

PAPER – 4 : TAXATION
SECTION A : INCOME TAX

Question No.1 is compulsory.

Candidates are also required to attempt any **four** questions from the rest.

Working notes should form part of the respective answers.

All questions pertaining to income-tax relate to assessment year 2018-19, unless stated otherwise in the questions.

Question 1

Mrs. Babu, working as journalist with ABC Limited, provides the following information for the year ended 31-03-2018.

Basic salary	₹ 25,000 p.m.
DA (50% of it is meant for retirement benefits)	50% Basic Pay
Own contribution to Recognized Provident Fund (R.P.F.)	₹ 30,000
Employer's contribution to R.P.F.	20% of basic salary
Interest credited in the R.P.F account@15% p.a.,	₹ 15,000
Arrears of rent received from ABC Limited	₹ 69,000

Received interest ₹ 10,000 from Axis Bank Savings account during the year, and interest of ₹ 12,040 from the debentures of M/s. Coal India Ltd.

She made payment through cheque ₹ 12,500 for Mediclaim Insurance Policy for her major daughter.

She had contributed ₹ 1,196 p.m. towards Atal Pension Yojana and ₹ 5,000 p.m. towards Sukanya Samridhi account.

M/s. ABC Limited has taken residential house of Mrs. Babu as Company's guest house and later purchased from her in the year 2016 at market value for ₹ 75 lakhs. Purchase cost was only ₹ 10 lakhs in April, 2004.

During August, 2017, Mrs. Babu had lost her gold chain and a diamond ring which she had purchased in April, 2004 for ₹ 1,13,000 and market value of these two items were ₹ 2,50,000 and she has received insurance compensation of ₹ 2,75,000 during Feb., 2018.

Compute Total Income for the Assessment Year 2018-19.

(CII for 2004-05:113, 2016-17: 264, and 2017-18: 272)

(10 Marks)

The Suggested Answers for Paper 4A: Income-tax are based on the provisions of income-tax law as amended by the Finance Act, 2017. The relevant assessment year is A.Y.2018-19.

Answer

Computation of Total Income of Mrs. Babu for the A.Y.2018-19

Particulars	₹	₹
Income from Salaries		
Basic Salary (₹ 25,000 x 12)		3,00,000
Dearness Allowance (₹ 3,00,000 x 50%)		1,50,000
Employer's contribution to recognized provident fund:		
Actual contribution [20% of ₹ 3,00,000]	60,000	
Less: Exempt [12% of ₹ 3,75,000 (basic salary + 50% of dearness allowance, which forms part of retirement benefits)]	<u>45,000</u>	15,000
Interest credited in recognized provident fund account@15% p.a.	15,000	
Less: Exempt up to 9.5% p.a.	<u>9,500</u>	5,500
		4,70,500
Income from house property		
Arrears of rent [Taxable under section 25A, even if Mrs. Babu is no longer the owner of house property]	69,000	
Less: 30% of arrears of rent	<u>20,700</u>	48,300
Capital gain on sale of guest house:		
As the sale was made in the year 2016, the capital gain does not relate to assessment year 2018-19.		Nil
Capital Gain on jewellery [Long term, since the capital assets are held for more than 36 months] [See Note 1 below]		
Insurance Compensation received for loss of gold chain and diamond ring, being capital assets deemed to be full value of consideration	2,75,000	
Less: Indexed cost of acquisition [₹ 1,13,000 x 272/113]	<u>2,72,000</u>	3,000
Income from Other Sources		
Interest from savings bank account	10,000	
Interest on debentures [See Note 2 below]	<u>12,040</u>	
		<u>22,040</u>
Gross total Income		5,43,840
Less: Deductions under Chapter VI-A		
Section 80C		
Own contribution to RPF	30,000	
Deposit in Sukanya Samridhi Scheme [₹ 5,000 x 12]	<u>60,000</u>	90,000
Section 80CCD		
Contribution to Atal Pension Yojana, a notified pension scheme	14,352	

Section 80D - Mediciam Insurance for major daughter, assuming that she is dependent on Mrs. Babu [See Note 3 below]	12,500	
Section 80TTA – Interest on savings bank account (allowed in full upto ₹ 10,000)	<u>10,000</u>	<u>1,26,852</u>
Total Income		<u>4,16,988</u>
Total Income (rounded off)		<u>4,16,990</u>

Notes:

- (1) In case of loss of gold chain and diamond ring, capital gains tax liability would be attracted since there has been an extinguishment of rights in the capital asset.

Alternate view: If a view is taken that capital gains tax liability would not be attracted in respect of the insurance compensation received in this case, since it does not fall within the scope of section 45(1A), then, the total income would be ₹ 4,13,990.

- (2) As per the provisions of section 193, tax has to be deducted at 10% on interest on debentures exceeding ₹ 5,000 credited or paid to any person. In the question, since no information is given relating to TDS on interest on debentures, the total income has been computed assuming ₹ 12,040 to be the gross interest. However, it is also possible to assume that tax@10% has been deducted and ₹ 12,040 represents the net interest received. If it is so assumed, the figure of ₹ 12,040 has to be grossed up to arrive at the gross interest of ₹ 13,378. In such a case, the total income would be ₹ 4,18,326. Total income (rounded off) would be ₹ 4,18,330.
- (3) Deduction under section 80D for medical insurance premium paid to insure the health of major daughter has been allowed as deduction, assuming that she is dependent on Mrs. Babu. However, if it is assumed that she is not dependent of Mrs. Babu, no deduction would be available under section 80D. In this case, the total income (rounded off) would be ₹ 4,29,490.

Question 2

- (a) Miss. Kavita, a resident and ordinarily resident in India, has derived the following income for the year ended 31-3-2018:

	Particulars	₹
(i)	Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling.	1,00,000
(ii)	Income from sale of coffee grown and cured in Yercaud, Tamil Nadu	2,00,000
(iii)	Income from sale of coffee grown, cured, roasted and grounded in Colombo. Sale consideration was received in Chennai.	5,00,000
(iv)	Income from sale of tea grown and manufactured in Shimla.	10,00,000

(v)	Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out by her on land.	2,00,000
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You are required to compute the business income and agricultural income of Miss. Kavita for the Assessment Year 2018-19. **(5 Marks)**

- (b) Mrs. Mahalakshmi, an individual aged 68 years, mortgaged her Residential Property, purchased for ₹ 3 lakhs on 01-10-2002, with a bank, under a notified reverse mortgage scheme and was sanctioned a loan of ₹ 20 lakhs. As per the said scheme, she was receiving the loan amount in equal monthly installments of ₹ 30 thousand per month from the bank. Mrs. Mahalakshmi was not able to repay the loan on maturity and in lieu of settlement of the loan, surrenders the residential property to the bank. Bank sold the property for ₹ 25 lakhs on 22-02-2018. She had no other income during the year.

Discuss the tax consequences and compute tax for the Assessment Year 2018-19.

Cost inflation index

2002-03 - 105

2017-18 - 272

(5 Marks)

Answer

- (a) Computation of business income and agricultural income of Ms Kavita for A.Y. 2018-19

Particulars		Income	Business Income ₹	Agricultural Income ₹
(i)	Income from sale of centrifuged latex processed from rubber plants grown in Darjeeling (Apportioned between business and agricultural income in the ratio of 35:65 as per Rule 7A of Income-tax Rules, 1962)	1,00,000	35,000	65,000
(ii)	Income from sale of coffee grown and cured in Yercaud, Tamil Nadu (Apportioned between business and agricultural income in the ratio of 25:75, as per Rule 7B(1) of the Income-tax Rules, 1962)	2,00,000	50,000	1,50,000
(iii)	Income from sale of coffee grown, cured, roasted and grounded in Colombo and received in Chennai [See Note 1 below]	5,00,000	5,00,000	-

(iv)	Income from sale of tea grown and manufactured in Shimla (Apportioned between business and agricultural income in the ratio of 40:60 as per Rule 8 of the Income-tax Rules, 1962)	10,00,000	4,00,000	6,00,000
(v)	Income from sapling and seedling grown in a nursery at Cochin. Basic operations were not carried out on land [See Note 2 below]	<u>2,00,000</u>	<u>-</u>	<u>2,00,000</u>
		<u>20,00,000</u>	<u>9,85,000</u>	<u>10,15,000</u>

Notes:

- (1) Since Ms Kavita is resident and ordinarily resident in India for A.Y. 2018-19, her global income is taxable in India. Entire income from sale of coffee grown, cured, roasted and grounded in Colombo is taxable as business income since such income is earned from sale of coffee grown, cured, roasted and grounded outside India i.e., in Colombo.
 - (2) As per *Explanation 3* to section 2(1A), income derived from sapling or seedlings grown in a nursery would be deemed to be agricultural income, whether or not the basic operations were carried out on land. Hence, income of ₹ 2,00,000 from sapling and seedling grown in a nursery at Cochin is agricultural income.
- (b) Any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be considered as a "transfer" for the purpose of capital gain as per section 47(xvi). Accordingly, the mortgaging of residential house with bank by Mrs. Mahalakshmi will not be regarded as a transfer for levy of capital gains. Therefore, no capital gain will be attracted on such mortgage.

Any amount received by the senior citizen as a loan, either in lump sum or in installments, in a transaction of reverse mortgage is exempt from income-tax under section 10(43). Therefore, the monthly installment of ₹ 30,000 received by Mrs. Mahalakshmi is exempt from income-tax under section 10(43).

However, capital gains tax liability would be attracted in the P.Y. 2017-18 when the bank sells the mortgaged property for the purposes of recovering the loan.

Computation of tax liability of Mrs. Mahalakshmi for A.Y. 2018-19

Particulars	₹
Long-term Capital gains [Since the residential house property was held by Mrs. Mahalakshmi for more than 24 months immediately preceding the date of its transfer]	
Full value of consideration on sale of residential house	25,00,000

Less: Indexed cost of acquisition of residential house [₹ 3,00,000 x 272/105]	<u>7,77,143</u>
Long term capital gain	17,22,857
Other Income	<u>Nil</u>
Total Income	<u>17,22,857</u>
Total Income (rounded off)	17,22,860
Tax on Total Income:	
Tax on long term capital gain @ 20% on ₹ 14,22,860 [₹ 17,22,860 – ₹ 3,00,000, being basic exemption limit, which can be fully adjusted against long-term capital gains in the absence of other income]	2,84,572
Add: Education cess@2%	5,691
Secondary and higher education cess@1%	<u>2,846</u>
Tax liability	<u>2,93,109</u>
Tax liability (Rounded off)	2,93,110

Note - Circular No.1/2009 dated 27.3.2009 explaining the provisions of the Finance Act, 2008 through which these provisions were introduced in the Income-tax Act, 1961 clarifies that a borrower, under a reverse mortgage scheme, will be liable to income-tax (in the nature of tax on capital gains) only at the point of alienation of the mortgaged property by the mortgagee for the purposes of recovering the loan. In this case, accordingly, capital gains arising at the time of alienation of property has been computed in the hands of Mrs. Mahalakshmi, taking into account the said clarification given by the CBDT.

Question 3

- (a) Mrs. Karuna Kapoor is a Hollywood actress. Her passport reveals the following information about her stay in India.

2017-18	From April 3 rd	to	July 11 th
2016-17	From June 22 nd	to	July 11 th
2015-16	From Feb 10 th	to	March 26 th
2014-15	From Sept. 7 th	to	March 26 th
2013-14	From May 17 th	to	September 30 th
2012-13	From April 3 rd	to	July 11 th
2011-12	From April 3 rd	to	July 11 th
2010-11	From April 3 rd	to	July 11 th
2009-10	From April 3 rd	to	July 11 th

Find out her residential status for the assessment year 2018-19.

(5 Marks)

- (b) Mr. Rohan, a resident individual, owns 3 houses in Chennai. One house is self occupied by him, second house is self occupied by his major son and the third house is vacant during the year.

You are required to highlight the steps involved to compute "Income from house property" for Mr. Rohan under deemed to be let out concept. **(5 Marks)**

Answer

- (a) The question states that Mrs. Karuna Kapoor is a Hollywood actress. Assuming that she is neither a citizen of India nor a person of Indian origin, her residential status would be determined in the following manner -.

Previous Year	2017-18	2016-17	2015-16	2014-15	2013-14	2012-13	2011-12	2010-11	2009-10
No. of days of stay in India	100	20	46	201	137	100	100	100	100

An individual is said to be resident if he / she satisfies any one of the following basic conditions:

- (i) Has been in India during the previous year for a total period of 182 days or more
(or)
(ii) Has been in India during the 4 years immediately preceding the previous year for a total period of 365 days or more and has been in India for at least 60 days during the previous year.

Mrs. Karuna Kapoor's stay in India during the P.Y.2017-18 is less than 182 days. However, her stay in India during the P.Y.2017-18 is 100 days, which exceeds 60 days; and her stay in India during the four previous years prior to P.Y.2017-18 is 404 days [20 + 46 + 201 + 137], which exceeds 365 days. Hence, she is a resident for P.Y.2017-18.

Further, her stay in India in the last seven previous years prior to P.Y.2017-18 is 704 days [20 + 46 + 201 + 137 + 100 + 100 + 100], which is less than 730 days. Therefore, she is resident but not ordinarily resident for the P.Y.2017-18.

The fact that she is resident in the A.Y.2015-16 and A.Y.2014-15 as per the information given in the question would not change her residential status, since even if one of the two additional conditions (namely, the number of days being less than 730 days or being non-resident in 9 out of 10 previous years), is satisfied, she becomes a resident but not-ordinarily resident.

Note – If it is assumed that Mrs. Karuna Kapoor is an Indian citizen or a person of Indian origin, her residential status for A.Y.2018-19 would be non-resident, since her stay in India during the P.Y.2017-18 is less than 182 days.

- (b) (1) Since Mr. Rohan has two properties for self-occupation in respect of which he does not derive any benefit, the income from any one such property, at his option, shall be computed under the self-occupied property category and its annual value will be Nil. This option can be changed year after year in a manner beneficial to Mr. Rohan. No deduction towards municipal tax paid is allowable on such self occupied property. However, interest on moneys borrowed is allowable subject to conditions specified in section 24. (i.e. one-fifth of pre-construction interest, if any, and interest accrued during the year together subject to monetary limit of ₹ 2,00,000 or ₹ 30,000, as the case may be).
- (2) The other self-occupied property would be treated as “deemed let out property”.
- (3) The annual value of vacant property would also be treated as ‘Nil’ if the property was not occupied by the owner by reason of his employment, business or profession at a different place and he resides at such other place in a building not belonging to him. As Mr. Rohan does not satisfy the condition mentioned above, the vacant property would be treated as deemed let out property.
- (4) In case of deemed let-out property:
The expected rent (higher of municipal value and fair rent, but restricted to standard rent) shall be taken as the Gross Annual Value.
Municipal taxes paid by Mr. Rohan during the year would be allowed as deduction from gross annual value to arrive at the net annual value.
In computing the income from such deemed let out house properties, deduction@30% of net annual value and actual interest payable (plus one-fifth of pre-construction period interest, if any) would be allowable as deduction from net annual value.
The question of considering actual rent received/receivable does not arise in case of deemed let out property. Consequently, no adjustment is necessary on account of property remaining vacant for part of the year or unrealized rent.

Question 4

Mr. Querashi is a business man. During the year ended 31-03-2018, he was engaged in the business of Hypermarket and Super Market. He maintains proper books of accounts for both businesses in mercantile system. Sales from Hypermarket achieved a turnover of ₹ 75 Lakhs and all receipts were in cash. However, Supermarket business is through online and entire receipts of ₹ 50 lakhs during the year were received online in his bank account. The expenses were incurred in the ratio 65:35.

Following additional information is furnished:

	₹
To Salary	10,00,000

To Repairs on building	1,81,000
To Interest	1,10,000
To Travelling	1,30,550
To Depreciation	8,12,000
Net profit	3,93,950

- (a) In addition to the above, repairs of ₹ 1,00,000 was incurred for building a new room which was debited to P & L A/c.
- (b) Depreciation as per Income-tax Act, 1961 is ₹ 7,17,000.
- (c) ₹ 75,000 was paid in cash on 30-09-17 to Mrs. Ann, accountant for preparation of the accounts for the year ended 31-03-2017 and adjusted under the head "expenses payable" account.
- (d) He was forced to shutdown his furniture business in the year 2015 as his accountant absconded with cash of ₹ 5 Lakhs and fully allowed in that year. Unabsorbed business loss of furniture business is ₹ 3 lakhs. ₹ 4 lakhs was received as insurance compensation on 31-03-2018 for the cash theft.
- (e) Mr. Querashi wants to declare income under "Presumptive income" basis.

Compute the income chargeable under the head "Profits and gains of business or profession" of Mr. Querashi under presumptive Income scheme under section 44AD and his Total Income for the year ended 31-03-2018. **(10 Marks)**

Answer

Computation of profits and gains of business or profession of Mr. Querashi under Presumptive Income scheme as per section 44AD

For the P.Y.2017-18, the turnover of Mr. Querashi from Hypermarket business is ₹ 75 lakhs and Supermarket business is ₹ 50 lakhs. Since his turnover in respect of such business is less than ₹ 200 lakhs, he is eligible to opt for presumptive tax scheme under section 44AD in respect of these businesses.

The presumptive income under section 44AD would be as under:

- | | |
|--|------------|
| (i) Hypermarket business (100% cash sales) = 8% x ₹ 75 lakhs | ₹ 6,00,000 |
| (ii) Supermarket business (online sales) = 6% x ₹ 50 lakhs | ₹ 3,00,000 |

No deduction in respect of any expenditure is allowed while computing presumptive business income as per the provisions of section 44AD.

In the question it is stated that Mr. Querashi "maintains proper books of accounts for both businesses in mercantile system". The income as per regular books of account has to be computed and if such income is more than the presumptive income computed under section 44AD, the higher income can be declared under section 44AD.

Hence, income of Mr. Querashi for the assessment year 2018-19 as per books of account is computed below:

Computation of Profits and gains of business as per books of account

Particulars	₹
Net Profit (as given in question)	3,93,950
Add: Depreciation debited in the books	8,12,000
Cash payment in excess of ₹ 10,000 made in the current year in respect of expenditure allowed on mercantile basis in the previous year, would be deemed as income in the current year	75,000
Building construction expenditure debited to P & L A/c	<u>1,00,000</u>
	13,80,950
Less: Depreciation as per Income-tax Act, 1961	7,17,000
Depreciation on building extension of a room @ 10% [See Working Note 1]	<u>10,000</u>
	<u>7,27,000</u>
Profits and gains of business computed as per books of account	<u>6,53,950</u>
Note: The assessee's total income from hypermarket and supermarket business computed as per books of account is less than the income computed under section 44AD. The question states that the assessee wants to declare income under presumptive provision i.e. section 44AD. Hence, the total income computation would include only the presumptive income computed under section 44AD for both hypermarket and supermarket businesses.	

Computation of Total Income

Particulars	₹
Profits and gains from business: [As per Section 44AD]	
Hypermarket business ₹ 75 lakhs@ 8%	6,00,000
Supermarket business ₹ 50 lakhs@ 6%	3,00,000
Furniture business [Discontinued]	
Amount of insurance compensation deemed as income	4,00,000
Less: Unabsorbed business loss of discontinued business	<u>3,00,000</u>
	<u>1,00,000</u>
Total Income	<u>10,00,000</u>

Note: It is assumed that since capital repairs of ₹ 1 lakh on building has been debited to profit and loss account, depreciation in respect of the same is not included in the figure of ₹ 7,17,000

computed as per the Income-tax Act, 1961. Alternatively, if it is assumed that the same is included in the said figure, ₹ 95,000, being the difference between ₹ 8,12,000 and ₹ 7,17,000 has to be added back. In such a case, the adjusted net profit would be ₹ 6,63,950.

Question 5

- (a) Mr. Jaji is a chartered accountant and his income from profession for the year 2017-18 is ₹ 10,00,000. He provides you with the following information for the year 2017-18.

Particulars	₹
Income of minor son Biju from company deposit	1,50,000
Income of minor daughter Chitra (professional dancer)	20,00,000
Interest from SBI received by Chitra on deposit made in 2015 out of her special talent	20,000
Gift received by Chitra on 30-09-2017 from friends of Mr. Jaji on winning National award	45,000
Short term capital loss of Mr. Jaji	6,00,000
Long term capital gain of Mr. Jaji	4,00,000
Long term capital gains from shares (STT paid) of Mr. Jaji	10,00,000
Short term capital loss under section 111A of Mr. Jaji	10,00,000

Compute the Total Income of Mr. Jaji for Asst. Year 2018-19 and the losses to be carried forward assuming that he files his income tax returns every year before due date. **(5 Marks)**

- (b) (i) XYZ Ltd. a domestic company, declared dividend of ₹ 150 lakh for the Financial Year 2016-17 and distributed the same on 31-07-2017. Mr. A, holding 10% share in XYZ Ltd. received dividend of ₹ 15 lakh in July, 2017. Mr. B holding 5% share in XYZ Ltd. received dividend of ₹ 7.5 lakh in July, 2017.

Discuss the tax liabilities in the hands of Mr. A and Mr. B assuming that Mr. A and Mr. B have not received dividend from any other domestic company during the year.

(3 Marks)

- (ii) Explain the amount of fees to be paid for default in furnishing return of income under section 234F of the Income-tax Act, 1961. **(2 Marks)**

Answer

- (a) **Computation of Total Income of Mr. Jaji for A.Y. 2018-19**

Particulars	₹	₹	₹
<u>Profits and gains from business and profession</u>			
Income from chartered accountancy profession			10,00,000

<u>Capital gains</u>			
Long term capital gains of ₹ 10,00,000 from shares is exempt under section 10(38), since STT has been paid		Nil	
Long term capital gain (other than above)		4,00,000	
Less: Short term capital loss set off against long-term capital gain as per section 74		<u>(4,00,000)</u>	Nil
<u>Income from other sources</u>			
Income of minor son Biju			
Income from company deposit includible in the hands of Mr. Jaji as per section 64(1A)	1,50,000		
Less: Exemption in respect of income of minor child u/s 10(32)	<u>1,500</u>	1,48,500	
Income of minor daughter Chitra			
- Income of ₹ 20,00,000 of minor daughter Chitra (professional dancer) not includible in the hands of parent, since such income is earned on account of her special skills	Nil		
- Interest received on deposit with SBI made out of amount earned on account of her special talent is includible as per section 64(1A), since interest income arises out of deposit made and not on account of her special skills	20,000		
Less: Exemption in respect of income of minor child u/s 10(32)	<u>1,500</u>	18,500	
Other incomes:			
- Gift of ₹ 45,000 received by her from friends of Mr. Jaji is not taxable under section 56(2)(x), since the aggregate amount from non-relatives does not exceed ₹ 50,000			
		<u>Nil</u>	1,67,000
Total Income			11,67,000

Losses to be carried forward to A.Y.2019-20

Particulars	₹
Short term capital loss under section 111A	10,00,000
Short term capital loss (other than above) [₹ 6,00,000 – ₹ 4,00,000]	2,00,000

Note – Short-term capital loss under section 111A can be set-off against long-term capital gains of ₹ 4 lakh. In such a case, the losses to be carried forward to A.Y.2019-20 would be as under –

Particulars	₹
Short term capital loss under section 111A [₹ 10,00,000 – ₹ 4,00,000]	6,00,000
Short term capital loss (other than above)	6,00,000

- (b) (i) Dividend of ₹ 150 lakh declared and distributed in the P.Y.2017-18 by XYZ Ltd., a domestic company, is subject to dividend distribution tax under section 115-O in the hands of XYZ Ltd.

In the hands of Mr. A, dividend received up to ₹ 10 lakh would be exempt under section 10(34). ₹ 5 lakh, being dividend received in excess of ₹ 10 lakh, would be taxable@10% under section 115BBDA.

Therefore, tax payable by Mr. A on dividend of ₹ 5 lakh would be ₹ 51,500 [i.e., 10% of ₹ 5 lakh + cess@3%].

In the hands of Mr. B, the entire dividend of ₹ 7.50 lakh received would be exempt under section 10(34), since only dividend received in excess of ₹ 10 lakh is taxable under section 115BBDA.

- (ii) Where a person, who is required to furnish a return of income, fails to file the return on or before the “due date” specified in section 139(1), he shall pay, by way of fee, a sum of ₹ 5,000 under section 234F.

If the return is not furnished on or before the 31st day of December of the assessment year, he shall pay by way of fee ₹ 10,000.

However, if the total income of the person does not exceed ₹ 5 lakhs, the fees payable under section 234F shall not exceed ₹ 1,000.

Question 6

Answer any **two** sub divisions:

- (a) Discuss the applicability of provisions of Tax Deduction at Source, the rate and amount of tax deduction to be made in the following cases for the financial year 2017-18.

- (A) Mr. Bobby, a resident whose turnover during the previous financial year is ₹ 205 Lakhs and for the current year 2017-18 it is ₹ 80 Lakhs.

- Shop rent paid to Mr. Rajasekharan, a resident, ₹ 20,000 per month.
- On 1-11-2017 paid towards fee for technical services ₹ 25,000 and royalty of ₹ 20,000 to Mr. Swamy, a resident who is having PAN. No other payment made to Mr. Swamy.
- On 01-10-2017, payment of ₹ 2,00,000 made to Mr. A for purchase of diaries according to specifications. However, no material was supplied for such diaries.

- (iv) Contract payments made to Mr. Satheesan on 01-05-2017 for painting ₹ 25,000 and another contract for interior furnishing on 22-03-2018 for ₹ 20,000.
- (B) Mr. Thrilok, an individual not assessed to tax, pays towards rent ₹ 60,000 per month. **(5 Marks)**
- (b) Write any four cases where seller of certain goods is required to collect tax from buyers and also state the circumstances where TCS is not applicable. **(5 Marks)**
- (c) Pertaining to the following transactions, what is the minimum amount above which quoting of Permanent Account Number is mandatory?
- Sale or purchase of car.
 - Payment to a hotel or restaurant against a bill or bills at any one time.
 - Payment in connection with travel to any foreign country.
 - Payment to the Reserve Bank of India for acquiring bonds issued by it.
 - A Time Deposit with a Post Office.
 - Payment as Life Insurance Premium to an insurer.
 - Sale or purchase of shares of a company not listed in a recognized stock exchange.
 - Sale or purchase of any immovable property. **(5 Marks)**

Answer

- (a) (A) As the turnover of Mr. Bobby for F.Y.2016-17, i.e. ₹ 205 lakh and has exceeded the monetary limit of ₹ 100 lakhs prescribed under section 44AB, he is subject to tax audit for the financial year 2017-18. Hence, he has to comply with the tax deduction provisions during the financial year 2017-18, subject to exemptions provided for under the relevant sections for applicability of TDS provisions.
- (i) **Shop rent paid to Mr. Rajasekharan** – Assuming that Mr. Rajasekharan has furnished his PAN, tax has to be deducted @10% under section 194-I as the rental payment of ₹ 2,40,000 exceeds ₹ 1,80,000 during the previous year.
The amount of tax to be deducted at source is ₹ 24,000 (₹ 2,40,000 x 10%).
- (ii) **Payment towards fee for technical services and royalty to Mr. Swamy:** In case of payment towards fees for technical services and royalty, tax has to be deducted at source under section 194J only in case the payment made as fees for technical services and royalty, individually, exceeds ₹ 30,000 during the financial year.
In the given case, since, the individual payments for fee of technical services i.e. ₹ 25,000 and royalty ₹ 20,000 is less than ₹ 30,000 each, there is no liability to deduct tax at source under section 194J.
- (iii) **Payment for purchase of dairies according to specifications:** The definition of “work” does not include the manufacturing or supply of product according to

the specification by customer, in case the material is purchased from a person other than the customer.

Therefore, there is no liability to deduct tax at source under section 194C in respect of payment of ₹ 2,00,000 to Mr. A, since the contract is a contract for 'sale'.

- (iv) **Contract payments to Mr. Satheesan for 2 contracts:** Tax is not required to be deducted under section 194C, if the amount paid to a contractor does not exceed ₹ 30,000 in a single payment or ₹ 1,00,000 in the aggregate during the financial year.

Thus, in the present case, no tax is required to be deducted under section 194C, as the individual payments do not exceed ₹ 30,000 and the aggregate payment in the F.Y.2017-18 does not exceed ₹ 1,00,000.

- (B) Since Mr. Thrilok, an individual, pays rent exceeding ₹ 50,000 per month in the F.Y.2017-18, he is liable to deduct tax at source @5% of such rent for F.Y.2017-18. Thus, tax of ₹ 36,000 [₹ 60,000 x 5% x 12] has to be deducted under section 194-IB from rent payable for March, 2018.
- (b) Sellers of certain goods mentioned below are required to collect tax under section 206C from the buyers at the specified rates:
- (i) Alcoholic liquor for human consumption
 - (ii) Tendu leaves
 - (iii) Timber obtained under a forest lease
 - (iv) Timber obtained by any mode other than forest lease
 - (v) Any other forest produce not being timber or tendu leaves
 - (vi) Scrap
 - (vii) Minerals, being coal or lignite or iron ore

Note: Any four of the above seven cases may be mentioned in the answer.

Circumstances where tax collection at source is not applicable:

- (i) In the case of a resident buyer, if such buyer furnishes a declaration in writing in duplicate to the effect that goods mentioned above are to be utilized for the purpose of manufacturing, processing or producing articles or things or for the purposes of generation of power and not for trading purposes.
- (ii) In case where seller is an individual or HUF whose total sales, gross receipts or turnover from the business or profession carried on by him does not exceed the monetary limits specified in section 44AB during the financial year immediately preceding the financial year in which the goods are sold.
- (iii) In case of goods mentioned above, where the buyer is a public sector company, the Central Government, a State Government, embassy, High Commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

where a buyer, in the retail sale of such goods purchased by him, uses the same for personal consumption.

(c) Monetary limit for mandatory quoting of PAN

	Transaction	Minimum amount above which quoting of PAN is mandatory as per Rule 114B of the Income-tax Rules, 1962
(i)	Sale or purchase of car.	All such transactions (There is no minimum amount)
(ii)	Payment to a hotel or restaurant against a bill or bills at any one time.	Payment in cash of an amount exceeding ₹ 50,000
(iii)	Payment in connection with travel to any foreign country.	Payment in cash of an amount exceeding ₹ 50,000
(iv)	Payment to the Reserve Bank of India for acquiring bonds issued by it.	Amount exceeding ₹ 50,000.
(v)	A Time Deposit with a Post Office.	Amount exceeding ₹ 50,000 or aggregating to more than ₹ 5 lakhs during a financial year
(vi)	Payment as life insurance premium to an insurer.	Amount aggregating to more than ₹ 50,000 in a financial year
(vii)	Sale or purchase, of shares of a company not listed in a recognised stock exchange.	Amount exceeding ₹ 1 lakh per transaction
(viii)	Sale or purchase of any immovable property.	Amount exceeding ₹ 10 lakh or valued by stamp valuation authority referred to in section 50C at an amount exceeding ₹ 10 lakh

SECTION B: INDIRECT TAXES

Question No. 7 is compulsory.

Attempt any **four** questions from the rest.

“Working notes should form part of the respective answers.”

“Wherever necessary, suitable assumptions may be made by the candidates, and disclosed by way of note.”

“All questions should be answered on the basis of the position of GST law as amended by the significant notifications/circulars issued till 31st October, 2017.”

Question 7

- (a) Mr. Nimit, 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 supplies 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

Note:

- Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies.
- Both inward and outward supplies given above are exclusive of taxes, wherever applicable.
- All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr. Nimit for the month of August, 2017. **(6 Marks)**

- (b) *Shri Krishna Pvt. Ltd., a registered dealer, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd. in the course of Intra State.*

	Particulars	Amount (₹)
(i)	Price of the goods	1,00,000
(ii)	Municipal Tax	2,000
(iii)	Inspection charges	15,000
(iv)	Subsidies received from Shri Ram Trust (As the products is going to be used by blind association)	50,000
(v)	Late fees for delayed payment. (Though Shri Balram Pvt. Ltd. made late payment but these charges are waived by Shri Krishna Pvt. Ltd.)	1,000
(vi)	Shri Balram Pvt. Ltd. paid to Radhe Pvt. Ltd. (on behalf of Shri Krishna Pvt. Ltd.) weightment charges.	2,000

According to GST Law, determine the value of taxable supply made by Shri Krishna Pvt. Ltd.. Items given in Point (ii) to (vi) are not considered while arriving at the price of the goods given in point no. (i). **(4 Marks)**

Answer

- (a) **Computation of net GST payable by Mr. Nimit for the month of August, 2017**

S.No.	Particulars	(₹)	GST (₹)
(i)	Intra-State supply of goods		
	CGST @ 9% on ₹ 6,00,000	54,000	
	SGST @ 9% on ₹ 6,00,000	54,000	1,08,000
(ii)	Inter-State supply of goods		
	IGST @ 18% on ₹ 2,00,000		36,000

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	15,000	35,000	20,000
Add: ITC on Intra-State purchases of goods valuing ₹ 4,00,000	36,000	36,000	
Add: ITC on Inter-State purchases of goods valuing ₹ 50,000			9,000
Total ITC	51,000	71,000	29,000

Computation of GST payable from cash ledger

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
GST payable	54,000	54,000	36,000
Less: ITC	(51,000)- CGST	(54,000)-SGST	(29,000)-IGST
			(7,000)-SGST
Net GST payable	3,000	Nil	Nil

Note: ITC of SGST has been used to pay SGST and IGST in that order.

(b) Computation of value of taxable supply made by Shri Krishna Pvt. Ltd.

Particulars	₹
Price of the goods	1,00,000
Municipal tax [Includible in the value as per section 15 of the CGST Act, 2017]	2,000
Inspection charges [Being incidental expenses, the same are includible in the value as per section 15 of the CGST Act, 2017]	15,000
Subsidy received from Shri Ram Trust [Since subsidy is received from a non-Government body, the same is includible in the value in terms of section 15 of the CGST Act, 2017 ²]	50,000
Late fees for delayed payment [Not includible since waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. by Shri Balram Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15 of the CGST Act, 2017]	<u>2,000</u>
Value of taxable supply	1,69,000

Question 8

- (a) *M/s. Pradyumn Corporation Pvt. Ltd., a registered dealer of Mumbai furnishes you following information for the month of October, 2017.*

² It has been assumed that the subsidy is directly linked to the price.

	Particulars	Amount (₹)
(i)	Intra state sale of taxable goods (out of above ₹ 50,000 was received as advance in September, 2017)	2,00,000
(ii)	Goods purchased from unregistered dealer (purchase on 20 th October, 2017) (10,000 in case of Inter-State & Balance Intra-State)	50,000
(iii)	Received for services by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex (It is Intra-State transaction)	50,000
(iv)	Professional fees paid to Ms. Udadhi located in a non-taxable territory (It amounts to Inter- State transaction)	50,000

Compute GST liability (CGST, SGST or IGST, as the case may be) of M/s Pradyumn Corporation Pvt. Ltd. for the month of October, 2017.

Assume the rates of GST as under:

CGST	9%
SGST	9%
IGST	18%

Note: Turnover of M/s. Pradyumn Corporation Pvt. Ltd. was ₹ 2 crore in the previous financial year. **(5 Marks)**

- (b) List the activities to be treated as supply under CGST Act, 2017 even if made without consideration. **(5 Marks)**

Answer

- (a) **Computation of GST liability of M/s. Pradyumn Corporation Pvt. Ltd. for the month of October, 2017**

Particulars	Value of Supply	CGST (₹)	SGST (₹)	IGST (₹)
Intra State sale of taxable goods [Note-1]	1,50,000	13,500	13,500	
Goods purchased from unregistered dealer on 20 th October, 2017 [Note-2]	Nil	Nil	Nil	
Receipt for services rendered by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Note-3]	50,000	4,500	4,500	

Professional fees paid to Ms. Udadhi located in a non-taxable territory [Note-4]	50,000			9,000
Total GST liability for the month of October, 2017 ³		18,000	18,000	9,000

Notes:

1. Since the turnover of M/s. Pradyumn Corporation Pvt. Ltd. is more than ₹ 1.5 crore in the preceding financial year, it will be liable to pay GST on the receipt of advance. Thus, since GST liability would have arisen on advance of ₹ 50,000 received in September, 2017 in that month itself, the same has not been included in the GST liability of the company for the month of October, 2017 (2,00,000-50,000).
2. All intra-State and inter-State procurements made by a registered person from unregistered person have been exempted from reverse charge liability, without any upper limit for daily procurements.
3. Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt. Labour contracts **for repairing** are thus, taxable.
4. In case of service supplied by a person located in a non-taxable territory to a person other than non-taxable online recipient, GST is payable under reverse charge by such recipient.

(b) Activities to be treated as supply even if made without consideration in terms of section 7 of CGST Act, 2017 read with Schedule I:-

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business.

However, gifts not exceeding ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods —
 - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

³ It has been assumed that intra-State sale of taxable goods and receipts towards labour contracts for repairing services are exclusive of taxes.

- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Question 9

- (a) On 4th September, 2017, V.R. Mehman a famous music composer, received ₹ 3 crore of consideration from Zilmil Music Co. Ltd. for sale 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 the time of supply as per CGST Act, 2017?

Note: Above service is taxable under reverse charge basis.

(3 Marks)

- (b) State, with reason, person liable to pay GST in each of following independent cases. Assume recipient is located in taxable territory.
- (i) Rental income received by Tamil Nadu State Government from renting an immovable property to Mannappa Pvt. Ltd. (Turnover of the company was ₹ 22 lakhs in the preceding F. Y.)
- (ii) Legal Fees received by Mr. Sushrut, a senior advocate, from M/s. Tatva Trading Company having turnover of ₹ 50 lakhs in preceding F. Y. **(3 Marks)**
- (c) Bharat Associates Pvt. Ltd. purchased machinery worth ₹ 9,00,000 (excluding GST) on 20-07-2017 on which it paid GST @ 18% and availed the ITC. On 05-03-2018, it sold the machinery for ₹ 7,00,000 (excluding GST) to Hindustan Associates Pvt. Ltd. The GST rate on sale is 18%. What will be the course of action for Bharat Associates Pvt. Ltd. to follow under CGST Act, 2017 ? **(4 Marks)**

Answer

- (a) As per section 13 of CGST Act, 2017, the time of supply of service on which GST is payable on reverse charge basis is earlier of the following:

- Date of payment (04.09.2017), or
- Date immediately following 60 days since issue of invoice by the supplier (23.09.2017)

Thus, time of supply of services is 04.09.2017

- (b) (i) GST is payable on reverse charge basis on services supplied by the State Government to a business entity located in taxable territory. However, reverse charge is not applicable on supply of renting of immovable property service by the State Government.

Therefore, in the given case, person liable to pay GST is the supplier of services, i.e., Tamil Nadu State Government.

- (ii) GST on legal services supplied by a senior advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Tatva Trading Company.

- (c) If capital goods or plant and machinery on which input tax credit (ITC) has been taken are supplied outward by a registered person, he must pay an amount that is higher of the following:
- ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods or
 - tax on transaction value.

Accordingly, the amount payable on supply of machinery by Bharat Associates Pvt. Ltd. shall be computed as follows:

Particulars	₹
ITC taken on the machinery ($\text{₹ } 9,00,000 \times 18\%$)	1,62,000
Less: ITC pertaining to the period of usage of the capital goods = ($\text{₹ } 1,62,000 \times 5\%$) $\times$ 3 quarters	<u>24,300</u>
Amount of reduced ITC based on percentage points (A) **	1,37,700
Duty leviable on transaction value ($\text{₹ } 7,00,000 \times 18\%$) (B)	1,26,000
Amount payable towards disposal of machinery is higher of (A) and (B)	1,37,700

****Note:** In the above solution, amount of ITC to be paid (amount of reduced ITC based on percentage points) has been computed on the basis of provisions of rule 40(2) of the CGST Rules, 2017 [ITC reduced by 5% for every quarter or part thereof from the date of the issue of invoice]. However, the said amount can also be computed on the basis of provisions of rule 44(6) of the CGST Rules, 2017 [ITC of remaining useful life in months computed on pro rata basis, taking the useful life as 5 years].

Question 10

- Under what circumstances does the need of issuance of debit note and credit note arise under section 34 of CGST Act, 2017 ? **(5 Marks)**
- Answer the following with reference to GST Laws :
 - What is CIN?
 - When is interest payable?
 - How does the new payment system benefit the taxpayer & the Commercial Tax Department? **(5 Marks)**

Answer

(a) Debit note is required to be issued

- (i) if taxable value charged in the tax invoice is found to be less than the taxable value in respect of supply of goods and/or services or
- (ii) if tax charged in the tax invoice is found to be less than the tax payable in respect of supply of goods and/or services

Credit note is required to be issued:-

- (i) If taxable value charged in the tax invoice is found to exceed the taxable value in respect of supply of goods and/or services, or
- (ii) If tax charged in the tax invoice is found to exceed the tax payable in respect of supply of goods and/or services, or
- (iii) if goods supplied are returned by the recipient, or
- (iv) if goods and/or services supplied are found to be deficient.

(b) (i) CIN is Challan Identification Number. It is generated by the banks indicating that the payment has been realized and credited to the appropriate government account against a generated challan.

(ii) Interest is payable in the following cases in terms of section 50 of CGST Act, 2017:-

- Delay / failure to pay tax, in full or in part within the prescribed period
- undue or excess claim of input tax credit
- undue or excess reduction in output tax liability.

(iii) The new payment system benefits the taxpayer and the commercial tax department in the following ways:-

Benefits to Taxpayer: -

- No more queues and waiting for making payments as payments can be made online 24 X 7.
- Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan. Paperless transactions.
- Instant online receipts for payments made online.
- Tax consultants can make payments on behalf of the clients.
- Single challan form to be created online, replacing the three or four copy Challan.
- Greater transparency.

- Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

Benefits to the Commercial Tax Department:-

- Revenue will come earlier into the Government Treasury as compared to the old system.
- Logical tax collection data in electronic format.
- Speedy accounting and reporting.
- Electronic reconciliation of all receipts.
- Warehousing of digital challan.

Note – Any two points may be mentioned for Tax payer and Commercial Tax Department.

Question 11

- (a) *Determine the effective date of registration under CGST Act, 2017 in respect of the following cases with explanation:*

(i) *The aggregate turnover of Varun Industries of Mumbai has exceeded ₹ 20 lakhs on 1st August, 2017. It submits the application for registration on 20th August, 2017. Registration certificate granted on 25th August, 2017.*

(ii) *Sweta InfoTech Services are the provider of internet services in Pune. The aggregate turnover of them exceeds ₹ 20 lakhs on 25th September, 2017. It submits the application for registration on 27th October, 2017. Registration certificate is granted on 5th November, 2017.* **(4 Marks)**

- (b) *Chidanand Products Pvt. Ltd. started its business of supply of goods on 1st August, 2017. It's turnover exceeds ₹ 20,00,000 on 5th September, 2017. It applied for registration on 28th September, 2017 & granted registration certificate on 6th October, 2017. Guide the company regarding invoices to be issued between 5th September, 2017 to 6th October, 2017 to registered dealers. Further it had also made supplies to unregistered dealers in that period. How it can raise invoices?* **(4 Marks)**

- (c) *State with reason whether following statement is true or false:*

"When the change in constitution of business results in change in PAN, the business entity can apply for amendment of registration in prescribed manner within 15 days."

(2 Marks)

Answer

- (a) A supplier whose aggregate turnover in a financial year exceeds ₹ 20 lakh in a State/UT [₹ 10 lakh in Special Category States except Jammu and Kashmir] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of ₹ 20 lakh/₹ 10 lakh) vide section 22 of CGST Act, 2017.

Where the application is submitted within said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

In the given cases, the applicable turnover limit for registration will be ₹ 20 lakh as Maharashtra (Mumbai and Pune) is not a Special Category State.

- (i) Since Varun Industries applied for registration within 30 days of becoming liable to registration, the effective date of registration is 1st August, 2017.
 - (ii) Since Sweta InfoTech Services applied for registration after the expiry of 30 days from the date of becoming liable to registration, the effective date of registration is 5th November, 2017.
- (b) A supplier whose aggregate turnover in a financial year exceeds ₹ 20 lakh in a State/UT is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e, the date of crossing the threshold limit of ₹ 20 lakh) vide section 22 of CGST Act, 2017.

Where the application is submitted within the said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices in respect of taxable supplies effected during this period within 1 month from the date of issuance of registration certificate.

In view of the aforesaid provisions, Chidanand Products Pvt. Ltd may issue revised tax invoices against the invoices already issued during the period between effective date of registration (5th September, 2017) and the date of issuance of registration certificate (6th October, 2017), within 1 month from 6th October, 2017.

Further, Chidanand Products Pvt. Ltd 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 a supply exceeds ₹ 2,50,000.

- (c) The said statement is FALSE.

When a change in constitution of a business results in change of PAN of the 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.

Question 12

Attempt any **two** parts out of (a), (b) and (c).

- (a) *M/s. Ginny and John Company is a partnership firm of interior decorators and also running a readymade garment showroom. Turnover of the showroom was ₹ 80 lakh and receipts of the interior decorators service was ₹ 22 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 the turnover of the showroom was ₹ 70 lakh and receipts of the interior decorators service was ₹ 22 Lakh in the preceding financial year ?

Also discuss whether it is possible for M/s. Ginny and John Company to opt for composition scheme only for showroom ? **(5 Marks)**

- (b) *Mrs. Pragati received legal advice for her personal problems & paid 1,000 pound as a legal fees to Miss Unnati of U.K. (London).*

Explain whether the above activity of import of service would amount to supply u/s 7 of the CGST Act, 2017 ?

If in above case both of them are real sisters & no consideration is paid then will it change your answer?

Further in the above case if both of them are real sisters & Mrs. Pragati receives legal advice for her business & she doesn't pay any consideration then what will be your answer? **(5 Marks)**

- (c) *Explain the provision relating to filing of Annual Return under section 44 of CGST Act, 2017 and Rules there under.* **(5 Marks)**

Answer

- (a) A registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore [₹ 75 lakh in case of special category States except Jammu and Kashmir and Uttarakhand], may opt for composition scheme vide section 10 of CGST Act, 2017.

However, he shall not be eligible to opt for composition scheme if, *inter alia*, he is engaged in the supply of services other than restaurant services.

In the given case, since M/s Ginny and John Company is engaged in supply of interior decorator's service, it is not eligible to opt for composition scheme irrespective of its turnover in the preceding financial year.

Therefore, the answer will remain the same i.e., the company will not be eligible to opt for composition scheme even with the change in the turnovers as given in the second case.

Further, where more than one registered persons are having the same Permanent Account Number, the registered person shall not be eligible to opt for composition scheme unless all such registered persons opt to pay tax under composition scheme.

Therefore, the answer will not change in the third case also as all the registrations under the same PAN are required to opt for composition scheme and since the supply of interior decorator service is ineligible for composition scheme, supply of readymade garments too becomes ineligible for composition scheme.

(b) Supply, under section 7 of the CGST Act, 2017, *inter alia*,

- includes import of services for a consideration
- even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Mrs. Pragati is not in course or furtherance of business, it would amount to supply.

Further, 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.

In the given case, import of service without consideration by Mrs. Pragati from her real sister - Miss Unnati [real sister⁴, being member of the same family, is a related person] will not be treated as supply as it is not in course or furtherance of business.

However, import of service without consideration by Mrs. Pragati from her sister - Miss Unnati (related person) will be treated as supply if she receives legal advice for her business, i.e. in course or furtherance of business.

(c) Every registered person, other than

- an Input Service Distributor,
- a person deducting/collecting tax at source,
- a casual taxable person and
- a non-resident taxable person,

shall furnish an annual return for every financial year electronically in prescribed form on or before 31st December following the end of such financial year.

Every registered person who is required to get his accounts audited under section 35(5) of the CGST Act, 2017 shall furnish the annual return electronically along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and other prescribed particulars.

⁴ It has been most logically assumed that Miss Unnati is wholly/mainly dependent on Mrs. Pragati