First fully amended book

of Goods & Services Tax

AMENDED ON THE BASIS OF ICAI STATUTORY AMENDMENTS FOR NOVEMBER 2019 EXAM

Complete Syllabus in 378 pages

238 EXAMPLES

&

404 QUESTIONS & ANSWERS

CA Amit Jain's

CA FINAL IDT PART I GOODS & SERVICES TAX

UPDATED FOR NOVEMBER 2019

CA Amit Jain is renowned faculty of Narayan Commerce Academy.
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GST Bare Act Pages 120

V/s

Direct Tax Bare Act Pages 1065

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All the sections & rules mentioned in this study notes, are CGST Act 2017 & CGST Rules 2017 until specified as IGST Act or IGST Rules.

For sub-section '( )' is being used. In some of the sections, sub-sections had not been mentioned since it will be difficult for students to memorize all the sub-sections.

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Study Notes

Chapter 1: - GST in India – An Introduction

Overall Structure of GST
Deficiency in the earlier Indirect Tax Regime
Benefits of GST
Framework of GST in India
Constitutional Provision
Selected Definitions Under Section 2 of CGST Act, 2017
Selected Definitions Under Section 2 of IGST Act, 2017

The implementation of Goods & Services Tax (GST) in India was historical move, as it marked a significant indirect tax reform in the country.

World has moved towards Goods & Services Tax long ago. After 16 years of its opposition, India has moved into GST on 1st July 2017 (in J & K, it was made applicable from 8th July 2017).

Earlier in India, with its federal structure, there were parallel systems of indirect taxation at the central and state levels. The assignment in the Constitution, of power to tax, provided the framework for evolution of the taxation system in India.

GST is a consumption-based tax. Origin based tax is one which is levied where goods/services are produced. Conversely, a consumption-based tax is one which is levied where goods/services are consumed. Tax will accrue to State where goods/services are ultimately consumed.

GST is based on value added tax concepts of allowing input tax credit of tax paid on inputs, inputs services and capital goods, for payment of output tax. This will avoid <u>cascading effect of taxes</u>.

Overall structure of GST

- Broadly there is 2 forms of GST in India: -
  - For supplies within the State or Union Territory –
    a) Central Tax (Central GST i.e. CGST) is payable to Central Government and
    b) State Tax (State GST i.e. SGST) or Union Territory Tax (Union Territory GST i.e. UTGST) is payable to State Government or Union Territory. Area upto 12 nautical miles inside sea is part of State or Union Territory which is nearest. Delhi & Puducherry have their own legislatures and they have passed their own SGST Act.

    CGST Act, 2017 is the main Act which covers all important provisions relating to GST, like tax liability, input tax credit, valuation for payment of tax, procedures, appeals penalties, offences, transitory provisions etc.

    SGST ACT of each State is mainly copy of CGST Act passed by Central Government, except changing reference from Central Tax to State Tax, Central Authorities to State Authorities etc.

  - For inter-State supplies (supply from one State or Union Territory to another State or Union Territory), Integrated Tax (Integrated GST i.e. IGST) is payable to Central Government. IGST is to basically ensure seamless movement of goods across the country as taxes will move along with goods.

    IGST is imposed under IGST Act. IGST is intermediary tax and revenue from IGST will be apportioned among Union and States by Parliament on basis of recommendation of Goods & Service Tax Council. IGST is unique concept nowhere else been tried in the world.
- In addition, GST compensation Cess will be payable on pan masala, tobacco products, coal, aerated waters, motor cars etc.
- The rates of IGST – NIL, 0.1%, 0.25%, 3%, 5%, 12%, 18% & 28%. In case of supply within State, CGST will be 50% of IGST Rates and SGST/UTGST for supply within the State or Union Territory will be 50% of IGST rates.
- Though tax is payable to both Central Government and State Government/Union Territory Administration, control will be exercised either by State Government/Union Territory Authorities or Central Government Authorities. This will avoid dual control.
- Central Excise duty will continue on petroleum products i.e. petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. These products are out of GST at present and may be brought under GST later.
- Alcoholic liquor for human consumption is subject to State duty. This product is outside the GST.
- Tobacco products will be subject to excise duty plus GST.
- Distinction between goods and services will be considerably reduced except in cases relating to place of supply and time of supply. This will considerably reduce ambiguities and litigations.
- Check posts at State borders have been abolished, however road checks to check e-way bills have been introduced.
- Under GST, a taxable person can establish hub and spoke approach for distribution of his final products. He can maintain depots at few strategic locations in country and from those locations, he can distribute goods to nearby States. This will be very cost-effective distribution network.

Study Notes

Deficiency in the earlier Indirect tax regime

1. Non-inclusion of several levies in state VAT such as luxury tax, entertainment tax etc.;
2. Cascading effect of taxes on account of
   - (i) levy of Non-Vatable CST and
   - (ii) inclusion of CENVAT in the value for imposing VAT;
3. No Cenvat available after manufacturing stage;
4. Non-integration of VAT & Service Tax;
5. Certain items were subject to double taxation i.e. both goods & services.

Benefits of GST

1. Creation of Unified National Market;
2. Mitigating Cascading Effects;
3. Elimination of multiple taxes & double taxation;
4. Boost to Make in India initiative;
5. Increase in Revenue.

How GST Works ('No Tax on Tax' in GST)

Particulars	Manufacturer	Wholesaler	Retailer
Purchase	100.00	110.00	120.00
Profit	10.00	10.00	10.00
Consideration	110.00	120.00	130.00
Add CGST@ 9% SGST@ 9%	 9.90 (110*9%) 9.90 (110*9%)	 10.80 (120*9%) 10.80 (120*9%)	 11.70 (130*9%) 11.70 (130*9%)
Invoice Value	129.80	141.60	153.40
Output Tax Payable {A}	19.80	21.60	23.40
Input Tax {B}	0.00	19.80	21.60
Net Tax Payable {A-B}	19.80	1.80	1.80

Net Tax Payable = Value Addition * Tax Rate

For **Wholesaler** = 10 {Profit/Value Addition} * 18% = 1.80

For **Retailer** = 10 {Profit/Value Addition} * 18% = 1.80

Framework of GST in India

- **Dual GST: -** India has adopted a Dual GST model in view of the federal structure of the country. Centre & States will simultaneously levy GST on taxable supply of goods or services or both, which takes place within a State or Union Territory.

➢ **CGST/SGST/UTGST/IGST:-**

Central Goods & Service Tax Act, 2017	State Goods & Service Tax Act, 2017	Union Territory Goods & Service Tax Act, 2017**	Integrated Goods & Service Tax Act, 2017
CGST	SGST	UTGST	IGST
Levied on Intra-State Supply			Levied on Inter-State Supply

**Andaman & Nicobar Islands, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu and Chandigarh are Governed by UTGST. Delhi & Puducherry have their own legislative so had passed respective SGST Act.

Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification & valuation of goods & services, procedure for collection and valuation of goods and services, procedure for collection & levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessary to preserve the essence of dual GST.

➢ HSN (Harmonized system of nomenclature) code is used for classifying the goods, under the GST. New Service Accounting codes has been devised to take care of services.

➢ **Registration: -** Threshold limit of aggregate turnover for exemption from registration and payment of GST for suppliers of services would be Rs. 20 lakhs and Rs. 10 lakhs (for States of Manipur, Mizoram, Nagaland and Tripura). Threshold limits of aggregate turnover for exemption from registration and payment of GST for the suppliers of goods (exclusive) is increased to Rs. 40 lakhs (not applicable on all States) with effect from 01.04.2019. Please refer to registration chapter for details.

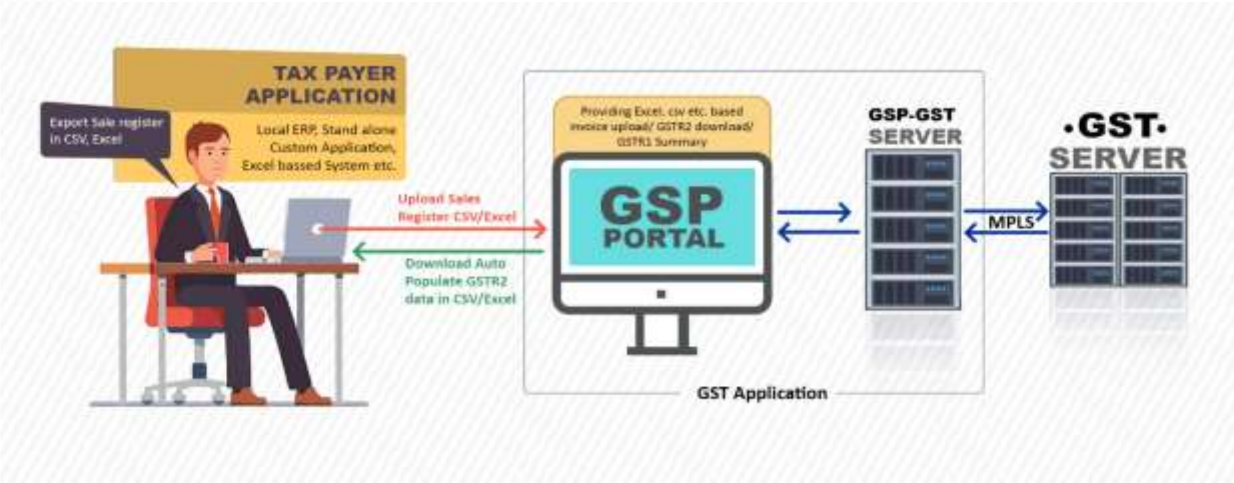
➢ **Composition Scheme: -**To provide relief to small businesses, composition scheme had been prescribed.

➢ **Seamless flow of credit: -** Since GST is destination-based consumption tax, revenue of SGST ordinarily accrues to the consuming states. The revenue of inter-State sales doesn't accrue to the exporting State.

➢ **GST Common Portal (www.gst.gov.in managed by GSTN)**

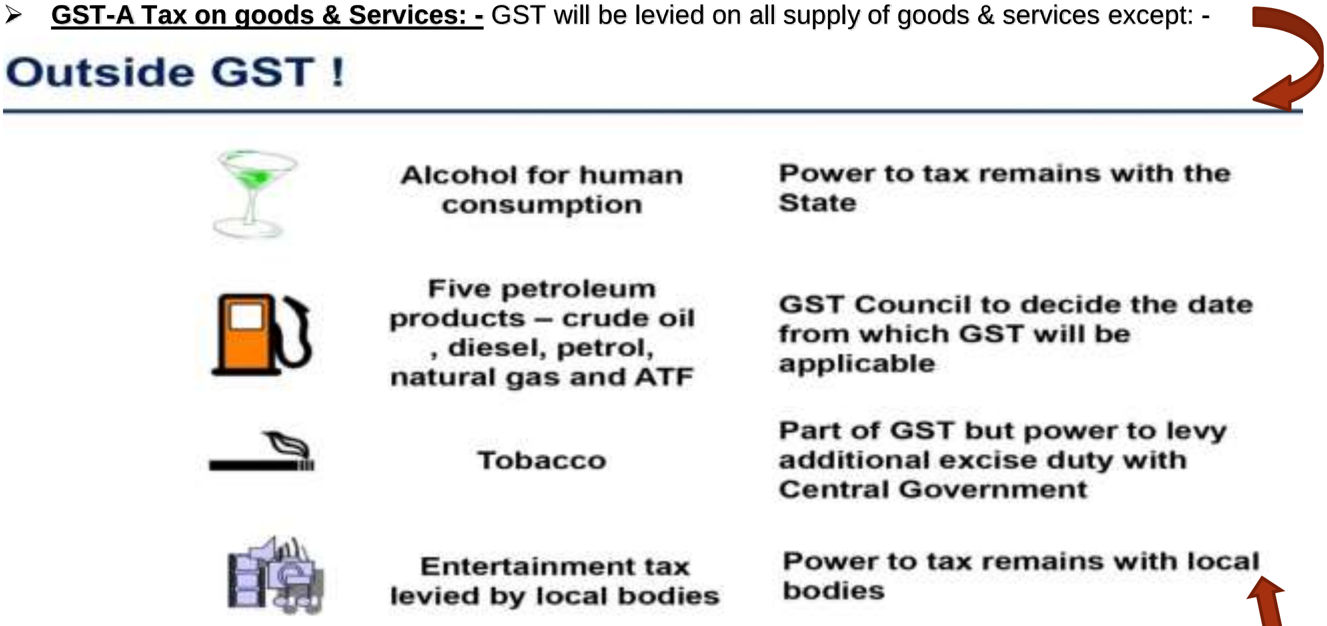
Facilitating Registration	Forwarding the returns to Central & State Authorities	Computation & settlement of GST	Matching of tax payment details with banking network	Providing various MIS reports to the Central & the State Government based on the taxpayer return information	Providing analysis of taxpayers' profile; and running the matching engine for matching, reversal and reclaim of input tax credit

There is separate portal for generating e-way bill.



➢ **<u>Compensation Cess: -</u>** A GST Compensation Cess at specified rate has been imposed under the Goods & Services Tax (Compensation to States) Cess Act, 2017 on the specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply. Compensation Cess is leviable on intra-State & inter-State supplies

➢ **<u>GST-A Tax on goods & Services: -</u>** GST will be levied on all supply of goods & services except: -



➢ **<u>Taxes subsumed in GST: -</u>**

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

Constitutional Provision

Article 366(12A)

Definition of GST

"Goods and services tax" means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption

Sl No	Definition	Article	Definition
1.	Goods	366(12)	Includes all materials, commodities, and articles [Pre Existing Definition]
2.	Service	366 (26A)	Anything other than goods [Introduced vide 101st Constitutional Amendment Act]
3.	State	366(26B)	With reference to articles 246A, 268, 269,269A and Article 279A includes a Union territory with Legislature. [Introduced vide 101st Constitutional Amendment Act]

"Goods and Services tax" law while having unique principles, has significant elements of prior Central and State laws; and is also inspired by VAT/GST legislation of EU, Australia, Malaysia etc. along with International VAT/GST guidelines of OECD

Article 246A – Newly Inserted

Special provision w.r.t GST
- ► Grants power to Parliament and State Legislatures to make laws w.r.t GST.
- ► Exclusive power conferred on Parliament for making laws w.r.t GST, where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.
- ► Provisions of this Article shall apply with respect to GST on petroleum crude, high speed diesel ('HSD'), motor spirit, natural gas and aviation turbine fuel ('ATF') from the date recommended by GST Council.
- ► Parliament's exclusive power to make laws on any matter not enumerated in Concurrent / State List shall be subject to Article 246A.

Article 246 – It gives the respective authority to Union & State Governments for levying tax. Whereas Parliament may make laws for the whole of India or any part of the territory of India, the State Legislature may make laws for whole or part of State. Seventh Schedule to Article 246 contain 3 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. 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.	It contains the matters in respect of which both the Central & State Governments have power to make laws.

Article 249 – Power of Parliament to legislate with respect to a matter in the State List in the national interest.

Article 250 – Power of Parliament to legislate with respect to any matter in the State List if a Proclamation of Emergency is in operation.

Article 269A – Newly Inserted

Levy and collection of GST in course of inter-State trade or commerce

- ► GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and 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.
- ► Supply of goods and/or services in the course of import shall be deemed to be supply in the course of inter-State trade or commerce.
- ► Amount apportioned to a State shall not form part of Consolidated Fund of India.
- ► Where an amount collected as tax under this Article has been used for payment of the tax levied by a State, such amount shall not form part of the Consolidated Fund of India.
- ► Where an amount collected as tax levied by a State has been used for payment of the tax levied under this Article, such amount shall not form part of the Consolidated Fund of the State.
- ► Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Article 270 – Amendment

- ► Article 270 is amended to provide for distribution of the goods and service tax between the Centre and the States, by order of the President after considering recommendations of the Finance Commission.

Article 271 – Amendment

- ► Surcharge can be levied on certain duties and taxes for purposes of the Union except on GST under Article 246A.

Article 279A – Newly Inserted

Goods and Service Tax Council

- ► President shall, within 60 days from the date of commencement of the Constitution (101st Amendment) Act, 2016, by order, constitute a Council to be called the GST Council.
- ► GST Council shall consist of the following members:

  Union Finance Minister (Chairperson);

  Union Minister of State in charge of Revenue or Finance (Member);

  Minister in charge of Finance or Taxation or any other Minister nominated by each State Government (Members)

  Members of the GST Council shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council.

  GST Council shall make recommendations to the Union and the States on the following:

  - ✓ Taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in GST;
  - ✓ Goods and services that may be subjected to, or exempted from GST;
  - ✓ Model GST Laws, principles of levy, apportionment of GST levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
  - ✓ Threshold limit of turnover below which goods and services may be exempted from GST;
  - ✓ Rates including floor rates with bands of GST;
  - ✓ Any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
  - ✓ Special provision with respect to the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, Uttarakhand and Jammu and Kashmir; and
  - ✓ Any other matter relating to GST, as the Council may decide;

  GST Council shall recommend the date on which GST be levied on petroleum crude, HSD, motor spirit (commonly known as petrol), natural gas and ATF.

  While discharging the functions conferred by this Article, GST Council shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

1/2 of the total number of members of GST Council shall constitute the quorum at its meetings.

GST Council shall determine the procedure in the performance of its functions.

Every decision of GST Council shall be taken at a meeting, by a majority of not less than 3/4th of the weighted votes of the members present and voting, in accordance with the following principles, namely:

- ✓ Vote of the Central Government shall have a weightage of 1/3rd (33.33%) of the total votes cast,
- ✓ Votes of all the State Governments taken together shall have a weightage of 2/3rd (66.67%) of the total votes cast, in that meeting.

Thus, practically, Central Government has veto powers. Any decision in GST council cannot be taken without consent of Central Government.

No act or proceedings of GST Council shall be invalid merely by reason of—

- ✓ Any vacancy in, or any defect in, the constitution of the Council; or
- ✓ Any defect in the appointment of a person as a member of the Council; or
- ✓ Any procedural irregularity of the Council not affecting the merits of the case.

GST Council shall establish a mechanism to adjudicate any dispute—

- ✓ Between the Government of India and one or more States; or
- ✓ Between the Government and any State or States on one side and one or more other States on the other side; or
- ✓ Between two or more States,

  arising out of the recommendations of the Council or implementation thereof.

Article 286 – Amendment

Restrictions as to imposition of tax on the sale or purchase of goods

- ► The words "sale or purchase of goods where such sale or purchase takes place" are substituted with "supply of goods or of services or both, where such supply takes place"

Article 366 – Amendment

Following new clauses to be inserted:

- ► Clause 12A – "goods and service tax" defined to mean any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption;
- ► Clause 26A – "Services" to mean anything other goods;
- ► Clause 26B – "State" with reference to Articles 246A, 268, 269, 269A and Article 279A includes a Union territory with Legislature.

Article 368 – Amendment

Powers of Parliament to amend the Constitution and procedure thereof

- ► If amendment (2/3rd of majority in each house) seeks to make any change in Article 279A (relates to GST Council) then it shall also require ratification by the Legislatures of not less than one-half of the States by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.

Seventh Schedule [Article 246] – Amendment

List I – Union List

- ► Entry No 84 to be substituted as under: -

  Duties of excise on the following goods manufactured or produced in India, namely

  - ✓ Petroleum crude;
  - ✓ High Speed Diesel;

- ✓ Motor Spirit (Commonly known as petrol)
- ✓ Natural Gas
- ✓ Aviation Turbine Fuel; and
- ✓ Tobacco and tobacco products

► Earlier entry no 84 included duties of excise on tobacco and other goods manufactured or produced in India excluding alcoholic liquor for human consumption, opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol or opium.

► Following entries shall be deleted:
Entry No 92 – Taxes on the sale or purchase of newspapers and on advertisements published therein
Entry No 92C – Taxes on services

List II – State List

► Entry No 54 to be substituted as under:
Taxes on the sale of petroleum crude, HSD, motor spirit (commonly known as petrol), natural gas, ATF and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.
Earlier it included taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.

► Entry No 62 to be substituted as under:
Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.
Earlier it included taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.

► Following entries shall be deleted:
Entry No 52 – Taxes on the entry of goods into a local area for consumption, use or sale therein.
Entry No 55 – Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.

Clause 18 - Compensation to States for loss of revenue on account of implementation of GST
Parliament shall, by law, on the recommendation of GST Council, provide for compensation to the States for loss of revenue arising on account of implementation of GST for a period of 5 years.

Clause 20 - Power of President to remove difficulties
If any difficulty arises in giving effect to the provisions of the Constitution, the President may make such amendments, as necessary or expedient for the purpose of removing the difficulty. However, no such order shall be made after the expiry of 3 years from the date of such assent.

Section 2 of CGST Act, 2017 – Definitions under GST (below number in '( )' are sub-section of Section 2)

(1) **"actionable claim"** shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;
It must be noted that 'Actionable claims' is specifically included in the definition of goods. Transactions of actionable claims, other than lottery, betting & gambling shall be treated neither as a supply of goods nor a supply of services as per Para 6 of Schedule III of CGST Act, 2017.

(2) **"address of delivery"** means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;
"address of delivery' is relevant to determine place of supply of goods (other than imports/exports).

(3) "**address on record**" means the address of the recipient as available in the records of the supplier;
This is relevant to determine place of supply. In case of supplies made by a registered person to an un-registered person (except in relation to those services where the place of supply has been specifically provided under the law) shall be the address on record available in the records of the supplier.

(4) "**adjudicating authority**" means any authority, appointed or authorised to pass any order or decision

under this Act, but does not include the Central Board of ~~Excise~~ Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority ~~and~~ the Appellate Tribunal and the Authority referred to in sub section (2) of section 171;

(5) "**agent**" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;
Agent can work purely on commission basis. Even e-commerce companies like Flipkart, Amazon and Uber may be covered in some situations. But the relevance of being an agent is more pronounced while examining whether a transaction between a principal and agent is itself a supply under para 3, schedule I (Chapter 2 of this book). Very often, the word agent or agency is used without necessarily implying that the transaction is one of agency as understood under Indian Contract Act such as, recruitment agency, travel agency etc. Care must be taken to identify whether the parties intended to constitute an agency as understood in law and nothing less.

(6) "**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 Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;
The phrase "aggregate turnover" is widely used under the GST laws. Aggregate Turnover is an all-encompassing term covering all the supplies effected by a person having the same PAN. It specifically excludes:
- Inward supplies effected by a person which are liable to tax under reverse charge mechanism; and
- Various taxes under the GST law, Compensation cess.

(7) "**agriculturist**" means an individual or a Hindu Undivided Family who undertakes cultivation of land—
(a) by own labour, or
(b) by the labour of family, or
(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;
An individual/HUF undertaking cultivation of land which is not owned by him would be regarded as an agriculturist. Agriculturist providing taxable supplies need to confirm that the aggregate turnover is not exceeded when taking a decision not to register. Everyone who owns agricultural property will not ipso facto be eligible for exemption from registration because other taxable supplies may necessitate registration.

(8) **"Appellate Authority"** means an authority appointed or authorised to hear appeals as referred to in section 107;

(9) **"Appellate Tribunal"** means the Goods and Services Tax Appellate Tribunal constituted under section 109;

(11) **"assessment"** means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

(12) "**associated enterprises**" shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961;
'Associated enterprise' is referred to only in the context of time of supply of services where the supplier is an associated enterprise (located outside India) of the recipient (reverse charge attracted under sec 9(3)). It may be noted that in addition to associated enterprise, the Act also defines 'related person', the reference to which is made in the context of deemed supply (Schedule I) and valuation.

(16) **"Board"** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

(17) "**Business**" includes—
(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
(f) admission, for a consideration, of persons to any premises;
(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
(h) ~~services provided by a race club by way of totalisator or a licence to book maker in such club;~~ activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

The term business has been defined in an inclusive manner. This definition is very wide and covers all the transactions that were previously subjected to various taxes that are being subsumed in the GST Laws.
This definition of business is important since levy is on supplies undertaken in the course or furtherance of business.
Profit motive is irrelevant. Thus, occasional transactions are subject to GST.
Incidental or ancillary activities taxable i.e. sale of used car, sale of scrap, sale of old machinery, sale of old furniture etc. is subject to GST, though normally the taxable person may not be in business of selling cars, furniture or machinery.
'Wager' is also included in the definition of business to impose GST on betting transactions;
Government activities excluding sovereign functions are also subject to GST.
Clause (g) deals with services supplied by a holder of an office. Hence, if a practicing CA is appointed as an independent director of a company, it means that he accepts this office of directorship in the course or furtherance of his professional practice. Any service provided by him as an independent director to the company appointing him shall be regarded as business.

~~(18) "**business vertical**" means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.~~
~~**Explanation**. –For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—~~
~~(a) the nature of the goods or services;~~
~~(b) the nature of the production processes;~~
~~(c) the type or class of customers for the goods or services;~~
~~(d) the methods used to distribute the goods or supply of services; and~~
~~(e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;~~

(19) "**capital goods**" means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;
An attempt has been made to align the meaning of capital goods to the generally accepted standards of accounting of what is considered as revenue and what as capital.

(20) "**casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;
Example, Mumbai registered taxable person participate in exhibition in 'Delhi'.
The threshold limits for registration would not apply to casual taxable person and he would be required to obtain registration irrespective of his turnover.

(31) "**consideration**" in relation to the supply of goods or services or both includes—
(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient

or by any other person but shall not include any subsidy given by the Central Government or a State Government;

(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

Non-refundable deposit will be part of consideration. Consideration is not the amount that the recipient pays but the amount that the supplier collects whether from the recipient or third Party.

Clause (b) example:- (a) An amount paid as contractual penalty for non-supply of goods on timely basis could be treated as "monetary value of forbearance" and therefore, may be considered as consideration for applicability of GST. (b) Penalty charges on early termination of an agreement could be treated as "monetary value of any act" and therefore, may be considered as consideration.

(32) "**continuous supply of goods**" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

Example: Open purchase orders with daily delivery schedule (Just In Time Approach) subject to acceptance tests only at the time of issue-for-production and understanding of fortnightly billing.

(33) "**continuous supply of services**" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

Example: Licensing of software or brand names, renting of immovable property etc.

(34) "**conveyance**" includes a vessel, an aircraft and a vehicle;

(39) "**deemed exports**" means such supplies of goods as may be notified under section 147;

(42) "**drawback**" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;

The definition of Drawback is relevant when refund of Input Tax Credit is claimed. The law provides that refund of unutilized input tax credit will not be allowed if the supplier has availed drawback of such tax.

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(44) "**electronic commerce**" means the supply of goods or services or both, including digital products over digital or electronic network;

(45) "**electronic commerce operator**" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(47) "**exempt supply**" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

(48) "**existing law**" means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;

This covers all the existing Central & State Laws, relating to levy of tax on goods or services like Central Excise Law, Service tax law, State VAT Laws etc. Therefore, laws that don't levy tax or duty on goods or services i.e. the Indian Stamp Act, 1899 would not be covered here.

(49) "**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;

(50) "**fixed establishment**" means a place (other than the registered place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
Temporary presence of staff in a place by way of a short visit to a place or so doesn't make that place a fixed establishment. The definition is relevant to determine where the taxable person should obtain GST registration in particular State.

(52) "**goods**" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
Actionable claims are goods under GST. Intangibles like copyright and carbon credit would continue to be covered under 'goods.
The item must be such that it is capable of being bought or sold. This is the test of 'Marketability'. The goods must be known in the market. Unless this test of marketability is satisfied, these will not be goods. This view, expressed in judgements. It was held that to become 'goods' an article must be something which can ordinarily come to market to be bought and sold.

(56) "**India**" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;

(59) "**input**" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;

(60) "**input service**" means any service used or intended to be used by a supplier in the course or furtherance of business;

(61) "**Input Service Distributor**" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;
The law doesn't provide any limit of offices to be registered as ISD.

(62) "**input tax**" in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
(a) the integrated goods and services tax charged on import of goods;
(b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
(c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;
(d) the tax payable under the provisions of sub-sections (3) and (4) of section 9 of the respective State Goods and Services Tax Act; or
(e) the tax payable under the provisions of sub-sections (3) and (4) of section 7 of the Union Territory Goods and Services Tax Act,
but does not include the tax paid under the composition levy;
Input tax also includes reverse charge.
Input credit of cess can only be utilised for discharging the liability on such cess.

(63) "**input tax credit**" means the credit of input tax;

(67) **"inward supply"** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;

(68) "**job work**" means any treatment or process undertaken by a person on goods belonging to another

registered person and the expression "job worker" shall be construed accordingly;

(69) "local authority" means—
- (a) a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;
- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
- (f) a Development Board constituted under article 371 and article 371J of the Constitution; or
- (g) a Regional Council constituted under article 371A of the Constitution;

(70) "**location of the recipient of services**" means, -
(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; &
(d) in absence of such places, the location of the usual place of residence of the recipient;

(71) "**location of the supplier of services**" means, -
(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and
(d) in absence of such places, the location of the usual place of residence of the supplier;

(72) **"manufacture"** means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly;
It is important for composition levy and maintenance of accounts. For deemed exports, one pre-condition is that the goods in question must be manufactured in India.

(73) "**market value**" shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(75) "**money**" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;
Money is out of the scope of taxation under GST. Supply of currency held for its numismatic values will be liable to GST.

(77) "**non-resident taxable person**" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;
The law had not defined the word 'occasionally'.

(78) "**non-taxable supply**" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;
It includes petroleum products, alcoholic liquor for human consumptions.

(79) "**non-taxable territory**" means the territory which is outside the taxable territory;

(80) "**notification**" means a notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;

(81) "**other territory**" includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114);

(82) "**output tax**" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(83) "**outward supply**" in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

The phrase 'outward supply' can be applied to a supply only when such supply is made in the course or furtherance of business i.e. business assets are put to personal use. In such a case, even the transaction is deemed to be a supply (made without consideration), it can't be treated as an 'outward supply', since the application of the business asset for personal use was neither in the course nor furtherance of business.

Supplies not qualifying as outward supplies would also be included for the purpose of computing the 'aggregate turnover'.

Details of supplies on which tax is payable, but which do not amount to 'outward supplier' would also have to be declared in the return for outward supplies (GSTR-1)

(84) "**person**" includes—
(a) an individual;
(b) a Hindu Undivided Family;
(c) a company;
(d) a firm;
(e) a Limited Liability Partnership;
(f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
(g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;
(h) anybody corporate incorporated by or under the laws of a country outside India;
(i) a co-operative society registered under any law relating to co-operative societies;
(j) a local authority;
(k) Central Government or a State Government;
(l) society as defined under the Societies Registration Act, 1860;
(m) trust; and
(n) every artificial juridical person, not falling within any of the above;

(85) "**place of business**" includes—
(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
(b) a place where a taxable person maintains his books of account; or
(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(86) "**place of supply**" means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act;

(88) "**principal**" means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(89) "**principal place of business**" means the place of business specified as the principal place of business in the certificate of registration;

(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.

(93) "**recipient**" of supply of goods or services or both, means—
(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and
any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

(94) "**registered person**" means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

(96) **"removal**'' in relation to goods, means—
(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(98) "**reverse charge**" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act;

(101) "**securities**" shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;
Securities such as shares, scrips, stocks, bonds, debentures, debenture stock are neither treated as goods nor as services, by way of a specific exclusion in the respective definitions. ITC is not available for transactions in securities.

(102) "**services**" means anything other than goods, money & securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
Explanation.—For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;
Though definition of 'service' can cover even immovable property, sale of land and sale of completed building has been excluded from definition of goods or services.
The definition of 'service' is so broad that practically sky is the limit for imposing any tax by Union or State Governments.
Securities were excluded from the definition of both goods and services. But it is to clarify that though securities are excluded from definition of services but transaction in securities will be included.
Although industry is already charging GST on these transaction.

Particulars	Whether Goods?	Whether Services?
Every kind of movable property	✓	×
Growing crops, grass & things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply	✓	×
Anything other than goods	×	✓
Money	×	×
Transaction in money {for conversion separate consideration is charged}	×	✓
Actionable Claim {lottery, betting & gambling}	✓	×
Securities	×	×
Facilitating or arranging transaction in securities	×	✓

(103) “**State**” includes a Union territory with Legislature;
Delhi & Puducherry are states since they have legislature although they are Union Territory.

(105) “**supplier**” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(107) “**taxable person**” means a person who is registered or liable to be registered under section 22 or section 24;

(108) “**taxable supply**” means a supply of goods or services or both which is leviable to tax under this Act;

(109) “**taxable territory**” means the territory to which the provisions of this Act apply;

(112) “**turnover in State**” or “**turnover in Union territory**” 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) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;
The ‘turnover in state’ (including UT) is a reproduction of the expression ‘aggregate turnover’, but for the fact that ‘turnover in state’ is restricted to the turnover of a taxable person, whereas aggregate turnover is PAN-based (i.e., turnover of all taxable persons having the same PAN, across States). It is important term for ‘composition scheme’ & for ‘ISD’.

(113) “**usual place of residence**” means—
(a) in case of an individual, the place where he ordinarily resides;
(b) in other cases, the place where the person is incorporated or otherwise legally constituted;

(114) “**Union territory**” means the territory of—
(a) the Andaman and Nicobar Islands;
(b) Lakshadweep;
(c) Dadra and Nagar Haveli;
(d) Daman and Diu;
(e) Chandigarh; and
(f) other territory.
Explanation. -For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

(117) **“valid return”** means a return furnished under sub-section (1) of section 39 on which self- assessed tax has been paid in full;

(118) “**voucher**” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
Loyalty points credited to digital wallet is not supply of vouchers as no consideration is paid for the same. It is only a form of discount which can be availed in future transaction. It is the form of actionable claim.

(119) “**works contract**” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfers of property in goods (whether as goods or in some other form) is involved in the execution of such contract;
This is limited to immovable property but contract must include transfer of property. A contract in relation to movable property, however would be treated as a ‘composite supply’ of goods or services depending on the principal supply.

Section 2 of IGST Act, 2017 – Definitions under GST (below number in '( )' are sub section of Section 2)

(3) **"continuous journey"** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.
Explanation. - For the purposes of this clause, the term "stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

(5) **"export of goods"** with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;
Export of goods to Nepal or Bhutan fulfils the condition of GST Law regarding taking goods out of India.

(6) **"export of services"** means the supply of any service when, -
(i) the supplier of service is located in India;
(ii) the recipient of service is located outside India;
(iii) the place of supply of service is outside India;
(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian Rupees wherever permitted by the Reserve Bank of India; and
(v) 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;
This amendment allows receipt of payment in Indian Rupees in case of export of services wherever permitted by the RBI. This is obviously a taxpayer-friendly measure.

(7) **"fixed establishment"** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;

(10) **"import of goods"** with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

(11) **"import of services"** means the supply of any service, where—
(i) the supplier of service is located outside India;
(ii) the recipient of service is located in India; and
(iii) the place of supply of service is in India;

(13) **"intermediary"** means 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;

(14) **"location of the recipient of services"** means, —
(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
(d) in absence of such places, the location of the usual place of residence of the recipient;

(15) **"location of the supplier of services"** means, —
(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
(c) where a supply is made from more than one establishment, whether the place of business or

fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

(16) **"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.

Explanation. –For the purposes of this clause, the expression "governmental authority" means 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 ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a Panchayat under article 243 G or a municipality under article 243W of the Constitution;

(17) **"online information and database access or retrieval services"** means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as, –

(i) advertising on the internet;

(ii) providing cloud services;

(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

(iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;

(v) online supplies of digital content (movies, television shows, music and the like);

(vi) digital data storage; and

(vii) online gaming;

Question & Answer

Q1. Enumerate the places that may be covered or included under the scope of 'place of business'?

A. 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.

Q2. Whether 'securities' are goods or services?

A. 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.

Q3. What is agricultural produce?

A. 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, fiber, 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.

Q4. Discuss how GST resolved the double taxation dichotomy under previous indirect tax laws.

A.

- 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".

Q5. 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 {Section 16 of IGST}.

Q6. 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,

(d) Additional Commissioners of Central Tax or Additional Directors of Central Tax,

(e) Joint Commissioners of Central Tax or Joint Directors of Central Tax,

(f) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,

(g) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and

(h) 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.

Q7. 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.

Q8. ABC Furnisher, 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].

Q9. What is GSTN and its role in the GST regime? Discuss functions of GSTN.

A. 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.

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);

Q10. Which are the commodities proposed to be kept outside the purview of GST?

A. 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.

Chapter 2: - Supply under GST

Section 7	**Scope of Supply**
Schedule I	**Activities to be treated as supply even if made without consideration**
Schedule II	**Activities or Transactions to be treated as supply of goods or services**
Schedule III	**Activities or Transactions which shall be treated neither supply of goods nor a supply of services**
Section 8	**Tax Liability on Composite [Sec. 2 (30)] & Mixed Supply [Sec. 2 (74)]**

Section 7: Scope of supply

Broad Category	Section	Particulars
	7 (1)	For the purposes of this Act, the expression "supply" includes –
Normal Supply of goods & services	7 (1) (a)	all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
Import of Service	7 (1) (b)	import of services, for a consideration whether or not in the course or furtherance of business, and
Supply without consideration	7 (1) (c)	the activities specified in Schedule I, made or agreed to be made without a consideration.
Supply of goods v/s Supply of services	7 (1A)	where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.
Activities or transactions treated neither as supply of goods nor supply of services	7 (2)	Notwithstanding anything contained in sub-section (1),-
	7 (2) (a)	activities or transactions specified in Schedule III; or
	7 (2) (b)	such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,
		shall be treated neither as a supply of goods nor a supply of services.
Power(s) of the Government	7 (3)	Subject to the provisions of sub-sections (1), (1A) & (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as — *(a)* a supply of goods and not as a supply of services; or *(b)* a supply of services and not as a supply of goods.

In exercise of the powers conferred U/s 7 (2), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government or Union Territories or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-
"Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution."

First check sub-section (1) to see whether particular transaction is supply or not then Schedule II to finalize classification between goods or services

When word 'includes' or 'such as' is being used, it implies that the term doesn't restrict itself to those items that are being mentioned in there, and that those items mentioned, are just indicative to much broader concepts of similar standing.

Sales	Transferring the property in goods from one to another, upon valuable consideration i.e. buying laptop.
Transfer	Any transfer of goods or right in goods or undivided share in goods without transfer of title thereof i.e. Head office sends the goods to its branch. It may be noticed that title is not transferred by Head Office.
Barter	To exchange one commodity/service for another without use of money i.e. CA provides tax consultancy service in exchange of saloon services.
Exchange	To swap, to part with, give or transfer for an equivalent with the use of money i.e. Mobile worth Rs. 25,000 in exchange of an old mobile Rs. 10,000. Balance paid in cash.
License	Permission granted by competent authority to exercise certain privileges, without such authorization the activity would have constituted as an illegal act i.e. license of software.
Rental	Periodical payment for the use of another's property i.e. office on rent.
Lease	Contractual agreement by which one party conveys an estate in property to another party, for a limited period, subject to various conditions, in exchange for something of value, but still remain owner i.e. Government agency lease of industrial plot.
Disposal	To pass or into the control of someone else; to alienate, bestow, or part with i.e. ABC Ltd., a company engaged in manufacturing furniture, removes wooden scrap generated in process of manufacturing furniture to another company where it is used for feeding the furnace, for a very nominal value. It shall be treated as supply by XYZ Ltd., to attract GST.

Example 1: Mr. A buy a car for his personal use and after a year sells it to a car dealer. Sale of car by Mr. A to car dealer is not a supply under CGST Act because supply is not made by Mr. A in the course or furtherance of business.

Example 2: Mrs. A sold her old gold bangles and earrings to 'ABC Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual.

Example 3: Salman, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply even though it is a one-time occurrence.

Example 4: ABC Ltd. Is engaged in the business of transmission of power across the Maharashtra. Transmission of power is carried out through the networks of transmission lines and sub-stations constructed by ABC Ltd. It has a market share of 50% transmission network in India. This is example of 'in course of business'.

ABC Ltd. appointed consultants to increase market share from 50% to 60%. It can be organic or un-organic route. This is example of 'in furtherance of business'.

Example 5: . 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.

Schedule I:- Activities to be treated as supply even if made without consideration

1. Permanent transfer or disposal of business assets where ITC has been availed on such assets.
   (transfer of entire business as going concern is not subject to GST).
   Example 6: A Ltd. (retail stores dealing in food items), gives food items to the poor children on the festival

of Diwali. In this case, transfer of business stock would amount to 'supply' if it had claimed input tax credit on its purchase of the business assets.

Example 7: A laptop dealer permanently transfers furniture from his stock in trade, at his house. The transactions will constitute a supply as it is a permanent transfer/disposal of business assets. If input tax credit is availed for such assets, then only such transfer amounts to supply.

2. Supply between related persons or distinct persons, when made in the course or furtherance of business. Gifts not exceeding Rs. 50,000 in value in a financial year by an employer to employee shall not be treated as supply of goods or services or both. However reversal of ITC will be required.
Section 25 (4) & (5) of CGST Act categorize following as distinct person in GST:-
(a) Each registration of a person in one or more State/UT
(b) Each registration of a person in respect of establishments in or more State/UT.

Scenario	Applicability of GST on intra-State branch/stock transfers		Applicability of GST on inter-State branch/stock transfers
	Branches/Units with separate registration	Single registration for all branches/units in a State/UT	
Stock transfer under GST	✓	✗	✓
Relevant Document	Tax Invoice	Delivery Challan	Tax Invoice

Example 8: A Ltd. transfers 100 ACs & 100 Televisions from his factory located at Maharashtra to his retail showroom in Delhi so that the same can be sold there. The factory and retail showroom are registered in the states where they are located. Although no consideration is charged, supply of goods from factory at Maharashtra to retail showroom at Delhi constitutes supply.

3. Supply of goods between principal & agents (whether principal supply to agents or agents supply to principal).
Example 9: A Ltd. appoints B Ltd. as an agent. B Ltd. receives spare parts supplied by A Ltd. as and when an order is received by A Ltd. from it dealers, an instruction will be sent to B Ltd. to supply the parts. Supply of spare parts by A Ltd. to B Ltd. will qualify as supply even though B Ltd. has not paid any consideration.

Invoice in the name of agent:- Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para. 3 above.

Invoice in the name of principal:- However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Para 3. above.
Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by Para. 3 above.
[Circular No. 57/31/2018 GST Dated 04.09.2018].
Example 10: Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A.

In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Para 3 of Schedule I.

Example 11: M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.
The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr. B is not an agent of M/s XYZ for the supply of goods in terms of Para 3 of Schedule I.

Example 12: Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder.
In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Para 3 of Schedule I.

Example 13: A C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F commission agent is an agent of the principal for the supply of goods in terms of Para 3 of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

Example 14: Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A.
As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.
In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Para 3 of Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Para 3.

<u>Circular No. 73/47/2018-GST Dated 5-11-2018</u>

Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	As already clarified vide circular No. 57/31/2018-GST Dated 4th September, 2018, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios: • In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent. • In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.
Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier	In such a scenario following activities are taking place: 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both;

(principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?	3. Supply of extension of loan services by the DCA to the recipient. It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. It may be noted that vide notification No. 12/2017-Central Tax (Rate) Dated 28th June, 2017 (S. No. 27), 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) has been exempted.
Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the value of supply of goods also or not?	In such a scenario following activities are taking place: 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both; 4. Extension of credit by the DCA to the recipient. It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasized that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient. It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.

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.

   Now, because of above amendment, import of services by entities which are not registered under GST (let take example, say they are only making exempted supplies) but are otherwise engaged in business activities shall be liable to tax when received from a related person or from any of their establishments outside India.

   Services supplied by establishment of person in India to own establishments out of India is exempt, if place of supply is out of India.

   {Sr. No. 10E of Notification No. 9/2017-IT (Rate) both Dated 28-6-2017 as inserted w.e.f. 27-7-2018.}

Taxability of import of services in GST – Snapshot {considering Section 7 (1) (b) & Schedule I Para 4}

Particulars	From Related Person/Establishment outside India		From any other person
Consideration	✓	✗	✓
Purpose	Personal or Business	Business	Personal or Business

Example 15: A Ltd. received software services from Holding company located in USA. The Holding Company rendered the software services without any charge to its subsidiary. Since A Ltd. and its holding company are related persons, software services received by A Ltd. will be considered as supply even though the holding has not charged anything from it.

Example 16: A has taken legal advice with regard to his family dispute for free, from his brother who is settled in USA. This would not constitute supply since this is not for furtherance of business. If suppose A has taken this advice for his business dispute then it would constitute supply since this would be for furtherance of business.

Schedule II :- Activities or transactions to be treated as supply of goods or services

	Transaction	Particulars	To be treated as goods	To be treated as service
1	Transfer	*(a)* Transfer of the title of goods	✓	
		(b) Transfer of right in goods or of undivided share in goods without transfer of title thereof This covers renting or operating lease of goods. 'Undivided share' means that exclusive possession is not required to be transferred e.g. renting of locker by bank, share taxi.		✓
		(c) Transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed This covers financial lease and hire purchase.	✓	
2	Land & Building	*(a)* Lease, tenancy, easement, license to occupy land Let say, a company, giving its vacant land for specified period to set up an IT park.		✓
		(b) Lease or letting out, either wholly or partly, of the building including a commercial, industrial or residential complex for business or commerce This covers renting or leasing of building. Even renting of part of residential complex for business or commerce will be subject to GST.		✓
3	Treatment or process	Treatment or process which is applied to another person's goods e.g. job work, testing etc.		✓
4	Transfer of Business Assets	*(a)* Business assets are transferred/disposed of by the owner whether or not for consideration This clause need to be co-related with clause 1 of Schedule I. Such transfer will be subject to GST if ITC was availed on such goods. This clause also has to be read with clause 4 (c) of Schedule II. Further, services by way of transfer of a going concern as a whole or an independent part thereof is exempt from GST – Notification No. 12/2017-CT Rate & 9/2017-IT (Rate) both Dated 28-6-2017.	✓	

	(b) The owner (person carrying on business) uses or allows to use business assets for personal use, whether or not for consideration This covers use of property of taxable person like motor vehicles, residential premises, guest house, telephone, laptop etc. for private use of Director, Employees, Partners etc. *(c)* 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 – i. The business is transferred as a going concern to another person; or ii. 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.	 ✓	✓
5	(a) Renting of immovable property Since lease of building and land is already covered in clause 2 (a) and (b) above, this can cover other immovable property i.e. plant and machinery etc. (b) Construction of complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its final occupation, whichever is earlier This covers sale of flat in a residential complex before it is occupied. If builder is selling, he will be exempt from GST only If he sales after completion certificate is obtained (Schedule III). If first occupancy of immovable property is proved before receiving any consideration, then it would not be considered as supply of services and GST would not be payable even if CC is not yet received. But, determining first occupancy is a contentious issue. (c) Temporary transfer or permitting the use or enjoyment of any intellectual property right This covers allowing use of trade mark, copyright, design, patents. (d) Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software This covers development of software but not software itself in physical forms. CBIC in their sectoral FAQs on IT/ITES has clarified if a pre-developed or pre-designed software is supplied in any medium/storage (commonly bought off-the-shelf) or made available through the use of encryption keys, the same is treated as a supply of goods. (e) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act Penalty on early termination of agreement, late delivery charges, prepayment charges on early payment of loan installment, demurrage charges paid to the port authorities etc. (f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration This is renting, where possession and control of goods is transferred to recipient.		✓ ✓ ✓ ✓ ✓ ✓
6	Following composite supplies – (a) Works contract as defined in Section 2 (119) (b) Supply, by way of or as part of any service or in any other manner whatsoever of goods, being good or any other article for human consumption or any drink (other than alcoholic liquor for human		✓ ✓

	consumption), where such supply or service is for cash, deferred payment or other valuable consideration. This clause doesn't say 'in restaurant'. So, even home delivery of cooked food will be covered, as it includes service. However, sale of tinned food items is sale of goods as no 'service' element is involved. Sale of packed farsan or pre-prepared sweets or samosa/pakoda across the counter is not 'supply of service'. However, same item supplied in restaurant or eating joint is 'supply of service'.		
7	Supply of goods by any unincorporated AOP or body of persons to a member there for cash, deferred payment or other valuable consideration Interestingly, this doesn't cover supply of services.	✓	

Schedule III :- Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

1.Services by an employee to the employer in the course of or in relation to his employment.

(If it is part of employment letter. Fringe benefits are not subject to GST, clarified by the Government in press release)

2. Services by any court (District/High/Supreme Court) or Tribunal established under any law for the time being in force.
Fee paid by litigants in the Consumer Disputes Redressal Commission (National/ State/ District) are not leviable to GST. Any penalty in cash imposed by or amount paid to these Commissions will also not attract GST. {Circular No. 32/06/2018 GST Dated 12.02.2018}

3.
(a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Remember, construction of a new building is subject to GST before completion certificate. *Please also refer to below Q & A for more clarity. Also note that sale of TDR (Transferable Development Right) is not sale of land. It allows its owner additional construction area (FSI). Such sale of TDR shall be subject to GST.*

6. Actionable claims other than lottery, betting and gambling

Example 17: Lottery ticket, Insurance policy, Claim for arrears of rent, Unsecured loans, Reward points earned by customer on purchases made by him under loyalty programme.

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. Merchant trading.

Example 18: Mr. A purchased goods from China and sold it to Mr. John in Canada without bringing the goods in India. This transaction is neither supply of goods nor supply of services.

8. (a) Supply of warehoused goods to any person before clearance for home consumption; In-bond sale.

Example 19: Mr. X imported some goods in India, but kept the goods in custom bonded warehouse without clearing it for home consumption. In the meantime, Mr. X sold these goods to Mr. Y while they were in warehouse. This transaction between Mr. X and Mr. Y is neither supply of goods nor supply of services.

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption. High Seas Sales.

For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.

Example 20: Mr. P of India imported some goods from Japan. While the goods were in high seas, Mr. P sold the goods to Mr. Q in India by way of endorsement of documents of title of goods. This transaction between Mr. P and Mr. Q is neither supply of goods nor supply of services.

Section 8: Composite & Mixed supply

Composite Supply [Sec. 2 (30)]	Mixed Supply [Sec. 2 (74)]
Consist of 2 or more supplies	Consist of 2 or more supplies
Naturally Bundled	Not Naturally Bundled
In conjunction with each other	Independent of each other
One is principal supply	Single Price
Tax liability shall be rate of principal supply	Tax liability will be the rate applicable to the supply attracts highest rate of tax
Example: 21. Meals free with Rajdhani ticket. 22. Charger & Warranty with mobile. 23. A 5-star hotel booked for conference & includes accommodation, breakfast, access to business centre, tea & coffee during conference, access to fitness room. 24. Goods are packed and transported with insurance, packing materials etc. .	Example: 25. Bucket free with detergent. 26. Gift pack of dry fruits, sweets etc. 27. Car check-up camps organized by Car Workshop wherein along with standard check-up, oil and filter are being charged at a single price. 28. A house is given on rent, one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business.

Particulars	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
One is predominant supply for recipient	Yes	No
Other supply(ies) are ancillary or they are received because of predominant supply	Yes	No
Each supply priced separately	No	No
All supplies can be goods	Yes	Yes
All supplies can be services	Yes	Yes
Some supplies can be goods and others can be services	Yes	Yes

Some important circulars

Trade practice is also relevant. A vehicle repair shop also supplies spare parts. However, the long practice is to treat these two supplies separately. Hence, such activity is not 'composite supply'. It is also not 'mixed supply' as single price is not charged.
[Circular No. 47/21/2018 GST Dated 08.06.2018]
Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not

a supply. It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.
[Circular No. 22/22/2017 GST Dated 21.12.2017]
As per the Production Sharing Contract (PSC) between the Government and the oil exploration & production contractors, in case of a commercial discovery of petroleum, the contractors are entitled to recover from the sale proceeds all expenses incurred in exploration, development, production and payment of royalty. Portion of the value of petroleum which the contractor is entitled to take in a year for recovery of these contract costs is called "Cost Petroleum". Cost petroleum is not a consideration for services to Government and is not taxable.
[Circular No. 32/06/2018 GST Dated 12.02.2018]
Moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer (the two not being related persons or distinct persons) does not constitute a supply as there is no consideration involved.
[Circular No. 47/21/2018 GST Dated 08.06.2018]
Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST. Grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt.
[Circular No.44/18/2018 CGST Dated 02.05.2018]

JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of inter se agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or inter-se between the members of a JV.
Thus, whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case. 'Cash calls' are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programmes and budget. Let us understand the taxability of cash calls with the help of following examples:
Example 29: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member purchases machinery for Rs. 400 for the JV to be used in oil production.
In above case, cash calls will not be subject to GST since the operating member is not carrying out an activity for another for consideration. Here, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.
Example 30: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.
In above case, the operating member uses its own machinery and is therefore providing 'service' within the scope of 'supply' because here operating member is recovering the cost appropriated towards machinery & services from other JV members in their participating interest ratio.
[Circular No. 35/9/2018 GST Dated 05.03.2018]

Priority Sector Lending Certificates (PSLCs) are taxable as goods. GST payable on the certificates would be available as ITC to the bank buying the certificates. It is further clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI.
[Circular No. 93/12/2019 GST Dated 08.03.2019]

Renewable Energy Certificates (RECs) and Priority Sector Lending Certificates (PSLCs) and other similar documents are classifiable under heading 4907 and attract 12% GST. The duty credit scrips attract Nil GST under S. No. 122A of Notification No. 2/2017- Central Tax (Rate).
[Circular No. 46/20/2018 GST Dated 06.06.2018]

Inter-State movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, including Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts,
(a) carrying goods or passengers or both; or
(b) for repairs and maintenance,
[except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that such inter-State movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.
Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.
[Circular No. 1/1/2017 IGST Dated 07.07.2017**]

**Above circular shall mutatis mutandis apply to inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes], [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case may be, is leviable on repairs and maintenance done for such goods.
[Circular No. 21/21/2017-GST Dated 22.11.2017]

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only 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 is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.
In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods. Supply of printing of the content supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff. [Circular No. 11/11/2017-GST Dated 20.10.2017]

The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account. [Circular No. 27/01/2018-GST Dated 04.01.2018]

In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case. [Circular No. 34/8/2018-GST Dated 01.03.2018

In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.
[Circular No. 34/8/2018-GST Dated 01.03.2018]

Mere cutting and packing of fabrics into pieces of different lengths from bundles or than, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the heading as the fabric.
[Circular No. 13/13/2017-GST Dated 27.10.2017]

Activities for a consideration and in the course or furtherance of business	Refer 'A' below
Activities for a consideration and whether or not in the course or further of business	Refer 'B' below
Activities made even without consideration	Refer 'C' below

Supply

Activities which are neither supply of goods nor supply of services (Schedule III)

- Services by employee to employer in course of employment
- Services by any court/tribunal
- Functions performed by MP, MLA, members of Panchayats, municipalities, local authorities
- Sale of land and building {subject to 5 (b) Sch. II}
- Services of funeral, burial, mortuary services
- Actionable claims other than lottery, betting and gambling
- Merchant trading i.e. Non- taxable territory to Non- taxable territory supply of goods
- In-bond sale
- High Seas Sales

General Rule 'A'

Transactions such as Sales, transfer, barter, exchange licence, rental, lease or disposal made or agreed to be made for a consideration, in the course or furtherance of business.

Special Rule 'B'

Import of service for a consideration, whether or not in the course or furtherance of business.

(please co-relate with Chapter 4 Exemptions)

Special Rule 'C'

Schedule I – Transactions treated as supply even though made without consideration

- Permanent transfer of business asset where ITC has been availed.
- Supply of goods or services between related or distinct persons
- Supply of goods by principal to his agent or by an agent to his principal
- Import of services by taxable person from a related person or from any of his other establishment outside India, in the course or furtherance of business.

Schedule II Activities or transactions to be treated as supply of goods or supply of services (Distinction/Classification)

Logic: Permanent transfer – Goods, temporary given to use – Services {2 exceptions to this, recollect video lecture}

Deemed as supply of services	• Renting of immovable property • Work contract • Developing, designing, programming, customizing of IT software • Construction of a building, complex or civil structure • Transfer of right to use any goods • Job work • Temporary transfer or use of intellectual property rights • Supply by way of service of being food or any other article for human consumption or any drink (except alcoholic liquor for human consumption)
Deemed as supply of goods	• Transfer of title in goods • Transfer of title in goods at a future date i.e. hire purchase • Transfer or disposal of business assets

Question & Answer

Q1. What is meant by Taxable event in a Law?

A. 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.

Q2. 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.

Q3. 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. iii. Mr. A exchanged Indian Rupees against purchase of US $ for which authorized dealer charged commission.

A.

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.

Q4. 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?

A. 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.

Q5. Whether stipend paid to article will be covered as supply?

A. 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.

Q6. Give example of distinct person as per the GST Act?

A. ABC Limited has 2 factories in Rajasthan, 1 in Delhi & 1 in Maharashtra. As per GST Act, ABC may have 1 registration for 2 factories in Rajasthan (ABC discretion), 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.

Q7. How to treat transaction of sale of land & building under the GST Act?

A. 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.

Q8. What will be tax treatment of salary to partners under the GST Act?

A. 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 CBIC on 26th June 2017 that GST is not payable on salary to partners.

Q9. ABC Ltd. was amalgamated with DEF Ltd. On account of amalgamation Mr. A, shareholder received 10,000 shares of DEF Ltd. in exchange of 5000 shares of ABC Ltd. Can it be considered as supply?

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

Q10. ABC Ltd. a banking company transfers bad loan (unsecured) to ARC Ltd. Can it be considered as supply?

A. 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.

Q11. 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?

A. 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.

Q12. A Taxable person, ceases to be a taxable person. What will be treatment for any goods forming part of the assets?

A. 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}.

Q13. 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.
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) (a) of CGST Act, 2017, leasing or renting out building including commercial, industrial or residential complex for business or commerce would be treated as supply. 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.

Q14. 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?

A. 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.]

Q15. State whether the following activities will be considered as a 'Consideration' in accordance with GST Act.

i. Reliance Jio offers free mobile handset on payment of security deposit of Rs. 5,000. It is refundable after 3 years.
ii. ABC football club gift worth Rs. 3 Lakhs to Mr. A for joining ABC football club.
iii. ABC ltd. is manufacturing fertilizers used for agriculture purpose. State Government has given 30% subsidy on sale of such fertilizer. iv. 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.

A.

i. 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.
ii. Yes, such gift is in response to an offer to join the football club, is subject to GST.
iii. 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. iv. 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.

Q16. 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.

Q17. 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.

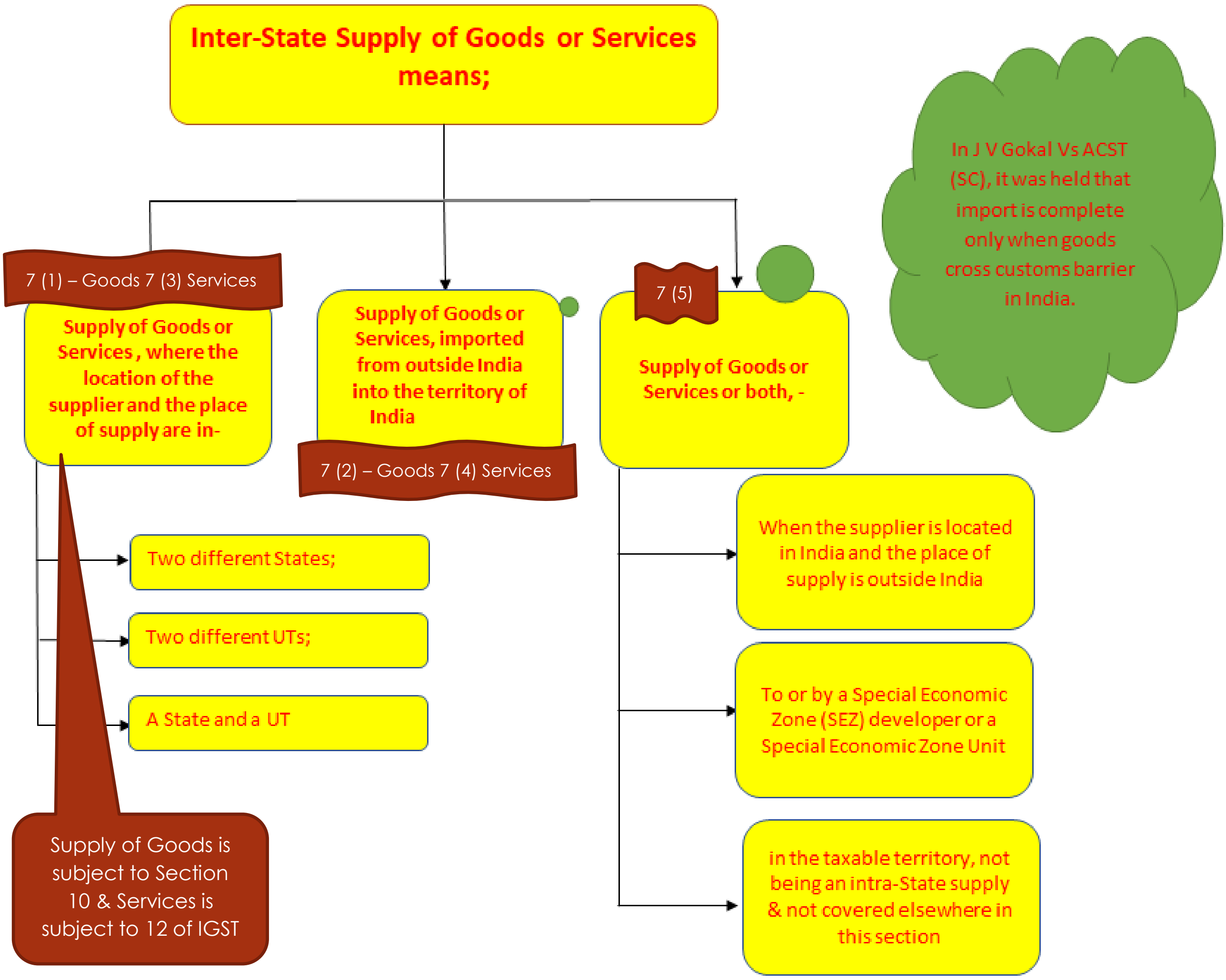
Q18. In respect of exchange of goods, let say gold chain for restaurant services, will the transaction be taxable as two different supplies or will it be taxable only in the hands of the main supplier?

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)

Chapter 3: - Charge of GST

Section 7 of IGST	**Inter State supply**
Section 8 of IGST	**Intra State supply**
Section 9 of IGST	**Supplies in Territorial Water**
Section 9 of the CGST	**Levy & Collection of CGST**
Section 5 of IGST	**Levy & Collection of IGST**
Section 10 of CGST	**Composition Scheme**
	Notification No. 2/2019-Central Tax (Rate) Dated 7th May 2019

Section 7 Inter-State supply (IGST Act)

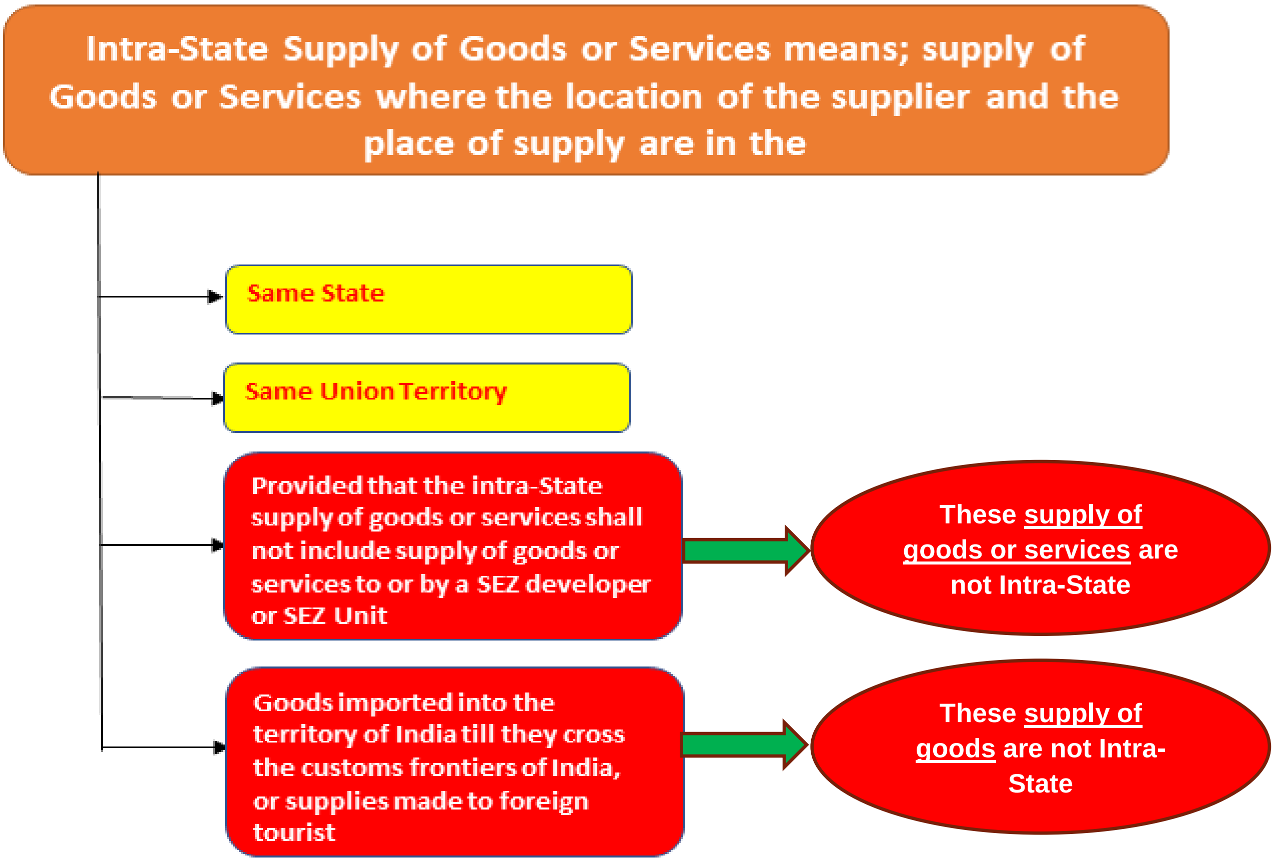


Other Points: -

- ✓ As per section 7(2), supply of goods imported into the territory of till they cross the customs frontiers of India, shall be treated as supply of goods in the course of inter-State trade or commerce,

- ✓ In case of import of services, keep in mind that as per section 2 (11) of the IGST Act: -
  - the supplier of service is located outside India;
  - the recipient of service is location in India;
  - the place of supply of service is in India.

Section 8 Intra-State supply (IGST Act)



Other Points: -

- ✓ Where a person has,

  1. an establishment in India & any other establishment outside India;
  2. an establishment in a State/UT and any other establishment outside that State/UT; or
  3. an establishment in a State/UT and any other establishment ~~being a business vertical~~ registered within that State/UT

  then such establishments shall be treated as establishments of distinct person.

A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Section 9 Supplies in Territorial Waters (IGST Act)

Notwithstanding anything contained in this Act-
(a) where the location of the supplier is in the territorial waters, the location of such supplier; or
(b) where the place of supply is in the territorial waters, the place of supply,
shall, for the purposes of this Act, be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

Section 9 Levy & Collection of CGST

Section 9 (1)

Subject to the provisions of sub-section (2), there shall be levied a tax called the CGST on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined U/s 15 and at such rates, not exceeding 20%

Seciton 9 (2)

CGST on the supply of petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council

Section 9 (3)

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

Section 9 (4)

The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both

Section 9 (5)

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, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services

Section 5 Levy & Collection of IGST (IGST Act)

Section 5 (1)

Subject to the provisions of sub-section (2), there shall be levied a tax called the IGST on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined U/s 15 of CGST Act and at such rates, not exceeding 40%

Provided that IGST on goods imported into India shall be levied and collected as per Section 3 of the Custom Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods U/s 12 of the Customs Act, 1962

Seciton 5 (2)

IGST on the supply of petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council

Section 5 (3)

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

Section 5 (4)

The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both

Section 5 (5)

The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services

NORMAL GST PAYMENT PROCESS

GST PAYMENT IN CASE OF REVERSE CHARGE

Categories of goods subject to Reverse Charge {U/s 9 (3)}

Goods like cashew nuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, used vehicles, seized and confiscated goods, old and used goods, waste and scrap, raw cotton, etc. are taxable under reverse charge, i.e. recipient is liable to pay tax.

CBIC Circular No. 76/50/2018-GST Dated 31.12.2018

The circular clarifies GST position in respect of supply of used vehicles, seized and confiscated goods, old and used goods, and waste and scrap by Government departments.
The above supplies, when provided to a registered person, is covered under reverse charge mechanism (RCM) and the tax is payable by the registered recipient.
However, if the supplies are made to an unregistered recipient, the government department shall be liable to register and pay GST.

Categories of Services subject to Reverse Charge {U/s 9 (3)}

Sr. No.	Category of supply of services	Recipient of services
	Reverse Charge applicable under CGST / IGST	
1	Goods Transport Agency (GTA) If GTA charges GST in his invoice and pays 6% CGST & 6% SGST/UTGST (12% IGST), the recipient is not liable to pay GST under reverse charge. There is no restriction on availing ITC on goods and services used in supplying GTA service by GTA. If GTA is unregistered or doesn't charge GST in invoice, recipient is liable to pay reverse charge. Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.	Factory, society, co-operative society, taxable person, body corporate {defined under 2(11) of the Companies Act and includes a company incorporated outside India}, partnership firm whether registered or not under any law including AOP, casual taxable person located in taxable territory. The person who pays or is liable to pay freight for the transportation of goods, shall pay reverse charge. Reverse Charge @ CGST 2.5%+ SGST 2.5% = IGST 5% Reverse charge not applicable:- • Supply of services to non-specified person (see specified person above) or unregistered person • When GTA opts to pay tax under forward charge • When GTA services supplied to Government department or agencies or local authority, which has taken registration only for the purpose of deducting TDS
2	Services supplied by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. "Legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes	Any business entity located in the taxable territory. The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services.

	representational services before any court, tribunal or authority.	
3	Services by an Arbitral tribunal	Any business entity located in the taxable territory.
4	Services of Sponsorship (Note that it is not the advertisement, it is sponsorship)	Any body corporate or partnership located in taxable territory
5	Services supplied by the Central Government, State Government, UT or local authority to a business entity excluding: - 1. Renting of immovable property 2. (i) services by the Departments of posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central, State, Union or Local authority (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport (iii) transport of goods or passengers	Any business entity located in the taxable territory.
5A	Services supplied by the Central, State, Union or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017 "renting of immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.	Any person registered under the CGST Act, 2017 In case of unregistered person, then CG,SG, UT or local authority have to pay GST as forward charge
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Promoter
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Promoter

- The term "apartment" shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
- the term "promoter" shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).
- the term "project" shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);
- "the term "Real Estate Project (REP)" shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).
- The term "Residential Real Estate Project (RREP)" shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

•	"floor space index (FSI)" shall mean the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built.	
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	The company or a body Corporate, located in the taxable territory
7	Services supplied by an insurance agent to any person carrying on insurance business	Any person carrying on insurance business, located in the taxable territory
8	Services supplied by a recovery agent to a banking company or FI or NBFC	A banking company or a FI or a NBFC, located in the taxable territory
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 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.	Publisher, music company, producer or the like, located in the taxable territory
10	Supply of Services by the members of overseeing committee to RBI	RBI
11	Supply of services by individual Direct Selling Agent (DSAs) other than a body corporate partnership or LLP to bank or NBFC	Banking company or NBFC located in the taxable territory [inserted w.e.f. 27-7-2018]
12	Services provided by business facilitator (BF) to a banking company	A banking company, located in the taxable territory
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	A business correspondent, located in the taxable territory
14	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, - (i)(a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 (composition scheme) of the said Act.	A registered person located in the taxable territory **A registered person receiving security services from any person other than a body corporate (like individual, firm, AOP etc.) is required to pay GST on reverse charge basis**
Provision of reverse charge notification, in so far as they apply to Central & State Governments, shall also apply to the Parliament and State Legislatures.		
Reverse Charge applicable under IGST Act		
12	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in the taxable territory other than non-taxable online recipient
13	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	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, beneficial owner or any

		person holding himself out to be the importer [Section 2(26) of the Customs Act, 1962]. If the value of ocean freight not available, it shall be 10% of CIF Value. IGST is payable by importer under reverse charge even if customs duty and IGST paid on CIF value {Bahi Paper Mills Ltd. – AAR (Uttarakhand)}

Amendments in GST in real estate sector including RCM U/s 9 (4)

Earlier, the effective rate of GST on real estate sector was 8%/12% with ITC. With effect from 01.04.2019, the effective rates of GST for the new projects have been brought down to a large extent.

However, the promoters/builders have been given a one-time option to continue to pay tax at the old rates on ongoing projects (buildings where construction and actual booking both have started before 01.04.2019) which have not been completed by 31.03.2019.

Highlighted in grey, is out of syllabus

New effective rates of GST for the new projects by promoters are as follows:

(i) New rate of 1% without ITC on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value upto Rs. 45 lakh).

(ii) New rate of 5% without ITC shall be applicable on construction of:

  (a) all houses other than affordable houses, and

  (b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions: Above tax rates shall be available subject to following conditions:

(a) Input tax credit shall not be available.

(b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies** (to the extent short of 80% of the inward supplies from registered supplier).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

[Notification No. 07/2019 CT (R) Dated 29.03.2019/ Notification No. 07/2019 IT (R) Dated 29.03.2019]

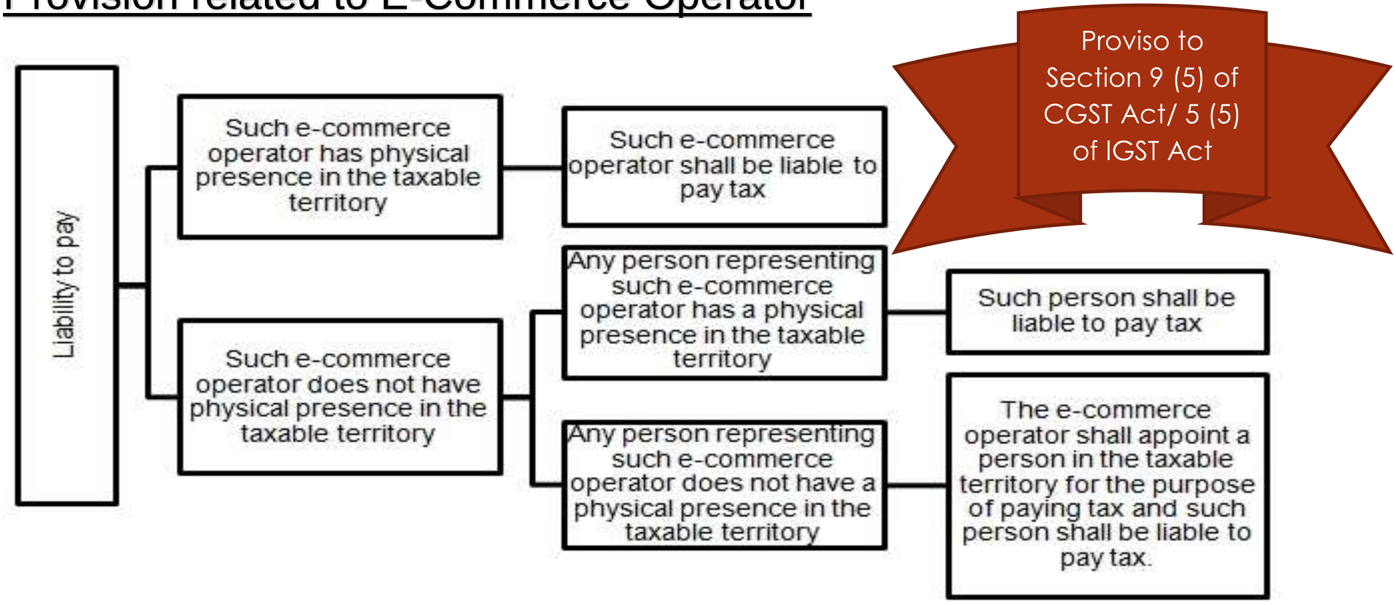
Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer exempt from GST

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property.

The liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism {U/s 9 (3) prescribed services).

Provision related to E-Commerce Operator



For e-commerce aggregators providing services which are notified under section 9(5) under CGST Act, 2017 & section 5 (5) IGST Act, 2017

Such persons are required to pay GST as if such services are supplied through it. As the e-commerce operator himself is liable for collection and deposit of GST, there is no question of TCS U/s 52.

Services notified in section 9(5) under CGST Act & Section 5(5) IGST Act, 2017 are:-

(i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle for example – Ola, Uber;

(ii) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22 (1) of CGST Act, 2017 {it includes homestay or guest house services};

(iii) services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through ECO is liable for registration under section 22 (1) of the said CGST Act, 2017.

It means that except above (i), if person is liable to register then he/she is responsible for payment of tax otherwise ECO is responsible for payment of tax.

Section 10 Composition Scheme (CGST Act)

Topic	CGST Act Section	CGST Rules
Entry		
-Qualification	10 (1)	
-Disqualification	10 (2)	
-Conditions & Restrictions		Rule 5
Life Zone		
Validity period of composition Scheme		Rule 6 (1)
No collection of tax + No ITC	10 (4)	
Wrongly availed the scheme	10 (5)	Rule 6 (7)
Exit Door		
-Crossing the limit of Turnover	10 (3)	
-Violation of eligibilities of Sec. 10 (1)		Rule 6 (2), 6 (5), 6 (6), 6 (7)
-Self Exit		Rule 6 (3), 6 (7)

Intro duction

1. Objective of Scheme: To bring Simplicity and reduce the compliance cost for the small tax payers
2. Eligibility:- As per Section 10(1), A registered person whose aggregate turnover in the previous financial year did not exceed 1.5 crore (as amended by the Notification Notification No. 14/2019 – Central Tax, Dated 07.03.2019) The limits for special category states (i) Arunachal Pradesh (ii) Uttarakhand (iii) Manipur (iv) Meghalaya (v) Mizoram (vi) Nagaland (vii) Sikkim (viii) Tripura, remains 75 lakhs.

As per second proviso of Section 10, a person who opts to pay tax as a Manufacturers, Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [e.g. Restaurant service], in case of Other Suppliers (e.g. Traders) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten percent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.

Example 1:- Mr. A has opted for composition scheme in the financial year 2019-2020. His aggregate turnover in FY 2018-19 is Rs. 60 lakh. In FY 2019-2020, he can supply services [other than restaurant services] upto a value of not exceeding:
(a) 10% of Rs. 60 lakh, i.e. Rs. 6 lakh. or
(b) Rs. 5 lakh,
whichever is higher.
Thus, he can supply services upto a value of Rs. 6 lakh in FY 2019-2020.

3. Rates of Tax:

Person	% of the turnover State/UT
Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco	CGST 0.50% + SGST/UTGST 0.50% {Tax is payable even on exempted supply}
Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [e.g. Restaurant service]	CGST 2.50% + SGST/UTGST 2.50%

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<tr><td></td><td>{Tax is payable even on exempted supply}</td></tr>
<tr><td>In case of other suppliers (e.g. Traders)</td><td>CGST 0.50% + SGST/UTGST 0.50% (on turnover of taxable supplies of goods and services)</td></tr>
</table>
Note: Along with CGST, equivalent amount of SGST/UTGST is also payable by the taxable person.

4. Aggregate Turnover
(a) "Aggregate Turnover" means, the aggregate value of –
• All taxable supplies,
• Exempt supplies,
• Exports of goods or services or both &
• Inter-State supplies
having the same PAN, to be computed on all India basis
(b) It excludes –
• Central tax, State tax, Union Territory tax, Integrated Tax & cess,
• The value of inward supplies which is subject to tax on reverse charge basis,
• The value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
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<tr>
<td>Eligibility to opt for composition scheme {As per Section 10 (2)}</td>
<td>The registered person shall be eligible to opt under sub-section (1), if:—
(a) save as provided in sub-section (1), he is not engaged in the supply of services;
(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;
(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:
Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.</td>
</tr>
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<td>Other conditions</td>
<td>• As per Section 10 (3), the option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified U/s 10 (1);
• As per Section 10 (4), A taxable person to whom the provisions of Section 10 (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</td>
</tr>
<tr>
<td>Conditions and restrictions for Composition levy</td>
<td>Supplier opting for composition scheme, shall-
1. Not to be engaged in manufacturer of Specified goods {Ice cream, pan Masala and Tobacco}
2. Not to be a casual taxable person/non-resident taxable person
3. Not eligible for Input Tax Credit
4. Not to issue a Tax Invoice & collect GST (Bill of Supply need to be issued)
5. Mention the details and status of Composition Dealer on Bills & Boards</td>
</tr>
<tr>
<td>Intimation for Composition</td>
<td>1. Option to pay composite tax along with application for registration – Intimation for composition scheme [Rule 3 (2)]: - Any person who applies for</td>
</tr>
</table>

Levy (Rule 3 & 4)	registration may give an option to pay tax under composition scheme in Part B of Form GST REG – 01, which shall be considered as an intimation to pay tax under this scheme. Effective Date: -From the date of Registration as per Rule 4 of CGST Rules, 2017 2. Filing of intimation before the beginning of financial year [Rule 3(3)]: - Registered person shall electronically file an intimation in Form GST CMP – 02. Duly signed or verified through EVC, on the common portal, prior to commencement of the FY. He shall furnish the statement in prescribed form within a period of 60 days from the commencement of the relevant FY. Effective Date: -From the beginning of FY as per Rule 4 of CGST Rules, 2017 3. One intimation applicable for all places in case of same PAN [Rule 3 (5)]
Conditions and restrictions form composition levy (Rule 5)	1. The person opting for the scheme must neither be a casual taxable person nor a non-resident taxable person. 2. The goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under section 9 (4). 3. He shall pay tax U/s 9 (3)/(9 (4) on inward supply of goods or services or both. 4. He shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him. 5. Mandatory display of the words “Composition Taxable Person” on every notice and signboard displayed at a prominent place. 6. Not to be engaged in manufacturer of specified goods during the preceding FY {Ice cream and other edible ice whether or not containing cocoa, Pan Masala, Tobacco and manufactured tobacco substitutes} The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.
Validity of Composition levy (Rule 6)	1. Validity of Scheme: As long as the prescribed conditions are met, the option exercised by a Registered Person to pay tax U/s 10 shall remain valid. 2. Duties of the Person when Scheme becomes invalid or mandatory cessation of composition levy on violation of conditions: (a) Liable to pay tax under normal scheme (b) Shall issue tax invoice for every taxable supply (c) within 7 days of occurrence of such even, shall file an intimation for withdrawal in Form GST CMP – 04 3. The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in Form GST CMP-04. 4. Show Cause Notice shall be given by the Proper office if he believes that the registered person was not eligible to pay tax u/s 10 or has contravened the provisions of the Act. Response to this notice should be furnished by taxable person within 15 days. 5. Acceptance/Refusal by the Proper Officer: Upon receipt of reply to the show cause notice from the registered person, the Proper Officer shall issue an order within 30 days of receipt of such reply, either accepting the reply, or denying the option to pay tax u/s 10. 6. Details of Stocks to be furnished by: Person who has furnished an intimation, or filed an application for withdrawal, or order of withdrawal of option has been passed by the proper officer shall file a statement containing details of stock within 30 days, from the date from which the option is withdrawn or from the date of order passed. He shall be entitled to avail input tax credit in respect of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him and on capital goods held by him on the date of withdrawal. 7. In case of wrongly availing the composition scheme, taxable person shall, in addition to

	any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74, shall, mutatis mutandis, apply for determination of tax and penalty. 8. Withdrawal applies to all units.
Central Goods and Services Tax (Removal of Difficulties) Order, 2019 No. 01/2019-CT 01-02-2019	For the removal of difficulties, it is hereby clarified that the value of supply of exempt 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 – (i) for determining the eligibility for composition scheme under second proviso to sub-section (1) of section 10; (ii) in computing aggregate turnover in order to determine eligibility for composition scheme.
Other Points	➢ Composition taxable person can import goods or services. ➢ Composition taxable person is not entitled to export goods.
Circular No. 77/51/2018 Dated 31.12.2018	It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in FORM GST CMP-04 but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed. If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules. In such cases, as provided under sub-section (5) of section 10 of the CGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in FORM GST CMP-07. It is also clarified that the registered person shall be liable to pay tax under section 9 of the CGST Act from the date of issue of the order in FORM GST CMP-07. Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

Notification No. 2/2019-Central Tax (Rate) Dated 7th March 2019 {w.e.f. 1st April 2019}

Description of Supply:- First supplies of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1st day of April in any financial year, by a registered person.

Explanation.-For the purposes of this notification, the expression "first supplies of goods or services or both" shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of three percent under this notification, value of supply of exempt 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.

Tax Rate:- CGST 3% + SGST/UTGST 3%

Conditions:-

1. Supplies are made by a registered person,-
   (i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below;
   (ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act;
   (iii) who is not engaged in making any supply which is not leviable to tax under the said Act;
   (iv) who is not engaged in making any inter-State outward supply;
   (v) who is neither a casual taxable person nor a non-resident taxable person;
   (vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and
   (vii) who is not engaged in making supplies of the goods, {Ice cream and other edible ice whether or not containing cocoa, Pan Masala, Tobacco and manufactured tobacco substitutes}
2. Where more than one registered persons are having the same Permanent Account Number, central tax on supplies by all such registered persons is paid at the rate specified above.
3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules.
5. The registered person shall mention the following words at the top of the bill of supply, namely: - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) Dated 07.03.2019, not eligible to collect tax on supplies'.
6. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax at the rate of three percent on all outward supplies specified in above topic "Description of supply" notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act.
7. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.
8. Where any registered person who has availed of input tax credit opts to pay tax under this notification, 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 as if the supply made under this notification attracts the provisions of section 18(4) of the said Act and the rules made there-under and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Notification No.21 /2019 – Central Tax Dated 23rd April, 2019

Registered persons paying tax under the provisions of section 10 of the CGST Act or by availing the benefit of notification No. 02/2019– Central Tax (Rate), Dated 07.03.2019 as the class of registered persons who shall follow the special procedure as mentioned below for furnishing of return and payment of tax:-

- The said persons shall furnish a statement, every quarter or, as the case may be, part thereof containing the details of payment of self-assessed tax in FORM GST CMP-08 of the Central Goods and Services Tax Rules, 2017, till the 18th day of the month succeeding such quarter.

- The said persons shall furnish a return for every financial year or, as the case may be, part thereof in FORM GSTR-4 of the Central Goods and Services Tax Rules, 2017, on or before the 30th day of April following the end of such financial year.
- The registered persons paying tax by availing the benefit of the said notification, in respect of the period for which he has availed the said benefit, shall be deemed to have complied with the provisions of section 37 and section 39 of the said Act if they have furnished FORM GST CMP-08 and FORM GSTR-4 as provided in para 1 and para 2 above.

Circular No. 97/16/2019-GST Dated the 5th April 2019

(i) a registered person who wants to opt for payment of central tax @ 3% by availing the benefit of the said notification, may do so by filing intimation in the manner specified in sub-rule 3 of rule 3 of the said rules in FORM GST CMP-02 by selecting the category of registered person as "Any other supplier eligible for composition levy" as listed at Sl. No. 5(iii) of the said form, latest by 30th April, 2019. Such person shall also furnish a statement in FORM GST ITC 03 in accordance with the provisions of sub-rule (3) of rule 3 of the said rules.

(ii) any person who applies for registration and who wants to opt for payment of central tax @ 3% by availing the benefit of the said notification, if eligible, may do so by indicating the option at serial no. 5 and 6.1(iii) of FORM GST REG-01 at the time of filing of application for registration.

(iii) the option of payment of tax by availing the benefit of the said notification in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same Permanent Account Number.

(iv) the option to pay tax by availing the benefit of the said notification would be effective from the beginning of the financial year or from the date of registration in cases where new registration has been obtained during the financial year.

It may be noted that the provisions contained in Chapter II Composition Rules (CGST) shall mutatis mutandis apply to persons paying tax by availing the benefit of the said notification, except to the extent specified in para above.

Example 2:- Mr. A is not a registered person during Financial Year 2018-19. From 1st April 2019, new financial year commences. Upto September 2019, he achieves the aggregate turnover of Rs. 20 Lakhs and is liable for registration under GST Laws w.e.f. 1st October 2019. From October 2019 to December 2019, he made outward supply of Rs. 30 Lakhs. And, from Jan 2020 to March 2020, he made outward supply of Rs. 15 lakh.

His turnover of Rs 50. Lakh for recognising his benefit under this scheme {Notification No. 2/2019-Central Tax (Rate) Dated 7th March 2019} will be counted from 1st April 2019. However, tax under this scheme shall be payable only for the supplies made during October 2019 to December 2019 (i.e. on Rs. 30 lakhs).

As the limit of Rs. 50 Lakhs under this scheme exhausted till 31st December 2019 (i.e. Rs. 20 Lakhs before registration and Rs. 30 Lakhs after registration), hence, from 1st January 2019 onwards, tax shall be payable under normal provisions of GST as applicable for regular dealers.

Question & Answer

Q1. XYZ Ltd. is a manufacturing concern in Mumbai. In FY 19-20 total value of supplies including inward supplies taxed under reverse charge basis are Rs. 1,55,00,000, please see below break up?

Particulars	Amount
Intra State Supplies	60,00,000
Intra State Supplies made which are subject to 0% CGST	60,00,000
Intra State Supplies which are wholly exempt	30,00,000
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	60,00,000
Intra State Supplies made which are subject to 0% CGST	60,00,000
Intra State Supplies which are wholly exempt	30,00,000
Value of inward supplies which is payable under RCM	NIL
Total	1,50,00,000

Since, aggregate turnover doesn't exceed Rs. 1,50,00,000 during the FY 19-20, so XYZ Ltd. is entitled for composition scheme.

Q2. 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
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

Q3. 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. 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.

Q4. 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.

Q5. What happens if a taxable person who has opted to pay taxes under the composition scheme crosses the threshold limit of Rs. 75 lakhs/1.5 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.

Q6. A hotel provided accommodation in Himachal Pradesh, through an electronic commerce operator – Makemyyatra.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 Makemyyatra.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. Makemyyatra.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 Makemyyatra.com does not have a physical presence in India, person liable to pay tax is the person representing Makemyyatra.com.

Q7. 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.

Q8. ABC Ltd., a manufacturing concern is affecting intra-State taxable supply and inter-State supply. 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.

Q9. 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.

Q10. ABC Ltd. a trading concern in Rajasthan has opted for composition scheme furnishes you with the following information for Financial Year 2019-20. 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 Services 'A' (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 Services 'A' (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

Q11. 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 (registered in GST).
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 provider Mr. A, is liable to pay GST.

ix. ABC Ltd. is liable to pay GST as service provider.

x. ABC Ltd. is liable to pay GST as a reverse charge.

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.

Q12. 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.

Q13. 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* 5/105); Composition Tax = (72,00,000*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.

Q14. 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.

Q15. 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.

Q16. 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.

Q17. 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.

Q18. 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.

Q19. 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.

Q20. 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 foreign 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.

Q21. 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.

Q22. 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.

Q23. AB & Co. is a firm of advocates (partners are A and B), having equal profit sharing ratio. Find out the GST liability

a) 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
b) Legal professional services provided to B & Co. (a firm of 10 advocates) : Rs. 32,00,000.
c) Legal professional services provided to C (an Employee) (this service is provided to C in a personal legal matter) : Rs. 6,00,000.
d) 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.
e) 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.

a) Services provided to X, shall be exempt as provided to individual advocate via entry no. 45.
b) Services provided to B & Co., shall be exempt via entry no. 45
c) Services provided to C, shall be exempt since provided to non-business entity
d) 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.

Q24. 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.

Q25. 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)

Q26. 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.

Q27. 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.

Q28. 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.

Q29. 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) x 18%]

Q30. 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.

Q31. 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 makemyyatra.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:-

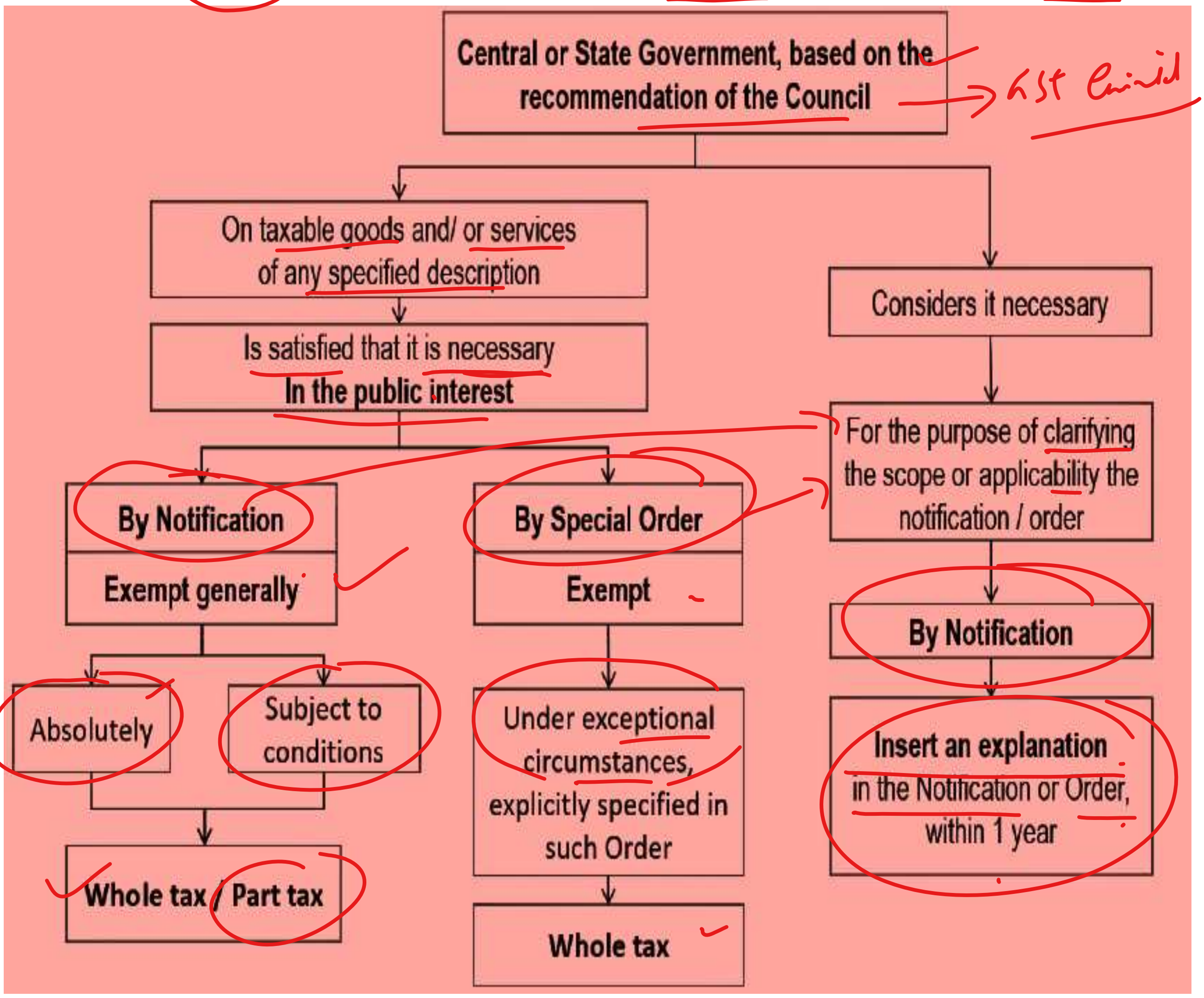
i. ECO shall not be liable to pay GST. Since aggregate turnover of hotel is more than threshold exemption and it is liable to take GST registration U/s 22 (1) of CGST Act. Thus, GST shall be payable by hotel under forward charge.
ii. Banquet renting service has not been notified, thus ECO shall not be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

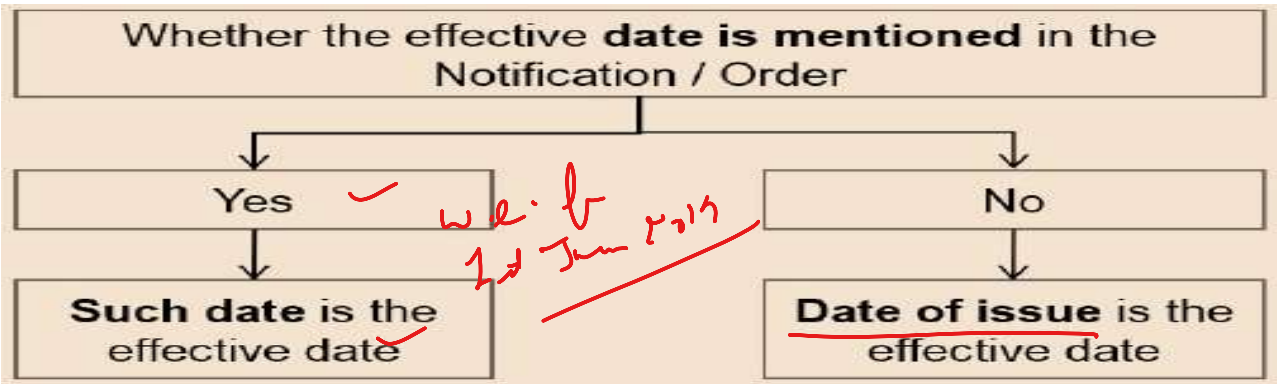
Q32. Mr. A is a senior advocate in Calcutta High Court. During October 2018, he provides legal service to ABC associates (a firm of advocates in Mumbai) for a fee of Rs. 5,00,000. Turnover of ABC associates for preceding financial year is Rs. 36 lakh.
Ans. Legal services provided by senior advocate to 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.

Chapter 4: - Exemptions from GST

Sec. 11 of CGST/Sec. 6 of IGST	**Power to Grant Exemption from Tax**
Notification No. 12/2017 – CT/ Notification No. 9/2017-IT	**List of Services Exempt Under CGST & IGST**

Section 11 Power to Grant Exemption from Tax (Section 6 of IGST Act)





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List of services exempt from CGST (Notification No. 12/2017 – CT (R) Dated 28-06-2017 / Notification No. 9/2017-IT (R) Dated 28-06-2017 {Sr. No. is of CGST Notification})

Sr. No.	Description of Services	Important points
1	Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. 1. Any services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. 2. Any fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. 3. Any Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. 4. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable. {Circular No. 66/40/2018 Dated 26th October 2018} Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities. However, accommodation service in hostels including such services provided by trusts having value of supply below Rs. 1,000 per day is exempt under Entry 14 of the Notification. {Circular No. 32/06/2018-GST Dated 12.02.2018]	If such entity provides any other services other than charitable activity then it is subject to GST i.e. renting of commercial property owned by such entity/trust. The term 'charitable activities' mean activities relating to 1) Public health e.g. care or counselling of terminally ill, people afflicted with HIV or AIDS etc., public awareness of preventive health etc. 2) Advance of Religion, spirituality or yoga 3) Advancement of Educational Programmes/Skill, relating to abandoned/orphaned children, prisoners, physically or mentally abused and traumatized persons, persons over the age of 65 years residing in a rural area 4) Preservation of environment including watershed, forests & wildlife.
2	Services by way of transfer of a going concern, as a whole or an independent part thereof.	
3	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government entity by way of any activity in relation to any function entrusted to a panchayat under article 243G of the Constitution or in relation to any function entrusted to a municipality under article 243W of the Constitution.	goods
3A	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a panchayat under article 243G of the Constitution or in relation to any function entrusted to a municipality under article 243W of the Constitution.	Important term is Municipality/ Panchayat

4	Services by ~~Central Government, State Government, Union territory, local authority or~~ governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.	
5	Services by ~~Central Government, State Government, Union territory, local authority or~~ governmental authority by way of any activity in relation to any function entrusted to a panchayat under article 243 G of the Constitution.	
6	Services by the Central Government, State Government, Union territory or local authority excluding the following services— (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities. Services provided by State Government by way of general insurance (managed by government) to employees of the State government/Police personnel, employees of Electricity Department or students of colleges/private schools etc. wherein the total premium for insurance policy is paid by employees, students etc. are exempt. [Circular No. 16/16/2017 GST Dated 15.11.2017]	Let take example of post office services which are subject to GST: - 1. Rural postal life insurance services 2. Speed post & Express post parcel 3. Collection of telephone and electricity bill 4. Distribution of mutual funds, bonds and passport application etc.
7	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year. Explanation.- For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to- (a) services,- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and (b) services by way of renting of immovable property.	Co-relate with reverse charge specified U/s 9 (3) Forward charge
8	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: Provided that nothing contained in this entry shall apply to services- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers.	
9	Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees: Provided that nothing contained in this entry shall apply to- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers:	5001 Taxable

	Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.	Exempt 5000
9A	Services provided by and to FIFA and its subsidiaries directly or indirectly related to any of the events under FIFA U 17 World Cup 2017 to be hosted in India are exempt.	Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly/indirectly related to any of the events under FIFA U-17 world cup 2017.
9B	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) are exempt	
9C	Supply of service by Government Entity to Central Government, State Government, Union Territory, local authority or any person specified by Central Government, State Government, Union Territory or local authority against consideration received from Central Government, State Government, Union Territory or local authority, in the form of grants is exempt	
9D	Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) to its residents (aged 60 years or more) against consideration upto twenty five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.	25000
10	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.	
10A	Services supplied by electricity distribution utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.	
11	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.	
11A	Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.	
12	Services by way of renting of residential dwelling for use as residence. Grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt [Circular No.44/18/2018 CGST Dated 02.05.2018]	Giving for entertainment, hotel, religious body or any other commercial activity etc. is subject to GST.
13	Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:	

	Provided that nothing contained in entry (b) of this exemption shall apply to,- (i) renting of rooms where charges are one thousand rupees or more per day; (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are Rs. 10,000 or more per day; (iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.	
14	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.	
15	Transport of passengers, with or without accompanied belongings, by – (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air- conditioned stage carriage. Elephant/camel joy rides are not classified as transportation services and will attract GST @ 18% with threshold exemption being available to small service providers. (Circular No. 32/06/2018-GST dt. 12-2-2018)	
16	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this entry shall apply on or after the expiry of a period of three years from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.	
17	Service of transportation of passengers, with or without accompanied belongings, by— (a) railways in a class other than— (i) first class; or (ii) an air-conditioned coach; (b) metro, monorail or tramway; (c) inland waterways; (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rickshaws).	AC carriage is taxable
18	Services by way of transportation of goods- (a) by road except the services of (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.	
19	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.	
19A	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.	Nothing contained in this serial number shall apply after the 30th day of September, ~~2018~~ 2019
19B	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.	Nothing contained in this serial number shall apply after the 30th day of September, ~~2018~~ 2019
20	Services by way of transportation by rail or a vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and	All the transportation are not exempt i.e. transport of postal mails and bags, household items, petroleum product, alcoholic beverages etc.

	(g) organic manure.	
21	Services provided by a goods transport agency, by way of transport in a goods carriage of – (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.	*Entry No. 20 & 21 are identical.* *In case of Entry No. 21 – GTA, (b) & (c) are extra exempt.* *In case of Entry No. 20 – Rail or Vessel, (d) is extra exempt.*
21A	Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:- (a) any factory registered under or governed by the Factories Act, 1948; or (b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any Cooperative Society established by or under any law for the time being in force; or (d) anybody corporate established, by or under any law for the time being in force; or (e) any partnership firm whether registered or not under any law including association of persons; (f) any casual taxable person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act.	Co-relate with reverse charge specified U/s 9(3). Key word is "unregistered person & unregistered casual taxable person".
21B	Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.	Co-relate with Reverse Charge list
22	Services by way of giving on hire – (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (b) to a goods transport agency, a means of transportation of goods. (c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.	
23	Service by way of access to a road or a bridge on payment of toll charges.	Commission earned on toll receipt is taxable
23A	Service by way of access to a road or a bridge on payment of annuity is exempt.	
24	Services by way of loading, unloading, packing, storage or warehousing of rice.	
24A	Services by way of warehousing of minor forest produce.	
25	Transmission or distribution of electricity by an electricity transmission or distribution utility. The services provided by DISCOMS against recovery of charges from consumers are taxable in GST e.g. application fee for releasing connection of electricity, rental charges against metering equipment, testing fee for meters/transformers, capacitors etc., labour charges from customers for shifting of meters or shifting of service lines, charges for duplicate bill etc. [Circular No. 34/8/2018-GST Dated 01.03.2018]	
26	Services by the Reserve Bank of India.	

27	Services by way of— (a) 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); (b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers. The service provided by CG/SG to any business entity by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable. [Circular No. 34/8/2018-GST Dated 01.03.2018] The services provided by Asian Development Bank (ADB) and International Finance Corporation (IFC) are exempt from GST. The exemption will be available only to the services provided by ADB and IFC and not to any entity appointed by or working on behalf of ADB or IFC. [Circular No. 83/02/2019- GST Dated 01.03.2019]	Since going by "Service" definition sky is limit. Government has exempted interest in this clause. Any processing fees or service fees will be subject to GST
27A	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)	
28	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of2013).	
29	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.	
29A	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.	
30	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).	
31	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 (19 of 1952).	
31A	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948).	
31B	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.	
32	Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).	
33	Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.	
34	Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service. Explanation.— For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.	
34A	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings(PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.	
35	Services of general insurance business provided under following schemes – (a) Hut Insurance Scheme;	

	(b) Cattle Insurance under Swaranjayanti Gram Swarozgar Yojana (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha Bima Yojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).	
36	Services of life insurance business provided under following schemes- (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of two lakhs rupees; (d) Varishtha Pension BimaYojana; (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yogana; (g) Pradhan Mantri Vaya Vandan Yojana.	The Key is Social welfare.
36A	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.	
37	Services by way of collection of contribution under the Atal Pension Yojana.	
38	Services by way of collection of contribution under any pension scheme of the State Governments.	
39	Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area. As per CBIC Circular No. 86/05/2019- GST, Dated 1st January, 2019, the services provided by a BF/BC to a banking company in their respective individual capacities should fall under the Heading 9971 (Financial and related services) and such services should be with respect to accounts in a branch located in the rural area of the banking company. The criteria for classification of branch of a bank as located in rural area and the services which can be provided by BF/BC, is governed by the RBI guidelines. Therefore, classification adopted by the bank in terms of RBI guidelines in this regard should be accepted.	"Business facilitator or Business Correspondent" means an intermediary appointed under the business facilitator model or the business correspondent model by a company or an insurance company under the guidelines issued by the RBI. Rural area is normally village which is not notified as urban area and also doesn't come under any municipality.
39A	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).	

	Explanation.- For the purposes of this entry, the intermediary of financial services in IFSC is a person,- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.	
40	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory. General Insurance policies provided to employees of the State Government/ Police personnel, employees of Electricity Department or students of colleges/private schools etc. wherein the total premium for insurance policy is paid by the Central Government, State Government, Union territory are exempt [Circular No. 16/16/2017-GST Dated 15.11.2017]	
41	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area. Explanation.- For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory. It is hereby clarified that GST exemption on the upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, is admissible irrespective of whether such upfront amount is payable or paid in one or more installments, provided the amount is determined upfront. {Circular No. 101/20/2019-GST Dated 30-04-2019}	
41A & 41B	Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property	
42	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.	
43	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.	
44	Services provided by an incubatee up to a total turnover of fifty lakh	

	rupees in a financial year subject to the following conditions, namely:- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.	
45	Services provided by- (a) an arbitral tribunal to – (i) any person other than a business entity; or (ii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year; (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity; (b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to- (i) an advocate or partnership firm of advocates providing legal services; (ii) any person other than a business entity; or (iii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year; (iv) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity; (c) a senior advocate by way of legal services to- (i) any person other than a business entity; or (ii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year. (iii) the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.	"Legal Services" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority. This need to be co-related with services notified under Reverse Charge under section 9 (3) of CGST Act, 2017. Please refer to Chapter 3 for this.
46	Services by a veterinary clinic in relation to health care of animals or birds.	
47	Services provided by the Central Government, State Government, Union territory or local authority by way of- (a) registration required under any law for the time being in force; (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force. Seed testing and certification is a multi-stage process, the charges for which are collected from the seed producers at different stages. Supply of seed tags to the seed producer is nothing but an element of the one integrated supply of seed testing and certification. All the above charges, including those for issue of seed certificates/tags by the Seed Certification Agency of Tamil Nadu and Uttarakhand to the seed producing organization/ companies are collected for the composite supply of seed testing and certification, which is exempt under Notification No. 12/2017-Central Tax (Rate) Sl. No. 47 (services by Central/State Governments by way of testing/certification relating to safety of consumers and public at large, required under any law). This clarification would apply to supply of seed tags by seed testing and certification agencies of other states also following similar seed testing and certification procedure. However, the State Governments/Seed Certification Agencies may get the tags used in seed certification printed from other departments/ manufacturers outside. Supply of seed tags by the other departments/manufacturers to the State Government/Seed Certification Agencies is a supply of goods liable to tax. Whether such tags would be classified under Chapter 49 as tags made of paper or in Textile chapters as tags made of textile would depend upon the predominant material used in the tags. { Circular No. 100/19/2019-GST Dated 30-04-2019}	

47A	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.	
48	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio- incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.	
49	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.	
50	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.	
51	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.	
52	Services by an organiser to any person in respect of a business exhibition held outside India.	
53	Services by way of sponsorship of sporting events organised – (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country; (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; (c) by the Central Civil Services Cultural and Sports Board; (d) as part of national games, by the Indian Olympic Association; or (e) under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.	
53A	Services by way of fumigation in a warehouse of agricultural produce.	
54	Services relating 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 by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce. (h) services by way of fumigation in a warehouse of agricultural produce. GST rate on loading, unloading, packing, storage or warehousing of agricultural produce is Nil. So, processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and thus exemption from GST is not available to their loading, packing, warehousing etc. (Circular No. 16/16/2017-GST Dated 15-11-2017)	"Agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training "Agricultural produce marketing committee or Board" means any committee or board constituted under a state law for regulating the marketing of agricultural produce "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

	Fertilizers supplied for direct use as fertilizers or supplied for use in the manufacturing of other complex fertilizers for agricultural use will attract GST. (Circular No. 54/28/2018-GST Dated 09-08-2018)	which does not alter its essential characteristics but makes it marketable for primary market. Remember warehousing other than agriculture produce is subject to tax i.e. Cadbury chocolate, cotton fabrics etc.
55	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 into rice is not eligible for exemption (Circular No. 19/19/2017-GST Dated 20-11-2017)	
55A	Services by way of artificial insemination of livestock (other than horses).	
56	Services by way of slaughtering of animals.	
57	Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.	
58	Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.	
59	Services by a foreign diplomatic mission located in India.	
60	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.	
61	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.	
62	Services provided by the Central Government, State Government, Union territory or local authority by way 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.	
63	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for 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.	
64	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016: Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource.	
65	Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.	
65A	Services by way of providing information under the Right to Information Act, 2005 (22 of 2005).	
65B	Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders. However, at the end of the contract period, ERCC shall submit an account to the State Government and certify that amount of GST deposited by mining	

	lease holders on royalty is more than GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty. Explanation- Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under section 15(1) of the Act.	
66	Services provided – (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house- keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; (v) supply of online educational journals or periodicals (this service is exempt from IGST on import also): Provided that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course. “Educational Institution” means an institution providing services by way of,- (i) Pre-school education and education up to higher secondary school or equivalent; (ii) Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force; (iii) Education as a part of an approved vocational education course (a course run by an industrial training institute or an industrial training centre affiliated to the National/State Council for Vocational Training; or a modular employable skill course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment & Training, Ministry of Skill Development and Entrepreneurship). The Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Vocational training provided by private ITIs in designated trades (notified under Apprenticeship Act, 1961) are exempt from GST whereas vocational training provided by private ITIs in respect of other than designated trade would be liable to pay GST. Services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee in case of designated trades will be exempt from GST whereas in case of other than designated trades in private ITIs, GST shall be payable.	College Hostel Mess Services If Catering services are provided by an eligible educational institution to its students, faculty and staff then the same is exempt. If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the activity to an outside contractor, then it is a supply of service to the concerned educational institution and attracts GST**. **Note: It may be noted that said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax. Educational Institute includes conduct of degree courses by colleges, universities or institutions which lead grant of qualifications recognized by law would be covered. Boarding Schools (entire lodging, boarding, food etc.) are exempt considering composite supply U/s 8. Since principal supply is education & renting for residence (which are not taxable), hence entire package would be exempt. GST is payable on:- ➢ Private tuition ➢ Obtaining a qualification recognized by law of a foreign country

	Vocational training and examinations conducted by Government ITIs is exempt as these are in the nature of services provided by the Central Government or State Government to individuals {Entry 6}. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs. (Circular No. 55/29/2018-GST Dated 10-8-2018)	➢ Fees form prospective employers for campus interview ➢ Renting of flats for temporary stay to different persons
As per CBIC Circular No. 82/01/2019-GST Dated 1 January 2019, With effect from 31 January 2018 i.e., the date from which the IIM Act, 2018 came into effect, all the Indian Institutes of Management (IIMs) will qualify as 'educational institutions' as defined under Notification No. 12/2017-Central Tax (Rate). With effect from 31 January 2018, all IIMs are eligible for exemption benefit under GST. Thus, the courses which are offered on or after 31 January 2018 are eligible for exemption under Sl. No. 66 of the said notification. However, so far as short duration courses are concerned, where IIMs issue participation certificate to executives/ professionals (participants), the same are not exempt and attract GST @ 18%. All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives – Exempt All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law - Not exempt from GST		
~~67~~	~~Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: –~~ ~~(a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;~~ ~~(b) fellow programme in Management;~~ ~~(c) five year integrated programme in Management.~~	
68	Services provided to a recognised sport body by- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body; (b) another recognised sports body.	Receipts from IPL are subject to GST. Receipts from acting as brand ambassador for corporate client, is subject to GST.
69	Any services provided by, _ (a) the National Skill Development Corporation set up by the Government of India; (b) a Sector Skill Council approved by the National Skill Development Corporation; (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation; (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to- (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any other Scheme implemented by the National Skill Development Corporation.	
70	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.	
71	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.	
72	Services provided to the Central Government, State Government, Union territory administration under any training programme for which total	

	expenditure is borne by the Central Government, State Government, Union territory administration.	
73	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.	
74	Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above. Room rent in hospitals provided to in-patients is exempt. (Circular No. 27/01/2018-GST dt 4-1-2018) Healthcare services provided by senior doctors/consultants/technicians hired by the hospitals, whether employees or not are exempt. The entire amount charged by hospitals from patients including the retention money and the fees/payments made to the doctors are exempt. Food supplied to the patients is a part of composite supply and not separately taxable whereas other supplies of food by a hospital to patients (not admitted) or their visitors are taxable. <u>ITC not available to Hospital since it is exempt.</u> (Circular No. 32/06/2018-GST dt 12-2-2018) Services provided by PSPs to the State Governments by way of transportation of patients on behalf of the State Governments against consideration in the form of fee or otherwise charged from the State Government would be exempt under Notification No. 12/2017- Central Tax (Rate) Dated 28.06.2017 SI No.3 if it is a pure service and not a composite supply involving supply of any goods SI No. 3A if it is a composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply. (Circular No. 51/25/2018-GST dt 31-7-2018)	Healthcare services doesn't 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. Healthcare services can be provided at patient's home. Naturopathy, ayurvedic treatment is allowable. Pranic healing services is not recognized service so subject to GST.
74A	Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 (34 of 1992) by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA of the Income tax Act, 1961.	
75	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.	
76	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.	
77	Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or (c) up to an amount of seven thousand five hundred rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.	Please refer to Q & A for this.
77A	Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,	

	to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs 1,000/-) per member per year.	
78	Services by an artist by way of a performance in folk or classical art forms of- (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees: Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.	
79	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.	
79A	Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958) or any of the State Acts, for the time being in force.	
80	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	
81	Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event; (d) planetarium, where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than Rs. 500 per person.	
82	Services by way of right to admission to the events organized under FIFA U-17 World Cup 2017 are exempt.	

Exemption under IGST		
1	Services received from a provider of service located in a non-taxable territory by (a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession (b) an entity registered under section 12 AA of the Income-Tax Act, 1961 for the purpose of providing charitable activities (ba) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of- ***(i)*** pre-school education and education up to higher secondary school or equivalent; or ***(ii)*** education as a part of an approved vocational education course; (c) a person located in a non-taxable territory are exempt. However the exemption shall not apply to:- (i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or (ii) Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.	Co-relate with provisions of reverse charge U/s 5 (3) of IGST Act, 2017.
2	Services received by RBI from outside India in relation to management of Foreign Exchange Reserves.	
3	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India are exempt.	
4	~~Supply of Services having place of supply in Nepal or Bhutan, against payment in Indian rupees.~~	
5	Services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons in accordance with Explanation 1 in section 8 of the Integrated Goods and Services Tax Act, 2017.	Provided the place of supply of the service is outside India in accordance with section 13 of Integrated Goods and Services Tax Act, 2017.
6	Import of services by United Nations or a specified international organisation for official use of the United Nations or the specified international organisation. Explanation. - For the purposes of this entry, unless the context otherwise requires, “specified international organisation” means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.	
7	Import of services by Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be exempt from IGST, subject to the conditions, - ***(i)*** that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to exemption from integrated tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity; ***(ii)*** that the services imported are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his or her family. ***(iii)*** that in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post; ***(iv)*** that the exemption from the whole of the integrated tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.	

Other Exemptions		
1	Intra-State supplies of goods or services or both received by a deductor under section 51, from any unregistered supplier, is exempt from the whole of the central tax leviable thereon under Section 9 (4), subject to the condition that the deductor is not liable to be registered otherwise than under section 24 (vi)	
2	All services imported by a unit/developer in the SEZ for authorized operations are exempt from the whole of the integrated tax leviable thereon U/S 3 (7) of the Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017	
3	Central Government's share of profit petroleum exempted from CGST Intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf. [Notification No. 5/2018 CT (R) Dated 25.01.2018] Parallel exemption from IGST has been extended to inter-State supply of such services vide Notification No. 5/2018 IT (R) Dated 25.01.2018.	
4	IGST exempted to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007 IGST leviable on import of services in relation to temporary transfer or permitting the use or enjoyment of any intellectual property right has been exempted to the extent of the aggregate of the duties of customs leviable under section 3(7) of the Customs Tariff Act, 1975, on the consideration declared under section 14(1) of the Customs Act, 1962 towards royalties and license fees included in the transaction value as specified under rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of customs have been paid [Notification No. 6/2018 IT (R) Dated 25.01.2018].	

Question & Answer

Q1. With reference to the CGST Act, 2017, discuss the following activities relating to a bank?

a. Bank Extended housing loan of Rs. 50 Lacs to Mr. Namit.

b. Bank received processing fees of Rs. 50,000 from Mr. Namit.

c. Bank received Rs. 2 Lacs interest from Mr. Namit.

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

a. The same is transaction in money, therefore not regarded as service as per Sec 2(102) of CGST Act, 2017.

b. The loan processing fees received by bank will be liable for GST.

c. Rs. 2 Lacs received as interest on loan won't be liable for GST as the same is exempt vide Sr. No. 27 of Notification No. 12/2017- CT (Rate).

Q2. State with reasons whether the following are liable to GST?

a. Services by way of training or coaching in recreational activities relating to arts, culture or sports.

b. Services provided by a player to a franchisee which is not a recognized sports body.

c. Pre-school education and education up to higher secondary school or equivalent.

d. Services by a veterinary clinic in relation to health care of animals or birds.

e. Services by way of public conveniences such as provision of facilities of washrooms.

A. The liability as well as reason: -

a. Services by way of training or coaching in recreational activities relating to arts, culture or sports are exempt as it is specifically exempt vide Sr. No. 80 of Notification No. 12/2017-CT (Rate)..

b. Service of a player to a franchisee which is not a recognized sports body is taxable as it doesn't get covered under Sr. No. 68 of Notification No. 12/2017-CT (Rate).

c. Pre-School education and education up to higher secondary school or equivalent is not liable to GST as it is specifically exempt under Sr. No. 66 of Notification No. 12/2017-CT (Rate).

d. 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 Sr. No. 46 of Notification No. 12/2017- CT (Rate).

e. Services by way of public conveniences such as provision of facilities of washrooms are not liable to GST as it is specifically exempt vide Sr. No. 76 of Notification No. 12/2017-CT (Rate).

Q3. Please comment whether below instances are subject to tax or no?

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

A. Our comments: -

a. This is exempt under Sr. No. 17 of Notification No. 12/2017-CT (Rate).
b. This is liable to GST.
c. This is exempt under Sr. No. 15 of Notification No. 12/2017-CT (Rate).
d. This is liable to GST.
e. This is exempt under Sr. No. 17 of Notification No. 12/2017-CT (Rate).
f. This is exempt under Sr. No. 15 of Notification No. 12/2017-CT (Rate).
g. This is liable to GST.

Q4. Please comment whether below instances are subject to tax or no?

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

A. Our comments: -

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

j. This is exempt under Sr. No. 21 of Notification No. 12/2017-CT (Rate).

Q5. 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.

A. Our comments: -

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

Q6. 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.

A. Our comments: -

a. If per month per member contribution of any or some members of Resident Welfare Associations is higher than Rs. 7,500, then such excess amount 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 Sr. No. 81 of Notification No. 12/2017-CT (Rate) -Lesser then Rs. 500.
e. This is liable to GST.

Q7. 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.

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.

A. 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 Sr. No. 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 Sr. No. 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 Sr. No. 62 of Notification No. 12/2017-CT (Rate).

d. It is exempt vide Sr. No. 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 Sr. No. 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 Sr. No. 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.

Q8. State the difference between General & Special Exemption.

A.

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)

Q9. 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?

A. 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.

Q10. 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:-

i. Deluxe room rent Rs. 900 per day & Super Deluxe room rent Rs. 1,000;
ii. Renting of small community hall for Rs. 9,000 per day & Renting of large community hall for Rs. 12,000
iii. Trust has rented shop for Rs. 15,000 p.m. to sell goods required for performing various religious ceremonies.
iv. Meditation Hall provided on rent for Rs. 100 per day.
v. Amount received for yoga camps organized for elderly people - Rs. 1,00,000.
vi. Amount received for activities relating to preservation of forests and wildlife – Rs. 50,000
vii. Payment made for services received from a service provider located in USA, for the purposes of providing 'charitable activities' – Rs. 5,00,000
viii. Amount received for advancement of educational programmes relating to abandoned, orphaned or homeless children – Rs. 1,00,000
ix. Renting of residential dwelling for use as a residence – Rent Rs. 25,000 p.m.
x. Renting of residential dwelling for commercial activity – Rent Rs. 50,000 p.m.
xi. 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?

A.

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.

Q11. 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%.

Please calculate value of taxable supply.

A.

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

Q12. 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.

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.

A.

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.

Q13. 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
1st Floor	Residential dwelling for monthly rent of INR 50,000
2nd 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.

A.

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

Q14. 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.

A.

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

Q15. '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.

A.

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

Q16. 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.

A.

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

Q17. 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.

A.

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

Q18. 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.

A.

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

Q19. 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

A.

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 in 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 transactions are nothing but interest charged for lending or borrowing money. Also interest earned on reverse repo transactions are exempt from GST	NIL
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

Q20. 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

A.

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

Q21. 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? (ICAI Module)

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.

Q22. 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? (ICAI Module)

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.

Chapter 5: - Place of Supply

Section 10 of IGST Act, 2017	**Place of Supply of Goods other than Supply of Goods Imported into, or Exported from India**
Section 11 of IGST Act, 2017	**Place of Supply of Goods Imported into, or Exported from India**
Section 12 of IGST Act, 2017	**Place of Supply of Services where location of supplier of service and the location of the recipient of service is in India**
Section 13 of IGST Act, 2017	**Place of Supply of Services where location of supplier or location of recipient is outside India**

Section 10 (IGST Act, 2017) Place of Supply of Goods other than Supply of Goods Imported into, or Exported from India

Provision of Section 10 override provision of Section 7 (1) of IGST Act, 2017 {supply of goods}.

Provision	Place of Supply	Remarks
Sec. 10 (1) (a) Movement of goods is involved Whether by – - Supplier - Recipient - Any other person	Location of goods where delivery terminates to the recipient	The location of the goods is a question of fact to be ascertained by observing the journey which the goods supplied make from their origin from supplier and terminate with recipient.
Example 1: A Ltd., Mumbai (supplier) supply to B Ltd, Delhi (recipient). The place of supply will be Delhi whether supplier supply to recipient or recipient take delivery from supplier's place or recipient engaged transporter to take delivery on his behalf. Example 2: Mr. A working in Mumbai, while his official visit to Delhi purchased a laptop from electronic showroom in Delhi. He immediately took delivery of laptop in showroom. The POS may be considered as 'Delhi' (CGST & SGST) where supplier mention address for delivery in his invoice as 'Delhi'. The POS may be also considered as 'Mumbai' (IGST) where supplier mention address for delivery in his invoice as 'Mumbai'. In terms of clause (e) of rule 46 of CGST Rules, a tax invoice issued by registered person is required to contain, name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is unregistered and where the value of the taxable supply is Rs. 50,000 or more.		
Sec. 10 (1) (b) If the goods are delivered to – - Any person, on the direction of a third person, before or during movement of goods, it shall be deemed that the said person has received the goods. Irrespective of: - - Whether such person acting as an agent or otherwise,	Principal place of business of such third person	It is important to identify the two supplies – by supplier to third party and by third party to recipient This provision deals only with the first limb of supply (Second limb defined in 'c'), that is, supply by supplier to third party. This is also called "Bill to Ship to" model. **Let say supplier raise invoice on 15.05.2019 on third person and remove

- Whether transfer made by way of transfer of documents of title of the goods or otherwise		the goods for delivery. The third person also need to raise invoice on same day according to provisions of Section 31 (1) (a).

Supplier & his Location	Buyer & his Location	Recipient & his location	Place of supply (first limb)	Place of supply (second limb)
A Ltd., Mumbai	B Ltd. Mumbai	C Ltd. Delhi	Mumbai	Delhi
A Ltd., Mumbai	B Ltd. Chennai	B Ltd. Mumbai	Chennai	Mumbai
A Ltd., Mumbai	B Ltd. Kolkata	C Ltd. Delhi	Kolkata	Delhi
A Ltd., Mumbai	B Ltd. Chennai	C Ltd. Delhi	Chennai	Delhi

Sec. 10 (1) (c) Movement of goods is not involved	Location of goods at the time of the delivery to the recipient	It is not a case where there is difficulty in movement of the goods, but this is goods ought not to move and when their delivery to the recipient will stand complete

Example 4: A Ltd., Mumbai bought office in Delhi with pre-installed office furniture & fixtures. The purchase of office is outside the purview of GST (Schedule III) but office furniture & fixtures will be liable to GST. Since there is no movement of furniture & fixtures, the place of supply is their location i.e. Delhi.

Sec. 10 (1) (d) Goods are assembled or installed	Place of such installation or assembly	Please note that in the case of assembly or installation, it is a supply that is not 'works contract'. This is because works contracts, in GST, are treated as supply of service and that too only if the resultant is an immovable property. The provisions of this section does not apply to works contracts.

Supplier & his location	Recipient & his location	Place of installation/assembly	Place of Supply	Tax Leviable
A Ltd., Mumbai	B Ltd. Mumbai	Delhi	Delhi	IGST
A Ltd., Mumbai	B Ltd. Chennai	Indore	Indore	IGST
A Ltd., Mumbai	B Ltd. Kolkata	Guwahati	Guwahati	IGST
A Ltd., Mumbai	B Ltd. Chennai	Mumbai	Mumbai	CGST/SGST

Sec. 10 (1) (e) Goods supplies on board a conveyance i.e. vessel, an aircraft, a train or a motor vehicle	Location as which such goods are taken on board	The place of supply appointed under this sub-section is the supply by the operator of the conveyance during its journey to the passenger

Example 6: A Ltd. Mumbai entered into contract with the ABC airlines for the supply of food to the passenger on Mumbai – Delhi route. The goods were loaded in Kolkata (previous journey leg), so in this case place of supply is Kolkata.
Example 7: A boarded Rajdhani train from Mumbai along with food items. He sold all the food items between Mumbai to Delhi journey. The place of supply is Mumbai where food items loaded.
Example 8: A is travelling from Delhi to Guwahati via train. He ordered dinner to pantry person. Food items were loaded in Kanpur and delivered to him in Allahabad. The place of supply is Kanpur.

Sec. 10 (2) Where place of supply cannot be determined	As determined in the manner prescribed	However, as of now no such peculiar circumstances has come for which separate provisions for POS has been prescribed.

Section 11 (IGST Act, 2017) Place of Supply of Goods Imported into, or Exported from India

Type	Place of Supply
Sec. 11 (a) Goods imported in India	Location of the importer
Sec. 11 (b) Goods exported from India	Location outside India

IGST will be payable, at the time of import of goods from custom.

IGST will be payable on value determined under section 3 of Customs Tariff Act on value determined under said Act at the point where duties of customs are levied on the said goods under section 12 of Customs Act, 1962 – proviso to section 5 (1) of IGST Act.

CBE&C vide circular No. 50/2017-Cus Dated 18-12-2017 has clarified as follows –

a. Price of goods in duty free shops should be displayed in rupees only
b. In case of incoming passenger, the limit is Rs. 25,000 and payment can be made in rupees by debit/credit card in duty free shop in arrival hall
c. There is no restriction on amount in case of outgoing passenger and he can pay any amount in rupees by debit/credit card in departure hall.

Example 9: A Ltd., Delhi imported goods from B Ltd., China. Location of supplier is China. Place of supply is Delhi (taxable territory). It will be subject to IGST.

Example 10: A Ltd., Delhi exported goods to B Ltd., China. Location of supplier is Delhi (taxable territory). Place of supply is China (outside India). It will be treated as exported.

Example 11: A Ltd., Delhi received order from B Ltd., to deliver goods in USA. A Ltd. sourced this goods from UK & delivered this in USA. The transactions will not be considered as import as the goods being sold have not been brought into India (not crossed custom barrier) even though both the supplier & recipient are in India (Para 7 of Schedule III).

Example 12: A Ltd., Delhi received order from B Ltd., China to deliver goods at Maharashtra. As per section 2 (5), export of goods means taking goods out of India to a place outside India. A Ltd., Delhi is in India & delivering goods in India i.e. Maharashtra. This will be considered as Inter-State supply and will be subject to IGST. Goods has not been taken out as per section 2 (5), so will not be considered as export.

Example 13: ABC Ltd. of Madhya Pradesh imported 100 kg of goods from XYZ Pte. ltd. of Singapore. The goods are received at JNPT, Mumbai. If

- ✓ Goods are cleared from customs and brought back to place of business at Madhya Pradesh of ABC Ltd., POS shall be the location of importer i.e. Madhya Pradesh;
- ✓ Goods are cleared from customs and directly supplied to customer in Maharashtra. This transaction for supply of goods of ABC Ltd. of Madhya Pradesh to customer in Maharashtra will be treated as inter-State supply of goods & IGST shall be levied.
- ✓ Good are cleared from customs but are stored in ABC Ltd.'s warehouse in Maharashtra for supply to made later. According to definition of 'place of business' U/s 2 (85) of the CGST Act, includes 'a

warehouse'. Thus ABC Ltd. will be required to take registration in Maharashtra. Later while supplying goods from Maharashtra warehouse to customer in Maharashtra, the transaction will be treated as intra-State supply of goods.

- ✓ Goods are cleared from customs and sent to job-worker in Tamil Nadu. This is not supply so will be delivered with delivery challan and e-way bill.

Section 12 (IGST Act, 2017) Place of Supply of Services where location of supplier & recipient is in India

Provision of Section 12 override provision of Section 7 (3) of IGST Act, 2017 {supply of services}.

Provision	Place of Supply	Remarks
Sec. 12 (1) This section deals with the situation where supplier of services and location of the recipient of service, both are in India. Sec. 12 (2) This sub-section applies except the services specified in Sec. 12 (3) to Sec. 12 (14).	If person is registered then Place of supply will be location of such person. Person is other than a registered person then if address on record exists then location of recipient otherwise location of supplier	It looks like sub-section (2) is a residual sub-section. Sub Section (3) to sub section (14) is a specific section which determines place of supply on specific transactions. Hence, it may be concluded that, to determine Place of Supply, we need to first refer to sub-section (3) to sub section (14) first, then if the transaction doesn't fall in any of sub-section, then place of supply shall be decided by sub-section (2)
Example 14: ABC & Co., a tax professional firm based in Ahmedabad rendering professional services to XYZ Ltd. a company registered in GST for their office in Mumbai. The POS shall be Mumbai. Let say in above example, if tax manager of XYZ Ltd., visit Ahmedabad to discuss tax matter, still POS shall be Mumbai.		
Sec. 12 (3) (a) Directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work. This includes any services ancillary as per section 12 (3) (d). Sec. 12 (3) (b) By way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, an including a house boat or any other vessel. This includes any services ancillary as per section 12 (3) (d).	➢ General – Location at which it is located or intended to be located ➢ If located outside India, Place of supply = Location of recipient ➢ If located in more than one State/Union Territory then place of supply will be proportionate*	*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 basis as may be prescribed.

Provision	Place of Supply	Remarks
Sec. 12 (3) (c) By way of accommodation in any immovable property for organizing any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property. This includes any services ancillary as per section 12 (3) (d).		As per Section 7 (5) (b) of IGST Act, supply of goods or services or both to SEZ unit or SEZ developer is inter-State supply. This is specific provision and hence will prevail over general provision as contained in section 12 (3) (c) of IGST Act. Hence, in case of supply of such services, IGST will be payable and not CGST and SGST/UTGST. If such supply is for authorized operations, IGST will be refunded if paid or ITC refund can be obtained if supplied under LUT/Bond subject to endorsement of specified officer of SEZ. [Circular No. 48/22/2018 Dated 14.06.2018]

Example 15: A company in Kolkata contracts with a Delhi based architect to design a structure in Mumbai. POS is place of immovable property i.e. Mumbai.
Example 16: A from Mumbai, goes on official trip to Bangalore and stay in hotel for one night. POS is Bangalore.
Example 17: A from Jaipur, arranged his son wedding in Resort at Ooty, Tamil Nadu. The POS is Ooty, Tamil Nadu.
Example 18: A Mumbai based builder provides construction services to Chennai based company in respect of construction of its factory in South Africa. POS will be Chennai.
Example 19: Let say an interior decorator is engaged by a retail chain to design a common décor for all its store in India, this service would not be land-related. The default provision i.e. Section 12 (2) of the IGST Act will apply in this case.

Rule 4 of IGST Rules

Where such immovable property or boat or vessel is located in more than one State or Union territory, shall be taken as being in each of the respective States or Union territories, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner namely:-

(i) in case of services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called (except cases where such property is a single property located in two or more contiguous States or Union territories or both) and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of nights stayed in such property;

(ii) in case of all other services in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc., and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in two or more contiguous States or Union territories or both, and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each State or Union territory;

(iii) in case of services provided by way of lodging accommodation by a house boat or any other vessel and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the time spent by the boat or vessel in

Provision	Place of Supply	Remarks
each such State or Union territory, which shall be determined on the basis of a declaration made to the effect by the service provider. Example 20: A hotel chain X charges a consolidated sum of Rs. 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs. 20,000/- in the Union territory of Delhi and Rs. 10,000/- in the State of Uttar Pradesh . Example 21: There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States. Example 22: A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.		
Sec. 12 (4) Restaurant & catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where the services are actually performed	Only listed are covered here. Let say if photography services, then it is not covered here.
Example 23: Mrs. A from Mumbai, went to Udaipur and availed Beauty Parlour services. The POS is Udaipur.		
Sec. 12 (5) Services in relation to Training and performance appraisal to – ➢ A registered person ➢ A person other than registered person	➢ Location of such person ➢ Location where the services are actually performed	
Example 24: ABC Ltd., Delhi has entered into a contract with XYZ Ltd., Chennai for training and performance appraisal of their employees. Training was conducted at Pune, Maharashtra. In case ABC Ltd. is registered then POS will be Delhi. In case ABC Ltd. is not registered then services where it is actually performed i.e. Pune, Maharashtra.		
Sec. 12 (6) Services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto	Place where the event is actually held or where the park or such other place is located	
Example 25: Mr. A from Mumbai, did online booking for Kaziranga National Park, Assam and hired a cab to be taken around. The place of supply is Kaziranga National Park, Assam and hiring a cab is ancillary service since it is being taken to make trip more convenient. The POS remain same.		
Sec. 12 (7) Services provided by way of, -		

Provision	Place of Supply	Remarks
(a) organization of a cultural, artistic, sporting, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or (b) services ancillary to organization of any of the events or services referred to in clause (a), or assigning of sponsorship to such events, -		
➢ A registered person	➢ Location of such person	
➢ A person other than registered person -If event is held in India	➢ Place where event is actually held	
-If event is held outside India	➢ Location of the recipient If located in more than one State/Union Territory then place of supply will be proportionate*	*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 basis as may be prescribed
Example 26: ABC Ltd., Mumbai held exhibition event in USA. ABC Ltd. hires these services from XYZ Ltd., Delhi. The POS is Mumbai assuming that ABC Ltd. is registered. If ABC Ltd. is unregistered then POS is again Mumbai. If let say this exhibition had been held at Ahmedabad, Gujarat then POS is place of exhibition i.e. Ahmedabad (considering ABC Ltd. unregistered).		
Rule 5 of IGST Rules Where the services are supplied to a person other than a registered person, the event is held in India in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in each of the respective States or Union territories, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by application of the generally accepted accounting principles. Example 27: An event management company E has to organise some promotional events in States S1 and S2 for a recipient R. 3 events are to be organised i.e. one in S1 and 2 events in S2. They charge a consolidated amount of Rs.10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs. 6,00,000/- in S1 and Rs. 4,00,000/- in S2 .		
Sec. 12 (8) Services by way of transportation of goods, including by mail or courier to, -		POS shall be decided on the basis of who is paying freight i.e. supplier or recipient.
➢ A registered person	➢ Location of such person	
➢ A person other than registered person Provided that where the transportation of goods is to a place outside India, the	➢ Location at which such goods are handed over for their transportation	

<table>
<tr><th>Provision</th><th>Place of Supply</th><th>Remarks</th></tr>
<tr><td>place of supply shall be the place of destination of such goods.</td><td></td><td></td></tr>
<tr><td colspan="3">Example 28: ABC Ltd., Mumbai is a registered company. It sends courier to Delhi through XYZ courier company. Since ABC Ltd. is registered the place of supply is Mumbai. If suppose ABC Ltd. is unregistered and his representative sends courier from Bangalore to Chennai then POS is Bangalore.
Example 29: The registered person ('XYZ') in India has to export certain goods to China. The contract to transport goods by road ('GTA service') has been entered with the goods transport agency ('supplier') located in India. In light of the amended provision, the place of supply of service provided by the supplier shall be the destination of goods i.e. China. The place of supply shall neither be the location of XYZ nor the location of the supplier in India.</td></tr>
<tr><td>Sec. 12 (9)
Passenger transportation service to,
➢ A registered person
➢ A person other than registered person

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 POS of such service shall be determined in the manner specified in sub-section (2), i.e. the default provision.</td><td>➢ Location of such person
➢ Place where the passenger embarks on the conveyance for a continuous journey</td><td>The return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.</td></tr>
<tr><td colspan="3">Example 30: Mr. A, Mumbai (registered person) travels from Bangalore to Chennai by Jet Airways. He bought this ticket from Jet Airways, Kolkata. The POS is Mumbai.
Example 31: Mr. A, Mumbai (unregistered person) travels from Bangalore to Chennai to Kochi (continuous journey) by Jet Airways. He bought this ticket from Jet Airways, Bangalore. The POS is Bangalore (CGST). If suppose, Mr. A also booked return flight along with this then this will be separate journey & the POS is Kochi & it will be subject to IGST.</td></tr>
<tr><td>Sec. 12 (10)
Services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,</td><td>Location of the first scheduled point of departure of that conveyance for the journey</td><td></td></tr>
<tr><td colspan="3">Example 32: Mr. A, Mumbai travels from Nepal-Kolkata-Mumbai. During Kolkata-Mumbai leg, he has ordered movie on demand. Since his first scheduled point of departure is Nepal which is outside the taxable territory, so it is not liable to tax.</td></tr>
<tr><td>Sec. 12 (11)
Telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall-
(a) Fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna,
(b) Mobile connection and Internet on post-paid basis</td><td>➢ Place of installation
➢ Billing Address on the record of supplier of services</td><td>Where the leased circuit is installed in more than one State or UT and a consolidated amount is charged for supply of services relating to such circuit, the POS of such services shall be taken as being in each of the respective States or UT in proportion to the value for services separately collected or determined in terms of the contract or agreement</td></tr>
</table>

Provision	Place of Supply	Remarks
(c) Mobile connection, Internet connection, DTH provided on pre-payment basis through a voucher or any other means – (i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher (ii) by any person to the final subscriber, If such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment (d) in other cases, (i) if address of the recipient as per the records of the supplier of services is available (ii) where such address is not available	➢ Address of the selling agent/re-seller/distributor as per the record of the supplier at the time of supply ➢ Location where pre-payment received or such vouchers are sold ➢ Location of the recipient of services on the record of the supplier of services ➢ Address of the recipient as per the records of the supplier of services ➢ Location of supplier of services	entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Example 33: Mr. A, Mumbai has connection of fixed line in Mumbai with billing address Kolkata. The POS is Mumbai.
Example 34: Mr. A, Mumbai has postpaid mobile connection with billing address Kolkata. The POS is Kolkata.
Example 35: Mr. A, Mumbai has prepaid mobile connection and he has bought prepaid voucher online. His address in mobile company is Kolkata. The POS is Kolkata.
Example 36: Mr. A, Mumbai has bought prepaid card from seller in Delhi. The POS is Delhi.

Rule 6 of IGST Rules

In the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:-

(a) The number of points in a circuit shall be determined in the following manner:
  - *(i)* in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points;
  - *(ii)* any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point;

(b) the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.

Example 37: A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.

Provision	Place of Supply	Remarks
Example 38: A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively. Example 39:: A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.		
Sec. 12 (12) Banking and other financial services, including stock broking services to any person If the location of recipient of services is not on the records of the supplier	➢ Location of the recipient of services as per the records of the supplier ➢ Location of the supplier of services	
Example 40: Mr. A, Mumbai registered person buys shares from a broker in Delhi on NSE (Mumbai). The POS is Mumbai (location of recipient of services as per record of supplier of services). Example 41: Mr. A, Mumbai avail some services from SBI, Chennai. If the service is linked with account then the POS is location of recipient of supplier i.e. Mumbai. If it is not available in record then Chennai.		
Sec. 12 (13) Insurance services, - (a) to a registered person (b) to a person other than a registered person	➢ Location of such person ➢ Location of the recipient of services on the records of the supplier of services.	
Example 42: Mr. A, Mumbai is an unregistered person, take travel insurance policy from Delhi to Kolkata flight. The POS is Mumbai.		
Sec. 12 (14) Advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement	Place of supply shall be taken as being in each of such States or Union Territories	Value of such supplies specific to each State or UT shall be in proportion to : • Amount attributable to services provided by way of dissemination in the respective States or UT as may be 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 basis as may be prescribed.

Provision	Place of Supply	Remarks
Example 43: Gujarat Government gives an advertisement contract to an advertising agency (registered in Ahmedabad) to promote Gujarat tourism throughout the country. The place of supply is in all the States and Union Territories of India. Example 44: Delhi Government gives an advertisement contract to an advertising agency registered in Delhi to promote its 'Every Child Can Read' campaign in Delhi. The place of supply is Delhi.		

If both supplier & recipient of service are in India, GST may be payable even if service is provided outside India, if the services falls under residual category i.e. tour operator in India providing service to Indian tourist outside India will be liable to pay GST {Para 5.8-2 of CBE&C 'Taxation of Services : An Education Guide' published on 20-6-2012 had given this illustration}

Rule 3 (IGST Rules 2017) Supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority (Notification No. 12/2017 Integrated (Rate) Dated 15-11-2017)

Under section 12 (14) of the IGST Act, 2017 in the absence of any contract between the supplier of service and recipient of services, valuation shall be determined in following manner:-

Rule	In case of	Value of supply will be
3 (a)	Newspaper and publications	On the basis of number of editions in each State/UT
Example 45: ABC Government agency, release order to a DEF newspaper (Head office is in Delhi) for an advertisement 'Beti Bachao Beti Padhao' to be published in the edition of Delhi, Pune, Mumbai, Lucknow and Jaipur. So place of supply will be Delhi, Maharashtra, UP & Rajasthan and invoice needs to be raised on the basis of ratio of editions in above State.		
3 (b)	Printed material like pamphlets, leaflets, diaries, calendars, T-Shirts etc.	On the basis of number of such material in each State/UT
3 (c) (i)	Hoardings other than those on trains	Hoardings located in each State/UT
3 (c) (ii)	Advertisements placed on trains	Ratio of the length of the railway track in each State/UT for that train
Example 46: ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www.indianrail.gov.in. The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is Rs. 1,20,000, then KL will have to calculate the State-wise and Union territory-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory. In the given example, the State-wise and Union territory-wise breakup works out to Delhi (Rs. 5,000), Haryana (Rs. 5,000), Uttar Pradesh (Rs. 20,000), Madhya Pradesh (Rs. 20,000), Maharashtra (Rs. 30,000), Karnataka (Rs. 30,000) and Goa (Rs. 10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.		

3 (d) (i)	Advertisements on the back of utility bills of oil and gas companies etc.	Bills pertaining to consumers having billing addresses in each State/UT
3 (d) (ii)	Advertisements on railway tickets	Ratio of the number of railway stations in each State/UT
Example 47: ABC has issued a Purchase order to MN for display of advertisements relating to the "Ujjwala scheme" on the railway tickets that are sold from all the stations in the States of MP & Chhattisgarh. • The place of this service is in MP and Chhattisgarh. • The value of advertisement service attributable to these 2 States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website www.indianrail.gov.in. • Let us assume that this ratio is 713:251 and the total bill is Rs. 9,640. The breakup of amount between MP and Chhattisgarh in this ratio works out to Rs. 7130 and 2510 respectively. • Separate invoice will have to be issued State wise by MN to ABC indicating the value pertaining to that State.		
3 (e)	Advertisements over radio stations	The amount payable to such radio station, which by virtue of its name is part of a State/UT
Example 48: For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations. The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued State-wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.		
3 (f)	Advertisements on TV Channels	Value of service in each State/UT = Total Amount payable for such service * Ratio of viewership of such channel in concerned State/UT. Viewership shall be calculated in the following manner:- i. State/UT-wise figure for that channel published by Broadcast Audience Research Council; ii. Figures published in last week of preceding quarter shall be used for succeeding quarter; iii. If channel viewership figures relate to a region comprising of more than one State/UT, then, viewership figures for a State/UT = Viewership figure for region * Ratio of populations of that State/UT, as determined in the latest census.
Example 49: ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under — I. QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand. II. Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census. III. By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the		

		viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively. IV. In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively. V. The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification). VI. This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is Rs. 20,00,000, the State-wise breakup is Rs. 5,00,000 (Delhi), Rs. 9,00,000 (Uttar Pradesh), Rs. 1,00,000 (Uttarakhand), Rs. 4,00,000 (Bihar) and Rs. 1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory.
3 (g)	Advertisements at cinema halls	The amount payable to a cinema hall or screens in a multiplex, in a State/UT
3 (h)	Advertisements over internet the service shall be deemed to have been provided all over India. Thus, the value of such service will be apportioned amongst all States and UTs, of India in the manner prescribed.	Value of service in each State/UT = Total amount payable for such service * Ratio of No. of internet subscribers in concerned State/UT. No. of internet subscribers shall be calculated in the following manner:- i. State/UT-wise figures published by TRAI; ii. Figures published for last quarter of preceding FY shall be used for succeeding FY; iii. If figure of No. of internet subscribers relates to a region comprising of more than one State or UT, then, No. of internet subscribers in a State or UT = No. of subscribers for region * Ratio of populations of that State or UT, as determined in the latest Census;

Example 50: ABC issues a Purchase order to WX for a campaign over internet regarding linking Aadhar with one's bank account and mobile number. WX runs this campaign over certain websites.

- In order to ascertain the State wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the TRAI figures for quarter ending March 2017, as indicated on their website www.trai.gov.in. These figures show the service area wise internet subscribers. There are twenty two service areas. Some relate to individual States some to 2 or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.
- In order to calculate the State wise breakup, first the State wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census). Once the actual number of subscribers for each State has been determined.
- The second step for WX involves calculating the State wise ratio of internet subscribers. Let us assume that this works out to 8:1:2…and so on for Andhra Pradesh, Arunachal Pradesh, Assam…and so on.
- The third step for WX will be to apply these ratio to the total amount payable to WX so as to arrive at the value attributable to each State.
- Separate invoices will have to be issued State wise and Union territory wise by WX to ABC indicating the value pertaining to that State or Union territory.

3 (i)	Advertisements through SMS	Value of service in each State/UT = Total amount payable for such service * Ratio of No. of telecom subscribers in concerned States or UTs. No. of telecom subscribers shall be calculated in the following manner, namely:- i. State/UT-wise figures published by TRAI; ii. Figures published for preceding quarter shall be used for succeeding quarter; iii. If figure of No. of telecom subscribers relates to a telecom circle comprising of more than one State or UT, then, No. of telecom subscribers in a State or UT = No. of subscribers for telecom circle * Ratio of populations of State or UT, as determined in the latest Census;

Section 13 (IGST Act, 2017) Place of Supply of Services where location of supplier or location of recipient is outside India

The place of supply of services provisions do not make any mention about receipt or payment in foreign exchange or in Rupees. Thus, payment or receipt in foreign exchange or rupees is not at all relevant to determine, place of supply of services. That is relevant to determine whether the service is 'export of service' or 'export of goods'. Often, provisions of place of supply of service and export of service provisions are mixed up, which causes confusion.

Provision	Place of Supply	Remarks
Sec. 13 (1) This section deals with the situation where supplier of services or location of the recipient of services, is outside India. Sec. 13 (2) Sub-section 13 (2) applies except the services specified in Sec. 13 (3) to Sec. 13 (13) Location of the recipient available in the ordinary course of business Location of the recipient is not available in the ordinary course of business	 Location of the recipient Location of the supplier of services	
Sec. 13 (3) (a) Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services.	Location where the services are actually performed	

Provision	Place of Supply	Remarks
From remote location through electronic means. Goods temporarily imported into India for repairs or for any other treatment or process and are exported back after such repairs or treatment or process without being put to any ~~other~~ use in India, other than that which is required for such repairs or treatment or process. (b) Services supplied to an individual either as recipient or acting on behalf of others, where his physical presence is required with supplier	Location where goods are situated at the time of supply of services. Provisions of section 13 (3) (a) will not be applicable and place of supply shall be determined as per section 13 (2) Location where the services are actually performed.	
Example 51: ABC Ltd., Mumbai imports a machine from China for being installed in its factory at Pune. To install such machine, respective engineer came from China. The POS is Pune. Example 52: ABC Ltd., Mumbai provide service to XYZ Ltd., USA through electronic means i.e. fixing bugs in software. The POS is USA. Example 53: ABC Ltd., Mumbai exported a machine to China. It came back for repairing. ABC Ltd., fixed the issue under warranty terms and sent machine back to China. The POS is China. Example 54: Mr. A singer, Mumbai singer travel to Singapore for Music concert. The POS is Singapore. Example 55: ABC Ltd., got gold & diamond from XYZ, USA for certain treatment and it exported back after such treatment. The POS shall be USA. Example 56: A modelling agency (Chennai) contracts with a beauty parlor from USA for beauty treatment of 20 models. Here is a situation where the modelling agency is the receiver of the service, but the service is rendered to the models. This transaction will also quality to be covered U/s 13 (3) (b) of the IGST Act and POS shall be the location where the services are actually performed.		
Sec. 13 (4) Services relating to immovable property	Place where the immovable property is location or intended to be located	Includes, hotel, right to use immovable property, construction work including architects or interior decorations, estate agents etc.
Example 57: Mr. A, Mumbai provides services to Mr. Z, Singapore for the property located in Chennai. The POS is Chennai. Example 58: A US based company has been awarded mineral exploration contract in respect of specific sites in South Africa by Mumbai based company. The POS will be South Africa. Example 59: A company in Singapore contracts with a Delhi based tax professional to provide his general opinion with respect to capital gains tax liability arising from the commercial property in Delhi. Here, the service of tax professional is basically an advice on taxation in general even though it is related to immovable property. Thus, POS is Singapore according to default provision i.e. Section 13 (2) of the IGST Act.		
Sec. 13 (5) Services relating to events	Place where the event is actually held	Conference, sporting, cultural, fair, exhibition etc.
Example 60: ABC pte., Singapore organizes circus in Mumbai. The POS is Mumbai.		
Sec. 13 (6) Services provided at more than one location including location in taxable	Location in the taxable territory	

Provision	Place of Supply	Remarks
territory for services referred in Sec. 13 (3), 13 (4) & 13 (5)		
Example 61: ABC Ltd., Mumbai organizes a training event for XYZ pte., Singapore in Sri Lanka, Singapore & Mumbai India. The POS is Mumbai.		
Sec. 13 (7) Services provided at more than one State/UT for services referred in Sec. 13 (3), 13 (4) & 13 (5)	Place of supply shall be taken as being in each of such States or Union territories	Value of such supplies specific to each State or Union territory shall be in proportion to: ➢ Value of services separately collected or determined in terms of the contract or agreement entered into in this regard ➢ In the absence of such contract or agreement, on such other basis as may be prescribed

Rule 7 of IGST Rules

The supply of services attributable to different States or Union territories, under subsection (7) of section 13 of the said Act, in the case of services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services, or in the case of services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory, shall be taken as being in each of the respective States or Union territories, and the proportion of value attributable to each such State and Union territory in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:-

(i) in the case of services supplied on the same goods, by equally dividing the value of the service in each of the States and Union territories where the service is performed;

(ii) in the case of services supplied on different goods, by taking the ratio of the invoice value of goods in each of the States and Union territories, on which service is performed, as the ratio of the value of the service performed in each State or Union territory;

(iii) in the case of services supplied to individuals, by applying the generally accepted accounting principles.

Example 62: A company C which is located in Kolkata is providing the services of testing of a dredging machine and the testing service on the machine is carried out in Orissa and Andhra Pradesh. The place of supply is in Orissa and Andhra Pradesh and the value of the service in Orissa and Andhra Pradesh will be ascertained by dividing the value of the service equally between these two States.

Example 63: A company C which is located in Delhi is providing the service of servicing of two cars belonging to Mr. X. One car is of manufacturer J and is located in Delhi and is serviced by its Delhi workshop. The other car is of manufacturer A and is located in Gurugram and is serviced by its Gurugram workshop . The value of service attributable to the Union Territory of Delhi and the State of Haryana

<table>
<tr><th>Provision</th><th>Place of Supply</th><th>Remarks</th></tr>
<tr><td colspan="3">respectively shall be calculated by applying the ratio of the invoice value of car J and the invoice value of car A, to the total value of the service.

Example 64: A makeup artist M has to provide make up services to an actor A. A is shooting some scenes in Mumbai and some scenes in Goa. M provides the makeup services in Mumbai and Goa. The services are provided in Maharashtra and Goa and the value of the service in Maharashtra and Goa will be ascertained by applying the generally accepted accounting principles.

<u>Rule 8 of IGST Rules</u>
The proportion of value attributable to different States or Union territories, under sub-section (7) of section 13 of the said Act, in the case of supply of services directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory, in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by applying the provisions of rule 4, mutatis mutandis.

<u>Rule 9 of IGST Rules</u>
The proportion of value attributable to different States or Union territories, under subsection (7) of section 13 of the said Act, in the case of supply of services by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are provided in more than one State or Union territory, in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by applying the provisions of rule 5, mutatis mutandis.</td></tr>
<tr><td>Sec. 13 (8)
(a) Services supplied by a banking company, or a financial institution or a NBFC, to account holders

(b) Intermediary services

(c) Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month</td><td>Location of the supplier of services

Location of the supplier of services

Location of the supplier of services</td><td></td></tr>
<tr><td colspan="3">Example 65: Mr. A, Mumbai books a tour of famous cultural cities in India for a Singapore resident. The POS is Mumbai.

Example 66: ABC contractors provide a service of hiring of a fleet of cars to a company on an annual contract. If suppose fixed establishments of ABC contractors is located in New Delhi & the company is located in Singapore, then Section 13 (8) of the IGST Act, covers situations where the hiring is for a period of upto one month. Then in this case, POS shall be determined in terms of Section 13 (2) of the IGST Act i.e. receiver's location which in this case is Singapore.</td></tr>
<tr><td>Sec. 13 (9)
Services of transportation of goods, other than by way of mail or courier</td><td>Place of destination of goods</td><td></td></tr>
</table>

Provision	Place of Supply	Remarks
Example 67: A shipping line, Mumbai, Maharashtra transports a shipment of flowers from Mumbai to Paris, for an event management company based in Paris. The POS is Paris.		
Sec. 13 (10) Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey	
Example 68: 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. The POS is New Delhi.		
Sec. 13 (11) Services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board	First scheduled point of departure of that conveyance for the journey	
Sec. 13 (12) The place of supply of online information and database access or retrieval services	Location of the recipient of services	It is difficult to determine the location of the recipient in case of OIDAR as such recipients normally access the services online and not required to disclose the location. On satisfying any two (2) non-contradictory conditions out of such seven (7) conditions, the service recipient is deemed to be located in the taxable territory i.e. India: - 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 an Indian billing address. 4. the computer used by the recipient has an 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 services is of India 7. the recipient receives the service through an Indian fixed line.
Sec. 13 (13) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.		

- No GST on transhipment of goods at customs station in India for further transport out of India {clarification in respect of service tax law but applies to GST also}
- Agency fees paid to foreign banks for arranging finance is liable to GST – according to judgement under service tax law Tata Steel v. CST (2015)

Clarification on supply of satellite launch services by Antrix Corporation Ltd. [Circular No. 2/1/2017 IGST Dated 27.09.2017]

Place of supply of satellite launch services supplied by ANTRIX Corporation Limited to international customers would be outside India in terms of section 13(9) of IGST Act, 2017 and such supply which meets the requirements of section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with section 16 of the IGST Act. Where satellite launch service is provided by ANTRIX Corporation Limited to a person located in India, the place of supply of satellite launch service would be governed by section 12 (8) of the IGST Act and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

Question & Answer

Q1. A person in Agra buys shares from a broker in Delhi on NSE (in Mumbai). What will be the POS?
A. The POS shall be the location of recipient of services on the records of the supplier of services i.e. Agra.

Q2. 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?
A. 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.

Q3. 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?
A. The place of supply of maintenance services shall be Hyderabad.

Q4. 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?
A. The place of supply of such monitoring services shall be at Paris.

Q5. 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?
A. The place of supply of services for admission to each cricket match shall be the location where the match is actually played.

Q6. 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?
A. It will be assumed that the buyer in Mumbai has received the goods & IGST will be charged.

Q7. In case of ambiguity, how is place of supply of goods determined U/s 10?

A. 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.

Q8. In case of import of goods into India what is the place of supply of goods?

A. 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.

Q9. In case of export of goods from India, what is the location of supply of goods?

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

Q10. What is the place of supply of services by way of transportation of goods (Section 12 & 13)?

A. Section 12(8) of the IGST Act, 207 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 Silvassa (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.

Q11. 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.