reverse charge basis will be available for input tax credit if such goods and/or services are used, or will be used, for business. The recipient (i.e., who pays reverse tax) can avail input tax credit.

Q43. AB & Co. is a firm of advocates (partners are A and B), having equal profit sharing ratio. Find out the GST liability

- Legal professional services provided to X, an advocate of Bombay High Court (gross receipts of X is always more than Rs. 50,00,000 per annum): Rs. 8,00,000
- Legal professional services provided to B & Co. (a firm of 10 advocates) : Rs. 32,00,000.
- Legal professional services provided to C (an Employee) (this service is provided to C in a personal legal matter) : Rs. 6,00,000.
- Legal professional services provided to D Ltd., Delhi based company (turnover of D Ltd. of the preceding financial year is Rs. 6,00,000) : Rs. 11,00,000.
- Legal professional services provided to E Ltd., Delhi based company (turnover of E Ltd. of the preceding financial year is Rs. 50,00,000) : Rs. 5,00,000.

Above figures are exclusive of GST. Please analyze each case and give your answer mentioning forward charge or reverse charge.

A.

- Services provided to X, shall be exempt as provided to individual advocate via entry no. 45.
- Services provided to B & Co., shall be exempt via entry no. 45
- Services provided to C, shall be exempt since provided to non-business entity
- Services provided to D Ltd., shall be exempt as provided to business entity having turnover not exceeding Rs 20,00,000

- e) This will be subject to reverse charge & E Ltd. has to pay reverse charge @ 18% i.e. Rs. 90,000.

Q44. Would GST be payable on goods not intended to be sold, taken out for participation in overseas exhibitions and trade fairs and brought back into India as these goods are meant for exhibition only ?

A. GST is not payable in such cases. Exporters will need exhibition participation letter and no foreign exchange involved letter from the concerned bank for the purpose of exchange control requirements. At the time of re-import, identity of goods imported with export goods needs to be established to seek exemption from import duty in accordance with Customs provisions. IGST will be exempted at the time of re-import in view of exemptions granted under Customs.

Q45. Whether IGST on import of goods would be levied under IGST Act or under Customs Act?

A. As per Section 7(2) of IGST Act, import of goods is Inter-State Supply. Thus, IGST will be levied on import of goods also. However as per Section 5:

- ✓ IGST on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act
- ✓ Value shall be 'Value determined as per Sec 14 of Customs Act, 1962 (please refer Valuation chapter in Custom Book)

Q46. Exploration site is at 150 nautical miles from base line. Some minerals explored (not petroleum etc.) and sent to refinery in Maharashtra, the nearest State. Whether this will attract IGST or CGST and SGST?

A. Exploration site is location of supplier. Location of site in 150 NM is beyond territorial waters but still within Indian territory (as for purposes of GST law, definition of India covers area upto exclusive economic zone). Such site shall be treated as located in 'other territory' which is also 'a union territory' as defined under Sec 2(114) of CGST Act. Exploration Site is supplying goods to refinery in Maharashtra. Thus, place of supply of goods is falling into Maharashtra State.

Since location of supplier is union territory and place of supply is Maharashtra, it is inter-state supply in terms of Sec 7(1) of IGST Act. Thus, aforesaid supply shall attract charge of IGST under section 5 of IGST Act.

Q47. Whether CGST & SGST/UTGST is applicable on import of goods or service or both?

A. In terms of Section 7 of the IGST Act, 2017, import of goods or services or both is shall be treated to be a supply in the course of inter-State trade or commerce. Accordingly, tax under the provisions of IGST Act, 2017 (i.e. IGST) shall apply on import of goods or services or both.

- Import of Goods: IGST leviable U/s 5 of IGST Act. However, it is collected in the manner specified under Customs Tariff Act, 1975. Valuation of such transaction is also as per provisions of Customs Tariff Act.
- Import of Services: IGST leviable U/s 5 of IGST Act. However, it is collected as per provisions of GST law (i.e. as per time of supply of such transaction). Valuation of such transaction is also as per provisions of GST law.

Q48. Will withdrawal intimation in any one place be applicable to all places of business?

A. Yes. Any intimation or application for withdrawal in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 4: - Exemptions from GST

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This chapter includes "7 Q & A" of GST main book

Q1. 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?

Ans. 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.

Q2. 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 Rs. 1,20,000 will be donated to a charitable organization. Whether Ms. Ahana Kapoor will be required to pay any GST?

Ans. 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 Rs. 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.

Q3. 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 (Rs.)
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

Ans.

Computation of value of taxable supply

Particulars	Rs.
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.

Q4. 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.

Ans.

- (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.

Q5. 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	Rs. 20,000
B	Transportation of books on a consignment transported in a single goods carriage	Rs. 3,000
C	Transportation of chairs for a single consignee in the goods carriage	Rs. 600

Ans.

Customer	Nature of services provided	Amount charged	Taxability
A	Transportation of milk	Rs.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	Rs.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 Rs.1,500.

Additional Questions & Answers

These are apart from Examples in main book

C	Transportation of chairs for a single consignee in the goods carriage	Rs.600	Exempt. Transportation of goods where consideration for transportation of all goods for a single consignee does not exceed Rs.750 is exempt.

Other Questions

Q6. State the difference between General & Special Exemption.

Ans.

General Exemption	Special Exemption
- It is given by Government in public interest by notification in official gazette - It is applicable to all members of a particular section - It is generally in public interest - Covered U/s 11 (1)	- It is given by Government in public interest by special order - It is applicable in each case i.e. applicable to that person to whom the order is given - It is given in exceptional nature i.e. charitable purpose, goods of strategic nature etc. It is also generally in public interest - Covered U/s 11 (2)

Q7. Jain hostel trust registered U/s 12 AA of Income Tax Act 1961, provides hostel accommodation facility to students and charges Rs. 900 per day. Determine whether such service of accommodation is covered under the ambit of charitable activity and also its taxability in GST Act?

Ans. This is exempt. As per Circular No. 32/06/2018-GST, the aforesaid service doesn't fall within the ambit of charitable activities (Sr. No. 1 of Notification No. 12-2017-CT (R) dated 28-06-2017). However, accommodation service in hostels including such services provided by trusts having "Value of Supply" below Rs. 1,000 per day is exempt under Sr. No. 14 of Notification No. 12-2017-CT (R) dated 28-06-2017.

Q8. Siddhivinayak Charitable trust is a registered religious trust U/s 12 AA of Income Tax Act 1961. Discuss the treatment of following transaction under GST law:-

- Deluxe room rent Rs. 900 per day & Super Deluxe room rent Rs. 1,000;
- Renting of small community hall for Rs. 9,000 per day & Renting of large community hall for Rs. 12,000
- Trust has rented shop for Rs. 15,000 p.m. to sell goods required for performing various religious ceremonies.
- Meditation Hall provided on rent for Rs. 100 per day.
- Amount received for yoga camps organized for elderly people - Rs. 1,00,000.
- Amount received for activities relating to preservation of forests and wildlife – Rs. 50,000
- Payment made for services received from a service provider located in USA, for the purposes of providing 'charitable activities' – Rs. 5,00,000
- Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children – Rs. 1,00,000
- Renting of residential dwelling for use as a residence – Rent Rs. 25,000 p.m.
- Renting of residential dwelling for commercial activity – Rent Rs. 50,000 p.m.
- Grant of tenancy rights in a residential dwelling for use as residential dwelling against tenancy premium of Rs. 10,00,000. What will be your answer if it is commercial dwelling?

Ans.

- i. Deluxe room rent is exempt. Exemption is available for renting of rooms wherein the rent charged is less than Rs. 1,000 per day (Sr. No. 13 of Notification No. 12-2017-CT (R) dated 28-06-2017).
Since Super Deluxe room rent is Rs. 1,000 per day, it is not exempt.
- ii. Renting of small community hall for Rs. 9,000 per day is exempt. Exemption is available for renting of community halls wherein the rent charged is less than Rs. 10,000 per day (Sr. No. 13 of Notification No. 12-2017-CT (R) dated 28-06-2017).
Since Renting of large community hall is more than Rs. 10,000 per day, it is not exempt.
- iii. It is not exempt. Exemption is available to renting of shops wherein the rent charged is less than Rs. 10,000 p.m. (Sr. No. 13 of Notification No. 12-2017-CT (R) dated 28-06-2017).
- iv. It is exempt. Meditation hall falls under the purview of precincts of the religious place.
- v. It is exempt vide Sr. No. 1 of Notification No. 12-2017-CT (R) dated 28-06-2017
- vi. It is exempt Sr. No. 1 of Notification No. 12-2017-CT (R) dated 28-06-2017
- vii. This is exempt. Service recipient is liable to pay GST in case of a taxable service provided by any person located in a non-taxable territory and received by any person located in the taxable territory. However, services received from a provider of service located in a non-taxable territory by an entity registered U/s 12 AA of the Income-Tax Act, 1961 for the purposes of providing charitable activities are exempt from vide Sr. No. 10 of Notification No. 9/2017-IT (R) dated 28-06-2017.
- viii. It is exempt Sr. No. 1 of Notification No. 12-2017-CT (R) dated 28-06-2017
- ix. It is exempt. Exemption is available for renting of residential dwelling for use as a residence vide Sr. No. 12 of Notification No. 12-2017-CT (R) dated 28-06-2017).
- x. It is not exempt since it is used for commercial activity. Only residential use is exempt.
- xi. It is exempt vide Circular No. 44/18/2018 CGST dated 02.05.2018. If it is commercial dwelling then it is not exempt.

Q9. Orchid Hotel provides the following information relating to their services for the month of January 2019:

The hotel has 50 rooms, out of which 30 rooms are Super Deluxe rooms with a declared tariff of Rs. 2,000 per day, 10 rooms are Deluxe rooms with a declared tariff of Rs. 1,200 per day, rest is Semi Deluxe with a declared tariff of Rs. 800 per day.

The hotel has practice of giving 25% discount on Super Deluxe & Deluxe room.

In January 2019 occupancy was 80%.

Restaurant supply during January 2019 were 10,00,000.

Please calculate value of taxable supply.

Ans.

Particulars	Amount (in INR)
Renting of Super Deluxe rooms {30 rooms * 31 days * Rs. 1,500 (after considering discount of 25% on Rs. 2,000)*80%}	11,16,000
Renting of Deluxe rooms. After discount room rent per day is Rs. 900. This is exempt vide Sr. No. 14 of Notification No. 12-2017-CT (R) dated 28-06-2017. Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below one thousand rupees per day or equivalent	NIL
Renting of Semi Deluxe rooms. The per day Room rent is Rs. 800 per day so it is exempt vide Sr. No. 14 of Notification No. 12-2017-CT (R) dated 28-06-2017	NIL
Value of Taxable Supply for the month of January 2019	11,16,000



Q10. Discuss the treatment of following transaction under GST law:-

- i. Mr. A, a sole proprietor has transferred all assets and liabilities of his business carried on under the name and style of ABC Interiors as a going concern to XYZ Limited.

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Additional Questions & Answers

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- ii. Mr. A, has provided labour services for construction of a community park to a Panchayat.
- iii. The State Government has built a burial ground in a village from the funds received by Government from public.
- iv. ABC Enterprise had turnover of Rs. 15 lakhs during FY 2017-2018. ABC enterprise has taken testing service from Central Government department.
- v. ABC transit provides services of loading, unloading and transporting cargo which is imported by M/s XYZ Enterprises of Kathmandu to be shipped to Nepal.
- vi. ABC Ltd. provides training for improvement of procedures in government companies and government bodies for which it receives grants for its functioning.
- vii. ABC Enterprises provided labour services for construction of housing flats, under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.
- viii. Mr. A gets his house constructed on a vacant land & Mr. Y gets modifications in a house.
- ix. Amit runs a fair price shop and earns Rs. 1,00,000 as consideration received from government for sale of food grains during the month of January 2019.
- x. Mr. A, a priest, charged Rs. 11,000 for services provided to Mr. B for conducting his marriage ceremony at Temple.
- xi. ABC Pvt. Ltd. providing services of air transportation has received Rs. 1 crore as viability funding under regional connectivity scheme from Central government for operation of air travel services.
- xii. Amit has transported wheat to APMC by road to another city.
- xiii. George has a business in Germany and sent goods by aircraft to India. Goods are being cleared at customs stations in India. What is your view on transportation of goods by aircraft.
- xiv. Vandana an owner of a motor vehicle gives his vehicle to a goods transport agency for hiring and transportation of goods.
- xv. NHAI pays annuity to ABC Ltd, a concessionaire who constructed the road.
- xvi. IRDA Charged Rs. 1,00,000/- from ICICI General Insurance (Insurer) in lieu of grant of registration certificate.
- xvii. SEBI Charged Rs. 5,00,000/- as a regulatory fee from ABC Co. (Stock Exchange).
- xviii. Rohit an organizer has provided services related to business exhibition in Australia.
- xix. Krishna a farmer provides services relating to cultivation of seeds.
- xx. Vijay deals in services by way of pre-conditioning and pre-cooling of fruits and vegetables for refrigerated transport.
- xxi. Government of India recovers Rs. 25 Crores as damages for not completing construction of a flyover within the time specified in the contract from the Jaguar Limited.
- xxii. Central Government has provided services in relation to import export cargo on payment of Merchant Overtime charges.
- xxiii. PVR cinemas charges Rs. 200. per person as admission charges for exhibition of cinematographic films. What will be your answer if ABC circus charges Rs. 200 per person as admission charges for circus show.
- xxiv. Columbia Hospital charged Mr. A who availed in-patients service Rs. 1,00,000 towards treatment including room rent and in patient food. They paid Rs. 40,000 to Doctor towards his professional fees. Whether both are subject to GST?
- xxv. Columbia Hospital has outsourced catering to Sodexo. Sodexo provides catering service to patient who admitted in Columbia Hospital according to Dietician suggestion and also serve food to visitor and patient's relative. Sodexo bill Columbia Hospital for in-patient food services & collect directly from others.

Ans.

- i. This sale is exempt vide S. No. 2 of Exemption Notification No. 12/2017-Central Tax (Rate).
- ii. This service is exempt vide S. No. 3 of Exemption Notification No. 12/2017-Central Tax (Rate).
- iii. This service is exempt vide S. No. 4 of Exemption Notification No. 12/2017-Central Tax (Rate).

- iv. The supply of services by government are exempt vide S. No. 7 of Exemption Notification No. 12/2017-Central Tax (Rate) and no GST is payable on such services by ABC Enterprise on reverse charge.
- v. This is exempt vide S. No. 9B of Exemption Notification No. 12/2017-Central Tax (Rate).
- vi. This is exempt vide S. No. 9C of Exemption Notification No. 12/2017-Central Tax (Rate).
- vii. It is exempt vide S. No. 10 of Exemption Notification No. 12/2017-Central Tax (Rate).
- viii. This is exempt. Mr. A gets his house constructed on a vacant land, such construction would qualify as Original work vide S. No. 11 of Exemption Notification No. 12/2017-Central Tax (Rate).
However, Mr. Y modifications would not qualify as Original works. So it is taxable.
- ix. Such consideration is exempt from GST vide S. No. 11A of Exemption Notification No. 12/2017-Central Tax (Rate) as amended by Notification No. 21/2017-Central Tax (Rate) and 47/2017-Central Tax (Rate).
- x. Service by any person by way of conduct of any religious ceremony would be exempt from GST vide S. No. 13 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xi. This is exempt vide S. No. 16 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xii. It is exempt from tax vide S. No. 18 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xiii. Such transportation services shall be exempt vide S. No. 19 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xiv. Such services shall be considered as exempt services vide S. No. 22 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xv. This would be exempt from GST vide S. No. 23A of Exemption Notification No. 12/2017-Central Tax (Rate), amended by Notification No. 32/2017-Central Tax (Rate) dated 13.10.2017.
- xvi. This would be exempt from GST vide S. No. 32 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xvii. This would be exempt from GST vide S. No. 33 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xviii. Such services shall be exempt vide S. No. 52 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xix. This is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xx. This would be exempt from tax vide S. No. 57 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xxi. In this case as the tolerating of a non-performance of an act is specifically covered under the S. No. 62 of Exemption Notification No. 12/2017-Central Tax (Rate), no GST would be leviable on such damage recovered from the erring party.
- xxii. These services would be exempt from GST vide S. No. 65 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xxiii. GST would be leviable on the same even though admission charges are less than Rs. 500 since exhibition of cinematographic films is not covered in the exemptions under GST Act. In case of Circus, it is exempt vide S. No. 81 of Exemption Notification No. 12/2017-Central Tax (Rate).
- xxiv. Columbia charges to Mr. A is exempt vide S. No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate). Even services provided by Doctor to Hospital is also exempt. It is immaterial whether Doctor work as employees of hospital or not. It is clarified by Circular No. 32/06/2018-GST.
- xxv. **Sodexo catering services to in-patients is taxable since Sodexo is billing Columbia Hospital. Columbia Hospital billing to in-patients is although exempt.**
Sodexo catering services to visitor & patient's relative is also subject to GST.

Sodexo is going to charge 5% GST to Hospital & Hospital can't avail ITC since its services are exempt

Additional Questions & Answers

These are apart from Examples in main book

Q11. Mr. A, the owner of a residential building in a commercial locality, furnishes the following information relating to his residential building for the month of January 2019:-

Floor No.	Usage
Ground Floor	5 Shops & 1 godown for goods storage for monthly rent of INR 5,00,000
1 st Floor	Residential dwelling for monthly rent of INR 50,000
2 nd Floor	Self-Occupied by Mr. A for residential purpose
Vacant land in the backyard	Given to nearby restaurant for parking for monthly rent of INR 1,00,000
Terrace	Given to XYZ mobile company for maintaining tower for monthly rent of INR 1,00,000

Compute the value of taxable supply.

Ans.

Particulars	Amount (in INR)
Rent received for 5 Shops & 1 godown for goods storage	5,00,000
Residential dwelling for monthly rent of INR 50,000 is exempt vide Sr. No. 12 of Notification No. 12-2017-CT (R) dated 28-06-2017)	NIL
Self-Occupied property. Firstly no consideration and it is also used for residence	NIL
Given to nearby restaurant for parking	1,00,000
Given to XYZ mobile company for maintaining tower	1,00,000
Value of Taxable Supply for the month January 2019	7,00,000

Q12. Columbia Hospital has received the following amounts in the month of January 2019 in lieu of various services rendered by it in the same month. You are required to determine its taxable value for January 2019 from the details furnished below:-

Particulars	Amount (in INR)
Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells	30,00,000
Hair transplant services	15,00,000
Naturopathy treatments	20,00,000
Plastic surgery to restore anatomy of a child affected due to an accident	30,00,000
Pranic healing treatments	15,00,000
Mortuary Services	10,00,000

Compute the value of taxable supply.

Ans.

Particulars	Amount (in INR)
Services provided by cord blood bank unit of the nursing home by way of preservation of stem cells is exempt vide S. No. 73 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Hair transplant services. It is excluded from exemption vide S. No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate)	15,00,000
Naturopathy treatment is exempt vide S. No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Plastic surgery to restore anatomy of a child affected due to an accident is exempt vide S. No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Pranic healing treatments. It is excluded from exemption vide S. No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate)	15,00,000
Mortuary Services is neither supply of goods nor supply of services under Schedule III	NIL
Value of Taxable Supply for the month January 2019	30,00,000

Q13. 'ABC Farmers Association' is engaged in providing services relating to agriculture. You are required to determine its taxable value for January 2019 from the details furnished below:-

Particulars	Amount (in INR)
Cultivation of ornamental flowers	30,00,000
Packing of tomato & chili ketchup	15,00,000
Warehousing of potato chips	20,00,000
Sale of tea on commission basis	30,00,000
Packaging of pulses in 1 KG retail packing	15,00,000
Training of farmers on use of scientific tools and agro machinery	10,00,000
Leasing of vacant land to a stud farm (rearing of horses)	30,00,000
Grading of wheat according to its quality	15,00,000
Testing of samples from plants for pest detection	20,00,000
Rearing of silk worms	30,00,000
Breeding of fish	15,00,000
Supply of farm labour	10,00,000
Leasing of vacant land to a poultry farm	5,00,000
Renting of Agro-machinery	4,00,000

Compute the value of taxable supply.

Ans.

Particulars	Amount (in INR)
Cultivation of ornamental flowers is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Packing of tomato & chili ketchup (Not an agriculture produce)	15,00,000
Warehousing of potato chips (Not an agriculture produce)	20,00,000
Sale of tea on commission basis	30,00,000
Packaging of pulses in 1 KG packing (it is not necessary to pack pulses for making it marketable)	15,00,000
Training of farmers on use of scientific tools and agro machinery is exempt. Agriculture extension services are exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Leasing of vacant land to a stud farm (rearing of horses) – Rearing of horses is specifically kept out from exemption	30,00,000
Grading of wheat according to its quality is exempt. Grading which doesn't alter the essential characteristics of the agriculture produce but makes it only marketable for the primary market is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Testing of samples from plants for pest detection is exempt. Agricultural operations directly related to production of any agriculture produce is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Rearing of silk worms is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Breeding of fish is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Supply of farm labour is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Leasing of vacant land to a poultry farm is exempt. Agriculture means the rearing of all forms of animals other than rearing of horses. Renting of vacant land is exempt when used for agriculture purpose vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Renting of Agro-machinery vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Value of Taxable Supply for the month January 2019	1,10,00,000

Additional Questions & Answers

These are apart from Examples in main book

Q14. You are required to determine value of taxable supply for January 2019 from the details furnished below:-

Particulars	Amount (in INR)
Transportation of passengers by inland waterways	15,00,000
Transportation of goods by in inland waterways	20,00,000
Transportation of passengers by air terminating in Mizoram and Meghalaya	30,00,000
Passenger travelling by air from Assam to Kolkata	15,00,000
Passenger travelling by air from Kolkata to Pune	10,00,000
Air Freight related to goods imported into India	16,00,000
Freight relating to domestic transport of goods in India by Air	45,00,000
Vessels Freight relating to goods imported into India	20,00,000
GTA Freight charges for transport of food grain and pulses	30,00,000
GTA Freight charges for transporting small consignment for persons who paid less than Rs. 750 for each consignment	15,00,000
GTA Freight charges for transporting goods in small vehicles for person who paid less than Rs. 1,500 per trip	10,00,000
Charges for Elephant/camel joy rides	25,00,000

Compute the value of taxable supply.

Ans.

Particulars	Amount (in INR)
Transportation of passengers by inland waterways is exempt vide S. No. 17 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Transportation of goods by in inland waterways is exempt vide S. No. 18 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Transportation of passengers by air terminating in Mizoram and Meghalaya is exempt vide S. No. 15 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Passenger travelling by air from Assam to Kolkata is exempt vide S. No. 15 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Passenger travelling by air from Kolkata to Pune	10,00,000
Air Freight related to goods imported into India is exempt vide S. No. 19 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Freight relating to domestic transport of goods in India by Air	45,00,000
Vessels Freight relating to goods imported into India	20,00,000
GTA Freight charges for transport of food grain and pulses is exempt vide S. No. 21 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
GTA Freight charges for transporting small consignment for persons who paid less than Rs. 750 for each consignment is exempt vide S. No. 21 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
GTA Freight charges for transporting goods in small vehicles for person who paid less than Rs. 1,500 per trip is exempt vide S. No. 21 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Charges for Elephant/camel joy rides (Elephant/camel joy rides are not classified as transportation services and will attract GST @ 18% -Circular No. 32/06/2018-GST)	25,00,000
Value of Taxable Supply for the month January 2019	1,00,00,000

Q15. ABC Ltd. Is engage in providing various service to educational institutional and furnishes you with the following information for the month of January 2019. You are required to determine the value of taxable supply and GST payable thereon if all charges are exclusive of GST.

Particulars	Amount (in INR)
Renting of immovable property to higher secondary school	12,00,000
Renting of immovable property to commercial coaching center	2,00,000

Transportation service provided to students of higher secondary school	30,00,000
Outdoor catering service provided to educational institutions running approved vocational courses	5,00,000
Security services provided to pre-nursery school	10,00,000
Housekeeping and cleaning service in college providing recognized graduation degree	6,00,000
Conduct of examination of ICSI	5,00,000
Placement service provided to ICAI	12,00,000
Development of course contain of ICMA	2,00,000
Training of staff of higher Secondary School	1,50,000

Compute the value of taxable supply.

Ans.

Particulars	Amount (in INR)
Renting of immovable property to higher secondary school	12,00,000
Renting of immovable property to commercial coaching center	2,00,000
Transportation service provided to students of higher secondary school is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Outdoor catering service provided to educational institutions running approved vocational courses	5,00,000
Security services provided to pre-nursery school is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Housekeeping and cleaning service in college providing recognized graduation degree	6,00,000
Conduct of examination of ICSI is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Placement service provided to ICAI	12,00,000
Development of course contain of ICMA	2,00,000
Training of staff of higher Secondary School	1,50,000
Value of Taxable Supply for the month January 2019	40,50,000

Q16. XYZ Ltd., providing educational services, furnishes you with the following information for the various service provided by it. It has collected an aggregate sum of Rs. 30 lakhs during the month January 2019 as under:

Particulars	Amount (in INR)
Receipts of 'Gyan Vijay' an industrial training institute (ITI) affiliated to the National council for vocational Training (NCVT)	1,20,000
Receipts for running a Boarding School	1,00,000
Receipts of 'GE Educare' a vocational educational provider affiliated to sector Skill Council formed under National Skill Development Corporation (NSDC)	1,80,000
Receipts of 'Kalyan Skill Centre' an industrial training centre (ITC) affiliated to the state Council for vocational Training, Rajasthan	2,00,000
Receipts of 'Scintech a Commercial Coaching institute providing commercial coaching in the field of arts and science (no certificate was issued on completion of the training)	80,000
Receipts of 'Commerce concepts' a Commercial coaching institute providing coaching in the field of commerce (a certificate was awarded to each trainee after completion of the training)	1,20,000
Receipts of Gurukul school providing education upto higher secondary	6,00,000
Receipts of 'Play Kids' school providing educational upto primary level (such receipts includes receipts from renting of premises to commercial coaching centre: Rs. 3 lakhs)	11,00,000

Compute the value of taxable supply.

Ans.

Additional Questions & Answers

These are apart from Examples in main book

Particulars	Amount (in INR)
Total Receipt	30,00,000
Less:-	
Receipts of 'Gyan Vijay' an industrial training institute (ITI) affiliated to the National council for vocational Training (NCVT) is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	(-) 1,20,000
Receipts for running a Boarding School is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	(-) 1,00,000
Receipts of 'GE Educare' a vocational educational provider affiliated to sector Skill Council formed under National Skill Development Corporation (NSDC) is exempt vide S. No. 69 of Exemption Notification No. 12/2017-Central Tax (Rate)	(-) 1,80,000
Receipts of 'Kalyan Skill Centre' an industrial training centre (ITC) affiliated to the state Council for vocational Training, Rajasthan is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	(-) 2,00,000
Receipts of Gurukul school providing education upto higher secondary is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	(-) 6,00,000
Receipts of 'Play Kids' school providing educational upto primary level is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate). However, receipts from renting of premises by the school to commercial coaching center shall be liable for GST	(-) 8,00,000
Value of Taxable Supply for the month January 2019	10,00,000

Q17. Axis IDFC Bank Ltd. furnishes following information relating to services provided during the month of January 2019. Compute the value of taxable supply from following information :

Particulars	Amount (in INR)
Amount of commission received for debt collection service	10,00,000
Discount earned on LC discounted	7,00,000
Dealing in sale and purchase of forward contract	20,00,000
Charges received on credit card and debit card facilities extended	4,00,000
Penal interest recovered from the customers for the delay in repayment of loan	11,00,000
Commission received for service rendered to Government for GST collection	7,00,000
Margin earned on reverse repo transactions	4,00,000
Interest on credit card	1,00,000
Administrative charges & Folio charges collected	10,000
Charges for ATM card transactions	5,00,000
Commission received for DD, pay order and cheque collection	4,00,000

Ans.

Particulars	Amount (in INR)
Amount of commission received for debt collection service Banking services are provided by way of extending deposits, loans or advances in so far as represented by interest are exempt. Commission received is not covered in exemption	10,00,000
Discount earned on LC discounted is exempt vide S. No. 27 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Dealing in sale and purchase of forward contract. Forward contract comes under the purview of "Securities" as per Section 2 (101) of CGST Act, 2017. Securities is excluded from the definition of Goods U/s 2 (52) & Services U/s 2 (102) respectively. Thus, the same would not be liable to GST	NIL
Charges received on credit card and debit card facilities extended	4,00,000
Penal interest recovered from the customers for the delay in repayment of loan	11,00,000
Commission received for service rendered to Government for GST collection	7,00,000
Margin earned on reverse repo transactions. These are financial instruments of short term call money market that are normally used by banks to borrow from or lend money to RBI. The margins, called the repo rate or reverse repo rate in such	NIL

transactions are nothing but interest charged for lending or borrowing money. Also interest earned on reverse repo transactions are exempt from GST	
Interest on credit card	1,00,000
Administrative charges & Folio charges collected	10,000
Charges for ATM card transactions	5,00,000
Commission received for DD, pay order and cheque collection	4,00,000
Value of Taxable Supply for the month January 2019	42,10,000

Q18. Please comment, whether the following services are exempt under GST or not:

Particulars	Amount (in INR)
Services provided to a recognized sports body by an individual as a player	10,00,000
Services provided to a recognized sports body by an individual as a referee	5,00,000
Services provided to a recognized sports body by an individual as a umpire	2,00,000
Services provided to a recognized sports body by an individual as a coach	1,00,000
Services of a player to IPL Franchisee	7,00,000
Services by a recognized sports body to another recognized sports body	5,00,000
Services provided to a recognized sports body by an individual as a selector	2,00,000
Services provided to a recognized sports body by an individual as a commentators	1,00,000
Services provided to a charitable body by an individual as a player in subsidized fees	50,000

Ans.

Particulars	Taxable Amount (in INR)
Services provided to a recognized sports body by an individual as a player is exempt vide S. No. 68 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Services provided to a recognized sports body by an individual as a referee is exempt vide S. No. 68 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Services provided to a recognized sports body by an individual as a umpire is exempt vide S. No. 68 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Services provided to a recognized sports body by an individual as a coach is exempt vide S. No. 68 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Services of a player to IPL Franchisee. It is not recognized sports body	7,00,000
Services by a recognized sports body to another recognized sports body is exempt vide S. No. 68 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Services provided to a recognized sports body by an individual as a selector	2,00,000
Services provided to a recognized sports body by an individual as a commentators	1,00,000
Services provided to a charitable body by an individual as a player in subsidized fees. It is not recognized sports body	50,000

Questions from GST Main Book

Q19. With reference to the CGST Act, 2017, discuss the following activities relating to a bank?

- Bank Extended housing loan of Rs. 50 Lacs to Mr. Namit.
- Bank received processing fees of Rs. 50,000 from Mr. Namit.
- Bank received Rs. 2 Lacs interest from Mr. Namit.

Ans. In accordance with the provisions of CGST Act, 2017 the taxability of activities is: -

- The same is transaction in money, therefore not regarded as service as per Sec 2(102) of CGST Act, 2017.
- The loan processing fees received by bank will be liable for GST.
- Rs. 2 Lacs received as interest on loan won't be liable for GST as the same is exempt vide entry

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Additional Questions & Answers

These are apart from Examples in main book

27 of Notification No. 12/2017- CT (Rate).

Q20. State with reasons whether the following are liable to GST?

- Services by way of training or coaching in recreational activities relating to arts, culture or sports.
- Services provided by a player to a franchisee which is not a recognized sports body.
- Pre-school education and education up to higher secondary school or equivalent.
- Services by a veterinary clinic in relation to health care of animals or birds.
- Services by way of public conveniences such as provision of facilities of washrooms.

Ans. The liability as well as reason: -

- Services by way of training or coaching in recreational activities relating to arts, culture or sports are exempt as it is specifically exempt vide Entry 80 of Notification No. 12/2017-CT (Rate)..
- Service of a player to a franchisee which is not a recognized sports body is taxable as it doesn't get covered under Entry 68 of Notification No. 12/2017-CT (Rate).
- Pre-School education and education up to higher secondary school or equivalent is not liable to GST as it is specifically exempt under Entry 66 of Notification No. 12/2017-CT (Rate).
- Services by a veterinary clinic in relation to health care of animals or birds is not liable to GST as it is specifically exempt vide Entry 46 of Notification No. 12/2017- CT (Rate).
- Services by way of public conveniences such as provision of facilities of washrooms are not liable to GST as it is specifically exempt vide Entry 76 of Notification No. 12/2017-CT (Rate).

Q21. Please comment whether below instances are subject to tax or no?

- Services of transportation of passenger by vessels in National waterways.
- Services of transportation of passenger by AC Stage carrier.
- Services of transportation of non AC Stage carrier.
- Services of transportation of passengers by contract carriage for tourism.
- Services of transportation of passenger Kolkata to Chennai in a vessel and such service is not for tourism purpose.
- Services of transportation of passengers in Non-AC contract carriages.
- Services of transportation of passengers in AC contract Carriages.

Ans. Our comments: -

- This is exempt under Entry No. 17 of Notification No. 12/2017-CT (Rate).
- This is liable to GST.
- This is exempt under Entry No. 15 of Notification No. 12/2017-CT (Rate).
- This is liable to GST.
- This is exempt under Entry No. 17 of Notification No. 12/2017-CT (Rate).
- This is exempt under Entry No. 15 of Notification No. 12/2017-CT (Rate).
- This is liable to GST.

Q22. Please comment whether below instances are subject to tax or no?

- Transportation of postal mails and postal bags via rail.
- Transportation of household effects via rail.
- Transportation of petroleum products via rail.
- Transportation of relief material to flood affected areas, transport of defense & military equipment & transport of organic manure via rail.
- Transportation of newspapers and milk via rail.
- Transportation of tea & sugar via rail.
- Transportation of fruits via Goods Transport Agency.
- Freight charges collected for transporting small consignment for persons who paid less than Rs. 750 for each consignment.
- Freight charges collected for transporting goods in small vehicle for persons who paid less than Rs. 1500 for each trip.

Ans. Our comments: -

- This is liable to GST.
- This is liable to GST.
- This is liable to GST.

- d. This is exempt under Entry No. 20 of Notification No. 12/2017-CT (Rate).
- e. This is exempt under Entry No. 20 of Notification No. 12/2017-CT (Rate).
- f. This is liable to GST.
- g. This is exempt under Entry No. 21 of Notification No. 12/2017-CT (Rate).
- i. This is exempt under Entry No. 21 of Notification No. 12/2017-CT (Rate).
- j. This is exempt under Entry No. 21 of Notification No. 12/2017-CT (Rate).

Q23. Please comment whether below instances are subject to tax or no?

- a. Renting of immovable property to higher secondary school.
- b. Transportation services provided to students of higher secondary school.
- c. Outdoor catering services provided to educational institutions running approved vocational courses.
- d. Security services provided to Pre-Nursery School.
- e. Housekeeping and cleaning services in college providing recognized graduation degree.
- f. Conducting of examination of ICAI.
- g. Development of course content of ICAI.
- h. Training of Staff of Higher Secondary School.

Ans. Our comments: -

- a. This is liable to GST.
- b. This is exempt under Entry No. 66 of Notification No. 12/2017-CT (Rate).
- c. This is liable to GST.
- d. This is exempt under Entry No. 66 of Notification No. 12/2017-CT (Rate).
- e. This is liable to GST.
- f. This is exempt under Entry No. 66 of Notification No. 12/2017-CT (Rate).
- g. This is liable to GST.
- h. This is liable to GST.

Q24. Please comment whether below instances are subject to tax or no?

- a. Monthly subscription Rs. 7,501 collected by Resident Welfare Association from member families.
- b. Electricity charges levied by State Electricity Board collected by Resident Welfare Association and deposited with Electricity Board.
- c. Common area electricity charges collected by Resident Welfare Association..
- d. Rs. 100 collected for entertainment program organized by Resident Welfare Association
- e. Other Services to non-members.

Ans. Our comments: -

- a. If per month per member contribution of any or some members of Resident Welfare Associations is higher than Rs. 7,500, contribution above Rs. 7,500 of such members is subject to GST (>7,500 paying members).
- b. This is pure agency services so not subject to GST.
- c. This isn't pure agency contract since common are charges would be in the name of Resident Welfare Association so it is subject to tax.
- d. This is exempt under Entry No. 81 of Notification No. 12/2017-CT (Rate) -Lesser then Rs. 500.
- e. This is liable to GST.

Q25. With reference to the provisions of CGST Act, 2017 examine whether GST is leviable in the following situations?

- a. Government of Rajasthan has provided services to ABC Ltd. of Rajasthan in the month of Nov'17 for a consideration of Rs. 1,00,000. The Turnover of ABC Ltd. in FY 16-17 is 11 Lacs.
- b. Government of Rajasthan has provided services to ABC Ltd. in the month of Oct'17 for a consideration of Rs. 5,000. The turnover of ABC Ltd in FY 16-17 was Rs. 25 Lacs.
- c. Jaipur Municipal corporation has awarded a contract for construction of road to ABC Ltd. failed to perform the contract and paid liquidated damages amounting Rs. 50 Lacs in accordance with the terms of contract.
- d. ABC Ltd. has applied for registration under Companies Act, 2013 to ROC, Rajasthan and has paid registration charge of Rs. 10 Lacs.

GST Bare Act Pages 120 V/s Direct Tax Bare Act Pages 1065

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Additional Questions & Answers

These are apart from Examples in main book

- e. Delhi Government has charged Rs. 40 Lacs from ABC Ltd. for allocation of natural resources for agricultural purposes in the month of Nov'17.
- f. ABC Ltd. has paid to customs department Rs. 1 Lac on account Merchant Overtime Charges for deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo.
- g. ABC Ltd. has made an upfront payment of Rs. 1 crore to Rajasthan Government on account of assignment of right to use minerals in the State of Bihar.

Ans. Our comments: -

- a. Services provided by the Central Government, State Government, Union Territory or local authority to a business entity with an aggregate turnover of upto Rs. 20 Lacs in the preceding financial year are exempt vide Entry 7 Notification No. 12/2017-CT (Rate).
- b. Services provided by Central Government, State Government, Union Territory or a local authority where the consideration for such services doesn't exceed Rs. 5,000 are exempt vide Entry 9 of Notification No. 12/2017 CT (Rate).
- c. Services provided by the Central Government, State Government, Union Territory or local authority of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union Territory or local authority under such contract are exempt vide Entry 62 of Notification No. 12/2017-CT (Rate).
- d. It is exempt vide Entry 47 of Notification No. 12/2017.
- e. Services by way of allocation of natural resources to an individual farmer for the purposes of agriculture have been exempted vide Entry 63 of Notification No. 12/2017-CT (Rate). Such allocations/auctions to categories of persons other than individual farmers would be leviable to GST. Hence, ABC Ltd. will be liable to pay GST.
- f. Services provided by the Central Government, State Government, Union Territory by way of deputing officers after office hours or on holiday for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges are exempt from GST vide Entry 65 of Notification No.. 12/2017 CT (Rate).
- g. ABC Ltd. will be liable to pay GST on assignment of rights to use minerals in the State of Bihar.

Chapter 5: - Place of Supply

ICAI Test your knowledge

This chapter includes
"12 Q & A" of GST
main book. Do refer
48 examples in GST
main book after
each provision.

Q1. In case of a domestic supply, what is the place of supply where goods are removed?

Ans. As per section 10(1)(a), 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.

Q2. 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?

Ans. As per section 10(1)(b), 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.

Q3. 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?

Ans. As per section 10(1)(e), 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).

Q4. 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?

Ans. 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) for domestic supplies].

Q5. 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?

Ans. 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)].

Q6. What is the place of supply of services by way of transportation of goods, including mail or courier when the both the supplier and the recipient of the services are located in India?

Ans. 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)].

Q7. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Ans. 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)].

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)].

Additional Questions & Answers

These are apart from Examples in main book

Q8. What is the place of supply for mobile connection? Can it be the location of supplier?

Ans. 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 taken as the place of supply.

For international supplies

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

Q9. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?

Ans. 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.

Q10. 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?

Ans. 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)].

Other Questions

Q11. Determine the place of supply:

Particulars	Supplier's factory from where goods are removed	Termination of movement for delivery	Place of Supply	Tax Payable
Movement of goods by the supplier (goods dispatched by supplier)	Orissa	Assam	?	?
Movement of goods by the supplier (goods dispatched by supplier)	Orissa	Orissa	?	?
Movement of goods by the recipient (goods collected by recipient)	Kerala	Goa	?	?
Movement of goods by the recipient (goods collected by recipient)	Kerala	Kerala	?	?

(ICAI BGM)

Ans.

Particulars	Supplier's factory from where goods are removed	Termination of movement for delivery	Place of Supply	Tax Payable

Movement of goods by the supplier (goods dispatched by supplier) [Section 10(1)(a) read with section 2(96)(a) of CGST Act]	Orissa	Assam	Assam	IGST payable at Orissa
	Orissa	Orissa	Orissa	CGST/SGST payable at Orissa
Movement of goods by the recipient (goods collected by recipient) [Section 10(1)(a) read with section 2(96)(b) of CGST Act]	Kerala	Goa	Goa	IGST payable at Kerala
	Kerala	Kerala	Kerala	CGST / SGST payable at Kerala

Location of supplier & Place of supply decide IGST or CGST & SGST/UTGST leviable

Q12. Mr. A (a supplier registered in Rajasthan) having principal place of business at Jaipur asked Mr. Z of Mumbai to deliver 20 Laptops to his buyer Mr. Y at Indore. What will be the Place of Supply?

Ans. In given case, goods are supplied by Mr. Z to Mr. Y on directions given by Mr. A. As per Section 10 (1) (b), in this case, the place of supply of goods is not the location of delivery of such goods (Indore) but the principal place of business of third person i.e., principal place of business of Mr. A located in Jaipur. Mr. Z is going to charge 'IGST'.

Q13. Mr. A (New Delhi) has leased his machine (cost Rs. 8,00,000) to Mr. B (Noida, Uttar Pradesh) for production of goods on a monthly rent of Rs. 40,000. After 14 months Mr. B requested Mr. A to sell the machine to him for Rs. 4,00,000, which is agreed to by Mr. A. Determine Place of Supply. (ICAI Example).

Ans. As per Section 10 (1) (c), If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient. In this case, there will be no movement of goods and the same will be sold on as is where is basis. Thus, the location of the machine at the time of such sale will be the place of supply i.e., Noida.

Q14. XZ Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from KTS Builders (Gurugram). It also enters into a separate contract with KTS Builders for purchase of pre-installed office furniture and fixtures in the building. Determine Place of Supply. (ICAI Example).

Ans. As per Section 10 (1) (c), If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient. Though there will be no GST liability on purchase of building, office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (XZ Ltd.) i.e., Gurugram.

Q15. Pure Refineries (Mumbai, Maharashtra) gives a contract to PQ Ltd. (Ranchi, Jharkhand) to assemble a power plant in its Kutch, Gujarat refinery. Determine Place of Supply. (ICAI Example).

Ans. As per Section 10 (1) (d), If the supply involves goods which are to be installed or assembled at site, the place of supply is the place of such installation or assembly. The place of supply is the site of assembly of power plant i.e., Kutch even though Pure refineries is located in Maharashtra.

Q16. Determine the location of the recipient of service in following cases:

- Mr. A with registered place of business in Mumbai and having other fixed establishments at Ahmedabad, Indore, Lucknow enters into agreement with Mr. P in Mumbai for IT solutions for his offices. The services are received in Mumbai and then the same is utilised by all the other offices.
- What would your answer be in the above case if Mr. A enters into agreement at Mumbai for receiving IT solutions at Indore.

Additional Questions & Answers

These are apart from Examples in main book

3. What would your answer be in case agreement though entered into at Mumbai, but service is received at Ahmedabad.

Ans.

1. As per Section 2(14)(a), since the service has been received at the registered place of business i.e. Mumbai, the location of the recipient shall be Mumbai even though the beneficiary of the services are all the four offices.
2. As per Section 2(14)(b), if the services is received at a fixed establishment (here, Indore), then the location of the fixed establishment shall be the location of the recipient. In this case, the location of the recipient shall be Indore.
3. As per Section 2(14)(c), If the agreement is entered into at Mumbai, but the service is received at Ahmedabad, then in this case since service are received at multiple establishments, the establishment most directly concerned with the receipt of supply shall be the location of the recipient of service. Here, the location of the recipient shall be Ahmedabad.

Section 2(14) of the IGST Act. Under the CGST Act, the same definition is covered under section 2(70).

Q17. Mr. A of Mumbai went to Ooty on vacation. He purchased mobile from shop located in Ooty. Determine place of supply.

Ans. As per Section 10(1)(c) of the IGST Act, 2017, where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. In this case the mobile is purchased from a shop in Ooty, the supply is complete in the shop itself by delivery to Mr. A and the place of supply will be Ooty even if Mr. A comes from Mumbai.

Q18. Mr. A, of Maharashtra has a godown in Jaipur. Mr. Z of Maharashtra approaches Mr. A for purchase of goods lying at godown in Jaipur and takes delivery of goods from the Jaipur godown. Mr. A issues an invoice for sale of goods at his principal place of business in Maharashtra. Determine the place of supply of goods.

Ans. As per Section 10(1)(c) of IGST Act, 2017, where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. Thus, the place of supply of goods shall be Jaipur, although both Mr. A and Mr. Z are located in Maharashtra.

Q19. A Ltd. of Mumbai received an order from Z Ltd. Price is inclusive of freight. A Ltd. is to deliver goods to Z Ltd. which is located at a SEZ in Mumbai. Determine place of supply.

Ans. As per Section 8 (1) (a) of IGST Act, provided that the following supply of goods shall not be treated as intra-State supply namely:-

(i) supply of goods to or by a SEZ developer or SEZ unit. Hence, even though it is an intra-State supply it will be treated as inter-State supply as Z Ltd. is located in a SEZ.

According to Section 10 (1) (a), place of supply is Mumbai.

Section 8 (1) (a) of IGST Act, is specific provision and hence will prevail over general provision as contained in section 10 (1) (a) of IGST Act.

Thus, it is inter-State and subject to IGST.

Q20. Mr. A (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Mr. B of Noida, Uttar Pradesh (registered in Uttar Pradesh). Determine Place of Supply. (ICAI Example).

Ans. As per Section 12(2) of IGST Act, 2017, the place of supply of services made to a registered person is the location of the person receiving the services. In this case, since the supply is made to a registered person, the place of supply is the location of the registered recipient i.e., Noida.

Q21. Mr. A, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. C who is a resident of New Delhi but is not registered under GST. Determine Place of Supply. (ICAI Example).

Ans. As per Section 12(2) of IGST Act, 2017, if the services is supplied to an unregistered person, the place of supply is:

- the location of such unregistered person, if the address of the unregistered person is available in the records of the supplier
- the location of the supplier of services in other cases

Mr. A, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. C who is a resident of New Delhi but is not registered under GST. If the address of Mr. C is available in the records of Mr. A, location of Mr. C i.e., New Delhi will be the place of supply, else the location of Mr. A, which is Gurugram, will be the place of supply.

Q22. Determine Place of Supply of service for the following case:-

- KTS Builders (Mumbai) is constructing a factory building for PLM Pvt. Ltd. (Kolkata), in New Delhi.
- Shah and Shah, an architectural firm at Kolkata, has been hired by MKF Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat.
- Mr. Ramesh, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there.
- Mr. X, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Mr. Y (Bangalore) located in Australia.

(ICAI Example).

Ans. Section 12(3) of IGST Act, covers supplies of services which are in relation to an immovable property or a boat or a vessel. Place of supply would be location of the immovable property or the boat or the vessel is the place of supply. So, the place of supply according to Section 12 (3):-

- The place of supply is the location of the immovable property i.e., New Delhi.
- The place of supply is the place where the immovable property is intended to be located i.e., Ahmedabad.
- The place of supply of accommodation service is the place where the hotel is located i.e., Mumbai.
- Since the immovable property is located outside India, the place of supply of service is the location of recipient i.e., Bangalore and not the place where the immovable property is located (Australia).

Q23. Determine Place of Supply of service for the following case:-

- Mr. A, a business man from Pune dines in a restaurant at Mumbai while on a business trip.
- Mr. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai.
- DEO Consultants (Kolkata) impart GST training to accounts and finance personnel of Sun Cements Ltd. (Guwahati, Assam) at the company's Kolkata office.
- Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for training on English speaking at their New Delhi Centre.
- Mr. A, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi.
- Mr. B of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh.

(ICAI Example).

Ans.

- As per Section 12 (4) of IGST Act, the place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed. The place of supply of restaurant service is the location where such service is performed i.e., Mumbai.

Additional Questions & Answers

These are apart from Examples in main book

- b. As per Section 12 (4) of IGST Act, the place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery is the location where such services are actually performed. The place of supply is the location where such service is performed i.e., Jaipur.
- c. As per Section 12 (5) of IGST Act, the place of supply of services in relation to training and performance appraisal depends upon whether the supply is B2B or B2C. In B2B supply i.e., where the recipient of service is a registered person, the place of supply is the location of such person. Since the recipient is registered, the place of supply is the location of the registered person i.e., Guwahati.
- d. As per Section 12 (5) of IGST Act, the place of supply of services in relation to training and performance appraisal depends upon whether the supply is B2B or B2C. In case of B2C supply i.e., where the recipient of service is unregistered, the place of supply is the place where the service is actually performed. Since the recipient is unregistered, the place of supply is the location where services are provided i.e., New Delhi.
- e. As per Section 12 (6) of IGST Act, services by way of admission to events/amusement park/other places is the place where the event is actually held or where the park or such other place is located. The place of supply is the location where the circus is held i.e., Gurugram.
- f. As per Section 12 (6) of IGST Act, services by way of admission to events/amusement park/other places is the place where the event is actually held or where the park or such other place is located. The place of the supply is the location where the park is located i.e., Noida.

Q24. Determine Place of Supply of service for the following case:-

- a. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai.
- b. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mauritius.
- c. Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at New Delhi.
- d. Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at Seychelles.

(ICAI Example).

Ans. As per section 12 (7) of IGST Act, the place of supply provision is:-

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Organisation of events or services ancillary to the same or assigning of sponsorship to such events	Location of recipient	Location where the event is held
Organisation of events outside India		Location of recipient

- a. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e., Ahmedabad.
- b. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e., Ahmedabad.
- c. The recipient being an unregistered person, the place of supply is the location where the event is held i.e., New Delhi.
- d. The recipient being an unregistered person and the event held outside India, the place of supply is the location of the recipient i.e., Hyderabad and not the location where the event is held i.e., Seychelles.

Q25. Determine Place of Supply of service for the following case:-

- M/s XYZ Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service.
- Mr. Y, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab.
- PR Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hajela Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi.
- ST Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh.
- Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradesh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal.

(ICAI Example).

Ans. As per section 12 (8) of IGST Act, the place of supply of services by way of transportation of goods, including by mail or courier, etc. provided to a registered person, is the location of such person. However, where such services are provided to an unregistered person, the place of supply is the location at which such goods are handed over for their transportation.

- The recipient being registered person, the place of supply is the location of recipient i.e., New Delhi.
- The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation i.e., New Delhi.
- The recipient being registered, the place of supply is the location of recipient i.e., Kanpur.
- The recipient being registered, the place of supply is the location of recipient i.e., New Delhi.
- The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation i.e., Kanpur.

Q26. Determine Place of Supply of service for the following case:-

- Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi.
- Mr. C (unregistered person in Chennai) has come to Delhi on a vacation. He buys pre-paid Delhi Metro Card from Delhi Metro (New Delhi) for hassle free commute in the National Capital Region.
- Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day.

(ICAI Example).

Ans. As per section 12 (7) of IGST Act, the place of supply provision are:-

Nature of Supply	Place of Supply	
	Recipient is registered	Recipient is unregistered
Passenger transportation	Location of recipient	Location where the passenger embarks on the conveyance for a continuous journey
Issue of right to passage for future use-point of boarding not known at the time of issue of right		a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person.

Additional Questions & Answers

These are apart from Examples in main book

		b) In other cases, the location of the supplier of services
The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.		

- The place of supply is the location of recipient i.e., New Delhi.
- Recipient being unregistered person, the place of supply is the address of Mr. C i.e., Chennai. If address of Mr. C is not available with the Delhi Metro, the place of supply will be the location of the supplier of services i.e., New Delhi.
- The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, the place of supply for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey i.e., New Delhi and Mumbai respectively.

Q27. Mr. A of Jamshedpur has availed services of Mumbai Transport Company of Mumbai for transport of goods from his house in Kota (Rajasthan) to Mumbai. Determine place of supply of goods transport services.

Ans. As per Section 12(8) of IGST Act, the place of supply of services by way of transportation of goods, including by mail or courier to a person other than a registered person, shall be the location at which such goods are handed over for their transportation. In this case since the goods are handed over to transporter in Kota, the place of supply shall be Kota.

Q28. Mr. A, an unregistered person from Patna travels by Air India flight from Kochi to Delhi and gets his travel insurance done in Kochi. What will be the place of supply?

Ans. As per Section 12(13) of IGST Act, the place of supply of insurance services is the location of recipient when provided to a registered recipient. If such services are provided to a person other than a registered person, the place of supply is the location of the recipient of services in the records of the supplier of services.

Since Mr. A is an unregistered person, the location of the recipient of services on the records of the supplier of insurance services shall be the place of supply. So Patna shall be the place of supply.

Q29. Determine Place of Supply of service for the following case:-

- Mr. X (New Delhi) imports a machine from Germany for being installed in his factory at New Delhi. To install such machine, Mr. X takes the service of an engineer who comes to India from Germany for this specific installation.
- A software company located in United States of America (USA) takes services of a software company located in Bangalore to service its software in USA. The Indian software company provides its services through electronic means from its office in India.
- ABC Ltd., Hyderabad has exported a machine to a company in Indonesia. The machine stops functioning and is thus, imported by ABC Ltd. for free repairs in terms of the sale contract. The machine is exported after repairs.
- Mr. X, a hair stylist registered in New Delhi, travels to Singapore to provide his services to Ms. Y, a resident of Singapore.
- PQR Consultants, New Delhi, bags a contract for doing a market research for a vehicle manufacturing company based in South Korea, in respect of its upcoming model of a car. The research is to be carried out in five countries including New Delhi in India.

(ICAI Example).

Ans.

- As per section 13 (3) of IGST Act, in case of Services requiring physical presence of goods, the place of supply is service is actually performed.

The place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed i.e., New Delhi.

- b. As per section 13 (3) of IGST Act, services supplied in respect of goods, that are provided from a remote location by electronic means, the place of supply is location where goods are situated at the time of supply of services.

The place of supply is the location where goods are situated at the time of supply of service i.e., USA.

- c. As per section 13 (3) of IGST Act, services supplied in respect of goods, that are temporarily imported into India for repairs and are exported after repairs, without being put to any other use in India, is location of the recipient

The place of supply of repair service is the location of the recipient i.e., Indonesia.

- d. As per section 13 (3) of IGST Act, services supplied to an individual, which require the physical presence of the recipient, is location where the service is actually performed.

The place of supply is the location where the services are actually performed i.e., Singapore.

- e. As per section 13 (3) of IGST Act, since the services are supplied at more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory i.e., New Delhi.

Q30. An event management company registered in New Delhi organises an art exhibition displaying works of an international painter based in Dubai. The exhibition is organised in 3 countries including New Delhi. Determine Place of Supply of service. (ICAI Example)

Ans. As per section 13 (5) of IGST Act, services supplied by way of admission to or organisation of following:

- Cultural, artistic, sporting, scientific, educational, entertainment events
- Celebration, conference, fair, exhibition
- Similar events

Place of supply is place where the event is actually held.

Since the service is supplied at more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory i.e., New Delhi.

Q31. A travel agent registered in New Delhi books a tour of famous Indian cities for a Dubai resident. Determine Place of Supply of service. (ICAI Example)

Ans. As per section 13 (8) of IGST Act, in case of intermediary services, place of supply is location of the supplier of services.

The place of supply is the location of the supplier of services i.e., New Delhi.

Q32. Mr. D, an unregistered person based in New Delhi hires a yacht from a company based in London, UK for 20 days. Determine Place of Supply of service. (ICAI Example)

Ans. As per section 13 (8) of IGST Act, services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month, place of supply is location of the supplier of services.

The place of supply is the location of the supplier of services i.e., London.

Q33. A shipping line, Mumbai, Maharashtra transports a shipment of flowers from Mumbai to Paris, for an event management company based in Paris. Determine Place of Supply of service. (ICAI Example)

Ans. As per section 13 (9) of IGST Act, transportation of goods, other than by way of mail or courier, place of supply is destination of such goods.

The place of supply is the location of destination of goods transported i.e., Paris.

Additional Questions & Answers

These are apart from Examples in main book

Q34. Mr. A, a foreign tourist, has booked a ticket for New Delhi-Sri Lanka flight from an airline registered in New Delhi for a continuous journey without any stopover. Determine Place of Supply of service. (ICAI Example)

Ans. As per section 13 (10) of IGST Act, in case of passenger transportation services, place of supply is place where the passenger embarks on the conveyance for a continuous journey. The place of supply is the place where the passenger embarks on the conveyance for a continuous journey i.e., New Delhi.

Questions from GST Main Book

Q35. A person in Agra buys shares from a broker in Delhi on NSE (in Mumbai). What will be the POS?

Ans. The POS shall be the location of recipient of services on the records of the supplier of services i.e. Agra.

Q36. A person from Kolkata travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What will be the place of supply?

Ans. The location of the recipient of services on the records of the supplier of insurance service shall be the place of supply. So, Kolkata shall be the place of supply.

Q37. Software Ltd., a company based out of Pune, awards online maintenance contract of its servers located in Hyderabad office to ABC, a company based out of France, and as per the terms of the online maintenance ABC shall be required to perform regular maintenance from France using Internet. What will be POS?

Ans. The place of supply of maintenance services shall be Hyderabad.

Q38. Software Ltd., gets an order from a French Bank, based out of Paris, to monitor transactions on the servers located in Paris using internet facilities. What will be POS?

Ans. The place of supply of such monitoring services shall be at Paris.

Q39. Bookmyticket.com, a company based out at Pune providing online ticketing services for admission to various events, sells online tickets for IPL tournament to be held across India. What will be POS?

Ans. The place of supply of services for admission to each cricket match shall be the location where the match is actually played.

Q40. Mr. A of Mumbai, orders a mobile from Flipkart to be delivered to his mother in Kolkata. ABC Ltd. (registered online seller in Indore) processes the order and Mr. A is billed by Flipkart. What will be POS?

Ans. It will be assumed that the buyer in Mumbai has received the goods & IGST will be charged.

Q41. In case of ambiguity, how is place of supply of goods determined U/s 10?

Ans. In case of any ambiguity where place of supply cannot be determined as provided in Section 10(1) (a) to 10(1) (e) of the IGST Act, 2017, the place of supply of goods will be determined in the manner as will be prescribed.

Q42. In case of import of goods into India what is the place of supply of goods?

Ans. The location of the importer is the place of supply of goods in case of import of goods into India. It may be noted that importer has not been defined in the IGST Act, 2017. Therefore, the meaning given under Customs Act, 1962 will have to be taken. As per Section 2(26) of the Customs

Act, 1962 "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.

Q43. In case of export of goods from India, what is the location of supply of goods?

Ans. The location of supply of goods exported from India shall be the location outside India.

Q44. What is the place of supply of services by way of transportation of goods (Section 12 & 13)?

Ans. Section 12(8) of the IGST Act, 2017 provides that services by way of transportation of goods provided to a registered person shall be the location of registered person. Such services if provided to a person other than a registered person, shall have place of supply and the location at which such goods are handed over for their transportation. Example, if Express limited, a goods transport company based out of Chennai, provides transportation services to Cars Limited, an automobile company based out of Bangalore, for movement of their cars from the warehouse of Cars Limited at Silvassa to Delhi, then the place of supply of transportation services shall be Bangalore if Cars Limited is a registered person. If Cars Limited is not a registered person, then the place of supply of transportation services shall be Delhi (location at which such goods are handed over).

As per Section 13(9) of the IGST Act, 2017 the place of supply of services of transportation of goods, other than by way of mail or courier will be the place of destination of the goods. Example: If PQ shipping Co. located in India charges ocean freight charges for transport of goods to Germany for a customer located in India, the place of supply of service will be Germany.

Q45. What will be the place of supply of leased line services when the leased circuit is installed at more than one location/State?

Ans. As per Section 12(11) of the IGST Act, 2017, if leased circuit is installed in more than one state and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard. In absence of such contract or agreement then the place of supply shall be determined as may prescribed in rules. Example, if Software Ltd, a company based out of Bangalore procures services of leased circuit lines for its branches in Mumbai and Calcutta and Chennai from DTH limited, a company based out of New Delhi, then the place of supply of service of leased circuit lines shall be proportionately at each branch where the installation is done. In case, software Ltd pays a lump sum amount for the latest circuit lines services of all branches, then the apportionment between states shall be done on reasonable basis as may be prescribed in this regard.

Q46. What is the place of supply of accommodation services? Give an example.

Ans. As per Section 12(3) (b) of the IGST Act, 2017, the location of the hotel, inn, guest house, home stay, club or campsite or a houseboat or vessel, shall be the place of supply of service in relation to such accommodation service. In case, the accommodation service is provided for multiple locations situated in different states or the vessel or boat located in more than one state at a time of supply of service, then the value of the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined in the terms of the contract or arrangement entered into. In absence of such contract or agreement, the place of supply shall be determined on such other reasonable basis as would be prescribed.

For example, Yatra Rooms, based out of Pune, takes reservation for accommodation in its hotels across India from ABC airlines, based out of Mumbai, for overnight stay of its crew members. The place of accommodation services shall be the location of the hotel where the crew members have stayed. In case, the agreement between Yatra rooms and ABC airlines is per night per room basis, then the value of service separately collected for each hotel shall be treated as the value of service for the respective State. In case, the agreement between Yatra rooms and ABC airlines is on a lump sum basis for a month then the place of supply shall be determined as may prescribed in rules.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 6: - Time of Supply

ICAI Test your knowledge

This chapter includes "20 Q & A" of GST main book. Do refer 5 examples in GST main book.

Q1. 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

Ans.

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	June 29	July 30	June 26 (i.e., when payment is debited in the recipient's bank account)

		account on June 26			
(vi)	August 1	August 10	June 29	July 30	July 30 (i.e., 31st day from issuance of invoice)

Q2. 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 service
	(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

Ans.

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)

Q3. Determine the time of supply in the following cases assuming that rate of GST changes from 18% to 20% w.e.f. June 1:

S. no.	Date of supply of goods or services	Date of issue of invoice	Date of receipt of payment
(i)	May 28	June 9	July 25

Additional Questions & Answers

These are apart from Examples in main book

(ii)		May 28	July 25
(iii)		June 9	May 26
(iv)	June 10	May 28	June 25
(v)		May 28	May 16
(vi)		June 9	May 28

Ans.

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)		May 28	July 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%

Q4. 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.

Ans. 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)].

Q5. 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?

Ans. 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.

Q6. Investigation shows that 150 cartons of ceramic capacitors were dispatched 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?

Ans. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

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.

The invoice for supply of goods must be issued on or before the dispatch of goods i.e., on 2nd August. Therefore, time of supply of the goods will be 2nd August, the date when the invoice should have been issued.

Q7. 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?

Ans. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, time of supply is the date of issue of invoice, which is 2nd December.

Q8. 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?

Ans. 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).

Q9. 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.

Ans. 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.

Q10. 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?

Ans. 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.

Q11. 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,

Additional Questions & Answers

These are apart from Examples in main book

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?

Ans. 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.

Q12. 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 encashed 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?

Ans. 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)].

Other Questions

Q13. Explain the meaning of the term "date of receipt of payment" as per section 13 of the CGST Act, 2017. (CA Inter - RTP - Nov 2018)

Ans. "Date of receipt of payment" in terms of section 13 of CGST Act, 2017 refers to the earliest of following 2 dates:

- date on which the payment is recorded in the books of account of the supplier of service that receives the payment, or
- the date on which the payment is credited to the supplier's bank account,

Q14. Mehra Sons, a registered supplier, is a wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 20XX, Subhadra, owner of Aura Boutique located in Dadar, Mumbai, approached Mehra Sons for supply of a consignment of customised dresses for ladies and kids.

Mehra Sons gets the consignment ready by 2nd December, 20XX and informs Subhadra about the same. The invoice for the consignment was issued the next day, 3rd December, 20XX. Due to some reasons, Subhadra could not collect the consignment immediately. So, she collects the consignment from the premises of Mehra Sons on 18th December, 20XX and hands over the cheque for payment on the same date. The said payment is entered in the accounts on 20th December, 20XX and amount is credited in the bank account on 21st December, 20XX.

You are required to determine the time of supply of the readymade garments supplied by Mehra Sons to Subhadra elaborating the relevant provisions under the GST law.

(CA Inter – MTP- May 2018)

Ans. Given transaction is supply transaction involving movement of goods. Sec 31 requires supplier of goods to issue invoice upto the time of removal of goods which includes even collection of goods by the recipient. In given case, date of removal (collection by buyer) is 18.12.XX while invoicing has been done on 03.12.XX. Thus, given case is one where the supplier has issued invoice upto time of removal of goods.

For purposes of determination of time of supply, the date of payment is considered to be earlier of the date of receipt of payment in bank account (21.12.XX) or date of entry in books of accounts (20.12.XX). Thus, in instance case, the date of receipt of payment is 20.12.XX.

As per Sec 12 read with Notification No. 66/2017 CT dated 15.11.2017, Time of Supply for the supplier of the goods shall be the date of invoice (03.12.XX) or the last date on which invoice is required to be issued (18.12.XX). Thus, Time of Supply for the given supply transaction shall be 03.12.XX.

Q15. From the following information determine the time of supply of goods where supply involves movement of goods:

Invoice date	Removal of goods	Delivery of goods	Receipt of payment	Other Information
18-11-2018	10-11-2018	18-11-2018	18-11-2018	-
01-11-2018	11-11-2018	18-11-2018	-	Supply is due to Inter-State stock transfer.
22-11-2018	02-12-2018	04-12-2018	20-11-2018 10-12-2018	Rs. 5,00,000 is received as advance and invoice for full amount is issued on 22-11-2018. Balance Rs. 10,00,000 is received on 10-12-2018.

Ans. As per Sec 12 read with Notification No. 66/2017 CT dated 15.11.2017, Time of Supply for the supplier of the goods shall be the date of invoice or the last date on which invoice is required to be issued.

Time of supply of goods in each of the above cases has been given in following table —

Invoice date	Due date (last date) of issue of invoice	Receipt of payment	Time of Supply = Earlier of actual date of invoice or due date of issue of invoice
18-11-2018	10-11-2018	18-11-2018	10-11-2018
01-11-2018	11-11-2018	-	01-11-2018
22-11-2018	02-12-2018	20-11-2018 (Rs. 5,00,000) 10-12-2018 (Rs. 10,00,000)	22-11-2018 (Entire - 15,00,000)

Q16. If a supplier of goods has received an amount of Rs. 1,500 against an invoice of Rs. 1,100 on 25.07.XX and the date of invoice of next supply to the said recipient is 14.08.XX. Find the following in respect of excess amount over and above invoice value:

- Time of Supply of goods
- Due date of payment of tax. (ICMA Study Material)

Ans.

- In given case, supplier has received payment in excess of payment due as per invoice. Receipt of such excess payment has resulted into receipt of advance in hands of supplier. Where amount received is in excess of invoice with amount upto Rs. 1,000, supplier has option to choose time of supply as date of issue of fresh invoice for the said excess amount. Thus, time of supply w.r.t Rs. 400/- shall be 14.08.XX (date of invoicing of such supply)
- Due date of payment of tax
 - Time of Supply = 14.08.XX
 - Due date of payment of GST = 20.09.XX

Q17. On 4th September, 2017, V.R. Mehman a famous music composer, received Rs. 3 crore of consideration from Zilmil Music Co. Ltd. for grant of copyright of his original music album. He finished his work & made available the CD to the music company on 20th July, 2017 & raised the invoice on 24th July, 2017. What will be time of supply as per CGST Act, 2017?

(CA Inter May 2018)

Ans. This is subject to reverse charge. The time of supply shall be the earlier of the following dates:

- the date of payment, or

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(b) the date immediately following sixty days (61st day) from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

Time of Supply is 04.09.2017 as payment was made within the date immediately following sixty days from the date of issue of invoice by the supplier.

Q18. A Ltd. & Z Ltd. (USA) is associated enterprises. A Ltd., a registered firm received the services of Z Ltd., a unregistered firm. Determine the time of supply in following cases:

- A Ltd. recorded the liability in the books on 15th August 2017 and payment will be made in the next month.
- A Ltd. made advance payment to Z Ltd. on 10th August and recorded liability in the books on 15th Aug 2017.

Ans. In case of service transaction from associated enterprises (overseas transaction), Time of Supply is earlier of following two:

(a) Date on which transaction is recorded in books of accounts of the recipient;

(b) Date of payment:

Accordingly, Time of Supply in given transactions shall be

(i) Time of supply = 15.08.2017

Note: as the date of entry in the books is prior to the date of payment.

(ii) Time of supply = 10.08.2017

Note: as the payment is made earlier to the date of entry in the books.

Questions from GST Main Book

Q19. A Machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17th September	Purchase order with advance of Rs. 50,000 is received for goods worth Rs. 12 Lacs and entry duly made in the seller's books of account
20th October	The machine is assembled, tested at site, accepted by buyer
23rd October	Invoice raised
4th November	Balance payment of Rs. 11.50 Lacs received

Determine the time of supply(ies) in the above scenario?

Ans. The time of supply of goods is 20th October 2017 which is the date on which the goods were made available to the recipient as per section 12 (2) (a) and the invoice should have been issued on this date [Section 31 (1) (b)].

Q20. Gas is supplied by a pipeline. Monthly payments are made by the recipient as per contract. Every quarter, invoice is issued by the supplier supported by a statement of the goods dispatched and payments made, and the recipient has to pay the differential amount, if any. The details of the various events are:

August 5, September 5, October 6	Payments of Rs. 2 lacs made in each month
October 3	Statement of accounts issued by supplier, with invoice for the quarter July – September
October 17	Differential payment of Rs. 56,000 received by supplier for the quarter July – September as per statement of accounts

Determine the time of supply.

Ans. As per section 31(4), in the case of continuous supply of goods, the invoice should be issued before or when the statement of accounts is issued; hence October 3 is the correct invoice date. Time of supply will be August 5, September 5 and October 6 respectively for goods valued at Rs. 2 lakh each, as the date of payment is earlier than the date of invoice. [Invoice is yet to be issued for

payment made on October 6]. Time of supply will be October 3 for goods valued at Rs. 56,000, as the date of invoice is earlier than the date of payment.

Q21. Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
May 12	Bridge & Co receives the goods
May 30	Bridge & Co makes the payment

Ans. Here, May 12 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)]. (Here, date of invoice is relevant only for calculating thirty days from that date.)

Q22. Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

Ans. Here, June 4 will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

Q23. ABC Ltd. sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food/provisions in the outlets that are part of the program.

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

Q24. With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza.

Ans. As the supply against which the voucher will be redeemed is known on the date of the sale, the time of supply is the date of issue of the voucher.

Q25. Determine the time of supply from the given information.

6th May	Booking of convention hall, sum agreed Rs. 15,000, advance of Rs. 3,000 received
15th September	Function held in conventional hall
27th October	Invoice issued for Rs. 15,000, indicating balance of Rs. 12,000 payable
3rd November	Balance payment of Rs. 12,000 received

Ans. As per Section 31 read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13 (2) (b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.

Therefore, the time of supply of service to the extent of Rs. 3,000 is 6th May as the date of payment of Rs. 3,000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance Rs. 12,000 is 15th September which is the date of provision of service.

Q26. Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.

Additional Questions & Answers

These are apart from Examples in main book

Ans. The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13 (2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of supplier is also not available. Therefore, the time of supply will be determined vide clause (c) of section 13 (2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.

Thus, time of supply will be 4th April, the date on which the Apartment Owner's Association records the receipt of service in its books of account.

Q27. Determine the time of supply from the given information (assuming that service being supplied is taxable under reverse charge).

May 4	The supplier of service issues invoice for service provided. There is as dispute about amount payable, and payment is delayed.
August 21	Payment made to the supplier of service.

Ans. Here, July 4 will be the time of supply, being the earliest of the two stipulated dates namely, date of payment and date immediately following 60 days since issue of invoice.

Q28. Determine the time of supply from the given information

May 4	A Germany company issues email informing its associated company ABC Ltd., of the cost of technical services provided to it.
July 2	ABC Ltd. transfers the amount to the account of the German company.

Ans. As there is no prior entry of the amount in the books of account of ABC Ltd, July 2 will be the time of supply, being the date of payment in terms of second proviso to section 13 (3).

Q29. A supplier of services received an advance when rate of tax on services was 18%. However, while raising the invoice, tax rate on service was reduced to 5%. How will the invoice be raised?

Ans. As per provision of section 14 of CGST Act, 2017, in case wherein service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax but payment is received before change in rate of tax, time of supply shall be date of issue of invoice.

Therefore, in the instant cases assuming as service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax, therefore tax rate applicable at the time of raising of invoice for supply of service would be 5%. Excess tax collected at the time of receipt of advance can be adjusted against future liabilities.

Q30. What is the time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration?

Ans. The time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration would be the date on which the supplier receives such addition in value.

Example: Mr. A had supplied services to Mr. B for Rs.1,00,000 on 1st March. Mr. B had to make the payment to Mr. A within one month of the supply otherwise interest was chargeable at the rate of 15%. Mr. B fails to make the payment within one month and makes the payment after a delay of one month i.e. by 30th April. Mr. A raises a debit note against Mr. B for the interest on delayed payment of Rs. 1,250 on 10th May. Mr. B makes the payment of the Interest of Rs. 1,250 on 15th June. The time of supply in such case would not be the date of raising of debit note i.e. 10th May but it would be the date when Mr. B makes the payment of the interest to Mr. A i.e. 15th June.

Q31. Time of supply of services under reverse charge mechanism where the supplier of service is associated enterprises?

Ans. In case of associated enterprises located within India, the time of supply in terms of Section 13(3) shall be the earliest of the following:

- Date of payment as per books of accounts of the recipient; or
- Date on which payment is debited in the bank account of the recipient; or

- (c) Sixty days from the date of issuing invoice or any other document, by whatever name called, in lieu thereof by the supplier; or

If it is not possible to determine the time of supply under the aforesaid clauses, the time of supply shall be the date of entry in the books of account of the recipient of supply. Thus, the same provisions as applicable to a supplier who is not associated enterprise will apply for services provided by associated enterprises located in India.

Where associated enterprises is located outside India, the time of supply shall be the earliest of the following dates:

- (a) Date of entry in the books of accounts of the recipient; or
(b) Date of payment.

Particulars	Non-associated enterprises	Associated Enterprises
Date on which payment is entered in books of accounts	September 14, 2018	September 14, 2018
Date on which payment is debited to bank account	September 17, 2018	September 17, 2018
Date of issuance of invoice	September 10, 2018	September 10, 2018
Sixty days from the date of issuing invoice	November 10, 2018	November 10, 2018
Date of entry in the books of accounts of the recipient	September 10, 2018	September 10, 2018
Time of supply	September 14, 2018	September 10, 2018

Q32. Time of supply where services are supplied online?

Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining the time of supply of service where such services are supplied online and hence the same provisions for services will apply for services supplied online.

Q33. From the following information determine the time of supply of goods where supply involves movement of goods:

Invoice Date	Removal of goods	Delivery of goods	Receipt of payment	Remarks
16-11-2018	10-11-2018	16-11-2018	16-11-2018	
01-12-2018	01-12-2018	04-12-2018	20-11-2018 10-12-2017	Rs. 5,00,000 is received as advance and balance payment Rs. 6,20,000 received on 10-12-2017

Ans.

Invoice Date	Removal of goods	Delivery of goods	Receipt of payment	Time of Supply	Remarks
16-11-2018	10-11-2018	16-11-2018	16-11-2018	10-11-2018	
01-12-2018	01-12-2018	04-12-2018	20-11-2018 10-12-2017	01-12-2018	Time of supply is date of issue of invoice. Advance received is not

Additional Questions & Answers

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					liable to be taxed at the time of receipt vide notification no. 66-2017 dated 15-11-2017

Q34. From the following information determine the time of supply if goods are supplied on approval basis:

Removal of goods	Issue of Invoice	Accepted by recipient	Receipt of payment
01-12-2017	15-12-2017	05-12-2017	25-12-2017
01-12-2017	25-07-2018	25-07-2018	20-07-2018

Ans.

Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment	Time of Supply	Remarks
01-12-2017	15-12-2017	05-12-2017	25-12-2017	05-12-2017	Time of supply shall be the date of acceptance by the recipient as invoice was issued after that date.
01-12-2017	25-07-2018	25-07-2018	20-07-2018	02-06-2018	Time of supply shall be date after expiry of 6 months from the date of removal.

Q35. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

Date of Actual provision of services	Date of Invoice	Date on which payment received
10-11-2017	30-11-2017	15-12-2017
10-11-2017	30-11-2017	15-11-2017
10-11-2017	30-11-2017	15-11-2017 and 10-12-2017
10-11-2017	30-11-2017	06-11-2017 and 09-11-2017
10-11-2017	30-11-2017	06-11-2017 and 16-11-2017
10-11-2017	12-12-2017	30-04-2018
10-11-2017	12-12-2017	05-11-2017 and 25-12-2017
10-11-2017	22-12-2017	12-12-2017

Ans.

Date of Actual provision of services	Date of Invoice	Date on which payment received	Time of Supply
10-11-2017	30-11-2017	15-12-2017	30-11-2017
10-11-2017	30-11-2017	15-11-2017	15-11-2017
10-11-2017	30-11-2017	15-11-2017 and 10-12-2017	15-11-2017 and 30-11-2017 for the respective amounts

10-11-2017	30-11-2017	06-11-2017 and 09-11-2017	06-11-2017 and 09-11-2017 for the respective amounts
10-11-2017	30-11-2017	06-11-2017 and 16-11-2017	06-11-2017 and 16-11-2017 for the respective amounts
10-11-2017	12-12-2017	30-04-2018	10-11-2017
10-11-2017	12-12-2017	05-11-2017 and 25-12-2017	05-11-2017 and 10-11-2017 for the respective amounts
10-11-2017	22-12-2017	12-12-2017	10-11-2017

Q36. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

Date of Actual provision of services	Date of Invoice	Payment entry in supplier's book	Credit in bank account	Remarks
20-10-2017	21-10-2017	26-10-2017	30-10-2017	
20-10-2017	30-10-2017	24-10-2017	22-10-2017	
16-11-2017	26-12-2017	28-01-2018	29-01-2018	
01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 08-12-2017	Rs. 5,00,000 is received in advance on 30-10-2017 and balance amount Rs. 6,80,000 is received on 06-12-2017

Ans.

Date of Actual provision of services	Date of Invoice	DOP- earlier of the date of payment is entered in books or credited in bank account	Time of Supply	Remarks
20-10-2017	21-10-2017	26-10-2017	21-10-2017	
20-10-2017	30-10-2017	22-10-2017	22-10-2017	
16-11-2017	26-12-2017	28-01-2018	16-11-2017	
01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 30-10-2017	Rs. 5,00,000 is received in advance on 30-10-2017 and balance amount Rs. 6,80,000 is date of invoice

Q37. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017 if recipient is liable to pay tax on reverse charge basis:

Date of Invoice	Date of receipt of goods	Date of payment in Books	Date when payment debited in bank account
01-10-2017	05-10-2017	10-10-2017	12-10-2017

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01-10-2017	15-10-2017	10-10-2017	12-10-2017
01-10-2017	15-10-2017	12-10-2017	10-10-2017
01-10-2017	15-11-2017	18-11-2017	20-11-2017

Ans.

Date of Invoice	Date of receipt of goods	Date of payment in Books	Date when payment debited in bank account	Time of Supply
01-10-2017	05-10-2017	10-10-2017	12-10-2017	05-10-2017
01-10-2017	15-10-2017	10-10-2017	12-10-2017	10-10-2017
01-10-2017	15-10-2017	12-10-2017	10-10-2017	10-10-2017
01-10-2017	15-11-2017	18-11-2017	20-11-2017	01-11-2017

Q38. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

Date of payment by recipient of services	Date of issue of invoice by supplier of services
10-10-2017	29-08-2017
10-10-2017	01-08-2017
Part payment made on 30-08-2017 and balance amount paid on 01-11-2017	29-08-2017
Payment is entered in the books of account on 28-08-2017 and debited in recipient's bank account on 30-08-2017	01-08-2017
Payment is entered in the books of account on 30-08-2017 and debited in recipient's bank account on 26-08-2017	29-08-2017

Ans.

Date of Invoice issued by supplier of services	Date immediately following 60 days from invoices	Date of payment by recipient of services	Time of supply of services (earlier of Date immediately following 60 days from invoice or Date of payment by recipient of services)
29-08-2017	29-10-2017	10-10-2017	10-10-2017
01-08-2017	01-10-2017	10-10-2017	01-10-2017
29-08-2017	29-10-2017	Part payment made on 30-08-2017 and balance amount paid on 01-11-2017	30-08-2017 for part payment and 29-10-2017 for balance amount
01-08-2017	01-10-2017	Payment is entered in the books of account on 28-08-2017 and debited in recipient's bank account on 30-08-2017	28-08-2017 (i.e. when payment is entered in the books of account of the recipient)
29-08-2017	29-10-2017	Payment is entered in the books of account on 30-08-2017 and debited in recipient's bank account on 26-08-2017	26-08-2017 (i.e. when payment is debited in the recipient's bank account)

Chapter 7: - Value of Supply

ICAI Test your knowledge

This chapter includes "26 Q & A" of GST main book. Do refer 23 examples in GST main book.

Q1. 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 fees 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?

Ans. 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.

Q2. 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 Rs. 3 lakh a year compared to Rs. 5 lakh a year for other students.

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

Ans. 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 Rs. 5 lakh a year.

Q3. 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?

Ans. 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.

Q4. 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?

Ans. 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).

Q5. Rajesh & Co. provides financial and management consultancy to a group of companies for an annual retainerhip fee of Rs. 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 Rs. 15 lakh.

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

Ans. Rajesh & Co. gets an office room free of cost, which is an additional nonmonetary consideration

Additional Questions & Answers

These are apart from Examples in main book

for its services. The market value of the rent of the room must be added to the retainer fee (Rs. 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.

Q6. 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?

Ans. 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. However, Gupta & Co. has the option of valuing the supply of 'y' at 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 this method, 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.

Q7. Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of Rs. 900 but is redeemable for supplies worth Rs. 1000. What is the value of supply of such coupon under GST laws?

Ans. 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 Rs. 900, its value is Rs. 1000.

Q8. A pharmaceutical company supplies a drug intermediate to its own unit in another State for conversion into formulations. The product is exclusive to this company, and there is no market sale in India of this drug intermediate. Goods of like kind and quality are also not available.

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

Ans. 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.

Other Questions

Q9. Shambhu Pvt. Ltd. was awarded a contract in July 20XX for providing flooring and wall tiling services in respect of a building located in Delhi by Nath Ltd. As per the terms of contract, Shambhu Pvt. Ltd. was to provide all the required material for execution of the contract. However, Nath Ltd will also provide a portion of the material free of Cost.

Whether the services provided by Shambhu Pvt. Ltd. are subject to GST? If yes, determine the GST liability of Shambhu Pvt. Ltd. from the following particulars-

(i)	Gross amount charged by the Shambhu Pvt. Ltd.	6,40,000
(ii)	Fair market value of the material supplied by Nath Ltd.	1,00,000

CGST 6% and SGST 6%.

(CMA Inter -RTP June 2018)

Ans. The activity of flooring and wall tiling involving supply of labour as well as material on part of supplier is 'works contract' as defined in Sec 2(119) of CGST Act as it is an activity in relation to an immovable property. Being a works contract covered by Sec 2(119), under GST law, it shall be treated as 'supply of service' in terms of Sec 7(1A) read with Schedule II Para 6(a) of CGST Act.

Valuation of supply is governed by Sec 15 of CGST Act. The given case shall be valued as per Sec 15(1), i.e., on basis of transaction value as the supply is to unrelated person and for price which is sole consideration of supply.

Taxable value of supply Rs. 6,40,000

CGST 6% x 6,40,000 = Rs. 38,400

SGST 6% x 6,40,000 = Rs. 38,400

Total GST liability = Rs. 76,800

Note:- Value of material supplied free of cost by Nath Ltd shall not be included in terms of Sec 15(2)(b) of CGST Act because cost of such material was never to be incurred by the Supplier / Shambhu Pvt Ltd. CBIC has also issued a **Circular No. 47/21/2018-GST** clarifying that such free of cost materials shall not be included in value.

Q10. ABC Ltd. is a re-seller of sun glasses, frames, lenses, contact lenses, etc. having Head Office in West Bengal. Goods, namely, optical lenses and frames for spectacles and accessories, are transferred from the Head Office in West Bengal to its branches in other states.

There is no open market value of such goods. Further, there is no supply of goods of like kind and quality. Accordingly, it has valued its goods on 110% of cost {rule 28(c) read with rule 30}. However, department is insisting on valuation of goods at 90% of price at which such supply is subsequently sold by the Branches.

Discuss whether Department is correct in its approach.

(CMA Final - MTP -Dec 2018)

Ans. Head Office in West Bengal and branches in other states constitute 'deemed distinct persons' in terms of Sec 25 of CGST Act. Thus, valuation of goods supplied by Head Office to Branch Office is governed by Sec 15 (4) read with Rule 28 of CGST Rules, 2017.

In given situation, since open market value of goods supplied is not available and also there exists no supply of goods of like kind and quality, valuation shall be done in terms of Rule 28 (c) of CGST Rules, 2017. In terms of Rule 28 (c), value shall be determined applying rule 30, i.e., 110% of cost of acquisition/purchase of goods shall be taken as value of supply.

First Proviso to Rule 28 gives an option to supplier to value his supply at 90% of subsequent supply price at which recipient subsequently supplies such goods to unrelated buyers. It shall be noted that proviso grants an option and it is not mandatory. Thus, department contention is incorrect.

Q11. Determine the value of taxable supply as per Section 15 of the CGST Act, 2017 and the Rules thereof:

Contracted sale price of goods (including CGST and SGST @ 12%) 11,32,000

The contracted sale price includes the following elements of cost:

(i) Drawings and design 10,000

(ii) Primary packing 15,000

(iii) Packing at buyer's request 5,000

(iv) Freight and insurance from 'place of removal' to buyer's premises 20,000

A discount of Rs.. 12,000 of given by the supplier before the time of supply of goods. CGST and SGST is levied @ 12%.

Ans.

Computation of Assessable value

Particulars	Amount (in INR)
Contracted sale price of goods	11,32,000
Less: Discount	(-) 12,000
Value including tax	11,20,000
Less: GST @ 12% [Rs.11,20,000 x 12 ÷ 112]	(-) 1,20,000

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Value of Taxable Supply	10,00,000

Working Notes:

1. As per Section 15(2)(c) of CGST Act, 2017, any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of taxable supply. Hence drawing and design charges, cost of packing (even at buyer's request) shall form a part of the transaction value of the supply. Since, these are already included in the value of the goods, no additional treatment is required.
2. As per Section 15(2)(a), the value of supply shall include any taxes, duties, cess, fees and charges levied under any law for the time being in force other than the CGST Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier.
3. As per Section 15(3)(a), the value of supply shall not include any discount which is given before or at the time of supply.

Q12. ABC Ltd. is a cookies manufacturing company in Pune. It generally gives a trade discount of 20% in the list price when goods are purchased by a distributor. During December 2018, it offers Christmas Bonanza under which a special Christmas discount of 10% is given on the list price of all products to its distributors in addition to normal discount of 20%. A Ltd., one of the distributors from Madhya Pradesh, purchases 100 packets of cookies (list price Rs. 400 per packet) on November 30, 2018 and 200 packets of the same biscuits on December 1, 2018. GST rate is 18%. Determine the value of supply.

Ans.

Statement showing computation of value of supply

Particulars	100 Packets on 30.11.2018	200 Packets on 01.12.2018
Listed Price of Cookies	40,000	80,000
Less:	(-) 8,000	(-) 16,000
Trade Discount @ 20%		(-) 8,000
Value of Taxable Supply	32,000	56,000

Q13. ABC Ltd. (a mobile manufacturing company) holds 30% equity share capital in XYZ Ltd. (a mobile distributor). On September 25, 2018, ABC Ltd. supplies a mobile to XYZ Ltd. for Rs. 1,00,000. The same mobile is supplied on the same day to an unrelated customer for Rs. 1,50,000. XYZ Ltd. supplies similar mobile to its retailers (not related to XYZ Ltd.) for Rs. 1,75,000.

Ans. ABC Ltd. and XYZ Ltd. are related persons. Supply of mobile has taken place between them. Similar mobile is supplied by ABC Ltd. to unrelated customers for Rs. 1,50,000. Rs. 1,50,000 may be taken as value of supply of mobile by ABC Ltd. to XYZ Ltd. Two other alternatives available with ABC Ltd. as regards valuation of this supply are as follows:

- At the option of ABC Ltd. it can be taken as 90% of the price charged by recipient XYZ Ltd. from its unrelated customers. 90 per cent comes to Rs. 1,57,500. Therefore, at the option of ABC Ltd. value of supply will be Rs. 1,57,500.
- Further, since the recipient is eligible for full credit of such supply, the value declared in the invoice Rs 1,00,000 shall be deemed to be 'open market value' of such supply and shall be acceptable as such.

Q14. Will the valuation provisions of Section 15 apply to IGST payable on import of goods?

Ans. No. Valuation provisions contained in Sec 15 of CGST Act, 2017 have been borrowed and made applicable to valuation of IGST payable. [Sec 20 of IGST Act read with Sec 15 of CGST Act].

Import of goods into India is an inter-state supply and attracts IGST liability. Sec 5 of IGST Act, which creates charge of IGST, provides that IGST on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act.

Q15. Will the Customs Valuation apply to IGST payable on import of services?

Ans. No. Valuation provisions contained in Sec 15 of CGST Act, 2017 have been borrowed and made applicable to valuation of IGST payable. [Sec 20 of IGST Act read with Sec 15 of CGST Act].
Import of service into India is an inter-state supply and attracts IGST liability. IGST payable on import of service shall be computed on value determined as per provisions of GST law.

Questions from GST Main Book

Q16. ABC suppliers Ltd. Mumbai has issued following invoices on 22th July 2017:

- (a) XYZ Ltd. Ahmedabad, Value of goods Rs. 20,000. Packing charges Rs. 800, Outward Freight Charges Rs. 1,200.
- (b) CDE Ltd. Pune, Value of goods Rs. 50,000, weightment charges Rs. 1,600, discount for prompt payment Rs. 1,200.
- (c) Brain cert, USA – FOB value Rs. 40,000.

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.

- Ans. (a) Tax is payable on value plus packing plus outward freight i.e Rs. 22,000. Since customer is from out of state, IGST is payable @ 18%. Hence IGST payable is Rs. 3,960.
- (b) Tax is payable on 50,000+1,600-1,200 = Rs. 50,400. The supply is within the State. Hence, tax payable is as follows, SGST @ 9% = Rs. 4,536 & CGST @ 9% = Rs. 4,536
- (c) Since the goods are exported, IGST is not payable assuming ABC has LUT.

Q17. A taxable person engaged in trading of second hand cars has given following information for Sept'17:

- (a) Purchased second hand car at Rs. 4,00,000 and sold at Rs. 5,00,000.
 - (b) Purchased second hand car at Rs. 3,00,000 and sold at Rs. 2,90,000.
 - (c) Purchased second hand car at Rs. 7,00,000. He could not sale in that month.
- The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%, Compensation Cess 3%.

Ans. The taxable person can pay under margin scheme as follows:

- (a) Value Rs. 1,00,000 [5,00,000-4,00,000], CGST @ 14% Rs. 14,000, SGST @ 14% Rs. 14,000 & Compensation Cess @ 3% 3,000. Total Rs. 31,000.
- (b) No tax payable as value of supply is negative.
- (c) No tax as the car is not sold.

Q18. A CA in Mumbai supplied service relating to incorporation of a company to Mr. Amit in Kolkata. He charged fees as follows:

- (a) Professional fees for incorporate of company Rs. 1,00,000.
- (b) Filing fees and registration charges paid to ROC Rs. 90,000.
- (c) Reimbursement of Travelling and out of pocket expenses Rs. 10,000.

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.

Ans. Rs. 90,000 are received as pure agent. So, this is not includible in value. The travelling & out of pocket expenses are part of value of supply and includible in value. Hence tax is payable on Rs. 1,10,000. Since the recipient is out of State, IGST is payable @ 18% = Rs. 1,10,000*18% = Rs. 19,800.

Q19. A in Kolkata supplied machinery of Rs. 2,00,000 to B in Kolkata in July 2017. He charged Rs. 24,000 as charges for erection and commissioning of the machinery and Rs. 20,000 as machine design charges. As per payment terms, the payment was to be made within 30 days. However, B did not pay within 30 days. Hence A recovered Rs. 6,000 as interest for late payment in Sept'17.

Additional Questions & Answers

These are apart from Examples in main book

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.

Ans. Tax is payable on Rs. 2,00,000+ Rs. 24,000+ Rs. 20,000 + Rs. 6,000 = Rs. 2,50,000. Tax payable CGST @ 9% of Rs. 2,50,000 = Rs. 22,500. SGST @ 9% = Rs. 22,500.

Q20. A manufacturer of drugs from Ahmedabad sales the product @ Rs. 5,000 for a box of medicines to wholesalers in Gujarat in Oct'17. He is sending to same goods to his consignment agent in Delhi in Oct'17.

The consignment agent is selling the box of medicines @ Rs. 5,300 per box. Calculate the GST payable.

The tax rates were as follows: - CGST 2.5%, SGST 2.5%, IGST 5%. Calculate the tax liability in each case.

Ans. (a) for sale to wholesales in Gujarat the tax is as follows –

CGST @ 2.5% of Rs 5,000 = Rs. 125. SGST @ 2.5% = Rs. 125.

(b) for supplies to consignment agent in Delhi he can charge tax on 90% of the sale price in Delhi i.e. 90% of 5,300 = Rs. 4,770. IGST @ 5% of Rs. 4,770 = Rs. 238.50

Q21. A manufacturer of refrigerators from Punjab sales the refrigerator Rs. 50,000 to wholesalers in Punjab. He is sending to same refrigerators to his depot in Karnataka. He is selling the refrigerators in Karnataka Rs. 46,000 due to heavy competition. The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax liability for supply to Karnataka.

Ans. Since the entire tax paid in Punjab will be available as ITC in Karnataka, the tax can be paid on any value while sending goods from Punjab.

Q22. An AC manufacturer in Chennai has made an exchange offer. As per terms of offer, if you return your old AC of any make, you will get new AC of specified high capacity for Rs. 56,000, excluding taxes. The normal price of the new air conditioner of that capacity is Rs. 68,000, excluding taxes. You made enquiry with dealers of second hand AC and they are willing to purchase your AC for Rs. 7,000. You are staying at Chennai.

The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax payable.

Ans. Tax is payable on Rs. 68,000. Tax payable – CGST @ 14% - Rs. 9,520, SGST @ 14% Rs. 9,520.

Q23. How value of supply to be arrived at in case of supply of goods or services between related persons?

Ans. Let's understand it with an example wherein Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs. 50,000 from the shop. The following would be the steps to find out the value of supply between Mr. A and Mr. B: -

- (a) If the open market value of the goods or services supplied by the supplier is known then open market value of the goods or services supplied would be the value of supply.

Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs 50,000 on the shop and asks how much he has to pay for it. Mr. B asks Mr. A to pay Rs 40,000. In this transaction, as Mr. B is brother of Mr. A, Mr. B has charged lesser price from Mr. A. Thus, the open market price in the given case would be Rs. 50,000.

- (b) If open market value is not available, it will be the value of supply of goods or services of like kind and quality.

Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. Supposedly, goods selected by him have been imported for the first time from outside the country and no price has been specified on such goods. Mr. B asks Mr. A to pay Rs. 40,000. In this transaction, as Mr. B is brother of Mr. A and the open market value is not available, price of goods with similar features would be the value of supply of the goods. Supposedly, similar goods are available for Rs. 45,000 in the market, therefore value of supply would be Rs. 45,000.

- (c) If value is not determinable under either of the two methods above, value of supply would be the value as determined by application of Rule 30 or Rule 31 of Central Goods and Services Tax Rules, 2017, in that order.
- (d) Where the goods are intended for further supply as such by the recipient, the value at the option of the supplier, be an amount equivalent to ninety per cent of the price charged for the supply of goods of like kind and quality by the recipient to his customers not being his related person.
- (e) If the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be open market value of the goods or services.

Q24. Is GST Leviable on Securities Transaction Tax and Stamp Duty?

Ans. The liability to pay STT and Stamp Duty on purchase or sale of share is that of either purchaser or seller and not of stock broker. The stock broker collects and deposits the same on behalf of the purchaser or seller and in the capacity of the pure agent. Thus, GST is not payable on STT and Stamp Duty as long as the sub – broker satisfies the conditions of pure agent as specified in Rule 33 of the CGST Rules, 2017.

Q25. Admission to ABC Theater is Rs. 100 per ticket for a Kannada Movie as well as for a Hindi Movie plus entertainment tax Rs. 10% on Kannada Movie and 20% on other languages. In the month of November, ABC Theater sold 2000 tickets of Tamil Movie and 2000 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18%. Find the GST liability if any?

Ans. For GST law add all other taxes (other than part of GST family i.e. CGST, SGST, IGST etc.) in value of supply. So, entertainment tax shall be part of assessable value.

Kannada Movie total collection = $2000 \times 110 \{100 + (100 \times 10\%)\} = \text{Rs. } 2,20,000$

Hindi Movie total collection = $2000 \times 120 \{100 + (100 \times 20\%)\} = \text{Rs. } 2,40,000$

GST Tax Liability

CGST = $\text{Rs. } 4,60,000 \times 9\% = \text{Rs. } 41,400$

SGST = $\text{Rs. } 4,60,000 \times 9\% = \text{Rs. } 41,400$

Q26. ABC Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer whose account are linked with Aadhar card. Selling price per cylinder is Rs. 900. Customer received subsidy Rs. 300 directly from Government to his bank account. Net outflow of the buyer is Rs. 600. Find the value of supply of goods (per cylinder) in the hands of ABC Gas. Calculate assessable value to levy tax.

Ans. Supplier is liable to pay GST on transaction value which shall be exclusive of subsidy received from government. However, exclusion of subsidy is applicable if Government is paying that to the supplier for making the supply.

In this case, Government has not paid subsidy to the supplier, rather it has been paid to the buyer directly. Supplier is not impacted by such subsidy. He shall be liable to pay whatever transaction value he has charged to buyer.

Hence, transaction value is Rs. 900 per cylinder.

Q27. ABC owns a coaching institute in Pune. The institute charges Rs. 18,000 per student for giving training in international taxation. However, this training programmes is subsidized by different institutions as follows – State

Government of Maharashtra : Rs. 500 per student, XYZ Charitable Trust : Rs. 200 per student and Government of USA: Rs. 200 per student. Calculate tax liability assuming CGST & SGST @ 9% each.

Ans. In this case, subsidies given by different institutions are directly linked to the price charged by ABC. State Government subsidy can be excluded but subsidy paid by others will be included in taxable value.

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Value of taxable supply = Rs. 18,000 – Rs. 500 (subsidy from Government of Maharashtra) = Rs. 17,500

GST Tax Liability

CGST = Rs. 17,500*9%= Rs. 1,575

SGST = Rs. 17,500*9%= Rs. 1,575

Q28. ABC has provided the following details relating to goods sold:-

Particulars	Amount
List price of the goods (excluding of taxes, subsidy and discounts)	50,000
Tax levied by Municipal Authority	5,000
Packing charges (not included in the price above)	2,000
Subsidy received from NGO	2,500
Trade discount offered @ 2% on list price	
Recipient pay 10% brokerage on list price at the request of supplier	
Recipient pay freight & insurance charges on behalf of supplier	5,000

Calculate the value of taxable supply.

Ans.

Statement showing calculation of value of taxable supply

Particulars	Amount
List price of the goods (excluding of taxes and discounts)	50,000
Add:-	
Tax levied by Municipal Authority {included in the value as per section 15 (2) (a)}	5,000
Packing Charges {included in the value as per section 15 (2) (c)}	2,000
Subsidy received from NGO {since subsidy is received from a non-government body, the same is included in the value of terms of section 15 (2) (e)}	2,500
Recipient pay 10% brokerage on the request of supplier {included in the value as per section 15 (2) (b)}	5,000
Recipient pay freight & insurance charges on behalf of supplier {included in the value as per section 15 (2) (b)}	5,000
Total	69,500
Less: Trade discount {since discount is known at the time of supply, it is deductible from the value of terms of section 15 (3) (a)}	1,000
Value of Taxable Supply	68,500

Q29. ABC buys the 'Super Motor' in Rajasthan from XYZ. Both agreed for the below conditions:

Value of Motor (including GST @ 5%)	Rs. 3,00,000
Taxes (other than GST) paid - Not included in above value	Rs. 5,000

Below items are being paid by recipient though supplier is liable to pay

Freight Expenses	Rs. 3,500
Consultancy charges for erection	Rs. 2,000
Testing Charges	Rs. 500
Insurance Charges	Rs. 4,500
Other details:-	
Subsidy received from Rajasthan Government (deducted from value)	Rs. 10,000
Subsidy received from manufacturer for supply of power generator (deducted from value)	Rs. 25,000
Trade discount shown in Invoice	Rs. 2,000
Cash discount due to instant payment	Rs. 5,500

If such supply is inter-State supply, calculate the value of taxable supply and GST.

Ans.

Sr. No.	Action	Particulars	Amount	Remarks
1		Value of Motor	3,00,000	

2	Add	Taxes (other than GST) paid	5,000	Section 15 (2) (a) – Value of supply shall include any taxes, duties, cesses, fees and charges levied under any law other than GST
3	Add	Freight Expenses	3,500	Section 15 (2) (b) – Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of supply.
4	Add	Consultancy charges for erection	2,000	
5	Add	Testing Charges	500	
6	Add	Insurance Charges	4,500	
7	Add	Subsidy received from manufacturer	25,000	Section 15 (2) (e) – Value shall include subsidies directly linked to the price excluding subsidies provided by the CG/SG.
8	Less	Trade Discount	- 2,000	Section 15 (3) (a) – Value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply.
9	Less	Cash Discount	-5,500	Section 15 (3) (b) – Value of the supply shall not include any discount which is given after the supply has been effected, if such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices.
10	Total	Value (including GST Value)	3,33,000	
11	Less	IGST @ 5% {Rs. 3,33,000*5/105}	15,857	Inter-State supply
12	Net	Taxable Value	3,17,143	

Q30. ABC footwear, a registered supplier of Kanpur, has a non-moving stock worth Rs. 10,00,000 of a particular variety of shoes that are out of fashion. It has not been able to find market inspite of huge discount offered. It was able to sell this stock at a very low price of Rs. 2,00,000 to a retailer in Maharashtra with a condition that the retailer would display hoardings of ABC footwear in all their retail outlets in the State. Determine the taxable value of supply.

Ans. In this case the supplier and recipient are not related persons. Although a condition is imposed on the recipient on effecting the sale, such a condition has no bearing on contract price. This is a case of distress sale, and in such a case, it cannot be said that the supply is lacking 'sole consideration'. Therefore, the price of Rs. 2,00,000 will be accepted as value of supply.

Q31. ABC is facing serious liquidity problems and requests XYZ to pay within 2 days. It offers additional 1% cash discount. XYZ agrees and pays.

Ans. As per section 15 (3) (b), this discount was not known at the time of supply, and so it cannot be claimed as a deduction from the transaction value for GST calculation.

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Q32. ABC Ltd. is a registered manufacturer of pendrive. It sells its pendrive exclusively through distributors appointed across the country. The MRP printed on package of a pendrive is Rs. 1,000. ABC Ltd. sells the pendrives to distributors at Rs. 700 per pendrive (exclusive of GST). The applicable rate of GST is 18%.

The stock is dispatched to the distributors on quarterly basis – stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition of that effect from any of its distributors. The company charges Rs. 100 per pendrive from distributors (excluding all charges and taxes).

The company has a policy of offer a discount of 10% on pendrive supplied to the distributors for a quarter, if the distributors sell 500 pendrives in the preceding quarter. The discount is offered on the price at which the pendrive are sold to the distributors (excluding all charges and taxes).

The company appoints XYZ Ltd. as a distributor on 1st April and dispatches 750 pendrives on 8th April as stock for the quarter April-June. XYZ Ltd. places a purchase order of 1000 pendrives with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor. The distributor reports sale of 700 pendrives for the quarter April-June and 850 pendrives for the quarter July-September.

Compute the taxable value for the quarter July-September in respect of transaction between ABC & XYZ Ltd.

Ans. As per section 15 (3) (b), the value of supply shall not include any discount which is after the supply has been affected, if

- such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices, and
- ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

XYZ Ltd. is entitled to 10% discount on pendrives supplied by ABC Ltd. for the quarter July-September as it has sold more than 500 pendrives in the preceding quarter. However, since the entire stock for the quarter July-September has already been dispatched by ABC Ltd. in the month of June, the discount on the pendrives supplied to XYZ Ltd. for the quarter July-September will be post-supply discount. This discount shall be allowable since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices provided XYZ Ltd. reverses the ITC attributable to the discount on the basis of credit note issued by ABC Ltd.

Value of Taxable Supply (Amount in INR):-

Price at which the pendrives are supplied to XYZ Ltd.	700
Add: Packing Charges {incidental expenses need to be added as per section 15 (2) (c)}	100
Less: Discount {As explained above all the conditions specified in section 15 (3) (b) have been satisfied, so the post-supply discount will be allowed, subject to reversal of ITC by XYZ Ltd.}	-70
Value of Taxable supply of one unit of pendrive	730
Value of Taxable supply of 1000 units supplied for the quarter July-September (Rs. 730*1000)	7,30,000

Note:-XYZ Ltd. need to reverse ITC = Rs. 70 discount * 1000 * 18% = Rs. 12,600.

Q33. ABC provides management consultancy to a group of companies for annual retainerhip fees of Rs. 22 Lakhs. It is given an office cabin in head office of the group for its exclusive use. ABC pays GST on the amount of Rs. 22 Lakhs. Is the value for the service provided by ABC, correct under GST laws? Please explain.

Ans. The value of Rs. 22 Lakhs for the service provided by ABC, is not correct under GST laws. ABC gets an office cabin 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 fees (Rs. 22 Lakhs) in order to arrive at the value of the taxable service provided by ABC, as per Rule 27 of CGST Rules 2017.

Q34. Mr. A located in Pune purchases 2,000 parker pen for Rs. 2,00,000 from ABC Ltd. (wholesaler) located in Indore. Mr. A's son is an employee in ABC Ltd. The price of each parker pen in the open market is Rs. 120. The supplier additionally charges Rs. 5,000 for delivering the goods to the recipient's place of business.

Ans. Mr. A and ABC Ltd. would not be treated as related persons merely because the son of the recipient is an employee of the supplier, although such son and the supplier would be treated as related persons (employer and employee relationship).

Therefore, the transaction value will be accepted as the value of the supply. Transaction value will be Rs. 2,00,000+Rs. 5,000 = Rs. 2,05,000. IGST will be leviable since it is inter-State transaction.

Q35. ABC Ltd. owned by XYZ Ltd. is popularly known for assembly of large machines. PQR Ltd. (also owned by XYZ Ltd.) is engaged in fabrication of small machines. A factory contracts ABC Ltd. of its machinery, for a fee of Rs. 6,00,000. ABC Ltd. sub-contracts the work to PQR Ltd. for Rs. 4,00,000 and ensures supervision of the work performed by them. Generally, PQR Ltd. charges a fixed sum of Rs. 1,200 per man hour to its clients; it spends 400 hours on this project. Determine taxable value of supply.

Ans. Since ABC Ltd. & PQR Ltd. is controlled by XYZ Ltd., the two companies will be treated as related persons. Therefore, Rs. 4,00,000 being the sub-contract price will not be accepted as transaction value. The value of the service shall be open market value being Rs. 4,80,000 (Rs. 1,200*400).

Q36. ABC Ltd. (Mumbai) has 10 agents located across Maharashtra (except Mumbai). The stock of water purifier is dispatched on Just in time basis from ABC Ltd., to the location of the agents, based on receipt of orders from various dealers, on a fortnightly basis. ABC Ltd. is also engaged in wholesale supply of water purifier in Mumbai. An agent places an order for dispatch of 20 water purifier on 10-12-2017. ABC Ltd. had sold 20 water purifier to a retailer in Mumbai on 8-12-2017 for Rs. 1,30,000. The agent effects the sale of the 20 units to a dealer who would affect the sale on MRP basis i.e. Rs. 7,000- per unit. Calculate taxable value of supply.

Ans. The law deems these supplies between the principal and agent to be supplies for the purpose of GST. Therefore, the transfer of goods by the principal (ABC Ltd.) to its agent for him to effect sales on behalf of the principal would be deemed to be a supply although made without consideration. The value would be either the open market value, or 90% of the price charged by the recipient of the intended supply to its customers, at the option of the supplier. Thus, the value of the supply by ABC Ltd. to its agent would be either Rs. 1,30,000 or Rs. 1,26,000 (i.e. 90% * 7,000 * 20), based on the option chosen by ABC Ltd.

Q37. ABC Insurance provides you the following information for the month of September, 2018. You are required to compute value of taxable supply of services under Rule 32 (4) of Determination of value of supply Rules, 2017.

1. General policies: Total premiums collected Rs. 12,000 Lakhs (out of which 1st year premium is Rs. 5,000 Lakhs)
2. Single premium annuity policies : Premium collected Rs. 850 Lakhs
3. Only risk cover policies : Premium collected Rs. 500 Lakhs
4. Life micro-insurance policies where insured amount does not exceed Rs. 2,00,000 : Premium collected Rs. 10 Lakhs.
5. Variable Insurance Policies : Premium collected Rs. 8,000 Lakhs. (80% of the amount is allocated for investments on behalf of policy holder for which policy holder is given separate break up in premium receipts).

Ans. Computation of value of taxable supply of services (Rs. In Lakhs):

Additional Questions & Answers

These are apart from Examples in main book

Particulars	Amount	Rate	Taxable Value
General policies:			
(i) First year premium	5,000	25%	1,250
(ii) Subsequent years i.e. policies issued in earlier years	7,000	12.5%	875
	850	10%	85
Single premium annuity policies	500	100%	500
Only Risk cover policies since the entire premium is for risk cover, hence, the option under Rule 32 (4) is not available.	10	Exempt	-
Life micro-insurance policies {Exempt vide Entry 36 of Notification no. 12/2017-Ct (Rate)}	8,000	-	1,600
Variable Insurance Policies [Gross Premium – Amount allocated towards investment]			
Total Taxable Value			4,310

Q38. Will the Section 15 read with Chapter IV of the CGST Rules, 2017 apply to IGST payable on import of goods? How valuation will be done in case of import of services?

Ans. No. As per Proviso to Sec. 5(1) of IGST Act, Customs Law will be applicable for valuation of imported goods. U/s 15 read with Chapter IV of the CGST Rules, 2017 will apply for valuation of import of services.

Q39. Is reference to the CGST Rules required in all cases?

Ans. No. Reference to the CGST Rules, 2017 is required only when the supply is between related persons (including different registrations of the same PAN and principal-agent supplies), or where the consideration payable is not wholly in money. However, in specific cases where the categories of goods and services are notified in this regard (such as money-changing), the CGST Rules, 2017 must be referred to, irrespective of the fact that the supplier and recipient are unrelated, and price is the sole consideration.

Q40. If related persons transact at arm's length price, can the valuation still be questioned?

Ans. The law mandates a reference to the CGST Rules where the supply is between related persons. However, since the supply is at "arm's length price", the fact that the price assigned to the transaction is an 'open market value' should be established.

Q41. What is the meaning of the term "Price is not the sole consideration"?

Ans. Under the GST law, consideration can be in "money or otherwise", and includes the monetary value of an act or forbearance, in relation to a supply. Consideration may also flow from any person other than the recipient. In cases, where the money received in respect of the supply is not the sole consideration, the "price is not the sole consideration". E.g. Buyer of capital goods discharges the loan of seller, goods purchased on exchange offer, etc.

Chapter 8: - Input Tax Credit

ICAI Test your knowledge

This chapter includes "38 Q & A" of GST main book. Do refer 16 examples in GST main book.

Q1. What is input tax?

Ans. 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.

Q2. What are the conditions necessary for obtaining ITC?

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

- he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- he has received the goods or services or both;
- the supplier has actually paid the tax charged in respect of the supply to the Government; and
- he has furnished the return under section 39.

Q3. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?

Ans. 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. Further, in case of deemed supplies without consideration and additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply, consideration is deemed to have been paid.

Q4. What is the time limit for taking ITC and reasons therefor?

Ans. In terms of Section 16(4) of the CGST Act, a registered person is not entitled to claim input tax credit in respect of any supply of goods or services after the earlier of following two events:

- Due Date of filing of the return under Section 39 of the Act for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains, i.e. 20th October;
- Furnishing of the annual return. In terms of Section 44, the due date of filing annual return is 31st December following the end of the financial year.

However, in cases of credit in special circumstances like new registration, voluntary registration, etc. the credit will not be available after the expiry of one year from the date of issue of tax invoice.

Q5. What is the ITC entitlement of a newly registered person?

Ans. 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.

Q6. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Ans. 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.

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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.

Q7. 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.

Ans. 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.

Q8. 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?

Ans. 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.

Q9. 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.

Ans. 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.

Q10. 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 Rs. 4 crore and Rs. 1 crore respectively, the ITC on thread and lining material procured in July is Rs. 5,000 and Rs. 15,000 respectively.

Calculate the eligible ITC on thread and lining material.

Ans. 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 42 of the CGST Rules, 2017.

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

Common credit = Rs.15,000 + Rs.5,000 = Rs.20,000

Exempt turnover = Rs.1 crore

Total turnover = Rs. 5 crore (Rs.1 crore + Rs.4 crore)

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

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

Q11. 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?

Ans. 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)].

Q12. Ceramity Ltd. has following units:

A: Factory in Tumkur, Karnataka; turnover of Rs. 27 crores in 2017-18;

B: Service centre in Hyderabad, Telangana; turnover of Rs. 1 crore in 2017-18;

C: Service centre in Chennai, Tamil Nadu; turnover of Rs. 2 crores in 2017-18;

Ceramity Ltd.'s corporate office functions as ISD. It has to distribute ITC of Rs. 9 lakh for December, 2018. Of this, an invoice involving tax of Rs. 3 lakh pertains to technical consultancy for Tumkur unit. What should be the distribution of the credit?

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

- Rs. 3 lakh is attributable to Tumkur unit, and will be transferred to Tumkur unit only.
- Rs. 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.
 - Tumkur unit will get $(27 \text{ crore} / 30 \text{ crore}) \times 6 \text{ lakh} = \text{Rs. } 5.4 \text{ lakh}$;
 - Hyderabad service centre will get $(1 \text{ crore} / 30 \text{ crore}) \times 6 \text{ lakh} = \text{Rs. } 20,000$; and
 - Chennai service centre will get $(2 \text{ crore} / 30 \text{ crore}) \times 6 \text{ Lakh} = \text{Rs. } 40,000$

Other Questions

Q13. Whether Input tax credit on Inputs and Capital Goods is allowed in one installment?

Ans. Yes. Input tax credit will be available in full with respect to inputs and capital goods, subject to fulfillment of the prescribed conditions under section 16(2) of the CGST Act. Even in the case of supply of goods in lots/ instalments, the credit would be available in full on the receipt of the last lot/ installment.

Q14. One of the conditions to claim credit is that the receiver is in possession of tax invoice or debit note or any other tax paying documents. What are these tax paying documents?

Ans. The tax paying documents have been prescribed under Rule 36 of the CGST Rules. The ITC shall be availed by a registered person [including the Input Service Distributor (ISD)] on the basis of any of the following documents:

- An invoice issued by supplier of goods or services or both as per section 31;
- An invoice raised by the recipient in case of inward supplies from unregistered persons or reverse charge mechanism supplies, subject to payment of tax;
- A debit note issued by a supplier of goods or services or both as per section 34;
- A bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- An Input Service Distributor (ISD) Invoice or ISD Credit Note or any other document issued by an Input Service Distributor for distribution of credit as per rule 54(1).

Q15. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then, whether it has to be calculated proportionately?

Ans. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. Second proviso to Section 16(2) of the CGST Act clearly provides that the entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.

Assuming that only part payment is made within 180 days, availing of proportionate credit based on such part payment is not provided for under the CGST Act. However, Rule 37(1) of the CGST Rules

Additional Questions & Answers

These are apart from Examples in main book

provides for availability of the amount of input tax credit availed of proportionate to the amount paid to the supplier.

Q16. One of the conditions to claim credit is that the receiver has received the goods. Is there any provision for deemed receipt of goods in case of transfer of document of title before or during the movement of goods?

Ans. Yes. Explanation to Section 16(2)(b) of the CGST Act provides for deemed receipt of goods where the goods are delivered by the supplier to the recipient or any other person on the direction of the recipient, whether acting as agent or otherwise, before or during movement of goods either by way of transfer of document of title to goods or otherwise.

Q17. What is the maximum time limit to claim the Input tax credit?

Ans. In terms of Section 16(4) of the CGST Act, a registered person is not entitled to claim input tax credit in respect of any supply of goods or services after the earlier of following two events:

- (a) Due Date of filing of the return under Section 39 of the Act for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains, i.e. 20th October;
- (b) Furnishing of the annual return. In terms of Section 44, the due date of filing annual return is 31st December following the end of the financial year.

However, as provided in Rule 37(4), the above time limit is not applicable where a claim is made for re-availing of any credit that had been reversed earlier due to non-payment of consideration within 180 days of date of issue of invoice by the supplier.

Further, in cases of credit in special circumstances like new registration, voluntary registration, etc. the credit will not be available after the expiry of one year from the date of issue of tax invoice.

Q18. A person has a single GST registration in respect of two different trade names. Can he set off input tax credit from one trade name against the output tax liability of the other?

Ans. All input tax credits can be set off against the output tax liability of the same GSTIN irrespective of the different businesses or trade names present for a particular taxable person.

Q19. Whether input tax credit is allowed on inputs which become waste and is sold as scrap?

Ans. In the process of manufacture, if some inputs become waste and are sold as scrap, credit shall not be denied. Further, output tax shall be payable on sale of such waste/scrap. However, Section 17(5) (h) specifically restricts input tax credit on goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. Therefore, if the goods have been destroyed in full, input tax credit will not be available.

Q20. Whether Input destroyed/ pilfered, and shortage also is covered?

Ans. Yes. Section 17(5)(h) specifically restricts input tax credit on goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. Therefore, input tax paid on goods which are destroyed/pilfered and where shortage has occurred will not be eligible.

Q21. Whether Input tax credit is available in respect of Input tax paid on use of mobile phones/laptops/as given to employees?

Ans. Yes. The mobile phones/ laptops would be covered under the definition of 'capital goods' as they are used in the course/ furtherance of business and hence, the input tax paid on such goods will be available as input tax credit.

Q22. Can input tax credit be claimed on a truck or any goods vehicles when used for transportation of goods?. Also comment whether repairing, maintenance and insurance of such vehicles will be allowable as credit ?

Ans. Input tax credit is not blocked on any motor vehicles for transportation for goods. Also, any expenses in the form of repairs, maintenance and general insurance of motor vehicles credit of which is not blocked under Section 17(5)(a) of the CGST Act 2017 will be allowable as input tax credit under GST. So, it should be allowed as input tax credit.

Q23. Whether recovery provisions can be initiated in case of wrong distribution of credit by ISD?

Ans. Yes. In terms of Section 21 of the Act, the recovery provisions can be initiated if the Input Service Distributor distributes credit in contravention of the law resulting in excess distribution of credit to one/ more recipients of credit. Such credit can be recovered from the recipients along with applicable interest and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

Q24. What are the set off provisions for CGST, SGST, IGST within the same state and outside the state?

Ans. On every transaction (within a state), there will be component of Central GST (CGST) and State GST (SGST). Integrated GST (IGST) would be levied for inter-state transactions.

Utilization of Input Tax Credit of CGST

The tax credit CGST shall be first utilized towards the payment of output CGST and then towards the payment of output IGST. However, ITC of CGST cannot be used to adjust SGST.

Utilization of Input Tax Credit of SGST

The tax credit SGST is allowed to be utilized towards payment of SGST and IGST in that order. However, ITC of SGST cannot be used to adjust CGST. Further, ITC of SGST paid in one state cannot be utilized to set off against the output SGST of another state.

Utilization of Input Tax Credit of UTGST

The tax credit UTGST is allowed to be utilized towards payment of UTGST and IGST in that order. However, ITC of UTGST cannot be used to adjust CGST/SGST

Utilization of Input Tax Credit of IGST

The amount of ITC on account of IGST is allowed to be utilized towards payment of IGST, CGST and SGST/UTGST in that order.

Q25. Can input credit be claimed in respect of any compensation cess paid for supplies notified by the GST council?

Ans. In terms of proviso to Section 11(2) of the Goods and Services Tax (Compensation to States) Act, 2017, the input tax credit in respect of cess on supply of goods and services leviable under section 8 of the same Act, shall be utilized only towards payment of said cess or supply of goods and services leviable under the said section. Therefore no cross utilization with other taxes are allowed.

Q26. Can GST paid on reverse charge basis be considered as input tax?

Ans. Yes. The definition of input tax includes the tax payable under the reverse charge.

Q27. MRFL Ltd. being a manufacturer of taxable goods paid general insurance premium to cover loss of stock of finished goods. Company wants to avail the GST paid on such premium as input tax credit. Advise. (ICMA Study Material)

Ans. GST paid on general insurance premium to cover loss of stock of finished goods is well allowed as input tax credit. Hence, M/s MRFL Ltd. is eligible to avail the tax paid on general insurance premium as ITC.

Q28. Whether ITC is admissible on service of renting of immovable properties?

Ans. ITC is available on renting of immovable properties (GST paid on renting of factory / shops / premises) for facilitation of business operations.

Additional Questions & Answers

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Q29. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Advise.

(ICMA Study Material)

Ans. As per proviso to Rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to section 16(2). In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. **Since, as per Section 25(5) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.**

Q30. As per section 15(2)(b) of the CGST Act, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both are added in the value of a supply. In such type of cases, no consideration is to be paid to the supplier. What is your opinion about ITC availability?

Ans. Value of supplies on account of any amount added in accordance with the provisions of section 15(2)(b) of CGST Act, is deemed to have been paid for the purposes of the second proviso to section 16(2). **In such instances, ITC is admissible.** (Second Proviso to Rule 37 of CGST Rules, 2017).

Q31. The following are details of purchases, sales, etc. affected by M/s. Asha & Co. a registered manufacturer under CGST Act, 2017:

1. Purchased Raw material 'A' from local dealer Rs. 86,100 (inclusive of GST @ 5%).
2. Purchased Raw material 'B' from local dealer Rs. 1,12,000 (inclusive of GST @ 12%).
3. Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 1,96,000 (inclusive of GST @ 12%). Depreciation @ 15% to be charged.
4. Other Direct and Indirect expenses Rs. 55,460.
5. Earned 10% profit margin on total cost.
6. During the month of October, 20XX only 70% production is sold within the state and applicable GST rate being 12%.

Calculate the amount of CGST and SGST payable after utilising input tax credit for the month of October, 20XX assuming no opening balance of input tax credit is available.

(CMA Inter - RTP - Dec 2018)

Ans.

Computation of Taxable value of supply

Particulars	Amount in INR
Purchase Raw material 'A' from local dealer (Rs. 86,100 × 100 ÷ 105)	82,000
Purchase Raw material 'B' from local dealer (Rs. 1,12,000 × 100 ÷ 112)	1,00,000
Depreciation expense [(Rs. 1,96,000 - Rs. 1,96,000 × 12 ÷ 112) × 15%]	26,250
Other direct and indirect expense	55,460
Total Cost of goods manufactured	2,63,710
Cost of goods sold (70% of goods produced were sold)	1,84,597
Add: Profit margin @ 10% of cost	18,460
Taxable value of supply	2,03,057

Computation of CGST and SGST payable for the month of October, 20XX after utilising the available ITC

Particulars	CGST in INR	SGST in INR
Output tax liability for the month of October, 20XX @ 12% (being CGST 6% and SGST 6%) [Rs. 2,03,057 × 12%]	12,183	12,183

Less: Eligible input tax credit in respect of purchases of:-		
Raw material 'A' [Rs. 82,000 x 5%]	2,050	2,050
Raw material 'B' [Rs. 1,00,000 x 12%]	6,000	6,000
Capital Goods [Rs. 1,75,000 x 12%]	10,500	10,500
CGST/SGST credit to be carried forward	(-) 6,367	(-) 6,367

Q32. ABC Ltd. a registered person and purchased 5 Honda City Cars for Rs. 90 Lakhs excluding GST @ 28%. ABC Ltd sold 4 Honda City Cars for Rs. 1 crore excluding GST @ 28%. Find the GST liability in the following two independent cases:

- (a) ABC Ltd is a dealer of motor vehicles
(b) ABC Ltd is not a dealer of motor vehicles

Ans.

Statement showing GST liability of ABC Ltd.

Particulars	ABC Ltd is a dealer of motor vehicles	ABC Ltd is not a dealer of motor vehicles
GST on Supply of 4 Honda City Cars (Rs. 1 Lakhs * 28%)	28,00,000	28,00,000
Less:- Input Tax Credit on purchased of 5 Honda City Cars (Rs. 90 Lacs * 28%)	25,20,000	-
GST liability need to be paid using Electronic Cash Ledger	2,80,000	28,00,000

Q33. ABC Ltd. is in the business of manufacture of Cookies for domestic market. During November 2018, it has acquired the following:-

Particulars	Inward Supply Value in INR	GST levied by Supplier in INR
Raw Material	4,00,000	48,000
Housekeeping Chemicals (to be used in factory)	1,00,000	18,000
Solar lamps (to be used in administrative office)	1,00,000	5,000
Soft drink (to be used in office canteen)	20,000	3,600
Truck (for transportation of manufactured goods from factory to godown)	19,00,000	5,32,000

Calculate the amount of input tax credit available to ABC Ltd. for November 2018. Assume that conditions for claiming input tax credit are satisfied.

Ans.

Computation of ITC available to ABC Ltd. for the month of November 2018

Particulars	GST levied by Supplier in INR
Raw Material	48,000
Housekeeping Chemicals	18,000
Solar lamps	5,000
Soft drink (ITC on food and beverages not available under section 17(5)(b), even if it is used for office canteen)	NIL
Truck (ITC is available even if ABC Ltd. is not in the business of transportation of goods)	5,32,000
Total ITC available for the month of November 2018	6,03,000

Q34. Hotel Mumbai Airport International provides pick up services for guest from airport. Hotel Mumbai Airport International availed rent-a-cab services from Mr. ABC. Rent-a-cab services provided by Mr. ABC to Hotel Mumbai Airport International during January 2019 for Rs. 2,00,000

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plus GST 18%. Hotel Mumbai Airport International provided short-term accommodation services to its customers (i.e. guests) during January 2019 for Rs. 20,00,000 plus GST 18%. Find the Net GST liability of Hotel Mumbai Airport International during the month of January 2019.

Calculate GST Liability of Hotel Mumbai Airport International for January 2019. Assume that conditions for claiming input tax credit are satisfied.

Ans.

Computation of GST liability of Hotel Mumbai Airport International for the month of January 2019

Particulars	GST levied by Supplier in INR
Outward Supply i.e. short-term accommodation services (Rs. 20,00,000*18%)	3,60,000
Less:- ITC on rent a cab services (Hotel Mumbai Airport International providing a composite supply of rent-a-cab and accommodation service. The principal supply of service is accommodation service. Hence, GST paid on rent-a-cab will be available as a credit to Hotel Mumbai Airport International)	36,000
Net GST Liability for the month of January 2019	3,24,000

Q35. ABC Ltd. becomes liable to pay tax on 1st October 2018 and has obtained registration on 20th October 2018. The GST paid goods lying in the premises of ABC Ltd. as on 30th September 2018 are as follows:

- Raw material – GST Amount – Rs. 1,00,000 (Rs. 15,000 GST pertaining to invoice dated 1st May 2017)
- Capital goods – GST Amount – Rs. 3,00,000
- Raw material in work in progress – Rs. 1,50,000
- Raw material in Finished Goods – Rs. 2,00,000

You are required to answer the following:

- Eligible amount of input tax credit.
- Time limit to submit declaration on common portal.
- Whether any certification required while availing the credit, if so from whom.

Ans.

- Eligible input tax credit is Rs. 4,35,000 (Rs. 1,00,000- Rs. 15,000+ Rs. 1,50,000 +Rs. 2,00,000). ITC on input in stock is admissible U/s 18(1)(a) of CGST Act, 2017.
As per section 18(2), a registered person shall not be entitled to take ITC in respect of any supply of goods or services or both to him after the expiry of 1 year from the date of issue of tax invoice relating to such supply. Thus, Rs. 15,000 pertaining to invoice dated 1st May 2017 is not eligible ITC.
ITC on Capital Goods is not admissible for new registration.
- For availment of ITC in such case, declaration in Form GST ITC-01 shall be submitted on common portal within 30 days of becoming eligible to avail ITC.
- Declaration regarding inputs tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds Rs. 2,00,000. Since, input tax credit is Rs. 4,50,000, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Q36. ABC Ltd. a registered person supplying taxable goods in Indore has opted to pay tax on composition scheme U/s 10 with effect from 1st April, 2019. It provides following information relating to balance of input tax credit lying as on 31st March, 2019 :

- Inputs lying in stock as such valued at Rs 2,24,000 (inclusive of CGST & SGST @12%)

2. Inputs contained in finished goods where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @12%) on 31st March 2019 Rs 1,12,000.
3. Input tax on capital goods purchased on 25th October 2018 is Rs. 72,000.
4. Balance in Electronic credit Ledger is Rs 1,50,800.

Please give your suggestion about the appropriate tax treatment.

Ans. As per Section 18(4), where any registered taxable person who has availed of input tax credit opts to pay tax under Section 10 i.e. composition scheme, he shall pay an amount, by way of debit in the electronic credit ledger or 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 on stock and on capital goods, taking useful life of capital goods 5 years, on the day immediately preceding the date of exercising such option.

Statement showing amount to be paid by ABC Ltd.

Particulars	GST levied by Supplier in INR
ITC lying in stock (Rs. 2,24,000 * 12/112)	24,000
Inputs contained in finished goods lying in stock (Rs. 1,12,000 * 12/112) As per Rule 44(3) of CGST Rules, 2017, where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under Rule 44(1) based on the prevailing market price of goods on the date of opting for composition scheme.	12,000
ITC relating to Capital goods (72,000 * 54/60) *Capital goods used for 5 months and 6 days (to be considered as 6 months) = Remaining useful life considering total useful life as 5 years (60 months) = 54 months	64,800
Amount to be paid by ABC Ltd (ITC reversal)	1,00,800

Balance available in Electronic Credit Ledger Rs. 1,50,800. Amount payable U/s 18 Rs. 1,00,800.

So after reversing this through Electronic Credit ledger, balance amount in Electronic Credit Ledger (Rs. 50,000) shall be lapsed.

Questions from GST Main Book

Q37. ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST paid
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note: All the conditions necessary for availing the ITC have been fulfilled.

Ans. Computation of ITC available with ABC Co. Ltd. for the month of July:-

S. No.	Items	ITC
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [Though ITC on motor vehicles has been specifically disallowed under section 17(5)(a), ITC on motor vehicles used for transportation of goods is allowed under section 17(5)(a)(ii)]	1,00,000

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(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	8,20,000

Q38. XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2018 from the following particulars: -

S. No.	Inward supplies	GST	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable was 10,000, is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October, 2018.
(iii)	Capital goods	1,20,000	XYZ Ltd. has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(iv)	Input services	2,25,000	One invoice dated 20.01.2018 on which GST payable was 50,000 has been received in October, 2018.

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.

The annual return for the financial year 2017-18 was filed on 15th September, 2018.

Ans.

S. No.	Inward supplies	ITC
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
(iv)	Input services [As per section 16(4), ITC on an invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY 2017-18 has been filed on 15th September, 2018 (prior to due date of filing the return for September, 2018 i.e., 20th October, 2018), ITC on the invoice pertaining to FY 2017-18 cannot be availed after 15th September, 2018.]	1,75,000
	Total	2,65,000

Q39. ABC Ltd. supplied goods Rs. 11,500. ABC Ltd. received goods valued at Rs. 10,000. The supplier has charged GST in his invoice. SGST and CGST rate of supply of goods is 9% each. Calculate the tax payable.

Ans.

Details	SGST	CGST
Tax payable on supply of goods by ABC Ltd. on Rs. 11,500 @ 9%	1,035	1,035

ITC of taxes paid by supplier available in Electronic credit ledger	900	900
Net Tax Payable	135	135

Q40. ABC Ltd. supplied goods Rs. 15,000. ABC Ltd. received goods valued at Rs. 20,000. The supplier has charged GST in his invoice. They sold 60% of inputs procured and balance 40% were in stock. State Tax (SGST) and Central Tax (CGST) rate on supply and purchase of goods is 9% each. Calculate the tax payable.

Ans.

Details	SGST	CGST
Tax payable on supply of goods by ABC Ltd. on Rs. 15,000 @ 9%	1,350	1,350
ITC of taxes paid by supplier available in Electronic credit ledger	1,800	1,800
Net Tax Payable	NIL	NIL
Credit carried forward in Electronic Credit Ledger	450	450

Q41. ABC Ltd. are manufacture of drugs. SGST and CGST rate on supply of goods is 2.5% each. They sold the goods at Rs. 20,000. They purchased inputs at Rs. 13,000. The SGST and CGST on inputs is 6% each. All these inputs were used in Manufacture of final products. There was no opening or closing stock of inputs or final products. Calculate the tax payable.

Ans.

Details	SGST	CGST
Tax payable on supply of goods by ABC Ltd. on Rs. 20,000 @ 2.5%	500	500
ITC of taxes paid by supplier available in Electronic credit ledger	780	780
Net Tax Payable	NIL	NIL
Credit carried forward in Electronic Credit Ledger	280	280

This excess credit is due to inverted tax structure i.e. tax on inputs is more than tax payable on outputs. In that case, Deepak Manufacturers can claim refund of this excess ITC.

Q42. ABC Ltd. procures input goods and services within State Rs. 1,000. SGST and CGST rate on receipt is 9% each. He manufactured 2 products out of inputs. One product of value of Rs. 800 was subject to SGST and CGST @ 9% each. Other product of value of Rs. 800 was exempt from SGST & CGST. Calculate the tax payable.

Ans.

Details	SGST	CGST
Tax payable on supply of goods and services	72	72
ITC of taxes paid on input goods and services available	90	90
Reversal of 50% ITC is ineligible (to be reversed in Electronic Credit Ledger)	45	45
Eligible ITC	45	45
Net tax payable by cash through Electronic cash ledger	27	27

Q43. When the ISD is one State say at Delhi and the Recipients of credits (Suppliers or Locations) are in different States say in Chennai, Tamil Nadu and Bangalore, Karnataka. Assume the turnovers for the relevant period (previous financial year) of Chennai unit are Rs. 10 crores and that of Bangalore unit is at Rs. 30 crores.

Credit Available with ISD at Delhi	SGST	CGST	IGST
	Amount in Lacs		
Credit directly attributable to			
Chennai	5	5	10
Bangalore	3	2	5
Common Credits	5	7	8
Total	13	14	23

Ans.

Credit Available with ISD at Delhi	Chennai	Bangalore
	Amount in Lacs	

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Directly Attributable		
SGST as IGST	5	3
CGST as IGST	5	2
IGST as IGST	10	5
Total (a)	20	10
Common Credit		
SGST as IGST (5*10/40) or (5*30/40)	1.25	3.75
CGST as IGST (7*10/40) or (7*30/40)	1.75	5.25
IGST as IGST (8*10/40) or (8*30/40)	2	6
Total (b)	5	15
Total (a+b)	25	25

Q44. ABC Ltd. a registered person supplying taxable goods in Jaipur has opted to pay tax on composition scheme under Section 10 with effect from 28-02-2018. It provides following information relating to balance of ITC lying as on 27th Feb 2018:

- Inputs lying in stock as valued at Rs. 3,36,000 (inclusive of CGST & SGST @12%)
- Inputs contained in finished goods where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @ 12%) on 28th February 2018 is Rs. 1,79,200
- ITC on capital goods purchased on 25th October 2017 is Rs. 1,44,000
- Balance in Electronic credit ledger is Rs. 2,20,000.

Decide whether ABC Ltd. is eligible for ITC lying on 27th February 2018,

Ans. As per Section 18 (4), where any registered taxable person who has availed of ITC opts to pay tax under section 10 i.e. composition scheme, he shall pay an amount, by way of debit in the electronic credit ledger or 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 and on capital goods, taking useful life of capital goods 5 years, on the day immediately preceding the date of exercising such option. Therefore in given case ABC Ltd. is required to pay following amounts: -

Particulars	Amount
Inputs lying in stock (Rs. 3,36,000*12/112)	36,000
Inputs contained in finished goods lying in stock (Rs. 1,79,200*12/112)	19,200
Input Tax on Capital goods used for 4 months and 2 days, taking residual life as 5 years (1,44,000*55/60) (55 months being remaining residual life of capital goods)	1,32,000
Amount to be paid by ABC Ltd. (CGST+SGST)	1,87,200

Working Note: As per Rule 44(3) of CGST Rules, 2017, where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under Rule 44 (1) based on the prevailing market price of goods on the date of opting for composition scheme.

The aforesaid amount can be paid by utilizing the balance in Electronic Credit Ledger. The balance credit in Electronic Credit Ledger = Rs. 2,20,000 – Rs. 1,87,200 = Rs. 32,800 lapse.

Q45. ABC Ltd. a supplier of goods has purchased capital goods invoice dated 1st October 2017 for Rs. 4,13,000 (inclusive of CGST and SGST @ 9%). After taking it for business use, the said capital goods were supplied for Rs. 2,85,000 on 26th April 2018.

Ans.

Particulars	Amount
Date of Invoice of purchase of capital goods	1st Oct'17
Date of supply of capital goods after taking into use	26th Apr'18
No. of Quarter for which it is used	3
CGST & SGST paid on purchase of capital goods [4,13,000 * (18/118)]	63,000

Reduced by Rs. 63,000*5%*3	9,450
Amount of CGST and SGST	53,550
Transaction value on supply of capital goods u/s 15	2,85,000
CGST & SGST payable on supply of Capital Goods @ 18%	51,300
Amount to be payable higher of	53,550

Q46. What would be your answer if capital goods being Refractory Bricks are removed as scrap at a transaction value of Rs. 25000 on 29th March 2018?

Ans. As per section 18 (6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of ITC, taxable person may pay tax on the transaction value i.e. if tax rate is 9% each then CGST Rs. 2,250 & SGST Rs. 2,250.

Q47. ABC Ltd. a registered manufacturer demerged its entity into AB cement Ltd. and BC Steel Ltd. the total value of assets of ABC Ltd. is Rs. 25,00,000 and unutilized credit on account of CGST, SGST and IGST amounted to Rs. 60,000, Rs. 45,000 and Rs. 84,600 respectively. The value of assets of AB cement Ltd. and BC Steel Ltd. is Rs. 12,00,000 and Rs. 13,00,000 respectively obtained as per the scheme. Discuss the eligibility of credit transferred to new units on account of Demerger?

Ans. As per Rule 41 of CGST Rules, 2017, in case of Demerger, input tax credit shall be apportioned in the ratio of Value of assets of new unit as specified in Demerger scheme. In the given case, credit transferred to both the new units would be –

Particulars	ABC Ltd.	AB Cement Ltd.	BC Steel Ltd.
Value of Assets	25,00,000	12,00,000	13,00,000
Unutilized credit relating to CGST (to be apportioned in ratio of value of assets of AB Cement and BC Steel Ltd.)	60,000	28,800	31,200
SGST	45,000	21,600	23,400
IGST	84,600	40,608	43,992
Total Apportioned Credit	1,89,600	91,008	98,592

Q48. What would be scenario of Input Tax Credit in respect of Immovable Property?

Ans. Law divides claim of Input Credit in respect of construction of Immovable Property in two parts:

- Works contract services when supplied for construction of immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

Example: Mr. A wants to start a Hotel. He engages Mr. B as contractor for construction of the hotel building and allots him the contract with entire material and labour to be procured by C.

CGST Act, 2017 provides that any person who has paid taxes under a contract which has resulted in construction of immovable property, he would not be able to claim Input Tax Credit of such taxes paid unless such services are used as Input Services for further supply of Work contract service. Thus, in the given scenario, Mr. A would not be eligible to claim input tax credit of taxes paid to Mr. B, as work contract services of Mr. B have not been used by Mr. A for further supply of works contract service.

- Goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business

Example: Mr. A wants to start a Hotel land he engages Mr. B as contractor for construction of Hotel Building. He allots him the contract with part of the material being provided by Mr. A and balance material and labour to be procured by Mr. B.

In the above cases, Mr. A has provided part of the material to Mr. B, ownership of the material to the extent provided by Mr. A remains with Mr. A and Mr. B uses the material for the construction of building for Mr. A only. Mr. A would not be entitled to credit of any taxes paid on purchase of such material for construction of Immovable property.

Impact of the two provisions: With the insertion of the two provisions, both the scenarios wherein:

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- (a) A person awards contract of construction of the immovable property to a contractor or
 (b) Constructs the immovable property himself by purchasing material and hiring labour,
 he would not be able to claim credit of the taxes paid for the construction of the immovable property.

Q49. Mr. Amit, a supplier of goods, pays GST under regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of August, 2017 – Intra-State supplier of goods 6,00,000, Inter-State supplies of goods 2,00,000. He has also furnished following information in respect of purchases made by him from registered dealers during August, 2017 – Intra-State purchase of goods 4,00,000, Inter-State purchase of goods 50,000. Balance of ITC available at the beginning of the August 2017 – CGST 15,000, SGST 35,000, IGST 20,000. Compute the net GST payable by Mr. Amit for the month of August, 2017.

Note : (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies (ii) Both inward and outward supplies given above are exclusive of taxes, wherever applicable (iii) All the conditions necessary for availing the ITC has been fulfilled.

Ans. (A) Tax payable

Description	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Inter-State taxable supply of goods – Rs. 2,00,000 – IGST @ 18%			36,000
Intra-State taxable supply of goods – Rs. 6,00,000 – CGST @ 9% and SGST @ 9%	54,000	54,000	
Total Tax Payable	54,000	54,000	36,000

(B) ITC Available

Description	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Opening Balance	15,000	35,000	20,000
Intra-State Purchases {Rs. 4,00,000 - CGST 9% & SGST @ 9%}	36,000	36,000	
Inter-State Purchases {Rs. 50,000 – IGST @ 18%}			9,000
Total ITC available	51,000	71,000	29,000

(B) Net Tax Payable

Description	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)
Total Tax Payable	54,000	54,000	36,000
Less ITC available	51,000	71,000	29,000
Net Payable	3,000	NIL	7,000
Less Cross Utilization	NIL	NIL	-7,000
Net Tax Payable	3,000	NIL	NIL
Excess ITC carried forward	NIL	10,000	NIL

Q50. M Ltd. Mumbai procured goods 10,000 Kgs @ Rs. 100 per Kg. from K Ltd. of Kolkata. These goods came to M Ltd. of Mumbai in the following manner:

Date of Dispatch	No. of Kgs dispatched	Date of receipt	Transit Losses	No. Kgs received
10th October 2017	3,000	15th November 2017	NIL	3,000
2nd November 2017	4,000	20th November 2017	NIL	4,000
3rd December 2017	3,000	1st January 2018	20	2,980

Invoice shows 10,000 Kgs and IGST @ 18%.

You are required to answer:

- (a) M Ltd. can avail the proportionate credit on 15th Nov 2017 and 20th Nov 2017.
 (b) When can M Ltd. is eligible for input tax credit?
 (c) How much credit is allowed to M Ltd.

Ans. (a) M Ltd. cannot take proportionate credit on the quantity received on 15th November 2017 and 20th November 2017.

(b) M Ltd. is eligible to avail the input tax credit on 1st January 2018.

(c) Input tax credit allowed = Rs. 1,79,640/- (10,000 Kgs x Rs. 100) x 18% x 9980 kgs/10,000 kgs.
Note:

(i) Goods received in lots ITC available only on receipt of last lot/installment [1st proviso to Sec 16(2)]

(ii) ITC is admissible only upon receipt of goods. Thus, ITC not admissible in respect of goods not received.

Q51. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Discuss.

Ans. As per proviso to rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16. In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(4) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Q52. XYZ Ltd. is engaged in supply of passenger transportation services. In the month of September, 2017, it has purchased two motor vehicles for Rs. 18,00,000 plus GST @28%. You are required to advise XYZ Ltd. if it can avail Input tax credit of the GST paid by it on motor vehicles.

Ans. As per Section 17(5), input tax credit shall not be available in respect of Motor vehicles and other conveyance. However, credit will be available when they are used for making the taxable supplies of transportation of passengers. In this case XYZ Ltd. is engaged in transportation of passengers it will be entitled to take credit of GST amounting Rs. 5,04,000 i.e. [Rs. 18,00,000 x 28%].

Q53. ABC Bank has purchased a van for transportation of cash (money). Whether ITC of such motor van is admissible?

Ans. The provision of Sec. 17(5) (a) of the CGST Act, 2017 restricts credit on motor vehicle for specified purposes listed therein. Motor van is a motor vehicle, ITC of which is allowed if used for transportation of goods. Under GST law, Cash/money is neither goods nor service (Sec 2(52) and Sec 2(102) of CGST Act). Since cash/money cannot be considered as 'goods', ABC Bank is not eligible for ITC of motor vans purchased by it for transportation of cash.

Q54. ABC Ltd. is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of XYZ Caterers in order to provide food and beverages to the passengers. XYZ Caterers raises an invoice on ABC Ltd charging GST. ABC Ltd. wants to avail the ITC on outdoor catering services supplied by XYZ Caterers. Advise.

Ans. ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply. In the given case, ABC Ltd will be entitled to avail the ITC of the GST paid to XYZ Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

Q55. ABC Ltd is a BPO which works on night shift basis. As per the Government Guidelines for BPO Sector, it has to provide rent a cab facilities to its employees who work on night shifts. Whether, ABC Ltd. is eligible to avail ITC on rent a cab services.

Ans. No, ABC Ltd cannot claim ITC on the GST paid on such rent-a-cab services. The reason being that such credit is not admissible unless Govt. issues a notification allowing such credit.

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Q56. Mr. A of USA being technician came to India to assemble parts of machinery. He also imported goods worth Rs. 10,00,000 and paid following customs duties:

- (i) Basic customs duty is Rs. 1,00,000.
- (ii) Integrated Goods and Services Tax (IGST) of Rs. 1,98,540.

In India Mr. A wants to register as non-resident taxable person and his estimated liability is Rs. 2,50,000. How much Mr. A is liable to pay as advance tax?

Ans. Mr A is Non-resident taxable person. NRTP needs to pay tax in advance before he is granted registration certificate. NRTP is entitled to book credit of goods imported by him. However, only IGST paid on imported goods is eligible 'input tax'. Thus, ITC admissible to him is Rs 1,98,540. Considering the admissible amount of ITC, Mr. A of USA is liable to pay advance tax of Rs. 51,460. (i.e. Rs. 2,50,000 – 1,98,540)

Q57. ABC Bank, having a branch in Jaipur engaged in supply of services by way of accepting deposits and extending loans opted for Section 17(4). Its head office is in Mumbai and branch in Jaipur. ITC (CGST & SGST) available for the month August, 2017 is Rs 90,000. Determine the amount of admissible ITC for ABC Bank, Jaipur Branch. Total ITC of 90,000 includes credit relating to :

Particulars	Input Tax (CGST & SGST)
1. Services availed from from Mumbai Head Office (deemed distinct person under GST law)	18,000
2. Outdoor catering services received for its employees	16,900
3. Auditing Services	22,500
4. Goods which are used for personal use of employees	6,500

Ans.

Statement showing ITC eligibility for ABC Bank (Jaipur Branch) which has opted for Section 17 (4)

Particulars	Input Tax (CGST & SGST)
Services availed from from Mumbai Head Office (deemed distinct person under GST law) – Deemed supply between distinct person - Full ITC available	18,000
Outdoor catering services received for its employees {Blocked Credit U/s 17 (5)}	Not Allowed (Allowed @ 50%)
Auditing Services	Not Allowed
Goods which are used for personal use of employees {Blocked Credit U/s 17 (5)}	Not Allowed
ITC available $(90,000 - 16,900 - 6,500 - 18,000) = 48,600 @ 50\%$	24,300
Total Admissible ITC (available for utilization for August Month GST liability)	42,300

Q58. X is a chartered accountant by profession. He gives the following information pertaining to October 20XX

1. Consultancy given to different clients during October 20XX (but not including the transactions given below) (invoice value : Rs. 35,70,000).
2. Consultancy given to A Ltd. (invoice value : Rs. 8,000, market value of supply : Rs. 50,000, X holds 40 percent shares in A Ltd.)
3. Consultancy given to B (invoice value : nil, market value of supply : Rs. 48,000, B is not a relative of X).
4. Consultancy given to Mrs. X (invoice value : nil, market value of supply : Rs. 75,000, Mrs. X is not dependent upon X).
5. Consultancy given to C, younger brother of X (invoice value : nil, market value of supply : Rs. 60,000, C is not dependent upon X).
6. Consultancy given to D, elder brother of X (invoice value : nil, market value of supply : Rs. 70,000, D is dependent upon X).
7. Consultancy given to E, an employee of X (invoice value : nil, market value of supply : Rs. 80,000).

Above figures are exclusive of GST. GST is 18%. Calculate the amount of GST payable by X for October 20XX. He want to avail input tax credit —

- Balance available in electronic credit ledger on October 1, 20XX : Rs. 22,000
- Fees paid to a chartered accountant pertaining to tax audit of X (taxable value : Rs. 20,000, GST : Rs. 3,600).
- GST paid on food and beverages for employees / clients (amount of GST being Rs. 8,000).
- Motor car purchased for official use of employees (amount of GST being Rs. 2,80,000).
- Motor car purchased for private use of X and his family (amount of GST being Rs. 7,00,000).
- Membership of a club taken by X for entertaining official guests (amount of GST being Rs. 18,000).
- Fees paid to a consultant pertaining to transfer pricing matter of a client (amount of GST being Rs. 20,000).

Ans.

Particulars	Amount (Rs.)
Consultancy given to different clients	35,70,000
Consultancy given to A Ltd. (A Ltd. is related to X, price is not sole consideration, market value to be considered)	50,000
Consultancy given to B (B is not a relative of X, price is sole consideration, transaction value to be considered)	Nil
Consultancy given to Mrs. X (Mrs. X is "related person", open market value to be considered)	75,000
Consultancy given to C, younger brother not dependent upon X (C does not come in the list of "related persons", GST applicable on transaction value on the assumption that price is sole consideration)	Nil
Consultancy given to D, elder brother dependent upon X (related person, GST on open market value)	70,000
Consultancy given to E, an employee of X (employer and employee are related persons, gift to employees which is not covered by employment agreement is chargeable to GST on the basis of market value. Exemption of Rs. 50,000 is available) invoice value : nil, market value of supply : Rs. 80,000).	80,000
Total Outward Supply	38,45,000
GST @ 18%	6,92,100
Less:- Input Tax Credit	45,600
Balance available in electronic credit ledger on October 1, 20XX	22,000
Fees paid to a chartered accountant pertaining to tax audit of X	3,600
GST paid on food and beverages for employees / clients (not eligible)	Nil
Motor car purchased for official use of employees (not eligible)	Nil
Motor car purchased for private use of X and his family (not eligible)	Nil
Membership of a club taken by X for entertaining official guests (not eligible)	Nil
Fees paid to a consultant	20,000
Balance to be paid through electronic cash ledger	6,46,500

Q59. X Ltd. provides services pertaining to retail packing of goods. This service is provided in Punjab to manufacturing units and plantation units. It gives the following information pertaining to January 2018 —

1. Service by way of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd., Ludhiana (invoice value : Rs. 17,10,000).
2. Service by way of packing and labelling of chemical goods provided to B Ltd. (invoice value : Rs. 28,00,000).
3. Service by way of packing of leather goods provided to C Ltd. (invoice value : Rs. 3,00,000, market value of similar service to unrelated persons : Rs. 6,50,000).
4. Service by way of waxing and packing of wooden toys provided to D Ltd. (invoice value : Rs. 5,00,000).

X owns 60 per cent shares in X Ltd. and Mrs. X owns 40 per cent shares in C Ltd.

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Above figures are exclusive of GST. GST rate is 18 per cent. The above invoices are issued during January 2018. Payment is received from A Plantation (P.) Ltd. on January 27, 2018. Payment from B Ltd. and C Ltd. is received on February 12, 2018. Nothing is received from D Ltd. so far. On January 31, 2018, X Ltd. gets an advance payment of Rs. 50,000 from E Ltd. for packing of goods which will be manufactured during 2018-19 (GST rate is 18 per cent, Rs. 50,000 is for providing services in future, nothing is received on account of GST).

Calculate the amount of GST payable by X Ltd. for January 2018. X Ltd. wants to avail input tax credit —

- Balance available in electronic credit ledger on January 1, 2018 : Rs. 61,000.
- Fees paid to an interior decorator for canteen of X Ltd. (taxable value : Rs. 10,000, GST : Rs. 1,800).
- Membership of health club for employees (amount of GST being Rs. 17,000).

Ans.

Particulars	Amount (Rs.)
Service by way of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd. [it is exempt from GST vide Exemption Notification (Entry 57)]	Nil
Service by way of packing and labelling of chemical goods provided to B Ltd.	28,00,000
Service by way of packing of leather goods provided to C Ltd. (X Ltd. and C Ltd. are related, GST applicable on market value)	6,50,000
Service by way of waxing and packing of wooden toys provided to D Ltd.	5,00,000
Advance payment from E Ltd. (Rs. 50,000 × 100 ÷ 118)	42,373
Total Outward Supply	39,92,373
GST @ 18%	7,18,627
Less:- Input Tax Credit	62,800
Balance available in electronic credit ledger on January 1, 2018	61,000
Fees paid to an interior decorator for canteen	1,800
Membership of health club for employees (not eligible)	NIL
Balance to be paid through electronic cash ledger	6,55,827

Q60. ABC Ltd. purchased goods valuing Rs. 10,00,000 (excluding CGST @ 2.5% & SGST @ 2.5%) under the cover of invoice dated 25th December 2017. The company made the payment to the supplier as per due date. The company has not taken ITC at the time of receipt of input since there was a doubt regarding admissibility of tax credit. It legal consultant has opined that it can very much avail ITC on such inputs. The opinion was received on 5th May 2018. ABC Ltd. now would like to avail ITC. Can it do so? ABC Ltd. has filed its annual return for the year 2017-18 on 12th August 2018.

Ans. As per Section 16 (4), a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after

- (a) The due date of furnishing of the return U/s 39 for the month of September following the end of financial year to which such invoice pertains; or
- (b) Furnishing of the relevant annual return,

Whichever is earlier.

In this case the inputs were purchased by invoice dated 25th December 2017, hence ITC in respect of such inputs can be taken on earlier of the following dates-

- 20th Oct'18 being due date of furnishing return of month of Sept'18;
- 12th Aug'18 being the date of furnishing of annual return.

ABC Ltd. can avail ITC till 12th Aug'18. Therefore, it can avail credit of CGST Rs. 25,000 & SGST Rs. 25,000.

Q61. A registered supplier of taxable goods supplied goods valued Rs. 1,12,000 (inclusive of CGST Rs. 6,000 and SGST Rs. 6,000) to ABC Ltd. under the forward charge on 12-11-2017 for which tax invoice was also issued on the same date. But ABC Ltd. did not make any payment towards such supply along with tax thereon to the supplier and availed input tax credit of CGST and SGST of Rs. 12,000 on 15-12-2017. Is ABC Ltd. eligible to avail input tax credit on such supply?

Discuss ITC implications if ABC Ltd. makes the payment of Rs. 1,12,000 to the supplier on 15-09-2018.

Ans. Yes, ABC Ltd. can avail input tax credit on receipt of taxable supply of goods. But it is required to pay the consideration along with tax within 180 days from the date of issue of invoice.

- I. If ABC Ltd. does not make payment within 180 days from the date of invoice: As per Rule 37 of CGST Rules, 2017, a registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to make payment to the supplier within 180 days from the date of issue of invoice shall furnish the details of such supply and the amount of input tax credit proportionate to such unpaid amount, availed of, in FORM GSTR-2 in succeeding month after expiry of 180 days (will be added to Output Tax Liability alongwith interest)

In this case since ABC Ltd. does not make any payment within 180 days from the date of invoice i.e. upto 11th May 2018, therefore amount equal to input tax credit availed by ABC Ltd. shall be added towards its output tax liability along with interest for the month of June, 2018 in which details of such supplies are required to be furnished.

Interest shall be calculated @18% [as given u/s 50(1) for the period starting from date of availing credit till the date when input tax credit added to the output tax liability is paid]

Particulars	Amount (Rs.)
Amount of Input tax	12,000
Date of availing credit (Date of taking credit shall be construed as date of taking credit in electronic credit ledger)	15-12-2017
Date of payment of ITC added to Output Tax Liability	15-06-2018
No. of Days for which interest needs to be paid	182
Interest @ 18% {12000*18%*182/365}	1,077

- II. Re-credit of Input tax if payment made after 180 days: If ABC Ltd. makes payment on 15-09-2018 that is after 180 days from date of issue of invoice, then, it shall be entitled to avail the credit of input tax.

Q62. Determine the amount of ITC admissible to ABC Ltd. in respect of following items procured by them in the month of December 2017 (below amount is GST amount):-

1. Goods supplied for Captive consumption in a factory	Rs. 10,000
2. Goods used in constructing an additional floor of office building	Rs. 20,000
3. Packing material used in a factory	Rs. 5,000
4. Goods destroyed due to natural calamities	Rs. 20,000
5. Goods used for repairing the office building and cost of such repairs is debited to P & L	Rs. 25,000
6. Paper for photocopying machine used in Administrative Office	Rs. 1,000
7. Goods given as gifts	Rs. 25,000
8. Inputs used for tests or quality control check	Rs.15,000
9. Goods purchased for being used in repairing the factory shed and same has been Capitalized in books	Rs.18,000
10. Cement used for making foundation and structural support to Plant & Machinery	Rs.14,000
11. Inputs used in trial runs	Rs.15,000

Ans. Statement showing ITC admissible to ABC Ltd. for the month of December 2017

Particulars	Amount (Rs.)
Goods supplied for Captive consumption in a factory (since, used in course of business, hence, ITC on same will be available)	10,000
Goods used in constructing an additional floor of office building {As per section 17 (5) (d), ITC shall not be available in respect of goods or services	NIL

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or both received by a taxable person for construction of an immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available}	
Packing material used in a factory (since, used in course of business, hence, ITC on same will be available)	5,000
Goods destroyed due to natural calamities {As per section 17 (5) (h), ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence, no ITC shall be available in respect of goods destroyed due to natural calamities}	NIL
Goods used for repairing the office building and cost of such repairs is debited to P & L {As per explanation, the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the immovable property. Goods used for revenue repairs are considered as an eligible input and credit shall be allowed on the same}	25,000
Paper for photocopying machine used in Administrative Office (since, used in course of business, hence, ITC on same will be available)	1,000
Goods given as gifts {As per section 17 (5) (h), ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence, no ITC shall be available in respect of goods given as gift}	NIL
Inputs used for tests or quality control check (since, used in course of business, hence, ITC on same will be available)	15,000
Goods purchased for being used in repairing the factory shed and same has been Capitalized in books {As per section 17 (5) (d), ITC shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available}	NIL
Cement used for making foundation and structural support to Plant & Machinery {As per explanation to Section 17, "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for marking outward supply of goods or services or both and includes such foundation and structural supports. ITC is admissible in respect of goods or services or both received by a taxable person for construction of plant and machinery}	14,000
Inputs used in trial runs (since, used in course of business, hence, ITC on same will be available)	15,000
Total Input Tax credit available	85,000

Q63. ABC Ltd. is engaged in supply of works contract services for construction of immovable property. It gives a part of the construction work to a sub-contractor. The sub-contractor charges GST in his invoice to ABC Ltd. Whether ABC Ltd. can avail ITC on this?

Ans. As per section 17 (5) (c), ITC shall not be available in respect of works contract services when supplied for construction of an immovable property. However, credit is allowed where it is an input service for further supply of works contract service. In given case, the services supplied by the sub-contractor have been used by the ABC Ltd. for supply of works contract service. Hence, ABC Ltd. can avail the ITC of the GST charged on the input service provided by the sub-contractor.

Q64. ABC Ltd., a manufacturer, which is engaged in supply of taxable goods has purchased 10,000 kg of Product 'A' for Rs.. 10,00,000 (exclusive of CGST @ 14% and SGST @ 14%) on which input tax credit has been taken. Due to changes in fashion process, the said product became obsolete and their value has been written off in the books of accounts. Explain Input tax credit treatment in above case.

Ans. As per Section 17 (5) (h) of the CGST Act, 2017, if the value of any goods is written off in the books of account, then no input tax credit shall be allowed in respect of the said input. Where input

tax credit has been taken in respect of the said goods, the same has to be paid by recipient. Since in the given case, ABC Ltd. has availed input tax credit, thus it has to pay Rs. 1,40,000 (Rs. 10,00,000 @ 14%) towards CGST and Rs. 1,40,000 (Rs. 10,00,000 @ 14%) towards SGST liability.

Q65. ABC Ltd. paying tax under composition scheme becomes liable to pay tax under regular scheme from 01/04/2018. Can it avail Input tax credit and if so determine the amount of ITC available?

Break-up of credit available with ABC Ltd. as on 31/03/2018:

Particulars	CGST	SGST
Inputs lying in stock (Invoice dated 11/03/2018)	4,500	4,500
Capital goods procured on 25/09/2017 Invoice dated 27/09/2017	6,000	6,000
Inputs lying in semi-finished goods in stock (Invoice dated 21/12/2017)	1,500	1,500

Ans. As per Section 18(1)(c), where any registered person ceases to pay tax under Section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he become liable to pay tax under Section 9.

Therefore, in given case, ABC Ltd. shall be entitled from 01/04/2018 to avail credit available as on 31/03/2018. The credit of capital goods is to be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person. (Rule 40 of CGST Rules)

Statement showing ITC available to ABC Ltd. in respect of inputs

Particulars	ITC (CGST + SGST)	Eligible Credit
Inputs lying in stock (4500+4500)	9,000	9,000
Inputs lying in semi-finished goods in stock (Invoice dated 21/12/2017) (1500+1500)	3,000	3,000
Total Input tax credit available	12,000	12,000

Statement showing ITC available to ABC Ltd. in respect of capital goods

Particulars	Amount in Rs.
Date of invoice of capital goods	27/09/2017
Date from which ABC Ltd. are liable to pay tax under Section 9	01/04/2018
No. of quarters from date of invoice	3
CGST and SGST paid on capital goods procured on 27/09/2017	12,000
ITC to be reduced by Rs.. $12,000 \times 5\% \times 3$ quarters	1,800
Credit (CGST and SGST) available on capital goods	10,200

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

Q66. ABC Ltd. a registered dealer engaged in supplying exempted goods to its customers. On 12/09/2018, exemption notification was rescinded and goods were liable for tax. ABC Ltd. has to make e-payment of tax on the due date i.e., on 20/10/2018. Determine the eligible credit for the month of September, 2018 if the following information is provided:

Additional Questions & Answers

These are apart from Examples in main book

Particulars	Value (exclusive of CGST/SGST /IGST) (Rs.)	CGST @ 9% (Rs.)	SGST @ 9% (Rs.)	IGST @ 5% (Rs.)
Value of Inputs lying in stock as on 11/09/2018.	1,25,000			6,250
Value of inputs contained in semi-finished goods lying in stock as on 11/09/2018 but only inputs worth 28,000 in semi-finished goods were procured after 11/09/2017	87,000	7,830	7,830	
Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018	1,15,000	10,350	10,350	
Capital goods procured in 10/10/2017 which is exclusively used in supplying exempted goods	6,55,000			32,750

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

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

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

Particulars	CGST (Rs.)	SGST (Rs.)	IGST (Rs.)	Total Eligible Credit (Rs.)
ITC on the value of inputs lying in stock. (In absence of any information, it is assumed that all stocks are purchased within one year and hence are eligible)	--	--	6,250	6,250
Input tax credit on the value of inputs contained in semi-finished goods [Working Notes 1]	2,520	2,520	--	5,040
Input tax credit on value of inputs lying in stock of finished goods stock [Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018 as all inputs were acquired within 1 year prior to the effective date on which the goods become taxable, therefore, entire ITC would be allowed]	10,350	10,350	--	20,700
Capital goods [Working Notes 2]	--	--	26,200	26,200
Total Input tax credit available	12,870	12,870	32,450	58,190

Working Notes:

1. ITC on the value of inputs contained in semi-finished goods – Out of the total stock of Rs.. 87,000, inputs totaling to Rs.. 59,000 are ineligible as period of 1 year has elapsed

from the effective date of purchase. ITC on inputs contained in stock of Rs.28,000 would be eligible. [Eligible Credit = Rs.. 7,830 x Rs.. 28,000 ÷ Rs.. 87,000 each in respect of CGST and SGST]

2. Credit available in respect of capital goods:

Particulars	Rs.
Date of invoice	10/10/2017
Date from which the goods become taxable	17/09/2018
No. of quarters or part thereof from date of invoice	4
Percentage points to be reduced (5% per quarter)	20%
IGST paid on the capital goods used exclusively in relation to goods exempted upto 11/09/2018	32,750
ITC to be reduced by 20%	6,550
Amount of Input tax credit available in respect of capital goods	26,200

Q67. ABC Ltd. a supplier of goods has purchased capital goods on 01/04/2018 for Rs. 11,20,000 (inclusive of CGST @ 6% and SGST @ 6%). After taking it for business use, the said capital goods were supplied for Rs. 9,50,000 on 01/12/2018. Explain Input tax credit treatment in this case.

Ans. As per Section 18(6) of the CGST Act read with Rule 40(2) of CGST Rule, 2017, in case of supply of capital goods, on which input tax credit has been taken, the registered person shall pay an amount – Equal to the input tax credit taken on the said capital goods reduced by an amount calculated @ 5% for every quarter or part thereof from the date of issue of invoice for such goods; or

The tax on the transaction value of such capital goods or plant and machinery determined under Section 15, whichever is higher.

Computation of amount of tax payable by ABC Ltd.

Particulars	Rs.
Date of Invoice of purchase of capital goods	01/04/2018
Date of Supply of capital goods after taking into use	01/12/2018
No. of Quarters from the date of issue of invoice for such goods	3
CGST and SGST paid on purchase of Capital Goods [Rs. 11,20,000 x 12 ÷ 112]	1,20,000
Reduced by Rs. 1,20,000 x 5% x 3 quarters	(18,000)
Amount of CGST and SGST (A)	1,02,000
Transaction Value on supply of Capital Goods u/s 15	9,50,000
CGST and SGST payable on supply of Capital Goods @ 12% (B)	1,14,000
Amount to be payable (higher of A or B)	1,14,000

Q68. What would be your answer if capital goods being Jig are removed as scrap at a transaction value of Rs.. 1,25,000 on 01/12/2018?

Ans. As per proviso to Section 18(6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of Input tax credit, taxable person may tax on the transaction value determined under Section 15.

Additional Questions & Answers

These are apart from Examples in main book

In the given case, since, jig are cleared as scrap, the manufacturer shall pay an amount equal to the tax leviable on transaction value i.e. CGST Rs. 1,25,000 x 6% = Rs. 7,500 and SGST Rs. 1,25,000 x 6% = Rs. 7,500.

Q69. A garment factory received a government order for making uniforms for a defense personnel. This supply is exempt from tax under a special notification. The fabrics is separately procured for the supply, but thread, buttons and lining material for the collars are the once which are used for other taxable products of the factory.

The turnover of the other garments of the factory and exempted uniforms in July 2018 is Rs. 8 crore and Rs. 2 crore respectively, the ITC on thread, button and lining material procured in July 2018 is Rs. 5,000; Rs. 25,000 and Rs. 15,000 respectively. Calculate the eligible ITC on thread and lining material.

Ans. Thread, buttons 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 items of rule 43 of the CGST rules, 2017. Credit attributable to exempt supplies = Common credit x (Exempt turnover / Total turnover)

Common credit = Rs. 5,000 + Rs. 25,000 + Rs. 15,000 = Rs. 45,000

Exempt turnover = Rs. 2 Crore

Total turnover = Rs. 10 Crore [Rs. 2 Crore + Rs. 8 Crore]

Credit attributable to exempt supply = (Rs. 2 crore / 10 Crore) x Rs. 45,000 = Rs. 9,000

Ineligible credit of Rs. 9,000 will be added to the output tax liability for the month of July. Credit of Rs. 36,000 will be eligible credit for the month of July.

Q70. Total Credit Available to ISD is Rs. 20,00,000/- & the credit distributed to all the units is Rs. 24,00,000/- (i.e. Delhi Rs. 10,00,000, unit Jaipur Rs. 6,00,000 & unit Ahmedabad Rs. 8,00,000). What will be the consequences?

Ans. The excess credit of Rs. 4,00,000 (Rs. 24,00,000- Rs. 20,00,000) distributed would be recovered from the recipient along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Q71. Total Credit Available to ISD is Rs. 15,00,000/- & the credit should have been distributed equal to all the units as all units had equal turnover, however credit distributed in violation of Section 21, as under:

Delhi Rs. 7,00,000, Jaipur Rs. 6,00,000, Ahmedabad Rs. 2,00,000. What will be the consequences?

Ans. The excess credit of Rs. 2,00,000 (Rs. 7,00,000- Rs. 5,00,000) shall be recovered from Delhi and Rs. 1,00,000 (Rs. 600,000 – Rs. 5,00,000) shall be recovered from Jaipur along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Q72. Whether benefit of input tax credit would be available if the company procures health insurance services for benefit of its employees. Please assume that the procurement of such services is mandatory under Factories Act?

Ans. Yes. Section 17(5)(b) of the CGST Act provides that tax paid w.r.t health insurance services will be eligible as input tax credit where the Government notifies that such services are obligatory for an employer to provide to its employees under any law for the time being in force. If not notified by the Government then it is not available.

Q73. Whether taxes paid on change of interiors of service apartment is eligible for input tax credit?

Ans. Input tax credit is not available on goods or services received by a taxable person for construction of an immovable property on his own account other than plant and machinery even when used in course or furtherance of business. The word "construction" includes reconstruction, renovation, additions or alterations or repairs to the extent of capitalization to the said immovable property. If the cost of interiors is capitalized towards the cost of immovable property, then it forms

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part of the cost of immovable property (Service apartment) and accordingly taxes paid on change of interiors of service apartment will not be eligible as input tax credit.

Q74. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then, whether it has to be calculated proportionately?

Ans. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. Second proviso to Section 16(2) of the CGST Act clearly provides that the entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.

Assuming that only part payment is made within 180 days, availing of proportionate credit based on such part payment is not provided for under the CGST Act. However, Rule 37(1) of the CGST Rules provides for availability of the amount of input tax credit availed of proportionate to the amount paid to the supplier.

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Chapter 9: - Registration

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book. Do refer 6
examples in GST main
book.

Q1. Determine the effective date of registration in following cases:

- (a) The aggregate turnover of Dhampur Industries of Delhi has exceeded Rs. 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 Rs. 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.

Ans.

- (a) Every supplier becomes liable to registration if his turnover exceeds Rs. 20 lakh [in a State/UT other than Special Category States] in a financial year [Section 22]. Since in the given case, the turnover of Dhampur Industries exceeded Rs. 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 Rs. 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.

Q2. 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.

Ans. 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)).

Q3. 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 Rs. 20 lakh during the financial year.
- b) An agriculturist who is only engaged in supply of produce out of cultivation of land.

Ans.

- a) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds Rs. 20 lakh in a State/UT [Rs. 10 lakh in Special Category States] in a financial 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 Rs. 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.

Q4. What are the advantage of taking registration in GST?

Ans. 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.

Q5. Can a person without GST registration collect GST and claim ITC?

Ans. 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.

Q6. If a person is operating in different States, with the same PAN number, can he operate with a single registration?

Ans. 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).

Q7. Can a person having multiple business verticals in a State obtain separate registrations for each business vertical?

Ans. 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.

Q8. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Ans. 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.

Q9. Can the Department, through the proper officer, suo-moto proceed to register of a person?

Ans. 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.

Q10. Whether the registration granted to any person is permanent?

Ans. Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

Q11. Is it necessary for the UN bodies to get registration under GST?

Ans. 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.

Q12. What is the responsibility of the taxable person making supplies to UN bodies?

Ans. 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.

Additional Questions & Answers

These are apart from Examples in main book

Q13. What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?

Ans. 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.

Q14. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?

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

Q15. Is there an option to take centralized registration for services under GST Law?

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

Q16. What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Ans. 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)].

Q17. At the time of registration, will the assessee have to declare all his places of business?

Ans. 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.

Q18. What will be the time limit for the decision on the on-line registration application?

Ans. 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.

Q19. What will be the time of response by the applicant if any query is raised in the online application?

Ans. 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

Q20. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

Ans. 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.

Other Questions

Q21. If a person is registered under earlier law, whether he needs to be registered under GST law compulsorily?

Ans. Yes. As per section 22 (2) of the CGST Act, every person who, on the day immediately preceding the appointed day, is registered or holds a license under an earlier law, shall be liable to be registered under this Act with effect from the appointed day.

Q22. What is the time limit for taking registration under GST Law?

Ans. Every Person who is liable to be registered under Section 22 or Section 24 shall apply within 30 days from the date on which he becomes liable to registration in such manner and subject to such conditions as may be prescribed.

Further, a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business.

Furthermore, every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Q23. Can the taxable supply made by the job-worker on behalf of his principal be considered for computing his aggregate turnover?

Ans. As per the second explanation to the section 22, value of taxable supply (completion of job work) made by the registered job-worker on behalf of his principal shall not be added to the aggregate turnover of the registered Job worker.

Q24. Is possession of a Permanent Account Number (PAN) mandatory for obtaining a Registration?

Ans. Yes. Every person should have a Permanent Account Number issued under the Income Tax Act, 1961 in order to be eligible for grant of registration under Section 25 of the CGST Act.

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

However, as per section 25(7) the CGST Act, PAN is not mandatory for a non-resident taxable person for obtaining registration.

Q25. Is it necessary for the Government organization to get registration?

Ans. Yes, the government organizations which are required to deduct tax at source u/s 51 of GST Law, shall mandatorily obtain registration under the Act.

Q26. At the time of registration will the assessee have to declare all his places of business?

Ans. Yes. The principal place of business and place of business have been separately defined under section 2(85) & 2(89) 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.

Q27. Should a casual taxable person or non-resident taxable person apply for registration in every State from which that person is operating or is the registration common for all the States?

Ans. In terms of section 22(1) read with Section 25(1) such persons need to obtain a separate registration in every such States.

Q28. From which State the taxable person should obtain registration?

Ans. As per Section 22(1) a taxable person should obtain registration in every State from where he makes taxable supply of goods or services or both.

Q29. If the job-worker subsequently registers, should the principal amend his registration by

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cancelling the job-workers premises as his additional place of business?

Ans. If the principal intends to supply the goods from job-worker's premises under his GSTIN, he may retain the premises as his additional place.

Q30. Do traders having turnover less than Rs. 20 Lakhs need to get registered under GST? If not, how can they purchase primary goods from other states without having GST Registration Number?

Ans. Traders having turnover of less than Rs 20 lakhs can buy from other States also without registration except in case of those goods which are subject to reverse charge.

Q31. Whether licensed Tour Guides having registered office in one state but providing services Pan India will have to register in each State?

Ans. If the presence of tour guide is in each State and he is supplying services from those States then registration requirement in each State would be there.

Q32. When a person engaged in the provision of services having registration in the Maharashtra goes to Kolkata to provide services to its client and stays therefore a period of 3 months and also take a residence in that State is required to take separate registration in that State.

Ans. No, mere residence is not a business establishment, and therefore he need not take a registration in the State of West Bengal.

Q33. Whether a person dealing in online commodities like metal, food grain etc. at the Commodities Exchange is required to take registration?

Ans. No, the same will be covered under the definition of securities.

Q34. Mr. A has aggregate turnover of Rs 10 lakhs (entire turnover intra-State) in a financial year from the State of Maharashtra. He has a property located in Ahmedabad, which is currently in dispute and has engaged lawyer for representing his case in dispute. Will Mr. A be required to register himself U/s 24 of the CGST Act, considering persons required to pay under RCM?

Ans. Mr. A is a business entity making intra-state supplies in Maharashtra only. He is unregistered, as his aggregate turnover is not exceeding Rs 20 lakhs in a financial year. Now, he has received legal services which attracts reverse charge and thus, making recipient liable to pay GST.

Presuming that legal services have been sought in relation to business, such service is exempt from payment of GST as Mr. A is a business entity with aggregate turnover not exceeding Rs 20 lakhs {Sr. No. 45 of Notification No. 12/2017-CT (R)}. Such service being exempt, the recipient, Mr. A, is actually not required to pay GST under reverse charge. Thus, he is not required to take compulsory registration U/s 24 of CGST Act.

Questions from GST Main Book

Q35. There is an assessee located in New Delhi and registered under GST at Delhi. He wishes to participate in a 15 days trade exhibition in the State of Tamil Nadu where he does not have a permanent place of business. Would such assessee be liable for registration in the state of Tamil Nadu? In case yes, what would be the procedure for his registration?

Ans. A person who occasionally undertakes business transactions in goods and/or services in the State where he doesn't have a fixed place of business is considered as a casual taxable person. In the given example, such person would be considered as a casual taxable person for the State of Tamil Nadu.

The casual taxable person is required to make an application for registration in the state where he doesn't have a permanent place of business. Such person is required to deposit a sum called advance deposit which is equal to the estimated liability of tax for the period he wishes to operate in the respective state. For making advance deposit of money, such casual taxable person will be allotted a temporary identification number by GSTN.

Q36. In case a person liable for registration on 1st July makes an application for registration on 10th August, what substantive benefits will not be available to the assessee for making late application of registration?

Ans. Since the application for registration is required to be made within 30 days period of being liable for it and late applications of registration would result in registration to be effective from the date of grant of registration i.e. 10th August in case of our example. For the period of non-registration 1st July to 10th August, the assessee will not be able to claim ITC. The customers of the supplier would not be able to claim ITC of material supplied to them during the period of non-registration.

Q37. Whether the UN bodies, Consulate and Foreign embassies will be liable for registration under the GST Law?

Ans. Under the GST Law, tax is required to be charged on taxable supplies made to UN bodies, Consulates or foreign embassies, At the same time, these bodies have been made entitled to seek refund of any tax paid under GST Law. To enable them to seek such refund, they are required to seek registration under the GST Law.

Q38. Can there be multiple ISD of a single registered person?

Ans. Yes, a business entity can have multiple ISD in different States or even in one state. No such restriction has been provided under the GST Act.

Q39. Gaurav is having a rental income from residential house given on rent of Rs.12 Lakhs and he is also having a kirana shop which has a turnover of Rs. 10 Lakhs. Is he required to be registered under GST.

Ans. In the given case the aggregate turnover of Gaurav would consist of Rs. 12 Lakhs from exempt supply of rent from residential property and Rs. 10 Lakh from taxable supply of Kirana Store. Therefore, Gaurav would be liable to be registered in GST as his aggregate turnover is more than Rs. 20 Lakhs.

Q40. Kuldeep is a trader and he is trading 100% in alcohol for human consumption. His turnover from supply of alcohol for human is Rs. 2 Crore. Whether he is liable to be registered under GST?

Ans. As per section 2(47) of the CGST Act, 2017, exempt supply includes non – taxable supply. Alcohol for human consumption is a non – taxable supply as it is not leviable to tax under the law. Further, as per Section 23 of the CGST Act, 2017, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act would not be required to be registered. Therefore, as Kuldeep is exclusively supplying Alcohol for human consumption, which is not liable to tax, he would not be liable to be registered under CGST Act, 2017.

Q41. In the above question, supposedly Kuldeep has also made supply of Soft Drinks of Rs. 10 Lakh. Whether he would be liable to be registered under CGST Act, 2017?

Ans. If Kuldeep has also made supply of soft drinks of Rs. 10 Lakh along with turnover of Alcohol for human consumption of Rs. 2 crores then in such case, exemption given from registration under section 23 of the CGST Act, 2017 would not be applicable as he is not engaged exclusively in supplying goods not liable to tax under the Law. Threshold limit for registration would be counted by taking aggregate of both taxable and non – taxable and non – taxable supply and as his aggregate turnover would be more than Rs. 20 Lakh, therefore he would be liable for registration under the law.

Q42. Mr. A is a salaried employee (salary income being Rs. 1 crore). Besides, he owns a residential property which is let out for residential purposes for annual rent being Rs. 30 lakh.

Ans. In this case, aggregate turnover is Rs. 30 lakh, rent received from residential property renting.

GST Bare Act Pages 120 V/s Direct Tax Bare Act Pages 1065

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Since service of renting of residential property for residential purpose is exempt supply, Mr. A shall be exempt from registration requirement as Sec 23 of CGST Act provides for exemption from registration where a person is exclusively engaged in making exempt supplies.

Since Mr. A is not making supply of any taxable services, he is not liable for registration.

Q43. Pure Oils, Delhi has started the supply of machine oils and high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month: -

Particulars	Amount*
Supply of machine oils in Delhi	2,00,000
Supply of high speed diesel in Delhi	4,00,000
Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi	3,75,000
Supply made by Pure Oils from its branch located in Punjab	1,80,000

*excluding GST

Determine whether Pure Oils is liable for registration.

Will your answer change, if Pure Oils has a branch in Himachal Pradesh from where he supplies machine oils

amounting to Rs. 2,50,000?

Ans. Computation of Aggregate turnover

Particulars	Amount
Supply of machine oils in Delhi {Supply of machine oil in Delhi is intra-state supply of goods which is taxable under GST law. It shall be includible in 'aggregate turnover'}	2,00,000
Supply of high speed diesel in Delhi {Supply of HSD in Delhi is intra-state supply of goods which is non-taxable under GST law. Though non-taxable, it shall be includible in 'aggregate turnover'}	4,00,000
Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi {Transfer of goods to agent for further supply (sale) is also treated as 'supply' though such transfer does not include any consideration. Sec 7(1)(c) read with Schedule I (Entry 3) covers transfer of goods to agent. Further, since goods have been transferred to Agent in Delhi, such transfer is an intra-state supply of goods which is taxable under GST. It shall be includible in 'aggregate turnover'}	3,75,000
Supply made by Pure Oils from its branch located in Punjab {Supply is made from branch office in Punjab. Under GST law, such branch office is treated as establishment of a different person. Thus, Head Office (Delhi) and Branch Office (Punjab) are treated as 'deemed distinct persons (establishment of different persons)' under GST law. In absence of specific information, it is presumed that Punjab branch is also making 'intra-state' supply. Since ATO is computed on all India basis (establishments operating with same PAN), it shall be includible in 'aggregate turnover'}	1,80,000
Aggregate Turnover	11,55,000

Registration Requirement of Pure Oils, Delhi

All the supplies made by Pure Oils are intra-state supplies and thus, his liability for registration shall be governed by Sec 22 of the CGST Act which provides that every supplier is liable to be registered in the State/UT from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakh (Rs 10 lakhs in case he is making supplies from special category states other than J&K).

Since the aggregate turnover is not exceeding Rs. 20 lakh, Pure Oils is not liable to be registered. In case where Pure Oils has a branch in Himachal Pradesh from where he supplies machine oils amounting to

Rs. 2,50,000, then aggregate turnover in that case will be 14,05,000 (11,55,000 + 2,50,000).

Further, in this situation, the applicable threshold for registration will be Rs. 10 lakh as Himachal Pradesh is one of the specified Special Category States. Thus, in such situation Pure Oils, Delhi shall be liable to be registered.

Q44. Mr. A, a dealer (situated in Mumbai) dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year 20XX-X1:

1. Sale of taxable goods by Head Office located in Chennai for Rs. 2,00,000
2. Supply of taxable services by Branch office at Delhi for Rs. 1,00,000
3. Supply of goods exempted from GST Rs. 10,000
4. Export of goods for Rs. 2,00,000

Ans. Computation of Aggregate turnover

Particulars	Amount
Sale of taxable goods by Head Office located in Chennai	2,00,000
Supply of taxable services by Branch office at Delhi	1,00,000
Supply of goods exempted from GST	10,000
Export of goods and services	2,00,000
Aggregate Turnover	5,10,000

Though aggregate turnover is not exceeding Rs. 20 lakhs, but since he is engaged in exports which are inter-state supplies, his registration falls under section 24 which provides for compulsory registration (i.e., no threshold limit of 20 Lakhs).

Note: Export (inter-state supplies), Export supplies are zero-rated in terms of Sec 16 of IGST Act. For availing benefit of zero-rating provided by Sec 16, registration is mandatory. [Sec 16(3) of IGST Act gives benefit to 'registered person']

Q45. Mr. A has aggregate turnover of Rs 15 lakhs in a FY from the State of Maharashtra, through its sole proprietorship firm. He has a property located in Chennai, which is currently in dispute and has engaged lawyer for representing his case in dispute. Will Mr. A be required to register himself U/s 24 of the CGST Act, considering persons required to pay under RCM?

Ans. Mr. A is a business entity making intra-state supplies in State of Maharashtra only. It is unregistered, as his aggregate turnover is not exceeding Rs 20 lakhs in a FY. Now, it has received services legal services which attracts reverse charge and thus, making recipient liable to pay GST. Presuming that legal services have been sought in relation to business, such service is exempt from payment of GST as Mr. A is a business entity with aggregate turnover not exceeding Rs 20 lakhs. Such service being exempt, the recipient, Mr. A, is actually not required to pay GST. Thus, he is not required to take compulsory registration U/s 24 of CGST Act.

Q46. Whether the Department through the proper officer, can suo-moto proceed with registration of a person under the Act?

Ans. Yes. In terms of sub-section (8) of Section 25, where a person who is liable to be registered under the CGST Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under the CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.

Q47. Whether the proper Officer can reject an Application for Registration?

Ans. Yes. The Proper officer can reject the Application for registration in Form GST REG 05, if after filling the Application of registration in Form GST REG 01 the proper officer issued notice in Form GST REG 03 for further clarification and no response or no satisfactory response is given by the applicant.

Q48. What will be the effective date of registration?

Ans. Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of suo moto registration, i.e. registration pursuant to any survey, enquiry, inspection, search or any other proceedings, the effective date of registration shall be the date of order of registration.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 10: - Tax Invoice, Credit & Debit Note

ICAI Test your knowledge

This chapter includes "7 Q & A" of GST main book. Do refer 3 examples in GST main book.

Q1. 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.

Ans. 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.

Q2. 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?

Ans. 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.

Q3. The aggregate turnover of Sangri Services Ltd. exceeded Rs. 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 advise 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.

Ans. 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 Rs. 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 registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

Q4. 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 advise him regarding same.

Ans. 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.

Q5. Discuss the provisions relating to issuance of refund voucher under CGST Act and rules thereunder.

Ans. Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment. [Section 31(3)(e) read with rule 51]

Q6. 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.

Ans. Recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes. Such supplies can be received from a registered or an unregistered supplier [Section 9(3)].

Further, recipient [who is registered] is also liable to pay tax where taxable goods/services/both have been received from an unregistered supplier [Section 9(4)].

A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue an Invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both. Thus, a recipient liable to pay tax by virtue of section 9(3) has to issue invoice only when supplies have been received from an unregistered supplier.

It is important to note here that intra-State supplies of goods and/or services received by a registered person from an unregistered supplier are exempt from tax provided the aggregate value of such supplies received from any/all unregistered suppliers is upto Rs. 5,000 in a day [Notification No. 08/2017 CT dated 28.06.2017].

Further, where the aggregate value of such supplies covered under section 9(4) exceeds Rs. 5,000 in a day from any/all the unregistered suppliers, the registered person may issue a consolidated invoice at the end of the month. This provision also applies to a Bill of Supply.

Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue a Payment Voucher at the time of making payment to the supplier. [Section 31(3)(f) & (g) read with second proviso to rule 46 and rule 52]

Q7. Discuss the provisions relating to issuance of credit and debit notes under CGST Act and rules thereunder.

Ans.

Provision related to Credit Note:-

As per section 34 (1), where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

As per section 34 (2), any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which

Additional Questions & Answers

These are apart from Examples in main book

such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Provision related to Debit Note:-

As per section 34 (3), where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.

As per section 34 (4), any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

Q8. What is the time period within which invoice has to be issued for supply of services?

Ans. As per Rule 47 of the CGST Rules, 2017 (Chapter VI- Tax Invoice, Credit and Debit Notes), Invoice has to be raised within 30 days of supply of service.

Q9. What is the time period within which invoice has to be issued in a case involving continuous supply of goods?

Ans. Where successive statements of accounts/ successive payments are involved, the invoice shall be issued before/at the time each such statement is issued or each such payment is received.

Q10. What is the time period within which invoice has to be issued in a case involving continuous supply of services?

Ans.

- a) Due date of payment is ascertainable from the contract:- on or before the due date of payment;
- b) Due date of payment isn't ascertainable from the contract:- before or at the time when the supplier of service receives the payment;
- c) Payment is linked to the completion of an event:- on or before the date of completion of that event.

Q11. What is the time period within which invoice has to be issued where the goods being sent or taken on approval for sale?

Ans. Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:

- i. before/at the time of supply
or
- ii. 6 months from the date of removal
whichever is earlier.

Other Questions

Q12. How can I supply goods without movement?

Ans. In cases where the ownership, or the risks and rewards are transferred without requiring the movement of goods, the goods would be treated as supplied although no movement is involved in effecting such supply.

E.g. when an Agent who is in possession of certain goods decides to buy the goods from the principal, or in case where there is an on-site installation of machinery, or in case of sale and lease back transactions, etc.

Q13. What is Removal?

Ans. Removal is defined u/s 2(96) of the CGST Act, 2017. Removal in relation to goods means,

- dispatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
- collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient

It can be seen that removal is complete as soon as the goods are dispatched. However, where the supply is such that the recipient collects the goods from the supplier, the point at which the goods are collected would be the time of removal of the goods. The dispatch (or collection, as the case may be) would trigger the liability to raise the invoice, and the supplier should not wait until the goods reach the destination.

Q14. I am supplying A4-sized bundles of paper to an Advocate's Office. I submit the account of total supplies made during the 2-month period on the 25th of alternate month. Do I have to issue an invoice each time I dispatch the bundles?

Ans. As per section 31(4) of the CGST Act, where, under a contract, there is a continuous or recurrent supply of goods involving periodic invoices or payments, the invoice shall be issued before or at the time of issue of the statements of account or receipt of payments. Since, the given instance is a case of continuous supply of goods, tax invoice has to be issued latest by the time of submitting the statement every time.

Q15. Will the invoicing requirement change if I am paid Rs. 50,000 every Wednesday?

Ans. Based on the explanation in Q14 above, it is clear that the liability becomes certain only on submission of the statements of account. Therefore, the invoice can be raised on a bi-monthly basis, by the 25th of every 2nd month when the account is submitted. However, the time of supply provisions get triggered on receipt of payment in advance, for which, a receipt voucher shall be issued. Tax should be discharged on receipt of advances, although invoice is yet to be raised. Further, Notification No. 66/2017 – Central Tax dated November 15, 2017 provides that the time of supply in case of outward supply of goods shall be determined in the manner as provided in clause (a) of sub-section (2) of section 12 of the CGST Act including in the situations attracting the provisions of section 14 of the CGST Act.

Q16. I am constructing a building for my client. The client is required to pay me on completion of plinth, 1st floor and 2nd floor. When should the invoice be raised?

Ans. The above instance is a case of continuous supply of services. Here, since the payment is linked to completion of an event (i.e., milestones set in the contract), an invoice should be raised on or before the due date of completion of event as per section 31(5)(c) of the CGST Act, 2017. Therefore, an invoice be raised on or before completion of the 1st floor and the second time on or before the completion of 2nd floor.

Q17. I had a contract for supplying manpower for 28 days for Rs. 28,000/-. However, after 10 days, the service has stopped. Should I raise an invoice?

Ans. Yes. Where a supply of service ceases before its completion, an invoice has to be issued at the time the supply ceases, i.e., on the 10th day. The invoice shall be issued to the extent of the service provided before its cessation. (Section 31(6) of the CGST Act, 2017).

Q18. ABC Ltd., located in Pune (Maharashtra), received the advance to supply the training. As per the agreement, the supplier may have to impart the training to Jaipur branch or Mumbai branch

Additional Questions & Answers

These are apart from Examples in main book

(both are registered place of recipient) as per the need. What should be the treatment?

Ans. At the time of receiving the advance, supplier is known that where he has impart the training. Nevertheless, he has to issue the receipt voucher at the time of receipt of advance. As far as, nature of supply is concerned, he will have to treat it as inter-State supply and will have to pay IGST on it. If later on it is supplied that it was imparted in Mumbai Branch (intra-State supply), then as per Section 19 of IGST Act, it says that person will pay correct tax (here, it is CGST+SGST, being found as intra-State supply) without interest and claim the refund of IGST paid.

Q19. What are the mandatory details required in the invoice/ document issued by a Goods Transport Agency?

Ans. A GTA supplying services in relation to transportation of goods by road in a goods carriage, is required to have the following details in its invoices (in addition to other details required):

- (a) Gross weight of the consignment
- (b) Name of the Consignor and the Consignee
- (c) Registration number of the goods carriage in which the goods are transported
- (d) Details of goods transported
- (e) Details of place of origin and destination
- (f) GSTIN of the person liable to pay tax (whether as consignor, consignee or GTA).

Q20. I became liable to pay tax on 1st April, 2017. I have applied for registration on 15th April, 2017 which is within the 30 days' window given to me. My registration is granted on 29th April, 2017. What document can I issue to collect tax from 1st April to 28th April, 2017? Is there any specific provision for issuance of revised tax invoices to unregistered customers?

Ans. Till the grant of registration on i.e., 29th April, 2017 tax cannot be collected on the supplies made.

However, even though the registration is granted on 29th April, 2017 the effective date of registration will be 1st April, as registration is applied for within the permissible period.

Section 31(3)(a) provides for issue of 'revised invoices' against the bills raised on a regular basis (without collection of tax) from 1st April to 28th April, within a period of 1 month from the date of grant of registration certificate, i.e., within 29th May, 2017. Applicable taxes can be collected in the revised invoices issued.

In case of supply to unregistered customers, supplier may issue a consolidated revised tax invoice in respect of all taxable supplies made to unregistered dealers during such period. However, in case of inter-State supplies made to unregistered dealers, a consolidated revised tax invoice cannot be issued if the value of supply exceeds Rs. 2,50,000.

Questions from GST Main Book

Q21. ABC Ltd. entered into a contract with XYZ Ltd., for supply of goods on 15th August 2017. The goods were to be delivered on 30th August 2017. ABC Ltd. removed goods on 28th August 2017. When should ABC Ltd. issue the tax invoice?

Ans. 28th August 2017 according to section 31.

Q22. The aggregate turnover of ABC Ltd. exceeded Rs. 20 Lacs on 15th August 2017. It applied for registration on 5th September 2017 and was granted registration on 7th September 2017. Please give your commentary for this.

Ans. As per Section 25 of CGST Act, ABC Ltd. has applied within 30 days of becoming liable for registration. So, effective date of registration is date on which it becomes liable to registration i.e. 15th August 2017.

As per Section 31, ABC Ltd. has to issue the revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration i.e. 15th August 2017, till date of issuance certificate of registration i.e. 7th September 2017 within 1 month from the date of issuance of certificate of registration i.e. on or before 7th October 2017.

Q23. ABC Ltd. is a trader dealing in provisions items. It is registered under GST and has undertaken following sales during the day:

Sr. No.	Recipient of Supply	Amount
1	A – a registered retail dealer under composition levy	190
2	B – an unregistered dealer	500
3	C – an unregistered buyer	900
4	D Charitable Trust – an unregistered entity	175
5	E – a senior citizen – an unregistered	150

None of the recipients require a tax invoice.

Ans. In the given question, ABC Ltd. can issue a consolidated tax invoices to supplies made to D Charitable trust & E as the value of goods supplied to these recipients is less than Rs. 200 (unregistered & don't require a tax invoice).

Although A sales is less than Rs. 200 but A is registered retail dealer. So consolidated invoice cannot be issued. Other sales are anyway more than Rs. 200, so consolidated invoice cannot be issued.

Q24. When can a taxable person not issue credit note?

Ans. According to proviso to Sec 34 (2) of the CGST Act, 2017, no credit note shall be issued by the taxable person if the incidence of tax and interest on such supply has been passed by the supplier to the recipient. No reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Q25. What is the time limit for issuance of credit note?

Ans. A supplier cannot issue a credit note pertaining to a supply of goods or services or both of a particular financial year later than the

- (i) Month of September following the end of the financial year in which such supply was made, or
- (ii) Date of furnishing of the relevant annual return.

Whichever is earlier.

Example: Suppose, Mr. A has supplied goods to Mr. B in the month of Sept'17. Mr. B sends a complaint to Mr. A about deficient quality of goods. Mr. A can issue a credit note to Mr. B in respect of such supply of goods and declare details of such credit note in the return till the month of Sept'18 or till the date of furnishing of annual return of 2017-18, whichever is earlier.

Q26. When can a debit note be issued?

Ans. Debit note can be issued by the supplier of the goods or services or both, to the recipient, when subsequent to the issue of tax invoice he comes to know that taxable value or tax charged in that tax invoice is less than the taxable value or tax payable with respect to such supply

Example: Mr. A has provided services of dry cleaning to Mr. B and charges Rs. 500 and tax at the rate of 10% i.e. Rs. 50. Afterwards, Mr. A comes to know that he has undercharged Mr. B by Rs. 200. He communicates to Mr. B that he has charged Mr. B less by Rs. 200 and issues debit note and charges additional tax of Rs. 20. In such a case, tax liability of Mr. A would be on Rs. 700 only and he would have to pay tax of Rs. 70.

Q27. Is there any time limit for issue of debit note?

Ans. There is no time limit for issuance of debit note.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 11: - Accounts & Records; E-way Bill

ICAI Test your knowledge

This chapter includes "27 Q & A" of GST main book. Do refer 1 example in GST main book.

Q1. Sindhu Enterprises is a supplier of goods. Its turnover has exceeded Rs. 2 crore in current financial year. Discuss whether Sindhu Enterprises is required to get its accounts audited by the Chartered Accountant or Cost Accountant under GST law.

Ans. Section 35(5) of the CGST Act read with rule 80 of the CGST Rules, 2017 provides that every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds Rs. 2 crores. Since the turnover of Sindhu Enterprises has exceeded Rs. 2 crore in current financial year, it has to get its accounts audited by a Chartered Accountant/ Cost Accountant.

Q2. Mala Services Ltd. is a supplier of management consultancy services. It has approached you to ascertain the period for which the books of accounts or other records need to be maintained?

Ans. Section 36 of the CGST Act stipulates that every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

Q3. Essel Groups has started making taxable supplies. You are required to advice it about the accounts and records required to be maintained by it as required under section 35(1) of the CGST Act, 2017.

Ans. Section 35(1) of the CGST Act, 2017 stipulates that a true and correct account of following is to be maintained:

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid
- (f) such other particulars as may be prescribed.

Q4. Swad Restaurant has opted for composition scheme in the current financial year. Discuss the records which are not to be maintained by a supplier opting for composition levy as enumerated in rule 56 of the CGST Rules, 2017.

Ans. Following records are not required to be maintained by a supplier who has opted for composition scheme as per rule 56(2) and (4) of the CGST Rules, 2017:

(I) Stock of goods:

Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

(II) Details of tax:

Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Q5. ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Enumerate the accounts required to be maintained by Raghav & Sons as per rule 56(11) of the CGST Rules, 2017.

Ans. Rule 56(11) of the CGST Rules, 2017 provides that every agent shall maintain accounts depicting the-

- particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- details of accounts furnished to every principal; and
- tax paid on receipts or on supply of goods or services effected on behalf of every principal

Other Questions

Q6. Is there any specific set of records to be maintained by the provider of works contract service?

Ans. Yes as per Rule 56(14) of the CGST Rules, 2017, the registered person providing works contract service shall maintain the accounts showing-

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods or services utilized in the execution of each works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he has received goods or services.

Q7. Is there any specific record to be maintained by custodian of goods?

Ans. Yes, as per Rule 56(17) of the CGST Rules, 2017, the clearing and forwarding agent or the carrier of goods shall maintain true and correct records in respect of such goods handled by him on behalf of the registered person.

Q8. In case of more than one place of business, whether the records are required to be maintained only at principal place of business?

Ans. No, where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business. Moreover, in case of additional places of business, the accounts relating to each place of business shall be kept at such places of business concerned (provided such place is specified in the certificate of registration). Such books of account shall include any electronic form of data stored on any electronic device.

Q9. What shall be the treatment of incorrect entries made in the registers, accounts or documents?

Ans. As per Rule 56(8) of the CGST Rules, 2017, if incorrect entries (except those of clerical nature) are made in the registers, accounts or documents, they shall be scored out under attestation.

Additional Questions & Answers

These are apart from Examples in main book

Thereafter, the correct entry shall be recorded. Further, where the registers and other documents are maintained electronically, a log of every edited or deleted entry shall be maintained.

Q10. What shall be the consequence if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration?

Ans. As per Rule 56(10) of the CGST Rules, 2017, unless it is proved otherwise, if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

Q11. What action can be taken for transportation of goods without valid documents or attempted to be removed without proper record in books?

Ans. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act (i.e. invoice and a declaration) or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such goods shall be liable for detention along with any vehicle on which they are being transported. Such goods shall be released only on payment of the applicable tax and penalty or upon furnishing of security.

Q12. What action can be taken for transportation of goods without valid documents or attempted to be removed without proper record in books?

Ans. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act (i.e. invoice and a declaration) or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such goods shall be liable for detention along with any vehicle on which they are being transported. Such goods shall be released only on payment of the applicable tax and penalty or upon furnishing of security.

Q13. Mr. A, a registered dealer under GST wants to supply certain stock of goods from his factory located in Bhiwandi, Maharashtra to the location of Mr. B at Hyderabad, Telangana. The invoice issued by Mr. A contains:-

Item X: Value INR 40,000, GST INR 4,800

Item Y: Value INR 50,000, Exempt from GST

Determine whether for the above case E-way bill need to be generated?

Ans. As per Rule 138 of CGST Rules, value of consignment shall be determined in accordance with Section 15 i.e. value declared in invoice and also includes CGST/SGST/IGST/UTGST but excludes value of exempt supply.

As per the above stated provision, in the given case the consignment value of goods including GST amount would be Rs. 44,800 (Item X) & thus no E-way bill is required to be generated as the value of consignment is less than/up to Rs. 50,000.

Q14. Consider a situation where a consignor is required to move goods from Kolkata to Pune. He appoints transporter ABC for movement of his goods. Transporter ABC moves the goods from Kolkata to Nagpur. For completing the movement of goods i.e. from Nagpur to Pune, transporter ABC now hands over the goods to transporter XYZ. Thereafter, the goods are moved to the destination i.e. Nagpur to Pune. How would the e-way bill be generated in such situation?

Ans. It is clarified in such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to transporter ABC. Transporter ABC will fill the vehicle details, etc. in Part B and will move the goods from Kolkata to Nagpur.

On reaching Nagpur, transporter ABC will assign the said e-way bill to the transporter XYZ.

Thereafter, transporter XYZ will be able to update the details of Part B. Transporter XYZ will fill the details of his vehicle and move the goods from Nagpur to Pune.

Q15. Please comment on following situations with respect to provision related to e-way bill:-

- A truck contains 3 consignments i.e. 1st consignment total invoice value Rs. 1,00,000, 2nd consignment total invoice value Rs. 25,000 & 3rd total invoice value Rs. 50,001.
- Mr. A sent goods for job work worth Rs. 10,000 from Delhi to Hyderabad.
- Mr. A, an unregistered person sent handicraft goods worth Rs. 25,000 from Delhi to Jammu.
- Mr. A sent goods worth Rs. 1,20,000 from hand rickshaw from Andheri to Malad (distance 11 KM).

Ans.

- E-way bill shall be generated when value of consignment exceeds Rs. 50,000. So in this case, e-way bill shall be generated for 1st consignment & 3rd consignment where value exceeds Rs. 50,000.
- In case of inter-State movement of goods for job work, it is mandatory to generate e-way bill irrespective of amount. Thus, in this case e-way bill needs to be generated.
- In case of inter-State supply of handicraft goods, it is mandatory to generate e-way bill irrespective of amount. Thus in this case, e-way bill needs to be generated even though Mr. A is an unregistered person.
- E-way bill needs to be generated only for motorize vehicle. Thus in this case no need to generate e-way bill since hand rickshaw is not a motorize vehicle (in case of motorize vehicle, SGST e-way rules need to be seen because of Intra-State).

Questions from GST Main Book

Q16. Who all can generate E-way bill (EWB)?

Ans. Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000 or the threshold prescribed (in each State/Union Territory) in relation to supply; or reasons other than supply; or inward supply from unregistered person shall generate EWB.

It means, the consignor or consignee, as a registered person or a transporter of the goods can generate the EWB. The unregistered transporter can enroll on the common portal and generate the EWB for movement of goods for his clients.

Q17. Whether EWB may be generated if the consignment value is upto Rs. 50,000?

Ans. Yes, the registered person or the transporter, as the case may be, may generate EWB voluntarily, even if the value of consignment is upto Rs. 50,000.

However, Proviso 3 and 4 to Rule 138(1) of the CGST Rules 2017 mandatorily requires a registered person to generate an EWB irrespective of the value of consignment where:

- the goods are to be sent by the principal located in one State or Union Territory to a job worker in other State or Union Territory.
- handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24 of the CGST Act.

Q18. Who has been casted with the ultimate responsibility of generating EWBs? Consignor, consignee or the transporter?

Ans. The primary responsibility to generate EWB shall be of the registered person who causes the movement of goods, i.e. the consignor or the consignee, as the case may be. However, if such consignor or consignee doesn't generate the EWB, it may be generated by transporter as well, if authorized by the registered person.

Also, in case of supply of goods by an unregistered person to registered person, the liability to generate EWB is on the recipient.

Additional Questions & Answers

These are apart from Examples in main book

Q19. Whether EWB would be required, if transportation is done in one's own vehicle or through a public transport?

Ans. Yes, as per Rule 138 (2), it has been provided that EWB shall be required to be generated, in case the goods are transported by consignor or consignee in his own vehicle or in a hired one or a public conveyance, by road. In such case, the registered person causing the movement of goods may raise the EWB after furnishing the vehicle no. in Part B of FORM GST EWB – 01 if the value of goods being transported is more than Rs. 50,000.

Q20. How shall one calculate the distance and validity of goods in case of supply through multi-modal transport?

Ans. The distance and the validity of EWB shall remain the same even if the goods are supplied through a multi-modal transport. In order to calculate the validity of the EWB, the distance to be covered by all the modes combined together must be taken into consideration. The validity provided in the CGST Rules is as under:

Type Of Conveyance	Distance	Validity Of EWB
Normal Cargo 	Upto 100 Kms	1 Day
	For every additional 100 Kms or Part thereof	1 Additional Day
Over Dimensional Cargo 	Upto 20 Kms	1 Day
	For every additional 20 Kms or Part thereof	1 Additional Day

The “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill. For example:

- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 90 kms. This eway bill will be valid for one day (till mid night of April 2, 2018);
- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 190 kms. This eway bill will be valid for two days (till mid night of April 3, 2018).

Note:- Supplier handed over the goods to the transporter on April 1, 2018. Part A of the eway bill was submitted by the supplier on April 1, 2018 after updating the GSTIN of the transporter. Transporter loaded the goods on the truck on April 3, 2018 and completed Part B of the eway bill by updating the vehicle number. In this case, the validity of the eway bill commences from April 3, 2018.

Q21. What is the liability of generation of EWB in case of transportation of goods through e-commerce?

Ans. Generally, in case of an E-Commerce business model, the logistics is handled by an independent third party logistic service provider. So, in such a case 4 parties are involved in the transaction (seller, buyer, logistic service provider and E-Commerce operator). Therefore, in such cases where the goods are to be transported through an e-commerce operator, on an authorization from consignor, Part A of the EWB may be furnished by the E-Commerce operator and Part B of the EWB may be furnished either by the E-Commerce operator or by the third party logistic service provider.

Q22. Whether any other document needs to be provided to the transporter in addition to EWB, for movement of goods?

Ans. In accordance with Rule 55A read with Rule 138A of the CGST Rules, the person in-charge of conveyance shall carry

- Tax Invoice or Delivery Challan or Bill of Supply, as the case may be; and
- a copy of the EWB in physical form or the EWB number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

EWB is an additional document and not a substitute for Tax Invoice, delivery challan or any other prescribed document for the said transaction.

Q23. Can the EWB be deleted?

Ans. The EWB once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of its generation. If it has been verified by any proper officer within 24 hours, then it cannot be cancelled. Further, EWB can be cancelled if, either goods are not transported or are not transported as per the details furnished in the EWB. A recipient has right to cancel/ reject the EWB within 72 hours of its generation or actual receipt of goods, whichever is earlier.

Q24. In case of High Sea Sale Transactions – Whether EWB is required?

Ans. EWB is required for movement of goods within the country. In case of High Sea Sales as the supply is affected before the goods cross the custom frontiers of India, EWB is not required to be generated. When the ultimate buyer files bill of entry, he is required to generate EWB for movement of goods from port to his place of business.

Q25. Whether EWB is required to be generated for the movement of goods between CFS /ICD to port in the course of importation and exportation of goods?

Ans. Rule 138(14) of the CGST Rules 2018, provides that no EWB is required to be generated in respect of:

- Movement of goods from the port, airport, air cargo complex and land customs station to an ICD or a CFS for clearance by Customs in the course of importation.
- where the goods are being transported—
 1. under customs bond from an ICD or a CFS to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 2. under customs supervision or under customs seal

Therefore, EWB is not required for movement of goods between CFS/ICD to port or vice versa in the course of importation and exportation of goods.

Q26. How to handle “Bill to” - “Ship to” invoice in e-way bill system?

Ans. Sometimes, the tax payer raises the bill to somebody and sends the consignment to somebody else as per the business requirements. There is a provision in the e-way bill system to handle this situation, called as ‘Bill to’ and ‘Ship to’.

In the e-way bill form, there are two portions under ‘TO’ section. In the left hand side - ‘Billing To’ GSTIN and trade name is entered and in the right hand side - ‘Ship to’ address of the destination of the movement is entered. The other details are entered as per the invoice.

In case ship to state is different from Bill to State, the tax components are entered as per the billing state party. That is, if the Bill to location is inter-state for the supplier, IGST is entered and if the Bill to Party location is intra-state for the supplier, the SGST and CGST are entered irrespective of movement of goods whether movement happened within state or outside the state.

Additional Questions & Answers

These are apart from Examples in main book

Q27. Whether multiple invoices can be clubbed in one E way bill? If yes, then to what extent?

Ans. The value of goods determined in the invoice shall be regarded as the value of consignment, on the basis of which it is decided whether the consignor or consignee is required to generate EWB or not. Therefore, a separate EWB is required to be generated for every individual invoice where value of corresponding consignment exceeds Rs.50,000.

Q28. If the goods are taken from one State to another for the purpose of display in exhibition, whether EWB is required to be generated?

Ans. EWB would be required to be generated, where the value of the consignment exceeds Rs. 50,000.

Q29. How to generate the EWB in case goods are to be moved to a weighbridge situated outside the factory and invoice cannot be issued unless goods are weighed?

Ans. EWB is not required to be generated where the goods are to be transported up to a distance of 20 kms for the purpose of weighment from the place of business of consignor to a weighbridge, or, from the weighbridge back to place of consignor. However, such movement should be along with delivery challan to be covered under relaxation of EWB generation.

Q30. What if the vehicle is stuck at a particular point in the journey due to calamity or traffic jam?

Ans. The goods are required to be transported within the validity period of the EWB. However, it is provided that under circumstances of exceptional nature, the transporter may generate another EWB after updating the details in Part-B of FORM GST EWB-01. These circumstances could be said to be in the nature of exceptional nature. However, in the absence of specific meaning of the term "exceptional nature", further clarification is required.

Q31. What if the same invoice contains both categories of goods i.e. ones exempted for the purpose of EWBs and taxable, then whether EWB needs to be generated?

Ans. It is to be noted that the explanation to the Rule 138(1) provides that consignment value for the purpose of EWB shall be the value, determined in accordance with the provisions of Section 15, declared in invoice or delivery challan or bill of supply as the case may be. However, it shall exclude the value of exempt supply where the invoice is issued in respect of both exempted and taxable supply of goods. Therefore, the value of taxable goods only shall be considered for the purpose of consignment value.

Q32. A registered person has purchased a new mobile phone for Rs. 75,000 and carrying with him on motorized vehicle. Whether EWB is required to be generated?

Ans. Yes. It appears that if the movement is caused by a registered person, EWB is required to be generated for goods exceeding value of Rs. 50,000.

Q33. A person has been shifting his households from one State to another on account of job change. Whether EWB is required to be generated?

Ans. Used personal and household effects have been covered in the Annexure to the Rule 138 in respect of which EWB is not required to be generated. Hence, such person is not required to generate EWB in such cases.

Q34. How to consider consignment value in case goods is being moved for renting purpose. Do we need to take the value of goods or value of the rent charged on goods?

Ans. The consignment value is the value of goods to be determined under section 15 of the CGST Act including applicable tax thereon. The rent charged represents the value of service portion whereas EWB is to be generated for the value of goods for which movement is to be undertaken. Hence, in such cases, the value to be considered should be of the goods not the rental charges.

charged by the supplier of services. The movement could be based on delivery challan based on which EWB may be generated.

Q35. Supply of goods through pipeline, whether oil, petroleum, gases, water, electricity etc. whether EWB is required to be generated?

Ans. EWB is required to be generated when movement of goods is through motorized conveyance. Further, the EWB portal has 4 modes of transportation i.e. road, air, rail and ship. As the transportation of goods through pipeline may not involve movement of goods through motorized vehicle, there may not be need to generate EWB for such movement of goods.

Q36. An outdoor catering company is transporting utensils and other accessories for catering outside the kitchen, interstate or intra state. Whether EWB is necessary? If yes what are the documents to be attached with the EWB? If not under which document, it has to be dispatched?

Ans. The EWB is required for every movement of goods, even if it is for the purpose other than supply. When the goods are transported by caterer for use by him in the course of making supply of catering services, it could be said to be movement of goods by him for himself/ self-use. Though there is no supply of utensils and other materials to the customer, yet there is movement of goods and hence EWB is required to be generated. Such EWB may be generated against delivery challan, by providing "Outward" movement and "For own use" under the reason for transportation.

Q37. A farmer carries the goods from his farm to Mandi for the purpose of sale therein. Whether there is requirement to generate EWB?

Ans. Many of the agricultural produces have been exempted from the levy of GST. Wherever items to be transported is exempted from GST, there is no need to generate EWB. However, if the goods being transported by farmer are in the nature of taxable goods, EWB has to be generated.

Q38. Where goods are supplied on "as is-where is" basis, whether EWB is required to be generated?

Ans. EWB is not required to be generated for supply of goods unless it involves movement of goods through motorized conveyance. In case of sale of goods on "as is – where is" basis, there is no movement of goods. Hence, there is no need to generate EWB in case of such instances.

Q39. Whether it is required to generate EWB in case of movement of empty containers?

Ans. Rule 138(14) of the CGST Rules 2018, provides that a registered person is not required to generate an EWB where the empty cargo containers are being transported. This exemption may be applicable in case of transportation of empty bins or containers which are returned to the original supplier by customer.

Q40. In many cases where manufacturer or wholesaler is supplying to retailers, or where a consolidated shipment is shipped out, and then distributed to multiple consignees, the recipient is unknown at the time the goods are dispatched from shipper's premises. A very common example is when FMCG companies send a truck out to supply kirana stores in a particular area. What needs to be done in such cases?

Ans. In such cases, EWB shall be generated for outward movement of goods. No supply is being made, movement is caused on behalf of self. In such cases, delivery challan may be used for generation of EWBs. All the provisions for delivery challan need to be followed along with the rules for EWBs.

Additional Questions & Answers

These are apart from Examples in main book

Q41. Where an invoice is in respect of both goods and services, whether the consignment value should be based on the invoice value (inclusive of value of services) or only on the value of goods. Further, whether HSN wise details of service is also required to be captured in Part A of the EWB in such case.

Ans. Consignment value and HSN needs to be determined for goods only not for services as only the goods are in movement and EWB needs to be generated accordingly.

Q42. What shall be the consequence if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration?

Ans. As per Rule 56(10) of the CGST Rules, 2017, unless it is proved otherwise, if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

Chapter 12: - Payment of Tax

ICAI Test your knowledge

This chapter includes "4 Q & A" of GST main book. Do refer 4 example in GST main book.

Q1. How many types of electronic ledger are there?

Ans.

- (a) Electronic cash ledger
- (b) Electronic credit ledger
- (c) Electronic liability register

Q2. What are the main features of GST payment process?

Ans. Electronic tax liability register is a register to be maintained in the common portal of GST in FORM GST PMT-01 to record all liabilities of a taxable person. Part-I is for recording return related liabilities and Part-II is for recording other than return related liabilities.

Electronic credit ledger is a register to be maintained in the common portal of GST in FORM GST PMT-02 to record input tax credit claimed, utilization, reversal and refund.

Electronic cash ledger is a register to be maintained in the common portal of GST in FORM GST PMT-05 to record deposit of tax, interest, penalty and other amounts, utilization thereof and refund.

GST Payment is done through Electronic Liability Register.

Debit in Electronic Liability Register

- the amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person;
- the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the said person;
- the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or
- any amount of interest that may accrue from time to time.

Credit in Electronic Liability Register

- Electronic credit ledger (Payment of Amount deducted u/s 51 or amount collected u/s 52, amount payable on Reverse Charge basis, amount payable u/s 10, any amount payable towards interest, penalty, fee or any other amount under the Act)
- Electronic cash ledger
- Relief given by the Appellate Authority or Appellate Tribunal or Court • Reduction in penalty (if any)

Q3. Explain the following terms in brief:

- (a) E-FPB
- (b) CPIN
- (c) CIN

Ans.

- (a) E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Government) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS transactions, RBI will act as E-FPB.
- (b) CPIN stands for Common Portal Identification Number given at the time of generation of challan. It is a 14 digit unique number to identify the challan. The CPIN remains valid for a period of 15 days.

GST Bare Act Pages 120 V/s Direct Tax Bare Act Pages 1065

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Additional Questions & Answers

These are apart from Examples in main book

- (c) CIN or Challan Identification number is generated by banks, once payment in lieu of a generated challan is successful. It is a 17-digit number that is 14-digit CPN plus 3-digit bank code. CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

Q4. Are principles of unjust enrichment applicable for payment made under GST?

Ans. 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.

Q5. State the name of output tax under GST, where any of the input tax credit under GST can be availed?

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

Q6. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Ans. 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.

Q7. 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?

Ans. 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.

Q8. Who is liable to pay GST? Explain in the context of general and special circumstances.

Ans. 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 > Rs. 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

Q9. What will happen if the deductor fails to issue TDS Certificate within the time prescribed?

Ans. 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.

Q10. Whether the rate of tax of 1% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

Ans. The rate of TCS as notified under CGST Act, 2017 is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 1%.

Q11. Is every e-commerce operator required to collect tax on behalf of actual supplier?

Ans. 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.

Other Questions

Q12. What are the possible debits and credits to Electronic tax liability register?

Ans. The possible debits and credits to Electronic tax liability register are as follows:

Debit	Credit
- the amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person; - the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the said person; - the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or - any amount of interest that may accrue from time to time.	- Electronic credit ledger (Payment of Amount deducted u/s 51 or amount collected u/s 52, amount payable on Reverse Charge basis) - Amount payable u/s 10, any amount payable towards interest, penalty, fee or any other amount under the Act) - Electronic cash ledger - Relief given by the Appellate Authority or Appellate Tribunal or Court - Reduction in penalty (if any)

Q13. What are the possible debits and credits to Electronic credit ledger?

Ans. The possible debits and credits to Electronic credit ledger are as follows:

Debit	Credit
- Discharge of any liability in accordance with Section 49; - Towards claim for refund of unutilized amount.	- Input tax credit claimed; - Reversal of amount debited earlier, on account of final rejection of refund (FORM GST PMT-03).

Q14. What are the possible debits and credits to Electronic cash ledger?

Ans. The possible debits and credits to Electronic cash ledger are as follows:

Debit	Credit
- Discharge of any liability in accordance with Section 49 - Towards claim for refund of any amount	- Payment made through challan on receipt of CIN - Amount deducted under Section 51 and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted - Amount collected under Section 52 and

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	claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was collected Reversal of amount debited earlier on account of final rejection of refund (FORM GST PMT-03)

Q15. Will the input tax credit claimed by a taxable person get added to the balance in electronic cash ledger?

Ans. No, input tax credit will appear separately in the 'electronic credit ledger' maintained in the common portal.

Q16. Can one use input tax credit for payment of interest/penalty?

Ans. 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' payable only. As per Section 2(82) of the CGST Act, 2017, 'Output tax' in relation to a taxable person, 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.

Q17. Can one use input tax credit for payment of tax under reverse charge basis?

Ans. No, the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'. Further, the definition of output tax u/s 2(82) specifically excludes tax payable under reverse charge basis. Therefore, input tax credit cannot be used for payment of tax under reverse charge basis.

Q18. ABC Ltd., a registered manufacturer in state of Tamilnadu provides the following particulars for tax period of January, 2018.

- Inputs purchased within state Rs. 1,00,800 (includes GST @ 12%).
- Machinery purchased on 01/01/2018 for Rs. 1,50,000 (excluding 18% GST) from a local dealer in Tamilnadu, eligible for input tax credit. Depreciation rate 30% p.a.
- Manufacturing expenses including profits Rs. 3,00,000
- Goods produced were sold outside Tamilnadu with IGST @ 12% on sales.

Calculate the amount of CGST and SGST payable after utilizing input tax credit for the month of January, 2018 assuming no opening balance of input tax credit available.

Ans. **Computation of Invoice value and Tax liability (amount in Rs.):**

Particulars	Amount
Inputs purchased from local dealer [WN1]	90,000
Depreciation expense $(1,50,000 \times 30\% \times 1/12)$	3,750
Manufacturing Expense and profits	3,00,000
Total Sales Value	3,93,750
Output tax liability (IGST @ 12%)	47,250
Less: Input tax credit available on: [WN2]	
Inputs	
- CGST	5,400
- SGST	5,400
Capital goods	
- CGST	13,500
- SGST	13,500

IGST to be deposited in cash

9,450

Working Note:

1. Credit will be available for CGST and SGST charged by local suppliers, hence same is not to be included in the cost.
2. The credit of CGST and SGST is to be utilised for payment of CGST and SGST output tax liability respectively and any amount remaining thereafter shall be utilised towards IGST liability.

Q19. Mr. D of Delhi purchased goods from Mr. J of Jaipur amounting to Rs. 2,00,000 (excluding 18% GST) in the month of January, 2018. He also purchased raw material worth Rs. 1,75,000 from local dealer who has opted for composition scheme. He incurred also Rs. 90,000 as direct and indirect expenses and added profit margin @ 25% of cost.

Mr. D sold 70% of finished goods to Mr. P of Punjab with IGST @ 18% payable thereon, and 30% of finished goods to Mr. H of Delhi with CGST and SGST @ 9% each payable thereon.

Compute the net CGST, SGST and IGST liability and input tax credit if any, for the month of January, 2018.

Ans. **Computation of Invoice value and Tax liability:**

Particulars	Amount
Purchases of raw material from Mr. J of Jaipur [WN-1]	2,00,000
Purchases of raw material from dealer opted for composition scheme [WN-2]	1,75,000
Other direct and indirect expenses	90,000
Total Cost of goods manufactured	4,65,000
Add: Profit margin @ 25% of cost	1,16,250
Total Sales Value	5,81,250
Goods sold to Mr. P of Punjab (70% of goods produced were sold)	4,06,875
Goods sold to Mr. H of Delhi (30% of goods produced were sold)	1,74,375

Particulars	CGST	SGST	IGST
Goods sold to Mr. P of Punjab	-	-	73,238
Goods sold to Mr. H of Delhi	15,694	15,694	-
Less: Eligible input tax credit in respect of purchases of – Raw material (from Jaipur)	-	-	(36,000)
CGST/SGST/IGST to be paid in cash	15,694	15,694	37,238

Working Note:

1. Credit will be available for IGST charged by inter-state suppliers, hence same shall not be included in the cost.
2. No input tax credit shall be admissible on purchases made from dealer who has opted for the composition scheme.
3. The credit of IGST is to be utilised for payment of IGST output tax liability first and if any amount remains thereafter then such amount is to be utilised towards payment of CGST and SGST liability in order.

Q20. How to determine the value limit of Rs. 2,50,000 to decide on the applicability of TDS?

Ans. As per Section 51, tax to be deducted "where the total value of such supply, under a contract, exceeds Rs 2,50,000". If there is a Purchase order for supply of goods or services or both, for a value exceeding Rs. 2,50,000 then TDS provisions would be attracted. Against the Purchase Order, if several supplies are made under several invoices, even if the value of any particular invoice is less

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than Rs. 2,50,000 TDS would apply i.e. Public Sector Unit issues 'Purchase order' for a total value of Rs. 10,00,000 on 01.10.2018. Supplier is supplying goods through various invoices & one invoice value is Rs. 50,000. Even then TDS is applicable for this invoice, as the contract value is more than Rs. 2,50,000.

Further, while determining the value, the CGST, SGST, UTGST and IGST shall not be included. For example, if the value of the goods or services being supplied is Rs. 2,40,000/- plus 5% GST, total invoice value Rs. 2,52,000, TDS provisions will not apply, as the value, excluding GST is less than Rs.2,50,000/-.

Q21. Which supply is subject to TDS – intra-state or inter-state?

Ans. Both supplies are subject to TDS:-

- Intra-state Supply: TDS = (1% of CGST + 1% of SGST)
- Inter-state Supply: TDS = (2% of IGST)

However, where a supplier has made intra-state supply but deductor is located in other state, then such supply shall not be subject to TDS provision. Let understand through following examples:-

Particulars (in all cases taxable contract value is over Rs.2.5 Lakh)	Location of Supplier	Place of Supply	State of Registration of recipient	Type of Supply	Tax	TDS deduction
State Government of Rajasthan purchases taxable goods from a local supplier	Jaipur	Jaipur	Rajasthan	Intra-State	CGST & SGST	Yes
State Government of Punjab purchases taxable goods from a supplier in Mumbai	Mumbai	Punjab	Punjab	Inter-State	IGST	Yes
State Government of Haryana engages a contractor of Delhi for repairing of Haryana Bhawan in Delhi	Delhi	Delhi	Haryana	Intra - State	CGST & SGST	No

Q22. Please comment applicability of TDS provisions in following illustrations.

{FAQ released by CBIC}

Ans.

Situations / Contracts	Deduction required YES / NO	Remarks
Finance Department is making a payment of Rs.3 Lakh to a supplier of 'printing & stationery'.	Yes	Where the total contract value of taxable supply is more than Rs.2.5 Lakh deduction is mandatory.
Education Department is making payment of Rs.5 Lakh to a supplier of 'printed books and printed or illustrated post cards' where payment for books is Rs.2 Lakh and Rs.3 Lakh is for other printed or illustrated post cards.	Yes, deduction is required in respect of payment of Rs. 3 Lakh only i.e. for payment in respect of taxable supply.	Books are exempted goods; no deduction is required in respect of supply of books. However, payment involving 'printed or illustrated post cards' is for supply of taxable goods and value of such supply is > Rs.2.5 Lakh; so deduction is required.
Finance Department, is making payment of Rs.1.5 Lakh to a supplier of 'car rental service'.	See Remarks	Deduction is mandatory in case the total value of taxable supply under the contract > Rs.2.5 Lakh irrespective of the amount paid.

		However, if the total value of supply under a contract is < Rs.2.5 Lakh, deduction is not required.
Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs.2.6 Lakh (including GST) and is making full payment.	No	Total value of supply as per the contract is Rs.2.6 Lakh (including GST). Tax rate is 12%. So, taxable value of supply (excluding GST) stands at $Rs.2.6L \times 100/112 = Rs.2.32 L < Rs.2.5 Lakh$ Hence, deduction is not required.
Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 Lakh and IGST @18% on Rs.5 Lakh for such purchase.	Yes, deduction is required @2%	Deduction is required in case of inter-State supply and if the value of taxable supply under a contract exceeds Rs.2.5 Lakh.
Fisheries Department is making a payment of Rs.10 Lakh to a contractor for supplying labour for digging a pond for the purpose of Fisheries.	No	This supply of service is exempt in terms of Sl. No. 3 of notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 and hence deduction is not required.
Municipality is making payment of Rs.5 Lakh to a supplier in respect of cleaning of drains where the value of supply of goods is not more than 25% of the value of composite supply	No	This supply of service is exempt in terms of Sl. No. 3A of notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 as amended by notification no. 2/2018- Central Tax (Rate) dated 25.01.2018 and hence deduction is not required.
Government school is making a payment of Rs.3 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government.	No	This supply of service is exempt in terms of Sl. No. 66 of notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended and hence deduction is not required.
Health Department is making payment of Rs.10 Lakh to a supplier for supply of Hearing Aids.	No	This supply of goods is exempt in terms of Sl. No.142 of notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017 as amended and hence deduction is not required.

Q23. Is TDS deductible / payable on Advances?

Ans. As per Section 12 and 13 of the CGST Act, dealing with time of supply of goods and services respectively, GST is payable upon receipt of advance payment also. But as per Notification No. 66/2017-Central Tax dated 15.11.2017, the liability to pay GST on advances is not applicable for goods.

It may be noted that the liability to deduct TDS would arise, as per Section 51, when payments are made for the supplies. For deduction and payment of TDS by deductor, the time of supply in the hands of the supplier is not at all relevant. The advances made towards supply of goods are also

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payments against such supplies and since there is no exemption as such, from payment of GST on advances for supply of goods, TDS is applicable even when advance payments are made against the supply of goods.

TDS is also applicable on advances paid for supply of services.

No TDS under following cases:

- Where the payment relates to a tax invoice that has been issued before 01.10.2018;
- Where any amount was paid in advance prior to 01.10.2018 and the tax invoice has been issued on or after 01.10.18, to the extent of advance payment made before 01.10.2018;.

Q24. State TDS applicability in following cases:

- Supply under RCM
- Supply by unregistered supplier
- Supply by composition Supplier

Ans.

- No TDS, where the tax is to be paid on reverse charge by the recipient i.e. the deductee;
- No TDS, where the payment is made to an unregistered supplier;
- TDS is required in case of supply received from Composition Supplier i.e. Supplier ZA is a person registered under the composition scheme in Jharkhand who makes taxable supply worth Rs. 10,000 to a Local Authority of Jharkhand where value of taxable supply under the contract is for Rs. 2,55,000 which is more than Rs. 2.5 Lakh and hence deduction of tax is required.

Q25. I have entered into a contract worth Rs. 10 lakh with a supplier XYZ prior to 01.10.2018. Now, I am making a payment of Rs.1.5 Lakh in respect of an invoice dated 25.10.2018 submitted by the supplier. Should I deduct tax while making payment of Rs.1.5 Lakh?

{FAQ released by CBIC}

Ans. Yes. Tax is required to be deducted since the payment is being made after the effective date.

Q26. I have entered into a contract worth Rs. 10 Lakh with a supplier XYZ prior to 01.10.2018. I have made a payment of Rs.3 Lakhs to him prior to 01.10.2018. Now, I am making payment of the balance amount of Rs.7 Lakh after 01.10.2018. Should I deduct tax on Rs.10 Lakh?

{FAQ released by CBIC}

Ans. No. Tax cannot be deducted for any payment made prior to 01.10.2018. So deduction will be made only in respect of Rs.7 Lakh.

Q27. I enter into a contract with a supplier ABC where the value of taxable supply is Rs. 2 Lakh and payment of Rs. 1 Lakh has been made on 15.10.2018. Now, on 20.10.2018 the contract value is revised from Rs. 2 Lakh to Rs. 6 Lakh. Am I liable to deduct any tax and if so, on which amount?

{FAQ released by CBIC}

Ans. Yes, TDS shall have to be deducted on entire amount i.e. Rs. 6 lakhs while making remaining payment of Rs. 5 Lakh. In other words, 12,000/- would be deducted when remaining payment of Rs. 5 Lakh is made.

Q28. Payment is made in respect of a single contract whose value of taxable supply is Rs.3.5 Lakh. Two bills amounting to Rs 1.5 lakh & Rs. 2 lakh respectively are passed for such payment. Since in respect of both the bills the amount paid does not exceed Rs. 2.5 lakh, I think that no tax is required to be deducted. Am I right?

{FAQ released by CBIC}

Ans. No. Here the payments are being made against a single contract value of taxable supply exceeding Rs.2.5 Lakh. Here, the value of taxable supply in the contract is Rs. 3.5 lakh. So, the deductor should deduct TDS on each payment to the supplier in respect of the aforesaid contract.

Q29. Mr. S has deducted GST amounting to Rs 50,000/- in the month of Nov'18. He filed return on 16.12.2018. Is he liable to pay a late fee?

{FAQ released by CBIC}

Ans. Yes he is liable to pay a late of Rs. 600 at the rate of Rs 100 per day for delay of 6 days (11.12.2018 – 16.12.2018). Maximum amount of late fee payable is capped at Rs.5,000. Similar late fees is applicable under SGST Act / UTGST Act.

Q30. Mr. X has deducted Rs 1 lakh of TDS in Nov'18. He deposits Rs 70,000 on 10.12.2018 & the rest of Rs 30,000 on 30.01.2019. He submits the return in FORM GSTR 7 on 28.02.2019. Has he incurred any liability to pay late fee or interest? Is he liable to pay any penalty?

{FAQ released by CBIC}

Ans. Electronic Cash Ledger of the DDO is credited on 10.12.2018 and 30.01.2019 with Rs. 70,000 and Rs. 30,000 respectively on account of deposit of TDS of Rs 70,000/- on 10.12.2018 & Rs 30,000 on 30.01.2019. Since return in FORM GSTR 7 for the month of November, 2018 is filed on 28.02.2019 and he discharges his payment liability of tax so deducted by debiting his electronic cash ledger as well on this date only, therefore, late fee of 80 days (11.12.2018 to 28.02.2019) have to be paid under CGST and SGST. The amount of late fee will be restricted to Rs. 5000 (upper limit provided in the Act). Interest has also to be paid for the delay. Penalty is also payable by a DDO if he fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) of section 51 [section 122(v) refers]. He is liable to penalty of Rs.1,00,000/-.

Q31. Whether a supplier of goods or services supplying through ecommerce operator would be entitled to threshold exemption?

{FAQ released by CBIC}

Ans. As per Section 24 (ix) of the CGST Act, 2017, every person supplying goods through an ecommerce operator shall be mandatorily required to register irrespective of the value of supply made by him. However, a person supplying services, other than supplier of services under section 9 (5) of the CGST Act, 2017, through an e-commerce platform are exempted from obtaining compulsory registration provided their aggregate turnover does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Government has issued the notification No. 65/2017 – Central Tax dated 15th November, 2017 in this regard.

Q32. Whether TCS is required to be collected by ecommerce operators on supply of services by unregistered suppliers through their portal?

{FAQ released by CBIC}

Ans. As per Section 24 (ix) of the CGST Act, 2017, every person supplying goods or services through an ecommerce operator is mandatorily required to register. However, vide Notification 65/2017-Central Tax dated 15th November, 2017 a person supplying services, other than supplier of services under section 9 (5) of the CGST Act, 2017, through an e-commerce platform were exempted from obtaining compulsory registration provided their aggregate turnover does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Since such suppliers are not liable for registration, ecommerce operators are not required to collect TCS on supply of services being made by such suppliers through their portal.

Q33. Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located to undertake the necessary compliance as mandated under the law?

{FAQ released by CBIC}

Ans. As per the extant law, registration for TCS would be required in each State / UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State / UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State / UT where it does not have physical presence. It may be noted that each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT.

Q34. Foreign e-commerce operator do not have place of business in India since they operate from outside. But their supplier and customers are located in India. So, in this scenario will the TCS provision be applicable to such ecommerce operator and if yes, how will foreign e-commerce operator obtain registration?

{FAQ released by CBIC}

Ans. Where registered supplier is supplying goods or services through a foreign e-commerce operator to a customer in India, such foreign ecommerce operator would be liable to collect TCS on

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such supply and would be required to obtain registration in each State / UT. It may be noted that each State/UT has indicated one administrative jurisdiction where all ecommerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT. If the foreign e-commerce operator does not have physical presence in a particular State / UT, he may appoint an agent on his behalf.

Q35. Is it necessary for eCommerce operators who are already registered under GST and have GSTIN, to have separate registration for TCS as well?

{FAQ released by CBIC}

Ans. E-Commerce operator has to obtain separate registration for TCS irrespective of the fact whether e-Commerce operator is already registered under GST as a supplier or otherwise and has GSTIN.

Q36. Whether value of net taxable supplies to be calculated at gross level or at GSTIN level?

{FAQ released by CBIC}

Ans. The value of net taxable supplies is calculated at GSTIN level.

Q37. Whether TCS to be collected on exempt supplies?

{FAQ released by CBIC}

Ans. No, TCS is not required to be collected on exempt supplies.

Q38. Whether TCS to be collected on supplies on which the recipient is required to pay tax on reverse charge basis?

{FAQ released by CBIC}

Ans. No, TCS is not required to be collected on supplies on which the recipient is required to pay tax on reverse charge basis.

Q39. Whether TCS is to be collected in respect of supplies made by the composition taxpayer?

{FAQ released by CBIC}

Ans. As per section 10(2)(d) of the CGST Act, 2017, a composition taxpayer cannot make supplies through e-commerce operator. Thus, question of collecting TCS in respect of supplies made by the composition taxpayer does not arise.

Q40. Whether TCS is to be collected on import of goods or services or both?

{FAQ released by CBIC}

Ans. TCS is not liable to be collected on any supplies on which the recipient is required to pay tax on reverse charge basis. As far as import of goods is concerned since same would fall within the domain of Customs Act, 1962, it would be outside the purview of TCS. Thus, TCS is not liable to be collected on import of goods or services.

Q41. 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.?

Ans. 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 percent., as may be notified by the Government on the recommendations of

- 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.
- 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.

Q42. XYZ Ltd. a registered supplier of goods is effecting inter-state supplies through ABC Ltd. (an Electronic Commerce operator). It has made taxable supplies of goods amounting Rs 30,00,000 in

month of January 2019 through ABC Ltd. ABC Ltd. has returned goods amounting Rs 5,00,000 to XYZ Ltd. during the month of January 2019. Determine the amount of tax to be collected at source by ABC Ltd..

Ans. As per provision of Sec 20 of IGST Act read with Sec 52 of CGST Act, 2017, every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding 2%, as may be notified by the Government on the recommendation of 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. Thus, the amount of tax to be collected at source by ABC Ltd. is an under:-

Particulars	Amount
Value of taxable supplies of goods made by XYZ Ltd.	30,00,000
Less : Value of taxable supplies of goods returned to XYZ Ltd.	5,00,000
Amount on which tax is to be collected at source	25,00,000
Rate of TCS	1%
Amount of TCS	25,000

Q43. It is very common that customers of e- commerce companies return goods. How these returns are going to be adjusted?

Ans. An e-commerce company is required to collect tax only on the net value of taxable supplies made through it. In other words, value of the supplies which are returned (supply return) may be adjusted from the aggregate value of taxable supplies made by each supplier (i.e. on GSTIN basis). Let understand this from below example (month January 2019):-

	A	B	C	D	E	F
Sales	1,00,000	2,00,000	3,00,000		2,00,000	1,00,000
Sales Return	-	-	-	(50,000)		(15,000)
Net	1,00,000	2,00,000	3,00,000	Nil	2,00,000	85,000
TCS	1,000	2,000	3,000	Nil	2,000	850

Q44. ABC Ltd. is effecting supplies through XYZ Ltd. (an Electronic Commerce operator). It has made the following supplies during February 2019 through XYZ Ltd.:-

Particulars	Supply	Returns, if any
Supplies of goods taxable at 18%	10,00,000	1,00,000
Supply of goods taxable at Nil rate	5,00,000	50,000
Supply of housekeeping services	1,00,000	-
Supply of other services	2,00,000	-

Required :

- Determine the amount of tax to be collected at source by XYZ Ltd.
- Determine consequences if said amount is paid and return is filed on 15-3-2019.

Ans. The amount of tax to be collected at source by XYZ Ltd. is as under :-

Particulars	Amount in INR
Supplies of goods taxable at 18% (net of returns)	9,00,000
Supply of goods taxable at Nil rate (not liable to TCS)	-
Supply of housekeeping services {not liable to TCS, as it falls u/s 9(5)}	-
Supply of other services (liable to TCS)	2,00,000
Amount on which tax is to be collected at source	11,00,000
Amount of TCS	11,000
Due Date of payment of TCS	10-03-2019
Actual Date of filing return	15-03-2019
Interest & Late fee applicable	5 days

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Interest @ 18% $(11,000 \times 18\% \times 5/365)$	27
Late fee for belated filing of GSTR-8 @100 per day under CGST + 100 under SGST = 200 per day	1000

Questions from GST Main Book

Q45. ABC Ltd., a registered manufacturer did following transactions: -

1. Purchased Raw Material 'Alpha' from dealer Rs. 1,00,000 (inclusive of CGST & SGST @ 5%)
2. Purchased Raw Material 'Beta' from another dealer Rs. 2,00,000 (inclusive of CGST & SGST @ 12%)
3. Purchased capital goods Rs. 3,00,000 (inclusive of CGST & SGST @ 12%). Depreciation rate is 25%.
4. Local Sales Rs. 5,00,000 (exclusive of CGST & SGST @ 5%). Calculate tax liability.

Ans.

Particulars	CGST	SGST
Output tax liability @ 5% on Rs. 5,00,000	12,500	12,500
Less: ITC		
Purchase raw material 'Alpha' $(Rs. 1,00,000 \times 5/105)$	2,381	2,381
Purchase raw material 'Beta' $(Rs. 2,00,000 \times 12/112)$	10,714	10,714
Capital Goods $(Rs. 3,00,000 \times 12/112)$	16,071	16,071
CGST/SGST credit to be carried forward	-16,666	-16,666

Q46. ABC Ltd., a registered manufacturer did following transactions: -

1. Purchased Raw Material 'Alpha' from dealer Rs. 1,00,000 (excluding of CGST & SGST @ 18%)
2. Purchased Raw Material 'Beta' from another dealer Rs. 2,00,000 (excluding of CGST & SGST @ 12%)
3. Purchased capital goods Rs. 1,00,000 (excluding of CGST & SGST @ 12%). Depreciation rate is 25%.
4. Sales outside state Rs. 5,00,000 (exclusive of CGST & SGST @ 18%). Calculate tax liability.

Ans.

Particulars	Amount
Output IGST liability @ 18% on Rs. 5,00,000	90,000
Less: ITC	
Purchase raw material 'Alpha' $(Rs. 1,00,000 \times 18/100)$	18,000
Purchase raw material 'Beta' $(Rs. 2,00,000 \times 12/100)$	24,000
Capital Goods $(Rs. 1,00,000 \times 12/100)$	12,000
IGST to be deposited in cash	36,000

Q47. Value of supply of goods and services within state is Rs. 1,000. SGST and CGST rate on supply of goods and services is 6% each. Value of supply of goods exported is Rs. 600. Value of receipt of goods and services inter-State is Rs. 1,000. IGST rate on receipts is 12%. Calculate tax payable.

Ans.

Particulars	SGST	CGST	IGST
Tax payable on intra-State supply	60	60	
Tax payable on exports (considering LUT)			NIL
Less:			
ITC (IGST)	-60	-60	NIL
Tax payable	NIL	NIL	NIL

Q48. The following are details of purchases, sales, etc. effected by ABC Ltd. a registered manufacturer under CGST Act, 2017:

1. Purchased Raw material 'A' from local dealer Rs. 78,400 (inclusive of GST @ 12%)
2. Purchased Raw material 'B' from local dealer Rs. 1,18,000 (inclusive of GST @ 18%)
3. Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 2,56,000 (inclusive of GST @ 28%). Depreciation @ 15% to be charged.
4. Other Direct and Indirect expenses Rs. 51,600.
5. Earned 5% profit margin on total cost.
6. During the month of November, 2017 only 70% production is sold within the state and applicable GST rate being 18%.

Calculate the amount of CGST and SGST payable after utilizing input tax credit for the month of November, 2017 assuming no opening balance of input tax credit is available.

Ans. Computation of Invoice Value and Tax liability:

Particulars	Rs.
Purchase Raw material 'A' from local dealer [Rs. 78,400 x 100 ÷ 112]	70,000
[WN] Purchase Raw material 'B' from local dealer [Rs. 1,18,000 x 100 ÷ 118]	1,00,000
[WN] Depreciation expense [(Rs. 2,56,000 – 2,56,000 x 28 ÷ 128) x 15%]	30,000
Other direct and indirect expense	51,600
Total Cost of goods manufactured	2,51,600
Cost of goods sold (70% of goods produced were sold)	1,76,120
Add: Profit margin @ 5% of cost	8,806
Total Sales Value	1,84,926

Working Note: Credit will be available for CGST and SGST charged by local suppliers. Hence the same is not to be included in the cost.

Computation of CGST and SGST payable for the month of December, 2017 after utilizing the available input tax credit [assuming no ITC opening balance]

Particulars	CGST (Rs.)	SGST (Rs.)
Output tax liability for the month of December, 2017 @ 18% (being CGST 9% and SGST 9%) [Rs. 1,84,926 x 18%]	16,643	16,643
Less: Eligible input tax credit in respect of purchases of –		
Raw material 'A' [70,000 x 12%]	(4,200)	(4,200)
Raw material 'B' [1,00,000 x 18%]	(9,000)	(9,000)
Capital Goods [2,00,000 x 28%]	(28,000)	(28,000)
CGST / SGST credit to be carried forward	(24,557)	(24,557)

Additional Questions & Answers

These are apart from Examples in main book

Chapter 13: - Returns

ICAI Test your knowledge

This chapter includes
"12 Q & A" of GST main
book.

Q1. 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?

Ans. 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.

Q2. If a return has been filed, how can it be revised if some changes are required to be made?

Ans. 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 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.

Q3. Which type of taxpayers need to file Annual Return?

Ans. Every registered person, other than ISD's, casual/non-resident taxpayers, TDS/TCS deductors, are required to file an annual return in Form GSTR-9. Taxpayer under composition scheme are required to file annual return in Form GSTR-9A. Casual tax payers, non-resident taxpayers, ISDs and persons authorized to deduct/collect tax at source are not required to file annual return.

Q4. Is an Annual Return and a Final Return one and the same?

Ans. 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.

Q5. Do Input Service Distributors (ISDs) need to file separate statement of outward supplies with their return?

Ans. 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 outward supplies.

Q6. Is it compulsory for a taxpayer to file return by himself?

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

Other Questions

Q7. Whether the tax payable under GST Act has to be paid to the Central Government or the State Government?

Ans. As per section 39(7), the tax payable as per return has to be paid to the 'Government' on or before the due date for filing the return. Section 2(53) of the CGST Act defined 'Government' to mean the Central Government. Further, as per Section 2(9) of the IGST Act, the term 'Government' has been defined to mean the Central Government. Therefore, in respect of CGST and IGST taxes, the tax has to be paid to the credit of the Central Government. In respect of SGST, the tax has to be paid to the credit of the State Government.

Q8. I was liable to get registered from July 12, 2017. I was issued the registration certificate only on August 16, 2017. How should I disclose the details of supplies effected during the period July 12, 2017 to August 16, 2017?

Ans. As per Section 40, a registered taxable person is required to file First Return to disclose the details of supplies effected during the period between the date on which he became liable to registration till the date on which registration is granted. Therefore, the assessee will disclose the details from 12.07.2017 to 16.08.2017 in the August Return.

Q9. I am a non-resident taxable assessee. What are the returns to be furnished by me?

Ans. A non-resident taxable assessee is liable to file FORM GSTR-5 for furnishing the monthly details of inward and outward supplies, debit/credit notes, tax paid details, details of closing stock and refund claimed, if any. The return should be furnished by 20th of the month succeeding the tax period, or within 7 days from the last day of the validity of registration, whichever is earlier.

Q10. Whether returns have to be filed if the assessee has not effected any inward or outward supply during a tax period?

Ans. Yes, assessee has to file Nil GSTR-1 /Form3B return electronically even though not effected any supply.

However, a non-resident taxable person, an input service distributor, a person liable to deduct tax at source and person liable to collect tax at source would not be liable to furnish returns (in Forms GSTR-5, GSTR-6, GSTR-7 and GSTR-8, respectively) if they have not effected any supplies requiring them to furnish the respective forms (as mentioned above).

Q11. What is meant by self-assessment?

Ans. Under the GST regime, the responsibility to compute the correct output tax liability, eligible input tax credit and net tax liability lies with the assessee. The assessee must determine the rate of tax, value of supply and the output tax payable. The assessee must also decide the eligibility of input tax credit in respect of the various inward supplies. The determination of turnover, rate of tax, value of supply, eligibility to input tax credit, reversal of input tax credit, etc. done by the assessee himself is called as self-assessment.

Q12. Who is required to file an Annual Return? In what format such return should be furnished? What is the due date for furnishing such return?

Ans. All registered taxable persons are required to furnish an Annual Return for every financial year, electronically, in FORM GSTR-9. A registered taxable person paying opting to pay tax under the composition scheme is required to file the annual return in FORM GSTR-9A. However, the below mentioned registered taxable persons are not required to file an Annual Return:-

- Input Service Distributor
- Person liable to deduct tax at source as per Section 51 (for the purpose of TDS)
- Person liable to collect tax at source as per Section 52 (for the purpose of TCS)
- Casual taxable person

GST Bare Act Pages 120 V/s Direct Tax Bare Act Pages 1065

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Additional Questions & Answers

These are apart from Examples in main book

(e) Non-resident taxable person

Such returns should be furnished on or before 31st December of the following the end of financial year.

Q13. Whether the Annual Return is required to be audited by Chartered Accountant / Cost Accountant?

Ans. If the turnover of the registered taxable person exceeds Rs. 2 crores, then the Annual Return is required to be audited by a Chartered Accountant or Cost Accountant. Further, they also have to submit reconciliation statement in FORM GSTR-9C. If the turnover does not exceed Rs. 2 crores, the registered taxable person can himself compile the details in FORM GSTR-9 and submit the return.

Q14. What are the consequences of not filing any particular return?

Ans. If the registered taxable person fails to furnish the return in FORM GSTR-3B or GSTR-4 or GSTR-5 or GSTR-6 or GSTR-7 or Final return in FORM GSTR-10, the department will issue a notice in FORM GSTR-3A asking the registered taxable person to furnish the particular return within 15 days.

Q15. What happens if the taxable person files the return under the GST law but does not make payment of taxes?

Ans. Under the GST law, the filing of return without payment of taxes shall not be considered as a valid return. Section 2(117) defines a valid return. It means, a return furnished under sub-section (1) of Section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

Questions from GST Main Book

Q16. ABC Ltd. Furnished annual returns for the year 2017-18 on September 15, 2018. An error is discovered in respect of a transaction pertaining to outward supplies of January 2018. Determine the time limit to rectify the mistake in case return of Sept'18 furnished on October 15, 2018.

Ans. Annual return has been furnished by September 15, 2018 and return for the month of Sept'18 filed on October 15, 2018. The rectification of error pertaining to January 2018 cannot be done beyond September 15, 2018 as per provision of Section 37 (3).

Q17. Whether an assessee under composition scheme is required to furnish details of inward supply and outward supply?

Ans. No. An assessee under the composition scheme is not required to furnish details of inward and outward supplies. Such assessee are required to file quarterly returns in Form GSTR-4 within 18 days from the end of quarter.

Q18. In some period of the year, there may not be any business activity like in case of seasonal business. Whether a taxable person will be required to file return in such case also?

Ans. Every registered taxable person is required to file returns. Without filing the return of the period, next return cannot be filed. Therefore, even if there is no taxable supplies made or received during any period, such person is required to file a NIL return but not filing the return is not an option in GST.

Q19. A compounding taxpayer, who has opted for composition scheme U/s 10 is required to file quarterly returns. Whether he is required to file Annual Return also?

Ans. According to Sec. 39 (2), every registered taxable person who has opted for composition scheme under the provisions of Section 10 of the GST Act besides filing the quarterly return in Form GSTR 4 is also required to file an annual return, which is based on Annual Financial Records.

Q20. What are the different means available to taxpayer for filing the returns?

Ans. The taxpayer can file the return on GSTN by using one of the followings: -

- 1) By taxpayer himself by using the user id and password issued to such taxpayer
- 2) By the authorized representative using the login and password issued to such authorized representative. Such authorized representative should have been selected by the taxpayer before such filing and such authorized representative should be linked to such taxpayer account.
- 3) Through the Facilitation Centre (FC) by using the login and password of such FC. Post filing by FD, system generates a message for taxpayer by mail and SMS. Facilitation Centre is a facility for digitization and uploading of returns on the GSTN data base. This facility is created with the approval of Central Board of Indirect Taxes or by respective State Governments. Small taxpayers who don't have facility for digitization of their data and/or uploading their returns can use this facility of facilitation centers for doing this function.

Q21. How would a supplier who has taken a new registration, file his first return under GST?

Ans. There might be cases wherein a person is liable to be registered under the law from a particular date and there is time gap between the date from when he was liable to be registered under the law and the date on which registration is granted to such person. He would have made outward supplies in this period between the date when he was liable to be registered under the law and the date from which is granted registration.

In such case the registered person who has made outward supplies in the period between the dates on which he became liable to registration till the date on which registration has been granted shall declare the details of such outward supplies in the first return filed by him after the date of grant of registration.

Q22. Whether credit of Input Tax can be used for making payment of Interest, Fees, Penalty and any other Amount?

Ans. No, Input Tax Credit can only be utilized for making payment towards output tax liability. It can't be used for making payment towards Interest, Fees, Penalty or any other amount payable under this Act.

Q23. Whether GSTR 3B can be revised after filing? Whether there is any column in GSTR 3B for reporting any discrepancies which have taken place while filing returns for previous months?

Ans. No, GSTR 3B filed, can't be revised. Form GSTR 3B doesn't contain any column for reporting of differential figures for past month(s).

Q24. If a return has been filed, how can it be revised if some changes are required to be made?

Ans. 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 will allow 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.

Additional Questions & Answers

These are apart from Examples in main book

Currently
not
active

Q25. What will be the legal position in regard to the reversed input tax credit if the supplier later realizes the mistake and feeds the information?

Ans. At any stage, but before September of the next financial year, supplier can upload the invoice and pay duty and interest on such missing invoices in his GSTR-3 of the month in which he had earlier failed to upload the invoice. The recipient shall be eligible to reduce his output tax liability to the extent of the amount in respect of which the supplier has rectified the mis-match. The interest paid by the recipient at the time of reversal will also be refunded to the recipient by crediting the amount in corresponding head of his electronic cash ledger.

Q26. Whether an assessee under composition scheme is required to furnish details of inward supply and outward supply?

Ans. No. An assessee under the composition scheme is not required to furnish details of inward and outward supplies. Such assesses are required to file quarterly returns in FORM GSTR-4 within 18 days from the end of quarter.

Q27. During the course of inspection/audit/scrutiny/enforcement activity, the department has pointed out certain omissions or incorrect particulars in the returns. Whether the assessee can rectify the returns to correct the omissions or incorrect particulars in its returns?

Ans. As per Section 39(9), provides for correction in the returns on account of Omission of wrong particulars filed other than as a result of audit/inspection/scrutiny/enforcement, the assessee can rectify such omissions/incorrect particulars in the returns. In the month/quarter in which such omission/ incorrect particulars are noticed, the due tax and interest shall be payable thereon.

Chapter 14: - Import & Export under GST

ICAI Test your knowledge

This chapter includes
"10 Q & A" of GST main
book.

Q1. Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit/Developer by a supplier located in the same State as that of the SEZ unit/Developer should be treated as an inter-State supply under section 7(5)(b) or an intra-State supply in terms of section 8(2) read with section 12(3)(c)? Explain.

Ans. Circular No. 48/22/2018 GST has clarified on this issue as under:

As per section 7(5)(b), the supply of goods and/or services to a SEZ unit/Developer shall be treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c), the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply.

It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. In the instant case, section 7(5)(b) is a specific provision relating to supplies of goods and/or services made to a SEZ unit/Developer, which states that such supplies shall be treated as inter-State supplies.

Further, proviso to section 8(2) also lays down that intra-State supply of services do not include supply of services to a SEZ unit/Developer. It is, therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ unit/Developer shall be treated as an inter State supply.

Q2. How are exports treated under the GST Law?

Ans. Under the GST Law, export of goods or services has been treated as:

- Inter-State supply and covered under the IGST Act.
- 'Zero rated supply', i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage.

Q3. How are imports taxed under GST?

Ans. All imports are deemed as inter-state supplies for the purposes of levy of GST (IGST). The incidence of tax follows the destination principle and the tax revenue in case of SGST accrues to the State where the imported goods and services are consumed. IGST paid on import of goods and services is available as ITC for set off against the output tax liability. IGST on import of goods is leviable under the provisions of the Customs Tariff Act.

Q4. How are exports taxed under GST?

Ans. Exports of goods and services are zero rated. The exporter has the option either to export under bond without payment of IGST and claim refund of ITC or pay IGST at the time of export and claim refund thereof.

Q5. Is it necessary to execute a bond for effecting zero rated supplies?

Ans. No. The facility to export under LUT has been extended to all zero rated suppliers (barring a few exceptions such as those who have been prosecuted for an offence involving tax of ` 2.5 crore) vide Notification No. 37/2017 CT dated 4.10.2017. The other conditions for executing LUT have been specified in Circular No. 8/8/2017 GST dated 4.10.2017.

Additional Questions & Answers

These are apart from Examples in main book

Other Questions

Q6. Can the NRI's claim refund of tax paid under Section 15 of IGST Act, 2017?

Ans. Yes, since the NRI's are not normally resident in India they will be treated as tourist if the stay in India is for legitimate non-immigrant purpose for a period of less than 6 months.

Q7. Who is the person liable to pay tax in respect of OIDAR services received by non-taxable online recipient ?

Ans. The supplier of OIDAR services located in non-taxable territory shall be the person liable to pay IGST on supply of such services.

Q8. How would the supplier of OIDAR services located outside India comply with the responsibilities entrusted under GST ?

Ans. The supplier of OIDAR service should comply with GST as follows:

- a. The Supplier (or intermediary) of OIDAR services should take single GST registration for payment of IGST.
- b. If there is a person representing overseas supplier in taxable territory for any purpose, then such representative in India should pay IGST on behalf of overseas supplier.
- c. If the overseas supplier has no physical presence or representative in the taxable territory, then he may appoint a person in the taxable territory for the purpose of payment of IGST.

Q9. What is the place of supply of OIDAR Service ?

Ans. The place of supply of OIDAR services is location of recipient of services.

Q10. What are the conditions to be satisfied by the service recipient is deemed to be located in the taxable territory ?

Ans. It is difficult to determine the location of the recipient in case of OIDAR services. The service recipient is deemed to be located in taxable territory on satisfying any of the 2 conditions:-

1. The recipient gives an Indian address through Internet.
2. The payment is settled by an Indian credit card /debit card/other card.
3. The recipient has Indian billing address.
4. The computer used by the recipient has Indian IP address.
5. The recipient uses an Indian bank account for payment.
6. The country code of the subscriber identity module card used by the recipient of service is of India.
7. The recipient receives the service through an Indian fixed land line.

Questions from GST Main Book

Q11. Who shall be liable to collect and discharge the Integrated tax liability in cases of provision of cross border B2C OIDAR services?

Ans. Service providers providing OIDAR services to a non-taxable online recipient in taxable territory would be responsible for collection and discharge of integrated tax.

Q12. Under what circumstances an intermediary, who arranges or facilitates the supply of OIDAR services would not be liable to collect tax from non-taxable online recipient?

Ans. If the intermediary satisfies the following conditions, he shall not be liable to collect tax from non-taxable online recipient;

- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
- (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
- (c) the intermediary involved in the supply does not authorise delivery; and
- (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

Q13. Who is non-taxable online recipient?

Ans. "Non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Q14. Where a person located in non-taxable territory should get himself registered?

Ans. Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

Q15. Mr. A is supplying goods to SEZ Unit. Whether he has to charge IGST on supply of goods.

Ans. As per the provision of section 16 of IGST Act, 2017, Supply to SEZ Unit are Zero Rated Supplies. Therefore, in such case Mr. A can either supply goods against payment of IGST (which can be claimed as refund) or he can supply goods without payment of IGST (against LUT /Bond).

Q16. A person had submitted Bank Guarantee for Issue of Bond for export of goods without payment of tax. He was granted Bond with a validity period upto 31st March 2018. However, in view of Notification No. 37/2017 – Central Tax dated 4th October 2017, he wants to submit Letter of Undertaking and get the bond released which was submitted earlier. Can he do so.

Ans. Yes, he can submit a Letter of Undertaking as per the guidelines issued vide Notification No. 37/2017 – Central Tax dated 4th October 2017 and get the bond submitted earlier released.

Q17. What is the meaning of the term "Zero Rated Supply"?

Ans. "Zero Rated Supply" refers to supplies made to SEZ units / developers or exports of goods or services or both. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will be taxed at "0" (Zero) Rate or will be exempt from IGST unconditionally.

Q18. Are exports and supplies to SEZ units/Developers out of the ambit of GST?

Ans. No. They are treated as IGST supplies under the IGST Act, 2017. However, the tax burden on the same will be neutralized by granting refunds to persons making such supplies.

Q19. Can SEZ unit / Developers claim refund of IGST charged by his supplier?

Ans. No. The IGST Act, 2017 allows the supplier of SEZ unit / developer to claim refund of IGST paid by him on supplies to SEZ unit / Developers.

Q20. Are supplies made by SEZ units/Developer are Zero rated supplies?

Ans. No. only the supplies made TO SEZ units/Developer are zero rates supplies. However, Exports made BY SEZ units/Developer will be zero rated supplies.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 15: - Refunds

ICAI Test your knowledge

This chapter includes
"15 Q & A" of GST main
book. Do refer 2
example in GST main
book.

Q1. Is there any time limit for sanctioning of refund under section 54 of the CGST Act, 2017?

Ans. Yes, refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest @ 6% p.a. will have to be paid in accordance with section 56 of the CGST/SGST Act.

However, in case where provisional refund to the extent of 90% of the amount claimed is refundable in respect of zero-rated supplies made by certain categories of registered persons in terms of sub-section (6) of section 54 of the CGST/SGST Act, the provisional refund has to be given within 7 days from the date of acknowledgement of the claim of refund.

Q2. 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.

Ans. 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)].

Q3. In case of refund under exports of goods, whether BRC/FIRC is necessary for granting refund?

Ans. In case of refund on account of export of goods, the refund rules do not prescribe BRC/FIRC as a necessary document for filing of refund claim. However, for export of services details of BRC/FIRC is required to be submitted along with the application for refund.

Q4. 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?

Ans. 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.

Q5. State the exceptions to the principle of unjust enrichment as applicable to refund claims.

Ans. 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.

Other Questions

Q6. To whom should the claim for refund be made?

Ans. The refund application is to be made before the proper officer of IGST/CGST/SGST exercising jurisdiction over the Claimant.

Q7. Is there any other case apart from those covered in Section 54, wherein refund can be claimed under GST?

Ans. Yes, as per Section 55 of the CGST Act, the Government may, on the recommendations of the Council, by notification, specify any specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to certain conditions and restrictions, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

Further, the Central Government vide Notification No. 20/2018 – Central Tax dated 28th March, 2018 has increased the time limit from 6 months to 18 months from the last date of the quarter in which such supply was received, within which the specified persons shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority.

Q8. Would interest be paid on the amount of refund sanctioned?

Ans. Yes, in terms of section 56, interest would be paid at a rate not exceeding 6%, if the refund is not sanctioned within 60 days from the receipt of refund application.

It is pertinent to note that the Government vide Notification No. 13/2017 – Central Tax dated 28-6-2017 has prescribed the rate of interest @ 6%.

Q9. If refund is made based on the order of appellate authority, then would interest be paid?

Ans. Yes, interest (at a rate not exceeding 9%) would be computed and paid for the period starting from expiry of 60 days from the date of application consequent to the order till the date of actual refund of tax.

It is pertinent to note that the Government vide Notification No. 13/2017 – Central Tax dated 28-6-2017, has prescribed the rate of interest @ 9%.

Q10. How would the interest be computed and paid?

Ans. Interest would be computed and paid for the period after expiry of 60 days from the receipt of refund application till the date of actual refund of tax.

Q11. What is the Processing of refund applications filed by Canteen Stores Department?

Ans. The Canteen Stores Department (the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of 50 % of the applicable IGST/CGST paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD in terms of Notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) both all dated 28.06.2017.

In this regard, Central Government vide Circular No. 60/34/2018-GST dated 4.09.2018 has provided a manner and procedure for filing and processing of refund claims by CSD which is explained as below:

Additional Questions & Answers

These are apart from Examples in main book

1. Invoice-based refund: It is clarified that the instant refund to be granted to the CSD is not for the accumulated input tax credit, but refund based on the invoices of the inward supplies of goods received by them.
2. Manual filing of claims on a quarterly basis: the CSD are required to apply for refund on a quarterly basis the CSD shall apply for refund by filing an application in FORM GST RFD-10A manually to the jurisdictional tax office which shall be accompanied with prescribed documents
3. Processing and sanction of the refund claim : Upon receipt of the complete application in FORM GST RFD-10A, an acknowledgement shall be issued manually within 15 days of the receipt of the application in FORM GST RFD-02 by the proper officer. In case of any deficiencies in the requisite documentary evidences the same shall be communicated to the CSD by issuing a deficiency memo manually in FORM GST RFD-03.
4. The proper officer may scrutinize:
 - o The details contained in FORM RFD-10A, FORM GSTR-3B and FORM GSTR-2A.
 - o The proper officer should ensure that the amount of refund sanctioned is 50 % of the taxes paid on the supplies received by CSD.
5. Sanctioning of Refund: The proper officer shall issue the refund sanction/rejection order manually in FORM GST RFD-06 along with the payment advice manually in FORM GST RFD-05 for each tax head separately.

Further, it is clarified that the CSD will apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned. However, the payment of the sanctioned refund amount in relation to central tax / integrated tax shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority.

Q12. ABC Ltd. furnishes following information. Please compute maximum refund eligible on account of inverted duty structure (all the amount are in INR):-

ITC availed on inputs	3,60,000
ITC availed on inputs services	36,000
ITC availed on capital goods	2,00,000
Turnover of inverted rated supply of goods (taxable @ 5%)	30,00,000
Turnover of other supplies of goods and services (including exempt supplies Rs. 5,00,000)	15,00,000
Turnover of inverted rated supply of services (taxable @ 5%)	3,00,000

Answer:-

Net ITC i.e. ITC availed on Inputs	3,60,000
Turnover of inverted rated supply of goods & services (30,00,000+3,00,000)	33,00,000
Total Adjusted Turnover {30,00,000+15,00,000-5,00,000}	40,00,000
Tax paid on inverted rated supply of goods & services (33,00,000*5%)	1,65,000
Maximum Refund {33,00,000 x 3,60,000 ÷ 40,00,000} – 1,65,000	1,32,000

Questions from GST Main Book

Q13. What are the cases under which refund of unutilized input tax credit shall not be allowed?

Ans. As per first proviso to Sec. 54 (3), no refund of unutilized ITC shall be allowed except in following cases:

- a. Zero rated supplies made without payment of tax, or
- b. 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 exempt supplies). However, such refund should not relate to supply of goods or services or both as may be notified by the government on recommendation of GST council.

Thus, except the above two exceptions, refund of unutilized credit will not be allowed.

Q14. Whether refund of unutilized ITC can be allowed in case where export of goods is subject to export duty?

Ans. As per second proviso to Sec. 54 (3), no such refund will be allowed in case goods exported out of India are subject to levy of export duty.

Q15. Whether refund of unutilized ITC can be allowed in case where exporter of goods or services claims drawback or refund of taxes paid on such supplies?

Ans. The export of goods has to be free from the effect of any taxes. It is important to note that refund of unutilized credit is only one of the methods to free export transactions from the burden of taxes. The other 2 methods are drawback of taxes or refund of taxes paid on such supplies. As per second proviso to sec. 54 (3), refund of input taxes shall not have allowed in case supplier of goods or services avail drawback of central taxes or claims refund of IGST paid on such supplies.

Q16. Whether the principle of unjust enrichment be applicable to export?

Ans. The principle of unjust enrichment will not be applicable in case of export of goods and services.

Q17. In case of rejection of refund application, what would happen to the amount debited from Input Tax Ledger?

Ans. As provided in rule 93 (2), in case of rejection of refund application wholly or partly, the amount of claim rejected will be re-credited in the electronic ledger of the applicant.

Example: A Ltd. made an application of refund of unutilized ITC amounting to Rs. 7 Lacs. A Ltd. reduced the balance of Rs. 7 lacs from their electronic credit ledger. The proper officer was not satisfied with claim of Rs. 2 Lacs. He approved the claim of Rs. 5 lacs and rejected the claim of Rs. 2 lacs. Rs. 5 lacs will be credited to the bank account of A Ltd and Rs. 2 lacs will be re-credited to electronic credit ledger of A Ltd.

Q18. ABC Ltd., filed an application for refund of tax amounting Rs. 9,00,000 on 1st Nov'17. The refund was granted on 25th Jan'17. Compute the interest payable?

Ans. Interest is payable after 60 days which is completing on 31st Dec'17 (60 days from 1st Nov'17). So, interest is payable for 25 days @ 6% i.e.

$$\text{Rs. } 9,00,000 * 6\% * 25/365 = \text{Rs. } 3,698$$

Q19. Mr. A has opted for Export against LUT / Bond without payment of taxes. LUT/ Bond issued by the Jurisdictional Officer is valid till 31st March 2018. He has exported goods against such LUT / Bond till December 2017. Can he start to export goods against payment of IGST from January 2018?

Ans. Yes, even though validity of LUT / Bonds is till 31st March 2018, Mr. A can start exporting goods against payment of IGST from January, 2018.

Q20. Mr. A is supplying goods to SEZ Unit. Whether he has to charge IGST on supply of goods?

Ans. As per the provision of section 16 of IGST Act, 2017, Supply to SEZ Unit are Zero Rated Supplies. Therefore, in such case Mr. A can either supply goods against payment of IGST (which can be claimed as refund) or he can supply goods without payment of IGST (against LUT /Bond).

Q21. A person had submitted Bank Guarantee for Issue of Bond for export of goods without payment of tax. He was granted Bond with a validity period upto 31st March 2018. However, in view of Notification No. 37/2017 – Central Tax dated 4th October 2017, he wants to submit Letter of Undertaking and get the bond released which was submitted earlier. Can he do so.

Ans. Yes, he can submit a Letter of Undertaking as per the guidelines issued vide Notification No. 37/2017 – Central Tax dated 4th October 2017 and get the bond submitted earlier released.

Q22. Can goods be sold to EOU without payment of GST as was being done prior to implementation of GST?

Ans. No, goods cannot be supplied to EOU without payment of taxes, however, as per Notification No. 48/2017 – Central Tax dated 18th October 2017, domestic supplies to holder of Advance Authorization / EPCG and EOUs would be treated as deemed exports under section 147 of CGST / SGST Act and refund of tax paid on such supplies can be claimed by the supplier.

Following supplies have been treated as deemed exports under section 147 of the CGST Act:

Additional Questions & Answers

These are apart from Examples in main book

Sr. No.	Description of supply
i.	Supply of goods by a registered person against Advance Authorization
ii.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization.
iii.	Supply of goods by a registered person to Export Oriented Unit
iv.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017 – Customs, dated the 30th June, 2017, (as amended) against Advance Authorization.

Explanation –

For the purposes of this notification, -

“Advance Authorization” means an authorization issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015 – 20 for import or domestic procurement of inputs on pre – import basis for physical exports.

Export Promotion Capital Goods Authorization means an authorization issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015 – 20 for import of capital goods for physical exports.

“Export Oriented Unit” means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Par Unit or Bio – Technology Par Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015 – 20.

Q23. Will unutilized ITC at the end of the financial year (after introduction of GST) be refunded?

Ans. There is no such provision to allow refund of such unutilized ITC at the end of the financial year in the GST Law. It shall be carried forward to the next financial year.

Q24. Are SEZ Units liable to pay taxes on their inward supplies? Who will be eligible for refund of taxes paid on supplies to SEZ?

Ans. No. SEZ units shall not be charged with taxes for supplies made to them.

In respect of supplies to a SEZ unit or a SEZ developer, the application for refund shall be filed by the –

- supplier of goods after such goods have been admitted in full in the SEZ for authorised operations,
- supplier of services along with such evidence regarding receipt of services for authorised operations; as endorsed by the specified officer of the Zone.

Q25. Can the refund of balance in cash or credit ledger be claimed?

Ans. Yes, as per provisions of Section 49(6), the balance of cash or credit after payment of tax, interest, penalty, fee or any other amount payment refund can be claimed as per provisions of Section 54. Once the refund is claimed, the amount of credit of CGST/SGST/IGST (as the case may be) would be reduced to that extent.

Q26. Whether separate applications need to be filed for refund in case of export of goods and export of services?

Ans. Yes, there shall be separate application and different procedure for refund of export of goods and export of services.

Q27. Who can file an application for refund in case of deemed export?

Ans. In terms of third proviso to Rule 89 inserted vide Notification No. 47/2017 – Central Tax dated 10.10.2017, application for refund in case of deemed export can be filed by:

- the recipient of deemed export supplies; or
- the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund

Chapter 16: - Job Work

This chapter includes "8 Q & A" of GST main book.

ICAI Test your knowledge

Q1. 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?

Ans. 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.

Q2. 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?

Ans. 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.

Q3. Who is responsible for the maintenance of proper accounts related to job work?

Ans. It is completely the responsibility of the principal to maintain proper accounts of job work related inputs and capital goods.

Q4. 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?

Ans. 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.

Other Questions

Q5. What are the conditions prescribed in respect of inputs and capital goods sent for job work?

Ans. The conditions prescribed in respect of inputs and capital goods sent for job work are set out in Rule 45 of the CGST Rules, 2017 as under:

Additional Questions & Answers

These are apart from Examples in main book

- (a) The inputs, semi-finished goods or capital goods are to be sent to the job worker under the cover of a challan issued by the principal including cases where the inputs, semi-finished goods or capital goods are sent directly to job worker;
[and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker: Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:
Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.]
- (b) The challan issued by the principal should contain the details as specified in Rule 55 of the CGST Rules, 2017
- (c) The details of challan in respect of goods dispatched to/ received from a job worker or sent from one job worker to another during a quarter shall be included in Form GST ITC-04 furnished for that period on or before the 25th day of the month succeeding the said quarter or within such further period as may be extended by the Commissioner by a notification in this behalf. It is pertinent to mention that date of filing Form GST ITC-04 for the quarter July to September, 2017 has been extended till 31.12.2017 vide Notification No. 63/2017 Central Tax dated 15.11.2017.
- (d) If the inputs/ capital goods are not returned within the 1 year/ 3 years, respectively, it shall 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 and the said supply shall be declared in Form GSTR-1. Further, the principal shall be liable to pay the tax along with applicable interest.

Q6. Whether the goods of principal directly supplied from the job worker's premises will be included in the aggregate turnover of the job worker?

Ans. No. It will be included in the aggregate turnover of the principal. However, the value of goods or services used by the job worker for carrying out the job work will be included in the value of services supplied by the job worker.

Q7. Whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28.06.2017?

Ans. S. No 55 of Notification 12/2017- Central Tax (Rate) dated 28.06.2017/ Sl. No. 58 of Notification No. 9/2017-Integrated Tax (Rate) dated 28.06.2017, exempts carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.

Milling of paddy is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. Thus, not eligible for exemption and thereby GST will be levied.

Further, in terms of section 2 (68) of the CGST Act, Job work means any treatment or process undertaken by a person on goods belonging to another registered person. And any treatment or process which is applied to another person's goods is a supply of service, as per para 3 of Schedule II of the CGST Act. Moreover, in terms of Notification No. 31/2017-CT(R) dated 13.10.2017 [Notification No. 11/2017-Central Tax (Rate) dated 28.6.2017, S.No. 26 refers], GST rate on services by way of job work in relation to all food and food products falling under Chapters 1 to 22 has been reduced from 18% to 5%. Therefore, it is hereby clarified that milling of paddy into rice on

job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).

Q8. ABC Ltd. sends the goods to XYZ & Co. for making finished goods on 30-08-2017. What are the tax implications, in the following cases if GST @ 18% is levied:

- XYZ & Co. sends the goods back to ABC Ltd. within one year of being sent.
- XYZ & Co. sells the goods directly to the customer on behalf of ABC Ltd.

Ans. As per Section 143 of CGST Act 2017, supply of goods to a job worker without payment of tax is permissible upon an intimation. In the given example, the implications are as follows:

- On supply of goods to XYZ & Co., as per the section 143 of CGST Act 2017, no tax shall be payable on supply of goods to XYZ & Co., However, the tax will be payable if finished goods is not returned before one year from 30-08-2017.
- XYZ & Co. sends the finished goods back to ABC Ltd.: As per the act, there is no tax liability on returning of goods back to the principal i.e. ABC Ltd. within a period of one year. Hence, post completion of Job work, no tax is leviable on finished goods returned to ABC Ltd.
- XYZ & Co. sells the finished goods on behalf of ABC Ltd.: Section 143 also allows the job worker to directly sell the goods on behalf of principal, wherein the liability to pay tax is of the principal and not the job worker. ABC Ltd. is liable to pay GST on sale of finished goods to customer by XYZ & Co.

However, ABC Ltd. must declare the premises of XYZ & Co., as 'additional place of business' and the sale of finished goods will form part of aggregate turnover of ABC Ltd.

Such a declaration is not required in case where:

- Job worker is registered under section 25; or
- Principal is engaged in supply of notified goods.

Q9. ABC Ltd. sends the goods (inputs) to XYZ & Co. for further processing on 30-08-2017. The value of goods sent for Job work is Rs. 2,00,000. What are the tax implications, in following cases, if GST @ 18% is levied:

- XYZ & Co. sends the processed goods back to ABC Ltd on 30-11-2017
- XYZ & Co. sends the processed goods back to ABC Ltd on 30-10-2018.

Ans. XYZ & Co. sends the processed goods back to ABC Ltd. on 30-11-2017: As per Section 143 of the Act, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from principal to Job worker as on 30-08-2017 and subject to tax along with interest.

- In the present case, as the inputs are received back on 30-11-2017 i.e. before completion of one year, and hence no tax is payable.
- XYZ & Co. sends the processed goods back to ABC Ltd. on 30-10-2018: In the present case, the goods are received after the period of one year and hence, ABC Ltd. needs to pay the tax along with the interest on the supply made by him to XYZ & Co. Hence, ABC Ltd. need to pay Rs. 18,000 (CGST) and Rs. 18,000 (SGST) along with specified interest.

Q10. ABC Ltd. sends the machinery to XYZ & Co. for fixing of some technical issue and maintenance on 15.8.2017.

The value of goods sent to XYZ & Co. is Rs. 2,00,000. What are the tax implications, in the following cases:

- XYZ & Co. sends the machinery back to ABC Ltd. on 30.12.2018.
- XYZ & Co. sends the machinery back to ABC Ltd. on 30.09.2020.

Ans. In the given example the implications are as follows:

- XYZ & Co. sends the machinery back to ABC Ltd. on 30.12.2018: As per Section 143 of the Act, Principal can remove the goods without payment of tax and take input tax credit provided capital goods sent for job work are returned back within 3 years of removal.

Additional Questions & Answers

These are apart from Examples in main book

Otherwise, it shall be treated as supply from principal to job worker as on 15.8.2017 and subject to tax along with interest.

In the present case, as the machinery is received back on 30.12.2018 i.e. before completion of 3 years, and hence no tax is payable.

- (ii) XYZ & Co. sends the machinery back to ABC Ltd. on 30.9.2020: In present case, the machinery is received after the period of three years and hence ABC Ltd. needs to pay tax taken along with the interest. ABC Ltd. needs to pay Rs. 18,000 (CGST) and Rs. 18,000 (SGST) along with specified interest.

Questions from GST Main Book

Q11. Are transactions of repair included in job work?

Ans. The activity of carrying out repairs on goods will get covered on job work and thus would be covered by provisions of section 143.

Q12. Whether job worker has to be a different person or can some other unit of principal can also become job worker?

Ans. Job worker has been defined to mean undertaking of treatment or process by a person on the goods belonging to another registered taxable person. In view of the fact that another unit of the same person has been categorized as a distinct person. As a distinct person, it has got all the obligations as are applicable to separately registered person, it can be concluded that even if the job worker happens to be another unit of the same person, it would be covered by provisions of sec 143 of the GST Act.

Q13. What would happen in case job worked goods are not received back by the principal within a period of one year?

Ans. In case job worked goods are not received back by the principal within one year of their being sent for job work, it shall be deemed that such goods were supplied by the job worker on the day when these goods were sent out and the principal is required to pay GST on the goods so sent for job work along with interest at the appropriate rate.

Q14. Can goods be sent by the principal for further job work from one job to another job worker?

Ans. Yes, inputs/capital goods can be sent for further job work from one job worker to another job worker. However, time limit of one year/three year to bring back inputs/capital goods after completion of job work, would be counted from the date when they were first sent for job work.

Q15. If job worker purchased additional material and incorporate the same in the goods received from the principal amount to supply?

Ans. Yes, it amounts to supply in the hands of the job worker as composite supply or otherwise.

Q16. Can a job worker take input credit on the inputs used in the process of job work?

Ans. Yes, the job worker is eligible to claim input tax credit since the processing charges received in respect of labour charges and the supply of additional goods added is taxable in the hands of the job worker.

Q17. If the job-worker subsequently registers, should the principal amend his registration by cancelling the job-workers premises as his additional place of business?

Ans. Yes.

Q18. Whether intermediate goods can also be sent for job work?

Ans. Yes. The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.

Chapter 17: - Assessment & Audit

ICAI Test your knowledge

This chapter includes "9 Q & A" of GST main book. Do refer 1 example in GST main book.

Q1. Is summary assessment order to be necessarily passed against the taxable person?

Ans. 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.

Q2. Whether principal of natural justice is must to be followed before passing assessment order against the taxable person?

Ans. 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.

Q3. In what cases, assessment order passed by proper officer may be withdrawn?

Ans. 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.

Q4. 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?

Ans. 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.

Q5. Who can conduct audit of taxpayers?

Ans. 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

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Additional Questions & Answers

These are apart from Examples in main book

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)

Other Questions

Q6. How is the assessment made if the taxable person is not able to determine the value of goods and/or services or determine the rate of tax?

Ans. Where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him. [(Section 60(1))]

Q7. Whether Self-Assessment and provisional assessment are mutually exclusive?

Ans. Yes, if the taxable person opts for self-assessment, he cannot opt for provisional assessment for the same period for same supply. However, he can opt for provisional assessment if he is unable to determine taxable value / tax liability/ (rate of tax) for any subsequent periods.

Q8. What conditions needs to be satisfied by a taxable person for assessment of taxes on provisional basis?

Ans. The proper officer may allow for payment of tax on provisional basis subject to execution of bond in prescribed form along with surety / security as the proper officer may deem fit binding the taxable person for differential tax, if any. [Section 60 (2)]

Q9. What is the time limit for passing final assessment order in case of provisional assessment?

Ans. Section 60(3) of the CGST Act 2017 provides that the proper officer shall, within a period of six months from the date of communication of the provisional assessment order U/s 60 (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment. However, the time limit of six months can be further extended on sufficient cause being shown and for reasons to be recorded in writing in the following manner:

- (a) by the Joint / Additional Commissioner for a further period of six months;
- (b) by the Commissioner for such further period not exceeding four years.

Q10. What does scrutiny of returns mean under CGST Act, 2017?

Ans. The CGST Act, 2017 empowers proper officer to scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in a manner as may be prescribed. In case of any discrepancies, the proper officer should seek explanation from registered person. On receipt of satisfactory explanation, the proper officer is not required to take any further action. [Section 61 (1) &(2)]
In the event, after accepting the discrepancies, no satisfactory explanation is furnished within a period of thirty days or such further extended time. If the taxable person fails to take the corrective measures in the return for the month in which discrepancy is accepted, the proper officer may initiate audit under Section 65 or special audit under Section 66 or inspection, search and seizure under Section 67 or proceed to determine the tax and other dues under Section 73 or Section 74.

Q11. Whether, The CGST Act, 2017 provides for assessment in case of registered taxable person who does not furnish returns under Section 39 and 45?

Ans. In terms of Section 62(1) of the CGST Act, 2017, the proper officer is empowered to assess the tax liability on such registered taxable person to the best of his judgment taking into account all the relevant materials which is available, or which is gathered and issue an assessment order in FORM GST ASMT-13 within a period of five years from the date specified under Section 44 for furnishing of

the annual return for the financial year to which the tax not paid relates. (Section 62(1) read with Rule 100 (1) of the CGST Rules)

Q12. Whether the registered person will get immunity from interest & late fee leviable if assessment order passed under Section 60(1) is withdrawn?

Ans. No, registered person will still be liable for interest under section 50(1) and late fee under Section 47 of CGST Act. {U/s 60 (2)}

Q13. What is the Time limit for passing the assessment order on the unregistered person?

Ans. The proper officer, in relation to assessment of taxes on the unregistered taxable person, shall issue the assessment order in FORM GST ASMT-15 within 5 years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Q14. Please clarify below related to summary assessment U/s 64 of CGST Act, 2017:-

- Whether proper officer can proceed suo-moto to assess the tax liability of any person on possession of relevant evidence?
- Whether the summary assessment can be initiated based on mere change in opinion of proper officer?
- Whether summary assessment can only be initiated on previously filed return (u/s 34 and u/s 40)?
- Whether the Additional / Joint Commissioner can withdraw the summary assessment order only on application by the taxable person?

Ans.

- No, the proper officer has to obtain prior permission of Additional/Joint Commissioner to proceed to assess the tax liability.
- No, mere change in opinion cannot be treated as evidence for initiation of summary assessment.
- Summary assessment can be initiated on any taxable person. Submission of return u/s 39 and u/s 45 is not prerequisite.
- The Additional / Joint Commissioner can, on his own motion may withdraw the summary assessment order in the event such order is erroneous and thereafter may follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, willful mis-statement etc., or otherwise.

Q15. What is the remedy available to the taxable person if the order passed U/s 64 is erroneous?

Ans. On an application made in FORM GST ASMT-17 within 30 days by taxable person from the date of receipt of order passed summary assessment order the Additional/Joint Commissioner may withdraw such order and follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, willful mis-statement etc., or otherwise. {U/s 64 (2)}

Q16. What is the scope of audit U/s 65?

Ans. In an audit, examination is done:

(a) to verify the correctness of

- Turnover declared
- Taxes paid
- Refund claimed and
- Input Tax credit availed

(b) to assess the compliance with the provisions of this Act or rules made thereunder. [S. 2(13)]

Additional Questions & Answers

These are apart from Examples in main book

Q17. Whether audit by officer can be done for a person other than registered person U/s 65?

Ans. Audit by officer cannot be ordered for a person who is not registered even if he is required to be registered as per the provisions of the law. [S. 65(1)]

Q18. What shall be the period and frequency of audit U/s 65?

Ans. The period of audit shall be a financial year. Although, multiple financial years can also be audited. [R.101(1)].

Q19. What process of audit is required to be followed by the officer in case audit is conducted U/s 65?

Ans. Following process is to be followed for conduct of audit by officer:

1. Proper Officer shall verify the documents, correctness of turnover, exemptions and deductions claimed, the rate of tax applied, input tax credit availed and utilized and refund claimed. [R.101(3)]
2. Proper Officer shall record the observations in audit notes. [R. 101(3)]
3. Proper Officer may inform discrepancies noticed during audit to registered person [R.101(4)]
4. Registered Person shall reply to discrepancies [R. 101(4)]
5. Proper officer shall finalize findings of audit only after due consideration of reply [R. 101(4)]
6. On the conclusion of audit, Proper Officer shall inform the Registered Person whose records are audited about the:
 - findings
 - reasons for findings,
 - assessee's rights and obligations. [S. 65(6)]
7. Information of findings, reasons, right and obligations shall be made within 30 days (in FORM GST ADT-02) [S. 65(6)]

Q20. What action will be initiated when the audit conducted u/s 65(1) results in a demand?

Ans. Where the audit u/s 65(1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the proper officer may initiate action under Section 73 or Section 74.

Q21. At what stage the directions of special audit can be given?

Ans. At any stage of scrutiny, inquiry, investigation or any other proceedings, having regard to the nature and complexity of the case and interest of revenue, a direction to Registered Person to get its accounts examined and audited can be given [S.66(1)]

Q22. Whether already audited accounts are also covered by special audit?

Ans. Special Audit may be directed even if accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.[S.66(3)]

Q23. How to deal with detection of short paid taxes as a result of special audit?

Ans. Where audit results in detection of tax not paid/short paid /erroneous paid or ITC wrongly availed or utilized, Proper Officer may initiate action u/s 73 or 74 [S.66(6)]

Q24. Whether the phrase "nature and complexity of the case" is defined in the Act?

Ans. No, Section 66 does not define the phrase "nature and complexity of the case". However, there is enough jurisprudence under the Income Tax Laws to determine what will constitute complexity of the case.

Questions from GST Main Book

Q25. Can a person who has furnished a return on self-assessment basis make a request for provisional assessment?

Ans. For provisional assessment a request needs to be made to proper officer for filing return on provisional basis. In case the taxable person furnishes the return on self-assessment basis, he foregoes the right to make an application for permission to furnish return and pay tax on provisional basis.

Q26. Please provide brief summary on various assessments.

Ans.

Section	Type of Assessment	Assessment by	Conditions precedent to assessment
59	Self-assessment	Taxable Person	Where registered taxable person assesses his tax liability himself.
60	Provisional assessment	Proper Officer	Where registered taxable person is unable to determine following: - Value of supply, and/or - Rate of applicable tax on supply
61	Scrutiny assessment	Proper Officer	Verifying the correctness of the return by scrutinizing the return and particulars furnished by taxable person.
62	Assessment of non-filers of return (Best Judgement Assessment)	Proper Officer	Where the registered taxable person fails to furnish return U/s 39 or Sec. 45 even after service of notice U/s 46.
63	Assessment of unregistered person (Best judgment assessment)	Proper Officer	Where a taxable person fails to obtain registration, even though liable to do so.
64	Summary Assessment	Proper Officer	To protect the interest of revenue with previous permission of Additional/Joint Commissioner.

Q27. Audit has to be completed within a stipulated period of three months (subject to extension) from the date of commencement. What is implied by date of commencement of audit?

Ans. 'Commencement of audit' shall imply that date on which the records and other documents, called for by the tax authorities, are made available by the taxable person or date of actual institution of audit at the place of business, whichever is later. The period of three months can be extended by six months for reasons to be recorded in writing.

Example:

Date of which documents requested	1st April 2017
Date of which documents/recorded made available	20th April 2017
Date of actual institution of audit at auditee's placed	5th May 2017
The date of commencement of audit will be taken as	5th May 2017
Date by which audit should be completed in normal course	4th Aug 2017
Last date by which audit should be completed (including extended period)	4th Feb 2018

Q28. What is the difference between the two audit Sec. 65 and Sec. 66?

Ans.

Issue	Audit U/s 65	Audit U/s 66
Trigger Point	General audit; audit of business transaction, no specific reason to be cited	Nature & complexity of case, interest of revenue, incorrect value of supply or abnormal availment of credit

Additional Questions & Answers

These are apart from Examples in main book

Nature of Audit	Departmental Audit	Special Audit
Conducted by	Officers of department authorized by commissioner	Chartered Accountant/cost accountant appointed by commissioner
Frequency	Discretionary	Discretionary
Prior notice to auditee	Yes, 15 days' notice is required	No such notice/intimation envisaged
Time for conclusion of audit	3 months, further extension of 6 months allowed	90 days, further extension of 90 days allowed
Audit findings report	To be intimated soon on completion of audit	Report to deputy/assistant commissioner
Audit expenses	Borne by department	Borne by department
Opportunity of being heard	No specific provision	Yes, where material gathered during audit is to be used in any proceedings against the auditee
Action based on report	If results in demand of tax, shall be recovered U/s 73 or 74	If results in demand of tax, shall be recovered U/s 73 or 74

Q29. What would be the process of Scrutiny of Returns?

Ans. The proper officer would inform registered person of the discrepancies noticed during the course of scrutiny of returns. The proceedings would be dropped if the explanation submitted by the registered person is found acceptable. However, if no explanation is furnished within the stipulated period by the registered person or no corrective action is taken by the registered person after accepting discrepancy, proper officer may initiate appropriate action against the registered person.

Q30. What are the consequences on conclusion of provisional assessment by way of passing final assessment order in so far as short/excess remittance of tax is concerned?

Ans. The consequences on concluding the provisional assessment by way of passing final assessment order would be as follows:

- **Additional tax liability:** In case of short remittance of taxes in terms of final assessment order, the additional tax liability, if any should be remitted along with interest at the rate prescribed U/s 50 (1) for delay in remittance of taxes viz., from the 1st day after the due date of remittance of taxes as prescribed U/s 39 (7) till the date of actual payment.
- **Excess remittance of tax on provisional basis:** In case of excess remittance of taxes in terms of final assessment order, the registered person is entitled to refund of such excess remittance in the manner as provided in Section 54 (8) along with interest as provided under Section 56.

Q31. Whether any time limit has been specified to issue notice for scrutiny?

Ans. No, the provisions relating to scrutiny assessments do not specify time limit for issuing notice for scrutiny of assessments.

Q32. Whether any reason to believe or evidence is required for initiate audit U/s 65?

Ans. No, Section 65 doesn't specify any such requirements. Commissioner can initiate audit on any taxable person for such period, at such frequency and in such manner as may be prescribed.

Q33. Is there any additional opportunity provided for taxable person to submit a return even after passing an assessment order under Section 62 (1)?

Ans. Yes, if the registered person furnishes a valid return within 30 days from the date of service of best judgement assessment order u/s 62 (1), the said assessment order shall be deemed to have been withdrawn.

Chapter 18: - Inspection, Search, Seizure & Arrest

This chapter includes "5 Q & A" of GST main book.

ICAI Test your knowledge

Q1. Who can order for carrying out "Inspection" and under what circumstances?

Can any premises be inspected by CGST officers?

Ans. As per Section 67(1), Inspection can be carried out by any officer of Central tax only upon a written authorization in Form GST INS-01 given by a proper officer not below the rank of Joint Commissioner. Such proper officer can give such authorization only if he has reasons to believe that the person concerned has –

- (a) suppressed any transaction of supply;
- (b) suppressed stock of goods in hand;
- (c) claimed excess input tax credit;
- (d) contravened any provisions of this Act or rules made thereunder to evade tax;
- (e) a transporter or an owner or operator of a warehouse or godown or any other place, has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax.

CGST officer authorized by the proper officer not below the rank of Joint Commissioner shall have the powers to carry out inspection of any of the following places / premises:

- (a) any place of business of a taxable person;
- (b) any place of business of a person engaged in the business of transporting goods;
- (c) any place of business of an owner or an operator of a warehouse or godown;
- (d) any other place

Q2. Who can order for search and seizure under the provisions of CGST Act?

Ans. Proper officer not below the rank of Joint Commissioner can himself or authorize any other CGST officer in FORM GST INS-01 (Chapter-XVII-Inspection, Search and Seizure of the CGST Rules) to carry out search and seize goods, documents, books or things. Such authorization can be given only where the proper officer has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted / hidden in any place.

Where any goods, documents, books or things are liable for seizure, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.

Q3. What powers can be exercised by an officer during valid search?

Ans. An officer carrying out a search has the power to search for and seize goods (which are liable to confiscation) and documents, books or things (relevant for any proceedings under the Act) from the premises searched. During search, the officer has the power to seal or break open the door of the any premises authorized to be searched if access to the same is denied. Similarly, while carrying out search within the premises, he can break open any almirah, electronic devices, box, receptacle if access to such almirah, electronic devices, box, receptacle is denied and in which any goods, account, registers or documents are suspected to be concealed.

Q4. What are the duties of the person to whom summons has been issued?

Ans. A person who is issued summon is legally bound to attend either in person or by an authorized representative and he is bound to state the truth before the officer who has issued the summon upon any subject, which is the subject matter of examination and to produce such documents and other things as may be required.

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Additional Questions & Answers

These are apart from Examples in main book

Q5. What is meant by the term “arrest”? When can the proper officer authorize ‘arrest’ of any person under CGST Act?

Ans. The term ‘arrest’ has not been defined in the GST Act. However, as per judicial pronouncements, it denotes ‘the taking into custody of a person under some lawful command or authority’. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or colour of lawful warrant. The Commissioner of CGST, by order, can authorize any CGST officer to arrest a person, if he has reasons to believe that such person has committed an offence specified in clause (a) or (b) or (c) or (d) of section 132(1) which is punishable under clause (i) or (ii) of section 132(1) or section 132(2) of the Act. This essentially means that a person can be arrested only when the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds Rs. 2 Crores or where a person has earlier been convicted for an offence under section 132 of the CGST Act.

Other Questions

Q6. What is the meaning of ‘Inspection’, ‘Search’ & ‘Seizure’?

Ans.

Inspection	Search	Seizure
It is a softer provision than search to enable officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner or an operator of a warehouse or godown.	The term ‘search’, in simple language, denotes an action of a government machinery to go, look through or examine carefully a place, area, person, object etc. in order to find something concealed or for the purpose of discovering evidence of a crime. The search of a person or vehicle or premises etc. can only be done under proper and valid authority of law.	In Law Lexicon Dictionary, ‘seizure’, is defined as the act of taking possession of property by an officer under legal process. It generally implies taking possession forcibly contrary to the wishes of the owner of the property or who has the possession and who was unwilling to part with the possession.

Q7. Which are the places of business / premises which can be inspected by the CGST officer?

Ans. CGST officer authorized by the proper officer not below the rank of Joint Commissioner shall have the powers to carry out inspection of any of the following places / premises:

- (a) any place of business of a taxable person;
- (b) any place of business of a person engaged in the business of transporting goods;
- (c) any place of business of an owner or an operator of a warehouse or godown or any other place;

Q8. Is it mandatory that such ‘reasons to believe’ has to be recorded in writing by the proper officer, before issuing authorization for Inspection or Search and Seizure?

Ans. Although the officer is not required to state the reasons for such belief before issuing an authorization for search, but he should disclose the material on which his belief was formed. ‘Reason to believe’ need not be recorded invariably in each case.

Q9. Is there any special document required to be carried during transportation of taxable goods?

Ans. Yes. The person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount to carry with him such documents and devices as may be prescribed by the Government. On interception of the conveyance, the person in charge shall produce the prescribed documents and devices for verification and allow inspection of goods by the proper officer. Rule 138A of the CGST Rules, 2017 provides for the following documents and devices to be carried:-

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

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

Q10. What is meant by term 'Arrest' and 'Cognizable & Non Cognizable Offence'?

Ans.

Arrest	Cognizable Offence	Non Cognizable Offence
The term 'arrest' has not been defined in the CGST/SGST Act. However, as per judicial pronouncements, it denotes 'the taking into custody of a person under some lawful command or authority'. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or colour of lawful warrant.	Generally, cognizable offence means <u>serious category of offences</u> in respect of which a police officer has the authority to <u>make an arrest without a warrant</u> and to start an investigation with or without the permission of a Court.	Non-cognizable offence means an offence in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without the permission of a Court.

Q11. What are the safeguards provided for a person who is placed under arrest?

Ans. The following are the safeguards provided for a person who is placed under arrest:

- If a person is arrested for a cognizable offence, he must be informed in writing of the grounds of arrest and he must be produced before a Magistrate within 24 hours of his arrest;
- If a person is arrested for a non-cognizable and bailable offence, the Deputy/ Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

All arrest must be in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrest.

Q12. Can the proper officer access business premises of a registered taxable person?

Ans. Yes. An audit party of CGST, deputed by proper officer or a cost accountant or chartered accountant nominated under section 66 have access to any business premises without issuance of a search warrant for the purposes of revenue carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of. Further, in terms of Section 71(1), an officer authorised by a proper officer not below the rank of Joint Commissioner can also have access business premises of a registered person.

Questions from GST Main Book

Q13. What is the distinction in law between 'Seizure' and 'Detention'?

Ans. Denial of access to the owner of the property or the person who possesses the property at a particular point of time by a legal order/notice is called detention. Seizure is taking over of actual possession of the goods by the department. Detention order is issued when it is suspected that the goods are liable to confiscation. Seizure can be made only on the reasonable belief which is arrived at after inquiry/investigation that the goods are liable to confiscation.

Q14. What is meant by inspection? How is it different from search?

Ans. Both 'inspection' and 'search' have not defined in the GST. Inspection is nothing but verification to ascertain facts or evidences in relation to business transactions of a taxable person. It may involve access to business premises.

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Additional Questions & Answers

These are apart from Examples in main book

Shorter Oxford English Dictionary defines 'Search' to mean to probe, scrutinize, examine, investigate. The rights of the state to authorize a search are well recognized and are used against those who perpetrate fraud on the revenue.

There have to be compelling reasons to order for a search is transgression into one's privacy. In case of search, due process of law has to be followed. In case of taxes, a suspicion of undisclosed or concealed income or assets is sufficient for issuance of a search warrant.

Q15. What is meant by the expression 'reason to believe'?

Ans. The expression, 'reason to believe' is not defined anywhere but needs to be understood through judicial interpretation, some of which are as follows:

In *ITO v Lakhmani Mewal Das* (1976) 103 ITR 437 (SC), it was held that the expression 'reason to believe' doesn't mean a purely subjective satisfaction on the part of the income-tax officer. The reason must be held in good faith. It cannot be merely a pretence.

In *CIT v Kelvinator India Ltd.* (2010) 320 ITR 562 (SC), it was held that there must be tangible material for the formation of the belief in the context of search.

As per Sec. 26 of IPC, a person is said to have reason to believe a thing, if he has sufficient cause to believe that thing, but not otherwise.

Q16. Will access to place of business premises U/s 71 also include unregistered premises?

Ans. Perhaps, yes. This provision facilitates access to a business premise which is not registered by a taxable person as a principal or additional place of business but has books of accounts, documents, computers etc. which are required for audit or verification of accounts of a taxable person.

Q17. Whether the list of documents/information is exhaustive and no other document can be inspected?

Ans. No, the list of documents is considered illustrative. Certain documents are specifically listed in this provision but if any other relevant records are maintained at the said premises, they may also be required to be produced.

Chapter 19: - Demands & Recovery

ICAI Test your knowledge

This chapter includes "12 Q & A" of GST main book. Do refer 3 examples in GST main book.

Q1. Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth Rs. 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.

Ans. 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.

Q2. Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74 of the CGST Act, 2017.

Ans. 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.

Q3. Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017? If yes, discuss the same.

Ans. 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)].

Q4. 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?

Ans. 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)].

Additional Questions & Answers

These are apart from Examples in main book

Q5. Briefly discuss the modes of recovery of tax available to the proper officer.

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

- Deduction of dues from the amount owned by the tax authorities payable to such person.
- Recovery by way of detaining and selling any goods belonging to such person;
- 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;
- 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.
- 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.
- 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.
- By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
- CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

Other Questions

Q6. What is the prescribed monetary limit for different levels of officers for issuance of show cause notices and orders under Section 73 and 74?

Ans. As per Circular No. 31/05/2018-GST dated 9.02.2018, the monetary limit prescribed for different levels of officers for issuance of show cause notices and orders under Section 73 and 74 is as below:

Designation of Officer	Monetary limit of the amount of CGST (including cess) for issuance of show cause notices & orders u/s 73 & 74 of CGST	Monetary limit of the amount of IGST (including cess) for issuance of show cause notices & orders u/s 73 and 74 of CGST Act made applicable to IGST	Monetary limit of the amount of CGST and IGST (including cess) for issuance of show cause notices & orders u/s 73 and 74 of CGST Act made applicable to IGST
Superintendent	Up to Rs.10 lakhs	Up to Rs.20 lakhs	Up to Rs.20 lakhs
Deputy or Assistant Commissioner	Above Rs.10 lakhs up to Rs.1 crore	Above Rs.20 lakhs up to Rs.2 crore	Above Rs.20 lakhs up to Rs.2 crore
Additional or Joint Commissioner	Above Rs.1 Crore	Above Rs.2 Crore	Above Rs.2 Crore

Q7. Please explain time limit for issue of notice U/s 73 & U/s 74 by giving example.

Ans. Under Section 73: Let say, in case Mr. A has not paid the tax on a transaction considering it to be exempt for the tax period of August 2017. The due date of filing annual return for which will be 31st December 2018. The proper officer may serve the notice at least three months prior to the last date of order of demand.

The order of demand shall be served within 3 years from 31st December 2018 i.e. 31st December 2021. Therefore, show cause notice shall be required to be served by 30th September, 2021.

Under Section 74: Let say, in case Mr. A has not paid the tax on a transaction for the tax period of August 2017. The due date of filing annual return for which will be 31st December 2018. The proper officer may serve the notice at least six months prior to the last date of order of demand

The order of demand shall be served within 5 years from 31st December 2018 i.e. 31st December 2023. Therefore, show cause notice shall be required to be served by 30th June, 2023.

Q8. Whether proper officer can issue similar show cause notice for any periods other than those covered under section 73(1)?

Ans. Yes, it can be issued for subsequent periods on same grounds raised in the show cause notice. The proper officer may serve a statement under section 73(3) along with a summary electronically in Form GST DRC-02 containing details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized where the grounds relied upon by the proper officer for such periods are the same as are mentioned in the earlier notice issued under section 73(1). The service of such statement shall be deemed to be service of show cause notice on the person chargeable with tax.

Q9. Whether notice for a period of 5 years is valid even if charge of suppression, fraud and misstatement are not sustained?

Ans. No, when the allegations of fraud, suppression or misstatement are not established, the notice issued under section 74 would get covered under section 73 and 3 years' time would be applicable for date of issue of order.

Q10. What happens when the Notice issued under Section 74(1) is held not sustainable by any Appellate Authority or Tribunal or Court for the reason that the charges of fraud or any willful misstatement or suppression of facts to evade tax has not been established?

Ans. The proper officer shall determine the tax payable by such person deeming as if the Notice were issued under section 73(1).

Q11. What is the time limit for issue of order in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a Court?

Ans. The order shall be issued within 2 years from the date of communication of the said direction.

Q12. What happens in cases where Notice is issued but order has not been passed within 3 years (Section 73) or 5 years (Section 74)?

Ans. The adjudication proceedings shall be deemed to be concluded if the order is not issued within the limitation period of 3 years under section 73(10) or 5 years under section 74(10), as the case may be.

Q13. Is interest applicable in all cases, even if not specifically mentioned?

Ans. Yes, interest is applicable whenever the tax is payable whether or not it is specifically mentioned.

Q14. In case the person does not deposit tax collected in contravention of Section 76, is the same recoverable with interest?

Ans. Yes. In addition to the amount payable by him, the person is required to pay interest under Section 50 on the same from the date of collection of the amount till the date such amount is paid to the Government.

Q15. Is there any time limit for issue of notice under section 76 in cases where tax collected but not paid to Government?

Ans. No. Notice can be issued on detection of such cases without any time limit. Once show cause notice is issued, the proper officer shall pass the order within 1 year from the date of issue of such notice.

Q16. How is the amount of surplus left after adjustment with tax payable dealt with?

Additional Questions & Answers

These are apart from Examples in main book

Ans. Where any surplus is left after the adjustment against the tax payable, the amount of such surplus shall either be credited to the Consumer Welfare Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.

Q17. What happens if the tax demand is not paid within the time limit prescribed under section 78?

Ans. The proper officer shall initiate recovery proceedings if the tax demand is not paid within 3 months from the date of service of the order.

Q18. Whether the proper officer can require a taxable person to make payment of tax demand within shorter period lesser than 3 months?

Ans. Yes. If it is expedient in the interest of the revenue, the proper officer, after recording reasons in writing, may require taxable person to make such payment within shorter period as may be prescribed by him.

Q19. What are the methods of recovery as prescribed in Section 79?

Ans.

- Deduction out of any money owing to defaulter.
- By detaining and selling the goods belonging to defaulter.
- Recovery from any other person who owes money to defaulter.
- Collection by detention of any movable or immovable property.
- Recovery through District Collector.
- Recovery through Magistrate.

Q20. Whether proper officer can allow payment of self-assessed tax in instalments U/s 80?

Ans. No. The proper officer shall have the power to allow payment of any amount due under this Act in instalments on tax other than the self-assessed tax.

Q21. Under which proceedings the property of a taxable person can be provisional attached?

Ans. Provisional attachment shall be applicable for the following pending proceedings of a taxable person:

- (a) Assessment of non-filers of returns. (Section 62)
- (b) Assessment of unregistered persons. (Section 63)
- (c) Summary assessment in certain special cases. (Section 64)
- (d) Inspection, search and seizure. (Section 67)
- (e) Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any wilful misstatement or suppression of facts. (Section 73)
- (f) Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts. (Section 74)

During the pendency of any proceedings under section 62, 63, 64, 67, 73 or 74, the Commissioner may pass an order in Form GST DRC-22 to attach any property including bank account belonging to a taxable person provisionally for the purpose of protecting the interest of the Government revenue.

Q22. Whether any amount payable by the taxable person under this Act is a first charge on his property?

Ans. Yes. As per section 82 of CGST Act 2017, notwithstanding anything to the contrary contained in any law for the time being force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, first charge shall be on –

- a) the property of taxable person in respect of any amount payable by such taxable person, or
- b) the property of any other person on account of tax, interest or penalty which he is liable to pay to the Government.

Q23. In case of recovery of SGST/UTGST by CGST officer in the course of recovery of CGST, where the total amount recovered is Rs. 5 Crore whereas the amounts due were Rs. 5 Crores of CGST and Rs. 10 Crore of SGST/UTGST, to which account, the amount recovered would be allocated?

Ans. Rs. 5 Crores recovered will be allocated between Centre and State/Union Territory in the proportion of 1:2.

Q24. 'A' requested the Commissioner to provide the benefit to pay Rs. 5,00,000/- under installments. Commissioner directs 'A' to make the payment in five monthly installments. How to pay the interest?

Ans. It is assumed that the actual date on which the tax was required to be paid as 06.06.2015. Benefit of instalment was granted by Commissioner on 25.06.2016 to be paid w.e.f. 02.06.2016 onwards over 5 installments.

Payment date	Interest to be paid as per section 45 – No of days	Amount on which interest to be paid
1st Instalment – 02.06.2016	06.06.2015 to 01.06.2016 = 361 days	Rs. 100,000
2nd Instalment – 02.07.2016	06.06.2015 to 01.07.2016 = 391 days	Rs. 100,000
3rd Instalment – 02.08.2016	06.06.2015 to 01.08.2016 = 422 days	Rs. 100,000
4th Instalment – 02.09.2016	06.06.2015 to 01.09.2016 = 453 days	Rs. 100,000
5th Instalment – 02.10.2016	06.06.2015 to 01.10.2016 = 483 days	Rs. 100,000

Q25. Please provide comment for below with respect to provision U/s 81.

- Mr. Defrauder was served with a notice of demand for Rs. 20 Lakhs on 10th June 2018. He filed a reply for the said notice on 20th June 2018, stating that he was unable to deposit tax dues as he was financially stressed. On 15th June 2018, Mr. Defrauder transferred all the property worth Rs. 35 Lakhs under his name to the name of his wife for a consideration of Rs. 10,000/-. Is this act of Mr. Defrauder valid?
- In the above illustration, if transfer of property was for a consideration of Rs. 42 Lakhs to Mr. X who is unaware of the pending proceedings of Mr. Defrauder. The transfer took place on 15th June 2018. Is the act of Mr. Defrauder valid?
- On Mr. Perfect, notice was issued on 10th June 2018. However, the same was received by Mr. Perfect on 20th June, 2018. Meanwhile the property of Mr. Perfect was sold to Mr. Perfectionist for Rs. 35 lakhs. Is the sale void or valid?

Ans.

- As per section 81, the said transfer would be void and the property worth Rs. 35 Lakhs would be considered still to be in the hands of Mr. Defrauder.
- In this case the transaction would be a valid act, since the transfer was made for adequate consideration and also without notice of the pendency of proceeding.
- The sale is valid since on the date of sale there was no pending proceeding on Mr. Perfect.

Q26. How should the recovery proceedings of enhanced demand under an appeal, revision of application or other proceedings to be continued U/s 84?

Ans. In case of enhanced demand consequent to appeal, revision of application or other proceedings, then

- the Commissioner is required to issue fresh notice of demand only for enhance demand.
- If already recovery proceedings of Govt. dues is served on taxable person before disposal of appeal, revision of application or other proceedings, then the enhanced demand would be merged with the first recovery proceedings.

Q27. Checkernot has self-assessed tax liability under IGST Act, 2017, as Rs. 80,000. He fails to pay the tax within 30 days from the due date of payment of such tax.

Determine the interest and penalty payable by him explaining the provisions of law, with the following particulars available from his records:

Date of collection of tax 18th December, 2017

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Additional Questions & Answers

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Date of payment of tax 26th February, 2018

No Show Cause Notice (SCN) has been issued to him so far, while he intends to discharge his liability, even before it is issued to him, on the assumption that no penalty is leviable on him as payment is made before issue of SCN. (CA Final May 2018 Old)

Ans. Due date for payment of tax collected on 18.12.2017 is 20.01.2018. However, since tax is actually paid on 26.02.2018, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with Notification No. 13/2017 CT dated 28.06.2017.

Amount of interest is: = Rs. 80,000 × 18% × 37/365 = Rs. 1,460 (rounded off)

As per section 73(11) of CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

(i) 10% of tax, viz., Rs. 8,000 or

(ii) Rs. 10,000,

whichever is higher,

is payable in terms of section 73(9) of CGST Act, 2017. Therefore, penalty of Rs. 10,000 will have to be paid by Checkernot.

Questions from GST Main Book

Q28. Will Omission on the part of the taxable person to provide correct information constitute 'suppression of facts' for the purpose of Section 74 of the CGST Act, 2017? Write a brief note with reasons.

Ans. Yes. As per explanation to Section 74 of CGST Act, 2017, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer. Thus, omission on the part of the taxable person to provide correct information constitute "suppression of facts".

Q29. A Ltd. is entitled for exemption from tax under GST Act. It collected tax from its buyers in Nov'17. It has not deposited the said amount collected as GST with the Government. What are the consequences of not depositing the same with Government as provided U/s 76?

Ans. It is mandatory to pay amount, collected from other person representing tax under GST Act, to the Government [Sec. 76]. Every person who has collected from any other person any amount as representing the tax under GST Act, and has not 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. 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 along with 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.

Q30. Can the person chargeable with the tax seek adjournment of hearings?

Ans. Yes, the person chargeable with tax can seek adjournment of hearing and he can be granted time in case sufficient cause is shown by person chargeable with tax. The hearing will be adjourned for reasons to be recorded in writing. As provided in Sec. 75 (5) of the GST Act, no such adjournments shall be provided for more than 3 times.

Q31. Would taxable person would be liable for payment of interest besides paying the tax U/s 77?

Ans. No, Sec. 77 (2) provides that such taxable person would not be liable for payment of interest on the amount of central tax or state tax as the case may be.

Q32. Can the refund claim on account of Sec. 77 be subjected to provision of undue enrichment?

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Ans. No, the claim of refund due to Sec. 77 will not be subjected to provision of undue enrichment. This has also been clarified by the Government in flier of refunds issued by CBEC.

Q33. Can GST be collected, during a search operation, without an assessment order being passed by the concerned authority?

Ans. No. In case law Chitra Builder Pvt. Ltd. V Addl. Commi. Of CCex & ST [2013] [Mad], it was held that it is a well settled position in law that no tax can be collected from the assessee, without an appropriate assessment order being passed by the authority concerned and without following the procedures established by law.

Q34. When can extended period of limitation can be invoked?

Ans. U/s 74, extended period of limitation can be invoked if the GST has not been paid or has been short-paid or erroneously refunded by reason of fraud or wilful mis-statement or suppression of facts or contravention of any of the provision of CGST Act or of rules made thereunder with an intent to evade the payment of GST.

Q35. M/s ABC Ltd., were granted a refund by the Appellate Authority under CGST Act, 2017. The jurisdictional Assistant Commissioner has issued a notice U/s 73 demanding the amount of refund on the ground that such a refund is erroneous. Briefly discuss whether the action taken by Assistance Commissioner of Central Excise is valid in law.

Ans. It is well settled law that if an order passed by statutory authority is not challenged by way of appeal/revision or otherwise and the same becomes final, the said order holds the field and the same has to be given full effect to. Nothing can be done and/or adjudicated, which is in contravention of what has been held in that order. In overseas Engineers V/s CCEX [2007] [Tri], it was held that where orders sanctioning refund were not appealed against or reviewed by Department, then, recovery from the appellant of refund paid to him, by issuance of show cause notice U/s 73 is not tenable/sustainable.

Q36. How to compute period of limitation referred to in Section 73 (10) or Section 74 (10) where an issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of the revenue in some other proceedings and an appeal in the Appellate Tribunal or the High Court or the Supreme Court against such decision is pending?

Ans. While computing the period of limitation referred to in Section 73 (10) or Section 74 (10), the period spent between the date of the decision of the Appellate Authority/Appellate Tribunal/High Court and the date of the decision of the Appellate Tribunal/High Court/Supreme Court as the case may be, shall be excluded.

Q37. What will be the recourse available to the proper officer in case of default in payment of any instalment on its due date by the taxable person?

Ans. Where there is default in payment of any one instalment on its due date by the taxable person, the whole outstanding balance payable on such date shall become due and payable forthwith, without any further notice. The proper officer can initiate recovery of dues.

Q38. In case the person does not deposit tax collected in contravention of Section 76, what is the course of action available to the proper officer?

Ans. The proper officer shall issue notice requiring him to show cause as to

- Why the amount so collected as tax should not be paid by him to the Government;
- Why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of the Act; and
- The proper officer shall adjudicate the matter and issue order within 1 year from the date of issue of the show cause notice.

Q39. Whether the amount of tax, interest and penalty demanded in the order can exceed the amount specified in the notice?

Ans. No. The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

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Additional Questions & Answers

These are apart from Examples in main book

Chapter 20: - Liability to pay tax in certain cases

This chapter includes "7 Q & A" of GST main book. Do refer 1 example in GST main book.

ICAI Test your knowledge

Q1. 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.

Ans. 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.

Q2. 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 86 of the CGST Act.

Ans. 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.

Q3. 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.

Ans. 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.

Q4. 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.

Ans. 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.

Q5. What happens to the GST liability when the estate of a taxable person is under the control of Court of Wards?

Ans. 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.

Other Questions

Q6. In respect to Section 85, whether the transferor of business is liable to pay tax / interest / penalties even in respect of the transactions undertaken after the transfer of business?

Ans. No. The transferor of business is liable to pay tax / interest / penalties arisen (whether determined prior to transfer or post transfer) upto the date of transfer of business.

Q7. Whether an agent can only be held liable for payment of tax on transactions effected on behalf of principal?

Ans. No. Both agent and principal are jointly and severally liable to pay the tax on such transactions.

Q8. In case of an amalgamation, supplies effected for the period from effective date till the date of order of the Court between the Companies inter-se is liable to tax?

Ans. Yes. In terms of Section 87(1) of the CGST Act, 2017, the supplies between the Companies inter-se for the period starting from effective date and ending with the date of order of the Court is liable to tax and supply and receipt shall be included in the turnover of supply or receipt of the respective Companies.

Q9. Whether in an amalgamation, the Companies shall be treated as separate entities for the period starting from effective date and ending on the date of Order of the Court?

Ans. Yes, for the purposes of this Act, the two or more companies amalgamated or merged in pursuance of an Order of Court or of Tribunal or otherwise, shall be treated as distinct companies for the period up to the date of the said Order and the registration certificates of the said companies shall be cancelled with effect from the date of the said Order.

Q10. Please explain provision related to Liability in case of discontinuation of business by HUF / AOP / firm U/s 94?

Ans. Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

1. the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and
2. every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

Q11. Liability in case where HUF / AOP/ firm where the property is partitioned/dissolved amongst the members?

Ans. In case where the property of HUF/AOP is partitioned amongst the various members or groups of members, then each member or group of members shall jointly and severally, be liable to pay tax, interest or penalty pertaining to the period prior to the date of partition. Similarly, all the partners of the partnership firm shall be jointly and severally liable to pay tax, interest or penalty for the period prior to the date of dissolution. Such unpaid amount of tax, interest or penalty is determined either prior to partition / dissolution or otherwise.

Additional Questions & Answers

These are apart from Examples in main book

Questions from GST Main Book

Q12. A person, liable to pay GST, interest and penalty under GST Act, dies. Who will be liable to pay his dues after his death if business carried on by such person legal representative or business carried on by such person who has dies, is discontinued after his death?

Ans. As per Section 93, 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.

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.

Q13. ABC Ltd. engages XYZ Ltd. as an agent to sell goods on its behalf. XYZ Ltd. sells goods to DEF Ltd. on behalf of ABC Ltd. Who will be liable U/s 86?

Ans. 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 Ltd. and XYZ Ltd. shall, jointly and severally, be liable to pay GST payable on such goods.

Q14. Whether the minor for whom the business is carried out by Guardian can escape liability on the ground of minority of the beneficiary?

Ans. The minor is deemed to be a major for the purposes of collection of any tax/interest/penalties arising out of the business carried out for him. Hence the general principle of law has no application and the Guardian, Trustee or Agent cannot escape such liability.

Q15. Who is liable to pay tax dues if the estate of a taxable person is controlled by Court of Wards?

Ans. The dues are recoverable from the Court of Wards as if he is conducting the business for himself. Mr. Amit Roy is appointed as manager of Mr. Sumit, to manage the estate of Mr. Sumit, who owns the business of glasses. Mr. Sumit is liable to pay Rs. 10 Lakhs of GST, interest & penalty to the Government. The department can recover such dues from Mr. Amit Roy who is managing the estates of Mr. Sumit by invoking Section 92.

Q16. Whether the director of a Private Limited Company is liable for the payment of tax in respect of the supply made by or to such Private Company?

Ans. Yes. Every director of the private company during the period for which. tax, interest or penalty due in respect of any supply of goods or services or both, is not recovered shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the Company.

Q17. Whether the liability of the director still exists if such Private Limited Company is converted into Public Limited Company?

Ans. No. If a Private Limited Company is converted into a Public Limited Company, then the provisions of this section do not apply. However, any other personal penalty could be imposed on the Director.

Q18. Whether the retiring partner is liable in respect of the transactions taken place after his retirement?

Ans. No. The Retiring partner is not liable for the transactions taken place after his retirement provided he or the firm intimates to the Commissioner by a notice in writing of his retirement within one month from the date of retirement.

Chapter 21: - Offences & Penalties

This chapter includes "6 Q & A" of GST main book.

ICAI Test your knowledge

Q1. What are the various type of offences which may be committed by a taxable person liable to penalty?

Ans. 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.

Q2. What is the quantum of penalty for an offence mentioned under section 122(1)?

Ans. 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) Rs. 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

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- (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) Rs. 10,000/-; or
- (b) 10% of the tax due from such person

and in case of fraud, or any wilful 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

Q3. Is there any penalty prescribed for a person other than the taxable person?

Ans. Yes, Section 122(3) provides for levy of penalty extending to Rs. 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.

Q4. 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?

Ans. 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 Rs. 25,000/-;
- Mr. Y – Penalty under section 122(1), which will be higher of following, namely
- (i) Rs. 10,000/- or (ii) 100% of tax evaded.

Q5. Suppose, in the above case, a disciplinary action is taken against Mr. X and an adhoc penalty of Rs. 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?

Ans. 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.

Other Questions

Q6. Mr. A has collected tax on supply of exempted goods and did not remit the tax so collected to the Government account. Would Mr. A, be liable to penal and other consequences?

Ans. Yes, in terms of Section 122(1) (iv) of the CGST Act, 2017, collection of tax in contravention to the provisions of the CGST Act, 2017 and subsequent failure to remit the same to the credit of the Government beyond a period of 3 months from the date on which such payment becomes due is an offence attracting penalty of Rs. 10,000/- or amount equal to the amount of tax so collected, whichever is higher.

Further, in terms of Section 132(1) (d) read with Section 132(1) (l) of the CGST Act, 2017, the said offence attracts imprisonment which may extend from 1 year to 5 years based on the quantum of tax evasion.

Q7. Is there any penalty prescribed for any person other than the taxable person U/s 122?

Ans. Yes. Section 122(3) of the CGST Act provides for levy of penalty extending to Rs. 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 CGST 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.

Q8. What is the penalty prescribed for a person who opts for composition scheme despite being ineligible for the said scheme?

Ans. Section 10(5) of the CGST Act provides that if a person who has paid under composition levy is found as not being eligible for compounding then such person shall be liable to penalty to an amount equivalent to the tax payable by him under the provisions of the Act i.e. as a normal taxable person and that this penalty shall be in addition to the tax payable by him.

Q9. When general penalty under Section 125 of CGST Act could be imposed?

Ans. Section 125 of the CGST Act, provides for general penalty which may extend to Rs. 25,000/- on any person, who contravenes any of the provisions of this Act or any rules made thereunder. This penalty would be applicable only where no penalty is separately provided for in this Act.

Q10. Whether officer appointed under GST law has power to detain / seize the goods? When such detention or seizure could be undertaken U/s 129?

Ans. Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of the GST Act or rules made thereunder, all such goods and the conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyances shall be liable to detention or seizure.

Q11. Under what circumstances the detained goods and conveyance seized could be released?

Ans. The goods/ conveyance could be released under the following circumstances:

- (a) on payment of the applicable tax and penalty equal to 100% of the tax payable on such goods, and in case of exempted goods on payment of an amount equal to 2% of the value of goods or twenty-five thousand rupees, whichever is less where the owner of the goods comes forward for payment of such tax and penalty;
- (b) on payment of the applicable tax and penalty equal to the fifty percent of the value of the goods reduced by the tax amount paid thereon, and, in case of exempted goods, on

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payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, where the owner of the goods does not come forward for payment of such tax and penalty;

- (c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed.

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

Q12. What is meant by confiscation?

Ans. The word 'confiscation' has not been defined in the CGST/SGST Act. The concept is derived from Roman law wherein it meant seizing or taking into the hands of emperor, and transferring to Imperial "fiscus" or Treasury. The word "confiscate" has been defined in Aiyar's Law Lexicon as to "appropriate (private property) to the public treasury by way of penalty; to deprive of property as forfeited to the State."

In short it means transfer of the title to the goods to the Government.

Q13. Whether prosecution or other punishments could also be initiated along with confiscation or penalty?

Ans. In terms of section 131 confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall not prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Q14. Whether tax evaded under State GST Act or IGST Act would also be taken in to account for the purpose of the prosecution?

Ans. Yes. In terms of explanation to Section 132 the term tax has been defined to include amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Q15. Whether Government employee could also be prosecuted and punished under section 133?

Ans. Yes, Government servant could also be punished. However, where the person punishable is a Government servant he shall not be prosecuted for any offence under this section except with the previous sanction of the Government.

Q16. What are the consequences of an offence (U/s 137 of CGST Act) has been committed by a Company and it is proved that the offence has been committed with the consent of any director, manager, secretary or other officers of the company?

Ans. If an offence under the Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officers of the Company, then such director, manager, secretary or other officers of the Company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Q17. What are the consequences of offences U/s 137 committed by taxable person being a partnership firm or a LLP or HUF or a trust?

Ans. If offences are committed by taxable person being a partnership firm or a LLP or HUF or a trust, the partner or Karta or managing trustee respectively shall be deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly.

Further, If offences are committed by partnership firm or a LLP or HUF or a trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any

negligence on the part of, the partner or Karta or managing trustee respectively, then such partner or Karta or managing trustee shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Q18. What is meant by compounding of offences? Is compounding of offence made after making payment of tax, interest and penalty involved in such offences U/s138?

Ans. Section 320 of the Code of Criminal Procedure defines "compounding" as to forbear from prosecution for consideration or any private motive.

Yes, compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

Q19. What happens after the offence has been compounded U/s138?

Ans. On payment of compounding amount, no further proceeding shall be initiated under the CGST Act, 2017 against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence shall stand abated.

Questions from GST Main Book

Q20. Mr. A, an unregistered person under GST purchases the goods supplied by Mr. B who is a registered person without receiving a tax invoice from Mr. B and thus helps in tax evasion by Mr. B. What action may be taken by tax authorities to curb such type of cases and on whom?

Ans. Both Mr. A & Mr. B will be liable to penalty as:

Mr. A, penalty U/s 122 (3) which may extend to Rs. 25,000;

Mr. B, penalty U/s 122 (1), which will be higher of Rs. 10,000 or 100% of tax evaded.

Q21. What is the difference between the penalty under sub-section (1) and (3) of sec. 122?

Ans. Apart from the amount of penalty and nature of offences, in sub-section (1) penalty is imposed on a taxable person whereas in sub-section (3), penalty is imposed on any person who may or may not be a taxable person.

Q22. What is the general penalty which can be levied for any violation for which no specific penalty has been prescribed?

Ans. Section 125 of the GST Act prescribes penalty of rupees twenty-five thousand for all those violations of provisions of the Act or any rules for which no penalty is separately provided for under the Act.

Q23. When breach of law will be considered as a minor breach and easily rectifiable mistakes?

Ans. As per explanation to sub-section (1) of section 126 of the GST Act, provides that a 'minor breach' shall be considered as minor breach if the amount of tax involved is less than Rs. 5,000. An omission or mistake in documentation will be considered to be 'easily rectifiable' if the same is an error apparent on record.

Q24. I am collecting tax on supply of goods & services and did not remit the same within 3 months to the Government. Does the same attract penalty? If yes, what is the amount of penalty?

Ans. Collection of tax and non-remittance of the same within 3 months to the Government from the due date for remittance is considered to be an offence under Section 122 (1) (iii) of the CGST Act, 2017 attracting penalty of (a) an amount equal to the tax so collected or (b) an Rs. 10,000 (whichever is higher).

Q25. Whether prosecution or other punishments could also be initiated along with confiscation or penalty?

Ans. In terms of section 131 confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall not prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Additional Questions & Answers

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Chapter 22: - Appeals & Revisions

This chapter includes "15 Q & A" of GST main book.

ICAI Test your knowledge

Q1. 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.

Ans. 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).

Q2. Describe the provisions relating to Departmental appeal to Appellate Authority under section 107 of the CGST Act.

Ans. 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.

Q3. 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?

Ans. 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.

Q4. With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.

Ans. 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-

- the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or
- 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.
- the order has already been taken up for revision under this section at any earlier stage.
- the order is a revisional order

Q5. The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement.

Ans. 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 Rs, 50,000.

Other Questions

Q6. Who is an Appellate Authority?

Ans. "Appellate Authority" means an authority appointed or authorised to hear appeals as referred to in section 107. Section 107 provides that appeal shall be preferred before such Appellate Authority as may be prescribed. Rule 109A provides that for the purpose of appeal, an Appellate Authority shall be:

- the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
- Any officer not the below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent.

Q7. Under what circumstances Commissioner could direct the Officer to prefer an appeal against the order of the adjudicating authority?

Ans. The Commissioner may, on of his own motion, or upon request from the Commissioner of State tax Commissioner of Union Territory tax, call for and examine the records of any proceeding in which an adjudicating authority has passed any decision or order under the CGST Act or the SGST Act or the UTGST Act, for the purpose of satisfying himself as to the **legality or propriety** of the said

Additional Questions & Answers

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decision or order. The Commissioner may by an order, direct any Officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

Q8. What type of order could the Appellate Authority pass? Whether Appellate Authority could refer the case back to Adjudicating Authority?

Ans. The Appellate Authority may pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against. The order shall be in writing giving details as to determination. The Appellate Authority shall, along with its order under section 107(11), issue a statement in FORM GST APL-04 clearly indicating the final amount of demand confirmed.

However, the Appellate Authority does not have power to refer the case back to the Adjudicating Authority that passed the said decision or order.

Q9. Whether Order of the Appellate Authority could also be stayed by Revisional Authority?

Ans. The Order which has been subject to an appeal before the Appellate Authority (section 107) as well as orders of the Appellate Authority which are appealed before the Tribunal cannot be stayed by the Revisional Authority. However, the Revisional Authority could pass an order under revisionary power on any point which has not been raised and decided in an appeal before Appellate Authority. Such, revision order could be passed within 1 year from the date of the order of the Appellate Authority or 3 years from the date of the original order, whichever is later.

Q10. When a Revisional Authority cannot exercise its powers?

Ans. Revisional authority shall not exercise its powers, in case of following:

- (a) When the order has been subject to an appeal before the adjudicating authority (under section 107) or the Tribunal (under section 112) or the High Court (under section 117) or the Supreme Court (under section 118); or
- (b) If the period of 6 months as specified under 107(2) for preferring an appeal by department before Appellate Authority has not yet expired or where more than three years have expired after the passing of the decision or order sought to be revised; or
- (c) where the order has already been taken for revision under section 108 at any earlier stage; or
- (d) revisionary order passed under section 108(1).

Q11. What is the Constitution of National Appellate Tribunal and how the same is constituted? Where the National Bench and Regional Bench shall be located?

Ans. The Central Government shall on the recommendation of the GST Council by Notification constitute Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal) for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

National bench shall be located at New Delhi. The Central Government on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required.

Q12. What is the composition of National Bench and Regional Benches?

Ans. National Bench shall be headed by the National president along with one Technical member (Centre) and one Technical Member (State). Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

Q13. What is jurisdiction of National or Regional Benches of the Appellate Tribunal?

Ans. National or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.

Q14. What is State Bench or Area Bench?

Ans. The Government, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal, for exercising the powers of the Appellate Tribunal within the concerned State or Union territory. Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council.

Q15. What is jurisdiction of State Bench or Area Bench?

Ans. State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in all cases other than those involving matters where one of the issues involved relates to the place of supply.

Q16. What is the composition of State Bench and Area Benches?

Ans. Each State Bench and Area Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

Q17. Whether any matter could be heard by bench consisting of members less than 3 as set out above?

Ans. Yes, in the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members. Further, where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed Rs. 5 Lakhs and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

Q18. What would be consequence where there is a difference of opinion on any issue among the members of the bench?

Ans. If the Members of the Bench (National/Regional/State/Area) differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

Q19. Can the Tribunal reject to entertain an appeal based on the monetary limits?

Ans. Yes. The Tribunal has been conferred with discretion to refuse to admit an appeal where:

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

does not exceed Rs. 50,000/-

Q20. Which are the matters on which the appeal against order of the Tribunal could be preferred before the High Court?

Ans. Appeal shall lie to the High Court against an Order passed by the State Bench or Area Benches of the Tribunal.

Q21. Whether all decisions and orders can be appealed?

Ans. No. in terms of Section 121, orders listed below cannot be appeal against:

- (a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer; or

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- (b) An order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) An order sanctioning prosecution under this Act; or
- (d) An order passed under section 80 relating to payment of tax, interest and other dues in installments.

Q22. An aggrieved person received an order of the Additional Commissioner of Central Tax in relation to adjudication of a demand on 27-08-2017. However, he was aggrieved by the said order, hence he filed an appeal to Commissioner (Appeals) on 27-11-2017. The Commissioner (Appeals), in response, rejected the appeal as he was of the opinion that it was time barred. Discuss.

Ans. Section 107 of CGST Act 2017, provides that a person aggrieved by the order of adjudicating authority may appeal to the Commissioner (Appeals) within 3 months from the date of the communication to him of such decision or order.

In the given case, the aggrieved person received the order of Additional Commissioner on 27-08-2017, hence he could file the appeal to Commissioner (Appeals) within 3 months from the said date which expires on 27-11-2017.

Therefore, the aggrieved person has made the appeal within time and the opinion of the Commissioner (Appeals) is not tenable.

Q23. XY Company received an adjudication order passed by the Assistant Commissioner of Central Tax on 01-11-2017 under section 73 of the CGST Act, 2017 wherein it was decided as follows:

Particulars

CGST and SGST due (Total) Rs. 6,00,000

Interest @ 18% p.a. for number of delayed days

Penalty Rs. 60,000

The assessee filed an appeal before the Appellate Authority on 26-11-2017.

Case I How much the company has to pay as pre-deposit of duty under section 107(6) of the CGST Act, 2017?

Case II Whether your answer would be different if the assessee appeals only against part of the demanded amount say Rs. 4,00,000 and admits the balance liability of tax amounting to Rs. 2,00,000 arising from the said order. (CA Final May 2018 New)

Ans. Section 107(6) of the CGST Act, 2017 provides that no appeal shall be filed before Appellate Authority, unless the appellant pays:-

- (a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and
- (b) 10% of remaining tax in dispute arising from the impugned order.

Thus, in Case-I, XY Company has to make a pre-deposit of 10% of Rs. 6,00,000, which is Rs. 60,000 assuming that XY Company disagrees with the entire tax demanded.

However, in Case-II, since XY Company admits the tax liability of Rs. 2,00,000 and disputes the tax demanded of only Rs. 4,00,000, it has to make a pre-deposit of:

- (i) Rs. 2,00,000 + Rs. 20,000 [proportionate penalty on tax admitted] + interest @ 18% p.a. payable on the tax admitted for the period of delay, and
- (ii) 10% of Rs. 4,00,000 which is Rs. 40,000.

Questions from GST Main Book

Q24. What is the time limit for filing appeal to the Appellate authority by a person aggrieved by any decision or order passed by an adjudicating authority? Whether this time limit can be extended?

Ans. A person aggrieved by any decision or order passed by an adjudicating authority may file an appeal to the Appellate Authority within 3 months from the date of communication of decision/order of adjudicating authority. The Appellate Authority can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay.

Q25. Section 113 (3) of the CGST Act, 2017 provides that the Appellate Tribunal, may at any time within 3 months of the date of order, with a view to rectifying any mistake apparent from the record, amend any order passed by it. What would constitute "mistake apparent from record" for the purpose of this provision?

Ans. Failure to make into consideration the material evidence, which is present on record, would amount to a "mistake apparent on the face of the record". [CCEx V. Bharat Bijlee Ltd. 2006 (SC)] When a decision rendered by the Apex Court is not considered, non-consideration of such binding precedent constitutes an error apparent on the face of the record. The binding decision of the Apex Court would cover even the period prior to the inception of such law during which the orders contrary to such ratio of the subsequent decision were passed [HLL V. CCEx, 2006 (Tri. LB)]

Other mistakes apparent on the face of the record, which can be rectified by the Tribunal in terms of section 113 (3), can be typographical error, calculation mistakes, point raised in appeal but not considered, retrospective amendments in the statute, etc.

Q26. An assessee moved an application on 15th December 2018 under section 113 (3) for rectification of mistake in order passed on 30th September 2018. The Tribunal took up the application on 15th May 2019 and dismissed the same on the ground that the Tribunal cannot entertain an application for rectification beyond a period of 3 months. Is this correct?

Ans. Section 113 (3) states that the Appellate Tribunal may at any time within 3 months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it. Since, in the present case, the application has been made within 3 months from the date of the order, it is not relevant for the purpose of limitation as to when the Tribunal takes up the same for hearing and disposal. Therefore, in this case, the Tribunal cannot reject the application for rectification of mistake on the ground of limitation if application is made within time limit.

Q27. Discuss with the help of decided case, whether the re-appreciation of evidence on a debatable point by the GST Appellate Tribunal can be considered as rectification of mistake apparent on record U/s 113 (3)?

Ans. No, re-appreciation of evidence by GST Appellate Tribunal on a debatable point cannot be considered to be rectification of mistake apparent on record U/s 113 (3) of the CGST Act, 2017. Supreme Court, in case of CCE V RDE Concrete India Pvt. Ltd. [2011] observed that a mistake apparent on record must be an obvious and patent mistake. It need not be established by a long-drawn process of reasoning. Arguments not accepted earlier during disposal of appeal cannot be accepted while hearing rectification of mistake application.

The Supreme Court held that CESTAT had reconsidered its legal view as it concluded differently by accepting the arguments which it had rejected earlier. Hence, the court opined that in pursuance of a rectification application, CESTAT cannot reappreciate the evidence and reconsider its legal view taken earlier.

Q28. Can department file appeal in respect of same assessee, if in respect of some years, no appeal was filed involving identical dispute?

Ans. It was held in C.K. Gangadharan V. CIT [2008] (SC) that if the revenue has not filed an appeal against any order/judgement in one case, it would not be allowed to file an appeal in another case when the same issue is involved due to the reasons that it cannot pick and choose and certainty in law should be ensured.

However, the revenue can file an appeal in another case involving same/similar issue –

- Where there is just cause in doing so i.e. where appeal was not preferred earlier in view of small amount involved; or
- Where it is in public interest to do so; or

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Section 120 provides that the Board may issue orders or instructions or directions fixing monetary limits for the purposes of regulating the filing of appeal, etc. by the Department. If Department has not filed an appeal, etc. as per circular fixing monetary limits, the Department may file any appeal, application or revision in any other case involving the same or similar issues or questions of law and the assessee cannot contend that the Department has accepted the decision on the disputed issue by not filing the appeal.

Q29. Where Commissioner of CGST feels that the order passed is not legal or proper, whether he can revise the order on his own?

Ans. The Commissioner cannot revise the order U/s 107. For CGST, as per Sec. 107 (2), if the commissioner finds an order or decision (passed by an adjudication authority) to be not legal or proper, he can pass an order setting out the points for determination where he is of the view that the order is not legal and proper and directing a GST officer sub-ordinate to him to file an application to appellate authority. Such application is then treated by the appellate authority as if it were an appeal.

Q30. Does the AA have the power to remand the case back to the adjudicating authority for whatever reasons?

Ans. No. Section 107(11) specifically states that the AA shall, after making such inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against, but shall not refer the case back to the authority that passed the decision or order.

Q31. When the Tribunal is having powers to refuse to admit the appeal?

Ans. In cases where the appeal involves –

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

does not exceed Rs 50,000/-, the Tribunal has discretion to refuse to admit such appeal. (Section 112(2))

Q32. Compute the quantum of pre-deposit required to be made on U/s 107 of the CGST Act 2017 in each of the following independent case:

- In an order dated 18-10-2018 issued to ABC Ltd., the Joint Commissioner of central tax has confirmed a tax demand of Rs. 50,00,000. ABC Ltd. has admitted Rs. 5,00,000 as tax liability and intends to file an appeal with the Commissioner (Appeals) against tax demand of Rs. 45,00,000.
- In an order dated 18-10-2018 issued to XYZ Ltd., the Joint Commissioner of central tax has confirmed a tax demand of Rs. 50,00,000 and imposed a penalty of Rs. 5,00,000. XYZ Ltd. intends to file an appeal with the Commissioner (Appeals) against the said order.

Ans.

- Section 107 (6) of the CGST Act 2017, require an appellant before Appellate Authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order. Thus, ABC Ltd. has to pre-deposit Rs. 5,00,000 (admitted tax) and 10% of Rs. 45,00,000 (tax in dispute) = Rs. 9,50,000.
- Section 107 (6) of the CGST Act 2017, require an appellant before Appellate Authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order. In this case since entire amount of tax demanded is in dispute, hence XYZ Ltd. has to pre-deposit 10% of Rs. 50,00,000 = Rs. 5,00,000.

Q33. Whether other party could file cross objections against the appeal preferred by the assessee or by the department?

Ans. On receipt of notice that an appeal has been preferred under section 112, other party against whom an appeal is preferred, could file a cross objection to the appeal even though he has not preferred an appeal. A Memorandum of Cross-Objections have to be filed within 45 days from the date of receipt of the notice of appeal in FORM GST APL-06. The Tribunal shall dispose of the cross objections as if it is an appeal.

Q34. Whether appeal / application / cross objections filed beyond the time limit would be entertained?

Ans. Tribunal has been conferred with powers to condone the delay upto 3 months, beyond the period of 3 months or 6 months in case of filing of appeals, where sufficient cause for the delay is shown. Similarly, delay upto 45 days could be condoned by the Tribunal in filing the memorandum of cross objections where sufficient cause for the delay is shown.

Q35. Whether interest becomes payable on refund of pre-deposit amount?

Ans. Yes. As per sec 115 of the Act, where an amount deposited by the appellant under section 107(6) or under section 112(8) is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, as the case may be. Interest at the rate specified under section 56 (6% p.a.) shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Q36. Whether the Tribunal has power to rectify / amend the orders passed by it?

Ans. Yes, the Tribunal may amend any order passed by it under in terms of Section 113(1) so as to rectify any mistake apparent from the record. The Hon'ble Tribunal could undertake rectification on its own or on application by either of the parties to the appeal (by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal). The application for rectification shall be made within a period of three months from the date of the Order sought to be rectified.

However, no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under section 113(3), unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

Q37. What are the orders against which appeal could be preferred before the Supreme Court?

Ans. Following orders could be challenged before the Supreme Court:

- a) Order passed by the National Bench or Regional Benches of the Appellate Tribunal; or (no appeal in High Court)
- b) Judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 23: - Advance Ruling

ICAI Test your knowledge

This chapter includes "7 Q & A" of GST main book.

Q1 Which are the matters enumerated in Section 97 for which advance ruling can be sought?

Ans. The Advance Ruling can be obtained on the following matters:

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under provisions of the Act;
- (c) determination of time and value of the supply of goods or services or both;
- (d) admissibility of input tax credit of tax paid or deemed to have been paid;
- (e) determination of the liability to pay tax on any goods or services or both;
- (f) whether applicant is required to be registered;
- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Q2. What is the objective of having a mechanism of Advance Ruling?

Ans. The broad objectives for setting up a mechanism of Advance Ruling are:

- provide certainty in tax liability in advance in relation to an activity proposed to be undertaken by the applicant;
- attract Foreign Direct Investment (FDI)
- reduce litigation
- pronounce ruling expeditiously in a transparent and inexpensive manner

Q3. To whom will the Advance Ruling be applicable?

Ans. As per Section 103, an advance ruling pronounced by AAR or AAAR shall be binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant. This clearly means that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

Q4. What is the time period for applicability of Advance Ruling?

Ans. As per Section 103, the law does not provide for a fixed time period for which the ruling shall apply. Instead, it has been provided that advance ruling shall be binding till the period when the law, facts or circumstances supporting the original advance ruling have not changed.

Q5. Can an advance ruling given be nullified?

Ans. Section 104 states the circumstances under which the ruling would be considered as void and hence would lose its binding value.

If the Authorities (AAR and Appellate Authority) find that the advance ruling pronounced has been obtained by the applicant/appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio.

Consequently, all the provisions of the CGST Act shall apply to the applicant as if such advance ruling had never been made (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued).

An order declaring advance ruling to be void can be passed only after hearing the applicant/ appellant. A copy of the order so made shall be sent to the applicant, the concerned officers and the jurisdictional officer.

Other Questions

Q6. Is Advance Ruling authority treated as Adjudicating Authority?

Ans. No. The definition of "Adjudicating Authority" as provided in Section 2(4) of the CGST Act, 2017 excludes both Advance Ruling Authorities - {Authority for Advance Ruling (in short "AAR") and the Appellate Authority for Advance Ruling (In short "AAAR")}.

Q7. What are the questions or matters on which advance ruling can be obtained? What are the matters on which Advance Ruling cannot be sought?

Ans. The Advance Ruling can be obtained on the following questions or matters:

- (i) classification of any goods or services or both;
- (ii) applicability of a notification issued under provisions of the Act;
- (iii) determination of time and value of the supply of goods or services or both;
- (iv) admissibility of input tax credit of tax paid or deemed to have been paid;
- (v) determination of the liability to pay tax on any goods or services or both;
- (vi) whether applicant is required to be registered;
- (vii) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Advance Ruling cannot be sought on any matters other than those specified above. Additionally, if the matter on which advance ruling is sought is already pending or decided in any proceedings in the applicant's case under any of the provisions of the Act, then the AAR shall not admit such application.

Q8. Whether the Ruling given by AAR of one State/UT shall be applicable in another State/UT?

Ans. No. The AAR is constituted under the respective State/UT Act and not the Central Act. Hence, the Ruling given by AAR of one State/UT shall be applicable only within the jurisdiction of the concerned State/UT.

Q9. What if, the members of AAR have different viewpoints on the Advance Ruling sought?

Ans. Where the members of the AAR differ on any question on which the Advance Ruling is sought, they shall state the point or points on which they differ and make a reference to the AAAR for hearing and decision on such question.

Q10. Is there any time limit within which Appellate order (AAAR) is to be passed?

Ans. The order, either confirming or modifying the ruling appealed against or referred to, shall be passed within 90 days from the date filing of appeal or reference, after giving the parties to the appeal or reference an opportunity of being heard. A copy of the Advance Ruling so pronounced duly signed by the members and certified in the manner prescribed shall be sent to the applicant and the appellant, the concerned officer/jurisdictional officer of the CGST and SGST/UTGST and the AAR after such pronouncement.

Q11. What if, the Appellate Authority is not able to decide on the matters referred to them in appeal or reference?

Ans. In that case, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

Q12. Is advance ruling binding on all tax payers & department officers?

Ans. No – Advance Ruling pronounced by AAR or AAAR shall be binding only on the applicant who has sought it.

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Additional Questions & Answers

These are apart from Examples in main book

Additionally, Advance Ruling shall be binding only on the concerned officer or the jurisdictional officer in respect of the applicant.

Q13. From when will the Advance Ruling be applicable?

Ans. Sec. 103(2) of the CGST Act, 2017 provides that the decision of advance ruling shall be binding unless there is change in law, facts or circumstances supporting the original Advance Ruling, have changed. Hence, unless the case is covered by the said exceptions, it shall be binding on the applicant in respect of all the transactions covered by the Ruling in case of the applicant.

Example: AAR or AAAR has decided the advance ruling and issued the order on 31st July 2018 deciding the tax shall be payable by the recipient on reverse charge on a particular transaction and later on 30th September 2018 the law gets amended on which basis the advance ruling was decided. Such advance ruling made earlier shall no longer binding on such person from the date of such amendment.

Q14. Whether the Advance Ruling has precedent value of a judgment of the High Court or the Supreme Court?

Ans. No, the Advance Ruling is binding only in respect of the matter referred for the concerned applicant. It has no precedent value. However, even for persons other than applicant, it may have a persuasive value in case of favorable rulings.

Q15. Where does the application for AAR or the appeal before AAAR shall be filed?

Ans. The application or the appeal shall be filed in the jurisdictional office of the respective State AAR or State AAAR respectively.

Q16. Can the application made to the authority for advance ruling can be withdrawn at any time?

Ans. It appears that there is no such provision under GST Law.

Q17. What are the powers of AAR or AAAR?

Ans. The AAR or AAAR shall have all the powers of the Civil Court under the Code of Civil procedure, 1908 regarding;

- (a) discovery and inspection;
- (b) enforcing the attendance of any person and examining him on oath;
- (c) issuing commissions and compelling production of books of accounts and other records.

Questions from GST Main Book

Q18. Whether Appeal can be filed before High Court or Supreme Court against the ruling of Appellate Authority for Advance Rulings?

Ans. The CGST /SGST Act do not provide for any appeal against the ruling of Appellate Authority for Advance Rulings. Thus, no further appeals lie and the ruling shall be binding on the applicant as well as the jurisdictional officer in respect of applicant. However, Writ petition may lie before Hon'ble High Court or the Supreme Court.

Q19. Can advance ruling be applied for after supply of goods and/or services?

Ans. Yes, as per section 95 (a) of the Act, application can be made for advance ruling in relation to the supply of goods and/or services, being undertaken by applicant.

Q20. When AAR shall not admit the application for advance ruling?

Ans. AAR shall not admit the application where the issue raised is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.

Q21. Are the tax authorities bound by the advance ruling?

Ans. Only the jurisdictional officer/concerned officer, in respect of applicant who has sought advance ruling is bound by such rulings pronounced.

Q22. What are the powers vested with the authority and the appellate authority?

Ans. The authority or the appellate authority shall have all the powers of a civil court to exercise the following powers:

- (i) discovery and inspection;
- (ii) enforcing attendance of any person and examining him on oath;
- (iii) issuing commissions and compelling production of books of account and other records.

Q23. Can the Ruling issued by the AAR or order passed by the AAAR be rectified?

Ans. In case there is any error apparent on the face of the records, the AAR or AAAR as the case may be, can amend the original order passed by it, if such error is noticed by the AAAR or AAAR on its own record or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant, within a period of 6 months from the date of said order.

However, no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

Example: In case AAR or AAAR has decided the advance ruling and issued the order on 31st July 2018 and later on 28th September 2018, it has been noticed by the authority itself (or any concerned officer or any jurisdictional officer or applicant) that there is some mistake apparent on record then the authority may rectify such order. The tax rate decided in earlier order was taken as 18% instead of 28%, then before rectifying such order the Authority shall provide the opportunity of hearing to the applicant.

Additional Questions & Answers

These are apart from Examples in main book

Chapter 24: - Miscellaneous Provisions

ICAI Test your knowledge

This chapter includes "4 Q & A" of GST main book.

Q1. How shall the GST compliance rating score be determined?

Ans. As per section 149(2), the GST compliance rating score shall be determined on a scale of ten on the basis of prescribed parameters.

Q2. When shall the power to collect statistics be exercised under GST laws?

Ans. 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.

Q3. When shall the particulars relating to any proceedings or prosecution be published under GST laws?

Ans. 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)].

Q4. Explain the provisions relating to rectification of errors apparent on the face of record under section 161 of the CGST Act, 2017?

Ans. 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.

Q5. What is Anti-profiteering measure?

Ans. 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.

Other Questions

Q6. What are the circumstances when assessment/ adjudication proceedings etc. are not be treated as invalid?

Ans. As per Section 160, the following proceedings:

1. Assessment
2. Re-assessment
3. Adjudication
4. Review
5. Revision
6. Appeal
7. Rectification
8. Notice
9. Summons or
10. Other proceedings

done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall not be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any old law.

Q7. What are the circumstances when service of notice/ order etc. shall not be called in question?

Ans. The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Q8. Who has to bring the mistake apparent on record to the notice of the authority?

Ans. The GST authority:

1. On its own motion or
2. Where such error is brought to its notice by (a) Any officer appointed under CGST Act or (b) An officer appointed under SGST Act or (c) An officer appointed under the UTGST Act or
3. The affected person

can bring the mistake apparent on record to the notice of the respective authority.

Q9. Within what period should the mistake apparent on record be brought to the notice of the authority?

Ans. The time limit is 3 months but extendable to 6 months from the date of issue of such decision or order or notice or certificate or any other document. But in case of clerical or arithmetic mistakes, the 6 months outer limit is not applicable. Such clerical error must be due to accidental slip or omission.

Q10. What is the date, the notice/ order etc. is deemed to have been served?

Ans. Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in section 169 (1).

Q11. What if the notice/ order sent through registered post/ speed post is not received by the person to whom it is intended?

Ans. As per Section 169 of CGST Act 2017, when a decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Q12. What does the Anti-Profiteering Measure provision seek to do?

Ans. Anti-Profiteering measure seeks to pass on:

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Additional Questions & Answers

These are apart from Examples in main book

1. Reduction in rate of tax on any supply of goods or service
2. Benefit of input tax credit

received by supplier to the recipient by way of commensurate reduction in prices of goods or services.

Q13. What are the duty of the Anti-Profiteering Authority?

Ans. Duties of Authority constitute:

- i. to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- ii. to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- iii. to order,
 - a. reduction in prices;
 - b. return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;
 - c. imposition of penalty as specified in the Act; and
 - d. cancellation of registration under the Act.
- iv. to furnish a performance report to the Council by the tenth of the close of each quarter.

Questions from GST Main Book

Q14. Is there any condition that consideration must be received in foreign currency for deemed export goods?

Ans. There is no condition that consideration for goods notified as deemed exports must be received in convertible foreign exchange. The consideration may be received in Indian Rupees also.

Q15. Whether imported goods, supplied 'as such' qualify for deemed exports?

Ans. Only goods manufactured in India, which are notified by Central Government qualify to be treated as deemed exports. Thus goods notified u/s 147, if imported do not qualify as deemed exports, if they are supplied 'as such'.

Q16. Whether goods notified u/s 147, if manufactured in India from imported goods qualify for the benefit of deemed exports?

Ans. Provisions of Section 147 apply to 'goods manufactured in India'. There is no restriction that raw materials required for manufacture of notified goods must also be manufactured in India. Hence notified goods, if manufactured from imported goods would qualify as deemed exports.

Q17. Who can rectify a mistake apparent on record U/s 161?

Ans. 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.

ICAI Additional Questions & Answers

Q1. "State Government has exclusive power to notify a transaction to be supply of goods or services." Discuss the correctness of the statement.

Ans. The said statement is not correct. State Government can notify a transaction to be supply of goods or services but only on the recommendations of the GST Council. Further, Central Government or State Government, both on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

Q2. M/s X & Sons, tax consultant of Zenson Ltd., have advised them that reverse charge mechanism is applicable only to services. Examine the validity of the advice given by M/s X & Sons.

Ans. The advice given by M/s X & Sons is not valid in law. The reverse charge mechanism applies to supplies of both goods and services, as notified by the Government on the recommendations of the GST Council vide section 9(3)/5(3) of CGST/IGST Act, 2017. Notification No. 4/2017-Central Tax (Rate) and 13/2017- Central Tax (Rate) both dated 28/06/2017 have been issued. Similar notifications have been issued under IGST Act also. Reverse charge also applies to supplies received by a registered person from unregistered persons under section 9(4)/5(4) of CGST/IGST Act, 2017. However, the provision of reverse charge liability on supplies received from unregistered persons, as provided in sections 9(4) and 5(4) of the CGST Act and the IGST Act respectively, have been kept in abeyance till 30.06.2018.

Q3. Pepper & Salt Ltd., registered in Madhya Pradesh has the turnover amounting to Rs. 80 lakh in the financial year 2017-18. It wants to avail the benefit of composition scheme in the year 2018-19. You are required to advise Pepper and Salt Ltd. regarding the availability of composition scheme in the year 2018-19.

Will your answer change, if Pepper & Salt Ltd. is registered in Arunachal Pradesh?

Ans. Pepper & Salt Ltd. can avail the benefit of the composition scheme in the year 2018-19 as the threshold for composition scheme is Rs. 1 Crore of aggregate turnover in the preceding financial year* under section 10(1) of CGST Act, 2017. The benefit of composition scheme can be availed up to the turnover of Rs. 1 Crore in current financial year*. However, it has to be ensured that Pepper & Salt Ltd. fulfills the following conditions as given under section 10(2) of CGST Act, 2017:-

- (i) Pepper & Salt Ltd. is not engaged in the supply of services other than supplies of food articles (restaurant service).
- (ii) It is not engaged in making any supply of goods which are not taxable under the CGST Act/SGST Act/ UTGST Act.
- (iii) Pepper & Salt Ltd. do not make any inter-State outward supplies of goods.
- (iv) It does not supply goods through an electronic commerce operator.
- (v) It does not manufacture ice cream, pan masala and tobacco etc.

*- Rs. 75 lakhs for 9 special category states viz 1. Arunachal Pradesh, 2. Assam, 3. Manipur, 4. Meghalaya, 5. Mizoram, 6. Nagaland, 7. Sikkim, 8. Tripura, and 9. Himachal Pradesh.

If Pepper & Salt Ltd. is registered in Arunachal Pradesh, it can not avail the benefit of composition in the year 2018-19 as its turnover in the preceding financial year (Rs. 80 lakhs) exceeds the threshold limit (Rs. 75 lakhs).

Q4. Mr. X availing composition scheme during a financial year crosses the turnover of Rs.1 crore during the course of the year i.e. say he crosses the turnover of Rs.1 Crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year i.e. till 31st March?

Ans. No. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds Rs. 1 Crore vide section 10(3) of CGST Act, 2017.

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Additional Questions & Answers

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Q5. LMN & Co, an unregistered supplier under GST wants to claim input tax credit and collect tax. Can it do so?

Ans. No, LMN & Co. cannot claim input tax credit and collect tax. A person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him. However, if LMN & Co. nevertheless wants to claim input tax credit and collect tax, it can apply for voluntary registration under section 25(3) of CGST Act, 2017.

Q6. What is the difference between casual and non- resident taxable persons?

Ans. Casual and Non-resident taxable persons are separately defined in the CGST Act in Sections 2(20) and 2(77) respectively. Some of the differences are outlined below:

Casual Taxable Person	Non-resident Taxable Person
Occasionally undertakes transactions involving supply of goods or services or both in a State or Union territory where he has no fixed place of business.	Occasionally undertakes transactions involving supply of goods or services or both, but has no fixed place of business or residence in India.
Has a PAN Number	Do not have a PAN Number; A non- resident person, if having PAN number may take registration as a casual taxable person
Same application form for registration as for normal taxable persons.	Separate application form for registration by non-resident taxable person.
Has to undertake transactions in the course or furtherance of business	Business test is absent in the definition.
Can claim input tax credit of all inward supplies.	Can get input tax credit only in respect of import of goods and /or services.

Q7. State the necessary elements for a supply to be chargeable to GST.

Ans. The following elements are required to be satisfied for a supply to be chargeable to GST, i.e.-

- the activity involves supply of goods or services or both;
- the supply is for a consideration unless otherwise specifically provided for;
- the supply is made in the course or furtherance of business;
- the supply is a taxable supply; and
- the supply is made by a taxable person.

Q8. Modest Ltd., registered in Delhi dealing in supply of electronic items transferred some of its stock to its another unit located in Haryana (inter-state transfer). Whether such self-supplies are taxable under GST?

Ans. Yes, transfer of stock made by Modest Ltd. are taxable under GST. The definition of supply given under section 7 of CGST Act, 2017 is an inclusive one. It does not specify that supply is to be made by one person to the another. So, self-supplies are to be treated as supply in terms of section 7 of CGST Act. Further, section 25(5) provides that where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons.

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

Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration. Every supplier is liable to register under the GST law in the State or Union territory from where he makes a

taxable supply of goods or services or both in terms of Section 22 of the CGST Act. However, intra-state self-supplies are not taxable subject to not opting for registration as business vertical.

Q9. Mr. P supplied goods for the value of Rs. 10,000 to its customer Miss Prem on 01.01.20XX on the condition that payment for the same will be made within a week. However, Miss Prem made payment for the said goods on 02.02.20XX and thus paid interest amounting to Rs. 500. What is the time of supply with regard to addition in the value by way of interest in lieu of delayed payment of consideration?

Ans. As per section 12(6) of CGST Act, 2017, the time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed payment of consideration shall be the date on which the supplier received such additional consideration.

Thus, time of supply in respect of interest would be the date on which the supplier has received such additional consideration, i.e. 02.02.2018. Further, Mr. P is required to make payment on or before 20th of March, 2018.

Q10. There are separate valuation provisions for CGST, SGST and IGST and for Goods and Services. Examine the correctness of the statement.

Ans. No, the said statement is not correct. Section 15 of CGST Act determines the value of supply of goods or services or both. Further, section 15 is applicable for determining value of taxable supply under IGST as well vide section 20 of IGST Act. Section 20 of IGST Act inter alia provides that the provisions of CGST Act relating to time and value of supply shall mutatis mutandis apply in relation to integrated tax as they apply in relation to central tax. Thus, section 15 is common for all three taxes and also common for goods and services.

Q11. Whether post-supply discounts or incentives are allowed as admissible deduction under section 15 of the CGST Act? If yes, what are the necessary conditions to be complied with for availing such deduction?

Ans. Yes, post-supply discounts or incentives are allowed as admissible deduction under section 15 of the CGST Act. Where the post-supply discount is established as per the agreement which is known at or before the time of supply and where such discount specifically linked to the relevant invoice and the recipient has reversed input tax credit attributable to such discount, the discount is allowed as admissible deduction under Section 15(3)(b) of the CGST Act.

Q12. The time of liability to pay GST is independent of the time of supply of goods/ services. Discuss the correctness of the statement?

Ans. The said statement is not correct. Liability to pay arises at the time of supply of goods as explained in Section 12 and at the time of supply of services as explained in Section 13 of CGST Act. The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections.

Q13. LP Ltd., obtains registration for paying taxes under section 9 of CGST Act. He asked his tax manager to pay taxes on quarterly basis. However, LP Ltd.'s tax manager advised the Co. to pay taxes on monthly basis. You are required to examine the validity of the advice given by tax manager?

Ans. The advice given by tax manager is valid in law. Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. However, payment can also be debited from the Credit Ledger.

Payment of taxes for the month of March shall be paid by the 20th of April. Composition tax payers will need to pay tax on quarterly basis.

Additional Questions & Answers

These are apart from Examples in main book

Q14. Wisdom Public School, a higher secondary school in Delhi, is of the view that no tax is payable on the education provided by it to its students as education plays a significant and remedial role in balancing the socio-economic fabric of the country.

Examine whether GST law provides any scope of exemption to supply of goods or services with particular reference to the contention raised by school?

Ans. Yes, GST law provides the scope of exemption to supply of goods and services. Section 11 of CGST Act, 2017 provides that in the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions. Further, the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both. As regards the contention raised by Wisdom Public School, the same is valid in law since Notification No. 12/2017 CT (R) dated 28.06.2017 specifically wholly exempts services provided by an educational institution to its students, faculty and staff.

Q15. Mr. X of Mumbai often participates in the jewellery exhibition at Trade Fair in Delhi, which is organised every year in the month of February. Mr. X applied for registration in January. The proper officer demanded an advance deposit of tax in an amount equivalent to the estimated tax liability of Mr. X.

You are required to examine whether any advance tax is to be paid by Mr. X at the time of obtaining registration?

Ans. Yes, advance tax is to be paid by Mr. X at the time of obtaining registration. Since Mr. X occasionally undertakes supply of goods in the course or furtherance of business in a State where he has no fixed place of business, thus he qualifies as casual taxable person in terms of section 2(20) of CGST Act, 2017.

While a normal taxable person does not have to make any advance deposit of tax to obtain registration, a casual taxable person shall, at the time of submission of application for registration is required, in terms of section 27(2) read with proviso thereto, to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. If registration is to be extended beyond the initial period of 90 days, an advance additional amount of tax equivalent to the estimated tax liability is to be deposited for the period for which the extension beyond 90 days is being sought.

Q16. Explain the significance of the place of supply of goods and services under GST.

Ans. The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may be at the point of consumption. So, place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter-state. In other words, the place of supply of goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

Q17. Why does GST law provide separate rules for place of supply in respect of B2B (supplies to registered persons) and B2C (supplies to unregistered persons) transactions?

Ans. In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes. For B2B transactions, the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted into B2C transaction. In respect of B2C transactions, the supply is finally consumed and the taxes paid actually come to the government.

Q18. M/s Kingsize Airlines has issued a ticket/pass to Mr. Saxena, the winner of annual lucky draw, for travelling to anywhere in India . Determine the place of supply in this case.

Ans. As per section 12(9) of the IGST Act, 2017, the place of supply of passenger transportation service to a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey. In the above case, the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation.

The proviso to section 12(9) provides that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of 12(2). Thus, in such cases, the default rule shall apply i.e., the place of supply of services made to any person other than a registered person shall be the location of the recipient where the address on record exists and the location of the supplier of services in other cases.

Q19. M/s Voguish Furnitures has purchased log woods upon payment of Rs. 20,00,000 including taxes and has directed the supplier to directly send the same to Mr. Ramlal for sawmilling process on job work basis.

Give your opinion as to whether M/s Voguish Furniture can avail input tax credit in respect of log woods directly sent to Mr. Ramlal?

Ans. Section 19 of CGST Act, 2017 inter alia provides that principal shall be entitled to take credit of taxes paid on inputs sent to a job worker whether sent after receiving them at his place of business or even when such the inputs are directly sent to a job worker without their being first brought to his place of business. However, the inputs, after completion of job work, are required to be received back or supplied from job worker's premises, as the case may be, within a period of one year of their being sent out.

Thus, in view of the above mentioned provisions, M/s Voguish Furniture can avail input tax credit in respect of log woods directly sent to Mr. Ramlal provided log woods are received back or supplied from Ramlal's premises, as the case may be, within a period of one year of their being sent out.

Q20. Mr. X, a registered person supplied the following goods to Miss Neetu for further processing on job work basis.

S. No.	Goods	Particulars
1	P	Taxable under GST
2	Q	Exempted vide an exemption notification under CGST Act
3	R	Non-taxable under GST

You are required to examine whether the provisions of job work will be applicable to all categories of goods?

Ans. The provisions of job work are not applicable to all categories of goods. The provisions relating to job work are applicable only when registered person intends to send taxable goods. In other words, these provisions are not applicable to exempted or non-taxable goods or when the sender is a person other than registered person.

Thus, in the present case, the provisions of job work are not applicable to "Q" being an exempted goods and "R" as the same is not taxable good. Thus, job work provisions will apply only to "P", the same being taxable good.

Q21. Is it mandatory that job worker and principal be located in the same State or Union territory for the applicability of job work provisions under GST law? Discuss.

Ans. No, this is not mandatory that job worker and principal be located in the same State or Union territory for the applicability of job work provisions under GST law. The provisions relating to job work

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have been adopted in the IGST Act vide section 20 of the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either in same State or in same Union Territory or in different States or Union Territories.

Q22. Mr. Zaid, registered in Himachal Pradesh is engaged in making inter-State outward supplies of apparels. The aggregate turnover of Mr. Zaid in the financial year 2017-18 is 70 lakh. He opted for composition levy in the year 2018-19 and paid tax for the quarter ending June, 2018 under composition levy. The proper officer has levied penalty on Mr. Zaid in addition to the tax payable by him.

You are required to examine the validity of the action taken by proper officer.

Ans. The action taken by proper officer is valid in law. Section 10(1) of CGST Act, 2017 inter alia provides that the benefit of composition levy can be availed by a registered person if the aggregate turnover in the preceding financial year does not exceed Rs. 1 crore. However, the said threshold is reduced to Rs. 75 lakh in case of special category states.

Further, section 10(2) inter alia specifies that registered person is eligible to opt for composition levy if he is not engaged in making any inter-state outward supplies of goods. In the present case, Mr. Zaid is engaged in making inter-State outward supplies of goods. So, he is not eligible to opt for composition levy irrespective of aggregate turnover in the preceding financial year.

Moreover, section 10(5) provides that if a person who has paid under composition levy is found as not being eligible for compounding then such person shall be liable to penalty to an amount equivalent to the tax payable by him under the provisions of the Act i.e., as a normal taxable person and that this penalty shall be in addition to the tax payable by him. Thus, levy of penalty on Mr. Zaid is valid in law in terms of section 10(5).

Q23. Explain the meaning of “mensrea”. Is ‘mensrea’ or culpable mental state necessary for prosecution under CGST Act?

Ans. “Mensrea” means guilty mind, or criminal intent in committing the act. It is the mental element of a person's intention to commit a crime or knowledge that one's action or lack of action would cause a crime to be committed.

Yes, ‘mensrea’ or culpable mental state is necessary for prosecution under CGST Act. However, Section 135 of CGST Act, 2017 presumes the existence of a state of mind (i.e. “culpable mental state” or mensrea) required to commit an offence if it cannot be committed without such a state of mind.

Q24. “A tax officer can suo-moto ask the assessee to pay tax on provisional basis.” Examine the validity of the statement.

Ans. The said statement is not valid. As a taxpayer has to pay tax on self-assessment basis, a request for paying tax on provisional basis has to come from the taxpayer which will then have to be permitted by the proper officer. In other words, no tax officer can suo-moto order payment of tax on provisional basis. This is governed by section 60 of CGST Act. Tax can be paid on a provisional basis only after the proper officer has permitted it through an order passed by him. For this purpose, the taxable person has to make a written request to the proper officer, giving reasons for payment of tax on a provisional basis. Such a request can be made by the taxable person only in such cases where he is unable to determine:

- a. the value of goods or services to be supplied by him, or
- b. determine the tax rate applicable to the goods or services to be supplied by him.

In such cases the taxable person has to execute a bond in the prescribed form, and with such surety or security as the proper officer may deem fit.

Q25. Mr. Venkateshwara, the taxable person under GST filed the prescribed tax return. During the course of scrutiny of the tax returns, the proper officer detected certain discrepancy in the return filed

by Mr. Venkateshwara and asked him to explain the same. However, Mr. Venkateshwara could not offer any proper explanation for the said discrepancy within the prescribed time.

Examine the scenario and offer your views/ comments on as to what recourse may be taken by the proper officer in such a case.

Ans. Section 61 of the CGST Act, 2017 inter alia provides that if during scrutiny of returns, 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.

Thus, in view of the above mentioned provisions, the proper officer may take any of the recourse mentioned above against Mr. Venkateshwara.

Q26. Miss Vaishno, a registered tax payer paying tax under regular scheme failed to file the return for the month of January, 20XX. Explain the legal recourse available to the tax officer, if any.

Ans. The proper officer has to first issue a notice to the Miss Vaishno under section 46 of CGST Act, 2017 requiring him to furnish the return within a period of 15 days. If Miss Vaishno fails to file return within the given time, the proper officer shall proceed to assess the tax liability of the return defaulter to the best of his judgement taking into account all the relevant material available with him in terms of section 62 of CGST Act, 2017.

Q27. A summary assessment order has been issued against Mr. Kanhaiya Mittal, a taxable person under GST. Mr. Kanhaiya Mittal does not wish to take recourse to appellate machinery against the assessment order.

He has approached you for seeking advice on whether there is any other recourse available to him against the said summary assessment?

Ans. Yes, Mr. Kanhaiya Mittal has other recourse available to him against summary assessment order other than appellate remedy. Mr. Kanhaiya Mittal against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/Joint Commissioner within 30 days of the date of receipt of the order vide section 64 of CGST Act. 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.

Q28. Examine whether GST is payable in the following independent cases:-

- (i) Amar Jyoti Charitable trust, registered under section 10(23C)(v) of the Income-tax Act manages a temple in Shahdara, Delhi. It has given on rent a community hall, located within temple premises, to public for celebration of new year evening. Rent charged is Rs. 9,500.
- (ii) Speed post services by Department of Post to Union Territory of Lakshadweep.
- (iii) XY Ltd. has given on hire 7 trucks to Jaggi Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are Rs. 6,200 per truck per day.

Ans.

- (i) Renting of community hall by Amar Jyoti charitable trust is exempt from GST, as rent is less than Rs. 10,000 per day. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 has exempted the said service wholly from

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The said notification provides exemption to services by a person inter alia by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act .

However, this exemption does not apply where renting charges of premises, community halls, kalyanmandapam or open area are Rs. 10,000 or more per day.

- (ii) GST is not payable in case of speed post services by Department of Post to Union territory of Lakshadweep. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 has exempted the said service wholly from GST.

Exemption Notification inter alia provides exemption to services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to the Central Government, State Government, Union territory. Therefore GST is payable, if such service is provided to a person other than Central Government/State Government/Union Territory.

- (iii) GST is not payable in case of hiring of trucks to Jaggi Transporters. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 provides exemption to services by way of giving on hire inter alia to a goods transport agency, a means of transportation of goods.

Q29. Trend Footwear, a registered supplier in Jaipur dealing in local supply of loafers and wedges, wants to opt for composition scheme with effect from 01 April, 20XX. Its aggregate turnover in the preceding financial year is Rs. 78 lakh. Besides dealing in supply of loafers and wedges, he also has a rental income of Rs. 1,35,000 per month from the basement of a commercial building located in Jaipur.

You are required to discuss, whether Trend Footwear can opt for composition scheme?

Ans. No, Trend Footwear cannot opt for composition scheme. Section 10 of CGST Act, 2017 inter alia provides that registered person, whose aggregate turnover in the preceding financial year does not exceed one crore rupees, can opt to pay tax under composition scheme in the current year.

However, section 10(2) inter alia provides that registered person is eligible to opt for composition scheme if he is not engaged in the supply of services other than restaurant services. In the present case, Trend Footwear is engaged in the supply of services other than restaurant services, as Trend Footwear has rental income from the basement of a commercial building, so it cannot opt for composition scheme irrespective of its aggregate turnover in the preceding financial year.

Q30. Singhal Brothers, registered in Uttarakhand has supplied 30 tons of a chemical @ Rs. 50,000 per ton (excluding taxes) to P of Uttarakhand on 8th September, 20XX. The invoice for the supply has also been issued on the same date. Further, following additional amounts were also charged from P:-

Particulars	Amount
Freight	1,80,000
Packing charges	1,10,000
Weighing charges	20,000
Cost of instrument specially purchased by Singhal Brothers to manufacture the chemical	3,10,000

As per the terms of the contract of supply, Singhal Brothers is required to get the chemical inspected by an independent testing agency before the delivery of the same to P. P has paid such inspection charges amounting to Rs. 12,000 directly to the testing agency. Singhal Brothers has also received Rs. 50,00,000 as a subsidy from State Government for setting up chemical manufacturing plant in

Uttarakhand.

P is required to make payment within 15 days of supply in terms of the contract. However, P delayed the payment of consideration and made payment in November, 20XX thus paid Rs. 15,000 as interest. You are required to calculate the GST liability in this case and due date of deposit. Assume the rate of GST to be 18%.

Note: Singhal Brothers and P are not related and price is the sole consideration for the supply

Ans.

Computation of GST liability of Singhal Brothers

Particulars	Amount
Price of chemicals (Rs. 50,000 x 30 tons) [Note-1]	15,00,000
Freight [Note-2]	1,80,000
Packing charges [Note-3]	1,10,000
Weighing charges [Note-3]	20,000
Cost of special instrument [Note-4]	3,10,000
Inspection charges [Note-5]	12,000
Government subsidy [Note-6]	-
Interest for late payment [Note 7] (Rs. 15,000 x 100/118)	12,712
Value of taxable supply	21,44,712
Tax liability for the month of September 20XX	
Value of taxable supply (Rs. 21,44,712- Rs. 12,712) [Note-8]	21,32,000
CGST @ 9%	1,91,880
SGST @ 9%	1,91,880
Tax liability for the month of November 20XX	
Interest for late consideration [Note-9]	12,712
CGST payable @ 9%	1,144
SGST payable @ 9%	1,144

Due date of deposit of GST

Particulars	Time of Supply	Due date of deposit [Note-11]
GST liability of Rs. 3,83,760 for the taxable supply made by Singhal Brothers	September 8, 20XX	October 20, 20XX
Interest amounting to Rs. 2,288 [Note-9]	November, 20XX	December 20, 20XX

Notes:

- (1) As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.
- (2) The given supply is a composite supply involving supply of goods (chemical) and services (freight) where the principal supply is the supply of goods. As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate

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applicable to the goods (chemical) has been considered.

- (3) All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (4) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (5) Any amount that the supplier is liable to pay in relation to supply but incurred by the recipient of supply and not included in the price actually paid for the goods is includible in the value of supply in terms of section 15(2)(b) of CGST Act, 2017.
- (6) Subsidies not directly linked to the price and provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.
- (7) Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017.

The interest has to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

- (8) The tax liability for the month of September, 20XX will not include the tax payable on the amount of interest as the tax liability for the delayed payment of interest arises on the date of receipt of interest in terms of section 12(6) of CGST Act, 2017.
- (9) As per section 12(6) of the CGST Act, 2017, the time of supply in case of addition in value by way of interest for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received on account of delayed payment of consideration is the date of receipt of interest.
- (10) As per section 39(1) of CGST Act, 2017 every person registered under regular scheme of payment of tax has to furnish the prescribed return on or before 20th of the succeeding month. Further, section 39(7) provides that every regular registered person is liable to pay tax due to the Government by the last date on which he is required to furnish such return. Thus, GST is liable to be paid on or before 20th of the succeeding month.

Q31. Compute the GST liability of Mr. Mayank, an air travel agent, for the month ended December 31, 20XX using the following details:-

Particulars	Amount
Basic air fare collected for domestic booking of tickets Basic	50,00,000
Air fare collected for international booking of tickets	80,00,000
Commission received from the airlines on the sale of domestic and international tickets	5,00,000

Ans. As per rule 32 of the CGST Rules, 2017, the value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of 5% of the basic fare in the case of domestic bookings, and at the rate of 10% of the basic fare in the case of international bookings of passage for travel by air. Thus, GST liability would be computed as under:

Particulars	Amount
5% of the basic air fare collected for domestic booking of tickets [Rs. 50,00,000 × 5%]	2,50,000

10% of the basic air fare collected for international booking of tickets [Rs. 80,00,000 × 10%]	<u>8,00,000</u>
GST payable on	10,50,000

Q32. Siddhi Ltd. exported some goods to Samson Inc. of USA. It received US \$ 9,000 as consideration for

the same and sold the foreign currency @ Rs. 61 per US dollar. Compute the value of supply of money changing service under GST law and rules made thereunder in the following cases:-

- (a) RBI reference rate for US dollar at that time is Rs. 62 per US dollar.
- (b) RBI reference rate for US dollars is not available.

What would be the value of supply if US \$ 9,000 are converted into UK £ 4,500. RBI reference rate at that time for US \$ is Rs. 63 per US dollar and for UK £ is Rs. 101 per UK Pound.

Ans. (a) Rule 32 of CGST Rules, 2017 inter alia provides that for a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, in the given case, value of taxable service would be as follows:-

$$\begin{aligned} & \text{RBI reference rate for \$ - Selling rate for \$} \times \text{Total units of US \$} \\ & = \text{Rs. } (62-61) \times 9,000 \\ & = \text{Rs. } 9,000 \end{aligned}$$

- (b) If the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money.

Hence, in the given case, value of taxable service would be as

follows:- 1% of Rs. (61 × 9,000)

$$= \text{Rs. } 5,490$$

In case neither of the currencies exchanged is Indian Rupee:

The value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Hence, in the given case, value of taxable service would be 1% of the lower of the following:-

$$(a) \text{ US dollar converted into Indian rupees} = \$ 9,000 \times \text{Rs. } 63 = \text{Rs. } 5,67,000$$

$$(b) \text{ UK pound converted into Indian rupees} = \text{£ } 4,500 \times \text{Rs. } 101 =$$

$$\text{Rs. } 4,54,500$$

$$\text{Value of taxable service} = 1\% \text{ of Rs. } 4,54,500 = \text{Rs. } 4,545$$

Q33. A manufacturer of machinery supplied a special machine to LM Furnishers. Following details are provided in relation to amounts charged:

S.No.	Particulars	
(i)	Price of machinery excluding taxes (before cash discount)	6,00,000
(ii)	Transit insurance	11,000
(iii)	Packing charges	9,000
(iv)	Extra charges for designing the machine	20,000
(v)	Freight	12,000

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Charges mentioned in (ii) to (v) are not included in (i) above. Other information furnished is -

- (a) Cash discount @ 2% on price of machinery has been allowed to the customer at the time of supply and also recorded in invoice.
- (b) GST rate – 18%.

Calculate value of supply of the special machine.

Ans.

Computation of value of special machine

Particulars	Amount
Price of machinery	6,00,000
Add: Transit insurance [Note 1]	11,000
Packing charges [Note 2]	9,000
Extra design charges [Note 3]	20,000
Freight [Note 1]	<u>12,000</u>
Total	6,52,000
Less: 2% cash discount on price of machinery [Rs. 6,00,000 x 2%] [Note 4]	<u>12,000</u>
Value of taxable supply	6,40,000

Notes:

- (1) The given supply is a composite supply involving supply of goods (special machine) **and** services (transit insurance and freight) where the principal supply is the supply of goods.
As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (special machine) has been considered
- (2) All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017. Thus, extra designing charges are to be included in the value of supply.
- (4) Cash discount was given at the time of supply and also recorded in invoice, so the same is not to be included while computing value of supply in terms of section 15(3)(a) of CGST Act, 2017.

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PAPER – 8 : INDIRECT TAX LAWS

QUESTIONS

- (1) All questions should be answered on the basis of the position of GST law as amended up to 31.10.2017 and customs law as amended by the Finance Act, 2017 and notifications and circulars issued till 31.10.2017.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

1. Power Engineering Pvt. Ltd., a registered supplier, is engaged in providing expert maintenance and repair services for large power plants that are in the nature of immovable property, situated all over India. The company has its Head Office at Bangalore, Karnataka and branch offices in other States. The work is done in the following manner.
- The company has self-contained mobile workshops, which are container trucks fitted out for carrying out the repairs. The trucks are equipped with items like repair equipments, consumables, tools, parts etc. to handle a wide variety of repair work.
 - The truck is sent to the client location for carrying out the repair work. Depending upon the repairs to be done, the equipment, consumables, tools, parts etc. are used from the stock of such items carried in the truck.
 - In some cases, a stand-alone machine is also sent to the client's premises in such truck for carrying out the repair work.
 - The customer is billed after the completion of the repair work depending upon the nature of the work and the actual quantity of consumables, parts etc. used in the repair work.
 - Sometimes the truck is sent to the company's own location in other State(s) from where it is further sent to client locations for repairs.

Work out the GST liability [CGST & SGST or IGST, as the case may be] of Power Engineering Pvt. Ltd., Bangalore on the basis of the facts as described, read with the following data for the month of November 20XX.

S. No.	Particulars	₹
A.	Truck sent to own location in Tamil Nadu	
	(i) Value of items contained in the truck - ₹ 3,00,000	
	(ii) Value of truck - ₹ 25,00,000	

PAPER – 8: INDIRECT TAX LAWS

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B.	Truck sent to a client location in Tamil Nadu for carrying out repairs. Stand- alone machine is also sent in the truck to client location for repairs (i) Value of items contained in the truck – ₹ 2,85,000 (ii) Value of stand-alone machine - ₹ 4,00,000 (iii) Value of truck - ₹ 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
C.	Truck sent to a client location in Karnataka for carrying out repairs (i) Value of items contained in the truck - ₹ 1,06,000 (ii) Value of truck - ₹ 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
D.	Invoices raised for repair work carried out in Tamil Nadu [including the invoice for repair work done in 'B'] -	70,00,000
E.	Invoices raised for repair work carried out in Karnataka [including the invoice for repair work done in 'C']	12,00,000

Also, specify the document(s), if any, which need to be issued by Power Engineering Pvt. Ltd., Bangalore for the above transactions.

All the given amounts are exclusive of GST, wherever applicable. Assume the rates of taxes to be as under:

Items used for repairs		
CGST – 6%	SGST – 6%	IGST – 12%
Container truck, Stand-alone machines		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Works contract for repairs and maintenance of immovable property		
CGST – 9%	SGST – 9%	IGST – 18%

You are required to make suitable assumptions, wherever necessary.

2. ABC Ltd., Noida (Uttar Pradesh) is a supplier of machinery used for making bottle caps. The supply of machinery is effected as under:
 - The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is ₹ 42,00,000. However, the actual price at which the machinery is supplied to an

individual customer varies within a range of $\pm 10\%$ depending upon the terms of contract of supply with the particular customer.

- Apart from the price of the machinery, ABC Ltd. charges from the customer the following incidental expenses:
 - o associated handling and loading charges of ₹ 10,000
 - o installation and commissioning charges of ₹ 1,00,000

The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.

- Transportation of machinery to the customer's premises is arranged by ABC Ltd. through a third-party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.
- The company provides one year free warranty for the machinery. However, the company also provides an extended two-year warranty on payment of additional charge of ₹ 3,00,000.
- A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company-
 - o recovers the discount given; and
 - o charges interest @ 1% per month or part of the month on the total amount due from the customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.
- For every machinery supplied, ABC Ltd. receives a grant of ₹ 2,00,000 from its holding company DEF Ltd.

ABC Ltd. has supplied a machinery to D Pvt. Ltd. on August 1, 20XX at a price of ₹ 40,00,000 (excluding all taxes). D Pvt. Ltd has its corporate office in New Delhi. However, the machinery has been installed at its manufacturing unit located in Gurugram (Haryana). D Pvt. Ltd. has paid the freight directly to the GTA and opted for two year warranty. Discount @ 2% was given to D Pvt. Ltd. as it agreed to make the payment within 15 days. However, D Pvt. Ltd. paid the consideration on 31st October, 20XX.

Assume the rates of taxes to be as under:

Bottle cap making machine		
CGST – 6%	SGST – 6%	IGST – 12%

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Service of transportation of goods		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Other services involved in the above supply		
CGST – 9%	CGST – 9%	CGST – 9%

Calculate the GST payable [CGST & SGST or IGST, as the case may be] on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed.

3. M/s XYZ, a registered supplier, supplies the following goods and services for construction of buildings and complexes -
- excavators for required period at a per hour rate
 - manpower for operation of the excavators at a per day rate
 - soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

M/s XYZ receives the following services:

- Annual maintenance services for excavators;
- Health insurance for operators of the excavators;
- Scientific and technical consultancy for soil testing and seismic evaluation.

For a given month, the receipts (exclusive of GST) of M/s XYZ are as follows:

- Hire charges for excavators - ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator - ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites - ₹ 2,50,000

The GST paid during the said month on services received by M/s XYZ is as follows:

- Annual maintenance for excavators - ₹ 1,00,000
- Health insurance for excavator operators - ₹ 11,000
- Scientific and technical consultancy for soil testing and seismic evaluation - ₹ 1,00,000

Compute the net GST payable by M/s XYZ for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators – 12%

Supply of manpower services and soil-testing and seismic evaluation services – 18%

Note: - Opening balance of input tax credit of GST is nil.

4. Bansal and Chandiok is a partnership firm of Chartered Accountants in Jaipur (Rajasthan). The firm specialises in bank audits providing services to banks across India. It has an annual turnover of ₹ 110 lakh in the preceding financial year.

With reference to the provisions of the CGST Act, 2017, examine whether the firm can opt for the composition scheme. Will your answer change, if-

- (a) the turnover of the firm is ₹ 90 lakhs?
 - (b) Bansal and Chandiok is not a partnership firm of Chartered Accountants but a partnership firm providing support services to restaurants like booking tables, advertisement etc.?
5. (i) Mr. Z, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the supply of goods by Mr. Z to customer in US is an inter-State supply?
- (ii) RST Inc., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, RST Inc. has approached ABC Consultants, Mumbai, (Maharashtra) to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on the oral replies of the surveyees; they will not be provided any sample by RST Inc. to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.

With reference to the provisions of GST law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?

6. Krishna Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of input tax credit in respect of the following expenses incurred by it during the course of its business operations:
- (i) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers.
 - (ii) Works contract services availed for constructing a car shed in its premises

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7. ABC Pvt. Ltd., New Delhi, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.

The foreign customer then directly places purchase order on the Indian vendor for purchase of the specified goods. ABC Pvt. Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.

For the month of December, 20XX, the company has charged US \$ 1,00,000 (exclusive of GST) to its foreign customer. With reference to the provisions of GST law, examine whether the company is liable to pay IGST or CGST and SGST.

Note: GST @ 18% is applicable on supply of the support services provided by ABC Pvt. Ltd. Rate of exchange is ₹ 65 per US \$.

8. SNP Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'Z' only within Tamil Nadu. The turnover of the company in the previous year was ₹ 55 lakh. The company expects the sales to grow by 20% in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery for manufacturing 'Z' on 01.07.20XX. The purchase price of the capital goods was ₹ 20 lakh exclusive of GST @ 18%.

However, effective from 01.11.20XX, exemption available on 'Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30.09.20XX was ₹ 40 lakh.

- (a) The Board of Directors of SNP Pvt. Ltd. wants to know whether they have to register under GST?
- (b) In case in the above question, SNP Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manufacture of exempt product 'Z', other facts remaining the same, can it take input tax credit on additional machinery purchased exclusively for manufacturing 'Z'? If yes, then how much credit can be availed?

Advice SNP Pvt. Ltd. on the above issues with reference to the provisions of GST law.

9. Rishabh Enterprises – a sole proprietorship firm – started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption.

Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	February	March
	(₹)*	(₹)*
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand		5,00,000
Interest received from banks on the fixed deposits	1,00,000	1,00,000
Supply of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

* excluding GST

You are required to provide reasons for treatment of various items given above.

10. Answer the following questions:

- (i) Shagun started supply of goods in Vasai, Maharashtra from 01.01.20XX. Her turnover exceeded ₹ 20 lakh on 25.01.20XX. However, she didn't apply for registration. Determine the amount of penalty, if any, that may be imposed on Shagun on 31.03.20XX, if the tax evaded by her, as on said date, on account of failure to obtain registration is ₹ 1,26,000.
- (ii) Sagar, managing director of Telecom Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Telecom Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Sagar, if he fails to appear before the central tax officer.

11. Rajul has been issued a show cause notice (SCN) on 31.12.2021 under section 73(1) of the CGST Act, 2017 on account of short payment of tax during the period between 01.07.2017 and 31.12.2017. He has been given an opportunity of personal hearing on 15.01.2022.

Advice Rajul as to what should be the written submissions in the reply to the show cause notice issued to him.

12. Mr. A had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved related to place of supply. The order of Appellate Tribunal is also in favour of the Department. Mr. A now wants to file an appeal against the decision of the Appellate Authority as he feels the stand taken by him is correct.

You are required to advise him suitably with regard to filing of an appeal before the appellate forum higher than the Appellate Tribunal.

13. Elaborate the duties of Anti-profiteering Authority.

14. With reference to section 54(3) of the CGST Act, 2017, mention the cases where refund of unutilised input tax credit is allowed.

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15. Ranjan intends to start selling certain goods in Delhi. However, he is not able to determine (i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and (ii) the place of supply if he supplies said goods from Delhi to buyers in U.S.

Ranjan's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Ranjan that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

- (i) The tax advisor asks Ranjan to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?
- (ii) Can Ranjan seek advance ruling to determine (a) the classification of the goods proposed to be supplied by him and (b) the place of supply, if he supplies said goods from Delhi to buyers in U.S?
- (iii) Ranjan is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?
- (iv) The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?
- (v) Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt.

He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

16. Product 'Z' was imported by Mr. X by air. The details of the import transaction are as follows:

Particulars	US \$
Price of 'Z' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	4,500
Insurance charges	2,000

Though the aircraft arrived on 22.08.20XX, the bill of entry for home consumption was presented by Mr. X on 20.08.20XX.

The other details furnished by Mr. X are:

	20.08.20XX	22.08.20XX
Rate of basic customs duty	20%	10%
Exchange rate notified by CBEC	₹ 60 per US\$	₹ 63 per US\$
Exchange rate prescribed by RBI	₹ 61 per US\$	₹ 62 per US\$
Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975	18%	12%

Compute-

- (i) value of product 'Z' for the purpose of levying customs duty
 - (ii) customs duty and tax payable
17. An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transhipped to Cochin port. Determine the assessable value of the imported goods under the Customs Act, 1962 from the following particulars:

S.No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000
(iii)	Handling charges paid for loading the machine in the ship	US \$ 100
(iv)	Buying commission paid by the importer	US \$ 100
(v)	Freight charges from exporting country to India	US \$ 2,000
(vi)	Actual insurance charges paid are not ascertainable	---
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
(viii)	Unloading and handling charges paid at the place of importation	₹ 1,500
(ix)	Transport charges from Mumbai to Cochin port	₹ 25,000
(x)	Exchange rate to be considered: 1\$ = ₹ 60	

18. Determine the assessable value of imported goods in the following cases:

Case I

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Particulars	US \$
FOB value	1,000
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known
Insurance charges	10

Case II

Particulars	US \$
FOB value plus insurance charges	1,010
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known

Case III

Particulars	US \$
FOB value	1,000
Sea freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60
Insurance charges	Not known

Case IV

Particulars	US \$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Insurance charges	Not known

Case V

Particulars	US \$
FOB value	1,000
Air freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	250
Insurance charges	10

19. With reference to the recent amendments made in the Customs Act, 1962, examine the validity of the following statements:
- (a) A beneficial owner of imported goods is a person on whose behalf the goods are being imported.

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- (b) Customs area does not include a warehouse.
- (c) Customs station includes international courier terminal.
20. With reference to the recent facility, 'Clear first-Pay later' extended to importers under the customs law, answer the following questions:
- (i) What is the objective of the facility?
- (ii) Who is eligible to avail this scheme?
- (iii) What are the due dates for payment of duty under this facility?
- (iv) What are the circumstances when the deferred payment facility will not be available?

SUGGESTED ANSWERS

1. **Computation of GST Liability of Power Engineering Pvt. Ltd., Bangalore for the month of November 20XX**

S.No.	Particulars	₹
A.	Items sent in container truck to own location in Tamil Nadu - IGST @ 12% [Note 1]	36,000
	Container truck sent to own location in Tamil Nadu [Note 2]	-
B.	Stand-alone machine sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 3]	-
	Container truck sent to client location in Tamil Nadu [Note 3]	-
	Items sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 4]	-
C.	Container truck sent to client location in Karnataka [Note 3]	-
	Items sent in container truck to client location in Karnataka, for carrying out repairs [Note 4]	-
D.	Invoices raised for repair work carried out in Tamil Nadu: IGST @ 18% [Note 5 and Note 6]	12,60,000
E.	Invoices raised for repair work carried out in Karnataka: CGST 9% + SGST 9% [Note 5 and Note 7]	2,16,000
Total GST liability		15,12,000

Notes:

- (1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act, 2017 is deemed to be a supply in terms of Schedule

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I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017. (However, if the regional office is eligible to take full input tax credit, any value may be declared in the tax invoice and that will be taken to be the open market value in terms of the second proviso to the same rule.)

In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of items contained in the truck is the location of such goods at the time at which the movement of goods terminates for delivery to the recipient i.e., Tamil Nadu in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the given supply of items is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Since the activity is a supply, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(1)(a) of the CGST Act, 2017 for sending the items to its own location in Tamil Nadu.

- (2) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

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

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].

Since the activity is not a supply, tax invoice is not required to be issued by Power Engineering Pvt. Ltd. However, a delivery challan is to be issued by the company in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the truck to its own location in Tamil Nadu.

- (3) Supply of goods without consideration is deemed to be a supply *inter alia* when the goods are supplied to a 'distinct person'. However, in this case, stand-alone machine and container truck are moved to client location and not between 'distinct persons'. Hence, the same will fall outside the scope of definition of supply and will not be leviable to GST.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the stand-alone machines and container truck to client location.

- (4) As per section 2(119) of the CGST Act, 2017, 'works contract' means a contract for, *inter alia*, repair, maintenance of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

In this case, the supplier provides maintenance and repair services for power plants that are in the nature of immovable property and uses consumables and parts, wherever necessary, for the repairs. Hence, the contract is that of a works contract.

Further, as per section 2(30) of the CGST Act, 2017, a works contract is a 'composite supply' as it consists of taxable supplies of both goods and services which are naturally bundled and supplied in conjunction with each other. The composite supply of works contract is treated as supply of service in terms of para 6(a) of Schedule II to the CGST Act, 2017.

The items used in relation to the repair and maintenance work could be consumables or could be identifiable items/parts. In either case, the transfer of property in goods is incidental to a composite supply of works contract service. Thus, the value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the items for carrying out the repairs.

- (5) The activity is a composite supply of works contract, which is treated as supply of service. As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

Since the activity is a supply of service, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(2) of the CGST Act, 2017.

- (6) In the given case-
- the location of the supplier is in Bangalore (Karnataka); and
 - the place of supply of works contract services relating to the power plant (immovable property) is the location at which the immovable property is located i.e., Tamil Nadu in terms of section 12(3)(a) of the IGST Act, 2017.

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Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (7) In the given case, the location of the supplier and the place of supply of works contract services are within the same State. Therefore, the given supply is an intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST.

2. **Computation of GST liability of ABC Ltd.**

Particulars	(₹)
Price of machine [Note 1]	40,00,000
Handling and loading charges [Note 2]	10,000
Installation and commissioning charges [Note 3]	1,00,000
Transportation cost [Note 4]	Nil
Additional warranty cost [Note 5]	3,00,000
Grant from DEF Ltd. [Note 6]	<u>2,00,000</u>
Total price of the machine	46,10,000
Less: 2% cash discount on price of machinery = Rs.40,00,000 × 2% [Note 7]	<u>80,000</u>
Taxable value of supply	45,30,000
Tax liability for the month of August 20XX [Note 11]	
IGST @ 12% [Note 8 and Note 9]	5,43,600
Tax liability for the month of October 20XX [Note 11]	
Interest collected @ 3% on ₹ 44,10,000 [Note 10]	1,32,300
Cash discount recovered [Note 10]	<u>80,000</u>
Cum-tax value of interest and cash discount	2,12,300
IGST = (₹ 2,12,300/112) × 12%	22,746
Total IGST payable on the machinery	5,66,346

Notes:

- (1) As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. It is assumed that ABC Ltd. and D Pvt. Ltd are not related and the price is the sole consideration for the supply.

- (2) All incidental expenses charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (4) Transportation cost has not been included in the value of supply of the machinery as it is a separate service contract between the customer and the third-party service provider. The customer pays the freight directly to the service provider.
The supplier (ABC Ltd), in this case, merely arranges for the transport and does not provide the transport service on its own account. Tax will be separately levied on the supply of service of transportation of goods under reverse charge.
- (5) Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded as per section 15 of the CGST Act.
- (6) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.
- (7) Cash discount was deducted by ABC Ltd. upfront at the time of supply on August 1, 20XX and hence, the same is excluded from the value of supply as it did not form part of the transaction value.
- (8) In the given case-
 - the location of the supplier is in Noida (UP); and
 - the place of supply of machinery is the place of installation of the machinery i.e., Gurugram (Haryana) in terms of section 10(1)(d) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (9) The given supply is a composite supply involving supply of goods (machinery) **and** services (handling and loading and installation and commissioning) where the principal supply is the supply of goods.
As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.
- (10) Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017. Further, cash discount recovered will also be includible in the value of supply as now the

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transaction value i.e., the price actually paid for the machinery is devoid of any discount.

The cash discount not allowed and interest have to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

- (11) It has been assumed that the invoice for the supply has been issued on August 1, 20XX, the date on which the supply is made. Thus, the time of supply of goods is August 1, 20XX in terms of section 12(1)(a) of the CGST Act, 2017.

As per section 12(6) of the CGST Act, 2017, the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 31st October, 20XX, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

3. Computation of net GST payable by M/s XYZ

Particulars	GST payable (₹)
Gross GST liability [Refer Working Note 1 below]	2,63,400
Less: Input tax credit [Refer Working Note 2 below]	2,00,000
Net GST liability	63,400

Working Notes

(1) Computation of gross GST liability

Particulars	Value received (₹)	Rate of GST	GST payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note 1]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note 2]	2,50,000	18%	45,000
Gross GST liability			2,63,400

Notes:

- (i) Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) of the CGST Act, 2017 wherein the principal supply is the hiring out of the excavator.

As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.

- (ii) Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

(2) **Computation of input tax credit available for set off**

Particulars	GST paid (₹)	ITC available (₹)
Annual maintenance services for excavators [Refer Note 1]	1,00,000	1,00,000
Health insurance for excavator operators [Refer Note 2]	11,000	-
Scientific and technical consultancy [Refer Note 1]	1,00,000	1,00,000
Total input tax credit available		2,00,000

Notes:

- (i) Section 17(5)(d) of the CGST Act, 2017 blocks credit on goods and/or services received by a taxable person for construction of an immovable property on his own account. Here, though the excavators are used for building projects, the same are not used by M/s XYZ on its own account for construction of immovable property; instead they are used for outward taxable supply of hiring out of machinery.

Therefore, the annual maintenance service for the excavators does not get covered by the bar under section 17 of the CGST Act, 2017 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.

- (ii) Section 17(5)(b)(iii) of the CGST Act, 2017 allows input tax credit on health

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insurance only when:

- (a) the Government notifies the services as obligatory for an employer to provide to its employees under any law for the time being in force; or
- (b) the said service is used for making an outward taxable supply of the same category of service or as part of a taxable composite or mixed supply.

Since, in the given case, the health insurance service does not fall under any of the above two categories, the credit thereon will not be allowed.

4. As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—

- (a) 1% of the turnover in State/ Union territory in case of a manufacturer,
- (b) 2.5% of the turnover in State/ Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (restaurant services), and
- (c) 0.5% of the turnover in State/ Union territory in case of other suppliers.

Further, sub-section (2) of section 10 lays down that the registered person shall be eligible to opt for composition levy if:—

- (a) he is not engaged in the supply of services other than restaurant services;
- (b) he is not engaged in making any supply of goods which are not leviable to tax under CGST Act, 2017
- (c) he is not engaged in making any inter-State outward supplies of goods;
- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council.

Basis above provisions, a firm of Chartered Accountants, being a supplier of professional services (other than restaurant services) is not eligible to apply for composition scheme. Therefore, it has to discharge its tax liability under regular provisions at the applicable rates.

- (a) The answer will not change even if the turnover of the firm had been ₹ 90 lakh since the ineligibility of the firm to opt for composition scheme is not linked with the turnover of the firm, but with the nature of the services supplied by the firm.

Therefore, since even with turnover of ₹ 90 lakh the ineligibility in respect of nature of services supplied by firm exists i.e., the firm provides professional services and not restaurant services; it will not be eligible for composition scheme.

- (b) The answer will not change even if the firm is providing support services to restaurants as only the supplier providing restaurant services *per se* are eligible for composition scheme.
5. (i) The transaction undertaken by Mr. Z is neither import nor export of goods in terms of Customs Act, 1962. However, it is an inter-State supply in terms of provisions of section 7(5)(a) of the IGST Act, 2017 which provides that when the supplier is located in India and the place of supply is outside India, supply of goods or services or both, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.
- (ii) As per section 13(2) of the IGST Act, 2017, in case where the location of the supplier of services or the location of the recipient of services is outside India, the place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services. Sub-sections (3) to (13) provide the mechanism to determine the place of supply in certain specific situations.

The given case does not fall under any of such specific situations and thus, the place of supply in this case will be determined under sub-section (2) of section 13. Thus, the place of supply of services in this case is the location of recipient of services i.e., USA.

As per section 2(6) of the IGST Act, 2017, export of services means the supply of any service when,—

- (a) the supplier of service is located in India;
- (b) the recipient of service is located outside India;
- (c) the place of supply of service is outside India;
- (d) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Since all the above five conditions are fulfilled in the given case, the same will be considered as an export of service.

6. As per section 16(1) of the CGST Act, 2017, every registered person can take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. However, section 17(5) of CGST Act, 2017 specifies certain goods and services on which the input tax credit is not available.

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In the light of the foregoing provisions, the availability of input tax credit (ITC) in respect of the various expenses incurred by Krishna Motors is discussed below:

- (i) Section 17(5)(a) specifically blocks ITC on motor vehicles and other conveyances. However, the same is allowed when the motor vehicles and other conveyances are used, *inter alia*, for further supply of such vehicles or conveyances. Thus, ITC on cars purchased from the manufacturer for making further supply of such cars will be allowed.

However, ITC on the cars destroyed in accident will not be allowed as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5)(h) of CGST Act.

- (ii) Section 17(5)(c) specifically blocks ITC on works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Since, in this case the car shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, ITC thereon will not be allowed.

7. Section 2(13) of the IGST Act, 2017 defines “intermediary” to mean a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In this case, since ABC Pvt. Ltd. is arranging or facilitating supply of goods between the foreign customer and the Indian vendor, the said services can be classified as intermediary services.

If the location of the supplier of services or the location of the recipient of service is outside India, the place of supply is determined in terms of section 13 of the IGST Act, 2017. Since, in the given case, the recipient of supply is located outside India, the provisions of supply of intermediary services will be determined in terms of section 13 of the IGST Act, 2017.

As per section 13(8)(b), the place of supply in case of intermediary services is the location of the supplier i.e., the location of ABC Pvt. Ltd. which is New Delhi. Further, as per section 8(2) of the IGST Act, 2017, supply of services where the location of the supplier and the place of supply of services are in the same State is treated as intra-State supply.

Therefore, since in the given case, both the location of ABC Pvt. Ltd. and the place of supply of the service provided by it are in New Delhi, the supply of service will be an intra-State supply leviable to CGST & SGST.

Assuming that the given rate of exchange is prevailing on the date of time of supply of services, the CGST and SGST liability will be worked out as under:

CGST = ₹ 5,85,000 (1,00,000 x 65 x 9%)

SGST = ₹ 5,85,000 (1,00,000 x 65 x 9%)

8. (a) Section 22(1) of the CGST Act, 2017 *inter alia* provides that every supplier, whose aggregate turnover in a financial year exceeds ₹ 20,00,000, is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services.

However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration in terms of section 23(1)(a) of CGST Act, 2017.

In the given case, the turnover of the company for the half year ended on 30.09.20XX is ₹ Rs 40 lakh which is more than the threshold limit of ₹ 20 lakh. Therefore, as per section 22 of CGST Act 2017, the company will be liable to registration. However, since SNP Pvt. Ltd. supplied exempted goods till 31.10.20XX, it was not required to be registered till that day; though voluntary registration was allowed under section 25(3) of the CGST Act, 2017.

However, the position will change from 01.11.20XX as the supply of goods become taxable from that day and the turnover of company is above ₹ 20 lakh. It is important to note here that in terms of section 2(6) of the CGST Act, 2017, the aggregate turnover limit of ₹ 20 lakh includes exempt turnover also.

Therefore, turnover of 'Z' will be considered for determining the limit of ₹ 20 lakh even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01.11.20XX (the date on which it becomes liable to registration) in terms of section 25(1) of the CGST Act, 2017.

Further, the company cannot avail exemption of ₹ 20 lakh from 01.11.20XX as the GST law does not provide any threshold exemption from payment of tax but threshold exemption from obtaining registration (which in this case had been crossed).

- (b) Rule 43(1)(a) of the CGST Rules, 2017 disallows input tax credit on capital goods used or intended to be used exclusively for effecting exempt supplies.

However, as per section 18(1)(d) of the CGST Act, 2017, where an exempt supply of goods and/or services by a registered person becomes a taxable supply, such person gets entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

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Rule 40(1)(a) of the CGST Rules, 2017 lays down that the credit on capital goods can be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice.

Therefore, in the given case, SNP Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'Z' for which said machinery was being used was exempt. However, it can claim credit from 31.10.20XX - the day immediately preceding the date from which the supply of product 'Z' became taxable (01.11.20XX).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	01.07.20XX
Date on which credit becomes eligible	31.10.20XX
Number of quarters for which credit is to be reduced	2 (including part of quarter)
GST paid on machinery [₹ 20,00,000 x 18%]	₹ 3,60,000
Credit to be reduced [₹ 3,60,000 x 5% x 2]	₹ 36,000
Amount of credit that can be taken [₹ 3,60,000 – ₹ 36,000]	₹ 3,18,000

9. As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds ₹ 20 lakh.

However, if such taxable supplies are made from any of the specified special category States, namely, States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ₹ 10 lakh.

In the given question, since Rishabh Enterprises is engaged in making taxable supplies from Maharashtra which is not a specified Special Category State, the threshold limit for obtaining registration is ₹ 20 lakh.

The threshold limit is not reduced to ₹ 10 lakh in this case, as sale of alcoholic liquor for human consumption from Uttarakhand (one of the specified Special Category States) are non-taxable supplies in terms of section 9(1) of CGST Act, 2017.

As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

In the light of the afore-mentioned provisions, the aggregate turnover of Rishabh Enterprises is computed as under:

Computation of aggregate turnover of Rishabh Enterprises

Particulars	Turnover of February (₹)	Cumulative turnover of February & March (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [₹ 5,50,000 + ₹ 6,50,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand [Note-1]		5,00,000
Add: Interest received from banks on the Fixed Deposits [Note-2]	1,00,000	2,00,000 [₹ 1,00,000 + ₹ 1,00,000]
Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [₹ 1,50,000 + ₹ 2,00,000]
Aggregate Turnover	8,00,000	22,50,000

Notes:

- As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.
- Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt vide *Notification No. 12/2017 CT (R) dated 28.06.2017*. Thus, interest received from banks on the fixed deposits is an exempt supply and is, therefore, includible while computing the aggregate turnover.

Rishabh Enterprises was not liable to be registered in the month of February since its aggregate turnover did not exceed ₹ 20 lakh in that month. However, since its

aggregate turnover exceeds ₹ 20 lakh in the month of March, it should apply for registration within 30 days from the date on which it becomes liable to registration.

10. (i) Where the aggregate turnover of a supplier making supplies from a State/UT exceeds ₹20 lakh in a financial year, he is liable to be registered in the said State/UT. The said supplier must apply for registration within 30 days from the date on which he becomes liable to registration. However, in the given case, although Shagun became liable to registration on 25.01.20XX, she didn't apply for registration within 30 days of becoming liable to registration.

Section 122(1)(xi) of the CGST Act, 2017 stipulates that a taxable person who is liable to be registered under the CGST Act, 2017 but fails to obtain registration shall be liable to pay a penalty of:

(a) ₹ 10,000

or

(b) an amount equivalent to the tax evaded [₹ 1,26,000 in the given case], whichever is higher.

Thus, the amount of penalty that can be imposed on Shagun is ₹ 1,26,000.

- (ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that any person who fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry is liable to a penalty which may extend to ₹ 25,000. Therefore, penalty upto ₹ 25,000 can be imposed on Sagar, in the given case.

11. The written submissions in reply to SCN issued to Rajul are as follows:

- i. The show cause notice (SCN) issued for normal period of limitation under section 73(1) of the CGST Act, 2017 is not sustainable.
- ii. The SCN under section 73(1) of the CGST Act, 2017 can be issued at least 3 months prior to the time limit specified for issuance of order under section 73(10) of the CGST Act, 2017. The adjudication order under section 73(10) of the CGST Act, 2017 has to be issued within 3 years from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

The due date for furnishing annual return for a financial year is on or before the 31st day of December following the end of such financial year [Section 44 of the CGST Act, 2017]. Thus, SCN under section 73(1) of the CGST Act, 2017 can be issued within 2 years and 9 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

- iii. The SCN has been issued for the period between 01.07.2017 to 31.12.2017 which falls in the financial year (FY) 2017-18. Due date for furnishing annual return for the FY 2017-18 is 31.12.2018 and 3 years' period from due date of filing annual return

lapses on 31.12.2021. Thus, SCN under section 73(1) ought to have been issued latest by 30.09.2021.

- iv. Since the notice has been issued after 30.09.2021, the entire proceeding is barred by limitation and deemed to be concluded under section 75(10) of the CGST Act, 2017.

12. As per section 117(1) of the CGST Act, 2017, an appeal against orders passed by the State Bench or Area Benches of the Tribunal lies to the High Court if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the National Bench or Regional Benches of the Tribunal lies to the Supreme Court and not High Court. As per section 109(5) of the Act, only the National Bench or Regional Benches of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Mr. A's case relates to place of supply, the appeal in his case would have been decided by the National Bench or Regional Bench of the Tribunal. Thus, Mr. A will have to file an appeal with the Supreme Court and not with the High Court.

13. The duties of the Anti-profiteering Authority are:

- (i) to determine whether the reduction in tax rate or the benefit of input tax credit has been passed on by the seller to the buyer (hereinafter collectively referred to as 'benefit') by reducing the prices
- (ii) to identify the taxpayer who has not passed on the benefit
- (iii) to order
 - (a) reduction in prices
 - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be.
If the eligible person does not claim return of the amount or is not identifiable, the amount must be deposited in the Consumer Welfare Fund;
 - (c) imposition of penalty
 - (d) cancellation of registration
- (iv) to furnish a performance report to the GST Council by the 10th of the month succeeding each quarter [Rule 127 of the CGST Rules, 2017].

14. As per section 54(3) of the CGST Act, 2017, a registered person may claim refund of unutilised input tax credit at the end of any tax period in the following cases:

- (i) **Zero rated supplies:** Supply of goods/services/both to an SEZ developer/unit or export of goods or services or both. However, refund of unutilized input tax credit shall not be allowed if:
- the goods exported out of India are subjected to export duty;
 - the supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.
- (ii) **Accumulated ITC on account of inverted duty structure:** 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.
15. (i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c) of the CGST Act, 2017]. Therefore, it is not mandatory for a person seeking advance ruling to be registered.
- (ii) Section 97(2) of the CGST Act, 2017 stipulates the questions/matters on which advance ruling can be sought. It provides that advance ruling can be sought for, *inter alia*, determining the classification of any goods or services or both. Therefore, Ranjan can seek the advance ruling for determining the classification of the goods proposed to be supplied by him.

Determination of place of supply is not one of the specified questions/matters on which advance ruling can be sought under section 97(2). Further, section 96 of the CGST Act, 2017 provides that AAR constituted under the provisions of an SGST Act/UTGST Act shall be deemed to be the AAR in respect of that State/Union territory under CGST Act also.

Thus, AAR is constituted under the respective State/Union Territory Act and not the central Act. This implies that ruling given by AAR will be applicable only within the jurisdiction of the concerned State/Union territory.

It is also for this reason that the questions on determination of place of supply cannot be raised with the AAR. Hence, Ranjan cannot seek the advance ruling for determining the place of supply of the goods proposed to be supplied by him.

Note: The above answer is based on the view taken by the CBEC in its e-flier issued on the subject of advance ruling. The e-flier is available on the CBEC's website. However, it can be also be argued that the question relating to determination of the liability to pay tax on goods and/or services as provided under section 96(2)(e) of the CGST Act, 2017 encompasses within its ambit the question relating to place of supply. This is so because place of supply is one of the factor to determine as to whether the supply is leviable to CGST & SGST or IGST.

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- (iii) Section 103(2) of the CGST Act, 2017 stipulates that the advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed. Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/question, it will be binding till the time the law, facts and circumstances supporting the original advance ruling remain same.
- (iv) No, the tax advisor's view is not correct. As per section 100 of the CGST Act, 2017, if the applicant is aggrieved with the finding of the AAR, he can file an appeal with Appellate Authority for Advance Ruling (AAAR). Similarly, if the concerned/jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

Such appeal must be filed within 30 days from the receipt of the advance ruling. The Appellate Authority may allow additional 30 days for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

- (v) Section 103 of the CGST Act provides that an advance ruling pronounced by AAR is binding only on the applicant who had sought it and on the concerned officer or the jurisdictional officer in respect of the applicant. This implies that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

16.

Computation of assessable value of product 'Z'

Particulars		Amount
Ex-factory price of the goods		8,500 US \$
Freight from factory of the exporter to load airport (airport in the country of exporter)	250 US \$	
Loading and handling charges at the load airport	250 US \$	
Freight from load airport to the airport of importation in India	<u>4,500 US \$</u>	
Total cost of transport, loading and handling charges associated with the delivery of the imported goods to the place of importation	5,000 US \$	
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (restricted to 20% of FOB value) [Note 1]		1,800 US \$
Insurance (actual)		2,000 US \$
CIF for customs purpose		12,300 US \$

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Value for customs purpose	12,300 US \$
Exchange rate as per CBEC [Note 2]	₹ 60 per US \$
	Amount (₹)
Assessable value (₹ 60 x 12,300 US \$)	7,38,000
Add: Basic customs duty @ 10% [Note 3]	73,800
Add: Education cess @ 2% & Secondary & Higher Education Cess @ 1% of custom duty [3% of ₹ 73,800]	2,214
Value for the purpose of levying integrated tax [Note 4]	8,14,014
Add: Integrated tax leviable under section 3(7) @ 12%	97,681.68
Total duty & tax payable (rounded off)	1,73,696

Notes:

- (1) In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods. [Fifth proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].

FOB value in this case is the ex-factory price of the goods (8,500 US \$) plus the cost of transport from factory to load airport (250 US \$) plus loading and handling charges at the load airport (250 US \$) which is 9,000 US \$.

- (2) Rate of exchange determined by CBEC is to be considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
- (3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or the rate in force on the date of arrival of aircraft, whichever is later.
- (4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1962]. Education Cess and Secondary Higher Education Cess leviable on integrated tax have been exempted vide *Notification Nos. 54 & 55 Cus both dated 30.06.2017*.
- (5) No landing charges are to be added to the CIF value in view of the amendment in rule 10(2) of the CVR vide *Notification No. 91/2017 – Cus. (NT) dated 26.09.2017*.

17. Computation of assessable value of imported goods

Particulars	Amount (US \$)
Price of the machine at the factory of the exporter	20,000
Add: Transport charges up to the port in the country of the exporter	1,000

[Note 1]	
Handling charges at the port in the country of the exporter [Note 1]	100
Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	<u>Nil</u>
FOB value	26,100.00
Add: Freight charges up to India	2,000.00
Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	<u>Nil</u>
CIF value	28,393.63
Add: Unloading and handling charges paid at the place of importation [Note 6]	<u>Nil</u>
Assessable value	28,393.63
Assessable value in Indian rupees @ ₹ 60/ per \$	₹ 17,03,617.80
Assessable value (rounded off)	₹ 17,03,618

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Sixth proviso to rule 10(2) of the CVR].
- (6) By virtue of the amendment carried out in rule 10(2) of the CVR vide *Notification No. 91/2017Cus. (NT) dated 26.09.2017*, only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value.

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The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods. *[Circular No. 39 / 2017 Cus. dated 26.09.2017].*

18. Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007 (CVR) has been substituted by a new sub-rule. The new sub-rule provides that for the purposes of sub-section (1) of section 14 of the Customs Act, 1962 and these rules, the value of the imported goods shall be the value of such goods, and shall include -

- (a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;
- (b) the cost of insurance to the place of importation:

Provided that where the cost referred to in clause (a) is not ascertainable, such cost shall be 20% of the free on board value of the goods.

Provided further that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be 20% of such sum:

Provided also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of free on board value of the goods.

Provided also that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum.

Provided also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed 20% of free on board value of the goods.

Provided also that in the case of goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.

Explanation-

The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on chartered vessels, lighterage or barge charges.

In the backdrop of the above provisions, the assessable value in the various cases will be computed as under:

Computation of assessable value

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Case I

Particulars	US \$
FOB value	1,000
<i>Add:</i> Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of FOB value in terms of first proviso to rule 10(2) of CVR]	200
Cost of insurance [Includible in terms of rule 10(2)(b) of CVR]	<u>10</u>
Assessable value [CIF value]	1,210

Case II

Particulars	US \$
FOB value plus insurance charges	1,010
<i>Add:</i> Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of sum of FOB value of the goods and the cost of insurance in terms of second proviso to rule 10(2) of CVR]	202
Assessable value [CIF value]	1,212

Case III

Particulars	US \$
FOB value	1,000
<i>Add:</i> Cost of sea transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [Includible in terms of rule 10(2)(a) of CVR]	60
Insurance [1.125% of sum of FOB value of the goods in terms of third proviso to rule 10(2) of CVR]	11.25
Assessable value [CIF value]	1,071.25
Assessable value rounded off	1,071

Case IV

Particulars	US \$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
<i>Add:</i> Insurance [1.125% of sum of FOB value of the goods and sea	11.925

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freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation in terms of fourth proviso to rule 10(2) of CVR]	
Assessable value CIF value	1071.925
Assessable value rounded off	1,072

Case V

Particulars	US \$
FOB value	1,000
Add: Cost of air transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is restricted to 20% of FOB value when transportation of goods is through air [Fifth proviso to rule 10(2) of CVR]	200
Cost of insurance	10
Assessable value [CIF value]	1,210

19. (a) **The statement is valid.** A new section 2(3A) has been inserted in the Customs Act, 1962 vide the Finance Act, 2017 to define beneficial owner to mean any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.
- (b) **The statement is not valid.** The definition of customs area as provided under section 2(11) of the Customs Act, 1962 has been amended vide the Taxation Laws (Amendment) Act, 2017 to include within its ambit a warehouse too.
- The customs area is now defined to mean the area of a customs station **or a warehouse** and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
- (c) **The statement is valid.** The Finance Act, 2017 has included international courier terminal and foreign post office within the scope of customs station as defined under section 2(13) of the Customs Act, 1962.
- As per the amended section 2(13), a customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station.
20. (i) 'Clear first-Pay later' i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have a seamless wharf to warehouse transit in order to facilitate just-in-time manufacturing. This scheme is in force w.e.f. 16th November, 2016.

- (ii) Central Government has permitted importers certified under Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) to make deferred payment of import duty (eligible importers).

As a part of the ease of doing business focus of the Government of India, the CBEC has rolled out the AEO (Authorized Economic Operator) programme.

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBEC.

- (iii) The due dates for payment of deferred duty are -

S. No.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1.	1 st day to 15 th day of any month	16 th day of that month
2.	16 th day till the last day of any month other than March	1 st day of the following month
3.	16 th day till the 31 st day of March	31 st March

- (iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the bill of entry.

Note: GST law is in its nascent stage and has been subject to frequent changes. Although many clarifications have been issued in the last six months by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.

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QUESTIONS

- (1) All questions should be answered on the basis of the position of GST law as amended up to 30.04.2018 and customs law as amended by the Finance Act, 2017 and notifications and circulars issued till 30.04.2018.
- (2) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

1. 'All-in-One Store' is a chain of departmental store having presence in almost all metro cities across India. Both exempted as well as taxable goods are sold in such Stores. The Stores operate in rented properties. All-in-One Stores pay GST under regular scheme.

In Mumbai, the Store operates in a rented complex, a part of which is used by the owner of the Store for personal residential purpose.

All-in-One Store, Mumbai furnishes following details for the month of October, 20XX:

- (i) Aggregate value of various items sold in the Store:
 - Taxable items – ₹ 42,00,000
 - Items exempted vide a notification – ₹ 12,00,000
 - Items not leviable to GST – ₹ 3,00,000
- (ii) Mumbai Store transfers to another All-in-One Store located in Goa certain taxable items for the purpose of distributing the same as free samples. The value declared in the invoice for such items is ₹ 5,00,000. Such items are sold in the Mumbai Store at ₹ 8,00,000.
- (iii) Aggregate value of various items procured for being sold in the Store:
 - Taxable items – ₹ 55,00,000
 - Items exempted vide a notification – ₹ 15,00,000
 - Items not leviable to GST – ₹ 5,00,000
- (iv) Freight paid to goods transport agency (GTA) for inward transportation of taxable items – ₹ 1,00,000
- (v) Freight paid to GTA for inward transportation of exempted items – ₹ 80,000
- (vi) Freight paid to GTA for inward transportation of non-taxable items – ₹ 20,000

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- (vii) Monthly rent payable for the complex – ₹ 5,50,000 (one third of total space available is used for personal residential purpose).
- (viii) Activity of packing the items and putting the label of the Store along with the sale price has been outsourced. Amount paid for packing of all the items - ₹ 2,50,000
- (ix) Salary paid to the regular staff at the Store - ₹ 2,00,000
- (x) GST paid on inputs used for personal purpose – ₹ 5,000
- (xi) GST paid on rent a cab services availed for business purpose – ₹ 4,000.
- (xii) GST paid on items given as free samples – ₹ 4,000

Given the above available facts, you are required to compute the following:

- A. Input tax credit (ITC) credited to the Electronic Credit Ledger
- B. Common Credit
- C. ITC attributable towards exempt supplies out of common credit
- D. Eligible ITC out of common credit
- E. Net GST liability for the month of October, 20XX

Note:

- (1) Wherever applicable, GST under reverse charge is payable @ 5% by All-in-One Stores. Rate of GST in all other cases is 18%.
 - (2) All the sales and purchases made by the Store are within Maharashtra. All the purchases are made from registered suppliers. All the other expenses incurred are also within the State.
 - (3) Wherever applicable, the amounts given are exclusive of taxes.
 - (4) All the necessary conditions for availing the ITC have been complied with.
2. XYZ Ltd., New Delhi, manufactures biscuits under the brand name 'Tastypicks'. Biscuits are supplied to wholesalers and distributors located across India on FOR basis from the warehouse of the company located at New Delhi. The company uses multiple modes of transport for supplying the biscuits to its customers spread across the country. The transportation cost is shown as a line item in the invoice and is billed to the customers with a mark-up of 2% on total amount of freight paid (inclusive of taxes).

Flour used for the production process is procured from vendors located in Madhya Pradesh on ex-factory basis. The company engages goods transport agencies (GTA) to transport the flour from the factories of the vendors to its factory located in New Delhi.

The company has provided the following data relating to transportation of biscuits and flour in the month of April 20XX:

- For sales within the NCR region (₹ 20,00,000), the company arranged a local mini-van belonging to an individual and paid him ₹ 54,000.
 - For sales to locations in distant States (₹ 1,78,00,000), the company booked the goods by Indian Railways and paid rail freight of ₹ 3,17,000.
 - For sales to locations in neighbouring States (₹ 55,00,000), the company booked the goods by road carriers (GTAs) and paid road freight of ₹ 3,73,000. Out of the total sales to neighbouring States, goods worth ₹ 10,00,000 were booked through a GTA which paid tax @ 12%. Freight of ₹ 73,000 was paid to such GTA.
 - For purchase of flour from Madhya Pradesh (₹ 25,00,000), the company booked the goods by a GTA and paid road freight of ₹ 55,000.
 - For purchase of butter from Punjab (₹ 15,00,000), the company booked the goods by a GTA and paid road freight of ₹ 35,000.
 - For local purchase of baking powder, the company booked the goods by a GTA in a single carriage and paid road freight of ₹ 1,500.
 - For transferring the biscuits (open market value - ₹ 4,00,000) to one of its sister concern in Rajasthan, the company booked the goods by a GTA and paid road freight of ₹ 40,000.
- (i) Based on the particulars given above, compute the GST payable on the amount paid for transportation by XYZ Ltd. when it avails the services of different transporters.
 - (ii) Compute the GST charged on transportation cost billed by the company to its customers.

Note: - Assume the rate of GST on transportation of goods and biscuits to be 5% and 12% respectively [except where any other rate is specified in the question].

3. Rolex Forex Private Limited, registered in Delhi, is a money changer. It has undertaken the following purchase and sale of foreign currency:
 - (i) 1,000 US \$ are purchased from Rajesh Enterprises at the rate of ₹ 68 per US \$. RBI reference rate for US \$ on that day is ₹ 68.60.
 - (ii) 2,000 US \$ are sold to Srinithi at the rate of ₹ 67.50 per US\$. RBI reference rate for US \$ for that day is not available.

Determine the value of supply in each of the above cases in terms of:

- (A) rule 32(2)(a) of the CGST Rules, 2017
 - (B) rule 32(2)(b) of the CGST Rules, 2017.
4. Jaskaran, a registered supplier of Delhi, has made the following supplies in the month of January, 20XX:

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S. No.	Particulars	Amount* (₹)
(i)	Supply of 20,000 packages at ₹ 30 each to Sukhija Gift Shop in Punjab [Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons]	6,00,000
(ii)	10 generators hired out to Morarji Banquet Halls, Chandigarh [including cost of transporting the generators (₹ 1,000 for each generator) from Jaskaran's warehouse to the Morarji Banquet Halls]	2,50,000
(iii)	500 packages each consisting of 1 chocolate and 1 fruit juice bottle given as free gift to Delhi customers on the occasion of Diwali [Cost of each package is ₹ 12, but the open market value of such package of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the items contained in the package]	
(iv)	Catering services provided free of cost for elder brother's business inaugural function in Delhi [Cost of providing said services is ₹ 55,000, but the open market value of such services and of services of like kind and quality is not available.]	

*excluding GST

You are required to determine the GST liability [CGST & SGST and/or IGST, as the case may be] of Jaskaran for the month of January, 20XX with the help of the following additional information furnished by him for the said period:

1. Penalty of ₹ 10,000 was collected from Sukhija Gift Shop for the payment received with a delay of 10 days.
2. The transportation of the generators from Jaskaran's warehouse to the customer's premises is arranged by Jaskaran through a Goods Transport Agency (GTA) who pays tax @ 12%.
3. Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Chocolates	9%	9%	18%
Fruit juice bottles	6%	6%	12%
Toy balloons	2.5%	2.5%	5%

Service of renting of generators	9%	9%	18%
Catering service	9%	9%	18%

5. (i) Parth of Pune, Maharashtra enters into an agreement to sell goods to Bakul of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Parth, Bakul got an order from Shreyas of Shimoga, Karnataka for the said goods. Bakul agreed to supply the said goods to Shreyas and asked Parth to deliver the goods to Shreyas at Shimoga.

You are required to determine the place of supply(ies) in the above situation.

- (ii) Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its new product at Bangalore. Damani Industries is registered in Mumbai. Determine the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries.

Will your answer be different if the product launch party is organised at Dubai?

6. Oberoi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 20XX was ₹ 2,00,000, ₹ 10,00,000 and ₹ 12,00,000. Oberoi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Oberoi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 20XX.

Particulars	GST paid (₹)
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero-rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products – X, Y and Z	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000
Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

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7. Shiva Medical Centre, a Multi-speciality hospital, is a registered supplier in Mumbai. It hires senior doctors and consultants independently, without entering into any employer-employee agreement with them. These doctors and consultants provide consultancy to the in-patients - patients who are admitted to the hospital for treatment – without there being any contract with such patients. In return, they are paid the consultancy charges by Shiva Medical Centre.

However, the money actually charged by Shiva Medical Centre from the in-patients is higher than the consultancy charges paid to the hired doctors and consultants. The difference amount retained by the hospital, i.e. retention money, includes charges for providing ancillary services like nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc.

Further, Shiva Medical Centre has its own canteen – Annapurna Bhawan - which supplies food to the in-patients as advised by the doctor/nutritionists as also to other patients (who are not admitted) or their attendants or visitors.

The Department took a stand that senior doctors and consultants are providing services to Shiva Medical Centre and not to the patients. Hence, their services are not the health care services and must be subject to GST. Further, GST is applicable on the retention money kept by Shiva Medical Centre as well as on the services provided by its canteen - Annapurna Bhawan alleging that such services are not the health care services.

You are required to examine whether the stand taken by the Department is correct provided the services provided by Shiva Medical Centre are intra-State services.

8. Shubhlaxmi Foods is engaged in supplying restaurant service in Maharashtra. In the preceding financial year, it has a turnover of ₹ 90 lakh from the restaurant service and ₹ 10 lakh from the supply of farm labour in said State. Further, it has also earned a bank interest of ₹ 10 lakh from the fixed deposits.

Shubhlaxmi Foods wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi Foods on the same.

Would your answer be different if Shubhlaxmi Foods is engaged in milling of paddy into rice on job work basis instead of supply of farm labour and the turnover from the said activity is ₹ 9 lakh?

9. Subharti Enterprises collected GST on the goods supplied by it from its customers on the belief that said supply is taxable. However, later it discovered that goods supplied by it are exempt from GST.

The accountant of Subharti Enterprises advised it that the amount mistakenly collected by Subharti Enterprises representing as tax was not required to be deposited with Government. Subharti Enterprises has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions.

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10. Answer the following questions:

- (1) Radhaswamy owns and supplies certain goods costing ₹ 30,00,000 in a conveyance hired from Manikaran Transporters. Market value of said goods is ₹ 40,00,000 and tax chargeable thereon is ₹ 4,80,000.

The goods supplied by Radhaswamy and the conveyance [owned by Manikaran Transporters] used for carriage of such goods are confiscated since Radhaswamy has supplied said goods in contravention of the provisions of the CGST Act, 2017 with an intent to evade payment of tax.

However, the proper officer intends to give an option to Radhaswamy and Manikaran Transporters to pay in lieu of confiscation, a fine leviable under section 130 of the CGST, Act, 2017.

Determine the maximum amount of the fine in lieu of confiscation on:

- (a) the goods liable for confiscation.
- (b) the conveyance used for carriage of such goods.

- (2) Raghuraman is a registered supplier in Madhya Pradesh. He failed to pay the GST amounting to ₹ 7,400 for the month of January, 20XX. The proper officer imposed a penalty on Raghuraman for failure to pay tax. Raghuraman believes that it is a minor breach and in accordance with the provisions of section 126 of the CGST Act, 2017, no penalty is imposable for minor breaches of tax regulations. Examine the correctness of Raghuraman's claim.

11. Super Engineering Works, a registered supplier in Haryana, is engaged in supply of taxable goods within the State. Given below are the details of the turnover and applicable GST rates of the final products manufactured by Super Engineering Works as also the input tax credit (ITC) availed on inputs used in manufacture of each of the final products and GST rates applicable on the same, during a tax period:

Products	Turnover* (₹)	Output GST Rates	ITC availed (₹)	Input GST Rates
A	500,000	5%	54,000	18%
B	350,000	5%	54,000	18%
C	100,000	18%	10,000	18%

*excluding GST

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) of the CGST Act, 2017 provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section.

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12. Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:
- Whether Jai is required to issue a tax invoices in all cases, even if he is selling the goods to the end consumers?
 - Jai sells some exempted as well as taxable goods valuing ₹ 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?
 - Jai wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers. You are required to advise him.
13. Kulbhushan & Sons has entered into a contract to supply two consignments of certain taxable goods. However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request.

On 12.01.20XX, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

Kulbhushan & Sons complies with the same and supplies both the consignments of goods on 25.01.20XX thereafter paying the tax on provisional basis in respect of both the consignments on 19.02.20XX.

Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21.03.20XX, a tax of ₹ 1,80,000 becomes due on 1st consignment whereas a tax of ₹ 4,20,000 becomes refundable on 2nd consignment.

Kulbhushan & Sons pays the tax due on 1st consignment on 09.04.20XX and applies for the refund of the tax on 2nd consignment same day. Tax was actually refunded to it on 05.06.20XX.

Determine the interest payable and receivable, if any, by Kulbhushan & Sons in the above case.

14. With reference to section 108 of the CGST Act, 2017, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.
15. Discuss the liability to pay in case of an amalgamation/merger under section 87 of the CGST Act, 2017.
16. Unicalp Textile Industries imported a machine from Eureka Engineering Works Inc., New Jersey, for dyeing the fabric. The price of the machine was settled at US \$ 25,000. The machine was shipped on 10.02.20XX. Meanwhile, Unicalp Textile Industries negotiated for a reduction in the price.

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FINAL (OLD) EXAMINATION: NOVEMBER, 2018

As a result, Eureka Engineering Works Inc. agreed to reduce the price by \$ 4,250 and sent the revised price of \$ 20,750 on 15.02.20XX. The machine arrived in India on 18.02.20XX. The Commissioner of Customs decided to take the original price of \$ 25,000 as the transaction value of the goods on the ground that the price is reduced only after the goods have been shipped.

Do you agree to the stand taken by the Commissioner? Give reasons in support of your answer.

17. Abhimanyu Enterprises, India imported a machine costing US \$ 17,000 from George Corp., US through a vessel. Determine the assessable value of the said machine under the Customs Act, 1962 with the help of the additional information given below:

	US \$
(i) Transport charges from the factory of George Corp. to the port for shipment	850
(ii) Freight charges from US to India	1,700
(iii) Handling charges paid for loading the machine in the ship	85
(iv) Buying commission paid by Abhimanyu Enterprises	85
(v) Exchange rate to be considered: 1\$ = ₹ 60	
(vi) Actual insurance charges paid are not ascertainable	

18. Raghupati Energy Corporation had imported certain goods and got them cleared for home consumption. Subsequently, the Department discovered that import of such goods was prohibited under the Customs Act, 1962. Consequently, the goods were confiscated under section 111 of the Customs Act, 1962 and a penalty was levied under section 112 of the said Act.

Examine the veracity of confiscation of the goods and imposition of penalty by the Department, in the given case, with the help of a decided case law, if any.

19. Explain with reference to the Customs Act, 1962, the conditions to be fulfilled for filing application to Settlement Commission.
20. Explain the relevant dates as provided in section 26A(2) of the Customs Act, 1962 for purpose of refund of customs duty under specified circumstances, namely:
- goods exported out of India
 - relinquishment of title to goods
 - goods destroyed or rendered commercially valueless.

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SUGGESTED ANSWERS

1. A. **Computation of ITC credited to Electronic Credit Ledger**

As per rule 42 of the CGST Rules, 2017, the ITC in respect of inputs or input services being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies.

ITC credited to the electronic credit ledger of registered person ['C₁'] is calculated as under-

$$C_1 = T - (T_1 + T_2 + T_3)$$

Where,

T	=	Total input tax involved on inputs and input services in a tax period.
T₁	=	Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes
T₂	=	Input tax attributable to inputs and input services intended to be used exclusively for effecting exempt supplies
T₃	=	Input tax in respect of inputs and input services on which credit is blocked under section 17(5) of the CGST Act, 2017

Computation of total input tax involved [T]

Particulars	(₹)
GST paid on taxable items [₹ 55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items - [₹ 1,00,000 x 5%]	5,000
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items - [₹ 80,000 x 5%]	4,000
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items - [₹ 20,000 x 5%]	1,000
GST paid on monthly rent - [₹ 5,50,000 x 18%]	99,000
GST paid on packing charges [₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store	Nil
[Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the	

Schedule III to CGST Act, 2017 and hence, no GST is payable thereon].	
GST paid on inputs used for personal purpose	5,000
GST paid on rent a cab services availed for business purpose	4,000
GST paid on items given as free samples	4,000
Total input tax involved in a tax period (October, 20XX) [T]	11,57,000

Computation of T₁, T₂, T₃

Particulars	(₹)
GST paid on monthly rent attributable to personal purposes [1/3 of ₹ 99,000]	33,000
GST paid on inputs used for personal purpose	<u>5,000</u>
Input tax exclusively attributable to non-business purposes [T₁]	<u>38,000</u>
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items [As per section 2(47) of the CGST Act, 2017, exempt supply means, <i>inter alia</i> , supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies.]	4,000
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items [Exempt supply includes non-taxable supply in terms of section 2(47) of the CGST Act, 2017. Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies.]	<u>1,000</u>
Input tax exclusively attributable to exempt supplies [T₂]	<u>5,000</u>
GST paid on rent a cab services availed for business purpose [ITC on rent a cab service is blocked under section 17(5)(b)(iii) of the CGST Act, 2017 as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply. It has been assumed that the Government has not notified such service under section 17(5)(b)(iii)(A) of the CGST Act, 2017].	4,000
GST paid on items given as free samples [ITC on goods <i>inter alia</i> , disposed of by way of free samples is blocked under section 17(5)(h) of the CGST Act, 2017].	<u>4,000</u>
Input tax for which credit is blocked under section 17(5) of the CGST Act, 2017 [T₃] **	8,000

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**Since GST paid on inputs used for personal purposes has been considered while computing T_1 , the same has not been considered again in computing T_3 .

ITC credited to the electronic credit ledger

$$C_1 = T - (T_1 + T_2 + T_3)$$

$$= ₹ 11,57,000 - (₹ 38,000 + ₹ 5,000 + ₹ 8,000)$$

$$= ₹ 11,06,000$$

B. Computation of Common Credit

$$C_2 = C_1 - T_4$$

where C_2 = Common Credit

T_4 = Input tax credit attributable to inputs and input services intended to be used exclusively for effecting taxable supplies

Computation of T_4

Particulars	(₹)
GST paid on taxable items	9,90,000
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items	5,000
Input tax exclusively attributable to taxable supplies [T_4]	<u>9,95,000</u>

$$\text{Common Credit } C_2 = C_1 - T_4$$

$$= ₹ 11,06,000 - ₹ 9,95,000$$

$$= ₹ 1,11,000$$

C. Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies is denoted as ' D_1 ' and calculated as -

$$D_1 = (E \div F) \times C_2$$

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period

Aggregate value of exempt supplies during October, 20XX

$$= ₹ 15,00,000 (₹ 12,00,000 + ₹ 3,00,000)$$

Total turnover in the State during the tax period

$$= ₹ 65,00,000 (₹ 42,00,000 + ₹ 12,00,000 + ₹ 3,00,000 + ₹ 8,00,000)$$

Note: Transfer of items to Store located in Goa is inter-State supply in terms of section 7 of the IGST Act, 2017 and hence includible in the total turnover. Such supply is to be valued as per rule 28 of the CGST Rules, 2017. However, the value declared in the invoice cannot be adopted as the value since the recipient Store at Goa is not entitled for full credit. Therefore, open market value of such goods, which is the value of such goods sold in Mumbai Store, is taken as the value of items transferred to Goa Store.

$$D_1 = (15,00,000 \div 65,00,000) \times 1,11,000$$

$$= ₹ 25,615 \text{ (rounded off)}$$

D. Computation of Eligible ITC out of common credit

Eligible ITC attributed for effecting taxable supplies is denoted as 'C₃', where, -

$$C_3 = C_2 - D_1$$

$$= ₹ 1,11,000 - ₹ 25,615$$

$$= ₹ 85,385$$

E. Computation of Net GST liability for the month of October, 20XX

Particulars	GST (₹)
<i>GST liability under forward charge</i>	
Taxable items sold in the store [₹ 42,00,000 x 18%]	7,56,000
Taxable items transferred to Goa Store [₹ 8,00,000 x 18%]	1,44,000
Ineligible ITC [ITC out of common credit, attributable to exempt supplies]	25,615
Total output tax liability under forward charge	9,25,615
Less: ITC credited to the electronic ledger	<u>11,06,000</u>
ITC carried forward to the next month	(1,80,385)
Net GST payable [A]	Nil
<i>GST liability under reverse charge</i>	
Freight paid to GTA for inward transportation of taxable items - [₹ 1,00,000 x 5%]	5,000
Freight paid to GTA for inward transportation of exempted items - [₹ 80,000 x 5%]	4,000
Freight paid to GTA for inward transportation of non-taxable items - [₹ 20,000 x 5%]	<u>1,000</u>

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Total output tax liability under reverse charge [B]	10,000
Net GST liability [A] + [B]	10,000
As per section 49(4) of the CGST Act, 2017 amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.	

Note: While computing net GST liability, ITC credited to the electronic ledger can alternatively be computed as follows:

Particulars	(₹)
GST paid on taxable items [₹ 55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items - [₹ 1,00,000 x 5%]	5,000
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items - [₹ 80,000 x 5%]	Nil
[As per section 2(47) of the CGST Act, 2017, exempt supply means, <i>inter alia</i> , supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items - [₹ 20,000 x 5%]	Nil
[Exempt supply includes non-taxable supply in terms of section 2(47) of the CGST Act, 2017. Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	
GST paid on monthly rent - for business purposes [(₹ 5,50,000 x 18%) - 1/3 of [(₹ 5,50,000 x 18%)]]	66,000
GST paid on packing charges [₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store	Nil
[Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the	

Schedule III to CGST Act, 2017 and hence, no GST is payable thereon]	
GST paid on inputs used for personal purpose [ITC on goods or services or both used for personal consumption is blocked under section 17(5)(g) of the CGST Act, 2017]	Nil
GST paid on rent a cab services availed for business purpose [ITC on rent a cab service is blocked under section 17(5)(b)(iii) of the CGST Act, 2017 as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply. It has been assumed that the Government has not notified such service under section 17(5)(b)(iii)(A) of the CGST Act, 2017]	Nil
GST paid on items given as free samples [ITC on goods <i>inter alia</i> , disposed of by way of free samples is blocked under section 17(5)(h) of the CGST Act, 2017]	Nil
Total ITC credited to the electronic ledger	11,06,000

2. (i) **Computation of GST payable on amount paid for transportation by XYZ Ltd. when it avails the services of different transporters**

Particulars	Freight [₹]	GST payable [₹]
Transportation of biscuits in a local mini van belonging to an individual [Only the transportation of goods by road by a GTA is liable to GST. Therefore, transportation of goods by road otherwise than by a GTA is exempt from GST – <i>Notification No. 12/2017 CT (R) & 9/2017 IT (R) both dated 28.06.2017.</i>]	54,000	Nil
Transportation of biscuits by Indian Railways	3,17,000	15,850
Transportation of biscuits by GTA [GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with <i>Notification No. 10/2017 IT (R) dated 28.06.2017.</i>]	3,00,000	15,000
Transportation of biscuits by GTA @ 12% [When the GTA pays tax @ 12%, tax is payable by the GTA under forward charge and not by the recipient under reverse charge - <i>Notification No. 10/2017 IT (R) dated 28.06.2017.</i>]	73,000	8,760

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Transportation of flour by GTA [Services provided by GTA by way of transport (in a goods carriage) of, <i>inter alia</i> , flour are exempt from GST vide Notification No. 9/2017 IT (R) dated 28.06.2017.]	55,000	Nil
Transportation of butter by GTA [Though services provided by GTA by way of transport (in a goods carriage) of, <i>inter alia</i> , milk is exempt from GST vide Notification No. 9/2017 IT (R) dated 28.06.2017, road transport of butter will not be exempted as butter is milk product and not milk. GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017 IT (R) dated 28.06.2017.]	35,000	1,750
Transportation of baking powder by GTA [Services provided by a GTA by way of transport in a goods carriage of goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500, are exempt from GST vide Notification No. 9/2017 IT (R) dated 28.06.2017.]	1,500	Nil
Transportation of biscuits by GTA to sister concern [GST is payable by XYZ Ltd. under reverse charge in terms of section 5(3) of the IGST Act, 2017 read with Notification No. 10/2017 IT (R) dated 28.06.2017.]	40,000	<u>2,000</u>
Total tax payable by XYZ Ltd. on availing services of different transporters		43,360

(ii) **Computation of GST charged on transportation cost billed by XYZ Ltd. to its customers**

Since XYZ Ltd. is supplying biscuits on FOR basis, the service of transportation of biscuits gets bundled with the supply of biscuits. Thus, the supply of biscuits and transportation service is a composite supply, chargeable to tax at the rate applicable to the principal supply (biscuits) i.e., 12% [Section 8(a) of the CGST Act, 2017 read with the definition of 'composite supply' under section 2(30) of the CGST Act, 2017 and 'principal supply' under section 2(90) of the CGST Act, 2017].

Particulars	Freight paid [₹] [A]	GST paid on freight [₹] [B]	Freight billed (with mark-up @ 2% on [A] + [B]) [₹]	GST charged @ 12% [₹]
Transportation of biscuits in a local mini van belonging to an individual	54,000	-	55,080	6,610
Transportation of biscuits by Indian Railways	3,17,000	15,850	3,39,507	40,741
Transportation of biscuits by GTA	3,00,000	15,000	3,21,300	38,556
Transportation of biscuits by GTA @ 12%	73,000	8,760	83,395	10,007
Total tax charged by XYZ Ltd. on transportation cost billed to the customers*				95,914

**Note: It has been assumed that there is no mark-up on transportation cost billed to sister concern (non-customer).*

3. Rule 32(2) of the CGST Rules, 2017 prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

(A) Determination of value under rule 32(2)(a) of the CGST Rules, 2017

- (i) Rule 32(2)(a) of the CGST Act, 2017 provides that the value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency. Thus, value of supply is:

$$= (\text{RBI reference for US \$} - \text{Buying rate of US \$}) \times \text{Total number of units of US \$ bought}$$

$$= (\text{₹ } 68.6 - \text{₹ } 68) \times 1,000$$

$$= \text{₹ } 600$$

- (ii) First proviso to rule 32(2)(a) of the CGST Act, 2017 lays down that when the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. Thus, value of supply is:

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$$\begin{aligned}
 &= 1\% \text{ of the gross amount of Indian Rupees received} \\
 &= 1\% \text{ of } (\text{₹ } 67.50 \times 2,000) \\
 &= \text{₹ } 1,350
 \end{aligned}$$

(B) Determination of value under rule 32(2)(b) of the CGST Rules, 2017

Third proviso to rule 32(2)(a) stipulates that a person supplying the services in relation to the purchase or sale of foreign currency, including money changing may exercise the option to ascertain the value in terms of rule 32(2)(b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

S. No.	Currency exchanged	Value of supply
1.	Upto ₹ 1,00,000	1% of the gross amount of currency exchanged OR ₹ 250 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	₹ 1,000 + 0.50% of the (gross amount of currency exchanged - ₹ 1,00,000)
3.	Exceeding ₹ 10,00,000	₹ 5,500 + 0.1% of the (gross amount of currency exchanged - ₹ 10,00,000) OR ₹ 60,000 whichever is lower

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

- (i) Gross amount of currency exchanged = ₹ 68 × 1,000 = ₹ 68,000. Since the gross amount of currency exchanged is less than ₹ 1,00,000, value of supply is 1% of the gross amount of currency exchanged [1% of ₹ 68,000] or ₹ 250, whichever is higher.
- $$= \text{₹ } 680$$
- (ii) Gross amount of currency exchanged = ₹ 67.50 × 2,000 = ₹ 1,35,000. Since the gross amount of currency exchanged exceeds ₹ 1,00,000, but less than ₹ 10,00,000, value of supply is ₹ 1,000 + 0.50% of (₹ 1,35,000 - ₹ 1,00,000).
- $$= \text{₹ } 1,175$$

4. Computation of GST liability of Jaskaran for the month of January, 20XX

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of 20,000 packages to Sukhija Gift Shop, Punjab [Note-1]			1,09,526 [6,08,475 × 18%]
Renting of 10 generators to Morarji Banquet Halls, Chandigarh [Note-2]			45,000 [2,50,000 × 18%]
500 packages given as free gift to the customers [Note-3]	Nil	Nil	Nil
Catering services provided free of cost for elder brother's business inaugural function in Delhi [Note-3]	5,445 [60,500 × 9%]	5,445 [60,500 × 9%]	
Total GST liability (rounded off)	5,445	5,445	1,54,526

Notes:

- As per section 2(74) of the CGST Act, 2017, mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax]. Consequently, being an inter-State supply of goods, supply of packages to Sukhija Gift Shop of Punjab is subject to IGST @ 18% each.

Further, value of supply includes interest or late fee or penalty charged for delayed payment of any consideration for any supply in terms of section 15(2)(d) of the CGST Act, 2017. Thus, penalty of ₹ 10,000 [considered as inclusive of GST] collected from Sukhija Gift Shop for the delayed payment will be included in the value of supply. The total value of supply is ₹ 6,08,475 [₹ 6,00,000 + (₹ 10,000 × 100/118)]

- Services by way of transportation of goods by road except the services of a Goods Transportation Agency (GTA) are exempt vide *Notification No. 9/2017 IT (R) dated 28.06.2017*. Since Jaskaran is not a GTA, transportation services provided by him are exempt from GST. However, since the generators are invariably hired out along with their transportation till customer's premises, it is a case of composite supply

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under section 2(30) of the CGST Act, 2017 wherein the principal supply is the renting of generator.

As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the service of transportation of generators will also be taxed at the rate applicable for renting of the generator (principal supply).

Consequently, being an inter-State supply of service, service of hiring out the generators to Morarji Banquet Halls of Chandigarh is subject to IGST @ 18% each.

3. As per section 7(1)(c) of the CGST Act, 2017, an activity made without consideration can be treated as supply only when it is specified in Schedule I of the CGST Act, 2017. Para 2. of Schedule I provides that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, are to be treated as supply even if made without consideration.

However, since the question does not provide that customers are related to Jaskaran, free gifts given to the customers cannot be considered as a supply under section 7. Consequently, no tax is leviable on the same.

Further, the catering services provided by Jaskaran to his elder brother without consideration will be treated as supply as Jaskaran and his elder brother, being members of same family, are related persons in terms of explanation (a)(viii) to section 15 of the CGST Act, 2017 and said services have been provided in course/furtherance of business. Value of supply of services between related persons, other than through an agent is determined as per rule 28 of the CGST Rules, 2017. Accordingly, the value of supply is the open market value of such supply; if open market value is not available, the value of supply of goods or services of like kind and quality. However, if value cannot be determined under said methods, it must be worked out based on the cost of the supply plus 10% mark-up. Thus, in the given case, value of catering services provided to the elder brother of Jaskaran is ₹ 60,500 [₹ 55,000 × 110%]. Further, being an intra-State supply of services, catering services are subject to CGST and SGST @ 2.5% each.

5. As per *Notification No. 13/2017 CT(R) dated 28.06.2017*, GST is payable by the recipient on reverse charge basis on the receipt of services of transportation of goods by road from a goods transport agency (GTA) provided such GTA has not paid GST @ 12%. Since in the given case, Jaskaran has received services from a GTA who has paid GST @ 12%, reverse charge provisions will not be applicable.
5. (i) The supply between Parth (Pune) and Bakul (Bareilly) is a **bill to ship to supply** where the goods are delivered by the supplier [Parth] to a recipient [Shreyas (Shimoga)] or any other person on the direction of a third person [Bakul]. The place of supply in case of bill to ship to supply of goods is determined in terms of section 10(1)(b) of IGST Act, 2017.

As per section 10(1)(b) of IGST Act, 2017, where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.

Thus, in the given case, it is deemed that the Bakul has received the goods and the place of supply of such goods is the principal place of business of Bakul. Accordingly, the place of supply between Parth (Pune) and Bakul (Bareilly) will be Bareilly, Uttar Pradesh.

This situation involves another supply between Bakul (Bareilly) and Shreyas (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a) of IGST Act, 2017.

Section 10(1)(a) of IGST Act, 2017 stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the place of supply in second case is the location of the goods at the time when the movement of goods terminates for delivery to the recipient (Shreyas) i.e., Shimoga, Karnataka.

- (ii) Section 12(7)(a)(i) of IGST Act, 2017 stipulates that when service by way of organization of an event is provided to a registered person, place of supply is the location of recipient.

Since, in the given case, the product launch party at Bangalore is organized for Damani Industries (registered in Mumbai), place of supply is the location of Damani Industries i.e., Mumbai.

In case the product launch party is organised at Dubai, the answer will remain the same, i.e. the place of supply is the location of Damani Industries – Mumbai.

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6.

Particulars	₹	Ineligible credit (₹)	Amount to be credited to ECrL (₹)
Machine 'A' [Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017]		19,200	
Machine 'B' [For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC is available]			38,400
Machine 'C' [Commonly used for taxable and exempt supplies – Rule 43(1)(c) of the CGST Rules, 2017]	96,000		96,000
Machine 'D' [Owing to change in use from exclusively exempt to both taxable and exempt, common credit to be reduced by ITC @ 5% per quarter or part thereof in terms of proviso to rule 43(1)(c) of CGST Rules, 2017] = ₹ 1,92,000 – ₹ 76,800 (₹ 1,92,000 × 5% × 8 quarters)	1,15,200		<u>1,15,200</u>
Machine 'E' [Owing to change in use from exclusively taxable to both taxable and exempt, common credit to be reduced by ITC @ 5% per quarter or part thereof in terms of proviso to rule 43(1)(d) of CGST Rules, 2017] = ₹ 2,88,000 – ₹ 1,72,800 (₹ 2,88,000 × 5% × 12 quarters)	<u>1,15,200</u>		
Total common credit	3,26,400		
Common credit for the tax period (in the given case, a month) under rule 43(1)(e) of CGST Rules, 2017 = ₹ 3,26,400 ÷ 60	5,440		
Common credit attributable to exempt supplies in April, 20XX under rule 43(1)(g) of the CGST Rules, 2017			

= (Turnover of exempt supplies/Total turnover) × Common credit		2,720	
= (12,00,000/24,00,000) × ₹ 5,440			
[Such credit, along with the applicable interest, shall be added to the output tax liability of Oberoi Industries]			
Amount to be credited to the electronic credit ledger of Oberoi Industries for the month of April, 20XX			2,49,600

7. As per *Notification No. 12/2017 CT (R) dated 28.06.2017*, services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST.

Health care services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that in view of the above definition, it can be inferred that hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt from GST. In view of the same, GST is not applicable on the retention money kept by Shiva Medical Centre.

The circular also clarified that services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are also healthcare services exempt from GST. Hence, services provided by the senior doctors and consultants hired by Shiva Medical Centre, being healthcare services, are also exempt from GST.

The circular further explained that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In view of the same, GST is not applicable on the food supplied by Annapurna Bhawan to in-patients as advised by doctors/nutritionists while other supplies of food by it to patients (not admitted) or their attendants/visitors are taxable.

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8. As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates if, *inter alia*, he is not engaged in the supply of services other than restaurant services.

However, the restriction on service provider not to be engaged in any service other than restaurant service for being eligible for composition levy has been relaxed vide *Order No. 01/2017 CT dated 13.10.2017*. The said order clarifies that:

- (i) if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act (restaurant service) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, said person shall not be ineligible for the composition scheme under section 10 of the CGST Act, 2017 subject to the fulfilment of all other conditions specified therein.
- (ii) in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

In the given case, the two other services provided by Shubhlaxmi Foods apart from the restaurant service, viz. the services of supply of farm labour and services by way of extending deposits where the consideration is represented by way of interest, are exempt from GST vide *Notification No. 12/2017 CT (R) dated 28.06.2017*.

Thus, in view of the aforementioned order, since other services supplied by Shubhlaxmi Foods apart from restaurant service are exempt services, Shubhlaxmi Foods is not ineligible for the composition scheme.

Further, in computing his aggregate turnover in order to determine the eligibility of Shubhlaxmi Foods for composition scheme, value of supply of exempt services - supply of farm labour and bank interest shall not be taken into account. Thus, the aggregate turnover of Shubhlaxmi Foods is ₹ 90 lakh (turnover from restaurant services).

From the aforesaid discussion, it can be inferred that Shubhlaxmi Foods is eligible for composition scheme.

However, if Shubhlaxmi Foods is engaged in milling of paddy into rice instead of supply of farm labour, it will not be eligible for composition levy since as per *Order No. 01/2017 CT*, a person supplying restaurant services is eligible for composition levy only when other services provided by it are exempt services and milling of paddy into rice on job work basis is not an exempt service as clarified by *Circular No. 19/19/2017 GST dated 20.11.2017*.

9. The provisions of section 76 of the CGST Act, 2017 make it mandatory on Subharti Enterprises to pay amount collected from other person representing tax under this Act, to the Government.

Section 76 of the CGST Act, 2017 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, 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.

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon. Interest is payable at the rate specified under section 50. Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

The proper officer shall issue an order within 1 year [excluding the period of stay order] from the date of issue of the notice. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

10. (1) (a) In case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation in terms of first proviso to section 130(2) of the CGST Act, 2017 is the market value of the goods confiscated, less the tax chargeable thereon.

Therefore, in the given case, maximum fine leviable:

$$= ₹ 40,00,000 - ₹ 4,80,000 = ₹ 35,20,000$$

- (b) In case where conveyance used for carriage of such goods is liable for confiscation, the maximum amount of fine leviable in lieu of confiscation in terms of third proviso to section 130(2) of the CGST Act, 2017 is equal to tax payable on the goods being transported thereon.

Therefore, in the given case, maximum fine leviable = ₹ 4,80,000

- (2) No, Raghuraman's claim is not tenable in law. Section 126(1) of the CGST Act, 2017 provides that no officer shall impose any penalty under CGST Act, 2017,

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inter alia, for minor breaches of tax regulations or procedural requirements. Further, explanation to section 126(1) of the CGST Act, 2017 stipulates that a breach shall be considered a 'minor breach' if the amount of tax involved is less than ₹ 5,000.

In the given case, breach made by Raghuraman is not a 'minor breach' since the amount involved is not less than ₹ 5,000. So, penalty is imposable under the CGST Act, 2017.

11. Section 54(3)(ii) of the CGST Act, 2017 allows refund of unutilized input tax credit (ITC) at the end of any tax period to a registered person where the credit has accumulated on account of inverted duty structure i.e. 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.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii) of the CGST Act, 2017. Therefore, only Product A is eligible for refund under section 54(3)(ii).

Further, rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula -

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

where,-

- A. **"Net ITC"** means input tax credit availed on inputs during the relevant period;
- B. **"Adjusted Total turnover"** means the turnover in a State or a Union territory, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = ₹ 5,00,000 × 5% = ₹ 25,000

Net ITC = ₹ 1,18,000 (₹ 54,000 + ₹ 54,000 + ₹ 10,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not]

Adjusted Total Turnover = ₹ 9,50,000 (₹ 5,00,000 + ₹ 3,50,000 + ₹ 1,00,000)

Turnover of inverted rated supply of Product A = ₹ 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

$$= [(\text{₹ } 5,00,000 \times \text{₹ } 1,18,000) / \text{₹ } 9,50,000] - \text{₹ } 25,000$$

$$= \text{₹ } 37,105 \text{ (rounded off)}$$

12. (i) No, he is not required to issue tax invoice in all cases. As per section 31(1) of the CGST Act, 2017, every registered person supplying taxable goods is required to issue a 'tax invoice'. Section 31(3)(c) of the CGST Act, 2017 stipulates that every registered person supplying exempted goods is required to issue a bill of supply instead of tax invoice.

Further, rule 46A of the CGST Rules, 2017 provides that a registered person supplying taxable as well as exempted goods or services or both to an un-registered person may issue a single 'invoice-cum-bill of supply' for all such supplies.

However, as per section 31(3)(b) of the CGST Act, 2017 read with rule 46 of the CGST Rules, 2017, a registered person may not issue a tax invoice if:

- (i) value of the goods supplied < ₹ 200,
- (ii) the recipient is unregistered; and
- (iii) the recipient does not require such invoice.

Instead, such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies.

- (ii) As per rule 46A of the CGST Rules, 2017, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single **"invoice-cum-bill of supply"** may be issued for all such supplies. Thus, there is no need to issue a tax invoice and a bill of supply separately to the school student in respect of supply of the taxable and exempted goods respectively.
 - (iii) As per section 33 of the CGST Act, 2017 read with rule 46(m) of the CGST Rules, 2017, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made. Hence, Jai has to show the tax amount separately in the tax invoices issued to customers.
13. Section 60(4) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is higher than under provisional assessment i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date, at the rate specified under section 50(1) [18% p.a.], from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before/after the issuance of order for final assessment.

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In the given case, due date for payment of tax on goods cleared on 25.01.20XX under provisional assessment is 20.02.20XX.

In view of the provisions of section 60(4), in the given case, Kulbhushan & Sons is liable to pay following interest in respect of 1st consignment:

$$= ₹ 1,80,000 \times 18\% \times 48/365$$

$$= ₹ 4,261 \text{ (rounded off)}$$

Further, section 60(5) of the CGST Act, 2017 stipulates that where the tax liability as per the final assessment is less than in provisional assessment i.e. tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest at the rate specified under section 56 [6% p.a.] from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.

However, since in the given case, refund has been made (05.06.20XX) within 60 days from the date of receipt of application of refund (09.04.20XX), interest is not payable to Kulbhushan & Sons on tax refunded in respect of 2nd consignment.

14. Section 2(99) of the CGST Act, 2017 defines “Revisional Authority” as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108 of the CGST Act, 2017.

Section 108 of the CGST Act, 2017 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.
15. Section 87 of the CGST Act, 2017 stipulates that when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more

of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

Notwithstanding anything contained in the said order, for the purposes of the CGST Act, 2017, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order. The registration certificates of the said companies shall be cancelled with effect from the date of the said order.

16. No, the stand taken by the Commissioner is not correct in law.

As per section 14 of the Customs Act, 1962, the transaction value of the goods is the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in the case *Garden Silk Mills Ltd. v. UOI 1993 (113) E.L.T. 358 (SC)* has held that importation gets complete only when the goods become part of mass of goods within the country.

Therefore, since in the instant case, the price of the goods was reduced while they were in transit, it could not be contended that the price was revised after importation took place. Hence, the goods should be valued as per the reduced price, which was the price actually paid at the time of importation.

17. **Computation of assessable value of the imported machine**

Particulars	US \$
Cost of the machine at the factory	17,000.00
Add: Transport charges up to port	850.00
Add: Handling charges at the port	<u>85.00</u>
FOB	17,935.00
Add: Freight charges up to India	1,700.00
Add: Insurance charges @ 1.125% of FOB [Note 1]	<u>201.77</u>
CIF	19,836.77
CIF in Indian rupees @ ₹ 60/ per \$	₹ 11,90,206.13
Assessable Value (rounded off)	₹11,90,206

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of the machine [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
- (2) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

18. The facts of the case are similar to the case of *Bussa Overseas & Properties P. Ltd. v C.L. Mahar, Asstt. C.C., Bombay 2004 (163) E.L.T. 304 (Bom.)* [maintained by the Supreme Court] wherein the Bombay High Court observed that once goods are cleared for home consumption, they cease to be imported goods as defined in section 2(25) of the Customs Act, 1962. The goods lose its character of imported goods on being granted clearance for home consumption and thereafter the power to confiscate can be exercised only in cases where the order of clearance is revised and cancelled.

Therefore, in the given case the **confiscation of the goods by the Department is illegal.**

The Bombay High Court further observed that section 112(a) of the Customs Act, 1962 provides that any person who in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such act, is liable to a penalty.

The High Court held that the power to impose penalty can be exercised not only when the goods are available for confiscation but when such goods are liable to confiscation. The expression 'liable to confiscation' clearly indicates that the power to impose penalty can be exercised even if the goods are not available for confiscation. Mere fact that the importers secured such clearance and disposed of the goods and thereafter goods are not available for confiscation cannot divest Customs Authorities of the powers to levy penalty under section 112 of the Act.

Thus, **penalty levied by the Department in the given case is tenable in law.**

19. According to section 127B of the Customs Act 1962, the following conditions are to be fulfilled for filing an application for settlement of cases:
- (i) the applicant has filed a bill of entry, or a shipping bill, or a bill of export, or made a baggage declaration, or a label or declaration accompanying the goods imported or exported through post or courier, as the case may be, and in relation to such document or documents, a show cause notice has been issued to him by the proper officer.
 - (ii) the additional duty accepted is more than ₹ 3 lakhs.
 - (iii) the applicant has paid the additional amount of customs duty accepted by him alongwith interest due under section 28AA.
 - (iv) the case is not pending with Tribunal or any Court.
 - (v) the application does not relate to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 has been committed.
 - (vi) the application is not for the interpretation of the classification of the goods under the Customs Tariff Act, 1975.

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Further, application before Settlement Commission can be made only when adjudication is pending.

20. The relevant dates provided under Explanation to section 26A(2) of the Customs Act, 1962 for purpose of refund of duty under specified circumstances are as follows:-

	Case	Relevant date
(i)	Goods exported out of India	Date on which the proper officer makes an order permitting clearance and loading of goods for exportation
(ii)	Relinquishment of title to the goods	Date of such relinquishment
(iii)	Goods being destroyed or rendered commercially valueless	Date of such destruction or rendering of goods commercially valueless

Note: GST law has been subject to frequent changes since its inception. Although many clarifications have been issued by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.

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QUESTIONS

(1)	All questions should be answered on the basis of the position of GST law as amended up to 31.10.2018 and customs law as amended by the Finance Act, 2018 and notifications and circulars issued till 31.10.2018.
(2)	Questions 1 to 10 are MCQs having one correct answer among the four alternatives. MCQs 1 to 7 have to be answered on the basis of GST law and MCQs 8 to 10 on the basis of customs law.
(3)	The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

- M/s. Aircool Ltd., a supplier of air conditioners, is registered in the State of Maharashtra. It has a policy to gift an air conditioner to its employees [residing in Gujarat] at the end of financial year in terms of the employment contract. The company installs such air conditioners at the residence of the employees.

During the month of March, 20XX, the company installed 150 air conditioners at the residence of these employees. The total open market value of such air conditioners is ₹ 52.50 lakh (excluding GST). The tax rate on such air conditioners is 28% (14% CGST, 14% SGST and 28% IGST).

Compute the GST liability of M/s. Aircool Ltd., if any.

 - ₹ 7,35,000 - CGST, ₹ 7,35,000- SGST
 - ₹ 14,70,000 - IGST
 - Nil
 - None of the above
- Mr. James Bond is a registered person under GST in the State of Maharashtra who sells footwear to his customers locally within the same State. He has been appointed as an agent by M/s. Toto Shoes Ltd., a company registered under GST in the State of Karnataka. During a financial year, M/s. Toto Shoes Ltd., sends taxable goods worth ₹ 5.00 crore from its Bengaluru store to Mr. James Bond who sells such goods for ₹ 5.00 crore by raising invoices using the GSTIN of M/s. Toto Shoes Ltd. Mr. James Bond receives a commission of ₹ 60.00 lakh from M/s. Toto Shoes (P) Ltd., during the said financial year.

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Compute the value of supply of Toto Shoes (P) Ltd. and Mr. James Bond for the financial year.

- (a) M/s. Toto Shoes (P) Ltd.: Nil and James Bond: ₹ 5.6 crore
 - (b) M/s. Toto Shoes (P) Ltd.: ₹ 5 crore and James Bond: ₹ 5.6 crore
 - (c) M/s. Toto Shoes (P) Ltd.: ₹ 5 crore and James Bond: ₹ 60 lakh
 - (d) None of the above
3. M/s. Wanderlust Travels (P) Ltd. purchased a bus chassis from M/s. Krishi Motors Ltd. for a consideration of ₹ 90.00 lakh on 01.10.20XX. M/s. Wanderlust Travels (P) Ltd. sent the bus chassis for body building to M/s. Bhagwant Fabricators and paid in advance the total consideration of ₹ 25.00 lakh on 15.10.20XX. M/s. Bhagwant Fabricators, after completing the bus body, informed M/s. Wanderlust Travels (P) Ltd. for carrying out the inspection of the work done on 05.11.20XX. M/s. Wanderlust Travels (P) Ltd. visited the work shop of M/s. Bhagwant Fabricators on 08.11.20XX and confirmed that the bus body was in accordance with the terms of the contract.
- The last date for issuing the invoice by M/s. Bhagwant Fabricators is:-
- (a) 15.10.20XX
 - (b) 08.11.20XX
 - (c) 08.12.20XX
 - (d) 05.12.20XX
4. Which of the following statements are true with respect to accounts and records?
- (1) All accounts and records are to be retained for 6 years.
 - (2) Stock record is to be maintained by all registered dealers except the dealers registered under composition scheme.
 - (3) Stock record is to be maintained by all registered dealers including composition dealers.
 - (4) Monthly production records are to be maintained by all dealers except the dealers who have taken option for composition.
 - (5) Monthly production records are to be maintained by all dealers including composition dealers.
 - (6) Records are to be maintained at principal place of business.
- (a) 1, 2, 5, 6

- (b) 1, 3, 5
 - (c) 1, 3, 4
 - (d) 1, 2, 4, 6
5. Which among the following cannot be a reason for cancellation of registration?
- (a) There is a change in the constitution of business from partnership firm to proprietorship.
 - (b) The business has been discontinued.
 - (c) A composition taxpayer has not furnished returns for three consecutive tax periods.
 - (d) A registered person, other than composition taxpayer, has not furnished returns for three consecutive tax periods.
6. Which of the following persons can opt for the composition scheme?
- (1) Registered person whose aggregate turnover in the preceding financial year did not exceed ₹ 75 lakh.
 - (2) Registered person whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore.
 - (3) A person engaged in business of pan masala, tobacco and manufactured tobacco substitutes.
 - (4) A person engaged in the business of ice cream, other edible ice, whether or not containing cocoa.
 - (5) A person engaged exclusively in providing restaurant service.
 - (6) A person engaged exclusively in supply of medicines.
- (a) 1, 2, 3, 5
 - (b) 1, 2, 5, 6
 - (c) 2, 3, 4, 5
 - (d) 3, 4, 5, 6
7. Mr. Topinath, an unregistered person in Delhi, who has an aggregate turnover of ₹ 16 lakh sells mobile phones to Mr. Gopinath, a person registered under GST in Uttar Pradesh. Whether any penalty is leviable on Mr. Topinath, for such supply and if yes, what is the maximum amount of penalty that can be levied on Mr. Topinath:-

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- (a) No penalty since there is no default on part of Mr. Topinath as his turnover is below threshold limit.
 - (b) Yes; an amount equivalent to the tax evaded or ₹ 10,000/-, whichever is lower.
 - (c) Yes; an amount equivalent to the turnover or ₹ 10,000/-, whichever is higher.
 - (d) Yes; an amount equivalent to the tax evaded or ₹ 10,000/-, whichever is higher.
8. Which of the following statements is/are correct for 'similar goods' for valuation purposes under the Customs Act, 1962?
- (i) Similar goods although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark.
 - (ii) Similar goods are necessarily produced in the country in which goods being valued were produced.
 - (iii) Similar goods are necessarily produced by the same person who produced the goods being valued.
- (a) (i) and (ii)
 - (b) Only (i)
 - (c) (i) and (iii)
 - (d) All of above
9. Which of the following statements is/are correct for safeguard duty under section 8B of the Customs Tariff Act, 1975?
- (i) Safeguard duty is imposed on articles which are imported in increased quantities.
 - (ii) Such increased importation is causing or threatening to cause serious injury to domestic market.
 - (iii) Safeguard duty can be imposed for a period of 4 years and the period of imposition can be extended. However, in no case the safeguard duty shall continue to be imposed beyond a period of 10 years from the date on which it was first imposed.
 - (iv) Safeguard duty can be imposed provisionally also pending final determination of duty.
- (a) (i), (ii) and (iii)
 - (b) Only (i) and (iv)

- (c) None of above
- (d) All of above
10. Which of the following statements is not correct for pilfered goods under section 13 of the Customs Act, 1962?
- (a) The importer is not required to pay duty on imported goods which are pilfered after unloading but before being cleared for home consumption.
- (b) The importer is not required to pay duty on warehoused goods which are pilfered before being cleared for home consumption.
- (c) The onus to prove the pilferage does not lie on the importer.
- (d) If pilfered goods are restored to the importer, he becomes liable to pay duty.
11. XYZ Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama'. On 1st October 20XX, while product 'Beta' got exempted through an exemption notification, exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the month of October, 20XX was ₹ 9,00,000, ₹ 10,00,000 and ₹ 6,00,000.

XYZ Pvt. Ltd. has furnished the following details:

S. No.	Particulars	Price (₹)	GST (₹)
(a)	Machinery 'U' purchased on 01.10.20XX for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'V' purchased on 01.10.20XX for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(c)	Machinery 'W' purchased on 01.10.20XX for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(d)	Machinery 'X' purchased on October 1, three years before 01.10.20XX for being exclusively used in manufacturing product 'Gama'. From 01.10.20XX, such machinery will also be used for manufacturing product 'Beta'.	5,00,000	90,000
(e)	Machinery 'Y' purchased on October 1, four years before 01.10.20XX for being exclusively used in manufacturing product 'Beta'. From 01.10.20XX, such machinery will also be used for manufacturing product 'Gama'.	4,00,000	72,000

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(f)	Machinery 'Z' purchased on October 1, two years before 01.10.20XX for being used in manufacturing all the three products	3,00,000	54,000
(g)	Raw Material used for manufacturing 'Alpha' purchased on 05.10.20XX	1,50,000	27,000
(h)	Raw Material used for manufacturing 'Beta' purchased on 10.10.20XX	2,00,000	36,000
(i)	Raw Material used for manufacturing 'Gama' purchased on 15.10.20XX	1,00,000	18,000

Compute the following for the month of October, 20XX:

- (i) Amount of input tax credit (ITC) credited to Electronic Credit Ledger
- (ii) Amount of common credit
- (iii) Common credit attributable to exempt supplies
- (iv) GST liability of the company payable through Electronic Cash Ledger

Note: Assume that all the procurements made by the company are from States other than Uttar Pradesh. Similarly, the company sells all its products in States other than Uttar Pradesh. Rate of IGST is 18%. All the conditions necessary for availing the ITC have been complied with. Ignore interest, if any and make suitable assumptions wherever required.

12. B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and an exempt product 'Q'. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

B & D Company has furnished the following details with respect to its turnover (exclusive of taxes) and stock (exclusive of taxes):

Particulars	Turnover for the quarter ended 30.06.20XX (₹)	Turnover for the quarter ended 30.09.20XX (₹)
'P'	40,00,000	30,00,000
'Q'	14,65,000	13,00,000

Particulars	Stock as on 30.06.20XX (₹)	Stock as on 30.09.20XX (₹)	Stock as on 31.10.20XX (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30.09.20XX is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the April month of the preceding financial year. In the month of October, 20XX, no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes].

The extract of the only bill book maintained by the firm showed the following details -

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	01.10.20XX	1,00,000	3,000	1,03,000
2307	01.10.20XX	31,250	2,000	33,250
2308	02.10.20XX	43,750	15,000	58,750
2309	03.10.20XX	35,000	10,000	45,000
2310	05.10.20XX	1,00,000	-	1,00,000
2311	06.10.20XX	94,000	6,000	1,00,000
2312	06.10.20XX	-	17,000	17,000
2313	08.10.20XX	50,000	6,000	56,000
2314	09.10.20XX	60,000	9,000	69,000
2315				
.....				

The details of services availed by B & D Company is as follows:

S. No.	Particulars	(₹)
(i)	Freight paid to Goods Transport Agency during the period April 20XX – October 20XX. Assume equal amount of freight is paid each month on the 10 th day of each month. Also, assume that the goods for which the freight is paid on 10 th day of the month are transported between 11 th to 20 th day of the month.	1,40,000
(ii)	Special packing charges paid to a Packing Company, having expertise in such specialized packing, during the period January 20XX – October 20XX. The packing charges are paid for the goods which are transported between 11 th to 20 th day of the month (as mentioned in point (i) above). The goods are packed on 10 th day and then transported from 11 th day onwards. Assume equal amount of packing charges are paid each month on the 9 th day of each month.	3,00,000

All the above amounts are exclusive of taxes, wherever applicable.

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Compute the net GST liability of B & D Company for the period April, 20XX to October, 20XX under composition scheme showing calculations for each quarter separately.

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each. Stock is valued at cost price.

13. Keeping all the facts and figures of Q.12 unchanged, compute the ITC credited to the Electronic Credit Ledger of the B & D Company, when it exits composition scheme and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c) of the CGST Act, 2017.

Following additional information is also available:

Particulars relating to capital goods owned by the firm	Date of purchase	Value (₹)	GST (₹)
Computers	01.02.20XX	2,00,000	36,000
Printers	January 1, two years prior to 01.01.20XX	80,000	14,400
Motor cycle used by the staff for collecting payments from the debtors	23.09.20XX	85,000	15,300
Furniture & fixtures	12.06.20XX	4,00,000	72,000
Air conditioner used in the office	15.10.20XX	2,00,000	36,000
Exhaust fan used in the godown	10.03.20XX	50,000	9,000

Note: The company has not claimed depreciation on the tax component of any of the capital goods (mentioned above) under the Income-tax Act, 1961. All the conditions necessary for availing the ITC have been complied with. Rate of CGST and SGST is 9% each.

14. Keeping all the facts and figures of Q.12 and Q.13 unchanged, compute the GST liability of B & D Company payable from Electronic Credit Ledger and/or Electronic Cash Ledger, as the case may be, for the period covered under regular scheme.
15. Musicera Pvt. Ltd., owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ₹ 10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ₹ 4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ₹ 5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supplie(s) involved in the given scenario.

Will your answer be different if the price per ticket is fixed at ₹ 450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All the amounts given above are exclusive of taxes, wherever applicable.

16. With reference to the provisions relating to the electronic way bill (E-way bill) as prescribed under the GST laws, answer the following questions:

- (i) Sindhi Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such toys to the retail seller in Gujarat.

You are required to advise Sindhi Toys Manufacturers on the following issues:

- (a) Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?
- (b) If yes, who is required to generate the e-way bill?
- (c) What will be the consequences for non-issuance of e-way bill?

- (ii) Power Electricals Ltd., a registered supplier of air-conditioners, is required to send from Mumbai (Maharashtra), a consignment of parts of air-conditioner to be replaced under warranty at various client locations in Gujarat. The value of consignment declared in delivery challan accompanying the goods is ₹ 70,000. Power Electricals Ltd. claims that since movement of goods to Gujarat is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case.

You are required to examine the technical veracity of the claim made by Power Electricals Ltd.

- (iii) Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹ 1,20,000 (inclusive of GST leviable @ 18%) from Prasannaa, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹ 55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹ 65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasannaa. The goods are transported to Prasanna in Delhi, in a single conveyance owned by Radhey Transporters.

You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e-way bill(s).

17. Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October, 20XX as under:

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S.No.	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in October, 20XX (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh).	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ₹ 9,72,000, contract value for supply of books (exempt from GST) is ₹ 7,00,000 and for supply of printed post cards (taxable under GST) is ₹ 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Manihar Enterprises is registered under composition scheme?

18. Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017.

The company has made the following supplies during a tax period:

S. No.	Particulars	(₹)
(i)	Export of product 'A' to UK for \$ 10,000. Assessable value under customs in Indian rupees. [Export duty is levied on product 'A' at the time of exports]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @18%] <i>*not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii) of the CGST Act, 2017</i>	10,00,000
(iii)	Supply of goods to Export Oriented Unit [excluding tax @ 18%] [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods	6,00,000

The ITC available for the above tax period is as follows:

S. No.	Particulars	(₹)
(i)	On inputs (including ₹ 50,000 on export of exempt supplies)	3,50,000
(ii)	On capital goods	1,20,000
(iii)	On input services (including ₹ 18,000 on outdoor catering)	2,00,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

19. Enlist the circumstances for which a show cause notice can be issued by the proper officer under section 73 of the CGST Act, 2017. Specify the time limit for issuance of

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such show cause notice as also the time period for issuance of order by the proper officer under section 73.

20. With reference to the provisions of section 121 of the CGST Act, 2017, specify the orders against which no appeals can be filed.
21. Explain the provisions of section 39(9) of the CGST Act, 2017 with reference to rectification of returns.
22. Sphinx Merchandise Ltd. has exported some goods to USA by air. The FOB price of goods exported is US \$ 1,00,000.

Compute the export duty payable by Sphinx Merchandise Ltd. with the help of following details provided.

Particulars	Date	Rate of duty	Rate of exchange notified by CBIC	Rate of exchange prescribed by RBI
Presentation of shipping bill	17.06.20XX	12%	1 US \$ = 65	1 US \$ = 64
Let export order	19.07.20XX	10%	1 US \$ = 64	1 US \$ = 65

23. (i) With reference to section 70 of the Customs Act, 1962, briefly discuss the conditions to be satisfied for remission of duty in case of volatile goods.
(ii) Enumerate the goods specified as volatile for the purposes of remission of duty under the provisions of Customs Act, 1962.
24. Explain rule 3 of the General Rules for the Interpretation of the Import Tariff.
25. (i) A star export house wishes to import goods which are exempt from duty under Foreign Trade Policy (FTP), subject to fulfilment of export obligation. However, Customs Notification giving effect to the FTP is yet to be issued. Can the export house import the goods claiming exemption from duty under FTP in the absence of Customs Notification?
(ii) Give examples of categories of exports/sectors which are ineligible for duty credit scrip entitlement under MEIS.

SUGGESTED ANSWERS

1.	(c)	2.	(c)	3.	(c)	4.	(a)	5.	(d)
6.	(b)	7.	(d)	8.	(a)	9.	(d)	10.	(b)

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S. No.	Particulars	ITC (₹)
(i)	Computation of amount of ITC credited to Electronic Credit Ledger, for the month of October, 20XX	
(a)	Machinery 'U' - 'A' [Note 1]	36,000
(b)	Machinery 'V' [Note 2]	18,000
(c)	Machinery 'W' [Note 3]	-
(d)	Machinery 'X' - [Note 4]	36,000
(e)	Machinery 'Y' [Note 5]	-
(f)	Machinery 'Z' [Note 6]	-
(g)	Raw Material used for manufacturing 'Alpha' [Note 7]	27,000
(h)	Raw Material used for manufacturing 'Beta' [Note 7]	-
(i)	Raw Material used for manufacturing 'Gama' [Note 7]	<u>18,000</u>
	ITC credited to Electronic Credit Ledger, for the month of October, 20XX	1,35,000
(ii)	Computation of common credit for the month of October, 20XX	
(a)	Value of 'A' for Machinery 'U' purchased on 01.10.20XX	36,000
(b)	Value of 'A' for Machinery 'X' purchased 3 years before 01.10.20XX and used for effecting both taxable and exempt supplies from 01.10.20XX	36,000
(c)	Value of 'A' for Machinery 'Y' purchased 4 years before 01.10.20XX and used for effecting both taxable and exempt supplies from 01.10.20XX [Note 8]	14,400
	Total common credit for the month of October, 20XX – T_c [Note 9]	86,400
(iii)	Computation of common credit attributable to exempt supplies, for the month of October, 20XX	
(a)	ITC attributable to a month on common capital goods during their useful life – T _m [Note 10]	1,440
(b)	ITC at the beginning of October, 20XX on all common capital goods whose useful life remains during the tax period - T _r [Note 11]	2,340

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(c)	Common credit attributable to exempt supplies, for the month of October 20XX – T_e $= T_r \times \frac{\text{Turnover of exempt supplies during October 20XX}}{\text{Total turnover of XYZ Pvt. Ltd. during October 20XX}}$ $= 2,340 \times \frac{10,00,000}{25,00,000}$	936
(iv)	Computation of GST liability of the company for October 20XX payable through Electronic Cash Ledger	
	IGST payable on 'Alpha' [₹ 9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 x 18%]	<u>1,08,000</u>
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for the month of October, 20XX [Note 12]	<u>936</u>
	Total output tax liability of October, 20XX	2,70,936
	Less: ITC available in the Electronic Credit Ledger	<u>1,35,000</u>
	IGST payable from Electronic Cash Ledger	1,35,936

Notes:

- (1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c) of the CGST Rules, 2017].
- (2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b) of the CGST Rules, 2017].
- (3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a) of the CGST Rules, 2017].
- (4) Where any capital goods earlier used exclusively for effecting exempt supplies is subsequently **also** used for effecting taxable supplies, the value of 'A' shall be arrived at by reducing the ITC at the rate of 5% for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger [Proviso to rule 43(1)(c) of the CGST Rules, 2017].

Thus, 'A' shall be computed as under-

$$= ₹ 90,000 - ₹ 54,000 (₹ 90,000 \times 5\% \times 12 \text{ quarters})$$

$$= ₹ 36,000$$

- (5) Machinery 'Y' is being used for effecting both taxable and exempt supplies from 01.10.20XX. Prior to that it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (6) Machinery 'Z' is being used for effecting both taxable and exempt supplies from October 1, two years prior to 01.10.20XX. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.
- (7) ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will not be credited in the electronic credit ledger [Rule 42 of CGST Rules, 2017].
- (8) Where any capital goods earlier used exclusively for effecting taxable supplies is subsequently **also** used for effecting exempt supplies, the value of 'A' arrived at by reducing the input tax at the rate of 5% for every quarter or part thereof shall be added to the common credit (aggregate value 'T_c' – Refer Note 9 below) [Proviso to rule 43(1)(d) of the CGST Rules, 2017].

Thus, 'A' shall be computed as under-

$$= ₹ 72,000 - ₹ 57,600 (₹ 72,000 \times 5\% \times 16 \text{ quarters})$$

$$= ₹ 14,400$$

- (9) The aggregate of the amounts of 'A' credited to the electronic credit ledger, to be denoted as 'T_c', shall be the common credit in respect of capital goods for a tax period [Rule 43(1)(d) of the CGST Rules, 2017].

- *(10) ITC attributable to a month on common capital goods during their useful life (T_m) shall be computed in accordance with rule 43(1)(e) of CGST Rules, 2017 as under:

$$= T_c \div 60$$

$$= ₹ 86,400 \div 60$$

$$= ₹ 1,440$$

- (11) Useful life of capital goods used commonly for effecting taxable supplies and exempt supplies shall be taken as five years from the date of the invoice for such goods [Rule 43(1)(c) of the CGST Rules, 2017]. Machinery 'Z' is used commonly for effecting taxable and exempt supplies from October 1, two years before 01.10.20XX. Hence, its useful life remains in the month of October 20XX and therefore, T_r will be aggregate of T_m (ITC pertaining to a month) for Machinery 'Z' and T_m for other machineries computed under point 3.(a).

T_m for machinery 'Z' will be computed as under:

$$₹ 54,000 \div 60 = ₹ 900$$

$$T_r = T_m \text{ for machinery 'Z' } + T_m \text{ for other machineries}$$

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$$T_r = ₹ 900 + ₹ 1,440 = ₹ 2,340$$

- (12) Common credit attributable to the exempt supplies (T_e) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit [Rule 43(2)(h) of the CGST Rules, 2017].

**Note: In the above solution, common credit of capital goods whose remaining useful life is less than 5 years has also been divided by 60 to compute the T_m on the basis of strict interpretation of rule 43(1)(e). Owing to such an interpretation, the time period for reversal of credit increases and the amount of reversal every month decreases. However, an alternative view can be to compute T_m by dividing the common credit pertaining to capital goods whose remaining useful life is less than 5 years with the number of months in their remaining useful life. If such view is adopted, the time period for reversal of credit will decrease and the amount of reversal to be made every month will increase.*

12. As per section 10(3) of the CGST Act, 2017 read with Notification No. 8/2017 CT dated 27.06.2017 as amended, the option availed of by a registered person to pay tax under composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds ₹ 1 crore [₹ 75 lakh in case of Special Category States except Uttarakhand and Jammu and Kashmir].

As per section 2(6) of the CGST Act, 2017, aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.

In the given case, the firm is registered under the composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds ₹ 1 crore on 03.10.20XX [aggregate of both taxable and exempt turnover from 01.04.20XX to 03.10.20XX, i.e. ₹ 1,00,05,000 (₹ 97,65,000 + ₹ 1,03,000 + ₹ 33,250 + ₹ 58,750 + ₹ 45,000)]

The inward supplies of goods transportation services in respect of which the firm has to pay tax under reverse charge have not been included in the aggregate turnover in terms of section 2(6) of the CGST Act, 2017. The tax is payable under reverse charge on such services as the applicable rate of tax on such services is given as 5% and not 12%, in which case the GTA would have been liable to pay tax under forward charge [Notification No. 13/2017 CT (R) dated 28.06.2017 as amended].

Thus, the firm will have to pay tax under regular scheme (Section 9 of the CGST Act, 2017) from 03.10.20XX.

Output tax liability of B & D Company under composition scheme

During the period when the firm pays tax under composition scheme, i.e. from 01.04.20XX to 02.10.20XX, tax will be payable on quarterly basis and no ITC will be available [Section 10(4) read with sub-sections (2) and (7) of section 39 of the CGST Act, 2017]. Further, since the firm is trading in goods, tax will be payable @ $\frac{1}{2}\%$ [Effective rate - 1% ($\frac{1}{2}\%$ CGST + $\frac{1}{2}\%$ SGST)] of the turnover of **taxable** supplies of goods (i.e. 'P') in the State [Section 10(1) read with rule 7 of CGST Rues, 2017].

The tax liability for the quarters ended June, 20XX, September, 20XX and December, 20XX under composition scheme will be computed as under-

Particulars	Quarter ended 30.06.20XX (₹)	Quarter ended 30.09.20XX (₹)	Quarter ended 31.12.20XX (₹)
Turnover of 'P' (Taxable supplies)	40,00,000	30,00,000	1,75,000 [1,00,000 + 31,250 + 43,750]
CGST @ 0.5% [A1]	20,000	15,000	875
SGST @ 0.5% [B1]	20,000	15,000	875
Inward supply on which tax is payable under reverse charge [Service of goods transportation availed from a GTA @ 5%]	60,000 [(1,40,000/7) x 3]	60,000 [(1,40,000/7) x 3]	Nil [Paid on 10 th day for goods transported between 11 th to 20 th day of the month, so the same will be assessed under regular scheme]
CGST @ 2.5% [A2]	1,500	1,500	-
SGST @ 2.5% [B2]	1,500	1,500	-
Total CGST [A1 + A2]	21,500	16,500	875
Total SGST [B1 + B2]	21,500	16,500	875
Total CGST liability for the period from 01.04.20XX to 02.10.20XX		38,875 [21,500 + 16,500 + 875]	
Total SGST liability for the period from 01.04.20XX to 02.10.20XX		38,875 [21,500 + 16,500 + 875]	

13. As per section 18(1)(c) of the CGST Act, 2017 read with rule 40 of CGST Rules, 2017, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished

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or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9. However, the credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2) of the CGST Act, 2017].

In the light of the above-mentioned provisions, the ITC credited to the Electronic Credit Ledger of the B & D Company on inputs held in stock and capital goods on 02.10.20XX will be computed as under:

Particulars		Amount (₹)
A. ITC on inputs		
Stock of taxable inputs as on 30.09.20XX [Since no tax is paid on exempt purchases, there does not arise any question of availing ITC on the same. Hence, stock of only taxable inputs are considered]		10,00,000
Add: Purchases [No purchases are made in October, 20XX]		Nil
Less: Cost of taxable goods sold from 01.10.20XX to 02.10.20XX [(₹ 1,00,000 + ₹ 31,250 + ₹ 43,750) x 80%]		<u>1,40,000</u>
Stock of taxable inputs as on 02.10.20XX [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]		8,60,000
Less: More than one year old stock		<u>3,00,000</u>
Stock of inputs on which ITC can be claimed		5,60,000
ITC of CGST @ 9%	[Since all purchases are intra-State and from the suppliers registered under regular scheme]	50,400
ITC of SGST @ 9%		50,400
B. ITC on capital goods		
Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
Computers [₹ 36,000 – (5% x 4 quarters)] ÷ 2	14,400	14,400
Printers [Being more than one year old, no ITC is available]	-	-
Motor cycle	-	-

[Section 17(5)(a) of CGST Act, 2017 allows ITC on motor vehicles only when the same are used: (1) for making taxable supply of- (i) further supply of such vehicles, (ii) transportation of passengers, (iii) imparting training on driving, flying, navigating such vehicles and (2) for transportation of goods. Since B & D Company is a trader and it does not use the motor cycle for transportation of goods, ITC thereon will not be available]		
Furniture and Fixtures [₹ 72,000 – (5% x 3 quarters)] ÷ 2	30,600	30,600
Air conditioner used in the office [Since purchased after 03.10.20XX, full ITC will be available and will be computed separately]	-	-
Exhaust fan used in the godown [₹ 9,000 – (5% x 4 quarters)] ÷ 2	<u>3,600</u>	<u>3,600</u>
<i>ITC to be claimed on capital goods</i>	<i>48,600</i>	<i>48,600</i>
Total ITC on inputs and capital goods credited to Electronic Credit Ledger on 02.10.20XX	99,000 [50,400 + 48,600]	99,000 [50,400 + 48,600]

14. Output tax liability of B & D Company under regular scheme

From 03.10.20XX, firm will pay tax under regular scheme on monthly basis in terms of sub-sections (1) and (7) of section 39 of the CGST Act, 2017 and will be eligible to avail ITC on inputs held in stock and capital goods as on 02.10.20XX in terms of section 18 of the CGST Act, 2017 as also on goods and services procured on or after 03.10.20XX and used in the course or furtherance of business in accordance with section 16 of the CGST Act, 2017. However, since common input services and capital goods are used in effecting taxable supplies as well as exempt supplies, ITC attributable to the exempt supplies will need to be added to the output tax liability of the month of October, 20XX in terms of section 17(2) read with rules 42 and 43 of the CGST Rules, 2017 respectively. Further, since all the sales are made within the State (eastern part of Maharashtra), CGST and SGST @ 9% each will be payable on the outward supplies.

The tax liability for the month of October, 20XX under regular scheme will be computed as under-

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Particulars	Value (₹)	CGST (₹)	SGST (₹)
Tax on outward supply of 'P' Taxable supplies from 03.10.20XX to 31.10.20XX chargeable to CGST and SGST 9% each [₹ 8,00,000 (Refer Working Note 4)]	6,25,000	56,250	56,250
Tax on inward supplies attracting reverse charge GTA services availed chargeable to CGST and SGST @ 2.5% each (₹ 1,40,000 / 7)	20,000	500	500
ITC reversal on input services [Refer Working Note 1 below]		363	363
ITC reversal on capital goods [Refer Working Note 2 below]		126	126
Total GST liability		57,239	57,239
Less: ITC [Refer Working Note 3 below]		56,739	56,739
Less: Tax paid in cash As per section 49(4) of the CGST Act, 2017 amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.		500	500

Working Note 1

Particulars	Value (₹)	CGST (₹)	SGST (₹)
CGST & SGST @ 2.5% each paid under reverse charge on freight paid to GTA on 10.10.20XX (for the goods transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme	20,000	500	500
CGST & SGST @ 9% each paid to Packing Agency on 09.10.20XX (for specialized packing to be carried out on 10.10.20XX on goods to be transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme.	30,000	2,700	2,700

Total common credit		3,200	3,200
Common credit on input services attributable to exempt supplies (rounded off)		363	363
Common credit on input services availed during the period under regular scheme x (Exempt turnover made during the period under regular scheme / Total turnover during the period under regular scheme) = ₹ 3,200 x ₹ 80,000 / ₹ 7,05,000 Turnover of 'Q' (exempt turnover) from 03.10.20XX to 31.10.20XX - ₹ 80,000 [Refer Working Note 4] Total turnover from 03.10.20XX to 31.10.20XX - ₹ 7,05,000 [Refer Working Note 4]			

Working Note 2

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
ITC claimed on capital goods on 02.10.20XX [Refer Ans. 13]	48,600	48,600
Air conditioner used in the office purchased on 15.10.20XX	<u>18,000</u>	<u>18,000</u>
Common ITC [Since all the capital goods are used for effecting both taxable and exempt supplies, the entire ITC on capital goods is common]	66,600	66,600
Common credit for a tax period [Common credit ÷ 60] (rounded off)	1,110	1,110
Common credit on capital goods attributable to exempt supplies (rounded off) Common credit on capital goods during the period under regular scheme x (Exempt turnover made during the period under regular scheme / Total turnover during the period under regular scheme) = ₹ 1,110 x ₹ 80,000 / ₹ 7,05,000	126	126

Working Note 3

Particulars	CGST (₹)	SGST (₹)
ITC on inputs and capital goods claimed on 02.10.20XX [Refer Ans. 13]	99,000	99,000
ITC on air conditioner used in the office purchased on 15.10.20XX	18,000	18,000

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ITC on freight paid to GTA	500	500
ITC on packing charges	<u>2,700</u>	<u>2,700</u>
Total ITC available with the firm	1,20,200	1,20,200

Working Note 4

Particulars	Total turnover for the month of October, 20XX* (₹)	Turnover in the month of October under regular scheme [03.10.20XX-31.10.20XX] (₹)
'P'	8,00,000 [(10,00,000 – 3,60,000) x 125%]	6,25,000 [8,00,000 – 1,00,000 – 31,250 – 43,750]
'Q'	1,00,000 [(2,00,000 – 1,20,000) x 125%]	80,000 [1,00,000 – 3,000 – 2,000 – 15,000]
Aggregate turnover	9,00,000	7,05,000

Note - Turnover for October, 20XX will be computed as under:

*Turnover = Cost of goods sold** × 125% (20% margin on sales = 25% margin on cost)

**Cost of goods sold = Stock as on 30.09.20XX less stock as on 31.10.20XX (since no purchases are made after September, 20XX)

15. In the given situation, three supplies are involved:

- (i) Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.
- (ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.
- (iii) Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

- (i) As per the provisions of section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to, *inter alia*, a cultural event shall be the place where the event is actually held.

Therefore, the place of supply of services supplied by Musicera Pvt. Ltd. to audiences by way of admission to the music concert is the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Ludhiana, Punjab) and the place of supply (Gurugram, Haryana) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply (400 tickets @ ₹ 5,000 per ticket) = ₹ 20,00,000

IGST @ 18% on value of supply = ₹ 20,00,000 x 18% = ₹ 3,60,000.

- (ii) Section 12(7)(a)(i) of IGST Act, 2017 stipulates that the place of supply of services provided by way of organization of, *inter alia*, a cultural event to a registered person is the location of such person.

Therefore, the place of supply of services supplied by Supriya (P) Ltd. to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is the location of the recipient, i.e. Ludhiana (Punjab).

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, IGST will be leviable. Therefore, IGST leviable will be computed as follows:

Consideration for supply = ₹ 10,00,000

IGST @ 18% on value of supply = ₹ 10,00,000 x 18% = ₹ 1,80,000

- (iii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of accommodation in any immovable property for organizing, *inter alia*, any cultural function shall be the location at which the immovable property is located.

Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. by way of accommodation in Hotel lawns for organising the music concert shall be the location of the Hotel Dumdum, i.e. Gurugram, Haryana.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, CGST and SGST will be leviable. Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = ₹ 4,00,000

CGST @ 9% on value of supply = ₹ 4,00,000 x 9% = ₹ 36,000

SGST @ 9% on value of supply = ₹ 4,00,000 x 9% = ₹ 36,000

If the price for the entry ticket is fixed at ₹ 450, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is ₹ 450 as the inter-State services by way of right to admission to, *inter alia*, musical performance are exempt from IGST vide *Notification No. 9/2017 IT (R) dated 28.06.2017*, if the consideration for right to admission to the event is not more than ₹ 500 per person. However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

16. (i) (a) Rule 138(1) of the CGST Rules, 2017 provides that e-way Bill is mandatorily required to be generated if the goods are moved, *inter alia*, in relation to

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supply and the consignment value exceeds ₹ 50,000. Further, explanation 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

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

$$= ₹ 48,000 \times 118\%$$

$$= ₹ 56,640.$$

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be issued in the given case.

- (b) An e-way bill contains two parts namely, Part A to be furnished by the registered person who is causing movement of goods of consignment value exceeding ₹ 50,000/- and part B (transport details) is to be furnished by the person who is transporting the goods.

Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill on the common portal after furnishing information in Part B [Rule 138(2)].

Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B [Rule 138(2A)].

Where the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

Where the consignor or the consignee has not generated the e-way bill and the aggregate of the consignment value of goods carried in the conveyance is more than ₹ 50,000/, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill on the common portal prior to the movement of goods [Rule 138(7)].

- (c) It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than ₹ 50,000/- and it is not otherwise exempted in terms of rule 138(14) of CGST Rules, 2017. If e-way bills, wherever required, are not issued in accordance with the provisions contained in rule 138, the same will be considered as contravention of rules. As per section 122(1)(xiv) of CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of ₹ 10,000/- or tax sought to be evaded (wherever applicable) whichever is greater. Moreover, as per section 129(1) of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.
- (ii) The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1) of the CGST Act, 2017, *inter alia*, stipulates that every registered person who causes movement of goods of consignment value exceeding ₹ 50,000:
- (i) in relation to a supply; or
 - (ii) for reasons other than supply; or
 - (iii) due to inward supply from an unregistered person,
- shall, generate an electronic way bill (E-way Bill) before commencement of such movement.

CBIC vide Q 9. of FAQs on E-way Bill has also clarified that even if the movement of goods is caused due to reasons others than supply [including replacement of goods under warranty], e-way bill is required to be issued.

Thus, in the given case, since the consignment value exceeds ₹ 50,000, e-way bill is required to be mandatorily generated. Therefore, the claim of Power Electricals Ltd. that e-way bill is not mandatorily required to be generated as the movement of goods is caused due to reasons other than supply, is not correct.

- (iii) Beauty Cosmetics Ltd. would be required to prepare two separate e-way bills since each invoice value exceeds ₹ 50,000 and each invoice is considered as one consignment for the purpose of generating e-way bills.

The FAQs on E-way Bill issued by CBIC clarify that if multiple invoices are issued by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. In other words, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However,

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after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

17. As per section 51 of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 and Notification No. 50/2018 CT 13.09.2018, with effect from 01.10.2018, following persons are required to deduct CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST @ 2% from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 2,50,000:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government,
 with 51% or more participation by way of equity or control, to carry out any function; or
- (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or
- (f) Public sector undertakings.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S. No.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	--		
(ii)	Supply of car rental services to Municipal Corporation of Delhi (Note-2)	2,95,000	20,000	--		

(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000			500
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	500	500	
(v)	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	--		
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000		--		
(vii)	Maintenance of street lights in Municipal area of East Delhi (Note-7)	3,50,000	3,50,000	--		

Notes:

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 2,60,000 \times 100 / 118$$

$$= ₹ 2,20,339 \text{ (rounded off)}$$

Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,95,000 \times 100 / 118$$

$$= ₹ 2,50,000$$

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Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under the contract is as follows:

$$= ₹ 5,90,000 \times 100 / 118$$

$$= ₹ 5,00,000$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 6,49,000 \times 100 / 118$$

$$= ₹ 5,50,000 \text{ (rounded off)}$$

Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Section 12(3) of the IGST Act, 2017, *inter alia*, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient - Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds ₹ 2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

$$= ₹ 2,72,000 \times 100 / 118$$

$$= ₹ 2,30,509 \text{ (rounded off)}$$

Since the total value of taxable supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to, *inter alia*, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where the value of supply of goods is not more than 25% of the value of composite supply is a service exempt from GST. Since tax is liable to be deducted from the payment made or credited to the supplier of taxable goods or services or both, no tax is required to be deducted in the given case as the supply is exempt.

The answer will remain unchanged even if Manihar Enterprises is registered under composition scheme. Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

18. Computation of maximum amount of refund admissible to Kailash Global (P) Ltd.

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

Notes:

1. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017. Therefore, as per clause (i) of first proviso to section 54(3) of the CGST Act, 2017, a registered person may claim refund, of any unutilised ITC in the case of zero rated supply at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilised ITC is not allowed if the goods exported out of India are subjected to export duty.
2. Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except

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supplies of goods or services or both as may be notified by the Government on the recommendations of the GST Council [Clause (ii) of the first proviso to section 54(3) of the CGST Act, 2017].

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

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

where-

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

“Adjusted total turnover” means the sum total of the value of:

- (a) the turnover in a State/ Union territory, as defined under section 2(112), excluding turnover of services; &
- (b) the turnover of zero-rated supply of services determined in terms of specified manner and non-zero-rated supply of services,

excluding:

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period.

Tax payable on inverted rated supply of goods = ₹ 10,00,000 × 5% = ₹ 50,000

Here, Net ITC = ₹ 3,50,000, Adjusted Total Turnover = ₹ 28,00,000 [₹ 7,00,000 + ₹ 10,00,000 + ₹ 5,00,000 + ₹ 6,00,000] and Turnover of inverted rated supply of goods = ₹ 10,00,000

Thus, maximum refund amount under rule 89(5) = (₹ 10,00,000 × ₹ 3,50,000) / ₹ 28,00,000 - ₹ 50,000 = ₹ 75,000

3. As per section 2(39) of the CGST Act, 2017, deemed exports means such supplies of goods as may be notified under section 147 of the CGST Act, 2017. Supplies to EOU is notified as deemed export under section 147 vide *Notification No. 48/2017 CT dated 18.10.2017*. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules, 2017]. Therefore, since in the given case, the recipient is

claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.

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

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

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

where-

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

“Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.

“Adjusted total turnover” means the same as explained in point 2 above.

Here, Turnover of zero rated supply of goods = ₹ 6,00,000, Net ITC = ₹ 5,32,000 (ITC on outdoor catering disallowed under section 17(5) of CGST Act, 2017) and Adjusted Total Turnover = ₹ 28,00,000 (as computed in point 2 above)

Thus, maximum refund amount under rule 89(4) = ₹ 6,00,000 × ₹ 5,32,000 / ₹ 28,00,000 = ₹ 1,14,000.

19. As per section 73 of the CGST Act, 2017, a show cause notice can be issued by the proper officer if it appears to him that:
- tax has not been paid; or
 - tax has been short paid; or
 - tax has been erroneously refunded; or
 - input tax credit 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.

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The notice should be issued at least 3 months prior to the time limit specified for passing the order determining the amount of tax, interest and any penalty payable by defaulter [Sub-section (2) of section 73].

The order referred herein has to be passed within three years from the due date for furnishing the annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund [Sub-section (10) of section 73].

Thus, the time-limit for issuance of show cause notice 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. As per section 44(1) of the CGST Act, 2017, the due date of filing annual return for a financial year is 31st day of December following the end of such financial year.

20. As per section 121 of the CGST Act, 2017, no appeal shall lie against any decision taken or order passed by a CGST officer if such decision taken or order passed relates to any one or more of the following matters, namely:—
- an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
 - an order pertaining to the seizure or retention of books of account, register and other documents; or
 - an order sanctioning prosecution under the CGST Act, 2017; or
 - an order passed under section 80 of the CGST Act, 2017 (payment of tax in instalments).
21. As per section 39(9) of the CGST Act, 2017, if any registered person after furnishing a return discovers any omission or incorrect particulars therein, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest.

However, section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities. Further, no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

22. **Computation of export duty**

Particulars	Amount (US \$)
Assessable value [Note 1]	1,00,000
	Amount (₹)
Assessable value = US \$ 1,00,000 x ₹ 65 [Note 2]	65,00,000
Export duty @ 10% [Note 3]	6,50,000

Notes:-

1. The transaction value, i.e. FOB price of export goods, is considered as assessable value in terms of section 14(1) of the Customs Act, 1962.
 2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by CBEC on date of presentation of shipping bill of export.
 3. The rate of duty prevalent on the date of let export order is considered for computing export duty in terms of section 16(1)(a) of the Customs Act, 1962.
- 23. (i)** As per section 70 of the Customs Act, 1962, the conditions to be satisfied for remission of duty in case of volatile goods are:
- (a) The goods should be found deficient in quantity at the time of delivery from the warehouse;
 - (b) The deficiency should be on account of natural loss, i.e. evaporation etc. and not due to pilferage or thefts.
- (ii)** The following goods have been specified as volatile for the purpose of remission of duty vide *Notification No. 03/2016 Cus. (NT) dated 11.01.2016*:
- (a) aviation fuel, motor spirit, mineral turpentine, acetone, methanol, raw naphtha, vaporizing oil, kerosene, high speed diesel oil, batching oil, diesel oil, furnace oil and ethylene dichloride, kept in tanks;
 - (b) wine, spirit and beer, kept in casks
 - (c) liquid helium gas kept in containers
 - (d) crude stored in caverns
- 24.** Rule 3 of the General Rules for the Interpretation of the Import Tariff is used when the goods consists of more than one material or substance which are classifiable under two or more headings. The rule provides as under:
- (i) Rule 3(a) - Specific over general:** The heading that provides a more specific description should be preferred over the heading that provides a general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
 - (ii) Rule 3(b) – Essential character principle:** Sub-rule (b) would apply only if the goods cannot be classified under sub-rule (a). This sub-rule provides that composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, should be classified on the basis of that material or substance that gives it its essential character.

- (iii) **Rule 3(c) – Latter the better:** If both sub-rules (a) and (b) fail to classify the goods in question, then resort may be had to sub-rule (c), which provides that composite goods shall be classified on the basis of the heading that occurs last in numerical order among those which equally merit consideration.
25. (i) No. The exemptions extended by Foreign Trade Policy can be taken only when the exemption notification is issued under the relevant tax laws. The provisions of FTP cannot override tax laws.
- (ii) Some of the categories of exports/sectors which are ineligible for duty credit scrip entitlement under MEIS are listed below:
- (a) Supplies made from DTA units to SEZ units
 - (b) Exports through trans-shipment, i.e. exports that are originating in third country but trans-shipped through India
 - (c) Deemed Exports
 - (d) SEZ/EOU/EHTP/BPT/FTWZ products exported through DTA units
 - (e) Export products which are subject to Minimum export price or export duty
 - (f) Exports made by units in FTWZ.

Note: GST law is in its nascent stage and has been subject to frequent changes. Although many clarifications are continually being issued by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the above questions depending upon the view taken.

Test Series: March, 2018

MOCK TEST PAPER
FINAL (OLD) GROUP - II
PAPER 8: INDIRECT TAX LAWS

Question no. 1 is compulsory. Attempt any five questions out of the remaining six questions

Maximum Marks: 100 Marks

Time Allowed: 3 Hours

Note:

- (i) Working Notes should form part of the answer.
 - (ii) Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note.
 - (iii) All questions should be answered on the basis of position of (i) GST law as amended up to 31st October, 2017 and (ii) customs law as amended by the Finance Act, 2017 and notifications/circulars issued till 31st October, 2017.
 - (iv) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.
1. (a) V-Supply Pvt. Ltd. is a registered manufacturer of auto parts in Kolkata, West Bengal. The company has a manufacturing facility registered under Factories Act, 1948 in Kolkata. It procures its inputs indigenously from both registered and unregistered suppliers located within as well as outside West Bengal as also imports some raw material from China.

The company reports the following details for the month of November, 20XX:

Payments	₹ (in lakh)	Receipts	₹ (in lakh)
Raw material	3.5	Sales	15
Consumables	1.25		
Transportation charges for bringing the raw material to factory	0.70		
Salary paid to employees on rolls	5.0		
Premium paid on life insurance policies taken for specified employees	1.60		
Audit fee	0.50		
Telephone expenses	0.30		
Bank charges	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

- (i) Raw material amounting to ₹ 0.80 lakh is procured from Bihar and ₹ 1.5 lakh is imported from China. Basic customs duty of ₹ 0.15 lakh, education cesses of ₹ 0.0045 lakh and integrated tax of ₹ 0.29781 lakh are paid on the imported raw material. Remaining raw material is procured from suppliers located in West Bengal. Out of such raw material, raw material worth

₹ 0.30 lakh is procured from unregistered suppliers; the remaining raw material is procured from registered suppliers. Further, raw material worth ₹ 0.05 lakh purchased from registered supplier located in West Bengal has been destroyed due to seepage problem in the factory and thus, could not be used in the manufacturing process.

- (ii) Consumables are procured from registered suppliers located in Kolkata and include diesel worth ₹ 0.25 lakh for running the generator in the factory.
- (iii) Transportation charges comprise of ₹ 0.60 lakh paid to Goods Transport Agency (GTA) in Kolkata and ₹ 0.10 lakh paid to horse pulled carts. GST applicable on the services of GTA is 5%.
- (iv) Life insurance policies for specified employees have been taken by the company to fulfill a statutory obligation in this regard. The Government has notified such life insurance service under section 17(5)(b)(iii)(A). The life insurance service provider is registered in West Bengal.
- (v) Audit fee is paid to M/s Goyal & Co., a firm of Chartered Accountants registered in West Bengal, for the statutory audit of the preceding financial year.
- (vi) Telephone expenses pertain to bills for landline phone installed at the factory and mobile phones given to employees for official use. The telecom service provider is registered in West Bengal.
- (vii) Bank charges are towards company's current account maintained with a Private Sector Bank registered in West Bengal.
- (viii) The break up of sales is as under:
 - Sales in West Bengal – ₹ 7 lakh
 - Sales in States other than West Bengal – ₹ 3 lakh
 - Export under bond – ₹ 5 lakh

The balance of input tax credit with the company as on 1.11.20XX is:

CGST - ₹ 0.15 lakh

SGST - ₹ 0.08 lakh

IGST - ₹ 0.10 lakh

Compute eligible input tax credit and net GST payable [CGST, SGST or IGST, as the case may be] by V-Supply Pvt. Ltd. for the month of November 20XX.

Note-

- (i) CGST, SGST & IGST rates to be 9%, 9% and 18% respectively, wherever applicable.
- (ii) The necessary conditions for availing input tax credit have been complied with by V-Supply Pvt. Ltd., wherever applicable.

You are required to make suitable assumptions, wherever necessary.

(10 Marks)

- (b) Agrawal Carriers is a Goods Transport Agency (GTA) engaged in transportation of goods by road. As per the general business practice, Agrawal Carriers also provides intermediary and ancillary services like loading/unloading, packing/unpacking, transshipment and temporary warehousing, in relation to transportation of goods by road.

With reference to the provisions of GST law, analyse whether such services are to be treated as part of the GTA service, being a composite supply, or as separate supplies.

(5 Marks)

- (c) 15000 chalices were imported for charitable distribution in India by XY Charitable Trust. The Trust did not pay either for the cost of goods or for the design and development charges, which was borne by the supplier. Customs officer computed its FOB value at USD 20,000 (including design

and development charges), which was accepted by the Trust. Other details obtained were as follows:

Sl. No.	Particulars	Amount												
1.	Freight paid (air) (in USD)	4,500												
2.	Design & development charges paid in USA (in USD)	2,500												
3.	Commission payable to an agent in India (in ₹)	12,500												
4.	Exchange rate notified by CBEC and rate of basic duty is as follows: <table border="1" data-bbox="418 533 1181 721"> <tr> <th>Date of Bill of Entry</th><th>BCD</th><th>Exchange Rate in ₹</th></tr> <tr> <td>08.09.20XX</td><td>20%</td><td>60</td></tr> <tr> <th>Date of arrival of aircraft</th><th>BCD</th><th>Exchange Rate in ₹</th></tr> <tr> <td>30.09.20XX</td><td>10%</td><td>62</td></tr> </table> The inter-bank rate was 1 USD = ₹ 63	Date of Bill of Entry	BCD	Exchange Rate in ₹	08.09.20XX	20%	60	Date of arrival of aircraft	BCD	Exchange Rate in ₹	30.09.20XX	10%	62	
Date of Bill of Entry	BCD	Exchange Rate in ₹												
08.09.20XX	20%	60												
Date of arrival of aircraft	BCD	Exchange Rate in ₹												
30.09.20XX	10%	62												
5.	Integrated tax payable u/s 3(7) of the Customs Tariff Act, 1975	12%												
6.	Education cess and Secondary and higher education cess as applicable													

Compute the amount of total customs duty and integrated tax payable on importation of chalices. Make suitable assumptions where required. Working notes should form part of your answer.

(5 Marks)

2. (a) Alok Pvt. Ltd., a registered manufacturer, sent steel cabinets worth ₹ 50 lakh under a delivery challan to M/s Prem Tools, a registered job worker, for job work on 28.01.20XX. The scope of job work included mounting the steel cabinets on a metal frame and sending the mounted panels back to Alok Pvt. Ltd. The metal frame is to be supplied by M/s Prem Tools. M/s Prem Tools has agreed to a consideration of ₹ 5 lakh for the entire mounting activity including the supply of metal frame. During the course of mounting activity, metal waste is generated which is sold by M/s. Prem Tools for ₹ 45,000. M/s Prem Tools sent the steel cabinets mounted on the metal frame to Alok Pvt. Ltd. on 03.12.20XX.

Assuming GST rate for metal frame as 28%, for metal waste as 12% and standard rate for services as 18%, you are required to compute the GST liability of M/s Prem Tools. Also, give reason(s) for inclusion or exclusion of the value of cabinets in the job charges for the purpose of payment of GST by M/s Prem Tools.

(7 Marks)

- (b) A professional training institute gets its training material printed from a printing press. The content of the material is provided by the training institute who owns the usage rights of the same while the physical inputs including paper used for printing belong to the printer.

Ascertain whether supply of training material by the printing press constitutes supply of goods or supply of services.

(5 Marks)

- (c) Discuss the similarities and differences between Advance Authorization and DFIA (Duty Free Import Authorization) schemes.

(4 Marks)

3. (a) Honeycure Laboratories Ltd. is a registered supplier of bulk drugs in Delhi. It manufactures bulk drugs and supplies the same in the domestic and overseas market. The bulk drugs are supplied within Delhi and in the overseas market directly from the company's warehouse located in South Delhi. For supplies in other States of India, the company has appointed consignment agents in each such State. However, supplies in Gurgaon (Haryana) and Noida (U.P.) are effected directly from South Delhi warehouse. The drugs are supplied to the consignment agents from the South Delhi warehouse.

Honeycure Laboratories Ltd. also provides drug development services to drug manufacturers located in India, including testing of their new drugs in its laboratory located in Delhi.

The company has furnished the following information for the month of January, 20XX:

Particulars	₹
Advance received towards drug development services to be provided to Orochem Ltd., a drug manufacturer, located in Delhi [Drug development services have been provided in February, 20XX and invoice is issued on 28.02.20XX]	5,00,000
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the drugs in March, 20XX]	6,00,000
Supply of bulk drugs to wholesale dealers of drugs in Delhi	60,00,000
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA under bond [Consideration received in convertible foreign exchange]	90,00,000
Drug development services provided to Unipharma Ltd., a drug manufacturer, located in Delhi	6,00,000

You are required to determine the GST liability [CGST & SGST or IGST, as the case may be] of Honeycure Laboratories Ltd. for the month of January, 20XX with the help of the following additional information furnished by it for the said period:

1. Consignments of bulk drugs were sent to Cardinal Pharma Pvt. Ltd. and Rochester Medicos – agents of Honeycure Laboratories Ltd. in Punjab and Haryana respectively. Cardinal Pharma Pvt. Ltd. and Rochester Medicos supplied these drugs to the Medical Stores located in their respective States for ₹ 60,00,000 and ₹ 50,00,000 respectively.
2. Bulk drugs have been supplied to Ronn Medicos Pvt. Ltd. - a wholesale dealer of bulk drugs in Gurgaon, Haryana for consideration of ₹ 15,00,000. Honeycure Laboratories Ltd. owns 60% shares of Ronn Medicos Pvt. Ltd. Open market value of the bulk drugs supplied to Ronn Medicos Pvt. Ltd. is ₹ 30,00,000. Further, Ronn Medicos Pvt. Ltd. is not eligible for full input tax credit.
3. Bulk drugs amounting to ₹ 50,00,000 were sent under delivery challan to Sudha Bottlers, Noida (U.P.) for filling the same in the glass bottles. The bottled drugs were sent back to Honeycure Laboratories Ltd. after 1 month. The consideration charged for the bottling activity (including bottles) is ₹ 5,00,000.
4. The turnover of Honeycure Laboratories Ltd. in the preceding financial year was ₹ 70 lakh with regard to supply of bulk drugs and ₹ 45 lakh with regard to supply of drug development services.

Note:

- (i) All the given amounts are exclusive of GST, wherever applicable.
- (ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Bulk drugs	2.5%	2.5%	5%
Drug development services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

(12 Marks)

- (b) Siya imported certain goods in May, 20XX. An 'into Bond' bill of entry was presented on 14th May, 20XX and goods were cleared from the port for warehousing. Assessable value on that date was US \$ 1,00,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May, 20XX. Siya deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 21st September, 20XX. A notice was issued under section 72 of the Customs Act, 1962, demanding duty and interest. Siya cleared the goods on 14th October, 20XX.

Compute the amount of customs duty and interest payable by Siya while removing the goods on the basis of the following information:

Particulars	14-05-20XX	21-09-20XX	14-10-20XX
Rate of exchange per US \$ (as notified by Central Board of Excise & Customs)	₹ 65.20	₹ 65.40	₹ 65.50
Basic customs duty	15%	10%	12%

Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is exempt. **(4 Marks)**

4. (a) Kaya Trade Links Pvt. Ltd. is a registered manufacturer of premium ceiling fans. It sells its fans exclusively through distributors appointed across the country. The maximum retail price (MRP) printed on the package of a fan is ₹ 10,000. The company sells the ceiling fans to distributors at ₹ 7,000 per fan (exclusive of applicable taxes). The applicable rate of GST on ceiling fans is 18%.

The stock is dispatched to the distributors on quarterly basis - stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition to that effect from any of its distributors. The company charges ₹ 1,000 per fan from distributors towards packing expenses.

The company has a policy to offer a discount of 10% (per fan) on fans supplied to the distributors for a quarter, if the distributors sell 500 fans in the preceding quarter. The discount is offered on the price at which the fans are sold to the distributors (excluding all charges and taxes).

The company appoints Prakash Sales as a distributor on 1st April and dispatches 750 fans on 8th April as stock for the quarter April-June. Prakash Sales places a purchase order of 1,000 fans with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor on 18th June. The distributor makes the payment for the fans on 26th June and avails applicable input tax credit. The distributor reports sales of 700 fans for the quarter April-June and 850 fans for the quarter July-September.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of fans supplied by Kaya Trade Links Pvt. Ltd. to Prakash Sales during the quarter July-September.

Note: Make suitable assumptions, wherever necessary.

(8 Marks)

- (b) Avtaar Enterprises, Kanpur started trading in ayurvedic medicines from July 1, 20XX. Its turnover exceeded ₹ 20 lakh on October 3, 20XX. The firm applied for registration on October 31, 20XX and was issued registration certificate on November 5, 20XX.

Examine whether any revised invoice can be issued in the given scenario. If the answer to the first question is in affirmative, determine the period for which the revised invoices can be issued as also the last date upto which the same can be issued.

(4 Marks)

- (c) After visiting USA for a month, Mrs. & Mr. Subramanian (Indian residents aged 35 and 40 years respectively) brought to India a laptop computer valued at ₹ 60,000, used personal effects valued at ₹ 1,20,000 and a personal computer for ₹ 54,000.

Calculate the customs duty payable by Mrs. & Mr. Subramanian.

(5 Marks)

5. (a) Pursuant to audit conducted by the tax authorities under section 65 of the CGST Act, 2017, a show cause notice was issued to Home Furnishers, Surat, a registered supplier, alleging that it had wrongly availed the input tax credit without actual receipt of goods for the month of July, 20XX. In the absence of a satisfactory reply from Home Furnishers, Joint Commissioner of Central Tax passed an adjudication order dated 20.08.20XX (received by Home Furnishers on 22.08.20XX) confirming a tax demand of ₹ 50,00,000 and imposing a penalty of equal amount under section 122 of the CGST Act, 2017.

Home Furnishers does not agree with the order passed by the Joint Commissioner. It decides to file an appeal with the Appellate Authority against the said adjudication order. It has approached you for seeking advice on the following issues in this regard:

- (1) Can Home Furnishers file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax? If yes, till what date can the appeal be filed? **(2 Marks)**
- (2) Does Home Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal? **(2 Marks)**
- (3) Home Furnishers is of the view that there is no requirement of paying pre-deposit of any kind before filing an appeal with the Appellate Authority. Give your opinion on the issue.

(2 Marks)

- (b) AB Pvt. Ltd., Pune provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is ₹ 18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd.?

(6 Marks)

- (c) State the purpose of including Interpretation Rules in Customs Tariff. Do they form part of the Tariff Schedule? Explain the Akin Rule of interpretation. **(4 Marks)**

6. (a) (i) Discuss the procedure for amendment of registration under CGST Act and rules thereto?

(4 Marks)

- (ii) With reference to the provisions of section 120 of the CGST Act, 2017, list the cases in which appeal is not to be filed. **(6 Marks)**

- (b) Enumerate the records which are to be produced during access to business premises under section 71 of the CGST Act, 2017? **(2 Marks)**

- (c) An importer imported certain inputs for manufacture of final product. A small portion of the imported inputs were damaged in transit and could not be used in the manufacture of the final product. An exemption notification was in force providing customs duty exemption in respect of specified raw materials imported into India for use in manufacture of specified goods, which was applicable to the imports made by the importer in the present case.

Briefly examine with the help of a decided case law whether the importer could claim the benefit of the aforesaid notification in respect of the entire lot of the imported inputs including those that were damaged in transit. **(4 Marks)**

OR

- (c) Explain the relevant dates as provided in section 26(2) of the Customs Act, 1962 for purpose of refund of duty under specified circumstances, namely:
- (i) goods exported out of India
 - (ii) relinquishment of title to goods **(4 Marks)**

7. (a) Everest Technologies Private Limited has been issued a show cause notice (SCN) on 31.01.2021 under section 73(1) of the CGST Act, 2017 on account of short payment of tax during the period between 01.07.2017 and 31.12.2017. Everest Technologies Private Limited contends that the show cause notice issued to it is time-barred in law.

You are required to examine the technical veracity of the contention of Everest Technologies Private Limited.

If in the above case SCN is issued under section 74(1) of the CGST Act, 2017, what is the last date by which SCN can be issued? **(6 Marks)**

- (b) Explain the term 'zero-rated supply' as defined under IGST Act, 2017. How are zero-rated supplies different from exempt supplies made by a registered person in respect of issuance of invoice? **(3 Marks)**

- (c) Discuss the penalty for failure to furnish information return, under section 123 of the CGST Act, 2017. **(3 Marks)**

- (d) Settlement Commission passed an order for release of seized goods of Somesh. Since the goods were subject to deterioration, the Revenue informed the Commission that the seized goods had already been auctioned.

The Commission, therefore, directed the Revenue to refund the amount remaining in balance after the application of sale proceeds as provided under section 150(2) of the Customs Act, 1962.

The Revenue refunded the principal amount of the sale proceeds without payment of interest for the delay, on the premise that it did not represent duty or interest as contemplated under section 27 and 27-A of the Customs Act, 1962. Reason out the action of the Revenue by supporting with a case law. **(4 Marks)**

Test Series: March, 2018

MOCK TEST PAPER
FINAL (OLD) GROUP - II
PAPER 8: INDIRECT TAX LAWS
SUGGESTED ANSWERS

GST law is in its nascent stage and has been subject to frequent changes. Although various clarifications have been issued in the past few months by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the questions depending upon the view taken.

For the sake of brevity, Central Goods and Services Tax, Integrated Goods and Services Tax, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017 and Central Goods and Services Tax Rules, 2017 have been referred to as CGST, IGST, CGST Act, IGST Act and CGST Rules respectively.

1. (a) Computation of input tax credit available with V-Supply Pvt. Ltd. in the month of November 20XX

S. No.	Particulars	Eligible input tax credit			
		CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
1.	Raw Material				
	Raw material purchased from Bihar [Refer Note 1(i)]			14,400	14,400
	Raw material imported from China [Refer Note 1(ii)]			29,781	29,781
	Raw material purchased from unregistered suppliers within West Bengal [Refer Note 1(iii)]	Nil	Nil		Nil
	Raw material destroyed due to seepage [Refer Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material purchased from West Bengal [Refer Note 1(i)]	7,650	7,650		15,300
	Total	7,650	7,650	44,181	59,481
2.	Consumables [Refer Note 2]	9,000	9,000		18,000
3.	Transportation charges for bringing the raw material to factory [Refer Note 3]	1,500	1,500		3,000
4.	Salary paid to employees on rolls [Refer Note 4]	Nil	Nil	Nil	Nil
5.	Premium paid on life insurance policies taken for specified employees [Refer Note 5]	14,400	14,400	-	28,800
6.	Audit fee [Refer Note 6]	4,500	4,500	-	9,000
7.	Telephone expenses [Refer Note 6]	2,700	2,700		5,400
8.	Bank charges [Refer Note 6]	900	900		1,800
		40,650	40,650	44,181	1,25,481

Computation of net GST payable

Particulars	CGST* ₹	SGST* ₹	IGST* ₹	Total ₹
On Intra-state sales in West Bengal	63,000	63,000		1,26,000
On Inter-state sales other than West Bengal			54,000	54,000
On exports under bond [Note 7]	Nil	Nil	Nil	Nil
On inward supply of GTA services under reverse charge [Note 3]	1,500	1,500		3,000
Total output tax liability	64,500	64,500	54,000	1,83,000
Less: Cash paid towards tax payable under reverse charge [Note 10]	(1,500)	(1,500)		(3,000)
Less: Input tax credit [Note 8]				
Opening balance of input tax credit on 01.11.20XX	(15,000)	(8,000)	(10,000)	(33,000)
Input tax credit availed during the month	(40,650)	(40,650)	(44,181)	(1,25,481)
	181 (IGST)			
Net GST payable	7,169	14,350	Nil	21,519

Notes:

- (1) (i) Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act.
 - (ii) IGST paid on imported goods qualifies as input tax in terms of section 2(62)(a) of the CGST Act. Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act.
 - (iii) All intra-State procurements made by a registered person from an unregistered supplier have been exempted from CGST leviable thereon till 31.03.2018 [Notification No. 8/2017 CT (R) dated 28.06.2017 as amended by Notification No. 38/2017 CT (R) dated 13.10.2017]. Therefore, since no GST is paid on such raw material, there does not arise any question of input tax credit on such raw material.
 - (iv) Input tax credit is not available on destroyed inputs in terms of section 17(5)(h) of the CGST Act.
2. Consumables, being inputs used in the course or furtherance of business, input tax credit is available on the same in terms of section 16(1) of the CGST Act. However, levy of CGST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2) of the CGST Act]. Hence, there being no levy of GST on diesel, there cannot be any input tax credit of the same.
 3. In respect of intra-State road transportation of goods undertaken by a GTA, who has not paid CGST @ 6%, for any person registered under the GST law, CGST is payable under reverse charge by the recipient of service. The person who pays or is liable to pay freight for the transportation of goods is treated as the person who receives the service [Notification No. 13/2017 CT (R) dated 28.06.2017]. Thus, V-Supply Pvt. Ltd. will pay GST under reverse charge on transportation service received from GTA.

Further, tax payable under section 9(3) of the CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62) of the CGST Act. Thus, input tax paid under reverse charge on GTA service will be available as input tax credit in terms of section 16(1) of the CGST Act as the said service is used in course or furtherance of business.

Furthermore, intra-State services by way of transportation of goods by road except the services of a GTA and a courier agency are exempt from CGST vide *Notification No. 12/2017 CT (R) dated 28.06.2017*. Therefore, since no GST is paid on such services, there cannot be any input tax credit on such services.

4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with para 1 of Schedule III to the CGST Act. Therefore, since no GST is paid on horse pulled cart services, there cannot be any input tax credit on such services.
 5. Input tax credit on supply of life insurance service is not blocked if the Government has made it obligatory for an employer to provide such service to its employees [Section 17(5)(b)(iii)(A) of the CGST Act]. Therefore, GST paid on premium for life insurance policies will be available as input tax credit in terms of section 16(1) of the CGST Act as the said service is used in the course or furtherance of business.
 6. Audit fee, telephone expenses and bank charges are all services used in the course or furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1) of the CGST Act.
 7. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under bond is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].
 8. Since export of goods is a zero rated supply, there will be no apportionment of input tax credit and full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].
 9. As per section 49(5) of the CGST Act, input tax credit of-
 - (i) IGST is utilised towards payment of IGST, CGST and SGST in that order.
 - (ii) CGST is utilised towards payment of CGST and IGST in that order.
 - (iii) SGST is utilised towards payment of SGST and IGST in that order
 10. Section 49(4) of the CGST Act lays down that the amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.
 - *11. CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies.
- (b) Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act].

The GTA provides various intermediary and ancillary services, such as, loading/unloading, packing/unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road. These services are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services.

In view of this, if any intermediary and ancillary service is provided in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service, being a composite supply, and would not be treated as a separate supply. However, if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.

[Based on answer to question no. 6 of FAQs issued by the CBEC on Transport & Logistics]

(c) **Computation of total customs duty and integrated tax payable**

Particulars	Amount
FOB value computed by Customs Officer (including design and development charges)	20,000 US \$
Exchange rate [Note 1]	₹ 60 per \$
	(₹)
FOB value computed by Customs Officer (in rupees)	12,00,000.00
Add: Commission payable to agent in India	12,500.00
FOB value as per customs	12,12,500.00
Add: Air freight (₹ 12,12,500 × 20%) [Note 2]	2,42,500.00
Add: Insurance (1.125% of ₹ 12,12,500) [Note 3]	13,640.63
CIF value for customs purposes	14,68,640.63
Assessable value	14 68,640.63
Add: Basic custom duty @ 10% (₹ 14,68,640.63 × 10%) – rounded off [Note 4]	1,46,864.00
Add: Education Cess @ 2% & Secondary and higher education cess @ 1% on ₹ 1,46,864-rounded off	<u>4,406.00</u>
Total	16,19,910.63
Integrated tax leviable under section 3(7) of Customs Tariff Act, 1975 @ 12% (₹ 16,19,909.63 × 12%) [Rounded off] [Note 5]	1,94,389.15
Total customs duty and integrated tax payable	3,45,659.00

Notes:

1. Rate of exchange notified by CBEC on the date of filing of bill of entry has to be considered [Third proviso to section 14 of the Customs Act, 1962].
2. In case of goods imported by air, cost of loading, unloading & handling charges associated with the delivery of the imported goods to the place of importation cannot exceed 20% of FOB value [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
3. Insurance charges, when not ascertainable, have to be included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
4. Rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later [Proviso to section 15(1) of the Customs Act, 1962].
5. Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is levied on the sum total of the assessable value of the imported goods, customs duties and applicable education cess and secondary and higher education cess.

2. (a) As per para 3 of Schedule II to the CGST Act, any treatment or process which is applied to another person's goods is a supply of services and accordingly is subject to GST rate applicable for services.

In the given case, M/s Prem Tools (job worker) undertakes the process of mounting the steel cabinets of Alok Pvt. Ltd. (principal) on metal frames. In view of para 3 of Schedule II to the CGST Act cited above, the mounting activity classifies as service even though metal frames are also supplied as a part of the mounting activity. Accordingly, the job charges will be chargeable to rate of 18%, which is the applicable rate for services.

Further, the value of steel cabinets will not be included in the value of taxable supply made by M/s Prem Tools as the supply of cabinets does not fall within the scope of supply to be made by M/s Prem Tools. M/s Prem Tools is only required to mount the steel cabinets, which are to be supplied by Alok Pvt. Ltd., on metal frames, which are to be supplied by it.

As regards sale of waste generated during the job work, since M/s Prem Tools is registered, the tax leviable on the supply will have to be paid by it in terms of section 143(5) of the CGST Act. Such supply will be treated as supply of goods and subject to GST rate applicable for metal waste.

Accordingly, the GST liability of M/s Prem Tools will be computed as under:

Particulars	Amount (₹)
Job charges	5,00,000
GST @ 18% (A)	90,000
Sale of metal waste	45,000
GST @ 12% (B)	5,400
Total GST payable (A) + (B)	95,400

- (b) Circular No. 11/11/2017 GST dated 20.10.2017 has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute supply of service.

- (c) In both DFIA and Advance Authorization schemes, import of inputs, oil and catalyst which are required for export products are permitted without payment of customs duty.

The differences between DFIA and Advance Authorisation schemes are as follows -

- Advance Authorisation is not transferable. DFIA is transferable after export obligation is fulfilled.
- Advance Authorisation scheme requires 15% value addition, while in case of DFIA, minimum 20% value addition is required.
- Advance Authorisation scheme is available to gem and jewellery sector but not DFIA is not available to the said sector.

- (iv) DFIA cannot be issued where SION (Standard Input Output Norms) prescribes actual user condition [as the material is transferable after fulfilment of export obligation].
- (v) Advance Authorisation can be issued even if SION for that product is not fixed. DIFA can be issued only if SION has been fixed for the product to be exported.

3. (a) Computation of GST Liability of Honeycure Laboratories Ltd. for the month of January, 20XX

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Advance received for drug development services supplied to Orochem Ltd., a drug manufacturer, located in Delhi [Note - 1]	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Note - 2]			Nil
Supply of bulk drugs to wholesale dealers of drugs in Delhi [Note - 3]	1,50,000 [60,00,000 × 2.5%]	1,50,000 [60,00,000 × 2.5%]	
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA [Note - 4]			Nil
Supply of drug development services to Unipharma Ltd., a drug manufacturer, located in Delhi [Note - 5]	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
Supply of bulk drugs to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos of Punjab and Haryana [Note - 6]			4,95,000 [99,00,000 × 5%]
Supply of bulk drugs to Ronn Medicos of Gurgaon, Haryana [Note - 7]			1,50,000 [30,00,000 × 5%]
Supply of bulk drugs for job work to Sudha Bottlers in Noida, U.P. [Note - 8]			Nil
Total GST liability	2,49,000	2,49,000	6,45,000

Notes:

- Being an intra-State supply of services, supply of drug development services to Orochem Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services

will be date of receipt of advance and hence, GST is payable on the advance received in January, 20XX.

2. Being an inter-State supply of goods, supply of bulk drugs to Novick Pharmaceuticals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 40/2017 CT dated 13.10.2017 has postponed the time of supply of advance received for suppliers of goods having aggregate turnover up to ₹ 1.5 crore in the preceding financial year (excluding composition suppliers) till the time of issue of invoice. Thus, GST is not payable at the time of receipt of advance against supply of goods in case of such suppliers¹.

Since the aggregate turnover of Honeycure Laboratories Ltd. does not exceed ₹ 1.5 crore [₹ 1.15 lakh + ₹ 70 lakh + ₹ 45 lakh] in the preceding financial year, the time of supply of the advance received for bulk drugs to be supplied to Novick Pharmaceuticals is the time of issue of invoice, which is in March, 20XX. Thus, said advance will be taxed in March, 20XX and not in January, 20XX.

NN
66/2017
applicable
to
everyone.

3. Being an intra-State supply of goods, supply of bulk drugs to wholesale dealers of drugs in Delhi is subject to CGST and SGST @ 2.5 % each.
4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the bulk drugs to Anchor Pharmaceuticals Inc. of USA under bond is export of goods.

Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under bond is made without payment of integrated tax [Section 16(3)(a) of IGST Act].

5. Being an intra-State supply of services, supply of drug development services to Unipharma Ltd. of Delhi is subject to CGST and SGST @ 9% each.
6. Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

In the given case, since open market value is not available, value of bulk drugs supplied to consignment agents - Cardinal Pharma Ltd. and Rochester Medicos – will be ₹ 99,00,000 [90% of (₹ 60,00,000 + ₹ 50,00,000)]. Further, being an inter-State supply of goods, supply of bulk drugs to the consignment agents is subject to IGST @ 5%.

7. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Honeycure Laboratories Ltd. owns 60% shares of Ronn Medicos, both are related persons.

Value of supply of goods between related persons (other than through an agent) is determined as per rule 28 of the CGST Rules. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Medicos is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Thus, open market value of the bulk drugs supplied to Ronn Medicos i.e., ₹ 30,00,000 is the value of supply of such goods.

¹ Notification No. 40/2017 CT dated 13.10.2017 has been superseded by Notification No. 66/2017 CT dated 15.11.2017 to specify that time of supply for all suppliers of goods (excluding composition suppliers) will be the time of issue of invoice, without any turnover limit. This amendment has become effective from 15.11.2017.

Further, being an inter-State supply of goods, supply of bulk drugs to Ronn Medicos is subject to IGST @ 5%.

8. Section 143(1) of the CGST Act permits a registered person (principal) to send any inputs without payment of tax to a job worker for job work under an intimation and subject to prescribed conditions, provided such inputs, after completion of job work or otherwise, have been received back within 1 year of their being sent out, in any of his place of business. Thus, tax is not payable on the bulk drugs sent under the delivery challan to Sudha Bottlers for job work.

(b) **Computation of customs duty payable by Siya**

Particulars	Amount (US \$)
Assessable value	1,00,000
	Amount (₹)
Value in Indian currency (US \$ 1,00,000 x ₹ 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000
Add: Education cess @ 2%	13,040
Add: Secondary and higher education cess @ 1%	<u>6,520</u>
Total customs duty payable	<u>6,71,560</u>

Notes:

- As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.
- Goods which are not removed within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed [*Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)*]. The applicable rate of duty in such a case is the rate of duty prevalent on the last date on which the goods should have been removed.

As per section 61(2) of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond a period of 90 days from the date on which the order under section 60(1) of the Customs Act, 1962 is made, interest is payable at such rate as may be fixed by the Central Government under section 47 of the Customs Act, 1962 [i.e. 15% p.a.], on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of ninety days commencing from the date of order made under 60(1) of the Customs Act, 1962 expires on	19.08.20XX
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
Interest payable = ₹ $\left[6,71,560 \times \frac{15}{100} \times \frac{56}{365} \right]$ (rounded off)	₹ 15,455

4. (a) Section 15(3)(a) of the CGST Act allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b) of the CGST Act if-

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Prakash Sales is entitled for 10% discount on fans supplied by Kaya Trade Links Pvt. Ltd. for the quarter July-September as it has sold more than 500 fans in the preceding quarter April-June. However, since the entire stock for the quarter July-September has already been despatched by Kaya Trade Links Pvt. Ltd. in the month of June, the discounts on the fans supplied to Prakash Sales for the quarter July-September will be a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to fans supplied to Prakash Sales for the quarter July-September) provided Prakash Sales reverses the input tax credit attributable to the discount on the basis of document issued by Kaya Trade Links Pvt. Ltd.

The value of supply will thus, be computed as under:

Particulars	Amount (₹)
Price at which the fans are supplied to Prakash Sales [Note 1]	7,000
Add: Packing expenses [Note 2]	1,000
Less: Discount [Note 3]	<u>(700)</u>
Value of taxable supply of one unit of fan	7,300
Value of taxable supply of fans for the quarter July-September [₹ 7,300 x 1,000]	73,00,000

Notes:

- (1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply.
- (2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.
- (3) Since all the conditions specified in section 15(3)(b) of the CGST Act have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply presuming that Prakash Sales has reversed the input tax credit attributable to such discount on the basis of document issued by Kaya Trade Links Pvt. Ltd. The input tax credit to be reversed will work out to be ₹ 1.26 lakh $[1,000 \times (7,000 \times 10\%) \times 18\%]$.

- (b) As per section 31(3)(a) of the CGST Act, a registered person may, within one month from the date of issuance of certificate of registration, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

Further, rule 10(2) of CGST Rules lays down that the registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date.

In the given case, Avtaar Enterprises has applied for registration within 30 days of becoming liable for registration and the registration has been granted. Thus, the effective date of registration is the date on which Avtaar Enterprises became liable for registration i.e., October 3, 20XX. Therefore, since in the given case there is a time lag between the effective date of registration (October 3, 20XX) and the date of grant of certificate of registration (November 5, 20XX), revised invoices can be issued. The same can be issued for supplies made during this intervening period i.e., for the period beginning with October 3, 20XX till November 5, 20XX. Further, the revised invoices can be issued for the said period till December 5, 20XX.

- (c) (1) As per the Baggage Rules, 2016, an Indian resident arriving from an country other than Nepal, Bhutan or Myanmar is allowed duty free clearance of-
- (i) Used personal effects and travel souvenirs without any value limit.
 - (ii) Articles [other than certain specified articles] upto a value of ₹ 50,000 carried as accompanied baggage [General duty free baggage allowance].

Further, such general duty free baggage allowance of a passenger cannot be pooled with the general duty free baggage allowance of any other passenger.

- (2) One laptop computer when imported into India by a passenger of the age of 18 years or above (other than member of crew) is exempt from whole of the customs duty [Notification No. 11/2004 Cus dated 08.01.2004].
- (3) Accordingly, there will be no customs duty on used personal effects (worth ₹ 1,20,000) of Mrs. and Mr. Subramanian and laptop computer brought by them will be exempt from duty.

Duty payable on personal computer after exhausting the duty free baggage allowance will be ₹ 54,000 – ₹ 50,000 = ₹ 4,000.

Effective rate of duty for baggage = 36.05% [including education cess & secondary & higher education cess]

Therefore, total customs duty payable = ₹ 1,442.

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

Further, such appeal can be filed within 3 months from the date of communication of such decision/order [Section 107(1) of the CGST Act]. Thus, Home Furnishers can file the appeal to Appellate Authority on or before 22.11.20XX. Further, the Appellate Authority can also condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

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

The law further provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Similarly, if any order is passed by the proper officer of SGST, any appeal/review/revision/rectification will lie with the proper officer of SGST only. Thus, Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].

- (3) Home Furnishers' view is not correct in law. Section 107(6) of the CGST Act provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—
- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order.

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

- (b) As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds ₹ 20 lakh [₹ 10 lakh in case of specified Special Category States] in a financial year.

However, section 24 of the said Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption.²

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

² Persons making supplies of **services**, other than supplies specified under section 9(5) through an ECO who is required to collect tax at source under section 52, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 lakh [₹ 10 lakh for specified special category States] in a financial year, have been exempted from obtaining registration vide *Notification No. 65/2017 CT dated 15.11.2017*.

In the given case, AB Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52. However, house-keeping services provided by AB Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than ₹ 20 lakh, is a service notified under section 9(5). Thus, AB Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, AB Pvt. Ltd. sells readymade garments through ECO. Such supply cannot be notified under section 9(5) as only supplies of services are notified under that section. Therefore, in the second case, AB Pvt. Ltd. will not be entitled for threshold exemption and will have to compulsorily obtain registration in terms of section 24(ix).

- (c) The Customs Tariff has a set of six Rules for Interpretation of the Tariff Schedule and three General Explanatory Notes. The six Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The purpose of their inclusion in Customs Tariff is to standardize the manner in which the nomenclature in the schedule is to be interpreted so as to reduce classification disputes.

Rule 4 of the Rules of Interpretation is called as akin rule. This rule lays down that goods which cannot be classified in accordance with rules 1, 2 and 3 of the Rules of Interpretation shall be classified under the heading appropriate to the goods to which they are most akin. In other words, 'akin rule' is a residual rule which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.

6. (a) (i) The procedure for amendment of registration are contained in section 28 read with rule 19 of CGST Rules. The significant aspects of the same are discussed hereunder:
1. Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, within 15 days of such change, along with documents relating to such change at the Common Portal.
 2. In case of amendment of core fields of information, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
 3. However, where change relates to non-core fields of information, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.
 4. Where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.
- (ii) (1) The Board may, on the recommendations of the GST Council, issue orders or instructions or directions fixing monetary limits for regulating filing of appeal or application by the CGST officer.
- (2) Non-filing of appeal/application by a CGST officer on account of such monetary limits fixed by the Board shall not preclude such officer from filing appeal or application in any other case involving the same or similar issues or questions of law.
 - (3) No person, who is a party in application or appeal can contend that the CGST Officer has acquiesced in the decision on the disputed issue by not filing an appeal or

application (on account of monetary limits).

- (4) The Appellate Tribunal or Court hearing such appeal or application shall have regard to circumstances for non-filing of appeal or application by the CGST officer on account of monetary limits fixed by the Board.

- (b) The following records are to be produced, if called for, during access to business premises under section 71 of the CGST Act, 2017.
- (i) the records prepared and maintained by the registered person and declared to the proper officer in the prescribed manner.
 - (ii) trial balance or its equivalent.
 - (iii) statements of annual financial accounts, duly audited.
 - (iv) cost audit report, if any.
 - (v) the income - tax audit report, if any.
 - (vi) any other relevant record.

Note: Any two records may be given.

- (c) The facts of the case are similar to the case of *BPL Display Devices Ltd. v. CCE., Ghaziabad (2004) 174 ELT 5 (SC)* wherein the Supreme Court has held that the benefit of the notifications cannot be denied in respect of goods which are intended for use for manufacture of the final product but cannot be so used due to shortage or leakage.

The Apex Court has held that no material distinction can be drawn between loss on account of leakage and loss on account of damage. The benefit of said exemption cannot be denied as inputs were intended for use in the manufacture of final product but could not be so used due to shortage/leakage/damage. It has been clarified by the Supreme Court that words “for use” have to be construed to mean “intended for use”.

Therefore, the importer can claim the benefit of the exemption notification in respect of the entire lot of the imported inputs including those that were damaged in transit.

OR

- (c) The relevant dates provided under explanation to section 26A(2) of the Customs Act, 1962 for purpose of refund of duty under specified circumstances are as follows:-

	Case	Relevant date
(i)	Goods exported out of India	Date on which the proper officer makes an order permitting clearance and loading of goods for exportation
(ii)	Relinquishment of title to the goods	Date of such relinquishment

7. (a) The contention of Everest Technologies Private Limited is not valid in law. The SCN under section 73(1) of the CGST Act can be issued at least 3 months prior to the time limit specified for issuance of order under section 73(10) of the CGST Act [Section 73(2) of the CGST Act]. The adjudication order under section 73(10) of the CGST Act has to be issued within 3 years from the due date for furnishing of annual return for the financial year to which the short-paid/not paid tax relates to.

The due date for furnishing annual return for a financial year is 31st day of December following the end of such financial year [Section 44 of the CGST Act]. Thus, SCN under section 73(1) of

the CGST Act can be issued within 2 years and 9 months from the due date for furnishing of annual return for the financial year to which the short-paid/not paid tax relates to.

The SCN has been issued for the period between 01.07.2017 to 31.12.2017 which falls in the financial year (FY) 2017-18. Due date for furnishing annual return for the FY 2017-18 is 31.12.2018 and 3 years' period from due date of filing annual return lapses on 31.12.2021. Thus, SCN under section 73(1) ought to have been issued latest by 30.09.2021. Since in the given case, the notice has been issued on 31.01.2021, notice is not time-barred.

The SCN under section 74(1) of the CGST Act, 2017 can be issued at least 6 months prior to the time limit specified for issuance of order under section 74(10) of the CGST Act [Section 74(2) of the CGST Act]. The adjudication order under section 74(10) of the CGST Act has to be issued within 5 years from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to. The 5 years' period from due date of filing annual return lapses on 31.12.2023. Thus, SCN under section 74(1) ought to have been issued latest by 30.06.2023.

(b) Zero rated supply means any of the following supplies of goods or services or both, namely :-

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit [Section 2(23) of the IGST Act read with section 16 of the IGST Act].

A registered person supplying exempted goods or services or both shall issue, instead of a tax invoice, a bill of supply whereas in case of zero-rated supplies, normal tax invoice shall be issued.

(c) If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of ₹ 100 for each day of the period during which the failure to furnish such return continues.

However, the penalty imposed under this section shall not exceed ₹ 5,000 [Section 123 of the CGST Act].

(d) The action of the Revenue is not justified in law. The High Court in a similar case of *Vishnu M Harlalka v. Union of India* 2013 (294) ELT 5 (Bom) directed the Department to pay interest on the balance of the sale proceeds.

The High Court observed that inordinate delay in payment of balance sale proceeds by the Department is not justifiable. The Department cannot plead that the Customs Act, 1962 provides for the payment of interest only in respect of refund of duty and interest and hence, the assessee would not be entitled to interest on the balance of the sale proceeds which were directed to be paid by the Settlement Commission.

The High Court clarified that acceptance of such a submission would mean that despite an order of the competent authority directing the Department to grant a refund; the Department can wait for an inordinately long period to grant the refund.

Test Series: April, 2018

MOCK TEST PAPER – 2
FINAL (OLD) COURSE GROUP II
PAPER 8: INDIRECT TAX LAWS

Question no. 1 is compulsory.

Attempt any five questions out of the remaining six questions

Maximum Marks: 100 Marks**Time Allowed: 3 Hours***Note:*

- (i) Working Notes should form part of the answer.*
 - (ii) Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note.*
 - (iii) All questions should be answered on the basis of position of (i) GST law as amended up to 31st October, 2017 and (ii) customs law as amended by the Finance Act, 2017 and notifications/circulars issued till 31st October, 2017.*
 - (iv) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.*
1. (a) Sudhir Works Ltd., Gurgaon (Haryana) is a supplier of machinery used for making electric motors. The supply of machinery is effected as under:
- (i) The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is Rs. 21,00,000. However, the actual price at which the machinery is supplied to an individual customer varies within a range of $\pm 10\%$ depending upon the terms of contract of supply with the particular customer.
 - (ii) Apart from the price of the machinery, Sudhir Works Ltd. charges from the customer the following incidental expenses:
 - associated handling and loading charges of Rs. 5,000
 - weightment charges of Rs. 10,000
 - installation and commissioning charges of Rs. 40,000
- The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.

- (iii) Transportation of machinery to the customer's premises is arranged by Sudhir Works Ltd. through a third-party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.
- (iv) One year free warranty is provided for the machinery, by the company. However, an extended two-year warranty is also provided by the company on payment of additional charge of Rs. 1,50,000.
- (v) A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company-
 - recovers the discount given; and
 - charges interest @ 1% per month or part of the month on the total amount due from the customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.
- (vi) For every machinery supplied, Sudhir Works Ltd. receives a grant of Rs. 1,00,000 from its holding company Randhir Engineering Ltd.

Sudhir Works Ltd. has supplied a machinery to Durga Pvt. Ltd. on September 1, 20XX at a price of Rs. 20,00,000 (excluding all taxes). Durga Pvt. Ltd. has its corporate office in Noida (U.P.). However, the machinery has been installed at its manufacturing unit located in New Delhi. Durga Pvt. Ltd. has paid the freight directly to the GTA and opted for 2 year warranty. Discount @ 2% was given to Durga Pvt. Ltd. as it agreed to make the payment within 15 days. However, Durga Pvt. Ltd. paid the consideration on 30th November, 20XX.

Assume the rates of taxes to be as under:

Electric Motor making machine		
CGST – 6%	SGST – 6%	IGST – 12%
Service of transportation of goods		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Other services involved in the above supply		
CGST – 9%	CGST – 9%	CGST – 9%

Calculate the GST payable [CGST & SGST or IGST, as the case may be] on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Make suitable assumptions, wherever needed.

(10 Marks)

(b) Answer the following questions in the light of the place of supply provisions contained in the IGST Act, 2017:

(1) Quickdeal Enterprises (Ahmednagar, Gujarat) opens a new branch office at Hissar, Haryana. It purchases a building for office from Ruhani Builders (Hissar) along with pre-installed office furniture and fixtures. Determine place of supply of the pre-installed office furniture and fixtures. **(2 Marks)**

(2) Supra Events, an event management company at New Delhi, organizes an award function for Chirag Diamond Merchants of Varanasi (registered in U.P.), at Mumbai. Determine place of supply of the service supplied by Supra Events. Will your answer be different, if the award function is organised at Mauritius instead of Mumbai? **(3 Marks)**

(c) Subramanian Enterprises, an importer from Cochin, imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transhipped to Cochin port.

Determine the assessable value of the imported goods under the Customs Act, 1962 from the following particulars:

S.No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 10,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 500
(iii)	Handling charges paid for loading the machine in the ship	US \$ 50
(iv)	Buying commission paid by the importer	US \$ 50
(v)	Freight charges from exporting country to India	US \$ 1,000
(vi)	Actual insurance charges paid are not ascertainable	---
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 2,500
(viii)	Unloading and handling charges paid at the place of importation	Rs. 750
(ix)	Transport charges from Mumbai to Cochin port	Rs. 12,500
(x)	Exchange rate to be considered: 1\$ = Rs. 60	

(5 Marks)

2. (a) Royal Manufacturers, a registered supplier of machinery, supplied a special purpose machine to Dharam Furnishers for which it charges a price of Rs. 9,00,000. Further, it charged the following additional amounts in relation to said supply:

S.No.	Particulars	Rs.
(i)	Transit insurance	16,500

(ii)	Packing charges	13,500
(iii)	Extra charges for designing the machine	30,000
(iv)	Freight	18,000

Following additional information is also available -

- (a) Cash discount @ 2% on price of machinery has been allowed to Dharam Furnishers at the time of supply and also recorded in invoice.
- (b) GST rate – 18%.

Calculate value of supply of the special purpose machine.

(7 Marks)

- (b) Prarambh Ltd., Maharashtra, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.

The foreign customer then directly places purchase order on the Indian vendor for purchase of the specified goods. Prarambh Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.

For the month of June, 20XX, the company has charged US \$ 1,87,000 (exclusive of GST) to its foreign customer. With reference to the provisions of GST law, examine whether the company is liable to pay IGST or CGST and SGST.

Note: GST @ 18% is applicable on supply of the support services provided by Prarambh Ltd. Rate of exchange is Rs. 53 per US \$.

(5 Marks)

- (c) Explain with reference to the Customs Act, 1962, the conditions to be fulfilled for filing application before Settlement Commission. **(4 Marks)**
3. (a) Super Engineering Works Ltd., a registered supplier, is engaged in providing expert maintenance and repair services for large power plants that are in the nature of immovable property, situated all over India. The company has its Head Office at Chennai, Tamil Nadu and branch offices in other States. The work is done in the following manner.
- (i) The company has self-contained mobile workshops, which are container trucks fitted out for carrying out the repairs. The trucks are equipped with items like repair equipments, consumables, tools, parts etc. to handle a wide variety of repair work.
 - (ii) The truck is sent to the client location for carrying out the repair work. Depending upon the repairs to be done, the equipment, consumables, tools, parts etc. are used from the stock of such items carried in the truck.
 - (iii) In some cases, a stand-alone machine is also sent to the client's premises in such truck for carrying out the repair work.

- (iv) The customer is billed after the completion of the repair work depending upon the nature of the work and the actual quantity of consumables, parts etc. used in the repair work.
- (v) Sometimes the truck is sent to the company's own location in other State(s) from where it is further sent to client locations for repairs.

Work out the GST liability [CGST & SGST or IGST, as the case may be] of Super Engineering Works Ltd., Chennai on the basis of the facts as described, read with the following data for the month of January 20XX.

S. No.	Particulars	Rs.
A.	Truck sent to own location in Karnataka (i) Value of items contained in the truck - Rs. 3,00,000 (ii) Value of truck - Rs. 19,00,000	
B.	Truck sent to a client location in Karnataka for carrying out repairs. Stand- alone machine is also sent in the truck to client location for repairs (i) Value of items contained in the truck – Rs. 3,45,000 (ii) Value of stand-alone machine - Rs. 2,96,000 (iii) Value of truck - Rs. 21,50,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
C.	Truck sent to a client location in Tamil Nadu for carrying out repairs (i) Value of items contained in the truck - Rs. 5,56,000 (ii) Value of truck - Rs. 30,56,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
D.	Invoices raised for repair work carried out in Karnataka [including the invoice for repair work done in 'B'] -	90,00,000
E.	Invoices raised for repair work carried out in Tamil Nadu [including the invoice for repair work done in 'C']	18,00,000

Also, specify the document(s), if any, which need to be issued by Power Engineering Pvt. Ltd., Chennai for the above transactions.

All the given amounts are exclusive of GST, wherever applicable. Assume the rates of taxes to be as under:

Items used for repairs		
CGST – 6%	SGST – 6%	IGST – 12%
Container truck, Stand-alone machines		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Works contract for repairs and maintenance of immovable property		
CGST – 9%	SGST – 9%	IGST – 18%

You are required to make suitable assumptions, wherever necessary. **(12 Marks)**

(c) Answer the following with reference to the provisions of the Customs Act, 1962 and rules made thereunder:

- (1) Sudhakar filed a claim for payment of duty drawback amounting to Rs. 61,500 on 23.07.20XX. However, the amount was received on 21.10.20XX. You are required to calculate the amount of interest payable to Sudhakar on the amount of duty drawback claimed.
- (2) Lalit was erroneously refunded a sum of Rs. 27,000 in excess of actual drawback on 16.06.20XX. A demand for recovery of the same was issued by the Department on 24.08.20XX. Lalit returned the erroneous refund to the Department on 16.10.20XX. You are required to calculate the amount of interest chargeable from Lalit.

Provide brief reasons for your answer. **(4 Marks)**

4. (a) M/s Sorabjee, a registered supplier, supplies the following goods and services for construction of buildings and complexes -

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

M/s Sorabjee receives the following services:

- Annual maintenance services for excavators;
- Health insurance for operators of the excavators;
- Scientific and technical consultancy for soil testing and seismic evaluation.

For a given month, the receipts (exclusive of GST) of M/s Sorabjee are as follows:

- Hire charges for excavators - Rs. 20,25,000

- Service charges for supply of manpower for operation of the excavator - Rs. 22,500
- Service charges for soil testing and seismic evaluation at three sites - Rs. 2,81,250

The GST paid during the said month on services received by M/s Sorabjee is as follows:

- Annual maintenance for excavators - Rs. 1,12,500
- Health insurance for excavator operators - Rs. 12,375
- Scientific and technical consultancy for soil testing and seismic evaluation - Rs. 1,12,500

Compute the net GST payable by M/s Sorabjee for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators – 12%

Supply of manpower services and soil-testing and seismic evaluation services – 18%

Note: - Opening balance of input tax credit of GST is nil.

(8 Marks)

- (b) Bhumika 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 Naveen 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 Bhumika Caretakers issue the invoice for the services rendered?

(4 Marks)

- (c) Mr. Iyer, an Indian entrepreneur, went to London to explore new business opportunities on 07.04.2016. His wife also joined him in London after six months. The following details are submitted by them with the Customs authorities on their return to India on 21.04.2017:

- (a) used personal effects worth Rs. 83,000,
- (b) 2 music systems each worth Rs. 50,000,
- (c) the jewellery brought by Mr. Iyer worth Rs. 49,500 [20 grams] and the jewellery brought by his wife worth Rs. 97,500 [40 grams].

With reference to Baggage Rules, 2016, determine whether Mr. and Mrs. Iyer will be required to pay any customs duty?

(4 Marks)

5. (a) Prakriti Enterprises – a sole proprietorship firm – started an air-conditioned restaurant in Indore, Madhya Pradesh in the month of January wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In February, the firm opened a liquor shop in Dehradun, Uttarakhand for trading of alcoholic liquor for human consumption.

Determine whether Prakriti Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	January	February
	(Rs.)*	(Rs.)*
Cooked food and cold drinks/non-alcoholic beverages served in restaurant in Madhya Pradesh	6,16,000	7,28,000
Alcoholic liquor for human consumption sold in Uttarakhand		5,60,000
Interest received from banks on the fixed deposits	1,12,000	1,12,000
Packed food items supplied from restaurant in Madhya Pradesh	1,68,000	2,24,000

* excluding GST

You are required to provide reasons for treatment of various items given above.

(6 Marks)

- (b) (i) Hariharan had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved related to place of supply. The order of Appellate Tribunal is also in favour of the Department. Hariharan now wants to file an appeal against the decision of the Appellate Authority as he feels the stand taken by him is correct.
- You are required to advise him suitably with regard to filing of an appeal before the appellate forum higher than the Appellate Tribunal. **(4 Marks)**
- (ii) Enumerate the taxes which constitute 'input tax' as defined under section 2(62) of the CGST Act., 2017. **(2 Marks)**
- (c) Elaborate the difference between transit and transshipment of goods under the provisions of the Customs Act, 1962. **(4 Marks)**
6. (a) (i) Discuss the provisions of return Form GSTR-3B as contained in sub rules (5) and (6) of rule 61 of CGST Rules, 2017. **(5 Marks)**
- (ii) What is the time limit for issue of show cause notice as contained under sections 73 of the CGST Act, 2017? **(2 Marks)**

- (b) Explain the recourse that 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, 2017? **(5 Marks)**
- (c) What will be the impact on the customs duty if the goods are –:
- (i) damaged inside the warehouse before clearance for home consumption. **(2 Marks)**
- (iii) destroyed in the warehouse before clearance for home consumption. **(2 Marks)**
7. (a) (i) 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? Explain. **(5 Marks)**
- (ii) "State Government has exclusive power to notify a transaction to be supply of goods or services." Discuss the correctness of the statement. **(2 Marks)**
- (b) Explain the provisions relating to period of retention of accounts as provided under section 36 of CGST Act, 2017? **(5 Marks)**

OR

- With reference to the provisions of CGST Act, 2017, explain the liability of directors of private company? **(5 Marks)**
- (c) Enumerate the circumstances under which goods are considered to have been removed improperly from a warehouse under the Customs Act. **(4 Marks)**

Test Series: April, 2018

MOCK TEST PAPER - 2
FINAL (OLD) COURSE: GROUP – I
PAPER 8: INDIRECT TAX LAWS
SUGGESTED ANSWERS

GST law is in its nascent stage and has been subject to frequent changes. Although various clarifications have been issued in the past few months by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the questions depending upon the view taken.

For the sake of brevity, Central Goods and Services Tax, Integrated Goods and Services Tax, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017 and Central Goods and Services Tax Rules, 2017 have been referred to as CGST, IGST, CGST Act, IGST Act and CGST Rules respectively.

1. (a) Computation of GST liability of Sudhir Works Ltd.

Particulars	(Rs.)
Price of machine [Note 1]	20,00,000
Handling and loading charges [Note 2]	5,000
Weighment charges [Note 2]	10,000
Installation and commissioning charges [Note 3]	40,000
Transportation cost [Note 4]	Nil
Additional warranty cost [Note 5]	1,50,000
Grant from Randhir Engineering Ltd. [Note 6]	<u>1,00,000</u>
Total price of the machine	23,05,000
Less: 2% cash discount on price of machinery = Rs. 20,00,000 × 2% [Note 7]	<u>40,000</u>
Taxable value of supply	22,65,000
Tax liability for the month of September, 20XX [Note 11]	
IGST @ 12% [Note 8 and Note 9]	2,71,800
Tax liability for the month of November, 20XX [Note 11]	
Interest collected @ 3% on Rs. 22,05,000 [Note 10]	66,150
Add: Cash discount recovered [Note 10]	<u>40,000</u>
Cum-tax value of interest and cash discount	1,06,150
IGST = (Rs. 1,06,150/112) × 12%	11,373
Total IGST payable on the machinery	2,83,173

Notes:

- (1) As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and the recipient of the supply

are not related and the price is the sole consideration for the supply. It is assumed that Sudhir Works Ltd. and Durga Pvt. Ltd are not related and the price is the sole consideration for the supply.

- (2) All incidental expenses charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (4) Transportation cost has not been included in the value of supply of the machinery as it is a separate service contract between the customer and the third-party service provider. The customer pays the freight directly to the service provider.

The supplier (Sudhir Works Ltd.), in this case, merely arranges for the transport and does not provide the transport service on its own account. Tax will be separately levied on the supply of service of transportation of goods under reverse charge.

- (5) Warranty cost is includible in the value of the supply since transaction value includes all elements of the price excluding those that can be specifically excluded as per section 15 of the CGST Act.
- (6) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.
- (7) Cash discount was deducted by Sudhir Works Ltd. upfront at the time of supply on September 1, 20XX and hence, the same is excluded from the value of supply as it did not form part of the transaction value.
- (8) In the given case-
 - the location of the supplier is in Gurgaon (Haryana); and
 - the place of supply of machinery is the place of installation of the machinery i.e., New Delhi in terms of section 10(1)(d) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (9) The given supply is a composite supply involving supply of goods (machinery) **and** services (handling and loading and installation and commissioning) where the principal supply is the supply of goods.

As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (machinery) has been considered.

- (10) Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017. Further, cash discount recovered will also be includible in the value of supply as now the transaction value i.e., the price actually paid for the machinery is devoid of any discount.

The cash discount not allowed and interest have to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

- (11) It has been assumed that the invoice for the supply has been issued on September 1, 20XX, the date on which the supply is made. Thus, the time of supply of goods is September 1, 20XX in terms of section 12(1)(a) of the CGST Act, 2017.

As per section 12(6) of the CGST Act, 2017, the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 30th November, 20XX, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

- (b) (1) Section 10(1)(c) of the IGST Act stipulates that if the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient. Since there is no movement of office furniture and fixtures in the given case, the place of supply of such goods is their location at the time of delivery to the recipient (Quickdeal Enterprises) i.e., Hissar, Haryana.
- (2) Section 12(7) of the IGST Act stipulates that the place of supply of services provided by way of organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events is the location of recipient in a case where such service is provided to a registered person. In the given case, since the recipient (Chirag Diamond Merchants) is a registered person, the place of supply is the location of the recipient, i.e., Varanasi, U.P.

Further, the place of supply will not change even if the award function is organised at Mauritius instead of Mumbai as the location of recipient remains unchanged. Thus, in that case also, the place of supply is the location of the recipient, i.e., Varanasi, U.P.

(c) **Computation of assessable value of imported goods**

Particulars	Amount (US \$)
Price of the machine at the factory of the exporter	10,000
Add: Transport charges up to the port in the country of the exporter [Note 1]	500
Handling charges at the port in the country of the exporter [Note 1]	50
Charges for design and engineering work undertaken for the machine in US [Note 2]	2,500
Buying commission [Note 3]	<u>Nil</u>
FOB value	13,050.00
Add: Freight charges up to India	1,000.00
Insurance charges @ 1.125% of FOB [Note 4]	146.81
Transport charges from Mumbai to Cochin port [Note 5]	<u>Nil</u>
CIF value	14,196.81
Add: Unloading and handling charges paid at the place of importation [Note 6]	<u>Nil</u>
Assessable value	14,196.81
Assessable value in Indian rupees @ Rs. 60/ per \$	Rs. 8,51,808.60
Assessable value (rounded off)	Rs. 8,51,809

Notes:

- (1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].
- (2) Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the CVR].
- (3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].
- (4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].
- (5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Sixth proviso to rule 10(2) of the CVR].
- (6) By virtue of the amendment carried out in rule 10(2) of the CVR vide *Notification No. 91/2017Cus. (NT) dated 26.09.2017*, only charges incurred for delivery of goods “to” the place of importation are includible in the transaction value.

The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods. [Circular No. 39 / 2017 Cus. dated 26.09.2017].

2. (a) Computation of value of the special purpose machine

Particulars	Rs.
Price of machinery	9,00,000
Add: Transit insurance [Note 1]	16,500
Packing charges [Note 2]	13,500
Extra design charges [Note 3]	30,000
Freight [Note 1]	<u>18,000</u>
Total	9,78,000
Less: 2% cash discount on price of machinery [Rs. 9,00,000 × 2%] [Note 4]	<u>18,000</u>
Value of taxable supply	9,60,000

Notes:

- (1) The given supply is a composite supply involving supply of goods (special machine) and services (transit insurance and freight) where the principal supply is the supply of goods.
As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.
- (2) All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- (3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017. Thus, extra designing charges are to be included in the value of supply.

- (4) Cash discount was given at the time of supply and also recorded in invoice, so the same is not to be included while computing value of supply in terms of section 15(3)(a) of CGST Act, 2017.
- (b) Section 2(13) of the IGST Act defines “intermediary” to mean a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In this case, since Prarambh Ltd. is arranging or facilitating supply of goods between the foreign customer and the Indian vendor, the said services can be classified as intermediary services.

If the location of the supplier of services or the location of the recipient of service is outside India, the place of supply is determined in terms of section 13 of the IGST Act. Since, in the given case, the recipient of supply is located outside India, the provisions of supply of intermediary services will be determined in terms of section 13 of the IGST Act.

As per section 13(8)(b) of the IGST Act, the place of supply in case of intermediary services is the location of the supplier i.e., the location of Prarambh Ltd. which is Maharashtra. Further, as per section 8(2) of the IGST Act, supply of services where the location of the supplier and the place of supply of services are in the same State is treated as intra-State supply.

Therefore, since in the given case, both the location of Prarambh Ltd. and the place of supply of the service provided by it are in Maharashtra, the supply of service will be an intra-State supply leviable to CGST & SGST.

Assuming that the given rate of exchange is prevailing on the date of time of supply of services, the CGST and SGST liability will be worked out as under:

CGST = Rs. 8,91,990 (1,87,000 x 53 x 9%)

SGST = Rs. 8,91,990 (1,87,000 x 53 x 9%)

- (c) According to section 127B of the Customs Act, 1962, the following conditions are to be fulfilled for filing an application for settlement of cases:
- (i) the applicant has filed a bill of entry, or a shipping bill, or a bill of export, or made a baggage declaration, or a label or declaration accompanying the goods imported or exported through post or courier, as the case may be, and in relation to such document or documents, a show cause notice has been issued to him by the proper officer.
 - (ii) the additional duty accepted is more than Rs. 3 lakh.
 - (iii) the applicant has paid the additional amount of customs duty accepted by him alongwith interest due under section 28AA.
 - (iv) the case is not pending with CESTAT or any Court.
 - (v) the application does not relate to goods to which section 123 applies or to goods in relation to which any offence under the Narcotic Drugs and Psychotropic Substances Act, 1985 has been committed.
 - (vi) the application is not for the interpretation of the classification of the goods under the Customs Tariff Act, 1975

Further, application before Settlement Commission can be made only when adjudication is pending.

Note: Any four conditions may be mentioned.

3. (a) **Computation of GST Liability of Super Engineering Works Ltd., Chennai for the month of January 20XX**

S.No.	Particulars	Rs.
A.	Items sent in container truck to own location in Karnataka - IGST @ 12% [Note 1]	36,000
	Container truck sent to own location in Karnataka [Note 2]	-
B.	Stand-alone machine sent in container truck to client location in Karnataka, for carrying out repairs [Note 3]	-
	Container truck sent to client location in Karnataka [Note 3]	-
	Items sent in container truck to client location in Karnataka, for carrying out repairs [Note 4]	-
C.	Container truck sent to client location in Tamil Nadu [Note 3]	-
	Items sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 4]	-
D.	Invoices raised for repair work carried out in Karnataka: IGST @ 18% [Note 5 and Note 6]	16,20,000
E.	Invoices raised for repair work carried out in Tamil Nadu: CGST 9% + SGST 9% [Note 5 and Note 7]	3,24,000
Total GST liability		19,80,000

Notes:

- (1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act, 2017 is deemed to be a supply in terms of Schedule I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017. (However, if the regional office is eligible to take full input tax credit, any value may be declared in the tax invoice and that will be taken to be the open market value in terms of the second proviso to the same rule.)

In the given case-

- the location of the supplier is in Chennai (Tamil Nadu); and
- the place of supply of items contained in the truck is the location of such goods at the time at which the movement of goods terminates for delivery to the recipient i.e., Karnataka in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the given supply of items is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Since the activity is a supply, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(1)(a) of the CGST Act, 2017 for sending the items to its own location in Tamil Nadu.

- (2) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

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

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].

Since the activity is not a supply, tax invoice is not required to be issued by Power Engineering Pvt. Ltd. However, a delivery challan is to be issued by the company in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the truck to its own location in Tamil Nadu.

- (3) Supply of goods without consideration is deemed to be a supply *inter alia* when the goods are supplied to a 'distinct person'. However, in this case, stand-alone machine and container truck are moved to client location and not between 'distinct persons'. Hence, the same will fall outside the scope of definition of supply and will not be leviable to GST.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the stand-alone machines and container truck to client location.

- (4) As per section 2(119) of the CGST Act, 2017, 'works contract' means a contract for, *inter alia*, repair, maintenance of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

In this case, the supplier provides maintenance and repair services for power plants that are in the nature of immovable property and uses consumables and parts, wherever necessary, for the repairs. Hence, the contract is that of a works contract.

Further, as per section 2(30) of the CGST Act, 2017, a works contract is a 'composite supply' as it consists of taxable supplies of both goods and services which are naturally bundled and supplied in conjunction with each other. The composite supply of works contract is treated as supply of service in terms of para 6(a) of Schedule II to the CGST Act, 2017.

The items used in relation to the repair and maintenance work could be consumables or could be identifiable items/parts. In either case, the transfer of property in goods is incidental to a composite supply of works contract service. Thus, the value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the items for carrying out the repairs.

- (5) The activity is a composite supply of works contract, which is treated as supply of service. As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

Since the activity is a supply of service, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(2) of the CGST Act, 2017.

- (6) In the given case-

- the location of the supplier is in Chennai (Tamil Nadu); and

- the place of supply of works contract services relating to the power plant (immovable property) is the location at which the immovable property is located i.e., Karnataka in terms of section 12(3)(a) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (7) In the given case, the location of the supplier and the place of supply of works contract services are within the same State. Therefore, the given supply is an intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST.

(c) (1) Computation of interest payable to Sudhakar on duty drawback claimed

Particulars	
Duty drawback claimed	Rs. 61,500
No. of days of delay [24.08.20XX to 21.10.20XX]	59 days
Rate of interest	6%
Quantum of interest (rounded off) [Rs. 61,500 x 59/365 x 6/100]	Rs. 596

Note: Since the claim of duty drawback is not paid to claimant within 1 month from the date of filing such claim, interest @ 6% per annum is payable from the date after the expiry of the said 1 month period till the date of payment of such drawback [Section 75A(1) of the Customs Act, 1962].

(2) Computation of interest chargeable from Lalit on excess duty drawback paid

Particulars	
Duty drawback erroneously refunded	Rs. 27,000
No. of days of delay [17.06.20XX to 16.10.20XX]	122 days
Rate of interest	15%
Quantum of interest (rounded off) [Rs. 27,000 x 122/365 x 15/100]	Rs. 1,354

Note: Interest is payable by the claimant on erroneous refund of duty drawback @ 15% per annum for the period beginning from the date of payment of such drawback to the claimant, till the date of recovery of such drawback [Section 75A(2) of the Customs Act, 1962].

4. (a) Computation of net GST payable by M/s Sorabjee

Particulars	GST payable (Rs.)
Gross GST liability [Refer Working Note 1 below]	2,96,325
Less: Input tax credit [Refer Working Note 2 below]	2,25,000
Net GST liability	71,325

Working Notes**(1) Computation of gross GST liability**

Particulars	Value received (Rs.)	Rate of GST	GST payable (Rs.)
Hiring charges for excavators	20,25,000	12%	2,43,000
Service charges for supply of manpower for operation of excavators [Refer Note (i)]	22,500	12%	2,700
Service charges for soil testing and seismic evaluation [Refer Note (ii)]	2,81,250	18%	50,625
Gross GST liability			2,96,325

Notes:

- (i) Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) of the CGST Act, 2017 wherein the principal supply is the hiring out of the excavator.

As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.

- (ii) Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

(2) Computation of input tax credit available for set off

Particulars	GST paid (Rs.)	ITC available (Rs.)
Annual maintenance services for excavators [Refer Note (i)]	1,12,500	1,12,500
Health insurance for excavator operators [Refer Note (ii)]	12,375	-
Scientific and technical consultancy [Refer Note (i)]	1,12,500	1,12,500
Total input tax credit available		2,25,000

Notes:

- (i) Section 17(5)(d) of the CGST Act blocks credit on goods and/or services received by a taxable person for construction of an immovable property on his own account. Here, though the excavators are used for building projects, the same are not used by M/s Sorabjee on its own account for construction of immovable property; instead they are used for outward taxable supply of hiring out of machinery.

Therefore, the annual maintenance service for the excavators does not get covered by the bar under section 17 of the CGST Act and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case

also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.

- (ii) Section 17(5)(b)(iii) of the CGST Act allows input tax credit on health insurance only when:
- (a) the Government notifies the services as obligatory for an employer to provide to its employees under any law for the time being in force; or
 - (b) the said service is used for making an outward taxable supply of the same category of service or as part of a taxable composite or mixed supply.

Since, in the given case, the health insurance service does not fall under any of the above two categories, the credit thereon will not be allowed.

- (b) 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 Bhumika Caretakers on a quarterly basis, under a contract, for a period of 1 year with the obligation for quarterly payment.

In terms of section 31 of the CGST Act, 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, Bhumika Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

- (c) As per rule 3 of the Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, that is to say, used personal effects and travel souvenirs; and articles [other than certain specified articles], upto the value of Rs. 50,000 if these are carried on the person or in the accompanied baggage of the passenger.

Thus, there is no customs duty on used personal effects and travel souvenirs and general duty free baggage allowance is Rs. 50,000 per passenger. Thus, duty liability of Mr. Iyer and his wife is nil for the used personal effects worth Rs. 83,000 and 2 music systems each worth Rs. 50,000.

As per rule 5 of the Baggage Rules, 2016, the jewellery allowance is as follows:

Jewellery brought by	Duty free allowance
Gentleman Passenger	Jewellery upto a weight of 20 grams with a value cap of Rs. 50,000
Lady Passenger	Jewellery upto a weight of 40 grams with a value cap of Rs. 1,00,000

However, the jewellery allowance is applicable only to a passenger residing abroad for more than 1 year.

Consequently, there is no duty liability on the jewellery brought by Mr. Iyer as he had stayed abroad for period exceeding 1 year and weight of the jewellery brought by him is 20 grams with a value less than Rs. 50,000.

However, his wife is not eligible for this additional jewellery allowance as she had stayed abroad for a period of less than a year. Thus, she has to pay customs duty on the entire amount of jewellery brought by her as she has already exhausted the general duty free baggage allowance of Rs. 50,000 allowed under rule 3.

5. (a) As per section 22 of the CGST Act, 2017, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakh.

However, if such taxable supplies are made from any of the specified special category States, namely, States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand, he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs. 10 lakh.

In the given question, since Prakriti Enterprises is engaged in making taxable supplies from Madhya Pradesh which is not a specified Special Category State, the threshold limit for obtaining registration is Rs. 20 lakh.

The threshold limit is not reduced to Rs. 10 lakh in this case, as sale of alcoholic liquor for human consumption from Uttarakhand (one of the specified Special Category States) are non-taxable supplies in terms of section 9(1) of CGST Act, 2017.

As per section 2(6) of the CGST Act, 2017, aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

In the light of the afore-mentioned provisions, the aggregate turnover of Prakriti Enterprises is computed as under:

Computation of aggregate turnover of Prakriti Enterprises

Particulars	Turnover of January (Rs.)	Cumulative turnover of January & February (Rs.)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Madhya Pradesh	6,16,000	13,44,000 [Rs. 6,16,000 + Rs. 7,28,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand [Note-1]		5,60,000
Add: Interest received from banks on the Fixed Deposits [Note-2]	1,12,000	2,24,000 [Rs. 1,12,000 + Rs. 1,12,000]
Add: Supply of packed food items from restaurant in Madhya Pradesh	1,68,000	3,92,000 [Rs. 1,68,000 + Rs. 2,24,000]
Aggregate Turnover	8,96,000	25,20,000

Notes:

1. As per section 2(47) of the CGST Act, 2017, exempt supply includes non-taxable supply. Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.
2. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt vide *Notification No. 12/2017 CT (R) dated 28.06.2017*. Thus, interest received from banks on the fixed deposits is an exempt supply and is, therefore, includible while computing the aggregate turnover.

Prakriti Enterprises was not liable to be registered in the month of January since its aggregate turnover did not exceed Rs. 20 lakh in that month. However, since its aggregate turnover exceeds Rs. 20 lakh in the month of February, it should apply for registration within 30 days from the date on which it becomes liable to registration.

- (b) (i) As per section 117(1) of the CGST Act, an appeal against orders passed by the State Bench or Area Benches of the Tribunal lies to the High Court if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the National Bench or Regional Benches of the Tribunal lies to the Supreme Court and not High Court. As per section 109(5) of the CGST Act, only the National Bench or Regional Benches of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Hariharan's case relates to place of supply, the appeal in his case would have been decided by the National Bench or Regional Bench of the Tribunal. Thus, Hariharan will have to file an appeal with the Supreme Court and not with the High Court.

- (ii) 'Input tax' in relation to a registered person, means CGST, SGST, IGST or UTGST charged on any supply of goods or services or both made to him and includes —
- (a) IGST charged on import of goods;
 - (b) CGST, IGST, SGST or UTGST payable under reverse charge
- but does not include tax paid under the composition levy.

- (c) Difference between transit and transshipment of goods:

Transit	Transshipment
(i) Section 53 of the Customs Act, 1962 provides for transit of goods.	(i) Section 54 of the Customs Act, 1962 provides for transshipment of goods.
(ii) In case of transit of goods, goods are allowed to remain on the same conveyance.	(ii) In case of transshipment of goods, the conveyance changes i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
(iii) In case of transit of goods, there is continuity of records.	(iii) In transshipment of goods, continuity in the records is not maintained as the goods are transferred to another conveyance.

6. (a) (i) Provisions of return Form GSTR-3B as contained in sub rules (5) and (6) of rule 61 of the CGST Rules, 2017 are as under:

FORM GSTR-3B is notified as the form for return by the Commissioner when the due dates for furnishing GSTR-1 and GSTR-2 get extended. GSTR-3B is a simple return containing summary of outward and inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR-3B does not require invoice-wise data of outward supplies. GSTR-3B can be submitted electronically through the common portal, either directly or through a notified Facilitation Centre.

Where GSTR-3B is furnished, after the due date for furnishing GSTR-2—

- (a) Part A of GSTR-3 is auto populated on the basis of information furnished through GSTR-1, GSTR-2 and based on other liabilities of preceding tax periods. Part B of the GSTR-3 is electronically generated on the basis of the return in GSTR-3B furnished in respect of the tax period;
 - (b) the registered person can modify Part B of GSTR-3 based on the discrepancies, if any, between GSTR-3B and GSTR-3 and discharge his tax and other liabilities, if any;
 - (c) where the amount of ITC in GSTR-3 exceeds the amount of ITC in terms of GSTR-3B, the additional amount gets credited to the electronic credit ledger of the registered person.
- (ii) The time-limit for issuance of SCN under section 73 of the CGST Act 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.
- (b) 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 CGST Act;
 - (b) Direct the conduct of a special audit under section 66 of the CGST Act 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 CGST Act; or
 - (d) Initiate proceeding for determination of tax and other dues under sections 73 or 74 of the CGST Act.
- (c) (i) When the goods are damaged inside the warehouse abatement in customs duty, on resultant loss in value, has been provided through section 22 of the Customs Act, 1962. Section 22 contemplates that for claiming abatement of duty, the damage (not deterioration) should occur at any time before clearance of the imported goods for home consumption from the warehouse. However, the damage should not be attributable to the importer. It should be proved to the satisfaction of Assistant Commissioner or Deputy Commissioner of Customs that the imported goods have actually suffered damages. The claim for abatement is not tenable unless the importer factually proves the damage. The following equation provides the way to calculate the abatement of duty.

$$\frac{\text{Duty after damage}}{\text{Duty before damage}} = \frac{\text{Value after damage}}{\text{Value before damage}}$$

- (ii) When the goods are destroyed in the warehouse before clearance for home consumption, customs duty will be remitted as per the provisions of section 23 of the Customs Act, 1962. Section 23(1) applies when the goods have been lost (otherwise than as a result of pilferage) or destroyed in entirety i.e. whole or part of goods is lost once for all. The goods cease to exist and cannot be retrieved. The loss is generally on account of natural causes such as fire, flood etc., and no human element is present as in section 13 of the Customs Act, 1962. The loss or destruction may occur at any time before clearance for home consumption. The loss/destruction has to be proved to the satisfaction of Assistant Commissioner or Deputy Commissioner.

7. (a) (i) Section 107(6) of the CGST Act provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—

- (i) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (ii) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order.

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

- (i) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (ii) 20% of the remaining amount of tax in dispute,

in addition to the amount deposited before the Appellate Authority, 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.

- (ii) The said statement is not correct. State Government can notify a transaction to be supply of goods or services but only on the recommendations of the GST Council. Further, Central Government, on the recommendations of the GST Council, can also notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

- (b) Section 36 of the CGST Act explains the provisions relating to period of retention of accounts as under: -

Every registered person required to keep and maintain books of account or other records shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of 1 year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

OR

- (b) The provisions relating to liability of directors of private company are contained in section 89 of the CGST Act. It provides that notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, above provisions shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company. However, this exception does not apply to any personal penalty imposed on such director.

- (c) Section 72 of the Customs Act provides that in any of the following circumstances the goods shall be considered to have been removed improperly from a warehouse –
- (i) where any warehoused goods are removed from a warehouse in contravention of section 71 of the Customs Act;
 - (ii) where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted under section 61 to remain in a warehouse;
 - (iii) where any goods in respect of which a bond has been executed under section 59 and which have not been cleared for home consumption or export are not duly accounted for to the satisfaction of the proper officer.

Test Series: August, 2018

MOCK TEST PAPER - 1
FINAL (OLD) GROUP - II
PAPER 8: INDIRECT TAX LAWS

Question no. 1 is compulsory. Attempt any five questions out of the remaining six questions

Maximum Marks: 100 Marks

Time Allowed: 3 Hours

Note:

- (i) Working Notes should form part of the answer.
 - (ii) Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note.
 - (iii) All questions should be answered on the basis of position of (i) GST law as amended up to 30th April, 2018 and (ii) customs law as amended by the Finance Act, 2017 and notifications/circulars issued till 30th April, 2018.
 - (iv) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.
1. (a) Manohar Lal Company Ltd. of Bengaluru is a manufacturer and registered supplier of machine. It has provided the following details for the month of November, 2017.

Details of GST paid on inward supplies during the month:

Items	GST paid (Rs.)
Health insurance of factory employees.	20,000
Raw materials for which invoice has been received and GST has also been paid for full amount but only 50% of material has been received, remaining 50% will be received in next month.	18,000
Work contractor's service used for installation of plant and machinery.	12,000
Purchase of manufacturing machine directly sent to job worker's premises under challan.	50,000
Purchase of car used by director for the business meetings only.	25,000
Outdoor catering service availed for business meetings.	8,000

Manohar Lal Company Ltd. also provides service of hiring of machines along with man power for operation. As per trade practice machines are always hired out along with operators and also operators are supplied only when machines are hired out.

Receipts on outward supply (exclusive of GST) for the month of November, 2017 are as follows:

Items	Receipts (Rs.)
Hiring receipts for machine	5,25,000
Service charges for supply of man power operators	2,35,000

Assume all the transactions are inter State and the rates of IGST to be as under:

- (i) Sale of machine 5%
- (ii) Service of hiring of machine 12%
- (iii) Supply of man power operator service 18%

Compute the amount of input tax credit available and also the net GST payable for the month of November, 2017 by giving necessary explanations for treatment of various items.

Note: Opening balance of input tax credit is Nil.

(10 Marks)

(b) Determine the place of supply for the following independent cases under the IGST Act, 2017:

- (i) Mega Events, an event management company at Kolkata, organises two award functions for Shagun Jewellers of Chennai (Registered in Chennai) at New Delhi and at Singapore.
- (ii) Crown Planners (Bengaluru) is hired by Dr. Banta (unregistered person based in Kochi) to plan and organise his son's wedding at Mumbai.

Will your answer be different if the wedding is to take place at Malaysia?

(5 Marks)

(c) Ganesh Enterprises, India imported a machine costing US \$ 17,000 from Sheraton Corp., US through a vessel. Determine the assessable value of the said machine under the Customs Act, 1962 with the help of the additional information given below:

US \$

- (i) Transport charges from the factory of Sheraton Corp. to the port for shipment 850
- (ii) Freight charges from US to India 1,700
- (iii) Handling charges paid for loading the machine in the ship 85
- (iv) Buying commission paid by Ganesh Enterprises 85

(v) Exchange rate to be considered: 1\$ = Rs. 60

(vi) Actual insurance charges paid are not ascertainable

(5 Marks)

2. (a) Niwas Sadan Charitable Trust is registered under section 12AA of the Income Tax Act, 1961. It owns and manages a temple located at Mathura meant for general public. The temple compound has residential dwellings, rooms, Kalyan Mandapam, Halls and shops. It provides the following information relating to supply of its services for the month of August 2017. You are required to compute the total taxable value of supply for the month of August 2017 assuming that the given amounts are exclusive of GST:-

	Rs.
Renting of residential dwellings for use as a residence	18,00,000
Renting of rooms for pilgrims (Charges per day Rs. 1,200)	8,00,000
Renting of rooms for devotees (Charges per day Rs. 750)	6,00,000
Renting of kalyana mandapam (Charges per day Rs. 15,000)	12,00,000
Renting of halls (Charges per day Rs. 7,500)	10,75,000
Renting of shops for business (Charges per month Rs. 9,500)	4,75,000
Renting of shops for business (Charges per month Rs. 12,000)	7,50,000

(7 Marks)

(b) Determine the value of supply and the GST liability, to be collected and paid by the owner, with the following particulars:

	Rs.
Rent of the commercial building	18,00,000
Maintenance charges collected by local society from the owner and reimbursed by the tenant	2,50,000
Owner intends to charge GST on refundable advance, as GST is applicable on advance	6,00,000
Municipal taxes paid by the owner	3,00,000

Rent and maintenance charges are exclusive of GST.

GST rates applicable on renting of business premises is as follows:

CGST 9%

SGST 9%

Provide suitable explanations where required.

(5 Marks)

- (c) Discuss briefly the similarities and differences between Advance Authorisation (AA) and DFIA (Duty Free Import Authorisation) Schemes. **(4 Marks)**

OR

Indicate five benefits available to "Status Holders" under the reward scheme of Foreign Trade Policy 2015-2020. There is no need to define the term "status holder". **(4 Marks)**

3. (a) Maahi Ltd. of Bhopal (Madhya Pradesh) is a supplier of machinery. Maahi Ltd. has supplied machinery to ABC Enterprises in Indore (Madhya Pradesh) on 1st October, 2017. The invoice for supply has been issued on 1st October, 2017. Maahi Ltd. and ABC Enterprises are not related and price is the sole consideration for the supply.

Following information is provided:

Basic price of machinery excluding all taxes is Rs. 20,00,000. In addition to the basic price, Maahi Ltd. has collected the design and engineering charges of Rs. 10,000 and loading charges of Rs. 20,000 for the machinery. The commission of Rs. 10,000 has also been charged by Maahi Ltd. from ABC Enterprises.

Maahi Ltd. provides 1 year mandatory warranty for the machinery on payment of additional charges of Rs. 1,00,000.

Maahi Ltd. has collected consultancy charges in relation to pre-installation planning of Rs. 10,000 and freight and insurance charges from place of removal to buyer's premises of Rs. 20,000.

Maahi Ltd. received subsidy of Rs. 50,000 from Central Government for supplying the machinery to backward region since receiver was located in a backward region. Maahi Ltd. also received Rs. 50,000 from the joint venture partner of ABC Enterprises for making timely supply of machinery to the recipient.

A cash discount of 1% on the basic price of the machinery is offered at the time of supply, if ABC Enterprises agrees to make the payment within 30 days of the receipt of the machinery at his premises. Discount @ 1% was given to ABC Enterprises as it agreed to make the payment within 30 days.

The machinery attracts CGST and SGST @ 18% (9% + 9%) and IGST @18%.

Compute the CGST and SGST or IGST payable, as the case may be, on the machinery. **(12 Marks)**

- (b) Shyam Lal has imported goods from Germany and is finally re-assessed u/s 18(2) of the Customs Act, 1962 for two such consignments. Particulars are as follows:

Date of provisional assessment	12 th December, 2017
Date of final re-assessment	2 nd February, 2018
Duty demand for 1 st consignment	Rs. 1,80,000
Refund for the 2 nd consignment	Rs. 4,20,000
Date of refund made by the department	28 th April, 2018
Date of payment of duty demanded	5 th February, 2018

Determine the interest payable and receivable, if any, by Shyam Lal on the final re-assessment of the two consignments, with suitable notes thereon. **(4 Marks)**

4. (a) Cool Trade Links Pvt. Ltd. is a registered manufacturer of premium ceiling fans. It sells its fans exclusively through distributors appointed across the country. The maximum retail price (MRP) printed on the package of a fan is Rs. 10,000. The company sells the ceiling fans to distributors at Rs. 7,000 per fan (exclusive of applicable taxes). The applicable rate of GST on ceiling fans is 18%.

The stock is dispatched to the distributors on quarterly basis - stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition to that effect from any of its distributors. The company charges Rs. 1,000 per fan from distributors towards packing expenses.

The company has a policy to offer a discount of 10% (per fan) on fans supplied to the distributors for a quarter, if the distributors sell 500 fans in the preceding quarter. The discount is offered on the price at which the fans are sold to the distributors (excluding all charges and taxes).

The company appoints Gupta Sales as a distributor on 1st April and dispatches 750 fans on 8th April as stock for the quarter April-June. Gupta Sales places a purchase order of 1,000 fans with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor on 18th June. The distributor makes the payment for the fans on 26th June and avails applicable input tax credit. The distributor reports sales of 700 fans for the quarter April-June and 850 fans for the quarter July-September.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of fans supplied by Cool Trade Links Pvt. Ltd. to Gupta Sales for the quarter July-September.

Note: The supplier and the recipient of supply are not related and price is the sole consideration for the supply. Make suitable assumptions, wherever necessary. **(8 Marks)**

- (b) LMN Enterprises, Kanpur started trading in ayurvedic medicines from July 1, 20XX. Its turnover exceeded Rs. 20 lakh on October 3, 20XX. The firm applied for registration on October 31, 20XX and was issued registration certificate on November 5, 20XX.

Examine whether any revised invoice can be issued in the given scenario. If the answer to the first question is in affirmative, determine the period for which the revised invoices can be issued as also the last date upto which the same can be issued. **(4 Marks)**

- (c) Alpha Corporation has imported goods and the following particulars are available for claiming duty drawback under sections 74 & 75 of Customs Act, 1962:

(i)	Custom duty has been paid on goods imported for use and have been out of customs control for 14 months	Rs. 14,00,000
(ii)	Baadshah exports manufactured goods having FOB value of Rs. 86,000. Rate of duty drawback on FOB value of exports Market value of the export product	40% Rs. 96,000

Determine duty drawback with explanations in the above cases. **(4 Marks)**

5. (a) Richmond has self-assessed tax liability under IGST Act, 2017, as Rs. 80,000. He fails to pay the tax within 30 days from the due date of payment of such tax.

Determine the interest and penalty payable by him explaining the provisions of law, with the following particulars available from his records:

Date of collection of tax 18th December, 2017

Date of payment of tax 26th February, 2018

No Show Cause Notice (SCN) has been issued to him so far, while he intends to discharge his liability, even before it is issued to him, on the assumption that no penalty is leviable on him as payment is made before issue of SCN. **(4 Marks)**

- (b) Alpha Pvt. Ltd., Pune provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Clean Indya Pvt. Ltd., Pune. The turnover of Alpha Pvt. Ltd. in the current financial year is Rs. 18 lakh.

Advise Alpha Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if Alpha Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Clean Indya Pvt. Ltd.? **(8 Marks)**

- (c) Write a brief note on rule 1 of the Rules of Interpretation of the First Schedule to Customs Tariff Act, 1975. **(4 Marks)**

6. (a) (i) What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person? **(4 Marks)**

(ii) With reference to the provisions of section 120 of the CGST Act, 2017, list the cases in which appeal is not to be filed. **(6 Marks)**

- (b) Discuss briefly the time limit for passing adjudication order under section 74(10) of the CGST Act, 2017. **(2 Marks)**

- (c) An importer imported certain inputs for manufacture of final product. A small portion of the imported inputs were damaged in transit and could not be used in the manufacture of the final product. An exemption notification was in force providing customs duty exemption in respect of specified raw materials imported into India for use in manufacture of specified goods, which was applicable to the imports made by the importer in the present case.

Briefly examine with the help of a decided case law whether the importer could claim the benefit of the aforesaid notification in respect of the entire lot of the imported inputs including those that were damaged in transit. **(4 Marks)**

7. (a) Tripathi, registered under the CGST Act, 2017 has made a breach in payment of tax amounting to Rs. 6,100. Assessing Authority has imposed a penalty as per law applicable to the breach. Invoking the provisions of section 126, Tripathi argues that it is a minor breach and therefore, no penalty is imposable.

In another instance, Tripathi has omitted certain details in documentation that is not easily rectifiable. This has occurred due to the gross negligence of his accountant and he makes a plea that he was unaware of it and therefore no penalty should be levied.

Tripathi voluntarily writes accepting a major procedural lapse from his side and requests the officer to condone the lapse as the loss caused to the revenue was not significant.

Also a lapse on the part of Tripathi has no specific penalty provision under the CGST Act, 2017. He is very confident that no penalty should be levied without a specific provision under the Act.

Discuss, what action may be taken by the Assessing Authority under law for each of the above breaches. **(6 Marks)**

- (b) Discuss briefly provisions of CGST Act, 2017 regarding questions for which advance ruling can be sought. **(2 Marks)**

- (c) With reference to the provisions of CGST Act, 2017, explain the liability of partners of firm to pay tax? **(4 Marks)**

- (d) Explain briefly the powers of review of the Principal Commissioner or Commissioner of Customs under section 129D(2) of the Customs Act, 1962 in respect of decisions taken by adjudicating authority subordinate to him. **(4 Marks)**

Test Series: August, 2018

MOCK TEST PAPER - 1
FINAL (OLD) GROUP - II
PAPER 8: INDIRECT TAX LAWS
SUGGESTED ANSWERS

GST law is in its nascent stage and has been subject to frequent changes. Although various clarifications have been issued in the past few months by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the questions depending upon the view taken.

For the sake of brevity, Central Goods and Services Tax, Integrated Goods and Services Tax, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017 and Central Goods and Services Tax Rules, 2017 have been referred to as CGST, IGST, CGST Act, IGST Act and CGST Rules respectively.

1. (a) Computation of net GST payable by Manohar Lal Company Ltd.

Particulars	GST payable (Rs.)
Gross GST liability [Refer working note (2) below]	91,200
Less: Input tax credit [Refer working note (1) below]	<u>62,000</u>
Net GST liability	29,200

Working Notes:

(1) Computation of Input Tax Credit (ITC) available with Manohar Lal Company Ltd. in the month of November 2017

Particulars	GST (Rs.)
Health insurance of factory employees [Note – 1]	Nil
Raw material received in factory [Note – 2]	Nil
Work's contractor's service used for installation of plant and machinery [Note -3]	12,000
Manufacturing machinery directly sent to job worker's premises under challan [Note -4]	50,000
Purchase of car used by director for business meetings only [Note -5]	Nil
Outdoor catering service availed for business meetings [Note -6]	<u>Nil</u>
Total ITC available	62,000

Notes:

- ITC of health insurance is blocked in the given case since said services are not notified by Government as obligatory for employer to provide to its employees under any law - in terms of section 17(5)(b)(iii) of the CGST Act, 2017.
- Where the goods against an invoice are received in lots/instalments, ITC is allowed upon receipt of the last lot/instalment vide first proviso to section 16(2) of the CGST Act, 2017. Therefore, Manohar Lal Company Ltd. will be entitled to ITC of raw materials on receipt of second instalment in December, 2017.

3. Section 17(5)(c) of CGST Act, 2017 provides that ITC on works contract services is blocked when supplied for construction of immovable property (other than plant and machinery) except when the same is used for further supply of works contract service.

Though in this case, the works contract service is not used for supply of works contract service, ITC thereon will be allowed since such services are being used for installation of plant and machinery.

4. ITC on capital goods directly sent to job worker's premises under challan is allowed in terms of section 19(5) of CGST Act, 2017 read with rule 45(1) of CGST Rules, 2017.
5. Section 17(5)(a) of CGST Act, 2017 provides that ITC on motor vehicles is allowed only when the same are used:

(1) for making taxable supply of- (i) further supply of such vehicles, (ii) transportation of passengers, (iii) imparting training on driving, flying, navigating such vehicles and

(2) for transportation of goods.

Since Manohar Lal Company Ltd is a supplier of machine and it does not use the car for transportation of goods, ITC thereon will not be available.

6. Section 17(5)(b)(i) of CGST Act, 2017 provides that ITC on outdoor catering is blocked except where the same is used for making further supply of outdoor catering or as an element of a taxable composite or mixed supply.

Since Manohar Lal Company Ltd is a supplier of machine, ITC thereon will not be available.

(2) Computation of gross GST liability

	Value received (Rs.)	Rate of GST	GST payable (Rs.)
Hiring receipts for machine	5,25,000	12%	63,000
Service charges for supply of manpower operators	2,35,000	12%	28,200
Gross GST liability			91,200

Note:

Since machine is always hired out along with operators and operators are supplied only when the machines are hired out, it is a case of composite supply, wherein the principal supply is the hiring out of machines [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Therefore, service of supply of manpower operators will also be taxed at the rate applicable for hiring out of machines (principal supply), which is 12%, in terms of section 8(a) of the CGST Act, 2017.

- (b) (i) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient in terms of section 12(7)(a)(i) of IGST Act, 2017.

Since, in the given case, the award functions at New Delhi and Singapore are organized for Shagun Jewellers (registered in Chennai), place of supply in both the cases is the location of Shagun Jewellers i.e., Chennai.

- (ii) As per section 12(7)(a)(ii) of IGST Act, 2017, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Dr. Banta] is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Mumbai.

However, if the wedding is to take place outside India [Malaysia], the place of supply is the location of recipient, i.e. Kochi.

(c) **Computation of assessable value of the imported machine**

Particulars	US \$
Cost of the machine at the factory	17,000.00
Add: Transport charges up to port	850.00
Add: Handling charges at the port	<u>85.00</u>
FOB	17,935.00
Add: Freight charges up to India	1,700.00
Add: Insurance charges @ 1.125% of FOB [Note 1]	<u>201.77</u>
CIF	19,836.77
CIF in Indian rupees @ Rs. 60/ per \$	Rs. 11,90,206.13
Assessable Value (rounded off)	Rs.11,90,206

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of the machine [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
 - (2) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
2. (a) Renting of precincts of a religious place meant for general public, owned/managed by, inter alia, an entity registered as a charitable trust under section 12AA of the Income-tax Act are exempt vide *Notification No. 12/2017 CT (R) dated 28.06.2017/Notification No. 9/2017 IT (R) dated 28.06.2017[exemption notification]*. However, exemption is not available if:
- (i) charges for rented rooms are Rs. 1,000 per day or more;
 - (ii) charges for rented community halls, Kalyan mandapam, open area are Rs.10,000 per day or more;
 - (iii) charges for rented shops are Rs. 10,000 per month or more.

In view of the aforesaid provisions, value of supply of Niwas Sadan Charitable Trust for August, 2017 has been computed as under:

Computation of value of supply of Niwas Sadan Charitable Trust for August, 2017

Particulars	Amount (Rs.)
Renting of residential dwellings for use as residence [Exempt vide exemption notification]	Nil
Renting of rooms for pilgrims [Since charges per day are not below Rs. 1,000]	8,00,000
Renting of rooms for devotees [Since charges per day are below Rs. 1,000]	Nil
Renting of Kalyana Mandapam [Since charges per day are not below Rs. 10,000]	12,00,000
Renting of halls	Nil

[Since charges per day are below Rs. 10,000]	
Renting of shops for business	Nil
[Since charges per month are below Rs. 10,000]	
Renting of shops for business	<u>7,50,000</u>
[Since charges per month are not below Rs. 10,000]	
Value of taxable supply	27,50,000

(b)

Particulars	Amount (Rs.)
Rent of the commercial building	18,00,000
Maintenance charges collected by the local society from the owner and reimbursed by the tenant [Note-1]	2,50,000
Refundable advance [Note-2]	Nil
Municipal taxes paid by the owner [Note-3]	<u>Nil</u>
Value of supply	20,50,000
CGST @ 9%	1,84,500
SGST @ 9%	1,84,500

Notes:-

1. Being reimbursed by the tenant, such charges ultimately form part of the rent paid by the tenant to the owner and thus, will form part of the value.
2. Being refundable, the advance is in the nature of security deposit which does not constitute consideration in terms of section 2(31) of the CGST Act, 2017 and thus, is not includible in the value.
3. Being an expenditure incurred by the supplier, the same is not includible in the value, assuming that such taxes are not charged to the recipient.

(c) **Similarity:** In both the schemes, duty free import of inputs, oil and catalyst required for export products is permitted.

Differences:

- (i) Advance Authorisation (AA) is not transferable. DFIA is transferable after export obligation is fulfilled.
- (ii) While AA requires 15% value addition, DFIA requires minimum 20% value addition.
- (iii) AA is available to gem and jewellery sector, but DFIA is not.
- (iv) DFIA cannot be issued where Standard Input Output Norms (SION) prescribe actual user condition.
- (v) AA can be issued even if SION for the product to be exported is not fixed. DFIA can be issued only if SION has been fixed for the product to be exported.

OR

The benefits available to Status holders are as under:

- (a) Authorization and custom clearances for both imports and exports on self-declaration basis.
- (b) Fixation of Input Output Norms (SION) on priority i.e. within 60 days.
- (c) Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels.

- (d) Exemption from furnishing of Bank Guarantee for Schemes under FTP unless otherwise specified.
- (e) Two Star Export Houses and above are permitted to establish export warehouses.
- (f) Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC.

[Note : Any of the above five points may be mentioned.]

3. (a) Computation of GST payable

Particulars	Rs.
Basic Price of the machinery [Note 1]	20,00,000
Add: Design and engineering charges [Note 1]	20,000
Loading charges [Note 1]	10,000
Warranty cost [Note 2]	1,00,000
Commission [Note 3]	10,000
Consultancy charges in relation to pre-installation planning [Note 4]	10,000
Freight and insurance charges [Note 2]	20,000
Subsidy received from Central Government [Note 5]	Nil
Receipts from Joint Venture of ABC Enterprises [Note 5]	50,000
Less: 1% discount on basic price = Rs. 20,00,000 x 1% [Note 6]	<u>(20,000)</u>
Value of supply	22,00,000
CGST @ 9% [Note 7]	1,98,000
SGST @ 9% [Note 7]	1,98,000

Notes:

- In terms of section 15(1) of the CGST Act, 2017, the value of the supply is the transaction value i.e., price actually paid or payable for the machinery by ABC Enterprises.
Design and engineering charges are includible in the value of supply as any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is so includible in terms of section 15(2)(c) of CGST Act, 2017.
Further, loading charges being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per section 15(2)(c) of the CGST Act, 2017.
- Supply of machinery (goods) with supply of ancillary services like warranty and freight and insurance is a composite supply, the principle supply of which is the supply of machinery. [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
- Commission being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per section 15(2)(c) of the CGST Act, 2017.
- Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
- Subsidies provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017. However, subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15.

6. Cash discount has been given to ABC Enterprises upfront at the time of supply and thus would have been recorded in the invoice and hence, the same is excluded from the value of supply in terms of section 15(3)(a) of the CGST Act, 2017.
7. In the given case-
 - the location of the supplier is in Bhopal (Madhya Pradesh); and
 - the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., Indore (Madhya Pradesh) vide section 10(1)(a) of IGST Act, 2017.

Therefore, as per section 8(1) of IGST Act, 2017, the given supply is an intra-State supply as the location of the supplier and the place of supply are in the same State. Thus, the supply will be leviable to CGST and SGST.

- (b) As per section 18(3) of the Customs Act, 1962, an importer is liable to pay interest at the rate of 15% p.a. (*Notification No. 33/2016-Cus. (NT) dated 01.03.2016*), on any amount payable consequent to the re-assessment order from the first day of the month in which the duty is provisionally assessed till the date of payment.

Therefore, in the given case, Shyam Lal is liable to pay following interest in respect of 1st consignment:

$$= \text{Rs. } 1,80,000 \times 15\% \times 67/365$$

$$= \text{Rs. } 4,956 \text{ (rounded off)}$$

If any amount refundable consequent to the re-assessment order is not refunded within 3 months from date of re-assessment of duty, interest is payable to importer on unrefunded amount at the specified rate till the date of refund of such amount in terms of section 18(4) of the Customs Act, 1962.

Since in the given case, refund has been made (28.04.2018) within 3 months from the date of re-assessment of duty (02.02.2018), interest is not payable to Shyam Lal on duty refunded in respect of 2nd consignment.

4. (a) Section 15(3)(a) of the CGST Act allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of the supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b) of the CGST Act if-

- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Gupta Sales is entitled for 10% discount on fans supplied by Cool Trade Links Pvt. Ltd. for the quarter July-September as it has sold more than 500 fans in the preceding quarter April-June. However, since the entire stock for the quarter July-September has already been despatched by Cool Trade Links Pvt. Ltd. in the month of June, the discounts on the fans supplied to Gupta Sales for the quarter July-September will be a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to fans supplied to Gupta Sales for the quarter July-September) provided Gupta Sales reverses the input tax credit attributable to the discount on the basis of document issued by Cool Trade Links Pvt. Ltd.

The value of supply will thus, be computed as under:

Particulars	Amount (Rs.)
Price at which the fans are supplied to Prakash Sales [Note 1]	7,000
Add: Packing expenses [Note 2]	1,000
Less: Discount [Note 3]	(700)
Value of taxable supply of one unit of fan	<u>7,300</u>
Value of taxable supply of fans for the quarter July-September [Rs. 7,300 x 1,000]	<u>73,00,000</u>

Notes:

- (1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act.
 - (2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.
 - (3) Since all the conditions specified in section 15(3)(b) of the CGST Act have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply presuming that Gupta Sales has reversed the input tax credit attributable to such discount on the basis of document issued by Cool Trade Links Pvt. Ltd. The input tax credit to be reversed will work out to be Rs. 1.26 lakh $[1,000 \times (7,000 \times 10\%) \times 18\%]$.
- (b) As per section 31(3)(a) of the CGST Act, a registered person may, within one month from the date of issuance of certificate of registration, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

Further, rule 10(2) of CGST Rules lays down that the registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date.

In the given case, LMN Enterprises has applied for registration within 30 days of becoming liable for registration and the registration has been granted. Thus, the effective date of registration is the date on which LMN Enterprises became liable for registration i.e., October 3, 20XX. Therefore, since in the given case there is a time lag between the effective date of registration (October 3, 20XX) and the date of grant of certificate of registration (November 5, 20XX), revised invoices can be issued. The same can be issued for supplies made during this intervening period i.e., for the period beginning with October 3, 20XX till November 5, 20XX. Further, the revised invoices can be issued for the said period till December 5, 20XX.

- (c) (i) As per section 74(2) of Customs Act, 1962 read with *Notification No. 19/65 Cus dated 06.02.1995* as amended, 65% of import duty is to be paid as duty drawback if goods are used after importation and have been out of customs control for export for a period of more than 12 months but not more than 15 months.

Therefore, amount of duty drawback = Rs. 14,00,000 x 65% = Rs. 9,10,000

- (ii) Amount of duty drawback = Rs. 86,000 x 40% = Rs. 34,400

However, the drawback amount should not exceed one third of the market price of the export product as per rule 9 of Customs & Central Excise Duties Drawback Rules, 2017.

Thus, upper limit of drawback amount = Rs. 96,000/3 = Rs. 32,000

Thus, the amount of duty drawback in the present case will be restricted to Rs. 32,000

5. (a) Due date for payment of tax collected on 18.12.2017 is 20.01.2018. However, since tax is actually paid on 26.02.2018, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with *Notification No. 13/2017 CT dated*

28.06.2017. Amount of interest is:

= Rs. 80,000 × 18% × 37/365 = Rs. 1,460 (rounded off)

As per section 73(11) of CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, *inter alia*, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

(i) 10% of tax, viz., Rs. 8,000 or

(ii) Rs. 10,000,

whichever is higher,

is payable in terms of section 73(9) of CGST Act, 2017. Therefore, penalty of Rs. 10,000 will have to be paid by Richmond.

- (b) As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds Rs. 20 lakh [Rs. 10 lakh in case of specified Special Category States] in a financial year.

However, section 24 of the said Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24.

However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption.

Further, persons making supplies of **services**, other than supplies specified under section 9(5) through an ECO who is required to collect tax at source under section 52, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of Rs. 20 lakh [Rs. 10 lakh for specified special category States] in a financial year, have been exempted from obtaining registration vide *Notification No. 65/2017 CT dated 15.11.2017*.

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Clean Indya Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, Alpha Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Clean Indya is an ECO which is required to collect tax at source under section 52. However, house-keeping services provided by Alpha Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than Rs. 20 lakh, is a service notified under section 9(5). Thus, Alpha Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

In the second case, Alpha Pvt. Ltd. sells readymade garments through ECO. Such supply cannot be notified under section 9(5) as only supplies of services are notified under that section. Therefore, in the second case, Alpha Pvt. Ltd. will not be entitled for threshold exemption and will have to compulsorily obtain registration in terms of section 24(ix).

- (c) Rule 1 of the general rules for interpretation states that the titles of sections, chapters and sub-chapters in the First Schedule to the Customs Tariff Act, 1975 are provided for ease of reference only. For legal purposes, classification shall be determined according to the terms of the headings

and any relative section or chapter notes and provided such headings or chapter notes do not otherwise require, according to the subsequent rules.

Thus, the titles of sections, chapters and sub-chapters cannot be used to determine classification of a product.

6. (a) (i) 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.
- (ii) (1) The Board may, on the recommendations of the GST Council, issue orders or instructions or directions fixing monetary limits for regulating filing of appeal or application by the CGST officer.
- (2) Non-filing of appeal/application by a CGST officer on account of such monetary limits fixed by the Board shall not preclude such officer from filing appeal or application in any other case involving the same or similar issues or questions of law.
- (3) No person, who is a party in application or appeal can contend that the CGST Officer has acquiesced in the decision on the disputed issue by not filing an appeal or application (on account of monetary limits).
- (4) The Appellate Tribunal or Court hearing such appeal or application shall have regard to circumstances for non-filing of appeal or application by the CGST officer on account of monetary limits fixed by the Board.
- (b) As per section 74(10) of CGST Act, 2017, the proper officer shall issue the adjudication order within 5 years from the due date for furnishing of Annual Return for the financial year to which the tax not paid/short paid/input tax credit wrongly availed/utilised relates to or within 5 years from the date of erroneous refund.
- (c) The facts of the case are similar to the case of *BPL Display Devices Ltd. v. CCE., Ghaziabad (2004) 174 ELT 5 (SC)* wherein the Supreme Court has held that the benefit of the notifications cannot be denied in respect of goods which are intended for use for manufacture of the final product but cannot be so used due to shortage or leakage.

The Apex Court has held that no material distinction can be drawn between loss on account of leakage and loss on account of damage. The benefit of said exemption cannot be denied as inputs were intended for use in the manufacture of final product but could not be so used due to shortage/leakage/damage. It has been clarified by the Supreme Court that words “for use” have to be construed to mean “intended for use”.

Therefore, the importer can claim the benefit of the notification in respect of the entire lot of the inputs imported including those that were damaged in transit.

- 7 (a) As per section 126(1) of the CGST Act, 2017, no penalty shall be leviable under the Act for minor breaches of tax regulations. In terms of Explanation (a) to section 126(1), a breach shall be considered as “minor breach”, if tax involved is less than Rs. 5,000. Breach made by Tripathi is not a ‘minor breach’ since the amount involved is not less than Rs. 5,000. So, penalty is imposable.
- Any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent/gross negligence is not liable for penalty in terms of section 126(1) of the CGST Act, 2017. Thus, penalty is imposable in the present case, since the omission in the documentation is not easily rectifiable and has occurred due to gross negligence.

As per section 126(5) of the CGST Act, 2017, where there is a voluntary disclosure of breach, prior to its discovery by the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Since Tripathi has voluntarily disclosed the breach of procedural requirement to the officer, the proper officer may consider this fact as a mitigating factor when

quantifying the penalty. Therefore, the quantum of penalty will depend on the facts and circumstances of the case.

As per section 125 of the CGST Act, 2017, when no specific penalty has been specified for contravention of any of the provisions of the Act or any rules made there under, it shall be liable to a penalty which may extend to Rs. 25,000. Therefore, general penalty upto Rs. 25,000 may be imposed on Tripathi as when no specific penalty is provided for any contravention, a general penalty may be imposed.

(b) As per section 97(2) of CGST Act, 2017, advance ruling can be sought for the following questions:-

- (a) classification of any goods or services or both
- (b) applicability of a notification issued under the CGST Act
- (c) determination of time and value of supply of goods or services or both
- (d) admissibility of input tax credit of tax paid or deemed to have been paid
- (e) determination of the liability to pay tax on any goods or services or both
- (f) whether applicant is required to be registered
- (g) whether any particular activity with respect to any goods and/or services, amounts to/results in a supply of goods and/or services, within the meaning of that term.

Note: Any of the four points may be mentioned.

(c) Section 90 of the CGST Act explains the liability of partners of firm to pay tax as under:-

Partners of the firm jointly and severally liable to pay any tax, interest or penalty of the firm: Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment.

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

However, if no such intimation is given within 1 month from the date of retirement, the liability of such partner shall continue until the date on which such intimation is received by the Commissioner.

(d) Section 129D(2) empowers the Principal Commissioner of Customs or Commissioner of Customs to review any decision taken by the adjudicating authority subordinate to him. For this purpose, he may, of his own motion, call for and examine the record of any proceeding in which an adjudicating authority subordinate to him has passed any decision or order under the Act for the purpose of satisfying himself as to the legality or propriety of any such decision or order.

Thereafter, the Principal Commissioner of Customs or Commissioner of Customs may, by order, direct such authority or any officer of Customs subordinate to him to apply to the Commissioner (Appeals) for the determination of such points arising out of the decision or order as may be specified by him in his order.

Such review application is treated as Departmental appeal against order of adjudicating authority lower in rank than Principal Commissioner/Commissioner of Customs like Additional/Joint/Deputy/Assistant Commissioner.

Test Series: October, 2018

MOCK TEST PAPER - 2
FINAL (NEW) GROUP - II
PAPER 8: INDIRECT TAX LAWS

Question no. 1 is compulsory. Attempt any four questions out of the remaining five questions

Maximum Marks: 100 Marks

Time Allowed: 3 Hours

Note:

- (i) *Working Notes should form part of the answer.*
 - (ii) *Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of a note.*
 - (iii) *All questions should be answered on the basis of position of (i) GST law as amended up to 30th April, 2018 and (ii) customs law as amended by the Finance Act, 2017 and notifications/circulars issued till 30th April, 2018.*
 - (iv) *The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.*
1. (a) Mega Engineering Pvt. Ltd., a registered supplier, is engaged in providing expert maintenance and repair services for large power plants that are in the nature of immovable property, situated all over India. The company has its Head Office at Bangalore, Karnataka and branch offices in other States. The work is done in the following manner.
- The company has self-contained mobile workshops, which are container trucks fitted out for carrying out the repairs. The trucks are equipped with items like repair equipments, consumables, tools, parts etc. to handle a wide variety of repair work.
 - The truck is sent to the client location for carrying out the repair work. Depending upon the repairs to be done, the equipment, consumables, tools, parts etc. are used from the stock of such items carried in the truck.
 - In some cases, a stand-alone machine is also sent to the client's premises in such truck for carrying out the repair work.
 - The customer is billed after the completion of the repair work depending upon the nature of the work and the actual quantity of consumables, parts etc. used in the repair work.
 - Sometimes the truck is sent to the company's own location in other State(s) from where it is further sent to client locations for repairs.

Work out the GST liability [CGST & SGST or IGST, as the case may be] of Mega Engineering Pvt. Ltd., Bangalore on the basis of the facts as described, read with the following data for the month of November 2017.

S. No.	Particulars	Rs.
A.	Truck sent to own location in Tamil Nadu	
	(i) Value of items contained in the truck - Rs. 3,00,000	
	(ii) Value of truck - Rs. 25,00,000	

B.	Truck sent to a client location in Tamil Nadu for carrying out repairs. Stand- alone machine is also sent in the truck to client location for repairs (i) Value of items contained in the truck – Rs. 2,85,000 (ii) Value of stand-alone machine - Rs. 4,00,000 (iii) Value of truck - Rs. 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
C.	Truck sent to a client location in Karnataka for carrying out repairs (i) Value of items contained in the truck - Rs. 1,06,000 (ii) Value of truck - Rs. 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
D.	Invoices raised for repair work carried out in Tamil Nadu [including the invoice for repair work done in 'B'] -	70,00,000

Also, specify the document(s), if any, which need to be issued by Mega Engineering Pvt. Ltd., Bangalore for the above transactions.

All the given amounts are exclusive of GST, wherever applicable. Assume the rates of taxes to be as under:

Items used for repairs		
CGST – 6%	SGST – 6%	IGST – 12%
Container truck, Stand-alone machines		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Works contract for repairs and maintenance of immovable property		
CGST – 9%	SGST – 9%	IGST – 18%

You are required to make suitable assumptions, wherever necessary.

(10 Marks)

- (b) Mr. Dhiraj, an unregistered person and a resident of Pune, hires the services of M/s Nice Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru.

- Determine the place of supply of services provided by M/s Nice Ltd.
- What would your answer be in case the product launch takes place in Bangkok?
- What would your answer be in case Mr. Dhiraj is a registered person and product launches take place in Bengaluru and Bangkok?

(5 Marks)

- (c) Arpan Industries Ltd., New Delhi has imported certain machine (by sea) from Japan.

From the following particulars furnished by it, work out the assessable value of the machine and customs duty payable by Arpan Industries Ltd. with appropriate working notes:

S. No.	Particulars	Amount in (Rs.)
(i)	CIF value of the machine	4,23,379.69
(ii)	Freight incurred from port of entry to Inland Container depot	25,000.00
(iii)	Unloading and handling charges paid at the place of importation	40,000.00
(iv)	Designing charges paid to Consultancy firm in Mumbai	10,000.00

1.	Basic Customs Duty leviable	10% advalorem
2.	Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is 18%.	
3.	Note: Ignore GST Compensation Cess.	

(5 Marks)

2. (a) Mr. Swami, a registered supplier of Chennai, has received the following amounts in respect of the activities undertaken by him during the month ended on 30th September, 2017:

S. No.	Particulars	Amount (Rs.)
(i)	Amount charged for service provided to recognized sports body as selector of national team.	50,000
(ii)	Commission received as an insurance agent from insurance company.	65,000
(iii)	Amount charged as business correspondent for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts.	15,000
(iv)	Service to foreign diplomatic mission located in India.	28,000
(v)	Funeral services.	30,000

He received the services from unregistered goods transport agency for his business activities relating to serial numbers (i) to (iii) above and paid freight of Rs. 45,000 (his aggregate turnover of previous year was Rs. 9,90,000). GTA is paying tax @ 5%.

Note: All the transactions stated above are intra-State transactions and also are exclusive of GST.

You are required to calculate gross value of taxable supply on which GST is to be paid by Mr. Swami for the month of September, 2017. Working notes should form part of your answer. (7 Marks)

- (b) Deluxe Enterprises is in possession of certain capital goods and purchases more of them as per the following particulars:

Particulars	Input tax on capital goods (Rs.)	Status of its use
Capital Goods A	12,000	Exclusively used for non-business purpose.
Capital Goods B	24,000	Exclusively used for zero- rated supplies.
Capital Goods C	60,000	Used both for taxable and exempt supplies.
Capital goods D (has been exclusively used for 2 years for exempted supplies)	1,20,000	Now there is change in use, both for taxable and exempt supplies.
Capital goods E (has been exclusively used for 3 years for taxable supplies).	1,80,000	Now there is change in use, both for taxable and exempt supplies.

Useful life of all the above capital goods is considered as 5 years.

Apportion the input tax credit of capital goods, while being informed that aggregate value of exempt supplies during the tax period being Rs. 6,00,000 and total turnover during the tax period being Rs. 12,00,000. (8 Marks)

- (c) Discuss briefly the similarities and differences between Advance Authorisation (AA) and DFIA (Duty Free Import Authorisation) Schemes. (5 Marks)

OR

Indicate five benefits available to "Status Holders" under the reward scheme of Foreign Trade Policy 2015-2020. There is no need to define the term "status holder". (5 Marks)

3. (a) Tan-Supply Pvt. Ltd. is a registered manufacturer of auto parts in Kolkata, West Bengal. The company has a manufacturing facility registered under Factories Act, 1948 in Kolkata. It procures its inputs indigenously from both registered and unregistered suppliers located within as well as outside West Bengal as also imports some raw material from China.

The company reports the following details for the month of November, 2017:

Payments	Rs. (in lakh)	Receipts	Rs. (in lakh)
Raw material	3.5	Sales	15
Consumables	1.25		
Transportation charges for bringing the raw material to factory	0.70		
Salary paid to employees on rolls	5.0		
Premium paid on life insurance policies taken for specified employees	1.60		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

- Raw material amounting to Rs. 0.80 lakh is procured from Bihar and Rs. 1.5 lakh is imported from China. Basic customs duty of Rs. 0.15 lakh, education cesses of Rs. 0.0045 lakh and integrated tax of Rs. 0.29781 lakh are paid on the imported raw material. Remaining raw material is procured from suppliers located in West Bengal. Out of such raw material, raw material worth Rs. 0.30 lakh is procured from unregistered suppliers; the remaining raw material is procured from registered suppliers. Further, raw material worth Rs. 0.05 lakh purchased from registered supplier located in West Bengal has been destroyed due to seepage problem in the factory and thus, could not be used in the manufacturing process.
- Consumables are procured from registered suppliers located in Kolkata and include diesel worth Rs. 0.25 lakh for running the generator in the factory.
- Transportation charges comprise of Rs. 0.60 lakh paid to Goods Transport Agency (GTA) in Kolkata and Rs. 0.10 lakh paid to horse pulled carts. GST applicable on the services of GTA is 5%.
- Life insurance policies for specified employees have been taken by the company to fulfill a statutory obligation in this regard. The Government has notified such life insurance service under section 17(5)(b)(iii)(A). The life insurance service provider is registered in West Bengal.
- The break up of sales is as under:
Sales in West Bengal – Rs. 7 lakh
Sales in States other than West Bengal – Rs. 3 lakh
Export under bond – Rs. 5 lakh

The balance of input tax credit with the company as on 1.11.2017 is:

CGST - Rs. 0.15 lakh

SGST - Rs. 0.08 lakh

IGST - Rs. 0.10 lakh

Compute eligible input tax credit and net GST payable [CGST, SGST or IGST, as the case may be] by Tan-Supply Pvt. Ltd. for the month of November 2017.

Note-

- (i) CGST, SGST & IGST rates to be 9%, 9% and 18% respectively, wherever applicable.
- (ii) The necessary conditions for availing input tax credit have been complied with by Tan-Supply Pvt. Ltd., wherever applicable.

You are required to make suitable assumptions, wherever necessary.

(10 Marks)

- (b) Element Ltd. provides you the following particulars relating to goods supplied by it to Molecule Ltd.:

Particulars	Rs.
List price of the goods (exclusive of taxes and discounts).	76,000
Special packing at the request of customer to be charged to the customer.	5,000
Duty levied by local authority on the sale of such goods.	4,000
CGST and SGST charged in invoice.	14,400
Subsidy received from a NGO (The price of Rs. 76,000 given above is after considering the subsidy)	5,000

Element Ltd. offers 3% discount of the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supplies made by Element Ltd.

(5 Marks)

- (c) A consignment containing many items was imported by Vivek. On examination of the goods, it was found that he had made misdeclaration in respect of all the items. You are required to indicate the penalty imposable under section 112 of Customs Act, 1962 in each case given below. Values are exclusive of customs duties. Basic Customs Duty is 10%, Education cesses – 3%. No other tax is attracted on these imports.

- (1) Non- prohibited dutiable goods and the value is mis-declared as Rs. 10,00,000 instead of Rs. 11,50,000.
- (2) In the case at serial number 1, if the importer pays duty and interest within 30 days from the date of communication of the order.
- (3) The value of imported goods declared is higher than the value determined by Customs. Value determined by Customs is Rs. 15,00,000 but the value declared by Vivek is Rs. 20,00,000.
- (4) The value of prohibited goods was declared as 20,00,000 and the actual value determined was Rs. 15,00,000. You may assume that goods are other than non-prohibited dutiable goods and prohibited goods.
- (5) The imported goods are prohibited goods, which were declared by Vivek to be some other goods valued Rs. 15,00,000 and actual value is found to be Rs. 20,00,000. **(5 Marks)**

4. (a) (i) Determine whether registration has to be obtained under GST in case of the following as per provisions contained under CGST Act, 2017.

- (1) Fine oils is engaged in the business of machine oil as well as petrol and diesel. The total turnover on supply of machine oil is only Rs. 8 lakhs and in case of petrol and diesel is Rs. 8 crores.
- (2) Ramlal, an agriculturist, for supply of produce out of cultivation of land amounting to Rs. 21 lakhs. **(6 Marks)**

- (ii) M/s. Sahu & Co. a registered firm has filed its GST Return in GSTR-1 for the month of February, 2018 declaring an outward supply of Rs. 300 lakhs. The return was filed within the due date of its filing. However, on a subsequent reconciliation of the return with the books of accounts it was found that 5 invoices having a total value of Rs. 20 lacs towards supply made to local parties were inadvertently omitted to be reported. Sahu & Co. have approached you for an advice as to the course of action to be adopted to rectify the omission. **(4 Marks)**

- (b) Briefly discuss the modes of recovery of tax available to the proper officer. **(5 Marks)**
- (c) After visiting USA for a month, Mrs. & Mr. Singla (Indian residents aged 35 and 40 years respectively) brought to India a laptop computer valued at Rs. 60,000, used personal effects valued at Rs. 1,20,000 and a personal computer for Rs. 54,000.

Calculate the customs duty payable by Mrs. & Mr. Singla. **(5 Marks)**

5. (a) (i) Examine the implications as regards the bailability and quantum of punishment on prosecution, in respect of the following cases pertaining to the period December, 2017 under CGST Act, 2017;

- (1) 'M' collects Rs. 245 lakh as tax from its clients and deposits Rs. 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.
- (2) 'N' collects Rs. 550 lakh as tax from its clients but deposits only Rs. 30 lakh with the Central Government. Further, the amount of Rs. 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax.

What will be the implications with regard to punishment on prosecution of 'M' and 'N' for the offences? What would be the position, if 'M' and 'N' repeat the offences?

It may be assumed that offences are proved in the court. **(6 Marks)**

- (ii) From the details given below determine the maximum amount of fine in lieu of confiscation leviable under section 130 of CGST, Act, 2017 on:

- (1) The goods liable for confiscation.
- (2) On the conveyance used for carriage of such goods.

Details are as follows:

Cost of the goods for owner before GST	15,00,000
Market Value of Goods	20,00,000
GST on such goods	3,60,000

You are also required to explain relevant legal provisions in brief. **(4 Marks)**

- (b) State five cases where refundable amount shall be paid to the applicant, instead of being credited to Consumer Welfare Fund under CGST Act, 2017. **(5 Marks)**
- (c) What is the purpose of including Interpretation Rules in Customs Tariff? Do they form part of the Tariff Schedule? Explain the Akin Rule of interpretation. **(5 Marks)**
6. (a) (i) Explain the provisions relating to liability for GST in case of company in liquidation (section 88 of the CGST Act, 2017). **(4 Marks)**
- (ii) Explain briefly the provisions regarding mandatory pre-deposit to be made before filing an appeal before Appellate Authority and Tribunal as per CGST Act, 2017. **(6 Marks)**
- (b) Explain in what cases, assessment order passed by proper officer may be withdrawn under CGST Act, 2017? **(5 Marks)**

- (c) An importer imported a consignment weighing 10,000 tons. The importer filed a bill of entry for home consumption. The Assistant Commissioner passed an order for clearance of goods and applicable duty was paid by them. The importer thereafter found, on taking delivery from the Port Trust Authorities i.e., before the clearance for home consumption, that only 9,000 tonnes of inputs were available at the docks although he had paid duty for the entire 10,000 tonnes.

There was no short-landing of cargo. The short- delivery of 1,000 tonnes was also substantiated by the Port Trust Authorities, who gave a weighment certificate to the importer.

On filing a representation to the Customs Department, the importer has been directed in writing to justify as to which provision of the Customs Act, 1962 governs his claim for remission of duty on the 1,000 tonnes not delivered by the Port Trust.

Examine the issue and tender your opinion as per law, giving reasons.

(5 Marks)

Test Series: October, 2018

MOCK TEST PAPER - 2
FINAL (NEW) GROUP - II
PAPER 8: INDIRECT TAX LAWS
SUGGESTED ANSWERS

GST law is in its nascent stage and has been subject to frequent changes. Although various clarifications have been issued in the past few months by way of FAQs or otherwise, many issues continue to arise on account of varying interpretations on several of its provisions. Therefore, alternate answers may be possible for the questions depending upon the view taken.

For the sake of brevity, Central Goods and Services Tax, Integrated Goods and Services Tax, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017 and Central Goods and Services Tax Rules, 2017 have been referred to as CGST, IGST, CGST Act, IGST Act and CGST Rules respectively.

1. (a) Computation of GST Liability of Mega Engineering Pvt. Ltd., Bangalore for the month of November 2017

S.No.	Particulars	Rs.
A.	Items sent in container truck to own location in Tamil Nadu - IGST @ 12% [Note 1]	36,000
	Container truck sent to own location in Tamil Nadu [Note 2]	-
B.	Stand-alone machine sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 3]	-
	Container truck sent to client location in Tamil Nadu [Note 3]	-
	Items sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 4]	-
C.	Container truck sent to client location in Karnataka [Note 3]	-
	Items sent in container truck to client location in Karnataka, for carrying out repairs [Note 4]	-
D.	Invoices raised for repair work carried out in Tamil Nadu: IGST @ 18% [Note 5 and Note 6]	<u>12,60,000</u>
	Total GST liability	12,96,000

Notes:

- (1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act, 2017 is deemed to be a supply in terms of Schedule I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017. (However, if the regional office is eligible to take full input tax credit, any value may be declared in the tax invoice and that will be taken to be the open market value in terms of the second proviso to the same rule.)

In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of items contained in the truck is the location of such goods at the time at which the movement of goods terminates for delivery to the recipient i.e., Tamil Nadu in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the given supply of items is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Since the activity is a supply, a tax invoice is to be issued by Mega Engineering Pvt. Ltd. in terms of section 31(1)(a) of the CGST Act, 2017 for sending the items to its own location in Tamil Nadu.

- (2) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

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

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017].

Since the activity is not a supply, tax invoice is not required to be issued by Mega Engineering Pvt. Ltd. However, a delivery challan is to be issued by the company in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the truck to its own location in Tamil Nadu.

- (3) Supply of goods without consideration is deemed to be a supply *inter alia* when the goods are supplied to a 'distinct person'. However, in this case, stand-alone machine and container truck are moved to client location and not between 'distinct persons'. Hence, the same will fall outside the scope of definition of supply and will not be leviable to GST.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the stand-alone machines and container truck to client location.

- (4) As per section 2(119) of the CGST Act, 2017, 'works contract' means a contract for, *inter alia*, repair, maintenance of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

In this case, the supplier provides maintenance and repair services for power plants that are in the nature of immovable property and uses consumables and parts, wherever necessary, for the repairs. Hence, the contract is that of a works contract.

Further, as per section 2(30) of the CGST Act, 2017, a works contract is a 'composite supply' as it consists of taxable supplies of both goods and services which are naturally bundled and supplied in conjunction with each other. The composite supply of works contract is treated as supply of service in terms of para 6(a) of Schedule II to the CGST Act, 2017.

The items used in relation to the repair and maintenance work could be consumables or could be identifiable items/parts. In either case, the transfer of property in goods is incidental to a composite supply of works contract service. Thus, the value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the items for carrying out the repairs.

- (5) The activity is a composite supply of works contract, which is treated as supply of service. As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

Since the activity is a supply of service, a tax invoice is to be issued by Mega Engineering Pvt. Ltd. in terms of section 31(2) of the CGST Act, 2017.

- (6) In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of works contract services relating to the power plant (immovable property) is the location at which the immovable property is located i.e., Tamil Nadu in terms of section 12(3)(a) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

- (b) (i) As per section 12(7)(a)(ii) of IGST Act, 2017, when service by way of organization of an event is provided to an unregistered person, the place of supply is the location where the event is actually held and if the event is held outside India, the place of supply is the location of recipient.

Since, in the given case, the service recipient [Mr. Dhiraj] is unregistered and event is held in India, place of supply is the location where the event is actually held i.e., Bengaluru. The location of the supplier and the location of the recipient is irrelevant in this case.

- (ii) However, if product launch takes place outside India [Bangkok], the place of supply will be the location of recipient i.e., Pune.

- (iii) When service by way of organization of an event is provided to a registered person, place of supply is the location of recipient vide section 12(7)(a)(i) of IGST Act, 2017.

Therefore, if Mr. Dhiraj is a registered person, then in both the cases i.e., either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the location of recipient i.e., Pune.

(c) Computation of assessable value and customs duty payable

Particulars	Rs.
CIF value of machine	4,23,379.69
Unloading and handling charges at the place of importation [Note-1]	Nil
Freight from port of entry to ICD [Note-2]	Nil
Designing charges paid to consultancy firm in Mumbai [Note-3]	Nil
Assessable Value	4,23,379.69
Add: Basic customs duty (BCD) @10% (rounded off)	42,338
Add: Education cesses @3% of BCD (rounded off)	1,270
Value for computing IGST	4,66,987.69
IGST @ 18% (rounded off)	84,058
Total duty and tax payable	1,27,666
= [Rs. 42,338 + Rs. 1,270 + Rs. 84,058]	

Notes:-

1. Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value vide rule 10(2)(a) of Customs Valuation (Determination of Value of Imported

Goods) Rules, 2007. The loading, unloading and handling charges associated with the delivery of the imported goods “at” the place of importation are not to be added to the CIF value of the goods.

2. In case of goods imported by sea and transshipped to another custom station in India, the cost of transport associated with such transshipment is excluded in terms of sixth proviso to rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
3. Rule 10(1)(b)(iv) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provides that only the design and engineering work undertaken elsewhere than in India is includible in the assessable value.

2. (a) **Computation of gross value of taxable supply on which GST is to be paid by Mr. Swami**

Particulars	Amount (Rs.)
<i>Supplies on which Mr. Swami is liable to pay GST under forward charge</i>	
Amount charged for service provided to recognized sports body as selector of national team [Note 1]	50,000
Commission received as an insurance agent from insurance company [Note 2]	Nil
Amount charged as business correspondent for the services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 3]	15,000
Services provided to foreign diplomatic mission located in India [Note 4]	28,000
Funeral services [Note 5]	Nil
<i>Supplies on which Mr. Swami is liable to pay GST under reverse charge</i>	
Services received from GTA [Note 6]	45,000
Value of taxable supply on which GST is to be paid	1,38,000

Notes:

- (1) Services provided to a recognized sports body by an individual only 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 vide Exemption *Notification No. 12/2017 CT(R) dated 28.06.2017*. Thus, service provided as selector of team is liable to GST.
- (2) Though commission for providing insurance agent's services is liable to GST, the tax payable thereon is to be paid by the recipient of service i.e., insurance company, under reverse charge in terms of *Notification No. 13/2017 CT(R) dated 28.06.2017*. Thus, Mr. Swami will not be liable to pay GST on such commission.
- (3) Services provided by business correspondent to a banking company with respect to accounts in its rural area branch are exempt from GST vide Exemption *Notification No. 12/2017 CT(R) dated 28.06.2017*. Thus, such services provided in respect of urban area branch will be taxable.
- (4) While services provided by a foreign diplomatic mission located in India are exempt from GST vide Exemption *Notification No. 12/2017 CT(R) dated 28.06.2017*, services provided to such mission are taxable.
- (5) Funeral services being covered in entry 4 of Schedule III to CGST Act, 2017 are not a supply and thus, are outside the ambit of GST.
- (6) GST on services provided by a GTA (not paying tax @ 12%) to *inter alia* a registered person is payable by the recipient of service i.e., the registered person, under reverse charge in terms

of Notification No. 13/2017 CT(R) dated 28.06.2017. The turnover of previous year is irrelevant in this case.

(b) Apportionment of common credit pertaining to capital goods

Particulars	ITC (Rs.)
Capital goods 'A' [Note-1]	Nil
Capital goods 'B' [Note-2]	-
Capital goods 'C' [Note-3]	60,000
Capital goods 'D' [Note-4]	72,000
= Rs. 1,20,000 – Rs. 48,000 (Rs. 1,20,000 × 5% × 8 quarters)	
Capital goods 'E' [Note-5]	<u>72,000</u>
= Rs. 1,80,000 – Rs. 1,08,000 (Rs. 1,80,000 × 5% × 12 quarters)	
Total common credit	2,04,000
Common credit for the tax period under rule 43(1)(e) of CGST Rules, 2017	3,400
= 2,04,000 ÷ 60	
Common credit attributable to exempt supplies in a tax period in terms of rule 43(1)(g) of CGST Rules, 2017	1,700
= (Turnover of exempt supplies/Total turnover) × Common credit	
= (6,00,000/12,00,000) × Rs. 3,400	

Notes:-

1. Since capital goods "A" is exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017.
2. For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC of Rs. 24,000 is available.
3. Capital goods "C" is commonly used for taxable and exempt supplies.
4. Owing to change in use from exclusively exempt to both taxable and exempt, credit to be reduced @ 5% per quarter or part thereof in terms of rule 43(1)(c) of CGST Rules, 2017.
5. Owing to change in use from exclusively taxable to both taxable and exempt, credit to be reduced @ 5% per quarter or part thereof in terms of rule 43(1)(d) of CGST Rules, 2017.

(c) Similarity: In both the schemes, duty free import of inputs, oil and catalyst required for export products is permitted.

Differences:

- (i) Advance Authorisation (AA) is not transferable. DFIA is transferable after export obligation is fulfilled.
- (ii) While AA requires 15% value addition, DFIA requires minimum 20% value addition.
- (iii) AA is available to gem and jewellery sector, but DFIA is not.
- (iv) DFIA cannot be issued where Standard Input Output Norms (SION) prescribe actual user condition.
- (v) AA can be issued even if SION for the product to be exported is not fixed. DFIA can be issued only if SION has been fixed for the product to be exported.

OR

The benefits available to Status holders are as under:

- (a) Authorization and custom clearances for both imports and exports on self-declaration basis.

- (b) Fixation of Input Output Norms (SION) on priority i.e. within 60 days.
- (c) Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels.
- (d) Exemption from furnishing of Bank Guarantee for Schemes under FTP unless otherwise specified.
- (e) Two Star Export Houses and above are permitted to establish export warehouses.
- (f) Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC.

[Note: Any of the above five points may be mentioned.]

3. (a) Computation of input tax credit available with Tan-Supply Pvt. Ltd. in the month of November 2017

S. No.	Particulars	Eligible input tax credit			
		CGST* Rs.	SGST* Rs.	IGST* Rs.	Total Rs.
1.	Raw Material				
	Raw material purchased from Bihar [Refer Note 1(i)]			14,400	14,400
	Raw material imported from China [Refer Note 1(ii)]			29,781	29,781
	Raw material purchased from unregistered suppliers within West Bengal [Refer Note 1(iii)]	Nil	Nil		Nil
	Raw material destroyed due to seepage [Refer Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material purchased from West Bengal [Refer Note 1(i)]	7,650	7,650		15,300
	Total	7,650	7,650	44,181	59,481
2.	Consumables [Refer Note 2]	9,000	9,000		18,000
3.	Transportation charges for bringing the raw material to factory [Refer Note 3]	1,500	1,500		3,000
4.	Salary paid to employees on rolls [Refer Note 4]	Nil	Nil	Nil	Nil
5.	Premium paid on life insurance policies taken for specified employees [Refer Note 5]	14,400	14,400	-	28,800
		32,550	32,550	44,181	1,09,281

Computation of net GST payable

Particulars	CGST* Rs.	SGST* Rs.	IGST* Rs.	Total Rs.
On Intra-state sales in West Bengal	63,000	63,000		1,26,000
On Inter-state sales other than West Bengal			54,000	54,000
On exports under bond [Note 6]	Nil	Nil	Nil	Nil

On inward supply of GTA services under reverse charge [Note 3]	1,500	1,500		3,000
Total output tax liability	64,500	64,500	54,000	1,83,000
Less: Cash paid towards tax payable under reverse charge [Note 9]	(1,500)	(1,500)		(3,000)
Less: Input tax credit [Note 7]				
Opening balance of input tax credit on 01.11.2017	(15,000)	(8,000)	(10,000)	(33,000)
Input tax credit availed during the month [Note-8]	(32,550)	(32,550)	(44,181)	(1,09,281)
	<u>181 (IGST)</u>			
Net GST payable	15,269	22,450	Nil	37,719

Notes:

- (1) (i) Credit of input tax (CGST & SGST/ IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act.
 - (ii) IGST paid on imported goods qualifies as input tax in terms of section 2(62)(a) of the CGST Act. Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act.
 - (iii) All intra-State procurements made by a registered person from an unregistered supplier have been exempted from CGST leviable thereon till 30.06.2018 [Notification No. 8/2017 CT (R) dated 28.06.2017 as amended by Notification No. 10/2018 CT (R) dated 23.03.2018]. Therefore, since no GST is paid on such raw material, there does not arise any question of input tax credit on such raw material.
 - (iv) Input tax credit is not available on destroyed inputs in terms of section 17(5)(h) of the CGST Act.
2. Consumables, being inputs used in the course or furtherance of business, input tax credit is available on the same in terms of section 16(1) of the CGST Act. However, levy of CGST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2) of the CGST Act]. Hence, there being no levy of GST on diesel, there cannot be any input tax credit of the same.
 3. In respect of intra-State road transportation of goods undertaken by a GTA, who has not paid CGST @ 6%, for any person registered under the GST law, CGST is payable under reverse charge by the recipient of service. The person who pays or is liable to pay freight for the transportation of goods is treated as the person who receives the service [Notification No. 13/2017 CT (R) dated 28.06.2017]. Thus, Tan-Supply Pvt. Ltd. will pay GST under reverse charge on transportation service received from GTA.

Further, tax payable under section 9(3) of the CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62) of the CGST Act. Thus, input tax paid under reverse charge on GTA service will be available as input tax credit in terms of section 16(1) of the CGST Act as the said service is used in course or furtherance of business.

Furthermore, intra-State services by way of transportation of goods by road except the services of a GTA and a courier agency are exempt from CGST vide Notification No. 12/2017 CT (R) dated 28.06.2017. Therefore, since no GST is paid on horse pulled cart services, there cannot be any input tax credit on such services.

4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with para 1 of Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any input tax credit on such services.
5. Input tax credit on supply of life insurance service is not blocked if the Government has made it obligatory for an employer to provide such service to its employees [Section 17(5)(b)(iii)(A) of the CGST Act]. Therefore, GST paid on premium for life insurance policies will be available as input tax credit in terms of section 16(1) of the CGST Act as the said service is used in the course or furtherance of business.
6. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under bond is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].
7. Since export of goods is a zero rated supply, there will be no apportionment of input tax credit and full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].
8. As per section 49(5) of the CGST Act, input tax credit of-
 - (i) IGST is utilised towards payment of IGST, CGST and SGST in that order.
 - (ii) CGST is utilised towards payment of CGST and IGST in that order.
 - (iii) SGST is utilised towards payment of SGST and IGST in that order
9. Section 49(4) of the CGST Act lays down that the amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.
- *10. CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies.

(b) Computation of value of taxable supplies by Element Ltd.

Particulars	Rs.
List price of the goods	76,000
Add: Special packing [Note 1]	5,000
Duty levied by local authority on sale of goods [Note 2]	4,000
CGST and SGST charged [Note 2]	-
Subsidy received from a NGO [Note 3]	5,000
Less: Discount offered	
= 3% of List price = Rs. 76,000 × 3% [Note-4]	<u>2,280</u>
Value of taxable supplies	87,720

Notes:

1. Being incidental expenses charged by the supplier to the recipient of supply, packing charges are includible in the value as per section 15(2)(c) of the CGST Act, 2017.
2. Taxes, duties, etc. levied under any law for the time being in force other than CGST, SGST/UTGST, IGST are includible in the value as per section 15(2)(a) of CGST Act, 2017. Duty levied by local authority on sale of goods has been assumed to be recovered from Molecule Ltd. and not included in the list price of the goods.
3. Subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15(2)(e) of CGST Act, 2017.

4. Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)(a) of CGST Act, 2017

(c) As per section 112 of the Customs Act, 1962:-

- (1) Penalty imposable in case of non-prohibited dutiable goods is penalty not exceeding:
 - (i) 10% of the duty sought to be evaded – Rs. 1,545 [10% of {(Rs. 11,50,000 - Rs. 10,00,000) × 10.30%}]
 - or
 - (ii) Rs. 5,000,
 whichever is higher – **Rs. 5,000**.
- (2) Where duty adjudicated and interest thereon is paid within 30 days from the date of communication of order, penalty liable to be paid under section 112 shall be reduced to 25% of the penalty so determined i.e. **Rs. 1,250** [25% of Rs. 5,000].
- (3) Penalty imposable on goods whose value has been over declared is penalty not exceeding:
 - (i) Difference between declared value and value determined by customs – Rs. 5,00,000 [Rs. 20,00,000 - Rs. 15,00,000]
 - or
 - (ii) Rs. 5,000,
 whichever is higher – **Rs. 5,00,000**.
- (4) Penalty imposable on prohibited goods whose value has been over-declared is penalty not exceeding:
 - (i) Value of the goods – Rs. 15,00,000
 - (ii) Difference between declared value and value determined by customs – Rs. 5,00,000 [Rs. 20,00,000 - Rs. 15,00,000]
 - or
 - (ii) Rs. 5,000,
 whichever is higher – **Rs. 15,00,000**.
- (5) Penalty imposable on prohibited goods whose value has been under-declared is penalty not exceeding:
 - (i) Value of the goods = Rs. 20,00,000
 - or
 - (ii) Rs. 5,000,
 whichever is higher – **Rs. 20,00,000**.

4. (a) (i) (1) Supply of petrol and diesel is not leviable to GST, but supply of machine oil is taxable. In order to determine whether Fine oils is liable for registration, turnover of both the supplies, non taxable as well as taxable would be taken into account for the threshold of Rs. 20 lakhs. Here the turnover of machine oil, petrol and diesel exceeds Rs. 20 lakhs (Rs. 8.08 crores). Thus, Fine oils is liable for registration.
- (2) As per section 23 of the CGST Act, an agriculturist, to the extent of supply of produce out of cultivation of land is not liable for registration under GST. In the case of Mr. Ramlal, even though the turnover of produce out of cultivation has exceeded Rs. 20 lakhs, he will not be liable for registration.
- (ii) As per GST law, the mechanism of filing revised returns for any correction of errors/omissions has been done away with. The rectification of errors/omissions is allowed in the subsequent Returns. However, no rectification is allowed after furnishing the return for the month of September following the end of the financial year to which such details pertain or furnishing of the relevant annual return, whichever is earlier.

Hence, the omission in the month of Feb 2018 can be included in the Return for the month when the omission is noticed. The tax and interest @ 18% due on the turnover omitted to be reported for the month of Feb 2018 has to be paid along with the taxes for the month in which the omission is noticed. However, such rectification will be allowed only within the prescribed period as mentioned above.

- (b) 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].

[Note: Any of the above five points may be mentioned.]

- (c) (1) As per the Baggage Rules, 2016, an Indian resident arriving from a country other than Nepal, Bhutan or Myanmar is allowed duty free clearance of-
- (i) Used personal effects and travel souvenirs without any value limit.
 - (ii) Articles [other than certain specified articles] upto a value of Rs. 50,000 carried as accompanied baggage [General duty free baggage allowance].

Further, such general duty free baggage allowance of a passenger cannot be pooled with the general duty free baggage allowance of any other passenger.

- (2) One laptop computer when imported into India by a passenger of the age of 18 years or above (other than member of crew) is exempt from whole of the customs duty [Notification No. 11/2004 Cus dated 08.01.2004].
- (3) Accordingly, there will be no customs duty on used personal effects (worth Rs. 1,20,000) of Mrs. and Mr. Singla and laptop computer brought by them will be exempt from duty.

Duty payable on personal computer after exhausting the duty free baggage allowance will be Rs. 54,000 – Rs. 50,000 = Rs. 4,000.

Effective rate of duty for baggage = 36.05% [including education cess & secondary & higher education cess]

Therefore, total customs duty payable = Rs. 1,442.

5. (a) (i) (1) As per section 132(1)(d)(iii) of the CGST Act, 2017, failure to pay any amount collected as tax beyond 3 months from due date of payment is punishable with specified imprisonment and fine provided the amount of tax evaded exceeds at least Rs. 100 lakh.

Therefore, failure to deposit Rs. 4 lakh collected as tax by 'M' will not be punishable with imprisonment.

Further, falsification of financial records by 'M' is punishable with imprisonment up to 6 months or with fine or both vide section 132(1)(f)(iv) of the CGST Act, 2017 and the said offence is bailable in terms of section 132(4) of the CGST Act, 2017 assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017.

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

Since the amount of tax evaded by 'N' exceeds Rs. 500 lakh (Rs. 550 lakh - Rs. 30 lakh), 'N' is liable to imprisonment upto 5 years and with fine. Further, the imprisonment shall be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment vide section 132(3) of the CGST Act, 2017. Such offence is non-bailable in terms of section 132(5) of the CGST Act, 2017.

If 'M' and 'N' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017. Such imprisonment shall also be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment.

- (ii) (1) As per section 130(2) of the CGST Act, 2017, in case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is the market value of the goods confiscated, less the tax chargeable thereon.

Therefore, the fine leviable = Rs. 20,00,000 - Rs. 3,60,000 = Rs. 16,40,000

The aggregate of fine and penalty shall not be less than the amount of penalty leviable under section 129(1).

- (2) In case of conveyance used for carriage of such goods and liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is equal to tax payable on the goods being transported thereon [Third proviso to section 130(2) of the CGST Act, 2017].

Therefore, the fine leviable = Rs. 3,60,000

- (b) Section 54(8) of the CGST Act, 2017 provides that the refundable amount shall be paid to the applicant, instead of being credited to the Consumer Welfare Fund, if such amount is relatable to—

- (a) refund of tax paid on zero-rated supplies of goods and/or services or on inputs or input services used in making such zero-rated supplies;
- (b) refund of unutilized ITC in case of zero rated supplies made without payment of tax or accumulated ITC on account of inverted duty structure;
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) refund of tax paid on a transaction treating it to be an intra-State supply, but which is subsequently held to be an inter-State supply or vice-versa;
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by notified class of applicants.

[Note: Any of the above five points may be mentioned.]

- (c) The Customs Tariff has a set of six Rules for Interpretation of the Tariff Schedule and three General Explanatory Notes. The six Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The purpose of their inclusion in Customs Tariff is to standardize the manner in which the nomenclature in the schedule is to be interpreted so as to reduce classification disputes.

Rule 4 of the Rules of Interpretation is called as akin rule. This rule lays down that goods which cannot be classified in accordance with rules 1, 2 and 3 of the Rules of Interpretation shall be classified under the heading appropriate to the goods to which they are most akin. In other words, akin rule' is a residual rule which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.

6. (a) (i) The provisions relating to liability for GST in case of company in liquidation provided under section 88 of the CGST Act, 2017 are:-

- Where any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as a liquidator/receiver of assets of a company shall give the intimation of his appointment to the Commissioner within 30 days of his appointment.
- The commissioner shall ascertain the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.
- He shall communicate the details to the liquidator within 3 months of the receipt of intimation of appointment of liquidator.
- When any private company is wound up and any tax, interest or penalty determined under the CGST Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty.
- However, director shall not be liable if he proves to the satisfaction of the Commissioner that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

- (ii) As per section 107(6) of the CGST Act, 2017, no appeal shall be filed before Appellate Authority, unless the appellant pays:-

- (a) in full tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and
- (b) 10% of remaining tax in dispute arising from the impugned order.

Section 112(8) of the CGST Act, 2017 provides that no appeal shall be filed before Tribunal, unless the appellant pays:-

- (a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him, and
- (b) 20% of the remaining tax in dispute [in addition to amount deposited before Appellate Authority] arising from the order appealed against.

On making the pre-deposit as above, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

- (b) Assessment order passed by the proper officer may be withdrawn in following cases:-

- (i) **Assessment of non-filers of returns**-The best judgement order passed by the proper officer under section 62 of the CGST Act shall automatically stand withdrawn where a registered

person files a valid return within 30 days of the service of the best judgment assessment order. However, the liability for payment of interest under section 50(1) of the CGST Act, 2017 or for payment of late fee under section 47 of the CGST Act, 2017 shall continue.

- (ii) **Summary assessment-** As per section 64(2) of the CGST Act, 2017, a taxable person against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/Joint Commissioner within 30 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 the 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.

- (c) As per section 23(1) of the Customs Act, 1962, where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported goods have been lost or destroyed, otherwise than as a result of pilferage at any time before clearance for home consumption, the Assistant or Deputy Commissioner shall remit the duty on such goods. Therefore, duty shall be remitted only if loss has occurred before clearance for home consumption.

In the given case, it is apparent from the facts that quantity of inputs received in India was 10,000 tonnes and 1,000 tonnes thereof was lost when it was in custody of Port Authorities i.e., before clearance for home consumption was made.

Further, the loss of 1,000 tonnes of inputs cannot be construed to be pilferage, as loss of such huge quantity cannot be treated as "Petty Theft".

Hence, the aforesaid provisions of law justify the importer's claim for remission of duty.