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# CA FINAL IDT PART I GOODS AND SERVICES TAX SCANNER

AMENDED FOR NOVEMBER 2019
ACCORDING TO ICAI STATUTORY
AMENDMENTS & EXCLUSIONS

# Additional Questions & Answers

These are apart from Examples in main book

# Chapter 1: - GST in India – An Introduction

This chapter includes "10 Q & A" of GST main book.

## ICAI Test your knowledge

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

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

| List I Union List | List II State List | List III Concurrent List |
|---|---|---|
| It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws. Entries 82 to 91 of List I enumerate the subjects where the Central Government has power to levy taxes. Income tax is levied by virtue of Entry 82 - Taxes on income other than agricultural income and customs duty vide Entry 83 - Duties of customs including export duties of the Union List. | It contains the matters in respect of which the State Government has the exclusive right to make laws. Entries 45 to 63 of List II enumerate the subjects where the State Governments have the power to levy taxes. 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. |

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

Ans.

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 The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services".

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

Ans.

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

  To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied. Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.

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

Q4. Discuss the dual GST model introduced in India.
Ans. India has adopted a Dual GST model in view of the federal structure of the country. Centre and States will simultaneously levy GST on taxable supply of goods or services or both which, takes place within a State or Union Territory. Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services. Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services. GST extends to whole of India including the State of Jammu and Kashmir.

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

| Central levies to be subsumed | State levies to subsumed |
|---|---|
| • Central Excise Duty & Additional Excise Duties<br>• Service Tax<br>• Excise Duty under Medicinal & Toilet Preparation Act<br>• CVD & Special CVD<br>• Central Sales Tax<br>• 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<br>• Entertainment Tax (except those levied by local bodies)<br>• Tax on lottery, betting and gambling<br>• Entry Tax (All Forms) & Purchase Tax<br>• VAT/ Sales tax<br>• Luxury Tax<br>• Taxes on advertisements |

Local body can still levy entertainment tax

## Questions from GST Main Book / Other Questions

Q6. What is GSTN and its role in the GST regime? Discuss functions of GSTN.
Ans. GSTN stands for Goods and Services Tax Network (GSTN). It is not-for profit company incorporated under provisions of Sec 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made up site/ portal which has been notified as common GST electronic portal (U/s 146 of CGST Act)

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

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

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

Not operational

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

Ans. There exist a difference between a 'Nil rated" and a 'Zero rated' supply as per GST law.

'Nil rated supply' means a supply of goods or services which has Nil rate in tariff or exempt by notification.

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

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

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

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

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

In this regard, Government has issued following notifications-

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

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

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

This is for efficient manage ment

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

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

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

Non-taxable supply

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

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

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

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

In case of further supply by Mr. A to the retailer Mr. Z, it would be subject to GST only. Therefore Mr. A tax treatment is correct.

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

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

Ans.

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

Q14. What is IGST?

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

# Additional Questions & Answers

## These are apart from Examples in main book

Q15. What would be the role of GST Council?

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

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

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

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

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

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

It will include any one or more or all of the aforementioned place.

Q17. Whether 'securities' are goods or services?

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

Q18. What is agricultural produce?

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

# Chapter 2: - Supply under GST

This chapter includes "18 Q & A" from GST main book. Do refer "30 examples" from GST Main Book.

## ICAI Test your knowledge

**Do refer "30 examples" from GST Main Book. These examples are necessarily to understand various provisions conceptually including principal – agent relationship.**

Q1. What is the taxable event under GST?
Ans. Taxable event under GST is supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies

Q2. What is the tax treatment of composite supply and mixed supply under GST?
Ans. Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.

Q3. Supply of all goods and/or services is taxable under GST. Discuss the validity of the statement.
Ans. The statement is incorrect. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

Q4. Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?
Ans. Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

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

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

Ans.

(a) Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these elements are missing, donation of clothes and toys to children living in slum area would not amount to supply under section 7 of the CGST Act.

(b) Schedule I of CGST Act, inter alia, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act]. In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 of the CGST Act.

(c) Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —
(i) the spouse and children of the person, and
(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.
In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 of the CGST Act read with Schedule I.

Brother must be dependent to be family

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

Q6. State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:
(a) Renting of immovable property
(b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.
(c) Transfer of right in goods without transfer of title in goods.
(d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Ans.
(a) Supply of services
(b) Supply of goods
(c) Supply of services
(d) Supply of goods

Q7. Determine whether the following supplies amount to composite supplies:
(a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.
(b) A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.

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

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

Q8. Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.
Ans. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

## Questions from GST Main Book / Other Questions

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

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

Q10. Please explain Importation of services for consideration with example?
Ans. Import of free services from Google and Facebook, without any consideration, are not considered as supply.

Exemption provided (Refer to Chapter 4 exemption list)

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.

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

Q11. Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?
Ans. Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service.

Temporary 'Service' & permanent 'Goods'

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

Q12. In respect of exchange of goods, let say gold chain for restaurant services, will the transaction be taxable as two different supplies or will it be taxable only in the hands of the main supplier?
Ans. Yes, the transaction of exchange is specifically included in the scope of supply U/s 7. So, exchange could be taxable both ways. *(A different view can also be possible depending upon the facts of the case)*

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

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

Q14. ABC Ltd. is an aircraft operator operating pan-India air travel services. It has registered offices in different states. It sent some parts and accessories of aircraft from its Delhi registered premise to Maharashtra registered premise. Whether this transaction would amount to supply of goods under GST?
Ans. Under GST law, scope of supply has been defined under section 7 of CGST Act. Supply as defined U/s 7 covers, supply of goods between deemed distinct persons, i.e., different premises of same person which are separately registered under GST law. Such transaction amounts to supply even in the absence of any consideration. As per facts given, Delhi-registered premise has transferred goods (parts and accessories of aircraft) to Maharashtra registered premise. Such stock-transfer from Delhi-registered premise to Maharashtra registered premise shall amount to supply of goods. Such stock-transfer being inter-State transfer shall be treated as 'inter-State supply' and will attract IGST liability.

Q15. ABC is providing service of transportation of goods/passengers which is taxable under GST in hands of ABC. It has registered offices in different states which are treated as deemed distinct persons under GST law. Whether inter-state movement of any conveyance carrying goods/passengers from one registered premise to another registered premise will amount to supply of such conveyance under GST law? (e.g. Bus carrying passenger from Mumbai, Maharashtra bus terminal to Bangalore, Karnataka bus terminal, dropping passengers there and then picking passengers from Bangalore, Karnataka bus terminal to Mumbai, Maharashtra bus terminal. In this case, whether inter-statement movement of bus from Mumbai, Maharashtra bus terminal to Bangalore, Karnataka bus terminal would amount to supply?
Ans. Under GST law, scope of supply has been defined under section 7 of CGST Act. Only transactions falling within scope laid down in Sec 7 will amount to supply. As per given facts, ABC is registered supplier of transportation services. During course of such service, conveyance moves from one registered premises to another registered premise. This transaction of inter-state movement of vehicles is not involving any further supply of such conveyance. Such inter-state movement will not amount to supply within the meaning of Section 7 of CGST Act.
This has been clarified through Circular No. 1/1/2017-IGST dated 7-7-2017 .

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

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

Ans.

i. Yes, term 'sale' is included in 'Supply'.
ii. Yes, it is supply as per Section 7 (1) and it is classified as supply of goods as per section 7 (1A) read with Schedule II.
iii. Yes, as the above supply falls under barter (if money is also involved then 'exchange') transaction which is also included under the scope of supply.

iv. If the disposal is in course or furtherance of business of ABC then it shall be considered as supply.
v. Yes, it is supply. Supply of alcoholic liquor for human consumption is out of the scope of GST.

Q17. Determine whether the following activities fall under the scope of business?
i. ABC is engaged in the manufacture of auto parts for industrial purpose.
ii. ABC acquired capital goods lying in stock of Mr. A as on takeover of business of Mr. A.
iii. ABC provides a free trekking camp to non-members of the club.
iv. Essel World charges Rs. 500 as an entry fee for amusement park.
v. Goods sold in store maintained by the company for the welfare of the employees.
vi. Activities of Pune Race Club for horse race collected Rs. 5 Lakhs through licensed book marker or totalizer or activities of licensed book marker in such a club.

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

Q18. Mr. A buys a laptop for his personal use and after a year sells it to a laptop dealer. Will it constitute supply?
Ans. As per section 7 (1) (a), when any sale, transfer, barter etc. is made for a consideration in the course or furtherance of business then it would be treated as supply & liable to GST.
In the given case, sale of laptop by Mr. A to a laptop dealer shall not be considered as supply, as such sale is not in course or furtherance of business of Mr. A. Thus it is not supply & not subject to GST.

See
Valuation
Rule 32

Q19. "Transaction in money, per se, is outside the ambit of GST." — Explain.
Ans. Transaction only in money do not constitute service and not chargeable to GST. However, the related activity, for which a separate consideration is charged, is subject to GST.
For example, a foreign exchange dealer while exchanging one currency for another also charges a commission (Often inbuilt in the difference between the purchase price and selling price of forex).
Similarly, allowing others to use money for consideration in form of interest is also a supply of service transaction.

Normal
interest is
exempt
though

Q20. State whether the following activities will be considered as a supply in relation to 'Money' in accordance with GST Act.
i. Mr. A borrows an amount of Rs. 1 Lakh from one of his relative and agrees to repay the entire amount after a year.
ii. Mr. A applied for loan from ICICI Bank against which a processing fees and interest is charged by the bank.
iii. Mr. A exchanged Indian Rupees against purchase of US $ for which authorized dealer charged commission.

Ans.

i. No, the activity of borrowing from a relative is without any charge of interest and hence it will be considered as merely a transaction in money.
ii. Yes, the activity of borrowing loan amount for which a consideration in form of processing fee has been charged by ICICI Bank shall be considered as a supply of service, as consideration in relation to use of money. Interest is also supply but it is exempt (refer to Chapter 4 exemption list).
iii. Yes, the activity of exchange of currency for which a commission is charge will be considered as supply of service.

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

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.

Ans.

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.

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

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

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

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

Logic, temporary 'service' & permanent ' goods'

Q24. Discuss whether GST is applicable in the following transaction

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

Ans.

i. GST is applicable on supply of goods or services or both. Debentures are securities. Under GST law, securities are neither 'goods' (as defined u/Sec 2(52)) nor 'services' (as defined u/Sec 2(102)). Thus, transfer of debentures (securities) is not subject to GST.

Although exempt

ii. Plot of land, being immovable property, is not 'goods' as defined U/s 2(52) of CGST Act. However, it is covered by definition of 'service' as given U/s 2(102) of CGST Act. However, transaction of sale of land are out of scope of supply under GST law {Sec 7(2) of CGST Act read with Schedule III of CGST Act}. Thus, sale consideration is not subject to GST.

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

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

i. Mr. A, a proprietor, has received the architect services for his house in Orissa from an architect located in Paris at an agreed consideration of $ 10,000.

ii. ABC Pvt. Ltd. received technical support services from its head office located in USA. The head office has rendered such services free of cost to its branch office.

iii. Mr. A is an Electronic Commerce Operator in Kolkata (GST registered). His son who is settled in Dubai is a well-known lawyer. Mr. A has taken legal advice from him free of cost with regard to his family dispute.

iv. Would your answer be different in above case, if Mr. A has taken advice in respect of his business unit in Kanyakumari?

Ans.

i. Supply of service by foreign architect to Mr. A (Indian service recipient), service received in India constitutes 'import of service' as place of supply of such service is in India. Though such import is not in course of or furtherance of business of Mr. A, this transaction of import of service will fall within the scope of supply as defined U/s 7(1)(b) of CGST Act.

ii. Foreign Head Office situated at USA has provided technical support service to its Indian branch office. Under GST law, foreign head office (establishment of a person outside India) and Indian branch office (establishment of same person in India) shall be treated as 'deemed distinct persons (establishment of distinct persons)' [Explanation to Sec 8 of IGST Act]

Import of any service without consideration amounts to supply in terms of Sec 7(1)(c) read with Schedule I (Para 4) if it is in the course or furtherance of business.

"Taxable" is omitted from Schedule I (Para 4)

The import of service by ABC Pvt. Ltd. (whether taxable person or not) from its other establishment outside India (which is deemed distinct entity) which is in course or furtherance of business will constitute supply, even if no consideration has been charged for such supply

iii. In the given case, Mr. A being ECO is a taxable person. It has received legal advice for his personal matter and therefore this is not import of service in the course or furtherance of business. It would not amount to supply though he has imported such service from his son, who is a related person under GST law.

Thus, such import of service will not fall within the scope of supply under section 7 read with Schedule I of the CGST Act.

iv. In the above case, if Mr. A has taken advice from his son (related person) with regard to his business, then such import would be treated as supply under section 7 of the CGST Act read with Schedule I (Para 4).

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

(i) Mr. A received Vaastu consultancy services for his residence located at Hyderabad from Mr. B of Washington. The amount paid for the said service is US $ 10,000.

(ii) Mr. A received Vaastu consultancy services for his residence located at Hyderabad from his brother, Mr. B residing in New York. Mr. A had not paid any money to Mr. B.

(iii) Mr. A received Vaastu consultancy services for his business premises located at Hyderabad from his brother, Mr. B residing in New York. Mr. A had not paid any money to Mr. B.

Ans.

(i) Import of service for Consideration not in the course or furtherance of business, would amount to supply as per Sec 7(1)(b) of CGST Act

(ii) Import of service without Consideration not in the course or furtherance of business, would not amount to supply as per Sec 7(1)(c) of CGST Act read with Schedule I (para 4)

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

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

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

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

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

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

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

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

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

Q29. Mr. Amit is CFO of Sodexo. For the financial year 2018-19, CTC of Mr. Amit (as per appointment letter) is as follows —
Salary Rs. 1,00,00,000
Residential accommodation worth Rs. 12,00,000
Conveyance & others reimbursement Rs. 3,00,000
On January 1, 2019, Sodexo gifts a new car to Mr. Amit (worth Rs 18 Lakhs). Gift of car is not covered in appointment letter.
Mr. Amit owns a commercial premises. He has given on rent to Sodexo @ monthly rent being Rs. 2,00,000. Determine the amount of GST liability:-

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

Ans. Taxability in hands of Mr. Amit:-

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

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

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

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

Ans.

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

Refer chapter 4 for exemption list

Q31. Mr. Sumit (GST registered trader) is in the business of selling electronic goods. He closes down his business on March 31, 2019. Value of unsold stock of electronic goods on that date is Rs. 10 lakhs. Discuss the applicability of GST on this unsold stock.
Ans. In terms of Section 7(1A) read with Schedule II (para 4(c)) of CGST Act, a person ceasing to be a taxable person (i.e., getting de-registered) is deemed to have made supply of goods lying with him as closing stock. Mr. Sumit is registered under GST. He closes his business on March 31, 2019. At

Remember logic explained in lecture of output & input tax nexus the time of transfer, he has closing stock Rs. 10 lakhs. Mr. Sumit shall be deemed to have supplied such unsold stock immediately before he ceases to be a taxable person.

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

Ans. In terms of Section 7(1A) read with Schedule II of CGST Act (Para 5), development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software and temporary transfer or permitting the use or enjoyment of any intellectual property right are treated as services.

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

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

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

Ans.

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

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

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

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

Printing for self: Supply of goods

i. Purchase of paper & other printing materials, printing calendars thereon and supplying calendars in market. The consideration received is Rs. 10,00,000. It is case of manufacture of calendars and sale thereof. Thus, it is simple case of supply of goods.
ii. Purchase of paper & other printing materials, printing books for Taxongo Ltd. (the content of book belongs to Taxongo Ltd) and supplying same to Taxongo Ltd. The consideration received is Rs. 10,00,000. ABC Printing press cannot be said to be have made out sale of books as they are not owning the content of book.
ABC Printing press is carrying out printing activity on paper belonging to it. Thus, this supply is composite supply {supply of paper (goods) and supply of printing (service)}. Printing service being principal service, the composite supply shall be treated as 'supply of service' (Sec 8 of CGST Act).

Printing for Others: Supply of services

Q35. What is meant by Taxable event in a Law?

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

Take another example, under VAT Act, taxable event was sales. Sales was the triggering point and once a transaction was covered under sale, provision of VAT used to apply unless the transaction was excluded from the purview of the law or exempted from the levy of tax.
Similarly, under GST, supply is the triggering point and once any activity is covered under supply, all provisions of the law are applicable unless the activity is excluded from purview of law i.e. alcohol for human consumption or activity is exempted from levy of GST.

Q36. A bank takes charge of the property of the borrower as per loan agreement. It then goes on to sell the movable goods so taken over (inventory), How will this transaction be dealt in GST?
Ans. The transactions of sale of movable goods taken over by bank would be considered as taxable supply. The loan taker must pay GST on such transaction treating it as supply of goods.

Q37. Whether stipend paid to article will be covered as supply?
Ans. No, Government has clarified through FAQ that stipend paid to article/interns will be considered as salary, so it will be employer-employee transaction and thus will not be subject to GST.

Q38. Give example of distinct person as per the GST Act?
Ans. ABC Limited has 2 factories in Rajasthan, 1 in Delhi & 1 in Maharashtra. As per GST Act, ABC will have 1 registration for 2 factories in Rajasthan, 1 for Delhi & 1 for Maharashtra. The factories at Rajasthan, Delhi & Maharashtra will be treated as distinct person for any transactions since they have separate registration but 2 factories in Rajasthan will not be treated as distinct person since they have 1 registration.

Q39. How to treat transaction of sale of land & building under the GST Act?
Ans. Sale of land and, subject to para 5 (b) of Schedule II, sale of building is neither supply of goods nor a supply service as per para 5 of Schedule III of CGST Act.
Para 5 (b) of Schedule II of CGST Act covers supply of building before completion or before occupancy. Thus, sale of completed building after completion certificate will not be subject to GST.

Q40. What will be tax treatment of salary to partners under the GST Act?
Ans. Working partners are entitled to draw salary from the firm. On the basis of provisions of Partnership Act, it is settled that a partner is not 'employee' of the firm and salary is only share of profit. It has been clarified vide S. Nos. 58 & 71 of Tweet FAQ released by CBEC on 26th June 2017 that GST is not payable on salary to partners.

Q41. ABC Ltd. was amalgamated with DEF Ltd. On account of amalgamation Mr. A a shareholder received 10,000 shares of DEF Ltd. in exchange of 5000 shares of ABC Ltd. Can it be considered as supply?
Ans. Shares (Securities) are excluded from the definition of both goods as well as services. Hence, this transaction can't be considered as supply.

Q42. ABC Ltd. a banking company transfers bad loan (unsecured) to ARC Ltd. Can it be considered as supply?
Ans. Actionable claims are covered in definition of goods. However, schedule III excludes claims other than lottery, gambling and betting from the scope of supply. So, above transfer can't be considered as supply.

Q43. A Charitable trust, engaged in providing medical relief free of cost, donates books and stationary to children living in slum area? Can it be considered as supply?
Ans. Section 7 of the CGST Act, provides that supply must be made for a consideration except the activities specified in Schedule I and in course or furtherance of business. Since, both these

elements are missing, donation of books and stationary to children living in slum are would not amount to supply.

Q44. A Taxable person, ceases to be a taxable person. What will be treatment for any goods forming part of the assets?
Ans. Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless – (a) the business is transferred as going concern to another person; or (b) the business is carried on by a personal representative who is deemed to be a taxable person {Transfer of entire business is not subject to GST. Only goods transferred are subject to GST}.

Q45. 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 of service. In given case Mr. A gave his residential house on leave & license agreement so it would constitute supply of service. But, leasing for residential purpose is exempt under Entry 12 of Notification No. 12/2017- CT (Rate).
vi. No, as per Section 7 (2) read with Schedule III of CGST Act 2017, services by an employee to employer during his employment would not be regarded as supply. So, notice period amount are treated as amount paid during the employment, so would not constitute supply.
vii. Yes, as per para 7 of Schedule II of CGST Act, 2017 supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated a supply of goods. So, if a local club supplies snacks during AGM to its members for a nominal payment would constitute supply of goods.

viii. Yes, as per section 7 (1) (c) read with Schedule I, permanent transfer or disposal of business assets where ITC credit has been availed on such assets qualifies as a supply even though made without consideration. Such transaction will be treated as supply as ITC has been availed on computer.

ix. Yes, as per Section 7 (1) (c) read with Schedule I if CGST Act, 2017, supply of goods or services between related person is treated as supply even it its without consideration. Employer & employee are related person as per Section 15 of CGST Act, 2017. Thus, gift voucher of Rs. 1,00,000 will qualify as supply.

Gifts not exceeding Rs. 50,000 in value in a financial year by an employer to employee shall not be treated as supply so if amount is Rs. 45,000 then it will not be treated as supply.

x. Yes, a taxable person is a person who is registered or liable to be registered U/s 22 or 24. Therefore, even a person not liable to be registered but has taken voluntary registration, is also a taxable person. Thus, selling of computer would be liable to GST.

**Reminding again, do refer "30 examples" from GST Main Book. These examples are necessarily to understand various provisions conceptually including principal – agent relationship.**

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 3: - GST in India – An Introductio006Ex

This chapter includes "32 Q & A" of GST main book

### ICAI Test your knowledge

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

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

Ans.

(a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.
(b) GST on sponsorship services provided by any person to anybody corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.
(c) GST on services supplied by Central Government, State Government, Union territory/ local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.

Q2. A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs. 1.5 crores during the course of the year i.e. he crosses the turnover of Rs. 1.5 crores in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Ans. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (Rs. 1.5 crores). He is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days from the day on which the threshold limit has been crossed.

Q3. Determine whether the supplier in the following cases are eligible for composition levy U/s 10 of CGST Act, 2017 provided their turnover in preceding year does not exceed Rs. 1.5 crores:

(i) Mohan is engaged in providing exclusively Chartered Accountant services in Rajasthan and is registered in the same State.
(ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

Ans.:

(i) A supplier of services is not eligible for composition scheme except :
    (a) Supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (restaurant service supplier)
    (b) Other suppliers i.e. manufacturers, traders and restaurant service suppliers may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II i.e. restaurant services), of value –
        - Not exceeding 10% of turnover in a State or UT in the preceding financial year; or
        - Rs. 5,00,000,

Whichever is higher.

Since Mohan provides only Chartered Accountant services, he is not eligible for composition scheme. However, he can opt for Notification No. 2/2019-CT (R) dated 07-03-2019 applicable from 01-04-12019 provided his aggregate turnover in preceding financial year doesn't exceed Rs. 50 Lakhs.

*Example: 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.*

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

Q4. Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was Rs. 90 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical. You are required to advice Mohan Enterprises whether he can do so?

Ans. A registered person with an aggregate turnover in a preceding financial year up to Rs. 1.5 crores is eligible for composition levy in Delhi. Since the aggregate turnover of Mohan Enterprises does not exceed Rs. 1.5 crores, it is eligible for composition levy in the current year. However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Mohan Enterprises either have to opt for composition levy for both the verticals or under normal levy for both the verticals.

## Questions from GST Main Book / Other Questions

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

Reverse charge on Goods is out of syllabus

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

Q6. Is reverse charge applicable on payment of advance?

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

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

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

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

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

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

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

Ans.

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

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

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

GTA can also opt for forward charge @ 12%

Ans.

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

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

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

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

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

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

Q10. ABC Ltd., Mumbai had appointed a senior advocate Mr. Amit for representation of company's legal matter at Calcutta High Court. Determine the GST liability? Would your answer differ if ABC Ltd. appoints one Mumbai advocate and he further outsource this to senior advocate Mr. Amit?
Ans. As per Section 9 (3) of CGST Act, in case of services provided by an individual advocate including a senior advocate by way of legal services directly or indirectly to any business entity located in the taxable territory. The liability to pay GST shall be upon the recipient i.e. reverse charge is applicable. In the given case, the business entity ABC Ltd. shall be liable to pay tax under reverse charge.
Even though if Mr. Amit provides these services through another advocate, ABC Ltd. shall be liable to pay tax under reverse charge.

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

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

Discuss the applicability of reverse charge to the above transactions.

Ans.

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

Q12. Salim Khan a renowned writer and author of novels transferred the copyright of his one published novel to Yashraj Films for a consideration. Examine the tax implications as per GST Act?
Ans. As per section 9(3) of CGST Act read with relevant notifications, services supplied by an author by way of transfer or permitting the use or enjoyment of copyright covered under sec. 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like reverse charge shall be applicable. Thus in the given case the liability to pay GST shall be upon Yashraj Films as it is the recipient of service.

Q13. A hotel owner is providing following services:

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

His aggregate turnover from all the above services is 90 lakhs. Hotel owner has now started providing above services through 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.

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

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

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

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

Exclusive supplier of services which are subject to RCM

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

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

Answer the following:

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

Ans.

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

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

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

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

Ans.

i. Supplier of services (other than restaurant and catering) are disqualified for composition scheme. Thus, supplier of consultancy services is not eligible for composition scheme. (please refer Answer 3 (i) above for detail answer)
ii. Supplier of services of restaurant and catering are qualified for composition scheme. Thus, such supplier is eligible for composition scheme.
iii. Though supplier of services of restaurant and catering are qualified for composition scheme, but supplier engaged in making non-taxable supply is not eligible. Supply of alcoholic beverages is non-taxable supply under GST. Thus, restaurant serving food and non-alcoholic as well as alcoholic beverages shall not be eligible for composition.

iv. Supplier of any goods (making intra-state supply) is eligible to opt for composition scheme. Thus, supplier of handicraft goods is eligible to opt for composition scheme.

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

i. Mr. A is an artist. A Trade Fair is organized by Bombay Exhibition in Mumbai. Mr. A wants to display and sell his paintings in Trade Fair. His turnover in Trade Fair is not likely to be more than Rs. 15 lakhs. He wants to opt for Composition Scheme.
ii. Mr. A is in the business of manufacture of pan masala. With effect from February 2019, he wants to manufacture biscuits for rural market along with pan masala. He wants to opt for Composition Scheme with effect from April 2019. His annual turnover (even after commencement of biscuits manufacture) will not be more than Rs. 72 lakhs.
iii. Mr. A is in the business of manufacture of biscuits. He is registered under GST under normal provisions. His annual turnover is Rs. 60 lakhs. With effect from April 2019, he wants to opt for Composition Scheme. He owns a flat in a commercial building and gets monthly rent of Rs. 1,00,000.
iv. Mr. A is in the business of manufacture of garments. His turnover is Rs. 60 Lakhs. He sells his entire stock through Infibeam, an ECO. He is registered under normal provisions of GST. Can he opt for composition scheme?
v. In above case, whether composition scheme will be available if 99% garments manufactured by Mr. A are sold directly to Dmart Supermarket and Only 1% garments are sold through ECO Infibeam.

Ans.

i. Mr. A is a "casual taxable person". A casual taxable person making taxable supply in India has to take compulsorily registration U/s 24 of CGST Act. For causal taxable person, there is no threshold limit of aggregate turnover. He is liable to pay GST even if his turnover is not likely to more than Rs. 15 lakhs. As per Sec 10 of CGST Act, a casual table person is not eligible to avail composition scheme.
ii. Mr. A manufactures pan masala. A manufacturer of ice-cream, pan masala and tobacco products, cannot opt for Composition Scheme.
iii. Mr. A has turnover from manufacture of biscuits. Besides, he has rental income from commercial property which is chargeable to GST. Mr. A, registered person, is engaged in supply of commercial renting service and he can maximum have Rs. 6,00,000 (10% of Rs. 60,00,000 or Rs. 5,00,000 whichever is higher) service income. Thus, he cannot opt for composition scheme.
iv. Mr. A cannot opt for Composition Scheme. Section 10(2) prohibits a person who is engaged in making any supply of goods through an ECO to opt for Composition Scheme.
v. Mr. A cannot opt for Composition Scheme. Section 10(2) prohibits a person who is engaged in making any supply of goods through an electronic commerce operator to opt for Composition Scheme.

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

Ans. Mr. A is eligible for composition scheme from aggregate turnover perspective since his aggregate turnover in the preceding FY is not exceeding Rs. 1.5 crores (Rajasthan is normal State). But, since Mr. A is making inter-State outward supply, he is not eligible to opt for composition as per Sec 10(2) of CGST Act.

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

# Additional Questions & Answers

## These are apart from Examples in main book

Q19. Shubhlaxmi Foods is engaged in trading of goods in Maharashtra. In the preceding financial year, it has a turnover of Rs. 140 lakh from the trading of goods. Further, it has also earned a bank interest of Rs. 20 lakh from the fixed deposits. Shubhlaxmi Foods wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi Foods on the same. Would your answer be different if Shubhlaxmi traders is also engaged in supply of farm labour and the turnover from the said activity is Rs. 20 lakh?

Ans. As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed Rs. 1.5 crore (Rs 75 lakhs in special category states) may opt to pay composition scheme. Such person shall be so eligible if he is not attracting any disqualification as specified in Sec 10(2) of CGST Act.

CGST (Removal of Difficulty Order), 2019 Order No. 1/2019-CT dated 01-02-2019 has been issued to provide 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 –

(a) for determining the eligibility for composition scheme under second proviso to Section 10 (1) [which allows provisions of services upto 10% of turnover in a State/UT in the preceding financial year or Rs. 5,00,00, whichever is higher];
(b) in computing his aggregate turnover in order to determine eligibility for composition scheme.

Thus, in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any 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.

- In the given case, the services provided by Shubhlaxmi Foods apart from trading of goods, viz. services by way of extending deposits where the consideration is represented by way of interest shall not be taken into account for computation of aggregate turnover for determination of eligibility of composition scheme. Since the aggregate turnover of Shubhlaxmi Foods does not exceed Rs. 1.5 crores in preceding financial year, it shall be eligible to opt for composition scheme.
- However, if Shubhlaxmi Foods is also engaged in supply of farm labour, it will not be eligible for composition levy since as per Order No. 01/2019-CT only 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. Other exempt services shall be taken into account. Since its aggregate turnover is Rs. 1.60 crores in preceding financial year it will not be eligible to opt for composition scheme.

Q20. Prem is running a consulting firm and also a fancy store, registered under the same PAN number. Turnover of the fancy store is Rs. 65,00,000 and receipt of consultancy firm is Rs. 10,00,000 in the preceding financial year.
You are required to provide answers with supporting explanatory note for each answer to the following questions:

i. Is Prem eligible for composition scheme under CGST Act?
ii. Whether it is possible for Prem to opt for composition scheme only for fancy store?
iii. If Prem is running a restaurant with turnover of Rs. 95,00,000 instead of consultancy firm as well as a fancy store, would he be eligible for composition scheme?

Ans.

i. **Yes**. A registered person can opt for composition scheme if, inter alia, he is engaged in the supply of services other than restaurant services if his turnover of services is upto 10% of aggregate turnover in preceding financial year or Rs. 5,00,000 whichever is higher. Thus, in this case the value of consulting services in the current financial year must not exceed Rs. 7,50,000 i.e. 10% of Rs. 75,00,000

ii. **No**. All the registrations under the same PAN have to opt for composition scheme and if the supply of consultancy service is ineligible for composition scheme, supply of goods in fancy store too becomes ineligible for composition scheme.

iii. **No**. Even though Prem provides restaurant service, which is an eligible service for composition levy, his aggregate turnover (Rs. 65 lakh for fancy store + Rs. 95 lakh for restaurant service) in the preceding financial year exceeds Rs. 1.5 crore.

***Example for Notification No. 02.2019-CT (R) Dated 7th March 2019***

*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.*

Q21. XYZ Ltd. is a manufacturing concern in Mumbai. In FY 18-19 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 19-20?

Ans. 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.

Q22. 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?

Ans.

| Particulars | Amount |
|---|---|
| Intra State Supplies @ 5% | 40,00,000 |

# Additional Questions & Answers

## These are apart from Examples in main book

| | |
|---|---|
| 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

Q23. 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.
Ans. 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.

Q24. Please discuss provision related to alcoholic liquor for human consumption & for industrial consumptions.
Ans. 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.

Q25. 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 crores during the year?
Ans. 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.

Q26. 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?
Ans. 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.

Q27. Who is responsible to pay taxes?
Ans. 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), registered recipient of goods or services or both is liable to pay tax under reverse charge in the event supplier of goods or services is not registered (notified supplies).

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.

Q28. 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?

Ans. 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. is affecting inter-State supply, hence it cannot opt for composition scheme.

Q29. What are the consequences, if a taxable person violates the conditions prescribed for composition scheme?

Ans. 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.

Q30. 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 Goods 'C' (Tax Rate @ 18%) | 10,00,000 |
| Value of inward supplies on which tax payable under RCM (Tax Rate 18%) | 10,00,000 |

Ans.

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

Q31. Comment on chargeability of following transaction: -

i. ABC Ltd. availed service of XYZ Ltd. (Goods Transport Agency) for transportation of goods by road from Pune to Mumbai.
ii. ABC Ltd. paid Rs. 1,00,000 towards legal services provided by partnership advocate firm AZB.
iii. ABC Ltd. paid Rs. 1,00,000 to independent director.
iv. Government has provided Business support services to ABC Ltd. for Rs. 1,00,000.
v. ABC Ltd. paid Rs. 1,00,000 towards sponsorship of exhibition. If Mr. A has paid Rs. 1,00,000 towards sponsorship of exhibition then whether your comment will differ.

vi. Government has given commercial property on monthly rent for Rs. 1,00,000.
vii. ABC Insurance company pay Rs. 1,00,000 commission to Mr. A whose turnover is lesser than threshold limit for registration.
viii. ABC Ltd. has availed Manpower services from XYZ Ltd. Will your answer differ if service provider is Mr. A.
ix. Works contract services provided by ABC Ltd. to XYZ Ltd.
x. Security services by Mr. A to ABC Ltd.
xi. Insurance company selling insurance policies through an ECO and paying commission to ECO.

Ans.

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

Q32. Whether a Restaurant is supplying liquor/alcohol is eligible for Composition Scheme?
Ans. A Restaurant is supplying liquor/alcohol is not eligible for Composition Scheme because according to the provisions of the Act, composition scheme cannot be availed on those goods and services on which GST is not levied and liquor/alcohol are out of the scope of GST. Person has no choice to go to Composition Scheme; rather he has an only window of regular scheme which is mandatory if he falls under the criteria of aggregate turnover.

Q33. Mr. A, a retailer who keeps on inventories, presents the following expected information for the year –
Purchase of goods: Rs. 60 Lacs (GST @ 5%)
Sales (at fixed selling price inclusive of all taxes): Rs. 72 Lacs (GST @ 5%)
Discuss whether he should opt for composition scheme if composite tax is 1% of turnover.

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

Ans. 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.

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

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

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

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

Q36. Can a person paying tax under composition scheme make supplies of goods to SEZ?

Ans. 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.

Q37. 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.

Ans. 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.

Q38. 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?

Ans. (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.

# Additional Questions & Answers

## These are apart from Examples in main book

Q39. A tourist from USA visits India and purchases a handicraft wooden item in Mumbai. How it is going to be taxed under GST?

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

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

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

Q40. What happens if the receiver of goods and/or services is required to pay tax under Reverse Charge but is not a registered dealer?

Ans. 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.

Q41. Is Input Tax Credit allowed under Reverse Charge?

Ans. 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.

Q42. 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.

Ans.

a) Services provided to X, shall be exempt as provided to individual advocate via Sr. no. 45.
b) Services provided to B & Co., shall be exempt via Sr. 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.

Q43. 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 ?

Ans. 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.

Q44. Whether IGST on import of goods would be levied under IGST Act or under Customs Act?

Ans. 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)

Q45. 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?
Ans. 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.

Q46. Whether CGST & SGST/UTGST is applicable on import of goods or service or both?
Ans. 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.

Q47. Will composition withdrawal intimation in any one place be applicable to all places of business?
Ans. Yes. Any intimation or application for withdrawal in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 4: - Exemptions from GST

This chapter includes "22 Q & A" of GST main book

### ICAI Test your knowledge

Q1. An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?

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

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

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

Q2. RXL Pvt. Ltd. manufactures beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth Rs. 1,20,000 will be donated to a charitable organization. Whether Ms. Ahana Kapoor will be required to pay any GST?

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

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

Q3. Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons:

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

Ans.

Computation of value of taxable supply

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

Notes:

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

Q4. Examine whether GST is exempted on the following independent supplies of services:

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

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

Ans.

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

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

Q5. Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

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

Ans.

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

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

## Questions from GST Main Book / Other Questions

Q6. State the difference between General & Special Exemption.
Ans.

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

Q7. Jain hostel trust registered U/s 12 AA of Income Tax Act 1961, provides hostel accommodation facility to students and charges Rs. 900 per day. Determine whether such service of accommodation is covered under the ambit of charitable activity and also its taxability in GST Act?
Ans. This is exempt. As per Circular No. 32/06/2018-GST, the aforesaid service doesn't fall within the ambit of charitable activities (Sr. No. 1 of Notification No. 12-2017-CT (R) dated 28-06-2017). However, accommodation service in hostels including such services provided by trusts having "Value of Supply" below Rs. 1,000 per day is exempt under Sr. No. 14 of Notification No. 12-2017-CT (R) dated 28-06-2017.

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

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?

Ans.

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

Q9. Orchid Hotel provides the following information relating to their services for the month of January 2019:
The hotel has 50 rooms, out of which 30 rooms are Super Deluxe rooms with a declared tariff of Rs. 2,000 per day, 10 rooms are Deluxe rooms with a declared tariff of Rs. 1,200 per day, rest is Semi Deluxe with a declared tariff of Rs. 800 per day.
The hotel has practice of giving 25% discount on Super Deluxe & Deluxe room.
In January 2019 occupancy was 80%.
Please calculate value of taxable supply.
Ans.

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

New Amend ment

Q10. Discuss the treatment of following transaction under GST law:-
i. Mr. A, a sole proprietor has transferred all assets and liabilities of his business carried on under the name and style of ABC Interiors as a going concern to XYZ Limited.
ii. Mr. A, has provided labour services for construction of a community park to a Panchayat.

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

Ans.

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

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

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

# Additional Questions & Answers

## These are apart from Examples in main book

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

| Floor No. | Usage |
|---|---|
| Ground Floor | 5 Shops & 1 godown for goods storage for monthly rent of INR 5,00,000 |
| 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.

Ans.

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

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

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

Compute the value of taxable supply.

Ans.

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

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

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

Compute the value of taxable supply.

Ans.

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

# Additional Questions & Answers

## These are apart from Examples in main book

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

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

Compute the value of taxable supply.

Ans.

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

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

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

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

Compute the value of taxable supply.

Ans.

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

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

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

Compute the value of taxable supply.

Ans.

# Additional Questions & Answers

## These are apart from Examples in main book

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

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

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

Ans.

| Particulars | Amount (in INR) |
|---|---|
| Amount of commission received for debt collection service Banking services are provided by way of extending deposits, loans or advances in so far as represented by interest are exempt. Commission received 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 | NIL |

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

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

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

Ans.

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

Q19. 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.

Ans. 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).

# Additional Questions & Answers

## These are apart from Examples in main book

Q20. 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.

Ans. 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).

Q21. 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.

Ans. 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.

Q22. 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.

Ans. 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).

Q23. Please comment whether below instances are subject to tax or no?
a. Renting of immovable property to higher secondary school.
b. Transportation services provided to students of higher secondary school.
c. Outdoor catering services provided to educational institutions running approved vocational courses.
d. Security services provided to Pre-Nursery School.
e. Housekeeping and cleaning services in college providing recognized graduation degree.
f. Conducting of examination of ICAI.
g. Development of course content of ICAI.
h. Training of Staff of Higher Secondary School.
Ans. Our comments: -
a. This is liable to GST.
b. This is exempt under 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.

Q24. Please comment whether below instances are subject to tax or no?
a. Monthly subscription Rs. 7,501 collected by Resident Welfare Association from member families.
b. Electricity charges levied by State Electricity Board collected by Resident Welfare Association and deposited with Electricity Board.
c. Common area electricity charges collected by Resident Welfare Association..
d. Rs. 100 collected for entertainment program organized by Resident Welfare Association
e. Other Services to non-members.
Ans. Our comments: -
a. If per month per member contribution of any or some members of Resident Welfare Associations is higher than Rs. 7,500, is subject to GST (>7,500 paying members).
b. This is pure agency services so not subject to GST.
c. This isn't pure agency contract since common are charges would be in the name of Resident Welfare Association so it is subject to tax.
d. This is exempt under Entry No. 81 of Notification No. 12/2017-CT (Rate) -Lesser then Rs. 500.
e. This is liable to GST.

Q25. With reference to the provisions of CGST Act, 2017 examine whether GST is leviable in the following situations?
a. Government of Rajasthan has provided services to ABC Ltd. of Rajasthan in the month of Nov'17 for a consideration of Rs. 1,00,000. The Turnover of ABC Ltd. in FY 16-17 is 11 Lacs.
b. Government of Rajasthan has provided services to ABC Ltd. in the month of Oct'17 for a consideration of Rs. 5,000. The turnover of ABC Ltd in FY 16-17 was Rs. 25 Lacs.
c. Jaipur Municipal corporation has awarded a contract for construction of road to ABC Ltd. failed to perform the contract and paid liquidated damages amounting Rs. 50 Lacs in accordance with the terms of contract.
d. ABC Ltd. has applied for registration under Companies Act, 2013 to ROC, Rajasthan and has paid registration charge of Rs. 10 Lacs.
e. Delhi Government has charged Rs. 40 Lacs from ABC Ltd. for allocation of natural resources for agricultural purposes in the month of Nov'17.
f. ABC Ltd. has paid to customs department Rs. 1 Lac on account Merchant Overtime Charges for deputing officers after office hours or on holidays for inspection or container stuffing or such other

duties in relation to import export cargo.

g. ABC Ltd. has made an upfront payment of Rs. 1 crore to Rajasthan Government on account of assignment of right to use minerals in the State of Bihar.

Ans. Our comments: -

a. Services provided by the Central Government, State Government, Union Territory or local authority to a business entity with an aggregate turnover of upto Rs. 20 Lacs in the preceding financial year are exempt vide 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.

# Chapter 5: - Place of Supply

## ICAI Test your knowledge

This chapter includes "11 Q & A" from Custom main book.
Do refer "68 examples" from GST Main Book.

Do refer "68 examples" from GST Main Book. These examples are necessarily to understand various provisions conceptually including new amendments (IGST Rules).

Q1. In case of a domestic supply, what is the place of supply where goods are removed?
Ans. As per section 10(1)(a), the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Q2. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?
Ans. As per section 10(1)(b), it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person.

Q3. What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?
Ans. As per section 10(1)(e), in respect of goods, the place of supply is the location at which such goods are taken on board.
However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of sections 12(10) and 13(11).

Q4. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.
What will be the place of supply of construction services?
Ans. Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf [Explanation to section 12(3) for domestic supplies].

Q5. What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?
Ans. In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person.
However, if the recipient is not registered, the place of supply is the place where event is held. Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be taken as being in each state in proportion to the value of services so provided in each state [Explanation to section 12(7)].

Q6. What is the place of supply of services by way of transportation of goods, including mail or courier when the both the supplier and the recipient of the services are located in India?
Ans. If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods. [Section 12(8)].

# Additional Questions & Answers

## These are apart from Examples in main book

Q7. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?
Ans. If the person is registered, the place of supply will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9)].
However, for the return journey, the place of supply will be Delhi as the return journey has to be treated as separate journey [Explanation to section 12(9)].

Q8. What is the place of supply for mobile connection? Can it be the location of supplier?
Ans. **For domestic supplies**
The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located. The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of service. In case of pre-paid connections, the place of supply is the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e-payment, the location of recipient of service on record will be taken as the place of supply.
**For international supplies**
The place of supply of telecom services is the location of the recipient of service.

Q9. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?
Ans. If the service is not linked to the account of person, place of supply will be Kullu i.e., the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply will be Mumbai, the location of recipient on the records of the supplier.

Q10. An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai.
What is the place of supply of insurance services?
Ans. When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services is the place of supply. So Gurugram is the place of supply [Section 12(13)].

## Questions from GST Main Book / Other Questions

Q11. Determine the place of supply:

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

**(ICAI BGM)**

Ans.

| Particulars | Supplier's factory from where goods are removed | Termination of movement for delivery | Place of Supply | Tax Payable |
|---|---|---|---|---|
| Movement of goods by the supplier (goods dispatched by supplier) [Section 10(1)(a) read with section 2(96)(a) of CGST Act] | Orissa | Assam | Assam | IGST payable at Orissa |
| | Orissa | Orissa | Orissa | CGST/SGST payable at Orissa |
| Movement of goods by the recipient (goods collected by recipient) [Section 10(1)(a) read with section 2(96)(b) of CGST Act] | Kerala | Goa | Goa | IGST payable at Kerala |
| | Kerala | Kerala | Kerala | CGST / SGST payable at Kerala |

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

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

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

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

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

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

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

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

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

# Additional Questions & Answers

## These are apart from Examples in main book

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

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

Ans.

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

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

Q17. Mr. A of Mumbai went to Ooty on vacation. He purchased mobile from shop located in Ooty. Determine place of supply.
Ans. As per Section 10(1)(c) of the IGST Act, 2017, where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. In this case the mobile is purchased from a shop in Ooty, the supply is complete in the shop itself by delivery to Mr. A and the place of supply will be Ooty even if Mr. A comes from Mumbai.

Q18. Mr. A, of Maharashtra has a godown in Jaipur. Mr. Z of Maharashtra approaches Mr. A for purchase of goods lying at godown in Jaipur and takes delivery of goods from the Jaipur godown. Mr. A issues an invoice for sale of goods at his principal place of business in Maharashtra. Determine the place of supply of goods.
Ans. As per Section 10(1)(c) of IGST Act, 2017, where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient. Thus, the place of supply of goods shall be Jaipur, although both Mr. A and Mr. Z are located in Maharashtra.

Q19. A Ltd. of Mumbai received an order from Z Ltd. Price is inclusive of freight. A Ltd. is to deliver goods to Z Ltd. which is located at a SEZ in Mumbai. Determine place of supply.
Ans. As per Section 8 (1) (a) of IGST Act, provided that the following supply of goods shall not be treated as intra-State supply namely:-
(i) supply of goods to or by a SEZ developer or SEZ unit. Hence, even though it is an intra-State supply it will be treated as inter-State supply as Z Ltd. is located in a SEZ.
According to Section 10 (1) (a), place of supply is Mumbai.
Section 8 (1) (a) of IGST Act, is specific provision and hence will prevail over general provision as contained in section 10 (1) (a) of IGST Act.
Thus, it is inter-State and subject to IGST.

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

(ICAI Example)

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

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

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

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

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

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

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

(ICAI Example)

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

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

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

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

f. Mr. B of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh.
(ICAI Example)

Ans.

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

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

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

(ICAI Example)

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

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

a. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e., Ahmedabad.

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

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

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

(ICAI Example)

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

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

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

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

(ICAI Example)

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

| **Nature of Supply** | **Place of Supply** |
|---|---|

<table>
<tr><th></th><th>Recipient is registered</th><th>Recipient is unregistered</th></tr>
<tr><td>Passenger transportation</td><td rowspan="2">Location of recipient</td><td>Location where the passenger embarks on the conveyance for a continuous journey</td></tr>
<tr><td>Issue of right to passage for future use-point of boarding not known at the time of issue of right</td><td>a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person.<br>b) In other cases, the location of the supplier of services</td></tr>
<tr><td colspan="3">The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.</td></tr>
</table>

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

Q27. Mr. A of Jamshedpur has availed services of Mumbai Transport Company of Mumbai for transport of goods from his house in Kota (Rajasthan) to Mumbai. Determine place of supply of goods transport services.
Ans. As per Section 12(8) of IGST Act, the place of supply of services by way of transportation of goods, including by mail or courier to a person other than a registered person, shall be the location at which such goods are handed over for their transportation. In this case since the goods are handed over to transporter in Kota, the place of supply shall be Kota.

Q28. Mr. A, an unregistered person from Patna travels by Air India flight from Kochi to Delhi and gets his travel insurance done in Kochi. What will be the place of supply?
Ans. As per Section 12(13) of IGST Act, the place of supply of insurance services is the location of recipient when provided to a registered recipient. If such services are provided to a person other than a registered person, the place of supply is the location of the recipient of services in the records of the supplier of services.
Since Mr. A is an unregistered person, the location of the recipient of services on the records of the supplier of insurance services shall be the place of supply. So Patna shall be the place of supply.

Q29. Determine Place of Supply of service for the following case:-
a. Mr. X (New Delhi) imports a machine from Germany for being installed in his factory at New Delhi. To install such machine, Mr. X takes the service of an engineer who comes to India from Germany for this specific installation.
b. A software company located in United States of America (USA) takes services of a software company located in Bangalore to service its software in USA. The Indian software company provides its services through electronic means from its office in India.
c. ABC Ltd., Hyderabad has exported a machine to a company in Indonesia. The machine stops functioning and is thus, imported by ABC Ltd. for free repairs in terms of the sale contract. The machine is exported after repairs.

d. Mr. X, a hair stylist registered in New Delhi, travels to Singapore to provide his services to Ms. Y, a resident of Singapore.
e. PQR Consultants, New Delhi, bags a contract for doing a market research for a vehicle manufacturing company based in South Korea, in respect of its upcoming model of a car. The research is to be carried out in five countries including New Delhi in India.

(ICAI Example)

Ans.

a. As per section 13 (3) of IGST Act, in case of Services requiring physical presence of goods, the place of supply is service is actually performed.
The place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed i.e., New Delhi.
b. As per section 13 (3) of IGST Act, services supplied in respect of goods, that are provided from a remote location by electronic means, the place of supply is location where goods are situated at the time of supply of services.
The place of supply is the location where goods are situated at the time of supply of service i.e., USA.
c. As per section 13 (3) of IGST Act, services supplied in respect of goods, that are temporarily imported into India for repairs or for any other treatment or process and are exported back after such repairs or treatment or process, without being put to any use in India, is location of the recipient
The place of supply of repair service is the location of the recipient i.e., Indonesia.
d. As per section 13 (3) of IGST Act, services supplied to an individual, which require the physical presence of the recipient, is location where the service is actually performed.
The place of supply is the location where the services are actually performed i.e. Singapore.
e. As per section 13 (3) of IGST Act, since the services are supplied at more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory i.e., New Delhi.

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

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

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

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

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

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

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

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

# Additional Questions & Answers

## These are apart from Examples in main book

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

(ICAI Example)

Ans. As per section 13 (9) of IGST Act, transportation of goods, other than by way of mail or courier, place of supply is destination of such goods.
The place of supply is the location of destination of goods transported i.e., Paris.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q42. In case of import of goods into India what is the place of supply of goods?
Ans. The location of the importer is the place of supply of goods in case of import of goods into India. It may be noted that importer has not been defined in the IGST Act, 2017. Therefore, the meaning given under Customs Act, 1962 will have to be taken. As per Section 2(26) of the Customs Act, 1962 "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.

Q43. In case of export of goods from India, what is the location of supply of goods?
Ans. The location of supply of goods exported from India shall be the location outside India.

Q44. What is the place of supply of services by way of transportation of goods (Section 12 & 13)?
Ans. Section 12(8) of the IGST Act, 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.
Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods
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.

**Do refer "68 examples" from GST Main Book. These examples are necessarily to understand various provisions conceptually including new amendments (IGST Rules).**

# Additional Questions & Answers

These are apart from Examples in main book

This chapter includes "20 Q & A" of GST main book. Do refer "8 examples" in GST main book.

## Chapter 6: - Time of Supply

### ICAI Test your knowledge

Q1. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

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

Ans.

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

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

Q2. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

| S. no. | Date of payment by recipient for supply of services | Date of issue of invoice by supplier of service |
|---|---|---|
| | (1) | (2) |
| (i) | August 10 | June 29 |
| (ii) | August 10 | June 1 |
| (iii) | Part payment made on June 30 and balance amount paid on September 1 | June 29 |
| (iv) | Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30 | June 1 |
| (v) | Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26 | June 29 |

Ans.

| **S. no.** | **Date of payment by recipient for supply of services** | **Date of issue of invoice by supplier of services** | **Date immediately following 60 days from invoice** | **Time of supply of goods (Earlier of (1) & (3)** |
|---|---|---|---|---|
| | (1) | (2) | (3) | |
| (i) | August 10 | June 29 | August 29 | August 10 |
| (ii) | August 10 | June 1 | August 1 | August 1 |
| (iii) | Part payment made on June 30 and balance amount paid on September 1 | June 29 | August 29 | June 30 for part payment and August 29 for balance amount |
| (iv) | Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30 | June 1 | August 1 | June 28 (i.e. when payment is entered in the books of account of the recipient) |
| (v) | Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26 | June 29 | August 29 | June 26 (i.e. when payment is debited in the recipient's bank account) |

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

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

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

Ans.

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

Q4. Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e., 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July.
What is the time of supply of the transporter's service?
Note: Transporter's service is taxed on reverse charge basis.
Ans. Time of supply of service taxable under reverse charge is the earlier of the following two dates in terms of Section 13(3):

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

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

Q5. Raju Pvt. Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.
When is the time of supply of service?
Ans. Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

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

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

Q6. Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment.
What is the time of supply of the 150 cartons?
Ans. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.
In this case since the invoice has not been issued, the time of supply will be the last date on which the invoice is required to be issued.

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

Q7. An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and hands over the payment on the same date, which is entered in the accounts on the next day, 8th December.
What is the time of supply of the shoes?
Ans. As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.
In this case, the invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, time of supply is the date of issue of invoice, which is 2nd December.

Q8. Sodexo meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months. What is the date of supply of the coupons?
Ans. As the coupons can be used for a variety of food items, which are taxed at different rates, the supply cannot be identified at the time of purchase of the coupons. Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).

Q9. A firm of lawyers issues invoice for services to ABC Ltd. on 17th Feb. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November.
Identify the time of supply of the legal services.
Ans. Time of supply of services that are taxable under reverse charge is earliest of the following two dates in terms of section 13(3):

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

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

Q10. Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December.
What is the method to fix the time of supply of the service?
Ans. The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, whichever is earlier [Section 13(2)(b)].
In this case, the service is provided on 5th September but not invoiced within the prescribed time limit. Therefore, the date of provision of service, i.e., 5th September, will be the time of supply.

Q11. I buy a set of modular furniture from a retail store. Invoice is issued to me and I make the payment. The furniture is to be delivered to me later in the week when a technician is available to assemble and install it. The next day the rate of tax applicable to modular furniture is revised upward, and the store sends me a supplementary invoice with the delivery note accompanying the furniture to collect the differential amount of tax. Is this correct on store's part?

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

Q12. An online portal, Best Info, raises invoice for database access on 21st February on Roy & Bansal Ltd. The payment is made by Roy & Bansal Ltd. by a demand draft sent on 25th February, which is received and entered in the accounts of Best Info on 28th February. Best Info encashed the demand draft and thereafter, gives access to the database to Roy & Bansal Ltd from 3rd March.
In the meanwhile, the rate of tax is changed from 1st March 2017.
What is the time of supply of the service of database access by Best Info?

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

## Questions from GST Main Book / Other Questions

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

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

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

Q14. Mehra Sons, a registered supplier, is a wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 20XX, Subhadra, owner of Aura Boutique located in Dadar, Mumbai, approached Mehra Sons for supply of a consignment of customised dresses for ladies and kids.
Mehra Sons gets the consignment ready by 2nd December, 20XX and informs Subhadra about the same. The invoice for the consignment was issued the next day, 3rd December, 20XX. Due to some reasons, Subhadra could not collect the consignment immediately. So, she collects the consignment from the premises of Mehra Sons on 18th December, 20XX and hands over the cheque for payment on the same date. The said payment is entered in the accounts on 20th December, 20XX and amount is credited in the bank account on 21st December, 20XX.
You are required to determine the time of supply of the readymade garments supplied by Mehra Sons to Subhadra elaborating the relevant provisions under the GST law.
(CA Inter – MTP- May 2018)

Ans. Given transaction is supply transaction involving movement of goods. Sec 31 requires supplier of goods to issue invoice upto the time of removal of goods which includes even collection of goods by the recipient. In given case, date of removal (collection by buyer) is 18.12.XX while invoicing has been done on 03.12.XX. Thus, given case is one where the supplier has issued invoice upto time of removal of goods.
For purposes of determination of time of supply, the date of payment is considered to be earlier of the date of receipt of payment in bank account (21.12.XX) or date of entry in books of accounts (20.12.XX). Thus, in instance case, the date of receipt of payment is 20.12.XX.

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

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

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

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

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

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

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

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

Ans.

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

(b) Due date of payment of tax
- Time of Supply = 14.08.XX
- Due date of payment of GST = 20.09.XX

Q17. On 4th September, 2017, V.R. Mehman a famous music composer, received Rs. 3 crore of consideration from Zilmil Music Co. Ltd. for grant of copyright of his original music album. He finished his work & made available the CD to the music company on 20th July, 2017 & raised the invoice on 24th July, 2017. What will be time of supply as per CGST Act, 2017? (CA Inter May 2018)

Ans. This is subject to reverse charge. The time of supply shall be the earlier of the following dates:
(a) the date of payment, or

(b) the date immediately following sixty days (61st day) from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.
Time of Supply is 04.09.2017 as payment was made within the date immediately following sixty days from the date of issue of invoice by the supplier.

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

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

Ans. In case of service transaction from associated enterprises (overseas transaction), Time of Supply is earlier of following two:
(a) Date on which transaction is recorded in books of accounts of the recipient;
(b) Date of payment:
Accordingly, Time of Supply in given transactions shall be
(i) Time of supply =15.08.2017
Note: as the date of entry in the books is prior to the date of payment.
(ii) Time of supply = 10.08.2017
Note: as the payment is made earlier to the date of entry in the books.

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

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

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

Q20. Determine the time of supply from the given information.

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

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

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

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

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

Q22. ABC Ltd. sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food/provisions in the outlets that are part of the program.
Ans. As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the time of supply of the coupon will be on the date on which the employee redeems it against food/provision items of his choice.

Q23. With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza.
Ans. As the supply against which the voucher will be redeemed is known on the date of the sale, the time of supply is the date of issue of the voucher.

Q24. Determine the time of supply from the given information.

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

Ans. As per Section 31 read with rule 47 of CGST Rules, the tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13 (2) (b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the date of provision of service or receipt of payment, whichever is earlier.
Therefore, the time of supply of service to the extent of Rs. 3,000 is 6th May as the date of payment of Rs. 3,000 is earlier than the date of provision of service. The time of supply of service to the extent of the balance Rs. 12.000 is 15th September which is the date of provision of service.

Q25. Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.
Ans. The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13 (2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of supplier is also not available. Therefore, the time of supply will be determined vide clause (c) of section 13 (2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.
Thus, time of supply will be 4th April, the date on which the Apartment Owner's Association records the receipt of service in its books of account.

Q26. Determine the time of supply from the given information (assuming that service being supplied is taxable under reverse charge).

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

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

Q27. Determine the time of supply from the given information

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

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

Q28. A supplier of services received an advance when rate of tax on services was 18%. However, while raising the invoice, tax rate on service was reduced to 5%. How will the invoice be raised?
Ans. As per provision of section 14 of CGST Act, 2017, in case wherein service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax but payment is received before change in rate of tax, time of supply shall be date of issue of invoice.
Therefore, in the instant cases assuming as service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax, therefore tax rate applicable at the time of raising of invoice for supply of service would be 5%. Excess tax collected at the time of receipt of advance can be adjusted against future liabilities.

Q29. What is the time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration?
Ans. The time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration would be the date on which the supplier receives such addition in value.
Example: Mr. A had supplied services to Mr. B for Rs.1,00,000 on 1st March. Mr. B had to make the payment to Mr. A within one month of the supply otherwise interest was chargeable at the rate of 15%. Mr. B fails to make the payment within one month and makes the payment after a delay of one month i.e. by 30th April. Mr. A raises a debit note against Mr. B for the interest on delayed payment of Rs. 1,250 on 10th May. Mr. B makes the payment of the Interest of Rs. 1,250 on 15th June.
The time of supply in such case would not be the date of raising of debit note i.e. 10th May but it would be the date when Mr. B makes the payment of the interest to Mr. A i.e. 15th June.

Q30. Time of supply of services under reverse charge mechanism where the supplier of service is associated enterprises?
Ans. In case of associated enterprises located within India, the time of supply in terms of Section 13(3) shall be the earliest of the following:

(a) Date of payment as per books of accounts of the recipient; or
(b) Date on which payment is debited in the bank account of the recipient; or
(c) Sixty days from the date of issuing invoice or any other document, by whatever name called, in lieu thereof by the supplier; or

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

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

| **Particulars** | **Non-associated enterprises** | **Associated Enterprises** |
|---|---|---|
| Date on which payment is entered in books of accounts | September 14, 2018 | September 14, 2018 |
| Date on which payment is debited to bank account | September 17, 2018 | September 17, 2018 |
| Date of issuance of invoice | September 10, 2018 | September 10, 2018 |

| | | |
|---|---|---|
| Sixty days from the date of issuing invoice | November 10, 2018 | November 10, 2018 |
| Date of entry in the books of accounts of the recipient | September 10, 2018 | September 10, 2018 |
| Time of supply | September 14, 2018 | September 10, 2018 |

Q31. Time of supply where services are supplied online?
Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining the time of supply of service where such services are supplied online and hence the same provisions for services will apply for services supplied online.

Q32. From the following information determine the time of supply of goods where supply involves movement of goods:

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

Ans.

| **Invoice Date** | **Removal of goods** | **Delivery of goods** | **Receipt of payment** | **Time of Supply** | **Remarks** |
|---|---|---|---|---|---|
| 16-11-2018 | 10-11-2018 | 16-11-2018 | 16-11-2018 | 10-11-2018 | |
| 01-12-2018 | 01-12-2018 | 04-12-2018 | 20-11-2018<br>10-12-2017 | 01-12-2018 | Time of supply is date of issue of invoice. Advance received is not liable to be taxed at the time of receipt vide notification no. 66-2017 dated 15-11-2017 |

Q33. From the following information determine the time of supply if goods are supplied on approval basis:

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

Ans.

| **Removal of goods** | **Issue of invoice** | **Accepted by recipient** | **Receipt of payment** | **Time of Supply** | **Remarks** |
|---|---|---|---|---|---|
| 01-12-2017 | 15-12-2017 | 05-12-2017 | 25-12-2017 | 05-12-2017 | Time of supply shall be the date of acceptance by the recipient |

| | | | | | |
|---|---|---|---|---|---|
| | | | | | as invoice was issued after that date. |
| 01-12-2017 | 25-07-2018 | 25-07-2018 | 20-07-2018 | 02-06-2018 | Time of supply shall be date after expiry of 6 months from the date of removal. |

Q34. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

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

Ans.

| **Date of Actual provision of services** | **Date of Invoice** | **Date on which payment received** | **Time of Supply** |
|---|---|---|---|
| 10-11-2017 | 30-11-2017 | 15-12-2017 | 30-11-2017 |
| 10-11-2017 | 30-11-2017 | 15-11-2017 | 15-11-2017 |
| 10-11-2017 | 30-11-2017 | 15-11-2017 and 10-12-2017 | 15-11-2017 and 30-11-2017 for the respective amounts |
| 10-11-2017 | 30-11-2017 | 06-11-2017 and 09-11-2017 | 06-11-2017 and 09-11-2017 for the respective amounts |
| 10-11-2017 | 30-11-2017 | 06-11-2017 and 16-11-2017 | 06-11-2017 and 16-11-2017 for the respective amounts |
| 10-11-2017 | 12-12-2017 | 30-04-2018 | 10-11-2017 |
| 10-11-2017 | 12-12-2017 | 05-11-2017 and 25-12-2017 | 05-11-2017 and 10-11-2017 for the respective amounts |
| 10-11-2017 | 22-12-2017 | 12-12-2017 | 10-11-2017 |

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

| Date of Actual provision of services | Date of Invoice | Payment entry in supplier's book | Credit in bank account | Remarks |
|---|---|---|---|---|
| 20-10-2017 | 21-10-2017 | 26-10-2017 | 30-10-2017 | |
| 20-10-2017 | 30-10-2017 | 24-10-2017 | 22-10-2017 | |

| | | | | |
|---|---|---|---|---|
| 16-11-2017 | 26-12-2017 | 28-01-2018 | 29-01-2018 | |
| 01-12-2017 | 30-10-2017<br>30-10-2017 | 30-10-2017<br>06-12-2017 | 30-10-2017<br>08-12-2017 | Rs, 5,00,000 is received in advance on 30-10-2017 and balance amount Rs. 6,80,000 is received on 06-12-2017 |

Ans.

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

Q36. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017 if recipient is liable to pay tax on reverse charge basis:

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

Ans.

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

# Additional Questions & Answers

## These are apart from Examples in main book

Q37. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

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

Ans.

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

# Chapter 7: - Value of Supply

## ICAI Test your knowledge

This chapter includes "26 Q & A" of GST main book. Do refer 25 examples in GST main book.

**Do refer "25 examples" from GST Main Book. These examples are necessarily to understand Section 15 and Valuation rules conceptually.**

Q1. AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fess should not form part of the consideration for the sale as it is a separate activity. Is his argument correct in the light of section 15?

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

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

Q2. A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to Rs. 3 lakh a year compared to Rs. 5 lakh a year for other students.

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

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

Q3. Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.

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

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

Q4. Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.

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

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

# Additional Questions & Answers

## These are apart from Examples in main book

Q5. Rajesh & Co. provides financial and management consultancy to a group of companies for an annual retainership fee of Rs. 15 lakh. It is given a room in the head office of the group for its exclusive use. Rajesh & Co. pays GST on the amount of Rs. 15 lakh.
Is the value for the service provided by Rajesh & Co., correct under GST laws? If not, please elaborate.
Ans. Rajesh & Co. gets an office room free of cost, which is an additional nonmonetary consideration for its services. The market value of the rent of the room must be added to the retainer fee (Rs. 15 lakh) in order to arrive at the value of the taxable service provided by Rajesh & Co, as per rule 27 of the CGST Rules relating to valuation.

Q6. The supplies of commodity 'y' to the market are channelled through a State Marketing Corporation which conducts an auction each day to arrive at the price. Gupta and Co. supplies commodity 'y' through the State Marketing Corporation.
How will this supply of 'y' by Gupta and Co. be valued for paying tax?
Ans. The State Marketing Corporation is an 'agent' in the meaning of the expression as defined in section 2(5), which includes an auctioneer. Therefore, the value of supply of 'y' will be determined in terms of rule 29 of CGST Rules relating to valuation.
There is no open market for the first supply of commodity 'y', as it is compulsorily supplied to the State Marketing Corporation. However, Gupta & Co. has the option of valuing the supply of 'y' at 90% of price of goods of like kind and quality sold by the State Marketing Corporation to its unrelated customers.
If the value cannot be determined by this method, it needs to be determined on the basis of the cost plus 10% mark up as per rule 30 or on the basis of Best Judgement Method as per rule 31, in that order.

Q7. Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of Rs. 900 but is redeemable for supplies worth Rs. 1000. What is the value of supply of such coupon under GST laws?
Ans. In terms of rule 32(6) of the CGST Rules relating to valuation, the value of a coupon is the money value of the goods redeemable against it. Therefore, though the coupon is sold for Rs. 900, its value is Rs. 1000.

Q8. A pharmaceutical company supplies a drug intermediate to its own unit in another State for conversion into formulations. The product is exclusive to this company, and there is no market sale in India of this drug intermediate. Goods of like kind and quality are also not available.
How will the value of the supply of this drug intermediate be determined under GST laws?
Ans. Since the supply is made to a distinct person, the same will be valued in accordance with rule 28 of CGST Rules relating to valuation. There is no open market value of the drug intermediate as also there are no like goods. Therefore, value of supply of such drug intermediate will be determined in terms of clause (c) of rule 28 i.e., by using rule 30. Thus, the value of supply of such drug intermediate will be 110% of its cost of production or manufacture.
However, if the recipient unit is eligible for full ITC, the value declared in the invoice will be deemed to be the open market value of the drug intermediate and thus, the invoice value will be the value of taxable supply.

## Questions from GST Main Book / Other Questions

Q9. Shambhu Pvt. Ltd. was awarded a contract in July 20XX for providing flooring and wall tiling services in respect of a building located in Delhi by Nath Ltd. As per the terms of contract, Shambhu Pvt. Ltd. was to provide all the required material for execution of the contract. However, Nath Ltd will also provide a portion of the material free of Cost.
Whether the services provided by Shambhu Pvt. Ltd. are subject to GST? If yes, determine the GST liability of Shambhu Pvt. Ltd. from the following particulars-

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

CGST 6% and SGST 6%. (CMA Inter -RTP June 2018)

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

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

Taxable value of supply Rs. 6,40,000

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

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

Total GST liability = Rs. 76,800

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

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

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

Discuss whether Department is correct in its approach. (CMA Final - MTP -Dec 2018)

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

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

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

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

| | |
|---|---|
| Contracted sale price of goods (including CGST and SGST @ 12%) | 11,32,000 |
| The contracted sale price includes the following elements of cost: | |
| (i) Drawings and design | 10,000 |
| (ii) Primary packing | 15,000 |
| (iii) Packing at buyer's request | 5,000 |
| (iv) Fright and insurance from 'place of removal' to buyer's premises | 20,000 |

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

Ans.

Computation of Assessable value

| Particulars | Amount (in INR) |
|---|---|
| Contracted sale price of goods | 11,32,000 |

| | |
|---|---|
| Less: Discount | (-) 12,000 |
| Value including tax | 11,20,000 |
| Less: GST @ 12% [Rs.11,20,000 x 12 ÷ 112] | (-) 1,20,000 |
| Value of Taxable Supply | 10,00,000 |

Working Notes:

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

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

Ans.

**Statement showing computation of value of supply**

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

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

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

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

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

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

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

Q15. Will the Customs Valuation apply to IGST payable on import of services?
Ans. No. Valuation provisions contained in Sec 15 of CGST Act, 2017 have been borrowed and made applicable to valuation of IGST payable. [Sec 20 of IGST Act read with Sec 15 of CGST Act].
Import of service into India is an inter-state supply and attracts IGST liability. IGST payable on import of service shall be computed on value determined as per provisions of GST law.

Q16. ABC suppliers Ltd. Mumbai has issued following invoices on 22th July 2017:
(a) XYZ Ltd. Ahmedabad, Value of goods Rs. 20,000. Packing charges Rs. 800, Outward Freight Charges Rs. 1,200.
(b) CDE Ltd. Pune, Value of goods Rs. 50,000, weighment charges Rs. 1,600, discount for prompt payment Rs. 1,200.
(c) Brain cert, USA – FOB value Rs. 40,000.
The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.
Ans. (a) Tax is payable on value plus packing plus outward freight i.e Rs. 22,000. Since customer is from out of state, IGST is payable @ 18%. Hence IGST payable is Rs. 3,960.
(b) Tax is payable on 50,000+1,600-1,200 = Rs. 50,400. The supply is within the State. Hence, tax payable is as follows, SGST @ 9% = Rs. 4,536 & CGST @ 9% = Rs. 4,536
(c) Since the goods are exported, IGST is not payable assuming ABC has LUT.

Q17. A taxable person engaged in trading of second hand cars has given following information for Sept'17:
(a) Purchased second hand car at Rs. 4,00,000 and sold at Rs. 5,00,000.
(b) Purchased second hand car at Rs. 3,00,000 and sold at Rs. 2,90,000.
(c) Purchased second hand car at Rs. 7,00,000. He could not sale in that month.
The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%, Compensation Cess 3%.
Ans. The taxable person can pay under margin scheme as follows:
(a) Value Rs. 1,00,000 [5,00,000-4,00,000], CGST @ 14% Rs. 14,000, SGST @ 14% Rs. 14,000 & Compensation Cess @ 3% 3,000. Total Rs. 31,000.
(b) No tax payable as value of supply is negative.
(c) No tax as the car is not sold.

Q18. A CA in Mumbai supplied service relating to incorporation of a company to Mr. Amit in Kolkata. He charged fees as follows:
(a) Professional fees for incorporate of company Rs. 1,00,000.
(b) Filing fees and registration charges paid to ROC Rs. 90,000.
(c) Reimbursement of Travelling and out of pocket expenses Rs. 10,000.
The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%.
Calculate the tax liability in each case.
Ans. Rs. 90,000 are received as pure agent. So, this is not includible in value. The travelling & out of pocket expenses are part of value of supply and includible in value. Hence tax is payable on Rs. 1,10,000. Since the recipient is out of State, IGST is payable @ 18% = Rs. 1,10,000*18% = Rs. 19,800.

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

The tax rates were as follows: - CGST 9%, SGST 9%, IGST 18%. Calculate the tax liability in each case.
Ans. Tax is payable on Rs. 2,00,000+ Rs. 24,000+ Rs. 20,000 + Rs. 6,000 = Rs. 2,50,000. Tax payable CGST @ 9% of Rs. 2,50,000 = Rs. 22,500. SGST @ 9% = Rs. 22,500.

Q20. A manufacturer of drugs from Ahmedabad sales the product @ Rs. 5,000 for a box of medicines to wholesalers in Gujarat in Oct'17. He is sending to same goods to his consignment agent in Delhi in Oct'17.
The consignment agent is selling the box of medicines @ Rs. 5,300 per box. Calculate the GST payable.
The tax rates were as follows: - CGST 2.5%, SGST 2.5%, IGST 5%. Calculate the tax liability in each case.
Ans. (a) for sale to wholesales in Gujarat the tax is as follows –
CGST @ 2.5% of Rs 5,000 = Rs. 125. SGST @ 2.5% = Rs. 125.
(b) for supplies to consignment agent in Delhi he can charge tax on 90% of the sale price in Delhi i.e. 90% of 5,300 = Rs. 4,770. IGST @ 5% of Rs. 4,770 = Rs. 238.50

Q21. A manufacturer of refrigerators from Punjab sales the refrigerator Rs. 50,000 to wholesalers in Punjab. He is sending to same refrigerators to his depot in Karnataka. He is selling the refrigerators in Karnataka Rs. 46,000 due to heavy competition. The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax liability for supply to Karnataka.
Ans. Since the entire tax paid in Punjab will be available as ITC in Karnataka, the tax can be paid on any value while sending goods from Punjab.

Q22. An AC manufacturer in Chennai has made an exchange offer. As per terms of offer, if you return your old AC of any make, you will get new AC of specified high capacity for Rs. 56,000, excluding taxes. The normal price of the new air conditioner of that capacity is Rs. 68,000, excluding taxes. You made enquiry with dealers of second hand AC and they are willing to purchase your AC for Rs. 7,000. You are staying at Chennai.
The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax payable.
Ans. Tax is payable on Rs. 68,000. Tax payable – CGST @ 14% - Rs. 9,520, SGST @ 14% Rs. 9,520.

Q23. How value of supply to be arrived at in case of supply of goods or services between related persons?
Ans. Let's understand it with an example wherein Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs. 50,000 from the shop. The following would be the steps to find out the value of supply between Mr. A and Mr. B: -

(a) If the open market value of the goods or services supplied by the supplier is known then open market value of the goods or services supplied would be the value of supply.
Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs 50,000 on the shop and asks how much he has to pay for it. Mr. B asks Mr. A to pay Rs 40,000. In this transaction, as Mr. B is brother of Mr. A, Mr. B has charged lesser price from Mr. A. Thus, the open market price in the given case would be Rs. 50,000.
(b) If open market value is not available, it will be the value of supply of goods or services of like kind and quality.
Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. Supposedly, goods selected by him have been imported for the first time from outside the country and no price has been specified on such goods. Mr. B asks Mr. A to pay Rs. 40,000. In this transaction, as Mr. B is brother of Mr. A and the open market value is not available, price of goods with similar features would be the value of supply of the goods. Supposedly, similar goods are available for Rs. 45,000 in the market, therefore value of supply would be Rs. 45,000.

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

Q24. Is GST Leviable on Securities Transaction Tax and Stamp Duty?
Ans. The liability to pay STT and Stamp Duty on purchase or sale of share is that of either purchaser or seller and not of stock broker. The stock broker collects and deposits the same on behalf of the purchaser or seller and in the capacity of the pure agent. Thus, GST is not payable on STT and Stamp Duty as long as the sub – broker satisfies the conditions of pure agent as specified in Rule 33 of the CGST Rules, 2017.

Q25. Admission to ABC Theater is Rs. 100 per ticket for a Kannada Movie as well as for a Hindi Movie plus entertainment tax Rs. 10% on Kannada Movie and 20% on other languages. In the month of November, ABC Theater sold 2000 tickets of Tamil Movie and 2000 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18%. Find the GST liability if any?
Ans. For GST law add all other taxes (other than part of GST family i.e. CGST, SGST, IGST etc.) in value of supply. So, entertainment tax shall be part of assessable value.
Kannada Movie total collection = 2000*110 {100+(100*10%)}= Rs. 2,20,000
Hindi Movie total collection = 2000*120 {100+(100*20%)}= Rs. 2,40,000
GST Tax Liability
CGST = Rs. 4,60,000*9%= Rs. 41,400
SGST = Rs. 4,60,000*9%= Rs. 41,400

Q26. ABC Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer whose account are linked with Aadhar card. Selling price per cylinder is Rs. 900. Customer received subsidy Rs. 300 directly from Government to his bank account. Net outflow of the buyer is Rs. 600. Find the value of supply of goods (per cylinder) in the hands of ABC Gas. Calculate assessable value to levy tax.
Ans. Supplier is liable to pay GST on transaction value which shall be exclusive of subsidy received from government. However, exclusion of subsidy is applicable if Government is paying that to the supplier for making the supply.
In this case, Government has not paid subsidy to the supplier, rather it has been paid to the buyer directly. Supplier is not impacted by such subsidy. He shall be liable to pay whatever transaction value he has charged to buyer.
Hence, transaction value is Rs. 900 per cylinder.

Q27. ABC owns a coaching institute in Pune. The institute charges Rs. 18,000 per student for giving training in international taxation. However, this training programmes is subsidized by different institutions as follows – State
Government of Maharashtra : Rs. 500 per student, XYZ Charitable Trust : Rs. 200 per student and Government of USA: Rs. 200 per student. Calculate tax liability assuming CGST & SGST @ 9% each.
Ans. In this case, subsidies given by different institutions are directly linked to the price charged by ABC. State Government subsidy can be excluded but subsidy paid by others will be included in taxable value.

Value of taxable supply = Rs. 18,000 – Rs. 500 (subsidy from Government of Maharashtra) = Rs. 17,500
GST Tax Liability
CGST = Rs. 17,500*9%= Rs. 1,575
SGST = Rs. 17,500*9%= Rs. 1,575

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

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

Calculate the value of taxable supply.

Ans.

Statement showing calculation of value of taxable supply

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

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

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

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

| | |
|---|---|
| Freight Expenses | Rs. 3,500 |
| Consultancy charges for erection | Rs. 2,000 |
| Testing Charges | Rs 500 |
| Insurance Charges | Rs 4,500 |

Other details:-

| | |
|---|---|
| Subsidy received from Rajasthan Government (deducted from value) | Rs. 10,000 |
| Subsidy received from manufacturer for supply of power generator (deducted from value) | Rs. 25,000 |
| Trade discount shown in Invoice | Rs. 2,000 |
| Cash discount due to instant payment | Rs. 5,500 |

If such supply is inter-State supply, calculate the value of taxable supply and GST (assuming your working is inclusive of tax).

Ans.

| Sr. No. | Action | Particulars | Amount | Remarks |
|---|---|---|---|---|
| 1 | | Value of Motor | 3,00,000 | |
| 2 | Add | Taxes (other than GST) paid | 5,000 | Section 15 (2) (a) – Value of supply shall include any taxes, duties, cesses, fees and charges levied under any law other than GST |
| 3 | Add | Freight Expenses | 3,500 | Section 15 (2) (b) – Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of supply. |
| 4 | Add | Consultancy charges for erection | 2,000 | |
| 5 | Add | Testing Charges | 500 | |
| 6 | Add | Insurance Charges | 4,500 | |
| 7 | Add | Subsidy received from manufacturer | 25,000 | Section 15 (2) (e) – Value shall include subsidies directly linked to the price excluding subsidies provided by the CG/SG. |
| 8 | Less | Trade Discount | - 2,000 | Section 15 (3) (a) – Value of the supply shall not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply. |
| 9 | Less | Cash Discount | -5,500 | Section 15 (3) (b) – Value of the supply shall not include any discount which is given after the supply has been effected, if such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices. |
| 10 | Total | Value (including GST Value) | 3,33,000 | |
| 11 | Less | IGST @ 5% {Rs. 3,33,000*5/105) | 15,857 | Inter-State supply |
| 12 | Net | Taxable Value | 3,17,143 | |

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

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

# Additional Questions & Answers

## These are apart from Examples in main book

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

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

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

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

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

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

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

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

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

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

Value of Taxable Supply (Amount in INR):-

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

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

Q33. ABC provides management consultancy to a group of companies for annual retainership fees of Rs. 22 Lakhs. It is given an office cabin in head office of the group for its exclusive use. ABC pays

GST on the amount of Rs. 22 Lakhs. Is the value for the service provided by ABC, correct under GST laws? Please explain.
Ans. The value of Rs. 22 Lakhs for the service provided by ABC, is not correct under GST laws. ABC gets an office cabin free of cost, which is an additional non-monetary consideration for its services. The market value of the rent of the room must be added to the fees (Rs. 22 Lakhs) in order to arrive at the value of the taxable service provided by ABC, as per Rule 27 of CGST Rules 2017.

Q34. Mr. A located in Pune purchases 2,000 parker pen for Rs. 2,00,000 from ABC Ltd. (wholesaler) located in Indore. Mr. A's son is an employee in ABC Ltd. The price of each parker pen in the open market is Rs. 120. The supplier additionally charges Rs. 5,000 for delivering the goods to the recipient's place of business.
Ans. Mr. A and ABC Ltd. would not be treated as related persons merely because the son of the recipient is an employee of the supplier, although such son and the supplier would be treated as related persons (employer and employee relationship).
Therefore, the transaction value will be accepted as the value of the supply. Transaction value will be Rs. 2,00,000+Rs. 5,000 = Rs. 2,05,000. IGST will be leviable since it is inter-State transaction.

Q35. ABC Ltd. owned by XYZ Ltd. is popularly known for assembly of large machines. PQR Ltd. (also owned by XYZ Ltd.) is engaged in fabrication of small machines. A factory contracts ABC Ltd. of its machinery, for a fee of Rs. 6,00,000. ABC Ltd. sub-contracts the work to PQR Ltd. for Rs. 4,00,000 and ensures supervision of the work performed by them. Generally, PQR Ltd. charges a fixed sum of Rs. 1,200 per man hour to its clients; its spends 400 hours on this project. Determine taxable value of supply.
Ans. Since ABC Ltd. & PQR Ltd. is controlled by XYZ Ltd., the two companies will be treated as related persons. Therefore, Rs. 4,00,000 being the sub-contract price will not be accepted as transaction value. The value of the service shall be open market value being Rs. 4,80,000 (Rs. 1,200*400).

Q36. ABC Ltd. (Mumbai) has 10 agents located across Maharashtra (except Mumbai). The stock of water purifier is dispatched on Just in time basis from ABC Ltd., to the location of the agents, based on receipt of orders from various dealers, on a fortnightly basis. ABC Ltd. is also engaged in wholesale supply of water purifier in Mumbai. An agent places an order for dispatch of 20 water purifier on 10-12-2017. ABC Ltd. had sold 20 water purifier to a retailer in Mumbai on 8-12-2017 for Rs. 1,30,000. The agent effects the sale of the 20 units to a dealer who would affect the sale on MRP basis i.e. Rs. 7,000- per unit. Calculate taxable value of supply.
Ans. The law deems these supplies between the principal and agent to be supplies for the purpose of GST. Therefore, the transfer of goods by the principal (ABC Ltd.) to its agent for him to effect sales on behalf of the principal would be deemed to be a supply although made without consideration. The value would be either the open market value, or 90% of the price charged by the recipient of the intended supply to its customers, at the option of the supplier. Thus, the value of the supply by ABC Ltd. to its agent would be either Rs. 1,30,000 or Rs. 1,26,000 (i.e. 90% * 7,000 * 20), based on the option chosen by ABC Ltd.

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

1. General policies: Total premiums collected Rs. 12,000 Lakhs (out of which 1st year premium is Rs. 5,000 Lakhs)
2. Single premium annuity policies : Premium collected Rs. 850 Lakhs
3. Only risk cover policies : Premium collected Rs. 500 Lakhs
4. Life micro-insurance policies where insured amount does not exceed Rs. 2,00,000 : Premium collected Rs. 10 Lakhs.

# Additional Questions & Answers

## These are apart from Examples in main book

5. Variable Insurance Policies : Premium collected Rs. 8,000 Lakhs. (80% of the amount is allocated for investments on behalf of policy holder for which policy holder is given separate break up in premium receipts).

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

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

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

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

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

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

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

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

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

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

**Do refer "25 examples" from GST Main Book. These examples are necessarily to understand Section 15 and Valuation rules conceptually.**

# Chapter 8: - Input Tax Credit

## ICAI Test your knowledge

This chapter includes "38 Q & A" of GST main book. Do refer "47 examples" in GST main book.

Do refer "47 examples" from GST Main Book. These examples are necessarily to understand entire ITC provisions including Rule 42 &43.
Understanding ITC is key to success in exam.

Q1. What is input tax?
Ans. Input tax means the central tax (CGST), State tax (SGST), Integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

Q2. What are the conditions necessary for obtaining ITC?
Ans. Following four conditions are to be satisfied by the registered taxable person for obtaining ITC:
(a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
(b) he has received the goods or services or both;
(c) the supplier has actually paid the tax charged in respect of the supply to the Government; and
(d) he has furnished the return under section 39.

Q3. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?
Ans. Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis. Further, in case of deemed supplies without consideration and additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply, consideration is deemed to have been paid.

Q4. What is the time limit for taking ITC and reasons therefor?
Ans. In terms of Section 16(4) of the CGST Act, a registered person is not entitled to claim input tax credit in respect of any supply of goods or services after the earlier of following two events:
(a) Due Date of filing of the return under Section 39 of the Act for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains, i.e. 20th October;
(b) Furnishing of the annual return. In terms of Section 44, the due date of filing annual return is 31st December following the end of the financial year.

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

Q5. What is the ITC entitlement of a newly registered person?
Ans. A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then ITC of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

## These are apart from Examples in main book

Q6. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

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

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

Q7. A flying school imports an aircraft for imparting training on flying such aircraft, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that ITC is not allowed on such aircraft import. Offer your comments.

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

Q8. A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

Ans. No. As per section 17(5)(a), ITC on motor vehicles can be availed only if motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies:-

- Further supply of such motor vehicles; or
- Transportation of passengers; or
- Imparting training on driving, such motor vehicles.

Q9. A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

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

Q10. A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory.

The turnover of the other products of the factory and exempted uniforms in July is Rs. 4 crore and Rs. 1 crore respectively, the ITC on thread and lining material procured in July is Rs. 5,000 and Rs. 15,000 respectively.

Calculate the eligible ITC on thread and lining material.

Ans. Thread and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in terms of rule 42 of the CGST Rules, 2017.

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

Common credit = Rs.15,000 + Rs.5,000 = Rs.20,000

Exempt turnover = Rs.1 crore

Total turnover = Rs. 5 crore (Rs.1 crore + Rs.4 crore)

Credit attributable to exempt supplies = (Rs. 1 crore / Rs.5 crore) x Rs.20,000 = Rs.4,000.
Ineligible credit of Rs. 4,000 will be added to the output tax liability for the month of July. Credit of Rs. 16,000 will be eligible credit for the month of July.

Q11. Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?
Ans. Mr. A is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice [Section 18(1)(c)].

Q12. Ceramity Ltd. has following units:
A: Factory in Tumkur, Karnataka; turnover of Rs. 27 crores in 2017-18;
B: Service centre in Hyderabad, Telangana; turnover of Rs. 1 crore in 2017-18;
C: Service centre in Chennai, Tamil Nadu; turnover of Rs. 2 crores in 2017-18;
Ceramity Ltd.'s corporate office functions as ISD. It has to distribute ITC of Rs. 9 lakh for December, 2018. Of this, an invoice involving tax of Rs. 3 lakh pertains to technical consultancy for Tumkur unit. What should be the distribution of the credit?
Ans. As per rule 39(d) of CGST Rules relating to ITC, -

- Rs. 3 lakh is attributable to Tumkur unit, and will be transferred to Tumkur unit only.
- Rs. 6 lakh have to be distributed among Tumkur unit and the service centres in Hyderabad and Chennai in proportion of their turnover in the previous FY, that is, in 2017-18.
  - Tumkur unit will get (27 crore / 30 crore) x 6 lakh = Rs. 5.4 lakh;
  - Hyderabad service centre will get (1 crore /30 crore) x 6 lakh = Rs. 20,000; and
  - Chennai service centre will get (2 crore /30 crore) x 6 Lakh = Rs. 40,000

## Questions from GST Main Book / Other Questions

Q13. Whether Input tax credit on Inputs and Capital Goods is allowed in one installment?
Ans. Yes. Input tax credit will be available in full with respect to inputs and capital goods, subject to fulfillment of the prescribed conditions under section 16(2) of the CGST Act. Even in the case of supply of goods in lots/ instalments, the credit would be available in full on the receipt of the last lot/ installment.

Q14. One of the conditions to claim credit is that the receiver is in possession of tax invoice or debit note or any other tax paying documents. What are these tax paying documents?
Ans. The tax paying documents have been prescribed under Rule 36 of the CGST Rules. The ITC shall be availed by a registered person [including the Input Service Distributor (ISD)] on the basis of any of the following documents:

- An invoice issued by supplier of goods or services or both as per section 31;
- An invoice raised by the recipient in case of inward supplies from unregistered persons or reverse charge mechanism supplies, subject to payment of tax;
- A debit note issued by a supplier of goods or services or both as per section 34;
- A bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- An Input Service Distributor (ISD) Invoice or ISD Credit Note or any other document issued by an Input Service Distributor for distribution of credit as per rule 54(1).

Q15. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then, whether it has to be calculated proportionately?
Ans. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. Second proviso to Section 16(2) of the

# Additional Questions & Answers

## These are apart from Examples in main book

CGST Act clearly provides that the entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.
Assuming that only part payment is made within 180 days, availing of proportionate credit based on such part payment is not provided for under the CGST Act. However, Rule 37(1) of the CGST Rules provides for availability of the amount of input tax credit availed of proportionate to the amount paid to the supplier.

Q16. One of the conditions to claim credit is that the receiver has received the goods. Is there any provision for deemed receipt of goods in case of transfer of document of title before or during the movement of goods?
Ans. Yes. Explanation to Section 16(2)(b) of the CGST Act provides for deemed receipt of goods where the goods are delivered by the supplier to the recipient or any other person on the direction of the recipient, whether acting as agent or otherwise, before or during movement of goods either by way of transfer of document of title to goods or otherwise.

Q17. What is the maximum time limit to claim the Input tax credit?
Ans. In terms of Section 16(4) of the CGST Act, a registered person is not entitled to claim input tax credit in respect of any supply of goods or services after the earlier of following two events:

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

However, as provided in Rule 37(4), the above time limit is not applicable where a claim is made for re-availing of any credit that had been reversed earlier due to non-payment of consideration within 180 days of date of issue of invoice by the supplier.
Further, in cases of credit in special circumstances like new registration, voluntary registration, etc. the credit will not be available after the expiry of one year from the date of issue of tax invoice.

Q18. A person has a single GST registration in respect of two different trade names. Can he set off input tax credit from one trade name against the output tax liability of the other?
Ans. All input tax credits can be set off against the output tax liability of the same GSTIN irrespective of the different businesses or trade names present for a particular taxable person.

Q19. Whether input tax credit is allowed on inputs which become waste and is sold as scrap?
Ans. In the process of manufacture, if some inputs become waste and are sold as scrap, credit shall not be denied. Further, output tax shall be payable on sale of such waste/scrap. However, Section 17(5) (h) specifically restricts input tax credit on goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. Therefore, if the goods have been destroyed in full, input tax credit will not be available.

Q20. Whether Input destroyed/ pilfered, and shortage also is covered?
Ans. Yes. Section 17(5)(h) specifically restricts input tax credit on goods lost, stolen, destroyed, written off or disposed by way of gift or free samples. Therefore, input tax paid on goods which are destroyed/pilfered and where shortage has occurred will not be eligible.

Q21. Whether Input tax credit is available in respect of Input tax paid on use of mobile phones/laptops/as given to employees?
Ans. Yes. The mobile phones/ laptops would be covered under the definition of 'capital goods' as they are used in the course/ furtherance of business and hence, the input tax paid on such goods will be available as input tax credit.

Q22. Can input tax credit be claimed on a truck or any goods vehicles when used for transportation of goods?. Also comment whether repairing, maintenance and insurance of such vehicles will be allowable as credit ?

Ans. Input tax credit is not blocked on any motor vehicles for transportation for goods. Also, any expenses in the form of repairs, maintenance and general insurance of motor vehicles, will be allowable as input tax credit under GST.

Q23. Whether recovery provisions can be initiated in case of wrong distribution of credit by ISD?

Ans. Yes. In terms of Section 21 of the Act, the recovery provisions can be initiated if the Input Service Distributor distributes credit in contravention of the law resulting in excess distribution of credit to one/ more recipients of credit. Such credit can be recovered from the recipients along with applicable interest and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

Q24. What are the set off provisions for CGST, SGST, IGST within the same state and outside the state?

Ans. The sequence of utilisation of ITC has been specified in section 49, 49A and 49B of CGST Act and Rule 88A of CGST Rules. The provisions as applicable are summarized below:-

| Input Tax Credit | First to be utilised for payment of | If balance, can be utilised for | Remarks |
|---|---|---|---|
| IGST | IGST | CGST or SGST/UTGST at option of taxable person | CGST or SGST/UTGST credit can be utilised only after credit of IGST as fully utilised |
| CGST | CGST | IGST | CGST credit can be utilised only after all credit of IGST is utilised |
| SGST/UTGST | SGST/UTGST | IGST | SGST/UTGST credit can be utilised only after all credit of IGST is utilised |

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Follow this in exam

ITC of IGST can be utilized towards the payment of CGST and SGST/UTGST, in any order subject to the condition that the entire ITC on account of IGST is completely exhausted first before the ITC on account of CGST or SGST/UTGST can be utilised.

Example 1:

| Head | Tax Liability | ITC available | Original set-off provision | | After introduction section 49A | | Rule 88A | |
|---|---|---|---|---|---|---|---|---|
| | | | Discharge of liability | ITC balance | Discharge of liability | ITC balance | Discharge of liability | ITC balance |
| IGST | NIL | 800 | NIL | NIL | NIL | NIL | NIL | NIL |
| CGST | 800 | 500 | CGST – 500<br>IGST – 300<br>Cash - NIL | NIL | IGST - 800<br>CGST – NIL<br>Cash - NIL | 500 | IGST – 300<br>CGST – 500<br>Cash - NIL | NIL |
| SGST | 800 | 200 | SGST – 200<br>IGST – 500 | NIL | IGST – NIL<br>SGST – 200 | NIL | IGST – 500<br>SGST – 200 | NIL |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | Cash - 100 | | Cash - 600 | | Cash - 100 | |

Example 2:

| Head | Tax liability | ITC available | Original set-off provision | | After introduction section 49A | | Rule 88A | |
|---|---|---|---|---|---|---|---|---|
| | | | Discharge of liability | ITC balance | Discharge of liability | ITC balance | Discharge of liability | ITC balance |
| IGST | 400 | 800 | IGST - 400 | NIL | IGST - 400 | NIL | IGST - 400 | NIL |
| | | | Cash - NIL | | Cash - NIL | | Cash - NIL | |
| CGST | 800 | 500 | CGST – 500 | NIL | IGST - 400 | 100 | IGST – 300 | NIL |
| | | | IGST – 300 | | CGST – 400 | | CGST – 500 | |
| | | | Cash - NIL | | Cash - NIL | | Cash - NIL | |
| SGST | 800 | 200 | SGST – 200 | NIL | IGST – NIL | NIL | IGST – 100 | NIL |
| | | | IGST – 100 | | SGST – 200 | | SGST – 200 | |
| | | | Cash – 500 | | Cash – 600 | | Cash – 500 | |

Q25. Can input credit be claimed in respect of any compensation cess paid for supplies notified by the GST council?

Ans. In terms of proviso to Section 11(2) of the Goods and Services Tax (Compensation to States) Act, 2017, the input tax credit in respect of cess on supply of goods and services leviable under section 8 of the same Act, shall be utilized only towards payment of said cess or supply of goods and services leviable under the said section. Therefore no cross utilization with other taxes are allowed.

Q26. Can GST paid on reverse charge basis be considered as input tax?

Ans. Yes. The definition of input tax includes the tax payable under the reverse charge.

Q27. MRFL Ltd. being a manufacturer of taxable goods paid general insurance premium to cover loss of stock of finished goods. Company wants to avail the GST paid on such premium as input tax credit. Advise. (ICMA Study Material)

Ans. GST paid on general insurance premium to cover loss of stock of finished goods is well allowed as input tax credit. Hence, M/s MRFL Ltd. is eligible to avail the tax paid on general insurance premium as ITC.

Q28. Whether ITC is admissible on service of renting of immovable properties?

Ans. ITC is available on renting of immovable properties (GST paid on renting of factory / shops / premises) for facilitation of business operations.

Q29. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Advise.

(ICMA Study Material)

Ans. As per proviso to Rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to section 16(2). In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(5) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Q30. As per section 15(2)(b) of the CGST Act, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both are added in the value of a supply. In such type of cases, no consideration is to be paid to the supplier. What is your opinion about ITC availability?

Ans. Value of supplies on account of any amount added in accordance with the provisions of section 15(2)(b) of CGST Act, is deemed to have been paid for the purposes of the second proviso to section 16(2). In such instances, ITC is admissible. (Second Proviso to Rule 37 of CGST Rules, 2017).

Q31. The following are details of purchases, sales, etc. affected by M/s. Asha & Co. a registered manufacturer under CGST Act, 2017:

1. Purchased Raw material 'A' from local dealer Rs. 86,100 (inclusive of GST @ 5%).
2. Purchased Raw material 'B' from local dealer Rs. 1,12,000 (inclusive of GST @ 12%).
3. Purchased capital goods from within the state to be used in manufacture of the taxable goods Rs. 1,96,000 (inclusive of GST @ 12%). Depreciation @ 15% to be charged.
4. Other Direct and Indirect expenses Rs. 55,460.
5. Earned 10% profit margin on total cost.
6. During the month of October, 20XX only 70% production is sold within the state and applicable GST rate being 12%.

Calculate the amount of CGST and SGST payable after utilising input tax credit for the month of October, 20XX assuming no opening balance of input tax credit is available.

(ICMA Inter - RTP - Dec 2018)

Ans.

Computation of Taxable value of supply

| Particulars | Amount in INR |
|---|---|
| Purchase Raw material 'A' from local dealer (Rs. 86,100 × 100 ÷ 105) | 82,000 |
| Purchase Raw material 'B' from local dealer (Rs. 1,12,000 × 100 ÷ 112) | 1,00,000 |
| Depreciation expense [(Rs. 1,96,000 - Rs. 1,96,000 × 12 ÷ 112) × 15%] | 26,250 |
| Other direct and indirect expense | 55,460 |
| Total Cost of goods manufactured | 2,63,710 |
| Cost of goods sold (70% of goods produced were sold) | 1,84,597 |
| Add: Profit margin @ 10% of cost | 18,460 |
| Taxable value of supply | 2,03,057 |

Computation of CGST and SGST payable for the month of October, 20XX after utilising the available ITC

| Particulars | CGST in INR | SGST in INR |
|---|---|---|
| Output tax liability for the month of October, 20XX @ 12% (being CGST 6% and SGST 6%] [Rs. 2,03,057 × 12%] | 12,183 | 12,183 |
| Less: Eligible input tax credit in respect of purchases of:- | | |
| Raw material 'A' [Rs. 82,000 x 5%] | 2,050 | 2,050 |
| Raw material 'B' [Rs. 1,00,000 x 12%] | 6,000 | 6,000 |
| Capital Goods [Rs. 1,75,000 x 12%] | 10,500 | 10,500 |
| CGST/SGST credit to be carried forward | (-) 6,367 | (-) 6,367 |

# Additional Questions & Answers

## These are apart from Examples in main book

Q32. ABC Ltd. a registered person and purchased 5 Honda City Cars for Rs. 90 Lakhs excluding GST @ 28%. ABC Ltd sold 4 Honda City Cars for Rs. 1 crore excluding GST @ 28%. Find the GST liability in the following two independent cases:
(a) ABC Ltd is a dealer of motor vehicles
(b) ABC Ltd is not a dealer of motor vehicles
Ans.

Statement showing GST liability of ABC Ltd.

| **Particulars** | **ABC Ltd is a dealer of motor vehicles** | **ABC Ltd is not a dealer of motor vehicles** |
|---|---|---|
| GST on Supply of 4 Honda City Cars (Rs. 1 Crore * 28%) | 28,00,000 | 28,00,000 |
| Less:- Input Tax Credit on purchased of 5 Honda City Cars (Rs. 90 Lacs * 28%) | 25,20,000 | - |
| GST liability need to be paid using Electronic Cash Ledger | 2,80,000 | 28,00,000 |

Q33. ABC Ltd. is in the business of manufacture of Cookies for domestic market. During November 2018, it has acquired the following:-

| Particulars | Inward Supply Value in INR | GST levied by Supplier in INR |
|---|---|---|
| Raw Material | 4,00,000 | 48,000 |
| Housekeeping Chemicals (to be used in factory) | 1,00,000 | 18,000 |
| Solar lamps (to be used in administrative office) | 1,00,000 | 5,000 |
| Soft drink (to be used in office canteen) | 20,000 | 3,600 |
| Truck (for transportation of manufactured goods from factory to godown) | 19,00,000 | 5,32,000 |

Calculate the amount of input tax credit available to ABC Ltd. for November 2018. Assume that conditions for claiming input tax credit are satisfied.
Ans.

Computation of ITC available to ABC Ltd. for the month of November 2018

| **Particulars** | **GST levied by Supplier in INR** |
|---|---|
| Raw Material | 48,000 |
| Housekeeping Chemicals | 18,000 |
| Solar lamps | 5,000 |
| Soft drink {ITC on food and beverages not available under section 17(5)(b)} | NIL |
| Truck (ITC is available even if ABC Ltd. is not in the business of transportation of goods) | 5,32,000 |
| **Total ITC available for the month of November 2018** | **6,03,000** |

Q34. Hotel Mumbai Airport International provides pick up services for guest from airport. Hotel Mumbai Airport International availed rent-a-cab services from Mr. ABC. Rent-a-cab services provided by Mr. ABC to Hotel Mumbai Airport International during January 2019 for Rs. 2,00,000 plus GST 18%. Hotel Mumbai Airport International provided short-term accommodation services to its customers (i.e. guests) during January 2019 for Rs. 20,00,000 plus GST 18%. Find the Net GST liability of Hotel Mumbai Airport International during the month of January 2019.
Calculate GST Liability of Hotel Mumbai Airport International for January 2019. Assume that conditions for claiming input tax credit are satisfied.
Ans.

Computation of GST liability of Hotel Mumbai Airport International for the month of January 2019

| Particulars | GST levied by Supplier in INR |
|---|---|
| Outward Supply i.e. short-term accommodation services (Rs. 20,00,000*18%) | 3,60,000 |
| Less:- ITC on rent a cab services | 36,000 |
| **Net GST Liability for the month of January 2019** | **3,24,000** |

Q35. ABC Ltd. becomes liable to pay tax on 1st October 2018 and has obtained registration on 20th October 2018. The GST paid goods lying in the premises of ABC Ltd. as on 30th September 2018 are as follows:

- Raw material – GST Amount – Rs. 1,00,000 (Rs. 15,000 GST pertaining to invoice dated 1st May 2017)
- Capital goods – GST Amount – Rs. 3,00,000
- Raw material in work in progress – Rs. 1,50,000
- Raw material in Finished Goods – Rs. 2,00,000

You are required to answer the following:

i. Eligible amount of input tax credit.
ii. Time limit to submit declaration on common portal.
iii. Whether any certification required while availing the credit, if so from whom.

Ans.

i. Eligible input tax credit is Rs. 4,35,000 (Rs. 1,00,000- Rs. 15,000+ Rs. 1,50,000 +Rs. 2,00,000). ITC on input in stock is admissible U/s 18(1)(a) of CGST Act, 2017.
As per section 18(2), a registered person shall not be entitled to take ITC in respect of any supply of goods or services or both to him after the expiry of 1 year from the date of issue of tax invoice relating to such supply. Thus, Rs. 15,000 pertaining to invoice dated 1st May 2017 is not eligible ITC.
ITC on Capital Goods is not admissible for new registration.
ii. For availment of ITC in such case, declaration in Form GST ITC-01 shall be submitted on common portal within 30 days of becoming eligible to avail ITC.
iii. Declaration regarding inputs tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds Rs. 2,00,000. Since, input tax credit is Rs. 4,50,000, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Q36. ABC Ltd. a registered person supplying taxable goods in Indore has opted to pay tax on composition scheme U/s 10 with effect from 1st April, 2019. It provides following information relating to balance of input tax credit lying as on 31st March, 2019 :

1. Inputs lying in stock as such valued at Rs 2,24,000 (inclusive of CGST & SGST @12%)
2. Inputs contained in finished goods where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @12%) on 31st March 2019 Rs 1,12,000.
3. Input tax on capital goods purchased on 25th October 2018 is Rs. 72,000.
4. Balance in Electronic credit Ledger is Rs 1,50,800.

Please give your suggestion about the appropriate tax treatment.

Ans. As per Section 18(4), where any registered taxable person who has availed of input tax credit opts to pay tax under Section 10 i.e. composition scheme, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held on stock and on capital goods, taking useful life of capital goods 5 years, on the day immediately preceding the date of exercising such option.

**Statement showing amount to be paid by ABC Ltd.**

| Particulars | GST levied by Supplier in INR |
|---|---|
| ITC lying in stock (Rs. 2,24,000 * 12/112) | 24,000 |
| Inputs contained in finished goods lying in stock (Rs. 1,12,000 × 12/112)<br>As per Rule 44(3) of CGST Rules, 2017, where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under Rule 44(1) based on the prevailing market price of goods on the date of opting for composition scheme. | 12,000 |
| ITC relating to Capital goods (72,000 × 54/60)<br>*Capital goods used for 5 months and 6 days (to be considered as 6 months) = Remaining useful life considering total useful life as 5 years (60 months) = 54 months | 64,800 |
| **Amount to be paid by ABC Ltd (ITC reversal)** | **1,00,800** |

Balance available in Electronic Credit Ledger Rs. 1,50,800. Amount payable U/s 18 Rs. 1,00,800. So after reversing this through Electronic Credit ledger, balance amount in Electronic Credit Ledger (Rs. 50,000) shall be lapsed.

Q37. Soren Enterprises is in possession of certain capital goods and purchases more of them as per the following particulars:

| Particulars | Input tax on capital goods ( Rs. ) | Status of its use |
|---|---|---|
| Capital Goods A | 12,000 | Exclusively used for non-business purpose. |
| Capital Goods B | 24,000 | Exclusively used for zero-rated supplies. |
| Capital Goods C | 60,000 | Used both for taxable and exempt supplies. |
| Capital goods D (has been exclusively used for 2 years for exempted supplies) | 1,20,000 | Now there is change in use, both for taxable and exempt supplies. |
| Capital goods E (has been exclusively used for 3 years for taxable supplies). | 1,80,000 | Now there is change in use, both for taxable and exempt supplies. |

Useful life of all the above capital goods is considered as 5 years.

Apportion the input tax credit of capital goods, while being informed that aggregate value of exempt supplies during the tax period being Rs. 6,00,000 and total turnover during the tax period being Rs. 12,00,000. (CA Final May 2018)

Ans. Apportionment of common credit pertaining to capital goods:-

| Particulars | Total ITC | Amount to be added to output tax liability |
|---|---|---|
| Capital goods 'A'<br>[Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017] | Nil | - |
| Capital goods 'B'<br>[For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC of Rs. 24,000 is available] | 24,000 | - |
| Capital goods 'C' | 60,000 | 500 |

| | | |
|---|---|---|
| [Commonly used for taxable and exempt supplies]<br>Credit pertaining to tax period = Rs. 60,000/60 = Rs. 1,000. Since 50% of the use is for making exempted supply, therefore 50% of the credit has to be paid and added to output tax liability | | |
| Capital goods 'D'<br>[Owing to change in use from exclusively exempt to both taxable and exempt, credit to be reduced @ 5% per quarter or part thereof in terms of rule 43(1)(c) of CGST Rules, 2017] = Rs. 1,20,000 – Rs. 48,000 (Rs. 1,20,000 × 5% × 8 quarters)= Rs. 72,000<br>Credit pertaining to tax period = Rs. 72,000/60 = Rs. 1,200. Since 50% of the use is for making exempted supply, therefore 50% of the credit has to be paid and added to output tax liability | 72,000 | 600 |
| Capital goods 'E'<br>Capital goods earlier used for taxable supplies are subsequently used for providing taxable and exempt supplies. Full credit has been taken at the time of receipt of capital goods<br>[Owing to change in use from exclusively taxable to both taxable and exempt, credit to be reduced @ 5% per quarter or part thereof in terms of rule 43(1)(d) of CGST Rules, 2017] = Rs. 1,80,000 – Rs. 1,08,000 (Rs. 1,80,000 × 5% × 12 quarters)<br>Credit pertaining to tax period = Rs. 72,000/60 = Rs. 1,200. Since 50% of the use is for making exempted supply, therefore 50% of the credit has to be paid and added to output tax liability | - | 600 |
| Total | 1,56,000 | 1,700 |

Q38. Sarani Weavers at Mumbai is an input service distributor and intends to distribute input tax credit u/s 20 of the CGST Act, 2017, for the month of March 2018. The following are the details available for such distribution:

| Branch | Turnover of last quarter (Rs.) | ITC specifically applicable to the branch |
|---|---|---|
| Ganganagar Branch | 10,00,000 | IGST – Rs. 12,000<br>CGST – Rs. 3,000<br>SGST – Rs. 3,000 |
| Madhugiri Branch | 5,00,000 | Nil |
| Kosala Branch | 15,00,000 | Nil |
| Mumbai HO | 20,00,000 | IGST – Rs. 1,50,000<br>CGST– Rs. 15,000<br>SGST– Rs. 15,000 |

Inputs /Input services used commonly by all branches against which ITC available is:
CGST – Rs. 60,000, SGST – Rs. 60,000, IGST – Rs. 1,20,000
ITC (IGST) of December 2017, Rs. 10,000 which was inadvertently left out, whether same can be considered for distribution in March, 2018.
Madhugiri branch uses inputs to manufacture exempted products.
All branches are outside Maharashtra. Turnover excludes duties & taxes payable to Central and State Government. Determine the input tax distribution. (CA Final May 2018)

Ans: Computation of ITC to be distributed for month of March, 2018 to various units as per Rule 39 of the CGST Rules, 2017 (amount in Rs.):-

| Particulars | Total Credit Available | Mumbai HO | Ganganagar Branch | Madhugiri Branch | Kosala Branch |
|---|---|---|---|---|---|
| Turnover | 50,00,000 | 20,00,000 | 10,00,000 | 5,00,000 | 15,00,000 |
| ITC specifically attributable to Ganganagar Branch (WN-1) | CGST 3,000<br>SGST 3,000<br>IGST 12,000 | | IGST 3,000<br>IGST 3,000<br>IGST 12,000 | | |

| | | | | | |
|---|---|---|---|---|---|
| ITC specifically attributable to Mumbai HO (WN-2) | CGST 15,000<br>SGST 15,000<br>IGST 1,50,000 | CGST 15,000<br>SGST 15,000<br>IGST1,50,000 | | | |
| Input and Input Services used commonly by all branches (WN-3) | CGST 60,000<br>SGST 60,000<br>IGST 1,20,000 | CGST 24,000<br>SGST 24,000<br>IGST 48,000 | IGST 12,000<br>IGST 12,000<br>IGST 24,000 | IGST 6,000<br>IGST 6,000<br>IGST 12,000 | IGST 18,000<br>IGST 18,000<br>IGST 72,000 |
| Total credit distributed | Rs. 4,38,000 | Rs. 2,76,000 | Rs. 66,000 | Rs. 24,000 | Rs. 1,08,000 |

Working Notes:

1. The credit of input tax attributable as input service to a particular unit shall be distributed only to that unit. ITC of CGST and SGST to be distributed as IGST if recipient is in different State.
2. The ITC on account of IGST shall be distributed as ITC of IGST to every recipient. ITC of CGST and SGST/UTGST to be distributed as CGST and SGST/UTGST respectively if recipient is in same State.
3. The credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.
4. The credit will be distributed to Madhugiri branch also even it is uses inputs for manufacture of exempted goods. However, it will not be eligible to utilise the credit.

ITC of Rs. 10,000 of December, 2017 cannot be distributed in March 2018 as ITC available for distribution in a month is to be distributed in the same month.

Q39. Mr. NY, a supplier of goods pays GST under regular scheme. Mr. NY is not eligible for any threshold exemption. He has made the following outward taxable supplies during September 2017:

| Particulars | Rate of Tax | | | Amount (Rs.) |
|---|---|---|---|---|
| | CGST | SGST | IGST | |
| Intra State Supply of Goods<br>Product A<br>Product B | <br>6%<br>9% | <br>6%<br>9% | <br>-<br>- | <br>8,00,000<br>2,00,000 |
| Inter State Supply of Goods<br>Product A<br>Product B | <br>-<br>- | <br>-<br>- | <br>12%<br>18% | <br>3,00,000<br>1,50,000 |

He has also furnished the following information in respect of supplies received by him during September 2017:

| Particulars | Rate of Tax | | | Amount (Rs.) |
|---|---|---|---|---|
| | CGST | SGST | IGST | |
| Intra State Supply of Goods<br>Product A<br>Product B | <br>6%<br>9% | <br>6%<br>9% | <br>-<br>- | <br>2,00,000<br>1,00,000 |
| Inter State Supply of Goods<br>Product A<br>Product B | <br>-<br>- | <br>-<br>- | <br>12%<br>18% | <br>1,50,000<br>80,000 |

Mr. NY has following ITCs with him at the beginning of September 2017:

CGST Rs. 40,000

SGST Rs. 28,000

IGST Rs. 44,600

Note:

(i) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(ii) All the conditions necessary for availing the ITC have been fulfilled.

Compute net GST payable by Mr. NY for the month of September 2017.

Make suitable assumptions wherever required. (CA Final May 2018)

Ans: Computation of GST payable by Mr. NY for the month of September, 2017 :-

| Particulars | CGST (Rs. | SGST (Rs.) | IGST (Rs.) |
|---|---|---|---|
| Intra-State supply of goods<br>Product A<br>Product B | <br>48,000<br>18,000 | <br>48,000<br>18,000 | |
| Inter-State supply of goods<br>Product A<br>Product B | | | <br>36,000<br>27,000 |
| Total | 66,000 | 66,000 | 63,000 |

Computation of total ITC available

| Particulars | CGST (Rs. | SGST (Rs.) | IGST (Rs.) |
|---|---|---|---|
| Opening Balance | 40,000 | 28,000 | 44,600 |
| Intra-State supply of goods<br>Product A<br>Product B | <br>12,000<br>9,000 | <br>12,000<br>9,000 | |
| Inter-State supply of goods<br>Product A<br>Product B | | | <br>18,000<br>14,400 |
| Total | 61,000 | 49,000 | 77,000 |

Computation of net GST payable (from cash ledger)

| Particulars | CGST (Rs. | SGST (Rs.) | IGST (Rs.) |
|---|---|---|---|
| GST Payable | 66,000 | 66,000 | 63,000 |
| Less:- ITC utilized<br>IGST<br>CGST/SGST | <br>5,000<br>61,000 | <br>9,000<br>49,000 | <br>63,000 |
| Net GST Payable | NIL | 8,000 | NIL |

Working Note:- IGST credit can be utilized for payment of CGST/SGST in any order.

Q40. ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

| S. No. | Items | GST paid |
|---|---|---|
| (i) | Electrical transformers to be used in the manufacturing process | 5,20,000 |
| (ii) | Trucks used for the transport of raw material | 1,00,000 |
| (iii) | Raw material | 2,00,000 |
| (iv) | Confectionery items for consumption of employees working in the factory | 25,000 |

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note: All the conditions necessary for availing the ITC have been fulfilled.

Ans. Computation of ITC available with ABC Co. Ltd. for the month of July:-

| S. No. | Items | ITC |
|---|---|---|
| (i) | Electrical transformers<br>[Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)] | 5,20,000 |
| (ii) | Trucks used for the transport of raw material<br>[ITC is allowed on conveyance used for transportation of goods] | 1,00,000 |
| (iii) | Raw material<br>[Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)] | 2,00,000 |

| | | |
|---|---|---|
| (iv) | Confectionery items for consumption of employees working in the factory [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply or it is obligatory for an employer to provide the same to its employees under any law for the time being in force-Section 17(5)(b)] | Nil |
| | Total ITC | 8,20,000 |

Q41. XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2018 from the following particulars: -

| S. No. | Inward supplies | GST | Remarks |
|---|---|---|---|
| (i) | Inputs 'A' | 1,00,000 | One invoice on which GST payable was 10,000, is missing |
| (ii) | Inputs 'B' | 50,000 | Inputs are to be received in two instalments. First instalment has been received in October, 2018. |
| (iii) | Capital goods | 1,20,000 | XYZ Ltd. has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value. |
| (iv) | Input services | 2,25,000 | One invoice dated 20.01.2018 on which GST payable was 50,000 has been received in October, 2018. |

Note:

*(i)* All the conditions necessary for availing the ITC have been fulfilled.

*(ii)* ABC Co. Ltd. is not eligible for any threshold exemption.

The annual return for the financial year 2017-18 was filed on 15th September, 2018.

Ans.

| S. No. | Inward supplies | ITC |
|---|---|---|
| (i) | Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)] | 90,000 |
| (ii) | Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last instalment-First proviso to section 16(2)] | Nil |
| (iii) | Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)] | Nil |
| (iv) | Input services [As per section 16(4), ITC on an invoice cannot be availed after the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY 2017-18 has been filed on 15th September, 2018 (prior to due date of filing the return for September, 2018 i.e., 20th October, 2018), ITC on the invoice pertaining to FY 2017-18 cannot be availed after 15th September, 2018. | 1,75,000 |
| | Total | 2,65,000 |

Q42. ABC Ltd. supplied goods Rs. 11,500. ABC Ltd. received goods valued at Rs. 10,000. The supplier has charged GST in his invoice. SGST and CGST rate of supply of goods is 9% each. Calculate the tax payable.

Ans.

| Details | SGST | CGST |
|---|---|---|
| Tax payable on supply of goods by ABC Ltd. on Rs. 11,500 @ 9% | 1,035 | 1,035 |
| ITC of taxes paid by supplier available in Electronic credit ledger | 900 | 900 |

| | | |
|---|---|---|
| Net Tax Payable | 135 | 135 |

Q43. ABC Ltd. supplied goods Rs. 15,000. ABC Ltd. received goods valued at Rs. 20,000. The supplier has charged GST in his invoice. They sold 60% of inputs procured and balance 40% were in stock. State Tax (SGST) and Central Tax (CGST) rate on supply and purchase of goods is 9% each. Calculate the tax payable.

Ans.

| Details | SGST | CGST |
|---|---|---|
| Tax payable on supply of goods by ABC Ltd. on Rs. 15,000 @ 9% | 1,350 | 1,350 |
| ITC of taxes paid by supplier available in Electronic credit ledger | 1,800 | 1,800 |
| Net Tax Payable | NIL | NIL |
| Credit carried forward in Electronic Credit Ledger | 450 | 450 |

Q44. ABC Ltd. are manufacture of drugs. SGST and CGST rate on supply of goods is 2.5% each. They sold the goods at Rs. 20,000. They purchased inputs at Rs. 13,000. The SGST and CGST on inputs is 6% each. All these inputs were used in Manufacture of final products. There was no opening or closing stock of inputs or final products. Calculate the tax payable.

Ans.

| Details | SGST | CGST |
|---|---|---|
| Tax payable on supply of goods by ABC Ltd. on Rs. 20,000 @ 2.5% | 500 | 500 |
| ITC of taxes paid by supplier available in Electronic credit ledger | 780 | 780 |
| Net Tax Payable | NIL | NIL |
| Credit carried forward in Electronic Credit Ledger | 280 | 280 |

This excess credit is due to inverted tax structure i.e. tax on inputs is more than tax payable on outputs. In that case, Deepak Manufacturers can claim refund of this excess ITC.

Q45. ABC Ltd. procures input goods and services within State Rs. 1,000. SGST and CGST rate on receipt is 9% each. He manufactured 2 products out of inputs. One product of value of Rs. 800 was subject to SGST and CGST @ 9% each. Other product of value of Rs. 800 was exempt from SGST & SGST. Calculate the tax payable.

Ans.

| Details | SGST | CGST |
|---|---|---|
| Tax payable on supply of goods and services | 72 | 72 |
| ITC of taxes paid on input goods and services available | 90 | 90 |
| Reversal of 50% ITC is ineligible (to be reversed in Electronic Credit Ledger) | 45 | 45 |
| Eligible ITC | 45 | 45 |
| Net tax payable by cash through Electronic cash ledger | 27 | 27 |

Q46. When the ISD is one State say at Delhi and the Recipients of credits (Suppliers or Locations) are in different States say in Chennai, Tamil Nadu and Bangalore, Karnataka. Assume the turnovers for the relevant period (previous financial year) of Chennai unit are Rs. 10 crores and that of Bangalore unit is at Rs. 30 crores.

| Credit Available with ISD at Delhi | SGST | CGST | IGST |
|---|---|---|---|
| | Amount in Lacs | | |
| Credit directly attributable to | | | |
| Chennai | 5 | 5 | 10 |
| Bangalore | 3 | 2 | 5 |
| Common Credits | 5 | 7 | 8 |
| Total | 13 | 14 | 23 |

Ans.

| Credit Available with ISD at Delhi | Chennai | Bangalore |
|---|---|---|
| | Amount in Lacs | |
| Directly Attributable | | |

| | | |
|---|---|---|
| SGST as IGST | 5 | 3 |
| CGST as IGST | 5 | 2 |
| IGST as IGST | 10 | 5 |
| Total (a) | 20 | 10 |
| Common Credit | | |
| SGST as IGST<br>(5*10/40) or (5*30/40) | 1.25 | 3.75 |
| CGST as IGST<br>(7*10/40) or (7*30/40) | 1.75 | 5.25 |
| IGST as IGST<br>(8*10/40) or (8*30/40) | 2 | 6 |
| Total (b) | 5 | 15 |
| Total (a+b) | 25 | 25 |

Q47. ABC Ltd. a registered person supplying taxable goods in Jaipur has opted to pay tax on composition scheme under Section 10 with effect from 28-02-2018. It provides following information relating to balance of ITC lying as on 27th Feb 2018:

1. Inputs lying in stock as valued at Rs. 3,36,000 (inclusive of CGST & SGST @12%)
2. Inputs contained in finished goods where tax invoice is not available relating to such inputs but it is known that market price of such inputs (inclusive of CGST & SGST @ 12%) on 28th February 2018 is Rs. 1,79,200
3. ITC on capital goods purchased on 25th October 2017 is Rs. 1,44,000
4. Balance in Electronic credit ledger is Rs. 2,20,000.

Decide whether ABC Ltd. is eligible for ITC lying on 27th February 2018,

Ans. As per Section 18 (4), where any registered taxable person who has availed of ITC opts to pay tax under section 10 i.e. composition scheme, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, taking useful life of capital goods 5 years, on the day immediately preceding the date of exercising such option. Therefore in given case ABC Ltd. is required to pay following amounts: -

| **Particulars** | **Amount** |
|---|---|
| Inputs lying in stock (Rs. 3,36,000*12/112) | 36,000 |
| Inputs contained in finished goods lying in stock (Rs. 1,79,200*12/112) | 19,200 |
| Input Tax on Capital goods used for 4 months and 2 days, taking residual life as 5 years (1,44,000*55/60) (55 months being remaining residual life of capital goods) | 1,32,000 |
| Amount to be paid by ABC Ltd. (CGST+SGST) | 1,87,200 |

Working Note: As per Rule 44(3) of CGST Rules, 2017, where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under Rule 44 (1) based on the prevailing market price of goods on the date of opting for composition scheme.
The aforesaid amount can be paid by utilizing the balance in Electronic Credit Ledger. The balance credit in Electronic Credit Ledger = Rs. 2,20,000 – Rs. 1,87,200 = Rs. 32,800 lapse.

Q48. ABC Ltd. a supplier of goods has purchased capital goods invoice dated 1st October 2017 for Rs. 4,13,000 (inclusive of CGST and SGST @ 9%). After taking it for business use, the said capital goods were supplied for Rs. 2,85,000 on 26th April 2018.

Ans.

| Particulars | Amount |
|---|---|
| Date of Invoice of purchase of capital goods | 1st Oct'17 |
| Date of supply of capital goods after taking into use | 26th Apr'18 |
| No. of Quarter for which it is used | 3 |
| CGST & SGST paid on purchase of capital goods [4,13,000 * (18/118)] | 63,000 |
| Reduced by Rs. 63,000*5%*3 | 9,450 |

| | |
|---|---|
| Amount of CGST and SGST | 53,550 |
| Transaction value on supply of capital goods u/s 15 | 2,85,000 |
| CGST & SGST payable on supply of Capital Goods @ 18% | 51,300 |
| Amount to be payable higher of | 53,550 |

Q49. What would be your answer if capital goods being Refractory Bricks are removed as scrap at a transaction value of Rs. 25000 on 29th March 2018?

Ans. As per section 18 (6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of ITC, taxable person may pay tax on the transaction value i.e. if tax rate is 9% each then CGST Rs. 2,250 & SGST Rs. 2,250.

Q50. ABC Ltd. a registered manufacturer demerged its entity into AB cement Ltd. and BC Steel Ltd. the total value of assets of ABC Ltd. is Rs. 25,00,000 and unutilized credit on account of CGST, SGST and IGST amounted to Rs. 60,000, Rs. 45,000 and Rs. 84,600 respectively. The value of assets of AB cement Ltd. and BC Steel Ltd. is Rs. 12,00,000 and Rs. 13,00,000 respectively obtained as per the scheme. Discuss the eligibility of credit transferred to new units on account of Demerger?

Ans. As per Rule 41 of CGST Rules, 2017, in case of Demerger, input tax credit shall be apportioned in the ratio of Value of assets of new unit as specified in Demerger scheme. In the given case, credit transferred to both the new units would be –

| Particulars | ABC Ltd. | AB Cement Ltd. | BC Steel Ltd. |
|---|---|---|---|
| Value of Assets | 25,00,000 | 12,00,000 | 13,00,000 |
| Unutilized credit relating to CGST (to be apportioned in ratio of value of assets of AB Cement and BC Steel Ltd.) | 60,000 | 28,800 | 31,200 |
| SGST | 45,000 | 21,600 | 23,400 |
| IGST | 84,600 | 40,608 | 43,992 |
| Total Apportioned Credit | 1,89,600 | 91,008 | 98,592 |

Q51. What would be scenario of Input Tax Credit in respect of Immovable Property?

Ans. Law divides claim of Input Credit in respect of construction of Immovable Property in two parts:

(a) Works contract services when supplied for construction of immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

Example: Mr. A wants to start a Hotel. He engages Mr. B as contractor for construction of the hotel building and allots him the contract with entire material and labour to be procured by C.
CGST Act, 2017 provides that any person who has paid taxes under a contract which has resulted in construction of immovable property, he would not be able to claim Input Tax Credit of such taxes paid unless such services are used as Input Services for further supply of Work contract service.
Thus, in the given scenario, Mr. A would not be eligible to claim input tax credit of taxes paid to Mr. B, as work contract services of Mr. B have not been used by Mr. A for further supply of works contract service.

(b) Goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business

Example: Mr. A wants to start a Hotel land he engages Mr. B as contractor for construction of Hotel Building. He allots him the contract with part of the material being provided by Mr. A and balance material and labour to be procured by Mr. B.
In the above cases, Mr. A has provided part of the material to Mr. B, ownership of the material to the extent provided by Mr. A remains with Mr. A and Mr. B uses the material for the construction of building for Mr. A only. Mr. A would not be entitled to credit of any taxes paid on purchase of such material for construction of Immovable property.

Impact of the two provisions: With the insertion of the two provisions, both the scenarios wherein:

(a) A person awards contract of construction of the immovable property to a contractor or

# Additional Questions & Answers

## These are apart from Examples in main book

(b) Constructs the immovable property himself by purchasing material and hiring labour, he would not be able to claim credit of the taxes paid for the construction of the immovable property.

Q52. Mr. Amit, a supplier of goods, pays GST under regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of August, 2017 – Intra-State supplier of goods 6,00,000, Inter-State supplies of goods 2,00,000. He has also furnished following information in respect of purchases made by him from registered dealers during August, 2017 – Intra-State purchase of goods 4,00,000, Inter-State purchase of goods 50,000. Balance of ITC available at the beginning of the August 2017 – CGST 15,000, SGST 35,000, IGST 20,000. Compute the net GST payable by Mr. Amit for the month of August, 2017.
Note : (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies (ii) Both inward and outward supplies given above are exclusive of taxes, wherever applicable (iii) All the conditions necessary for availing the ITC has been fulfilled.

Ans. (A) Tax payable

| Description | CGST (Rs.) | SGST (Rs.) | IGST (Rs.) |
|---|---|---|---|
| Inter-State taxable supply of goods – Rs. 2,00,000 – IGST @ 18% | | | 36,000 |
| Intra-State taxable supply of goods – Rs. 6,00,000 – CGST @ 9% and SGST @ 9% | 54,000 | 54,000 | |
| Total Tax Payable | 54,000 | 54,000 | 36,000 |

(B) ITC Available

| Description | CGST (Rs.) | SGST (Rs.) | IGST (Rs.) |
|---|---|---|---|
| Opening Balance | 15,000 | 35,000 | 20,000 |
| Intra-State Purchases {Rs. 4,00,000 - CGST 9% & SGST @ 9%} | 36,000 | 36,000 | |
| Inter-State Purchases {Rs. 50,000 – IGST @ 18%} | | | 9,000 |
| Total ITC available | 51,000 | 71,000 | 29,000 |

(B) Net Tax Payable

| Description | CGST (Rs.) | SGST (Rs.) | IGST (Rs.) |
|---|---|---|---|
| Total Tax Payable | 54,000 | 54,000 | 36,000 |
| Less ITC available | 51,000 | 71,000 | 29,000 |
| Net Payable | 3,000 | NIL | 7,000 |
| Less Cross Utilization | NIL | NIL | -7,000 |
| Net Tax Payable | 3,000 | NIL | NIL |
| Excess ITC carried forward | NIL | 10,000 | NIL |

Q53. M Ltd. Mumbai procured goods 10,000 Kgs @ Rs. 100 per Kg. from K Ltd. of Kolkata. These goods came to M Ltd. of Mumbai in the following manner:

| Date of Dispatch | No. of Kgs dispatched | Date of receipt | Transit Losses | No. Kgs received |
|---|---|---|---|---|
| 10th October 2017 | 3,000 | 15th November 2017 | NIL | 3,000 |
| 2nd November 2017 | 4,000 | 20th November 2017 | NIL | 4,000 |
| 3rd December 2017 | 3,000 | 1st January 2018 | 20 | 2,980 |

Invoice shows 10,000 Kgs and IGST @ 18%.
You are required to answer:
(a) M Ltd. can avail the proportionate credit on 15th Nov 2017 and 20th Nov 2017.
(b) When can M Ltd. is eligible for input tax credit?
(c) How much credit is allowed to M Ltd.
Ans. (a) M Ltd. cannot take proportionate credit on the quantity received on 15th November 2017 and 20th November 2017.
(b) M Ltd. is eligible to avail the input tax credit on 1st January 2018.
(c) Input tax credit allowed = Rs. 1,79,640/- (10,000 Kgs x Rs. 100) x 18% x 9980 kgs/10,000 kgs.

Note:
(i) Goods received in lots ITC available only on receipt of last lot/installment [1st proviso to Sec 16(2)]
(ii) ITC is admissible only upon receipt of goods. Thus, ITC not admissible in respect of goods not received.

Q54. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of Rs. 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of Rs. 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of Rs. 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e. to reverse the credit where payment is not made within 180 days from the date of invoice). Discuss.
Ans. As per proviso to rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub- section (2) of section 16. In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(4) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

Q55. XYZ Ltd. is engaged in supply of passenger transportation services. In the month of September, 2017, it has purchased two motor vehicles for Rs. 18,00,000 plus GST @28%. You are required to advice XYZ Ltd. if it can avail Input tax credit of the GST paid by it on motor vehicles.
Ans. As per Section 17(5) (a), input tax credit shall not be available in respect of Motor vehicles having approved seating capacity of not more than thirteen person (including the driver). However, credit will be available when they are used for making the taxable supplies of transportation of passengers. In this case XYZ Ltd. is engaged in transportation of passengers it will be entitled to take credit of GST amounting Rs. 5,04,000 i.e. [Rs. 18,00,000 × 28%].

Q56. ABC Bank has purchased a van for transportation of cash (money). Whether ITC of such motor van is admissible?
Ans. The blockage is only for the motor vehicle for transportation of passengers. Motor vehicles for transportation of goods are not in the list of blockage. No condition is required to be fulfilled to avail the ITC for vehicles meant for carriage of goods.. Under GST law, Cash/money is neither goods nor services (Sec 2(52) and Sec 2(102) of CGST Act). Since cash/money cannot be considered as 'goods', ABC Bank is not eligible for ITC of motor vans purchased by it for transportation of cash.

Different view can be also taken after amendments that it is allowed

Q57. ABC Ltd. is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of XYZ Caterers in order to provide food and beverages to the passengers. XYZ Caterers raises an invoice on ABC Ltd charging GST. ABC Ltd. wants to avail the ITC on outdoor catering services supplied by XYZ Caterers. Advise.
Ans. ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply.
In the given case, ABC Ltd will be entitled to avail the ITC of the GST paid to XYZ Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

Q58. ABC Ltd is a BPO which works on night shift basis. As per the Government Guidelines for BPO Sector, it has to provide rent a cab facilities to its employees who work on night shifts. Whether, ABC Ltd. is eligible to avail ITC on rent a cab services.
Ans. No, ABC Ltd cannot claim ITC on the GST paid on such rent-a-cab services. The reason being that such credit is not admissible unless it is obligatory for an employer to provide the same to its employees under any law for time being in force.

# Additional Questions & Answers

## These are apart from Examples in main book

Q59. Mr. A of USA being technician came to India to assemble parts of machinery. He also imported goods worth Rs. 10,00,000 and paid following customs duties:
(i) Basic customs duty is Rs. 1,00,000.
(ii) Integrated Goods and Services Tax (IGST) of Rs. 1,98,540.
In India Mr. A wants to register as non-resident taxable person and his estimated liability is Rs. 2,50,000. How much Mr. A is liable to pay as advance tax?

Ans. Mr. A is Non-resident taxable person. NRTP needs to pay tax in advance before he is granted registration certificate. NRTP is entitled to book credit of goods imported by him. However, only IGST paid on imported goods is eligible 'input tax'. Thus, ITC admissible to him is Rs 1,98,540. Considering the admissible amount of ITC, Mr. A of USA is liable to pay advance tax of Rs. 51,460. (i.e. Rs. 2,50,000 – 1,98,540)

Q60. ABC Bank, having a branch in Jaipur engaged in supply of services by way of accepting deposits and extending loans opted for Section 17(4). Its head office is in Mumbai and branch in Jaipur. ITC (CGST & SGST) available for the month August, 2017 is Rs 90,000. Determine the amount of admissible ITC for ABC Bank, Jaipur Branch. Total ITC of 90,000 includes credit relating to :

| Particulars | Input Tax (CGST & SGST) |
|---|---|
| 1. Services availed from Mumbai Head Office (deemed distinct person under GST law) | 18,000 |
| 2. Outdoor catering services received for its employees | 16,900 |
| 3. Auditing Services | 22,500 |
| 4. Goods which are used for personal use of employees | 6,500 |

Ans.
Statement showing ITC eligibility for ABC Bank (Jaipur Branch) which has opted for Section 17 (4)

| **Particulars** | **Input Tax (CGST & SGST)** |
|---|---|
| Services availed from Mumbai Head Office (deemed distinct person under GST law) – Deemed supply between distinct person - Full ITC available | 18,000 |
| Outdoor catering services received for its employees {Blocked Credit U/s 17 (5)} | Not Allowed |
| Auditing Services | (Allowed @ 50%) |
| Goods which are used for personal use of employees {Blocked Credit U/s 17 (5)} | Not Allowed |
| ITC available (90,000 – 16,900 – 6,500 – 18,000) = 48,600 @ 50% | 24,300 |
| Total Admissible ITC (available for utilization for August Month GST liability) | 42,300 |

Q61. X is a chartered accountant by profession. He gives the following information pertaining to October 20XX

1. Consultancy given to different clients during October 20XX (but not including the transactions given below) (invoice value : Rs. 35,70,000).
2. Consultancy given to A Ltd. (invoice value : Rs. 8,000, market value of supply : Rs. 50,000, X holds 40 percent shares in A Ltd.)
3. Consultancy given to B (invoice value : nil, market value of supply : Rs. 48,000, B is not a relative of X).
4. Consultancy given to Mrs. X (invoice value : nil, market value of supply : Rs. 75,000, Mrs. X is not dependent upon X).
5. Consultancy given to C, younger brother of X (invoice value : nil, market value of supply : Rs. 60,000, C is not dependent upon X).
6. Consultancy given to D, elder brother of X (invoice value : nil, market value of supply : Rs. 70,000, D is dependent upon X).
7. Consultancy given to E, an employee of X (invoice value : nil, market value of supply : Rs. 80,000).

Above figures are exclusive of GST. GST is 18%. Calculate the amount of GST payable by X for October 20XX. He want to avail input tax credit —

- Balance available in electronic credit ledger on October 1, 20XX : Rs. 22,000
- Fees paid to a chartered accountant pertaining to tax audit of X (taxable value : Rs. 20,000, GST : Rs. 3,600).
- GST paid on food and beverages for employees / clients (amount of GST being Rs. 8,000).
- Motor car purchased for official use of employees (amount of GST being Rs. 2,80,000).
- Motor car purchased for private use of X and his family (amount of GST being Rs. 7,00,000).
- Membership of a club taken by X for entertaining official guests (amount of GST being Rs. 18,000).
- Fees paid to a consultant pertaining to transfer pricing matter of a client (amount of GST being Rs. 20,000).

Ans.

| Particulars | | Amount (Rs.) |
|---|---|---|
| Consultancy given to different clients | | 35,70,000 |
| Consultancy given to A Ltd. (A Ltd. is related to X, price is not sole consideration, market value to be considered) | | 50,000 |
| Consultancy given to B (B is not a relative of X, price is sole consideration, transaction value to be considered) | | Nil |
| Consultancy given to Mrs. X (Mrs. X is "related person", open market value to be considered) | | 75,000 |
| Consultancy given to C, younger brother not dependent upon X (C does not come in the list of "related persons", GST applicable on transaction value on the assumption that price is sole consideration) | | Nil |
| Consultancy given to D, elder brother dependent upon X (related person, GST on open market value) | | 70,000 |
| Consultancy given to E, an employee of X (employer and employee are related persons, gift to employees which is not covered by employment agreement is chargeable to GST on the basis of market value. Exemption of Rs. 50,000 is available) invoice value : nil, market value of supply : Rs. 80,000). | | 80,000 |
| Total Outward Supply | | 38,45,000 |
| GST @ 18% | | 6,92,100 |
| Less:- Input Tax Credit | | 45,600 |
| Balance available in electronic credit ledger on October 1, 20XX | 22,000 | |
| Fees paid to a chartered accountant pertaining to tax audit of X | 3,600 | |
| GST paid on food and beverages for employees / clients (not eligible) | Nil | |
| Motor car purchased for official use of employees (not eligible) | Nil | |
| Motor car purchased for private use of X and his family (not eligible) | Nil | |
| Membership of a club taken by X for entertaining official guests (not eligible) | Nil | |
| Fees paid to a consultant | 20,000 | |
| Balance to be paid through electronic cash ledger | | 6,46,500 |

Q62. X Ltd. provides services pertaining to retail packing of goods. This service is provided in Punjab to manufacturing units and plantation units. It gives the following information pertaining to January 2018 —

1. Service by bay of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd., Ludhiana(invoice value : Rs. 17,10,000).
2. Service by way of packing and labelling of chemical goods provided to B Ltd. (invoice value : Rs. 28,00,000).
3. Service by way of packing of leather goods provided to C Ltd. (invoice value : Rs. 3,00,000, market value of similar service to unrelated persons : Rs. 6,50,000).
4. Service by way of waxing and packing of wooden toys provided to D Ltd. (invoice value : Rs. 5,00,000).

X owns 60 per cent shares in X Ltd. and Mrs. X owns 40 per cent shares in C Ltd.

Above figures are exclusive of GST. GST rate is 18 per cent. The above invoices are issued during January 2018. Payment is received from A Plantation (P.) Ltd. on January 27, 2018. Payment from B Ltd. and C Ltd. is received on February 12, 2018. Nothing is received from D Ltd. so far. On January 31, 2018, X Ltd. gets an advance payment of Rs. 50,000 from E Ltd. for packing of goods which will be manufactured during 2018-19 (GST rate is 18 per cent, Rs. 50,000 is for providing services in future, nothing is received on account of GST).
Calculate the amount of GST payable by X Ltd. for January 2018. X Ltd. wants to avail input tax credit —
− Balance available in electronic credit ledger on January 1, 2018 : Rs. 61,000.
− Fees paid to an interior decorator for canteen of X Ltd. (taxable value : Rs. 10,000, GST : Rs. 1,800).
− Membership of health club for employees (amount of GST being Rs. 17,000).
Ans.

| Particulars | | Amount (Rs.) |
|---|---|---|
| Service by way of waxing, retail packing, labelling of apples provided to A Plantation (P.) Ltd. [it is exempt from GST vide Exemption Notification (Entry 57)] | | Nil |
| Service by way of packing and labelling of chemical goods provided to B Ltd. | | 28,00,000 |
| Service by way of packing of leather goods provided to C Ltd. (X Ltd. and C Ltd. are related, GST applicable on market value) | | 6,50,000 |
| Service by way of waxing and packing of wooden toys provided to D Ltd. | | 5,00,000 |
| Advance payment from E Ltd. (Rs. 50,000 × 100 ÷ 118) | | 42,373 |
| Total Outward Supply | | 39,92,373 |
| GST @ 18% | | 7,18,627 |
| Less:- Input Tax Credit | | 62,800 |
| Balance available in electronic credit ledger on January 1, 2018 | 61,000 | |
| Fees paid to an interior decorator for canteen | 1,800 | |
| Membership of health club for employees (not eligible) | NIL | |
| Balance to be paid through electronic cash ledger | | 6,55,827 |

Q63. ABC Ltd. purchased goods valuing Rs. 10,00,000 (excluding CGST @ 2.5% & SGST @ 2.5%) under the cover of invoice dated 25th December 2017. The company made the payment to the supplier as per due date. The company has not taken ITC at the time of receipt of input since there was a doubt regarding admissibility of tax credit. It legal consultant has opined that it can very much avail ITC on such inputs. The opinion was received on 5th May 2018. ABC Ltd. now would like to avail ITC. Can it do so? ABC Ltd. has filed its annual return for the year 2017-18 on 12th August 2018.

Ans. As per Section 16 (4), a registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after

(a) The due date of furnishing of the return U/s 39 for the month of September following the end of financial year to which such invoice pertains; or
(b) Furnishing of the relevant annual return,

Whichever is earlier.
In this case the inputs were purchased by invoice dated 25th December 2017, hence ITC in respect of such inputs can be taken on earlier of the following dates-

- 20th Oct'18 being due date of furnishing return of month of Sept'18;
- 12th Aug'18 being the date of furnishing of annual return.

ABC Ltd. can avail ITC till 12th Aug'18. Therefore, it can avail credit of CGST Rs. 25,000 & SGST Rs. 25,000.

Q64. A registered supplier of taxable goods supplied goods valued at Rs. 2,24,000 (inclusive of CGST Rs. 12,000 and SGST Rs. 12,000) to Mohan Ltd. under the forward charge on 15-08-2017 for which tax invoice was also issued on the same date. The inputs were received by Mohan Ltd. on 15-08-2017. Mohan Ltd. availed credit of Rs. 24,000 on 18-08-2017. But Mohan Ltd. did not make any payment towards such supply along with tax thereon to the supplier. Is Mohan Ltd. eligible to

avail input tax credit on such supply? What are the consequences of such non-payment by Mohan Ltd.?
Discuss input tax credit provisions if Mohan Ltd. makes the payment of Rs. 2,24,000 to the supplier on 18-03-2018. (CA Final Nov 2018 Old)

Ans. As per section 16 of the CGST Act, 2017, Mohan Ltd. is eligible to avail input tax credit (ITC) of the tax paid on inputs received by it on the basis of the invoice issued by the supplier provided other conditions for availing ITC are fulfilled.

Payment of value of the goods along with the tax to the supplier is not a pre-requisite at the time of availing credit, but Mohan Ltd. has to pay the said amount within 180 days from the date of issue of invoice.

If Mohan Ltd. did not make any payment towards such supply along with tax thereon to the supplier, it has to report the fact of non-payment in the ITC return (GSTR-2 Since GSTR-2 is not operational, reporting is done in GSTR 3B) for the month immediately following the period of 180 days from the date of the issue of the invoice. When such report is made, ITC of Rs. 24,000 will be added to his output tax liability. Mohan Ltd will be required discharge this liability with interest @ 18% p.a. from the date of availing credit till the date when the amount added to the output tax liability [Second proviso to section 16(2) of the CGST Act, 2017 read with rule 37 of the CGST Rules, 2017].

If Mohan Ltd. does not pay the supplier as mentioned above, subject to the provisions of section 126 of the CGST Act, 2017, a general penalty which may extend to Rs. 25,000 may also be levied for such contravention by Mohan Ltd. under section 125 of the CGST Act, 2017].

If Mohan Ltd. makes the payment of Rs. 2,24,000 (Value + tax) to the supplier on 18.03.2018 i.e., after the expiry of 180 days from date of issue of invoice, Mohan Ltd. will have to report the default in the monthly report, add the amount of ITC to his output tax liability and when the payment is made to the supplier, take the credit of Rs. 24,000. The output tax liability added will have to paid with interest @18% for the period from the date of availment of credit till the date of addition of the amount to the output tax liability.

Q65. Determine the amount of ITC admissible to ABC Ltd. in respect of following items procured by them in the month of December 2017 (below amount is GST amount):-

1. Goods supplied for Captive consumption in a factory Rs. 10,000
2. Goods used in constructing an additional floor of office building Rs. 20,000
3. Packing material used in a factory Rs. 5,000
4. Goods destroyed due to natural calamities Rs. 20,000
5. Goods used for repairing the office building and cost of such repairs is debited to P & L Rs. 25,000
6. Paper for photocopying machine used in Administrative Office Rs. 1,000
7. Goods given as gifts Rs. 25,000
8. Inputs used for tests or quality control check Rs. 15,000
9. Goods purchased for being used in repairing the factory shed and same has been Capitalized in books Rs. 18,000
10. Cement used for making foundation and structural support to Plant & Machinery Rs. 14,000
11. Inputs used in trial runs Rs. 15,000

Ans. Statement showing ITC admissible to ABC Ltd. for the month of December 2017

| Particulars | Amount (Rs.) |
|---|---|
| Goods supplied for Captive consumption in a factory (since, used in course of business, hence, ITC on same will be available) | 10,000 |
| Goods used in constructing an additional floor of office building {As per section 17 (5) (d), ITC shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available} | NIL |

| | |
|---|---|
| Packing material used in a factory (since, used in course of business, hence, ITC on same will be available) | 5,000 |
| Goods destroyed due to natural calamities {As per section 17 (5) (h), ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence, no ITC shall be available in respect of goods destroyed due to natural calamities} | NIL |
| Goods used for repairing the office building and cost of such repairs is debited to P & L {As per explanation, the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the immovable property. Goods used for revenue repairs are considered as an eligible input and credit shall be allowed on the same} | 25,000 |
| Paper for photocopying machine used in Administrative Office (since, used in course of business, hence, ITC on same will be available) | 1,000 |
| Goods given as gifts {As per section 17 (5) (h), ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence, no ITC shall be available in respect of goods given as gift} | NIL |
| Inputs used for tests or quality control check (since, used in course of business, hence, ITC on same will be available) | 15,000 |
| Goods purchased for being used in repairing the factory shed and same has been<br>Capitalized in books {As per section 17 (5) (d), ITC shall not be available in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant & machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Hence, ITC shall not be available} | NIL |
| Cement used for making foundation and structural support to Plant & Machinery {As per explanation to Section 17, “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for marking outward supply of goods or services or both and includes such foundation and structural supports. ITC is admissible in respect of goods or services or both received by a taxable person for construction of plant and machinery} | 14,000 |
| Inputs used in trial runs (since, used in course of business, hence, ITC on same will be available) | 15,000 |
| Total Input Tax credit available | 85,000 |

Q66. ABC Ltd. is engaged in supply of works contract services for construction of immovable property. It gives a part of the construction work to a sub-contractor. The sub-contractor charges GST in his invoice to ABC Ltd. Whether ABC Ltd. can avail ITC on this?

Ans. As per section 17 (5) (c), ITC shall not be available in respect of works contract services when supplied for construction of an immovable property. However, credit is allowed where it is an input service for further supply of works contract service. In given case, the services supplied by the sub-contractor have been used by the ABC Ltd. for supply of works contract service. Hence, ABC Ltd. can avail the ITC of the GST charged on the input service provided by the sub-contractor.

Q67. ABC Ltd., a manufacturer, which is engaged in supply of taxable goods has purchased 10,000 kg of Product ‘A’ for Rs.. 10,00,000 (exclusive of CGST @ 14% and SGST @ 14%) on which input tax credit has been taken. Due to changes in fashion process, the said product became obsolete and their value has been written off in the books of accounts. Explain Input tax credit treatment in above case.

Ans. As per Section 17 (5) (h) of the CGST Act, 2017, if the value of any goods is written off in the books of account, then no input tax credit shall be allowed in respect of the said input. Where input tax credit has been taken in respect of the said goods, the same has to be paid by recipient. Since in the given case, ABC Ltd. has availed input tax credit, thus it has to pay Rs. 1,40,000 (Rs. 10,00,000 @ 14%) towards CGST and Rs. 1,40,000 (Rs. 10,00,000 @ 14%) towards SGST liability.

Q68. ABC Ltd. paying tax under composition scheme becomes liable to pay tax under regular scheme from 01/04/2018. Can it avail Input tax credit and if so determine the amount of ITC available?

Break-up of credit available with ABC Ltd. as on 31/03/2018:

| Particulars | CGST | SGST |
|---|---|---|
| Inputs lying in stock (Invoice dated 11/03/2018) | 4,500 | 4,500 |
| Capital goods procured on 25/09/2017 Invoice dated 27/09/2017 | 6,000 | 6,000 |
| Inputs lying in semi-finished goods in stock (Invoice dated 21/12/2017) | 1,500 | 1,500 |

Ans. As per Section 18(1)(c), where any registered person ceases to pay tax under Section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he become liable to pay tax under Section 9.

Therefore, in given case, ABC Ltd. shall be entitled from 01/04/2018 to avail credit available as on 31/03/2018. The credit of capital goods is to be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person. (Rule 40 of CGST Rules)

Statement showing ITC available to ABC Ltd. in respect of inputs

| Particulars | ITC (CGST + SGST) | Eligible Credit |
|---|---|---|
| Inputs lying in stock (4500+4500)<br>Inputs lying in semi-finished goods in stock (Invoice dated 21/12/2017) (1500+1500) | 9,000<br>3,000 | 9,000<br>3,000 |
| Total Input tax credit available | 12,000 | 12,000 |

Statement showing ITC available to ABC Ltd. in respect of capital goods

| Particulars | Amount in Rs. |
|---|---|
| Date of invoice of capital goods<br>Date from which ABC Ltd. are liable to pay tax under Section 9<br>No. of quarters from date of invoice<br>CGST and SGST paid on capital goods procured on 27/09/2017<br>ITC to be reduced by Rs.. 12,000 x 5% × 3 quarters | 27/09/2017<br>01/04/2018<br>3<br>12,000<br>1,800 |
| Credit (CGST and SGST) available on capital goods | 10,200 |

Note: As per Section 2(92), "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.

Q69. ABC Ltd. a registered dealer engaged in supplying exempted goods to its customers. On 12/09/2018, exemption notification was rescinded and goods were liable for tax. ABC Ltd. has to make e-payment of tax on the due date i.e., on 20/10/2018. Determine the eligible credit for the month of September, 2018 if the following information is provided:

# Additional Questions & Answers

## These are apart from Examples in main book

| Particulars | Value (exclusive of CGST/SGST /IGST) (Rs.) | CGST @ 9% (Rs.) | SGST @ 9% (Rs.) | IGST @ 5% (Rs.) |
|---|---|---|---|---|
| Value of Inputs lying in stock as on 11/09/2018. | 1,25,000 | | | 6,250 |
| Value of inputs contained in semi-finished goods lying in stock as on 11/09/2018 but only inputs worth 28,000 in semi-finished goods were procured after 11/09/2017 | 87,000 | 7,830 | 7,830 | |
| Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018 | 1,15,000 | 10,350 | 10,350 | |
| Capital goods procured in 10/10/2017 which is exclusively used in supplying exempted goods | 6,55,000 | | | 32,750 |

Ans. As per Section 18(1)(d), where an exempt supply of goods or services or both by a registered person become a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable.

As per CGST Rules, 2017, the input tax credit on capital goods, shall be claimed after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

Computation of Input tax credit relating to CGST/SGST/IGST available to ABC Ltd. in respect of inputs and capital goods will be as follows:

| Particulars | CGST (Rs.) | SGST (Rs.) | IGST (Rs.) | Total Eligible Credit (Rs.) |
|---|---|---|---|---|
| ITC on the value of inputs lying in stock. (In absence of any information, it is assumed that all stocks are purchased within one year and hence are eligible) | -- | -- | 6,250 | 6,250 |
| Input tax credit on the value of inputs contained in semi-finished goods [Working Notes 1] | 2,520 | 2,520 | -- | 5,040 |
| Input tax credit on value of inputs lying in stock of finished goods stock [Inputs received on 30/04/2018 lying in finished goods in stock on 11/09/2018 as all inputs were acquired within 1 year prior to the effective date on which the goods become taxable, therefore, entire ITC would be allowed] | 10,350 | 10,350 | -- | 20,700 |
| Capital goods [Working Notes 2] | -- | -- | 26,200 | 26,200 |
| Total Input tax credit available | 12,870 | 12,870 | 32,450 | 58,190 |

Working Notes:

1. ITC on the value of inputs contained in semi-finished goods – Out of the total stock of Rs.. 87,000, inputs totaling to Rs.. 59,000 are ineligible as period of 1 year has elapsed

form the effective date of purchase. ITC on inputs contained in stock of Rs.28,000 would be eligible. [Eligible Credit = Rs.. 7,830 x Rs.. 28,000 ÷ Rs.. 87,000 each in respect of CGST and SGST]

2. Credit available in respect of capital goods:

| Particulars | Rs. |
|---|---|
| Date of invoice | 10/10/2017 |
| Date from which the goods become taxable | 17/09/2018 |
| No. of quarters or part thereof from date of invoice | 4 |
| Percentage points to be reduced (5% per quarter) | 20% |
| IGST paid on the capital goods used exclusively in relation to goods exempted upto 11/09/2018 | 32,750 |
| ITC to be reduced by 20% | 6,550 |
| Amount of Input tax credit available in respect of capital goods | 26,200 |

Q70. ABC Ltd. a supplier of goods has purchased capital goods on 01/04/2018 for Rs. 11,20,000 (inclusive of CGST @ 6% and SGST @ 6%). After taking it for business use, the said capital goods were supplied for Rs. 9,50,000 on 01/12/2018. Explain Input tax credit treatment in this case.

Ans. As per Section 18(6) of the CGST Act read with Rule 40(2) of CGST Rule, 2017, in case of supply of capital goods, on which input tax credit has been taken, the registered person shall pay an amount – Equal to the input tax credit taken on the said capital goods reduced by an amount calculated @ 5% for every quarter or part thereof from the date of issue of invoice for such goods; or

The tax on the transaction value of such capital goods or plant and machinery determined under Section 15, whichever is higher.

Computation of amount of tax payable by ABC Ltd.

| Particulars | | Rs. |
|---|---|---|
| Date of Invoice of purchase of capital goods | | 01/04/2018 |
| Date of Supply of capital goods after taking into use | | 01/12/2018 |
| No. of Quarters from the date of issue of invoice for such goods | | 3 |
| CGST and SGST paid on purchase of Capital Goods [Rs. 11,20,000 x 12 ÷ 112] | | 1,20,000 |
| Reduced by Rs. 1,20,000 x 5% × 3 quarters | | (18,000) |
| Amount of CGST and SGST | (A) | 1,02,000 |
| Transaction Value on supply of Capital Goods u/s 15 | | 9,50,000 |
| CGST and SGST payable on supply of Capital Goods @ 12% | (B) | 1,14,000 |
| Amount to be payable (higher of A or B) | | 1,14,000 |

Q71. What would be your answer if capital goods being Jig are removed as scrap at a transaction value of Rs.. 1,25,000 on 01/12/2018?

Ans. As per proviso to Section 18(6), where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, there shall be no requirement for reversal of Input tax credit, taxable person may tax on the transaction value determined under Section 15.

In the given case, since, jig are cleared as scrap, the manufacturer shall pay an amount equal to the tax leviable on transaction value i.e. CGST Rs. 1,25,000 x 6% = Rs. 7,500 and SGST Rs. 1,25,000 x 6% = Rs. 7,500.

Q72. A garment factory received a government order for making uniforms for a defense personnel. This supply is exempt from tax under a special notification. The fabrics is separately procured for the supply, but thread, buttons and lining material for the collars are the once which are used for other taxable products of the factory.
The turnover of the other garments of the factory and exempted uniforms in July 2018 is Rs. 8 crore and Rs. 2 crore respectively, the ITC on thread, button and lining material procured in July 2018 is Rs. 5,000; Rs. 25,000 and Rs. 15,000 respectively. Calculate the eligible ITC on thread and lining material.
Ans. Thread, buttons and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability in items of rule 43 of the CGST rules, 2017.
Credit attributable to exempt supplies = Common credit x (Exempt turnover / Total turnover)
Common credit = Rs. 5,000 + Rs. 25,000 + Rs. 15,000 = Rs. 45,000
Exempt turnover = Rs. 2 Crore
Total turnover = Rs. 10 Crore [Rs. 2 Crore + Rs. 8 Crore]
Credit attributable to exempt supply = (Rs. 2 crore / 10 Crore) x Rs. 45,000 = Rs. 9,000
Ineligible credit of Rs. 9,000 will be added to the output tax liability for the month of July. Credit of Rs. 36,000 will be eligible credit for the month of July.

Q73. Total Credit Available to ISD is Rs. 20,00,000/- & the credit distributed to all the units is Rs. 24,00,000/- (i.e. Delhi Rs. 10,00,000, unit Jaipur Rs. 6,00,000 & unit Ahmedabad Rs. 8,00,000). What will be the consequences?
Ans. The excess credit of Rs. 4,00,000 (Rs. 24,00,000- Rs. 15,00,000) distributed would be recovered from the recipient along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Q74. Total Credit Available to ISD is Rs. 15,00,000/- & the credit should have been distributed equal to all the units as all units had equal turnover, however credit distributed in violation of Section 21, as under:
Delhi Rs. 7,00,000, Jaipur Rs. 6,00,000, Ahmedabad Rs. 2,00,000. What will be the consequences?
Ans. The excess credit of Rs. 2,00,000 (Rs. 7,00,000- Rs. 5,00,000) shall be recovered from Delhi and Rs. 1,00,000 (Rs. 600,000 – Rs. 5,00,000) shall be recovered from Jaipur along with interest and the provisions of section 73 or 74 shall apply mutatis mutandis for effecting such recovery.

Q75. Whether benefit of input tax credit would be available if the company procures health insurance services for benefit of its employees. Please assume that the procurement of such services is mandatory under Factories Act?
Ans. Yes. Section 17(5)(b) of the CGST Act provides that tax paid w.r.t health insurance services will be eligible as input tax credit where the Government notifies that such services are obligatory for an employer to provide to its employees under any law for the time being in force. If not notifies by the Government then it is not available.

Q76. Whether taxes paid on change of interiors of service apartment is eligible for input tax credit?
Ans. Input tax credit is not available on goods or services received by a taxable person for construction of an immovable property on his own account other than plant and machinery even when used in course or furtherance of business. The word "construction" includes reconstruction, renovation, additions or alterations or repairs to the extent of capitalization to the said immovable property. If the cost of interiors is capitalized towards the cost of immovable property, then it forms

part of the cost of immovable property (Service apartment) and accordingly taxes paid on change of interiors of service apartment will not be eligible as input tax credit.

Q77. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then, whether it has to be calculated proportionately?

Ans. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. Second proviso to Section 16(2) of the CGST Act clearly provides that the entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.

Assuming that only part payment is made within 180 days, availing of proportionate credit based on such part payment is not provided for under the CGST Act. However, Rule 37(1) of the CGST Rules provides for availability of the amount of input tax credit availed of proportionate to the amount paid to the supplier.

**Example Rule 42 from GST Book**

ABC Ltd. provides taxable as well as exempted services. Turnover of ABC Ltd. during the month of Nov'17 is as under:

| Particulars | Amount |
|---|---|
| Value of exempted supply of services | 30,00,000 |
| Value of taxable supply of services | 64,00,000 |
| Value of Zero rated taxable supply of services | 16,00,000 |
| Supply of services made for personal use | 10,00,000 |
| Total | 1,20,00,000 |

Details of ITC for the month of Nov'17 are as under:

| Particulars | CGST | SGST | IGST |
|---|---|---|---|
| Total ITC available | 1,08,000 | 1,08,000 | 54,000 |
| The above ITC on input services includes the following: | | | |
| (i) Credit on input services exclusively used for supplying exempted services | 18,000 | 18,000 | 7,200 |
| (ii) Credit on input services exclusively used for supplying taxable services (including zero rated supplies) | 54,000 | 54,000 | 3,600 |
| (iii) Credit availed on inputs which are not eligible u/s 17(5) | 18,000 | 18,000 | 6,300 |
| (iv) Credit on input services exclusively used for supplying services for personal use | 10,800 | 10,800 | 5,400 |

Please calculate entitlement of ITC for the month of Nov'17.

| Particulars | CGST | SGST | IGST |
|---|---|---|---|
| Total ITC available | 1,08,000 | 1,08,000 | 54,000 |
| Less: | | | |
| (i) Credit on input services exclusively used for supplying services for personal use [T1] | 10,800 | 10,800 | 5,400 |
| (ii) Credit on input services exclusively used for supplying exempted services [T2] | 18,000 | 18,000 | 7,200 |
| (iii) Credit availed on inputs which are not eligible u/s 17(5) [T3] | 18,000 | 18,000 | 6,300 |
| Amount of ITC to the electronic credit ledger C1 = T – [T1+T2+T3] | 61,200 | 61,200 | 35,100 |
| Less: Credit on input services exclusively used for supplying taxable services including zero rated supplies [T4] | 54,000 | 54,000 | 3,600 |
| Common Credit of input & input services used for providing supply of services [C2 = C1-T4] | 7,200 | 7,200 | 31,500 |
| Total inadmissible common ITC [D1+D2]** | 2,160 | 2,160 | 9,450 |
| Net eligible common credit [C3 = C2 – (D1+D2)] | 5,040 | 5,040 | 22,050 |

| | | | |
|---|---|---|---|
| Total credit eligible [T4+C3] | 59,040 | 59,040 | 25,650 |
| Amount to be reversed by registered person [D1+D2] | 2,160 | 2,160 | 9,450 |

** Calculation of amount of ITC exempt supplies and supply made for non-business use :

| Particulars | CGST | SGST | IGST |
|---|---|---|---|
| Aggregate Value of Exempted supply of services [E] | 30,00,000 | 30,00,000 | 30,00,000 |
| Total turnover for Nov'17 [F] | 1,20,00,000 | 1,20,00,000 | 1,20,00,000 |
| Credit attributable towards exempt supplies [D1 = (E/F)*C2] | 1,800 | 1,800 | 7,875 |
| Credit attributable for supplies made for non-business purpose [D2 = 5% *C2] | 360 | 360 | 1,575 |
| Total inadmissible common credit [D1+D2] | 2,160 | 2,160 | 9,450 |

**Example Rule 43 from GST Book**

ABC Ltd., purchased following capital goods in the month of April 2018

| Capital Goods | Value of Capital Goods (in INR) | Amount of GST paid (in INR) @ 18% |
|---|---|---|
| A | 15,00,000 | 2,70,000 |
| B | 14,00,000 | 2,52,000 |
| C | 50,00,000 | 9,00,000 |

Out of these capital goods, capital good 'A' is meant exclusively for making exempt supplies, whereas, capital good 'B' is meant exclusively for making taxable supplies. Capital good 'C' is meant to be used commonly for making taxable as well as exempt supplies.

In the month of April 2018, ABC Ltd. has made exempted supplies of Rs.60,00,000, whereas total taxable supplies were Rs. 2,50,00,000.

Reversal of common credit for different months shall be made as under-

| ITC Reversal for the month of April 2018 | | |
|---|---|---|
| Particulars | Amount in INR | Computation |
| Step 1: Segregation of ITC in various heads | | |
| ITC for capital goods used exclusively for exempt supplies | 2,70,000 | |
| ITC for capital goods used exclusively for taxable supplies | 2,52,000 | |
| ITC for capital goods used commonly [Tc] | 9,00,000 | |
| Step 2: Computing common ITC for a month | | |
| Common ITC for a month | 15,000 | Tm = Tc / 60 = 9,00,000 / 60 |
| Step 3: Computing common ITC at the beginning of a tax period | | |
| Common ITC at beginning of tax period [Tr] | 15,000 | Tr=Tm+Tm+Tm…….. |
| Step 4: Computing Credit pertaining to exempt supplies | | |
| Aggregate value of exempt supplies during the tax period [E] | 60,00,000 | |
| Total turnover in the State of the registered person during the tax period [F] | 3,10,00,000 | 60,00,000+2,50,00,000 |
| ITC towards exempt supply | 2,903 [This has to be added to the output tax liability for the month of April 2018] | Te=E/F * Tr =60,00,000/3,10,00,000 * 15,000 |

In the above example, suppose in the month of May 2018, following more capital goods were purchased:-

| Capital goods | Value of capital goods ( in INR) | GST (in INR @ 18%) |
|---|---|---|
| D | 10,00,000 | 1,80,000 |
| E | 9,00,000 | 1,62,000 |

Out of these capital goods, capital good 'D' is meant exclusively for making taxable supplies, while capital goods 'E' is meant to be used commonly for making taxable as well as exempt supplies.

Further, the capital good 'B' purchased in April 2018, which was meant exclusively for making taxable supplies is decided to be used commonly from the month of May 2018 for effecting both taxable as well as exempt supplies.

In the month of May 2018, ABC Ltd. has made exempted supplies of Rs. 30,00,000, whereas total taxable supplies was Rs. 2,00,00,000.

Now, calculation of ITC reversal for the month of May 2018 shall be done as under:

| ITC Reversal for the month of May 2018 | | |
|---|---|---|
| **Particulars** | **Amount in INR** | **Computation** |
| **Step 1: Segregation of ITC in various heads** | | |
| ITC for capital goods used exclusively for exempt supplies | NIL | |
| ITC for capital goods used exclusively for taxable supplies | 1,80,000 | |
| ITC for capital goods used commonly [A] | 1,62,000 | |
| Addition to 'A' | 2,39,400 | =2,52,000-5% for one quarter |
| Total common ITC [Tc] | 4.01.400 | =1,62,000+2,39,400 |
| **Step 2: Computing common ITC for a month** | | |
| Common ITC for a month | 6,690 | Tm = Tc / 60 = 4,01,400 / 60 |
| **Step 3: Computing common ITC at the beginning of a tax period** | | |
| Common ITC at beginning of tax period [Tr] | 21,690 | Tr=Tm+Tm+Tm…….. =15,000+6,690 |
| **Step 4: Computing Credit pertaining to exempt supplies** | | |
| Aggregate value of exempt supplies during the tax period [E] | 30,00,000 | |
| Total turnover in the State of the registered person during the tax period [F] | 2,30,00,000 | 30,00,000+2,00,00,000 |
| ITC towards exempt supply | 2,829 [This has to be added to the output tax liability for the month of May 2018] | Te=E/F * Tr =30,00,000/2,30,00,000*21,690 |

Note: It may be noted that common credit of Rs. 9,00,000 availed in April, 2018, shall form part of the common credit and will be subject to proportionate reversal for the next 60 months, i.e. upto March 2023. From April 2023 onwards Rs. 9,00,000 shall not form part of the common credit. Similarly, will happen for common credit availed in subsequent months.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 9: - Registration

This chapter includes "19 Q & A" of GST main book. Do refer "11 examples" in GST main book.

### ICAI Test your knowledge

**Do refer "11 examples" from GST Main Book. These examples are necessarily to understand various provisions related to registration.**

Q1. Determine the effective date of registration in following cases:

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

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

Ans.

(a) Every supplier becomes liable to registration if his turnover exceeds Rs. 20 lakh [in a State/UT other than Special Category States] in a financial year [Section 22]. Since in the given case, the turnover of Dhampur Industries exceeded Rs. 20 lakh on 1st September, it becomes liable to registration on said date.
Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10 of the Chapter III - Registration of CGST Rules, 2017]. Therefore, the effective date of registration is 1st September.

(b) Since in the given case, the turnover of Mehta Teleservices exceeds Rs. 20 lakh on 25th October, it becomes liable to registration on said date.
Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

Q2. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

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

Q3. State which of the following suppliers are liable to be registered:

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

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

Ans.

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

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

Q4. What are the advantage of taking registration in GST?
Ans. Registration will confer following advantages to the business:

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

Q5. Can a person without GST registration collect GST and claim ITC?
Ans. No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

Q6. If a person is operating in different States, with the same PAN number, can he operate with a single registration?
Ans. No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and is liable to pay GST).

Q7. Can a person having multiple places of business in a State obtain separate registrations for each place of business?
Ans. Yes. In terms of the proviso to sub-section (2) of section 25, a person having multiple places of business in a State/UT may obtain a separate registration for each such place of business, subject to such conditions as may be prescribed.

Q8. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?
Ans. Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

Q9. Can the Department, through the proper officer, suo-moto proceed to register of a person?
Ans. Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules, 2017.

Q10. Whether the registration granted to any person is permanent?
Ans. Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

Q11. Is it necessary for the UN bodies to get registration under GST?
Ans. Yes. In terms of section 25(9) of the CGST Act, all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal.
The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

# Additional Questions & Answers

## These are apart from Examples in main book

Q12. What is the responsibility of the taxable person making supplies to UN bodies?
Ans. The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B) and the invoices of the same will be uploaded by the supplier.

Q13. What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?
Ans. In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

Q14. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?
Ans. In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29(2)(e)].

Q15. Is there an option to take centralized registration for services under GST Law?
Ans. No, the tax paper has to take separate registration in every State from where he makes taxable supplies.

Q16. What could be the liabilities (in so far as registration is concerned) on transfer of a business?
Ans. The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

Q17. At the time of registration, will the assessee have to declare all his places of business?
Ans. Yes. The principal place of business and place of business have been separately defined under section 2(89) & 2(85) of the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

Q18. What will be the time limit for the decision on the on-line registration application?
Ans. If the information and the uploaded documents are found in order, the proper officer has to respond to the application within 3 common working days. If he communicates any deficiency or discrepancy in the application within such time, then the applicant will have to remove the discrepancy / deficiency within 7 days of such communication. Thereafter, for either approving the application or rejecting it, the proper officer has 7 days' time from the date when the taxable person communicates removal of deficiencies. In case no response is given by the proper officer within the said time line, the portal shall automatically generate the registration.

Q19. What will be the time of response by the applicant if any query is raised in the online application?
Ans. If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query/rectify the error/ answer the query within a period of 7 days from the date of receipt of deficiency intimation.
On receipt of additional document or clarification, the relevant tax authority will respond within 7 common working days from the date of receipt of clarification

Q20. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

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

## Questions from GST Main Book / Other Questions

***Threshold Limit for Registration for Exclusive supplier of goods***

| Aggregate turnover Rs. 10 lakhs | Rs. 20 Lacs | Rs. 40 Lacs |
|---|---|---|
| 1. Manipur<br>2. Mizoram<br>3. Nagaland<br>4. Tripura | 1. Arunachal Pradesh<br>2. Meghalaya<br>3. Puducherry<br>4. Sikkim<br>5. Telangana<br>6. Uttarakhand | All other states/union territories (not applicable if compulsory registration U/s 24 & persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act) |

***Threshold Limit for Registration for others including Suppliers of Ice cream and other edible ice, whether or not containing cocoa; Pan masala; Tobacco and manufactured tobacco substitutes***

| Rs. 10 Lacs | Rs. 20 Lacs |
|---|---|
| 1. Manipur<br>2. Mizoram<br>3. Nagaland<br>4. Tripura | All other states/union territories |

Example (ICAI):

| Supplier | Engaged | Aggregate turnover | Applicable threshold limit for registration | Whether liable to obtain registration? |
|---|---|---|---|---|
| Prithiviraj of Assam | exclusively in supply of shoes | Rs. 22 lakh | Rs. 40 lakh | × |
| | exclusively in supply of pan masala | Rs. 22 lakh | Rs. 20 lakh | ✓ |
| | exclusively in supply of taxable services | Rs. 22 lakh | Rs. 20 lakh | ✓ |
| | in supply of both taxable goods and services | Rs. 22 lakh | Rs. 20 lakh | ✓ |
| Shivaji of Telangana | exclusively in supply of toys | Rs. 22 lakh | Rs. 20 lakh | ✓ |
| | exclusively in supply of ice cream | Rs. 22 lakh | Rs. 20 lakh | ✓ |
| | exclusively in supply of taxable services | Rs. 22 lakh | Rs. 20 lakh | ✓ |
| | in supply of both taxable goods and services | Rs. 22 lakh | Rs. 20 lakh | ✓ |

# Additional Questions & Answers

## These are apart from Examples in main book

| | | | | |
|---|---|---|---|---|
| Ashoka of Manipur | exclusively in supply of paper | Rs. 12 lakh | Rs. 10 lakh | ✓ |
| | exclusively in supply of tobacco | Rs. 12 lakh | Rs. 10 lakh | ✓ |
| | exclusively in supply of taxable services | Rs. 12 lakh | Rs. 10 lakh | ✓ |
| | in supply of both taxable goods and services | Rs. 12 lakh | Rs. 10 lakh | ✓ |

Q21. If a person is registered under earlier law, whether he needs to be registered under GST law compulsorily?
Ans. Yes. As per section 22 (2) of the CGST Act, every person who, on the day immediately preceding.

Q22. What is the time limit for taking registration under GST Law?
Ans. Every Person who is liable to be registered under Section 22 or Section 24 shall apply within 30 days from the date on which he becomes liable to registration in such manner and subject to such conditions as may be prescribed.
Further, a casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business.
Furthermore, every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Q23. Can the taxable supply made by the job-worker on behalf of his principal be considered for computing his aggregate turnover?
Ans. As per the second explanation to the section 22, value of taxable supply (completion of job work) made by the registered job-worker on behalf of his principal shall not be added to the aggregate turnover of the registered Job worker.

Q24. Is possession of a Permanent Account Number (PAN) mandatory for obtaining a Registration?
Ans. Yes. Every person should have a Permanent Account Number issued under the Income Tax Act, 1961 in order to be eligible for grant of registration under Section 25 of the CGST Act.
Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.
However, as per section 25(7) the CGST Act, PAN is not mandatory for a non-resident taxable person for obtaining registration.

Q25. Is it necessary for the Government organization to get registration?
Ans. Yes, the government organizations which are required to deduct tax at source u/s 51 of GST Law, shall mandatorily obtain registration under the Act.

Q26. Should a casual taxable person or non-resident taxable person apply for registration in every State from which that person is operating or is the registration common for all the States?
Ans. In terms of section 22(1) read with Section 25(1) such persons need to obtain a separate registration in every such States.

Q27. From which State the taxable person should obtain registration?
Ans. As per Section 22(1) a taxable person should obtain registration in every State from where he makes taxable supply of goods or services or both.

Q28. If the job-worker subsequently registers, should the principal amend his registration by

cancelling the job-workers premises as his additional place of business?
Ans. If the principal intends to supply the goods from job-worker's premises under his GSTIN, he may retain the premises as his additional place.

Q29. Do traders in goods having turnover less than Rs. 10/20/40 Lakhs need to get registered under GST? If not, how can they purchase primary goods from other states without having GST Registration Number?
Ans. Traders having turnover of less than Rs. 10/20/40 lakhs can buy from other States also without registration except in case of those goods which are subject to reverse charge.

Q30. Whether licensed Tour Guides having registered office in one state but providing services Pan India will have to register in each State?
Ans. If the presence of tour guide is in each State and he is supplying services from those States then registration requirement in each State would be there.

Q31. When a person engaged in the provision of services having registration in the Maharashtra goes to Kolkata to provide services to its client and stays therefore a period of 3 months and also take a residence in that State is required to take separate registration in that State.
Ans. No, mere residence is not a business establishment, and therefore he need not take a registration in the State of West Bengal.

Q32. Whether a person dealing in online commodities like metal, food grain etc. at the Commodities Exchange is required to take registration?
Ans. No, the same will be covered under the definition of securities.

Q33. Mr. A has aggregate turnover of Rs 10 lakhs (entire turnover intra-State) in a financial year from the State of Maharashtra. He has a property located in Ahmedabad, which is currently in dispute and has engaged lawyer for representing his case in dispute. Will Mr. A be required to register himself U/s 24 of the CGST Act, considering persons required to pay under RCM?
Ans. Mr. A is a business entity making intra-state supplies in Maharashtra only. He is unregistered, as his aggregate turnover is not exceeding Rs. 20 lakhs in a financial year. Now, he has received legal services which attracts reverse charge and thus, making recipient liable to pay GST. Presuming that legal services have been sought in relation to business, such service is exempt from payment of GST as Mr. A is a business entity with aggregate turnover not exceeding Rs. 20 lakhs {Sr. No. 45 of Notification No. 12/2017-CT (R)}. Such service being exempt, the recipient, Mr. A, is actually not required to pay GST under reverse charge. Thus, he is not required to take compulsory registration U/s 24 of CGST Act.

Q34. Happy Ltd. located at Alwar (Rajasthan), exclusively manufactures and sells the product "Shine & Shine", which is exempt from GST. Happy Ltd. sells "Shine & Shine" only within Rajasthan. The turnover of Happy Ltd. in the previous year was Rs. 60 lakhs. Happy Ltd. purchased additional machinery (Capital Goods) for manufacturing "Shine & Shine" on 1st April, 2018. The invoice for supply of machinery also was issued on 1st April, 2018. The purchase price of the machinery was Rs. 25 lakh exclusive of CGST and SGST @ 12% (6% + 6%). On 1st December, 2018 exemption available on the product "Shine & Shine" was withdrawn by the Central Government and CGST and SGST @18% (9% + 9%) was imposed thereon. The turnover of Happy Ltd. on 30th September, 2018 was Rs. 45 lakh.
Examine the issue and provide the answers (with supporting explanatory note for each answer) to the following:
(i) Does Happy Ltd. have to register under CGST Act, 2017?
(ii) Can Happy Ltd. take Credit of tax paid on the machinery purchased? If yes, what is the amount of Input Tax Credit (ITC) that can be availed? (CA Final Nov 2018, New Syllabus)

Ans.
(i) As per section 22 of the CGST Act, 2017, a supplier is liable to be registered under GST in the State/ UT from where he makes the taxable supply if his aggregate turnover in a financial year (FY) exceeds Rs. 20 lakh in such State/UT (Rs. 10 lakh in specified Special Category State). The term 'aggregate turnover' includes exempt turnover also. However, a person exclusively engaged in making exempt supplies is not liable to registration in terms of section 23(1) of CGST Act, 2017. In view of combined reading of above provisions, although the 'aggregate turnover' of Happy Ltd. exceeds the applicable threshold limit of Rs. 20 lakh on 30.09.2018 [Rs. 45 lakh], it was not required to be registered till 30.11.2018 as it supplied only exempted goods till that day. Therefore, Happy Ltd. needs to register within 30 days from 01.12.2018 (the date on which its supplies became taxable) as its turnover had already exceeded the threshold limit of Rs. 20 lakh on 01.12.2018.
(ii) As per section 17 of the CGST Act, the input tax credit (ITC) on capital goods used or intended to be used exclusively for effecting exempt supplies is disallowed. However, where an exempt supply by a registered person becomes a taxable supply, such person gets entitled to take proportionate ITC on such capital goods in terms of section 18(1)(d) of CGST Act, 2017. Thus, a non-registered person cannot take ITC on capital goods under this provision. Further, a person who has applied for registration within thirty days from the date on which he becomes liable to registration and has been granted such registration is also not entitled to take ITC on capital goods held with him on the day immediately preceding the date from which he becomes liable to pay tax in terms of section 18(1)(a) of CGST Act, 2017. In the given case, Happy Ltd. is not registered at the time when its exempt supply becomes taxable. Thus, the company cannot take proportionate ITC on capital goods as mentioned above. Further, the company will also not be entitled for credit on capital goods held with it when it applies for registration in the prescribed manner.

Q35. ABC Pvt. Ltd., Mumbai provides consultancy services. The company supplies its services exclusively through an e-commerce website owned and managed by XYZ Pvt. Ltd., Pune. The turnover of ABC Pvt. Ltd. is the current financial year is Rs. 19 lakh.
Advise ABC Pvt. Ltd., as to whether they are required to obtain registration. Will your advice be any different if ABC Pvt. Ltd. sell readymade garments exclusively through the e-commerce website owned and managed by XYZ Pvt. Ltd.?
Ans. As per Section 22 of the CGST Act every supplier of goods or services or both is require to obtain registration in the State/Union territory from where he makes the taxable supply if his aggregate turnover exceeds Rs. 20 Lakh (Rs. 10 Lakh in case of specified Special Category States) in a financial year.
As per Section 24, Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source U/s 52, are mandatorily required to obtain registration. However, Persons making supplies of services, other than supplies specified U/s 9 (5) through an ECO who is required to collect tax at source U/s 52, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of Rs. 20 Lakh (Rs. 10 Lakh for specified Special Category States) in a FY have been exempted from obtaining registration vide Notification No. 65/2017-CT dated 15-11-2017.
Thus, ABC Pvt. Ltd. is not required to obtain registration since its turnover from consultancy services doesn't exceed Rs. 20 Lakhs.
In the second case, ABC Pvt. Ltd. sells readymade garments through ECO. Exemption under Notification No. 65/2017-CT dated 15-11-2017, is granted only to supplier of services and not to supplier of goods. Thus, in second case, ABC Pvt. Ltd. will not be entitled for threshold exemption and will have to compulsorily obtain registration in terms of Section 24 (ix).

Q36. There is an assessee located in New Delhi and registered under GST at Delhi. He wishes to participate in a 15 days trade exhibition in the State of Tamil Nadu where he does not have a permanent place of business. Would such assessee be liable for registration in the state of Tamil Nadu? In case yes, what would be the procedure for his registration?

Ans. A person who occasionally undertakes business transactions in goods and/or services in the State where he doesn't have a fixed place of business is considered as a casual taxable person. In the given example, such person would be considered as a casual taxable person for the State of Tamil Nadu.
The casual taxable person is required to make an application for registration in the state where he doesn't have a permanent place of business. Such person is required to deposit a sum called advance deposit which is equal to the estimated liability of tax for the period he wishes to operate in the respective state. For making advance deposit of money, such casual taxable person will be allotted a temporary identification number by GSTN.

Q37. In case a person liable for registration on 1st July makes an application for registration on 10th August, what substantive benefits will not be available to the assessee for making late application of registration?
Ans. Since the application for registration is required to be made within 30 days period of being liable for it and late applications of registration would result in registration to be effective from the date of grant of registration i.e. 10th August in case of our example. For the period of non-registration 1st July to 10th August, the assessee will not be able to claim ITC. The customers of the supplier would not be able to claim ITC of material supplied to them during the period of non-registration.

Q38. Whether the UN bodies, Consulate and Foreign embassies will be liable for registration under the GST Law?
Ans. Under the GST Law, tax is required to be charged on taxable supplies made to UN bodies, Consulates or foreign embassies, At the same time, these bodies have been made entitled to seek refund of any tax paid under GST Law. To enable them to seek such refund, they are required to seek registration under the GST Law.

Q39. Can there be multiple ISD of a single registered person?
Ans. Yes, a business entity can have multiple ISD in different States or even in one state. No such restriction has been provided under the GST Act.

Q40. Gaurav is having a rental income from residential house given on rent of Rs.12 Lakhs and he is also having a kirana shop which has a turnover of Rs. 10 Lakhs. Is he required to be registered under GST.
Ans. In the given case the aggregate turnover of Gaurav would consist of Rs. 12 Lakhs from exempt supply of rent from residential property and Rs. 10 Lakh from taxable supply of Kirana Store. Therefore, Gaurav would be liable to be registered in GST as his aggregate turnover is more than Rs. 20 Lakhs.

Q41. Kuldeep is a trader and he is trading 100% in alcohol for human consumption. His turnover from supply of alcohol for human is Rs. 2 Crore. Whether he is liable to be registered under GST?
Ans. As per section 2(47) of the CGST Act, 2017, exempt supply includes non – taxable supply. Alcohol for human consumption is a non – taxable supply as it is not leviable to tax under the law. Further, as per Section 23 of the CGST Act, 2017, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act would not be required to be registered.
Therefore, as Kuldeep is exclusively supplying Alcohol for human consumption, which is not liable to tax, he would not be liable to be registered under CGST Act, 2017.

Q42. In the above question, supposedly Kuldeep has also made supply of Soft Drinks of Rs. 10 Lakh. Whether he would be liable to be registered under CGST Act, 2017?

Ans. If Kuldeep has also made supply of soft drinks of Rs. 10 Lakh along with turnover of Alcohol for human consumption of Rs. 2 crores then in such case, exemption given from registration under section 23 of the CGST Act, 2017 would not be applicable as he is not engaged exclusively in supplying goods not liable to tax under the Law.
Threshold limit for registration would be counted by taking aggregate of both taxable and non – taxable and non – taxable supply and as his aggregate turnover would be more than threshold limit, therefore he would be liable for registration under the law.

Q43. Mr. A is a salaried employee (salary income being Rs. 1 crore). Besides, he owns a residential property which is let out for residential purposes for annual rent being Rs. 30 lakh.
Ans. In this case, aggregate turnover is Rs. 30 lakh, rent received from residential property renting. Since service of renting of residential property for residential purpose is exempt supply, Mr. A shall be exempt from registration requirement as Sec 23 of CGST Act provides for exemption from registration where a person is exclusively engaged in making exempt supplies.
Since Mr. A is not making supply of any taxable services, he is not liable for registration.

Q44. Pure Oils, Delhi has started the supply of machine oils and high speed diesel in the month of April, 20XX. The following details have been furnished by it for the said month: -

| Particulars | Amount* |
|---|---|
| Supply of machine oils in Delhi | 2,00,000 |
| Supply of high speed diesel in Delhi | 4,00,000 |
| Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi | 3,75,000 |
| Supply made by Pure Oils from its branch located in Punjab | 1,80,000 |

*excluding GST
Determine whether Pure Oils is liable for registration.
Will your answer change, if Pure Oils has a branch in Nagaland from where he supplies machine oils amounting to Rs. 2,50,000?
Ans. Computation of Aggregate turnover

| Particulars | Amount |
|---|---|
| Supply of machine oils in Delhi {Supply of machine oil in Delhi is intra-state supply of goods which is taxable under GST law. It shall be includible in 'aggregate turnover'} | 2,00,000 |
| Supply of high speed diesel in Delhi {Supply of HSD in Delhi is intra-state supply of goods which is non-taxable under GST law. Though non-taxable, it shall be includible in 'aggregate turnover'} | 4,00,000 |
| Supply made through Fortis Lubricants - an agent of Pure Oils in Delhi {Transfer of goods to agent for further supply (sale) is also treated as 'supply' though such transfer does not include any consideration. Sec 7(1)(c) read with Schedule I (Para 3) covers transfer of goods to agent. Further, since goods have been transferred to Agent in Delhi, such transfer is an intra-state supply of goods which is taxable under GST. It shall be includible in 'aggregate turnover'} | 3,75,000 |
| Supply made by Pure Oils from its branch located in Punjab {Supply is made from branch office in Punjab. Under GST law, such branch office is treated as establishment of a different person. Thus, Head Office (Delhi) and Branch Office (Punjab) are treated as 'deemed distinct persons (establishment of different persons)' under GST law. In absence of specific information, it is presumed that Punjab branch is also making 'intra-state' supply. Since ATO is computed on all India basis (establishments operating with same PAN), it shall be includible in 'aggregate turnover'} | 1,80,000 |
| Aggregate Turnover | 11,55,000 |

Registration Requirement of Pure Oils, Delhi
All the supplies made by Pure Oils are intra-state supplies and thus, his liability for registration shall be governed by Sec 22 of the CGST Act which provides that every supplier is liable to be registered in the State/UT from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakh (Rs. 40 Lacs for exclusive supplier of goods).

Since the aggregate turnover is not exceeding threshold, Pure Oils is not liable to be registered.
In case where Pure Oils has a branch in Nagaland from where he supplies machine oils amounting to Rs. 2,50,000, then aggregate turnover in that case will be 14,05,000 (11,55,000 + 2,50,000). Further, in this situation, the applicable threshold for registration will be Rs. 10 lakh as Nagaland is one of the specified Special Category States. Thus, in such situation Pure Oils, Delhi shall be liable to be registered.

Q45. Mr. A, a dealer (situated in Mumbai) dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year 20XX-X1:
1. Sale of taxable goods by Head Office located in Chennai for Rs. 2,00,000
2. Supply of taxable services by Branch office at Delhi for Rs. 1,00,000
3. Supply of goods exempted from GST Rs. 10,000
4. Export of goods for Rs. 2,00,000

Ans. Computation of Aggregate turnover

| Particulars | Amount |
|---|---|
| Sale of taxable goods by Head Office located in Chennai | 2,00,000 |
| Supply of taxable services by Branch office at Delhi | 1,00,000 |
| Supply of goods exempted from GST | 10,000 |
| Export of goods and services | 2,00,000 |
| Aggregate Turnover | 5,10,000 |

Though aggregate turnover is not exceeding Rs. 20 lakhs, but since he is engaged in exports which are inter-state supplies, his registration falls under section 24 which provides for compulsory registration (i.e., no threshold limit of 20 Lakhs).
Note: Export (inter-state supplies), Export supplies are zero-rated in terms of Sec 16 of IGST Act. For availing benefit of zero-rating provided by Sec 16, registration is mandatory. [Sec 16(3) of IGST Act gives benefit to 'registered person']

Q46. Whether the Department through the proper officer, can suo-moto proceed with registration of a person under the Act?
Ans. Yes. In terms of sub-section (8) of Section 25, where a person who is liable to be registered under the CGST Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under the CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.

Q47. Whether the proper Officer can reject an Application for Registration?
Ans. Yes. The Proper officer can reject the Application for registration in Form GST REG 05, if after filling the Application of registration in Form GST REG 01 the proper officer issued notice in Form GST REG 03 for further clarification and no response or no satisfactory response is given by the applicant.

Q48. What will be the effective date of registration?
Ans. Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date on which he become liable for registration.
Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.
In case of suo moto registration, i.e. registration pursuant to any survey, enquiry, inspection, search or any other proceedings, the effective date of registration shall be the date of order of registration.

**Do refer "11 examples" from GST Main Book. These examples are necessarily to understand various provisions related to registration.**

# Additional Questions & Answers

## These are apart from Examples in main book

## Chapter 10: - Tax Invoice, Credit & Debit Note

This chapter includes "10 Q & A" of GST main book. Do refer "7 examples" in GST main book.

## ICAI Test your knowledge

Q1. Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Sultan Industries Ltd. under GST law.

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

Q2. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

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

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

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

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

Q3. The aggregate turnover of Sangri Services Ltd. exceeded Rs. 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

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

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

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

Q4. Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

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

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

Q5. Discuss the provisions relating to issuance of refund voucher under CGST Act and rules thereunder.

Ans. Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment. [Section 31(3)(e) read with rule 51]

Q6. Is a registered person liable to pay tax under reverse charge under section 9(3)/9(4) of the CGST Act required to issue an invoice? Discuss the relevant provisions under CGST Act and rules thereunder.

Ans. Recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes. Such supplies can be received from a registered or an unregistered supplier [Section 9(3)].

Further, recipient [who is registered] is also liable to pay tax where taxable goods/services/both have been received from an unregistered supplier (for notified supplies) [Section 9(4)].

A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue an Invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue a Payment Voucher at the time of making payment to the supplier.

[Section 31(3)(f) & (g) read with second proviso to rule 46 and rule 52]

Q7. Discuss the provisions relating to issuance of credit and debit notes under CGST Act and rules thereunder.

Ans.

**Provision related to Credit Note:-**

As per section 34 (1), Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

As per section 34 (2), Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

**Provision related to Debit Note:-**

As per section 34 (3), Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such

goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing such particulars as may be prescribed.
As per section 34 (4), Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.
For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

Q8. What is the time period within which invoice has to be issued for supply of services?
Ans. As per Rule 47 of the CGST Rules, 2017 (Chapter VI- Tax Invoice, Credit and Debit Notes), Invoice has to be raised within 30 days of supply of service.

Q9. What is the time period within which invoice has to be issued in a case involving continuous supply of goods?
Ans. Where successive statements of accounts/ successive payments are involved, the invoice shall be issued before/at the time each such statement is issued or each such payment is received.

Q10. What is the time period within which invoice has to be issued in a case involving continuous supply of services?
Ans.
a) Due date of payment is ascertainable from the contract:- on or before the due date of payment;
b) Due date of payment isn't ascertainable from the contract:- before or at the time when the supplier of service receives the payment;
c) Payment is linked to the completion of an event:- on or before the date of completion of that event.

Q11. What is the time period within which invoice has to be issued where the goods being sent or taken on approval for sale?
Ans. Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:
i. before/at the time of supply
or
ii. 6 months from the date of removal
whichever is earlier.

## Questions from GST Main Book / Other Questions

Q12. How can I supply goods without movement?
Ans. In cases where the ownership, or the risks and rewards are transferred without requiring the movement of goods, the goods would be treated as supplied although no movement is involved in effecting such supply.
E.g. when an Agent who is in possession of certain goods decides to buy the goods from the principal, or in case where there is an on-site installation of machinery, or in case of sale and lease back transactions, etc.

Q13. What is Removal?
Ans. Removal is defined u/s 2(96) of the CGST Act, 2017. Removal in relation to goods means,
(a) dispatch 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

It can be seen that removal is complete as soon as the goods are dispatched. However, where the supply is such that the recipient collects the goods from the supplier, the point at which the good are collected would be the time of removal of the goods The dispatch (or collection, as the case may be) would trigger the liability to raise the invoice, and the supplier should not wait until the goods reach the destination.

Q14. I am supplying A4-sized bundles of paper to an Advocate's Office. I submit the account of total supplies made during the 2-month period on the 25th of alternate month. Do I have to issue an invoice each time I dispatch the bundles?
Ans. As per section 31(4) of the CGST Act, where, under a contract, there is a continuous or recurrent supply of goods involving periodic invoices or payments, the invoice shall be issued before or at the time of issue of the statements of account or receipt of payments. Since, the given instance is a case of continuous supply of goods, tax invoice has to be issued latest by the time of submitting the statement every time.

Q15. Will the invoicing requirement change if I am paid Rs. 50,000 every Wednesday?
Ans. Based on the explanation in Q14 above, it is clear that the liability becomes certain only on submission of the statements of account. Therefore, the invoice can be raised on a bi-monthly basis, by the 25th of every 2nd month when the account is submitted. However, the time of supply provisions get triggered on receipt of payment in advance, for which, a receipt voucher shall be issued. Tax should be discharged on receipt of advances, although invoice is yet to be raised. Further, Notification No. 66/2017 – Central Tax dated November 15, 2017 provides that the time of supply in case of outward supply of goods shall be determined in the manner as provided in clause (a) of sub-section (2) of section 12 of the CGST Act including in the situations attracting the provisions of section 14 of the CGST Act.

Q16. I am constructing a building for my client. The client is required to pay me on completion of plinth, 1st floor and 2nd floor. When should the invoice be raised?
Ans. The above instance is a case of continuous supply of services. Here, since the payment is linked to completion of an event (i.e., milestones set in the contract), an invoice should be raised on or before the due date of completion of event as per section 31(5)(c) of the CGST Act, 2017. Therefore, an invoice be raised on or before completion of the 1st floor and the second time on or before the completion of 2nd floor.

Q17. I had a contract for supplying manpower for 28 days for Rs. 28,000/-. However, after 10 days, the service has stopped. Should I raise an invoice?
Ans. Yes. Where a supply of service ceases before its completion, an invoice has to be issued at the time the supply ceases, i.e., on the 10th day. The invoice shall be issued to the extent of the service provided before its cessation. (Section 31(6) of the CGST Act,2017).

Q18. ABC Ltd., located in Pune (Maharashtra), received the advance to supply the training. As per the agreement, the supplier may have to impart the training to Jaipur branch or Mumbai branch (both are registered place of recipient) as per the need. What should be the treatment?
Ans. At the time of receiving the advance, supplier is known that where he has impart the training. Nevertheless, he has to issue the receipt voucher at the time of receipt of advance. As far as, nature of supply is concerned, he will have to treat it as inter-State supply and will have to pay IGST on it. If later on it is supplied that it was imparted in Mumbai Branch (intra-State supply), then as per Section 19 of IGST Act, it says that person will pay correct tax (here, it is CGST+SGST, being found as intra-State supply) without interest and claim the refund of IGST paid.

# Additional Questions & Answers

## These are apart from Examples in main book

Q19. What are the mandatory details required in the invoice/ document issued by a Goods Transport Agency?

Ans. A GTA supplying services in relation to transportation of goods by road in a goods carriage, is required to have the following details in its invoices (in addition to other details required):

(a) Gross weight of the consignment
(b) Name of the Consignor and the Consignee
(c) Registration number of the goods carriage in which the goods are transported
(d) Details of goods transported
(e) Details of place of origin and destination
(f) GSTIN of the person liable to pay tax (whether as consignor, consignee or GTA).

Q20. I became liable to pay tax on 1st April,2017. I have applied for registration on 15th April, 2017 which is within the 30 days' window given to me. My registration is granted on 29th April, 2017. What document can I issue to collect tax from 1st April to 28th April, 2017? Is there any specific provision for issuance of revised tax invoices to unregistered customers?

Ans. Till the grant of registration on i.e., 29th April, 2017 tax cannot be collected on the supplies made.

However, even though the registration is granted on 29th April, 2017 the effective date of registration will be 1st April, as registration is applied for within the permissible period.

Section 31(3)(a) provides for issue of 'revised invoices' against the bills raised on a regular basis (without collection of tax) from 1st April to 28th April, within a period of 1 month from the date of grant of registration certificate, i.e., within 29th May, 2017. Applicable taxes can be collected in the revised invoices issued.

In case of supply to unregistered customers, supplier may issue a consolidated revise tax invoice in respect of all taxable supplies made to unregistered dealers during such period. However, in case of inter-State supplies made to unregistered dealers, a consolidated revised tax invoice cannot be issued if the value of supply exceeds Rs. 2,50,000.

Q21. ABC Ltd. entered into a contract with XYZ Ltd., for supply of goods on 15th August 2017. The goods were to be delivered on 30th August 2017. ABC Ltd. removed goods on 28th August 2017. When should ABC Ltd. issue the tax invoice?

Ans. 28th August 2017 according to section 31.

Q22. The aggregate turnover of ABC Ltd. exceeded Rs. 20 Lacs on 15th August 2017. It applied for registration on 5th September 2017 and was granted registration on 7th September 2017. Please give your commentary for this.

Ans. As per Section 25 of CGST Act, ABC Ltd. has applied within 30 days of becoming liable for registration. So, effective date of registration is date on which it becomes liable to registration i.e. 15th August 2017.

As per Section 31, ABC Ltd. has to issue the revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration i.e. 15th August 2017, till date of issuance certificate of registration i.e. 7th September 2017 within 1 month from the date of issuance of certificate of registration i.e. on or before 7th October 2017.

Q23. ABC Ltd. is a trader dealing in provisions items. It is registered under GST and has undertaken following sales during the day:

| Sr. No. | Recipient of Supply | Amount |
|---|---|---|
| 1 | A – a registered retail dealer under composition levy | 190 |
| 2 | B – an unregistered dealer | 500 |
| 3 | C – an unregistered buyer | 900 |
| 4 | D Charitable Trust – an unregistered entity | 175 |

| | | |
|---|---|---|
| 5 | E – a senior citizen – an unregistered | 150 |

None of the recipients require a tax invoice.

Ans. In the given question, ABC Ltd. can issue a consolidated tax invoices to supplies made to D Charitable trust & E as the value of goods supplied to these recipients is less than Rs. 200 (unregistered & don't require a tax invoice).

Although A sales is less than Rs. 200 but A is registered retail dealer. So consolidated invoice cannot be issued. Other sales are anyway more than Rs. 200, so consolidated invoice cannot be issued.

Q24. When can a taxable person not issue credit note?

Ans. According to proviso to Sec 34 (2) of the CGST Act, 2017, no credit note shall be issued by the taxable person if the incidence of tax and interest on such supply has been passed by the supplier to the recipient. No reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Q25. What is the time limit for issuance of credit note?

Ans. A supplier cannot issue a credit note pertaining to a supply of goods or services or both of a particular financial year later than the

(i) Month of September following the end of the financial year in which such supply was made, or

(ii) Date of furnishing of the relevant annual return.

Whichever is earlier.

Example: Suppose, Mr. A has supplied goods to Mr. B in the month of Sept'17. Mr. B sends a complaint to Mr. A about deficient quality of goods. Mr. A can issue a credit note to Mr. B in respect of such supply of goods and declare details of such credit note in the return till the month of Sept'18 or till the date of furnishing of annual return of 2017-18, whichever is earlier.

Q26. When can a debit note be issued? Is there any time limit for issue of debit note?

Ans. Debit note can be issued by the supplier of the goods or services or both, to the recipient, when subsequent to the issue of tax invoice he comes to know that taxable value or tax charged in that tax invoice is less than the taxable value or tax payable with respect to such supply

Example: Mr. A has provided services of dry cleaning to Mr. B and charges Rs. 500 and tax at the rate of 10% i.e. Rs. 50. Afterwards, Mr. A comes to know that he has undercharged Mr. B by Rs. 200. He communicates to Mr. B that he has charged Mr. B less by Rs. 200 and issues debit note and charges additional tax of Rs. 20. In such a case, tax liability of Mr. A would be on Rs. 700 only and he would have to pay tax of Rs. 70.

There is no time limit for issuance of debit note.

# Additional Questions & Answers

## These are apart from Examples in main book

## Chapter 11: - Accounts & Records; E-way Bill

This chapter includes "26 Q & A" of GST main book. Do refer "3 examples" in GST main book.

### ICAI Test your knowledge

Q1. Sindhu Enterprises is a supplier of goods. Its turnover has exceeded Rs. 2 crore in current financial year. Discuss whether Sindhu Enterprises is required to get its accounts audited by the Chartered Accountant or Cost Accountant under GST law.

Ans. Section 35(5) of the CGST Act read with rule 80 of the CGST Rules, 2017 provides that every registered person (other than any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law) must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds Rs. 2 crores. Since the turnover of Sindhu Enterprises has exceeded Rs. 2 crore in current financial year, it has to get its accounts audited by a Chartered Accountant/ Cost Accountant.

Q2. Mala Services Ltd. is a supplier of management consultancy services. It has approached you to ascertain the period for which the books of accounts or other records need to be maintained?

Ans. Section 36 of the CGST Act stipulates that every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

Q3. Essel Groups has started making taxable supplies. You are required to advice it about the accounts and records required to be maintained by it as required under section 35(1) of the CGST Act, 2017.

Ans. Section 35(1) of the CGST Act, 2017 stipulates that a true and correct account of following is to be maintained:

(a) production or manufacture of goods;
(b) inward and outward supply of goods or services or both;
(c) stock of goods;
(d) input tax credit availed;
(e) output tax payable and paid
(f) such other particulars as may be prescribed.

Q4. Swad Restaurant has opted for composition scheme in the current financial year. Discuss the records which are not to be maintained by a supplier opting for composition levy as enumerated in rule 56 of the CGST Rules, 2017.

Ans. Following records are not required to be maintained by a supplier who has opted for composition scheme as per rule 56(2) and (4) of the CGST Rules, 2017:

**(I) Stock of goods:**
Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

**(II) Details of tax:**

Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Q5. ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Enumerate the accounts required to maintained by Raghav & Sons as per rule 56(11) of the CGST Rules, 2017.
Ans. Rule 56(11) of the CGST Rules, 2017 provides that every agent shall maintain accounts depicting the-

(a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
(b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
(c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
(d) details of accounts furnished to every principal; and
(e) tax paid on receipts or on supply of goods or services effected on behalf of every principal

## Questions from GST Main Book / Other Questions

Q6. Is there any specific set of records to be maintained by the provider of works contract service?
Ans. Yes as per Rule 56(14) of the CGST Rules, 2017, the registered person providing works contract service shall maintain the accounts showing-

(a) the names and addresses of the persons on whose behalf the works contract is executed;
(b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
(c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of each works contract;
(d) the details of payment received in respect of each works contract; and
(e) the names and addresses of suppliers from whom he has received goods or services.

Q7. Is there any specific record to be maintained by custodian of goods?
Ans. Yes, as per Rule 56(17) of the CGST Rules, 2017, the clearing and forwarding agent or the carrier of goods shall maintain true and correct records in respect of such goods handled by him on behalf of the registered person.

Q8. In case of more than one place of business, whether the records are required to be maintained only at principal place of business?
Ans. No, where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business. Moreover, in case of additional places of business, the accounts relating to each place of business shall be kept at such places of business concerned (provided such place is specified in the certificate of registration). Such books of account shall include any electronic form of data stored on any electronic device.

Q9. What shall be the treatment of incorrect entries made in the registers, accounts or documents?
Ans. As per Rule 56(8) of the CGST Rules, 2017, if incorrect entries (except those of clerical nature) are made in the registers, accounts or documents, they shall be scored out under attestation.

Thereafter, the correct entry shall be recorded. Further, where the registers and other documents are maintained electronically, a log of every edited or deleted entry shall be maintained.

Q10. What shall be the consequence if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration?
Ans. As per Rule 56(10) of the CGST Rules, 2017, unless it is proved otherwise, if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

Q11. What action can be taken for transportation of goods without valid documents or attempted to be removed without proper record in books?
Ans. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act (i.e. invoice and a declaration) or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such goods shall be liable for detention along with any vehicle on which they are being transported. Such goods shall be released only on payment of the applicable tax and penalty or upon furnishing of security.

Q12. What action can be taken for transportation of goods without valid documents or attempted to be removed without proper record in books?
Ans. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act (i.e. invoice and a declaration) or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such goods shall be liable for detention along with any vehicle on which they are being transported. Such goods shall be released only on payment of the applicable tax and penalty or upon furnishing of security.

Q13. Mr. A, a registered dealer under GST wants to supply certain stock of goods from his factory located in Bhiwandi, Maharashtra to the location of Mr. B at Hyderabad, Telangana. The invoice issued by Mr. A contains:-
Item X: Value INR 40,000, GST INR 4,800
Item Y: Value INR 50,000, Exempt from GST
Determine whether for the above case E-way bill need to be generated?
Ans. As per Rule 138 of CGST Rules, value of consignment shall be determined in accordance with Section 15 i.e. value declared in invoice and also includes CGST/SGST/IGST/UTGST but excludes value of exempt supply.
As per the above stated provision, in the given case the consignment value of goods including GST amount would be Rs. 44,800 (Item X) & thus no E-way bill is required to be generated as the value of consignment is less than/upto Rs. 50,000.

Q14. Consider a situation where a consignor is required to move goods from Kolkata to Pune. He appoints transporter ABC for movement of his goods. Transporter ABC moves the goods from Kolkata to Nagpur. For completing the movement of goods i.e. from Nagpur to Pune, transporter ABC now hands over the goods to transporter XYZ. Thereafter, the goods are moved to the destination i.e. Nagpur to Pune. How would the e-way bill be generated in such situation?
Ans. It is clarified in such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to transporter ABC. Transporter ABC will fill the vehicle details, etc. in Part B and will move the goods from Kolkata to Nagpur.
On reaching Nagpur, transporter ABC will assign the said e-way bill to the transporter XYZ. Thereafter, transporter XYZ will be able to update the details of Part B. Transporter XZY will fill the details of his vehicle and move the goods from Nagpur to Pune.

Q15. Please comment on following situations with respect to provision related to e-way bill:-

a) A truck contains 3 consignments i.e. 1st consignment total invoice value Rs. 1,00,000, 2nd consignment total invoice value Rs. 25,000 & 3rd total invoice value Rs. 50,001.
b) Mr. A sent goods for job work worth Rs. 10,000 from Delhi to Hyderabad.
c) Mr. A, an unregistered person sent handicraft goods worth Rs. 25,000 from Delhi to Jammu.
d) Mr. A sent goods worth Rs. 1,20,000 from hand rickshaw from Andheri to Malad (distance 11 KM).

Ans.

a) E-way bill shall be generated when value of consignment exceeds Rs. 50,000. So in this case, e-way bill shall be generated for 1st consignment & 3rd consignment where value exceeds Rs. 50,000.
b) In case of inter-State movement of goods for job work, it is mandatory to generate e-way bill irrespective of amount. Thus, in this case e-way bill needs to be generated.
c) In case of inter-State supply of handicraft goods, it is mandatory to generate e-way bill irrespective of amount. Thus in this case, e-way bill needs to be generated even though Mr. A is an unregistered person.
d) E-way bill needs to be generated only for motorize vehicle. Thus in this case no need to generate e-way bill since hand rickshaw is not a motorize vehicle (in case of motorize vehicle, SGST e-way rules need to be seen because of Intra-State).

Q16. Who all can generate E-way bill (EWB)?

Ans. Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000 or the threshold prescribed (in each State/Union Territory) in relation to supply; or reasons other than supply; or inward supply from unregistered person shall generate EWB.

It means, the consignor or consignee, as a registered person or a transporter of the goods can generate the EWB. The unregistered transporter can enroll on the common portal and generate the EWB for movement of goods for his clients.

Q17. Whether EWB may be generated if the consignment value is upto Rs. 50,000?

Ans. Yes, the registered person or the transporter, as the case may be, may generate EWB voluntarily, even if the value of consignment is upto Rs. 50,000.

However, Proviso 3 and 4 to Rule 138(1) of the CGST Rules 2017 mandatorily requires a registered person to generate an EWB irrespective of the value of consignment where:

- the goods are to be sent by the principal located in one State or Union Territory to a job worker in other State or Union Territory.
- handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24 of the CGST Act.

Q18. Who has been casted with the ultimate responsibility of generating EWBs? Consignor, consignee or the transporter?

Ans. The primary responsibility to generate EWB shall be of the registered person who causes the movement of goods, i.e. the consignor or the consignee, as the case may be. However, if such consignor or consignee doesn't generate the EWB, it may be generated by transporter as well, if authorized by the registered person.

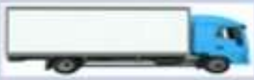
Also, in case of supply of goods by an unregistered person to registered person, the liability to generate EWB is on the recipient.

Q19. Whether EWB would be required, if transportation is done in one's own vehicle or through a public transport?

Ans. Yes, as per Rule 138 (2), it has been provided that EWB shall be required to be generated, in case the goods are transported by consignor or consignee in his own vehicle or in a hired one or a public conveyance, by road. In such case, the registered person causing the movement of goods may raise the EWB after furnishing the vehicle no. in Part B of FORM GST EWB – 01 if the value of goods being transported is more than Rs. 50,000.

Q20. How shall one calculate the distance and validity of goods in case of supply through multi-modal transport?

Ans. The distance and the validity of EWB shall remain the same even if the goods are supplied through a multi-modal transport. In order to calculate the validity of the EWB, the distance to be covered by all the modes combined together must be taken into consideration. The validity provided in the CGST Rules is as under:

| Type Of Conveyance | Distance | Validity Of EWB |
|---|---|---|
| Normal Cargo | Upto 100 Kms | 1 Day |
|  | For every additional 100 Kms or Part thereof | 1 Additional Day |
| Over Dimensional Cargo | Upto 20 Kms | 1 Day |
|  | For every additional 20 Kms or Part thereof | 1 Additional Day |

The "relevant date" shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill. For example:

- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 90 kms. This eway bill will be valid for one day (till mid night of April 2, 2018);
- Suppose eway bill generated on April 1, 2018 at 5 p.m. for transport of cargo which will cover a distance of 190 kms. This eway bill will be valid for two days (till mid night of April 3, 2018).

Note:- Supplier handed over the goods to the transporter on April 1, 2018. Part A of the eway bill was submitted by the supplier on April 1, 2018 after updating the GSTIN of the transporter. Transporter loaded the goods on the truck on April 3, 2018 and completed Part B of the eway bill by updating the vehicle number. In this case, the validity of the eway bill commences from April 3, 2018.

Q21. What is the liability of generation of EWB in case of transportation of goods through e-commerce?

Ans. Generally, in case of an E-Commerce business model, the logistics is handled by an independent third party logistic service provider. So, in such a case 4 parties are involved in the transaction (seller, buyer, logistic service provider and E-Commerce operator). Therefore, in such cases where the goods are to be transported through an e-commerce operator, on an authorization from consignor, Part A of the EWB may be furnished by the E-Commerce operator and Part B of the EWB may be furnished either by the E-Commerce operator or by the third party logistic service provider.

Q22. Whether any other document needs to be provided to the transporter in addition to EWB, for movement of goods?

Ans. In accordance with Rule 55A read with Rule 138A of the CGST Rules, the person in-charge of conveyance shall carry

- Tax Invoice or Delivery Challan or Bill of Supply, as the case may be; and

- a copy of the EWB in physical form or the EWB number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

EWB is an additional document and not a substitute for Tax Invoice, delivery challan or any other prescribed document for the said transaction.

Q23. Can the EWB be deleted?
Ans. The EWB once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of its generation. If it has been verified by any proper officer within 24 hours, then it cannot be cancelled. Further, EWB can be cancelled if, either goods are not transported or are not transported as per the details furnished in the EWB. A recipient has right to cancel/ reject the EWB within 72 hours of its generation or actual receipt of goods, whichever is earlier.

Q24. In case of High Sea Sale Transactions – Whether EWB is required?
Ans. EWB is required for movement of goods within the country. In case of High Sea Sales as the supply is affected before the goods cross the custom frontiers of India, EWB is not required to be generated. When the ultimate buyer files bill of entry, he is required to generate EWB for movement of goods from port to his place of business.

Q25. Whether EWB is required to be generated for the movement of goods between CFS /ICD to port in the course of importation and exportation of goods?
Ans. Rule 138(14) of the CGST Rules 2018, provides that no EWB is required to be generated in respect of:

- Movement of goods from the port, airport, air cargo complex and land customs station to an ICD or a CFS for clearance by Customs in the course of importation.
- where the goods are being transported—
  1. under customs bond from an ICD or a CFS to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
  2. under customs supervision or under customs seal

Therefore, EWB is not required for movement of goods between CFS/ICD to port or vice versa in the course of importation and exportation of goods.

Q26. How to handle "Bill to" - "Ship to" invoice in e-way bill system?
Ans. Sometimes, the tax payer raises the bill to somebody and sends the consignment to somebody else as per the business requirements. There is a provision in the e-way bill system to handle this situation, called as 'Bill to' and 'Ship to'.
In the e-way bill form, there are two portions under 'TO' section. In the left hand side - 'Billing To' GSTIN and trade name is entered and in the right hand side - 'Ship to' address of the destination of the movement is entered. The other details are entered as per the invoice.
In case ship to state is different from Bill to State, the tax components are entered as per the billing state party. That is, if the Bill to location is inter-state for the supplier, IGST is entered and if the Bill to Party location is intra-state for the supplier, the SGST and CGST are entered irrespective of movement of goods whether movement happened within state or outside the state.

Q27. Whether multiple invoices can be clubbed in one E way bill? If yes, then to what extent?
Ans. The value of goods determined in the invoice shall be regarded as the value of consignment, on the basis of which it is decided whether the consignor or consignee is required to generate EWB or not. Therefore, a separate EWB is required to be generated for every individual invoice where value of corresponding consignment exceeds Rs.50,000.

# Additional Questions & Answers

## These are apart from Examples in main book

Q28. If the goods are taken from one State to another for the purpose of display in exhibition, whether EWB is required to be generated?

Ans. EWB would be required to be generated, where the value of the consignment exceeds Rs. 50,000.

Q29. How to generate the EWB in case goods are to be moved to a weighbridge situated outside the factory and invoice cannot be issued unless goods are weighed?

Ans. EWB is not required to be generated where the goods are to be transported up to a distance of 20 kms for the purpose of weighment from the place of business of consignor to a weighbridge, or, from the weighbridge back to place of consignor. However, such movement should be along with delivery challan to be covered under relaxation of EWB generation.

Q30. What if the vehicle is stuck at a particular point in the journey due to calamity or traffic jam?

Ans. The goods are required to be transported within the validity period of the EWB. However, it is provided that under circumstances of exceptional nature, the transporter may generate another EWB after updating the details in Part-B of FORM GST EWB-01. These circumstances could be said to be in the nature of exceptional nature. However, in the absence of specific meaning of the term “exceptional nature”, further clarification is required.

Q31. What if the same invoice contains both categories of goods i.e. ones exempted for the purpose of EWBs and taxable, then whether EWB needs to be generated?

Ans. It is to be noted that the explanation to the Rule 138(1) provides that consignment value for the purpose of EWB shall be the value, determined in accordance with the provisions of Section 15, declared in invoice or delivery challan or bill of supply as the case may be. However, it shall exclude the value of exempt supply where the invoice is issued in respect of both exempted and taxable supply of goods. Therefore, the value of taxable goods only shall be considered for the purpose of consignment value.

Q32. A registered person has purchased a new mobile phone for Rs. 75,000 and carrying with him on motorized vehicle. Whether EWB is required to be generated?

Ans. Yes. It appears that if the movement is caused by a registered person, EWB is required to be generated for goods exceeding value of Rs. 50,000.

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Q33. A person has been shifting his households from one State to another on account of job change. Whether EWB is required to be generated?

Ans. Used personal and household effects have been covered in the Annexure to the Rule 138 in respect of which EWB is not required to be generated. Hence, such person is not required to generate EWB in such cases.

Q34. How to consider consignment value in case goods is being moved for renting purpose. Do we need to take the value of goods or value of the rent charged on goods?

Ans. The consignment value is the value of goods to be determined under section 15 of the CGST Act including applicable tax thereon. The rent charged represents the value of service portion whereas EWB is to be generated for the value of goods for which movement is to be undertaken. Hence, in such cases, the value to be considered should be of the goods not the rental charges charged by the supplier of services. The movement could be based on delivery challan based on which EWB may be generated.

Q35. Supply of goods through pipeline, whether oil, petroleum, gases, water, electricity etc. whether EWB is required to be generated?

Ans. EWB is required to be generated when movement of goods is through motorized conveyance. Further, the EWB portal has 4 modes of transportation i.e. road, air, rail and ship. As the transportation of goods through pipeline may not involve movement of goods through motorized vehicle, there may not be need to generate EWB for such movement of goods.

Q36. An outdoor catering company is transporting utensils and other accessories for catering outside the kitchen, interstate or intra state. Whether EWB is necessary? If yes what are the documents to be attached with the EWB? If not under which document, it has to be dispatched?
Ans. The EWB is required for every movement of goods, even if it is for the purpose other than supply. When the goods are transported by caterer for use by him in the course of making supply of catering services, it could be said to be movement of goods by him for himself/ self-use. Though there is no supply of utensils and other materials to the customer, yet there is movement of goods and hence EWB is required to be generated. Such EWB may be generated against delivery challan, by providing "Outward" movement and "For own use" under the reason for transportation.

Q37. A farmer carries the goods from his farm to Mandi for the purpose of sale therein. Whether there is requirement to generate EWB?
Ans. Many of the agricultural produces have been exempted from the levy of GST. Wherever items to be transported is exempted from GST, there is no need to generate EWB. However, if the goods being transported by farmer are in the nature of taxable goods, EWB has to be generated.

Q38. Where goods are supplied on "as is-where is" basis, whether EWB is required to be generated?
Ans. EWB is not required to be generated for supply of goods unless it involves movement of goods through motorized conveyance. In case of sale of goods on "as is – where is" basis, there is no movement of goods. Hence, there is no need to generate EWB in case of such instances.

Q39. In many cases where manufacturer or wholesaler is supplying to retailers, or where a consolidated shipment is shipped out, and then distributed to multiple consignees, the recipient is unknown at the time the goods are dispatched from shipper's premises. A very common example is when FMCG companies send a truck out to supply kirana stores in a particular area. What needs to be done in such cases?
Ans. In such cases, EWB shall be generated for outward movement of goods. No supply is being made, movement is caused on behalf of self. In such cases, delivery challan may be used for generation of EWBs. All the provisions for delivery challan need to be followed along with the rules for EWBs.

Q40. Where an invoice is in respect of both goods and services, whether the consignment value should be based on the invoice value (inclusive of value of services) or only on the value of goods. Further, whether HSN wise details of service is also required to be captured in Part A of the EWB in such case.
Ans. Consignment value and HSN needs to be determined for goods only not for services as only the goods are in movement and EWB needs to be generated accordingly.

Q41. What shall be the consequence if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration?
Ans. As per Rule 56(10) of the CGST Rules, 2017, unless it is proved otherwise, if any document, register, or books of accounts belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 12: - Payment of Tax

This chapter includes "6 Q & A" of GST main book. Do refer "8 examples" in GST main book.

### ICAI Test your knowledge

Q1. How many types of electronic ledger are there?

Ans.

(a) Electronic cash ledger

(b) Electronic credit ledger

(c) Electronic liability register

Q2. What are the main features of GST payment process?

Ans. Electronic tax liability register is a register to be maintained in the common portal of GST in FORM GST PMT-01 to record all liabilities of a taxable person. Part-I is for recording return related liabilities and Part-II is for recording other than return related liabilities.

Electronic credit ledger is a register to be maintained in the common portal of GST in FORM GST PMT-02 to record input tax credit claimed, utilization, reversal and refund.

Electronic cash ledger is a register to be maintained in the common portal of GST in FORM GST PMT-05 to record deposit of tax, interest, penalty and other amounts, utilization thereof and refund.

GST Payment is done through Electronic Liability Register.

**Debit in Electronic Liability Register**

- the amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person;
- the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the said person;
- the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or
- any amount of interest that may accrue from time to time.

**Credit in Electronic Liability Register**

- Electronic credit ledger (Payment of Amount deducted u/s 51 or amount collected u/s 52, amount payable on Reverse Charge basis, amount payable u/s 10, any amount payable towards interest, penalty, fee or any other amount under the Act)
- Electronic cash ledger
- Relief given by the Appellate Authority or Appellate Tribunal or Court • Reduction in penalty (if any)

Q3. Explain the following terms in brief:

(a) E-FPB

(b) CPIN

(c) CIN

Ans.

(a) E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Government) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS transactions, RBI will act as E-FPB.

(b) CPIN stands for Common Portal Identification Number given at the time of generation of challan. It is a 14 digit unique number to identify the challan. The CPIN remains valid for a period of 15 days.

(c) CIN or Challan Identification number is generated by banks, once payment in lieu of a generated challan is successful. It is a 17-digit number that is 14-digit CPN plus 3-digit bank code. CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

Q4. Are principles of unjust enrichment applicable for payment made under GST?
Ans. Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Q5. State the name of output tax under GST, where any of the input tax credit under GST can be availed?
Ans. IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

Q6. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?
Ans. No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.
As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

Q7. ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self-assessed tax of Rs. 2,50,000 which was not paid.
Explain what are the implications for ABC limited as per relevant provisions?
Ans. As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.
Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

Q8. Who is liable to pay GST? Explain in the context of general and special circumstances.
Ans. General rule - Supplier of goods or services is liable to pay GST.
Specific circumstances –

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

Q9. What will happen if the deductor fails to issue TDS Certificate within the time prescribed?
Ans. As per section 51(4) of the CGST Act, 2017, if any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day

from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

Q10. Whether the rate of tax of 1% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?
Ans. The rate of TCS as notified under CGST Act, 2017 is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 1%.

Q11. Is every e-commerce operator required to collect tax on behalf of actual supplier?
Ans. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

## Questions from GST Main Book / Other Questions

Q12. What are the possible debits and credits to Electronic tax liability register?
Ans. The possible debits and credits to Electronic tax liability register are as follows:

| Debit | Credit |
|---|---|
| • the amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person;<br>• the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the said person;<br>• the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or<br>• any amount of interest that may accrue from time to time. | • Electronic credit ledger (Payment of Amount deducted u/s 51 or amount collected u/s 52, amount payable on Reverse Charge basis)<br>• Amount payable u/s 10, any amount payable towards interest, penalty, fee or any other amount under the Act)<br>• Electronic cash ledger<br>• Relief given by the Appellate Authority or Appellate Tribunal or Court<br>• Reduction in penalty (if any) |

Q13. What are the possible debits and credits to Electronic credit ledger?
Ans. The possible debits and credits to Electronic credit ledger are as follows:

| Debit | Credit |
|---|---|
| • Discharge of any liability in accordance with Section 49;<br>• Towards claim for refund of unutilized amount. | • Input tax credit claimed;<br>• Reversal of amount debited earlier, on account of final rejection of refund (FORM GST PMT-03). |

Q14. What are the possible debits and credits to Electronic cash ledger?
Ans. The possible debits and credits to Electronic cash ledger are as follows:

| Debit | Credit |
|---|---|
| • Discharge of any liability in accordance with Section 49<br>• Towards claim for refund of any amount | • Payment made through challan on receipt of CIN<br>• Amount deducted under Section 51 and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted<br>• Amount collected under Section 52 and |

| | |
|---|---|
| | claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was collected<br>• Reversal of amount debited earlier on account of final rejection of refund (FORM GST PMT-03) |

Q15. Will the input tax credit claimed by a taxable person get added to the balance in electronic cash ledger?
Ans. No, input tax credit will appear separately in the 'electronic credit ledger' maintained in the common portal.

Q16. Can one use input tax credit for payment of interest/penalty?
Ans. No, as per Section 49(4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax' payable only. As per Section 2(82) of the CGST Act, 2017, 'Output tax' in relation to a taxable person, means the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest/penalty.

Q17. Can one use input tax credit for payment of tax under reverse charge basis?
Ans. No, the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'. Further, the definition of output tax u/s 2(82) specifically excludes tax payable under reverse charge basis. Therefore, input tax credit cannot be used for payment of tax under reverse charge basis.

Q18. ABC Ltd., a registered manufacturer in state of Tamilnadu provides the following particulars for tax period of January, 2018.
1. Inputs purchased within state Rs. 1,00,800 (includes GST @ 12%).
2. Machinery purchased on 01/01/2018 for Rs. 1,50,000 (excluding 18% GST) from a local dealer in Tamilnadu, eligible for input tax credit. Depreciation rate 30% p.a.
3. Manufacturing expenses including profits Rs. 3,00,000
4. Goods produced were sold outside Tamilnadu with IGST @ 12% on sales.

Calculate the amount of CGST and SGST payable after utilizing input tax credit for the month of January, 2018 assuming no opening balance of input tax credit available.
Ans. **Computation of Invoice value and Tax liability (amount in Rs.):**

| Particulars | Amount |
|---|---|
| Inputs purchased from local dealer [WN1]<br>Depreciation expense (1,50,000 × 30% × 1/12)<br>Manufacturing Expense and profits | 90,000<br>3,750<br>3,00,000 |
| Total Sales Value | 3,93,750 |

| | |
|---|---|
| Output tax liability (IGST @ 12%)<br>Less: Input tax credit available on: [WN2]<br>Inputs<br>- CGST<br>- SGST<br>Capital goods<br>- CGST<br>- SGST | 47,250<br><br><br>5,400<br>5,400<br><br>13,500<br>13,500 |
| IGST to be deposited in cash | 9,450 |

Working Note:

1. Credit will be available for CGST and SGST charged by local suppliers, hence same is not to be included in the cost.
2. The credit of CGST and SGST is to be utilised for payment of CGST and SGST output tax liability respectively and any amount remaining thereafter shall be utilised towards IGST liability.

Q19. Mr. D of Delhi purchased goods from Mr. J of Jaipur amounting to Rs. 2,00,000 (excluding 18% GST) in the month of January, 2018. He also purchased raw material worth Rs. 1,75,000 from local dealer who has opted for composition scheme. He incurred also Rs. 90,000 as direct and indirect expenses and added profit margin @ 25% of cost.
Mr. D sold 70% of finished goods to Mr. P of Punjab with IGST @ 18% payable thereon, and 30% of finished goods to Mr. H of Delhi with CGST and SGST @ 9% each payable thereon.
Compute the net CGST, SGST and IGST liability and input tax credit if any, for the month of January, 2018.

Ans. **Computation of Invoice value and Tax liability:**

| Particulars | Amount |
|---|---|
| Purchases of raw material from Mr. J of Jaipur [WN-1]<br>Purchases of raw material from dealer opted for composition scheme [WN-2]<br>Other direct and indirect expenses | 2,00,000<br>1,75,000<br>90,000 |
| Total Cost of goods manufactured<br>Add: Profit margin @ 25% of cost | 4,65,000<br>1,16,250 |
| Total Sales Value<br>Goods sold to Mr. P of Punjab (70% of goods produced were sold)<br>Goods sold to Mr. H of Delhi (30% of goods produced were sold) | 5,81,250<br>4,06,875<br>1,74,375 |

| Particulars | CGST | SGST | IGST |
|---|---|---|---|
| Goods sold to Mr. P of Punjab<br>Goods sold to Mr. H of Delhi<br>Less: Eligible input tax credit in respect of purchases of –<br>Raw material (from Jaipur) | -<br>15,694<br><br>- | -<br>15,694 | 73,238<br>-<br><br>(36,000) |
| **CGST/SGST/IGST to be paid in cash** | **15,694** | **15,694** | **37,238** |

Working Note:

1. Credit will be available for IGST charged by inter-state suppliers, hence same shall

not be included in the cost.

2. No input tax credit shall be admissible on purchases made from dealer who has opted for the composition scheme.
3. The credit of IGST is to be utilised for payment of IGST output tax liability first and if any amount remains thereafter then such amount is to be utilised towards payment of CGST and SGST liability in any order.

Q20. How to determine the value limit of Rs. 2,50,000 to decide on the applicability of TDS?

Ans. As per Section 51, tax to be deducted "where the total value of such supply, under a contract, exceeds Rs 2,50,000". If there is a Purchase order for supply of goods or services or both, for a value exceeding Rs. 2,50,000 then TDS provisions would be attracted. Against the Purchase Order, if several supplies are made under several invoices, even if the value of any particular invoice is less than Rs. 2,50,000 TDS would apply i.e. Public Sector Unit issues 'Purchase order' for a total value of Rs. 10,00,000 on 01.10.2018. Supplier is supplying goods through various invoices & one invoice value is Rs. 50,000. Even then TDS is applicable for this invoice, as the contract value is more than Rs. 2,50,000.

Further, while determining the value, the CGST, SGST, UTGST and IGST shall not be included. For example, if the value of the goods or services being supplied is Rs. 2,40,000/- plus 5% GST, total invoice value Rs. 2,52,000, TDS provisions will not apply, as the value, excluding GST is less than Rs.2,50,000/-.

Q21. Which supply is subject to TDS – intra-state or inter-state?

Ans. Both supplies are subject to TDS:-

- Intra-state Supply: TDS = (1% of CGST + 1% of SGST)
- Inter-state Supply: TDS = (2% of IGST)

However, where a supplier has made intra-state supply but deductor is located in other state, then such supply shall not be subject to TDS provision. Let understand through following examples:-

| **Particulars (in all cases taxable contract value is over Rs.2.5 Lakh)** | **Location of Supplier** | **Place of Supply** | **State of Registration of recipient** | **Type of Supply** | **Tax** | **TDS deduction** |
|---|---|---|---|---|---|---|
| State Government of Rajasthan purchases taxable goods from a local supplier | Jaipur | Jaipur | Rajasthan | Intra-State | CGST & SGST | Yes |
| State Government of Punjab purchases taxable goods from a supplier in Mumbai | Mumbai | Punjab | Punjab | Inter-State | IGST | Yes |
| State Government of Haryana engages a contractor of Delhi for repairing of Haryana Bhawan in Delhi | Delhi | Delhi | Haryana | Intra - State | CGST & SGST | No |

# Additional Questions & Answers

## These are apart from Examples in main book

Q22. Please comment applicability of TDS provisions in following illustrations.

{FAQ released by CBIC}

Ans.

| Situations / Contracts | Deduction required YES / NO | Remarks |
|---|---|---|
| Finance Department is making a payment of Rs.3 Lakh to a supplier of 'printing & stationery'. | Yes | Where the total contract value of taxable supply is more than Rs.2.5 Lakh deduction is mandatory. |
| Education Department is making payment of Rs.5 Lakh to a supplier of 'printed books and printed or illustrated post cards' where payment for books is Rs.2 Lakh and Rs.3 Lakh is for other printed or illustrated post cards. | Yes, deduction is required in respect of payment of Rs. 3 Lakh only i.e. for payment in respect of taxable supply. | Books are exempted goods; no deduction is required in respect of supply of books. However, payment involving 'printed or illustrated post cards' is for supply of taxable goods and value of such supply is > Rs.2.5 Lakh; so deduction is required. |
| Finance Department, is making payment of Rs.1.5 Lakh to a supplier of 'car rental service'. | See Remarks | Deduction is mandatory in case the total value of taxable supply under the contract > Rs.2.5 Lakh irrespective of the amount paid. However, if the total value of supply under a contract is < Rs.2.5 Lakh, deduction is not required. |
| Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs.2.6 Lakh (including GST) and is making full payment. | No | Total value of supply as per the contract is Rs.2.6 Lakh (including GST). Tax rate is 12%. So, taxable value of supply (excluding GST) stands at Rs.2.6L x 100/112 = Rs.2.32 L < Rs.2.5 Lakh Hence, deduction is not required. |
| Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 Lakh and IGST @18% on Rs.5 Lakh for such purchase. | Yes, deduction is required @2% | Deduction is required in case of inter-State supply and if the value of taxable supply under a contract exceeds Rs.2.5 Lakh. |
| Fisheries Department is making a payment of Rs.10 Lakh to a contractor for supplying labour for digging a pond for the purpose of Fisheries. | No | This supply of service is exempt in terms of Sl. No. 3 of notification No.12/2017 – Central Tax (Rate) dated 28.06.2017 and hence deduction is not required. |
| Municipality is making payment of Rs.5 Lakh to a supplier in respect of cleaning of drains where the value of | No | This supply of service is exempt in terms of Sl. No. 3A of notification No.12/2017 – Central Tax (Rate) dated |

| | | |
|---|---|---|
| supply of goods is not more than 25% of the value of composite supply | | 28.06.2017 as amended by notification no. 2/2018- Central Tax (Rate) dated 25.01.2018 and hence deduction is not required. |
| Government school is making a payment of Rs.3 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government. | No | This supply of service is exempt in terms of Sl. No. 66 of notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended and hence deduction is not required. |
| Health Department is making payment of Rs.10 Lakh to a supplier for supply of Hearing Aids. | No | This supply of goods is exempt in terms of Sl. No.142 of notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017 as amended and hence deduction is not required. |

Q23. Is TDS deductible / payable on Advances?
Ans. As per Section 12 and 13 of the CGST Act, dealing with time of supply of goods and services respectively, GST is payable upon receipt of advance payment also. But as per Notification No. 66/2017-Central Tax dated 15.11.2017, the liability to pay GST on advances is not applicable for goods.

It may be noted that the liability to deduct TDS would arise, as per Section 51, when payments are made for the supplies . For deduction and payment of TDS by deductor, the time of supply in the hands of the supplier is not at all relevant. The advances made towards supply of goods are also payments against such supplies and since there is no exemption as such, from payment of GST on advances for supply of goods, TDS is applicable even when advance payments are made against the supply of goods.

TDS is also applicable on advances paid for supply of services.

No TDS under following cases:

- Where the payment relates to a tax invoice that has been issued before 01.10.2018;
- Where any amount was paid in advance prior to 01.10.2018 and the tax invoice has been issued on or after 01.10.18, to the extent of advance payment made before 01.10.2018;.

Q24. State TDS applicability in following cases:

(a) Supply under RCM
(b) Supply by unregistered supplier
(c) Supply by composition Supplier

Ans.

(a) No TDS, where the tax is to be paid on reverse charge by the recipient i.e. the deductee;
(b) No TDS, where the payment is made to an unregistered supplier;
(c) TDS is required in case of supply received from Composition Supplier i.e. Supplier ZA is a person registered under the composition scheme in Jharkhand who makes taxable supply worth Rs. 10,000 to a Local Authority of Jharkhand where value of taxable supply under the contract is for Rs. 2,55,000 which is more than Rs. 2.5 Lakh and hence deduction of tax is required.

# Additional Questions & Answers

## These are apart from Examples in main book

Q25. I have entered into a contract worth Rs. 10 lakh with a supplier XYZ prior to 01.10.2018. Now, I am making a payment of Rs.1.5 Lakh in respect of an invoice dated 25.10.2018 submitted by the supplier. Should I deduct tax while making payment of Rs.1.5 Lakh?

{FAQ released by CBIC}

Ans. Yes. Tax is required to be deducted since the payment is being made after the effective date.

Q26. I have entered into a contract worth Rs. 10 Lakh with a supplier XYZ prior to 01.10.2018. I have made a payment of Rs. 3 Lakhs to him prior to 01.10.2018. Now, I am making payment of the balance amount of Rs. 7 Lakh after 01.10.2018. Should I deduct tax on Rs.10 Lakh?

{FAQ released by CBIC}

Ans. No. Tax cannot be deducted for any payment made prior to 01.10.2018. So deduction will be made only in respect of Rs.7 Lakh.

Q27. I enter into a contract with a supplier ABC where the value of taxable supply is Rs. 2 Lakh and payment of Rs. 1 Lakh has been made on 15.10.2018. Now, on 20.10.2018 the contract value is revised from Rs. 2 Lakh to Rs. 6 Lakh. Am I liable to deduct any tax and if so, on which amount?

{FAQ released by CBIC}

Ans. Yes, TDS shall have to be deducted on entire amount i.e. Rs. 6 lakhs while making remaining payment of Rs. 5 Lakh. In other words, 12,000/- would be deducted when remaining payment of Rs. 5 Lakh is made.

Q28. Payment is made in respect of a single contract whose value of taxable supply is Rs.3.5 Lakh. Two bills amounting to Rs 1.5 lakh & Rs. 2 lakh respectively are passed for such payment. Since in respect of both the bills the amount paid does not exceed Rs. 2.5 lakh, I think that no tax is required to be deducted. Am I right?

{FAQ released by CBIC}

Ans. No. Here the payments are being made against a single contract value of taxable supply exceeding Rs.2.5 Lakh. Here, the value of taxable supply in the contract is Rs. 3.5 lakh. So, the deductor should deduct TDS on each payment to the supplier in respect of the aforesaid contract.

Q29. Mr. S has deducted GST amounting to Rs 50,000/- in the month of Nov'18. He filed return on 16.12.2018. Is he liable to pay a late fee?

{FAQ released by CBIC}

Ans. Yes he is liable to pay a late of Rs. 600 at the rate of Rs 100 per day for delay of 6 days (11.12.2018 – 16.12.2018). Maximum amount of late fee payable is capped at Rs.5,000. Similar late fees is applicable under SGST Act / UTGST Act.

Q30. Mr. X has deducted Rs 1 lakh of TDS in Nov'18. He deposits Rs 70,000 on 10.12.2018 & the rest of Rs 30,000 on 30.01.2019. He submits the return in FORM GSTR 7 on 28.02.2019. Has he incurred any liability to pay late fee or interest? Is he liable to pay any penalty?

{FAQ released by CBIC}

Ans. Electronic Cash Ledger of the DDO is credited on 10.12.2018 and 30.01.2019 with Rs. 70,000 and Rs. 30, 000 respectively on account of deposit of TDS of Rs 70,000/- on 10.12.2018 & Rs 30,000 on 30.01.2019. Since return in FORM GSTR 7 for the month of November, 2018 is filed on 28.02.2019 and he discharges his payment liability of tax so deducted by debiting his electronic cash ledger as well on this date only, therefore, late fee of 80 days (11.12.2018 to 28.02.2019) have to be paid under CGST and SGST. The amount of late fee will be restricted to Rs. 5000 (upper limit provided in the Act). Interest has also to be paid for the delay. Penalty is also payable by a DDO if he fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) of section 51 [section 122(v) refers]. He is liable to penalty of Rs.1,00,000/-.

Q31. Whether a supplier of goods or services supplying through ecommerce operator would be entitled to threshold exemption?

{FAQ released by CBIC}

Ans. As per Section 24 (ix) of the CGST Act, 2017, every person supplying goods through an ecommerce operator shall be mandatorily required to register irrespective of the value of supply made by him. However, a person supplying services, other than supplier of services under section 9 (5) of the CGST Act, 2017, through an e-commerce platform are exempted from obtaining compulsory registration provided their aggregate turnover does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Government has issued the notification No. 65/2017 – Central Tax dated 15th November, 2017 in this regard.

Q32. Whether TCS is required to be collected by ecommerce operators on supply of services by unregistered suppliers through their portal?

{FAQ released by CBIC}

Ans. As per Section 24 (ix) of the CGST Act, 2017, every person supplying goods or services through an ecommerce operator is mandatorily required to register. However, vide Notification 65/2017-Central Tax dated 15th November, 2017 a person supplying services, other than supplier of services under section 9 (5) of the CGST Act, 2017, through an e-commerce platform were exempted from obtaining compulsory registration provided their aggregate turnover does not exceed INR 20 lakhs (or INR 10 lakhs in case of specified special category States) in a financial year. Since such suppliers are not liable for registration, ecommerce operators are not required to collect TCS on supply of services being made by such suppliers through their portal.

Q33. Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located to undertake the necessary compliance as mandated under the law?

{FAQ released by CBIC}

Ans. As per the law, registration for TCS would be required in each State / UT as the obligation for collecting TCS would be there for every intra-State or inter-State supply. In order to facilitate the obtaining of registration in each State / UT, the e-commerce operator may declare the Head Office as its place of business for obtaining registration in that State / UT where it does not have physical presence. It may be noted that each State/UT has indicated one administrative jurisdiction where all e-commerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT.

Q34. Foreign e-commerce operator do not have place of business in India since they operate from outside. But their supplier and customers are located in India. So, in this scenario will the TCS provision be applicable to such ecommerce operator and if yes, how will foreign e-commerce operator obtain registration?

{FAQ released by CBIC}

Ans. Where registered supplier is supplying goods or services through a foreign e-commerce operator to a customer in India, such foreign ecommerce operator would be liable to collect TCS on such supply and would be required to obtain registration in each State / UT. It may be noted that each State/UT has indicated one administrative jurisdiction where all ecommerce operators having business (but not having physical presence) in that State/UT shall register. The proper officer for the purpose of registration of ECOs has also been notified by each State/UT. If the foreign e-commerce operator does not have physical presence in a particular State / UT, he may appoint an agent on his behalf.

Q35. Is it necessary for eCommerce operators who are already registered under GST and have GSTIN, to have separate registration for TCS as well?

{FAQ released by CBIC}

Ans. E-Commerce operator has to obtain separate registration for TCS irrespective of the fact whether e-Commerce operator is already registered under GST as a supplier or otherwise and has GSTIN.

Q36. Whether value of net taxable supplies to be calculated at gross level or at GSTIN level? {FAQ released by CBIC}

Ans. The value of net taxable supplies is calculated at GSTIN level.

Q37. Whether TCS to be collected on exempt supplies? {FAQ released by CBIC}

Ans. No, TCS is not required to be collected on exempt supplies.

Q38. Whether TCS to be collected on supplies on which the recipient is required to pay tax on reverse charge basis? {FAQ released by CBIC}

Ans. No, TCS is not required to be collected on supplies on which the recipient is required to pay tax on reverse charge basis.

Q39. Whether TCS is to be collected in respect of supplies made by the composition taxpayer? {FAQ released by CBIC}

Ans. As per section 10(2)(d) of the CGST Act, 2017, a composition taxpayer cannot make supplies through e-commerce operator. Thus, question of collecting TCS in respect of supplies made by the composition taxpayer does not arise.

Q40. Whether TCS is to be collected on import of goods or services or both? {FAQ released by CBIC}

Ans. TCS is not liable to be collected on any supplies on which the recipient is required to pay tax on reverse charge basis. As far as import of goods is concerned since same would fall within the domain of Customs Act, 1962, it would be outside the purview of TCS. Thus, TCS is not liable to be collected on import of goods or services.

Q41. State whether Tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios -

(a) Titan sells watch on his own through its own website?
(b) ABC limited who is dealer of Titan brand sells watches through flipkart, amazon etc.?

Ans. Answers for both the scenarios is as follows:

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

a. the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.
   Hence, if the person sells on his own, TCS won't be applicable.
b. If ABC limited who is dealer of Titan brand sells watches through Flipkart, Amazon etc., then the provision of TCS will be applicable to flipkart, amazon.

Q42. XYZ Ltd. a registered supplier of goods is effecting inter-state supplies through ABC Ltd. (an Electronic Commerce operator). It has made taxable supplies of goods amounting Rs 30,00,000 in month of January 2019 through ABC Ltd. ABC Ltd. has returned goods amounting Rs 5,00,000 to XYZ ltd. during the month of January 2019. Determine the amount of tax to be collected at source by ABC Ltd..

Ans. As per provision of Sec 20 of IGST Act read with Sec 52 of CGST Act, 2017, every electronic commerce operator, not being an agent, shall collect an amount calculated at such rate not exceeding 2%, as may be notified by the Government on the recommendation of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator. Thus, the amount of tax to be collected at source by ABC Ltd. is an under:-

| Particulars | Amount |
|---|---|
| Value of taxable supplies of goods made by XYZ ltd. | 30,00,000 |
| Less : Value of taxable supplies of goods returned to XYZ ltd. | 5,00,000 |
| Amount on which tax is to be collected at source | 25,00,000 |
| Rate of TCS | 1% |
| Amount of TCS | 25,000 |

Q43. It is very common that customers of e- commerce companies return goods. How these returns are going to be adjusted?

Ans. An e-commerce company is required to collect tax only on the net value of taxable supplies made through it. In other words, value of the supplies which are returned (supply return) may be adjusted from the aggregate value of taxable supplies made by each supplier (i.e. on GSTIN basis). Let understand this from below example (month January 2019):-

| | A | B | C | D | E | F |
|---|---|---|---|---|---|---|
| Sales | 1,00,000 | 2,00,000 | 3,00,000 | | 2,00,000 | 1,00,000 |
| Sales Return | - | - | - | (50,000) | | (15,000) |
| Net | 1,00,000 | 2,00,000 | 3,00,000 | Nil | 2,00,000 | 85,000 |
| TCS | 1,000 | 2,000 | 3,000 | Nil | 2,000 | 850 |

Q44. ABC Ltd. is effecting supplies through XYZ Ltd. (an Electronic Commerce operator). It has made the following supplies during February 2019 through XYZ Ltd.:-

| Particulars | Supply | Returns, if any |
|---|---|---|
| Supplies of goods taxable at 18% | 10,00,000 | 1,00,000 |
| Supply of goods taxable at Nil rate | 5,00,000 | 50,000 |
| Supply of housekeeping services | 1,00,000 | - |
| Supply of other services | 2,00,000 | - |

Required :

1. Determine the amount of tax to be collected at source by XYZ Ltd.
2. Determine consequences if said amount is paid and return is filed on 15-3-2019.

Ans. The amount of tax to be collected at source by XYZ Ltd. is as under :-

| Particulars | Amount in INR |
|---|---|
| Supplies of goods taxable at 18% (net of returns) | 9,00,000 |
| Supply of goods taxable at Nil rate (not liable to TCS) | - |
| Supply of housekeeping services {not liable to TCS, as it falls u/s 9(5)} | - |
| Supply of other services (liable to TCS) | 2,00,000 |
| Amount on which tax is to be collected at source | 11,00,000 |
| Amount of TCS | 11,000 |
| Due Date of payment of TCS | 10-03-2019 |
| Actual Date of filing return | 15-03-2019 |
| Interest & Late fee applicable | 5 days |
| Interest @ 18% (11,000*18%*5/365) | 27 |
| Late fee for belated filing of GSTR-8 @100 per day under CGST + 100 under SGST = 200 per day | 1,000 |

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 13: - Returns

This chapter includes "10 Q & A" of GST main book.

### ICAI Test your knowledge

Q1. If a return has been filed, how can it be revised if some changes are required to be made?
Ans. In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided for the purposes of amending previously declared details.
As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed. Any tax payable as a
result of such error or omission will be required to be paid along with interest. The rectification of errors/omissions is carried out by entering appropriate particulars in "Amendment Tables" contained in GSTR-1.

Q2. Which type of taxpayers need to file Annual Return?
Ans. Every registered person, other than ISD's, casual/non-resident taxpayers, TDS/TCS deductors, are required to file an annual return in Form GSTR-9. Taxpayer under composition scheme are required to file annual return in Form GSTR-9A. Casual tax payers, non-resident taxpayers, ISDs and persons authorized to deduct/collect tax at source are not required to file annual return.

Q3. Is an Annual Return and a Final Return one and the same?
Ans. No. Annual Return has to be filed by every registered person paying tax as a normal taxpayer. Final Return has to be filed only by those registered persons who have applied for cancellation of registration. The Final return has to be filed within three months of the date of cancellation or the date of cancellation order.

Q4. Do Input Service Distributors (ISDs) need to file separate statement of outward supplies with their return?
Ans. No, the ISDs need to file only a return in Form GSTR-6 and the return has the details of credit received by them from the service provider and the credit distributed by them to the recipient units. Since their return itself covers these aspects, there is no requirement to file separate statement of outward supplies.

Q5. Is it compulsory for a taxpayer to file return by himself?
Ans. No. A registered taxpayer can also get his return filed through a Goods and Services Tax Practitioner.

### Questions from GST Main Book / Other Questions

Q6. Whether the tax payable under GST Act has to be paid to the Central Government or the State Government?
Ans. As per section 39(7), the tax payable as per return has to be paid to the 'Government' on or before the due date for filing the return. Section 2(53) of the CGST Act defined 'Government' to mean the Central Government. Further, as per Section 2(9) of the IGST Act, the term 'Government' has been defined to mean the Central Government. Therefore, in respect of CGST and IGST

taxes, the tax has to be paid to the credit of the Central Government. In respect of SGST, the tax has to be paid to the credit of the State Government.

Q7. I was liable to get registered from July 12, 2017. I was issued the registration certificate only on August 16, 2017. How should I disclose the details of supplies effected during the period July 12, 2017 to August 16, 2017?
Ans. As per Section 40, a registered taxable person is required to file First Return to disclose the details of supplies effected during the period between the date on which he became liable to registration till the date on which registration is granted. Therefore, the assessee will disclose the details from 12.07.2017 to 16.08.2017 in the August Return.

Q8. I am a non-resident taxable assessee. What are the returns to be furnished by me?
Ans. A non-resident taxable assessee is liable to file FORM GSTR-5 for furnishing the monthly details of inward and outward supplies, debit/credit notes, tax paid details, details of closing stock and refund claimed, if any. The return should be furnished by 20th of the month succeeding the tax period, or within 7 days from the last day of the validity of registration, whichever is earlier.

Q9. Whether returns have to filed if the assessee has not affected any inward or outward supply during a tax period?
Ans. Yes, assesses has to file Nil GSTR-1 /Form 3B return electronically even though not effected any supply.
However, a non-resident taxable person, an input service distributor, a person liable to deduct tax at source and person liable to collect tax at source would not be liable to furnish returns (in Forms GSTR-5, GSTR-6, GSTR-7 and GSTR-8, respectively) if they have not affected any supplies requiring them to furnish the respective forms (as mentioned above).

Q10. What is meant by self-assessment?
Ans. Under the GST regime, the responsibility to compute the correct output tax liability, eligible input tax credit and net tax liability lies with the assessee. The assessee must determine the rate of tax, value of supply and the output tax payable. The assessee must also decide the eligibility of input tax credit in respect of the various inward supplies. The determination of turnover, rate of tax, value of supply, eligibility to input tax credit, reversal of input tax credit, etc. done by the assessee himself is called as self-assessment.

Q11. Who is required to file an Annual Return? In what format such return should be furnished? What is the due date for furnishing such return?
Ans. All registered taxable persons are required to furnish an Annual Return for every financial year, electronically, in FORM GSTR-9. A registered taxable person paying opting to pay tax under the composition scheme is required to file the annual return in FORM GSTR-9A. However, the below mentioned registered taxable persons are not required to file an Annual Return:-

(a) Input Service Distributor
(b) Person liable to deduct tax at source as per Section 51 (for the purpose of TDS)
(c) Person liable to collect tax at source as per Section 52 (for the purpose of TCS)
(d) Casual taxable person
(e) Non-resident taxable person

Such returns should be furnished on or before 31st December of the following the end of financial year.

Q12. Whether the Annual Return is required to be audited by Chartered Accountant / Cost Accountant?
Ans. If the turnover of the registered taxable person exceeds Rs. 2 crores, then the Annual Return is required to be audited by a Chartered Accountant or Cost Accountant. Further, they also have

to submit reconciliation statement in FORM GSTR-9C. If the turnover does not exceed Rs. 2 crores, the registered taxable person can himself compile the details in FORM GSTR-9 and submit the return.

Q13. What are the consequences of not filing any particular return?
Ans. If the registered taxable person fails to furnish the return in FORM GSTR-3B or GSTR-4 or GSTR-5 or GSTR-6 or GSTR-7 or Final return in FORM GSTR-10, the department will issue a notice in FORM GSTR-3A asking the registered taxable person to furnish the particular return within 15 days.

Q14. What happens if the taxable person files the return under the GST law but does not make payment of taxes?
Ans. Under the GST law, the filing of return without payment of taxes shall not be considered as a valid return. Section 2(117) defines a valid return. It means, a return furnished under sub-section (1) of Section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

Q15. ABC Ltd. Furnished annual returns for the year 2017-18 on September 15, 2018. An error is discovered in respect of a transaction pertaining to outward supplies of January 2018. Determine the time limit to rectify the mistake in case return of Sept'18 furnished on October 15 ,2018.
Ans. Annual return has been furnished by September 15,2018 and return for the month of Sept'18 filed on October 15,2018. The rectification of error pertaining to January 2018 cannot be done beyond September 15, 2018 as per provision of Section 37 (3).

Q16. In some period of the year, there may not be any business activity like in case of seasonal business. Whether a taxable person will be required to file return in such case also?
Ans. Every registered taxable person is required to file returns. Without filing the return of the period, next return cannot be filed. Therefore, even if there is no taxable supplies made or received during any period, such person is required to file a NIL return but not filing the return is not an option in GST.

Q17. What are the different means available to taxpayer for filing the returns?
Ans. The taxpayer can file the return on GSTN by using one of the followings: -

1) By taxpayer himself by using the user id and password issued to such taxpayer
2) By the authorized representative using the login and password issued to such authorized representative. Such authorized representative should have been selected by the taxpayer before such filing and such authorized representative should be linked to such taxpayer account.
3) Through the Facilitation Centre (FC) by using the login and password of such FC. Post filing by FD, system generates a message for taxpayer by mail and SMS.
   Facilitation Centre is a facility for digitization and uploading of returns on the GSTN data base. This facility is created with the approval of Central Board of Indirect Taxes or by respective State Governments. Small taxpayers who don't have facility for digitization of their data and/or uploading their returns can use this facility of facilitation centers for doing this function.

Q18. How would a supplier who has taken a new registration, file his first return under GST?
Ans. There might be cases wherein a person is liable to be registered under the law from a particular date and there is time gap between the date from when he was liable to be registered under the law and the date on which registration is granted to such person. He would have made outward supplies

in this period between the date when he was liable to be registered under the law and the date from which is granted registration.
In such case the registered person who has made outward supplies in the period between the dates on which he became liable to registration till the date on which registration has been granted shall declare the details of such outward supplies in the first return filed by him after the date of grant of registration.

Q19. Whether GSTR 3B can be revised after filing? Whether there is any column in GSTR 3B for reporting any discrepancies which have taken place while filing returns for previous months?
Ans. No, GSTR 3B filed, can't be revised. Form GSTR 3B doesn't contain any column for reporting of differential figures for past month(s).

Q20. If a return has been filed, how can it be revised if some changes are required to be made?
Ans. In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system will allow changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1/2 in the tables specifically provided for the purposes of amending previously declared details.

Currently not active

Q21. What will be the legal position in regard to the reversed input tax credit if the supplier later realizes the mistake and feeds the information?
Ans. At any stage, but before September of the next financial year, supplier can upload the invoice and pay duty and interest on such missing invoices in his GSTR-3 of the month in which he had earlier failed to upload the invoice. The recipient shall be eligible to reduce his output tax liability to the extent of the amount in respect of which the supplier has rectified the mis-match. The interest paid by the recipient at the time of reversal will also be refunded to the recipient by crediting the amount in corresponding head of his electronic cash ledger.

Q22. During the course of inspection/audit/scrutiny/enforcement activity, the department has pointed out certain omissions or incorrect particulars in the returns. Whether the assessee can rectify the returns to correct the omissions or incorrect particulars in its returns?
Ans. As per Section 39(9), provides for correction in the returns on account of Omission of wrong particulars filed other than as a result of audit/inspection/scrutiny/enforcement, the assessee can rectify such omissions/incorrect particulars in the returns. In the month/quarter in which such omission/ incorrect particulars are noticed, the due tax and interest shall be payable thereon.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 14: - Import & Export under GST

This chapter includes "10 Q & A" of GST main book. Do refer "4 examples" in GST main book.

### ICAI Test your knowledge

Q1. Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit/Developer by a supplier located in the same State as that of the SEZ unit/Developer should be treated as an inter-State supply under section 7(5)(b) or an intra-State supply in terms of section 8(2) read with section 12(3)(c)? Explain.

Ans. Circular No. 48/22/2018 GST has clarified on this issue as under:

As per section 7(5)(b), the supply of goods and/or services to a SEZ unit/Developer shall be treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Whereas, as per section 12(3)(c), the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/ Union territory, it would be treated as an intra-State supply.

It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision. In the instant case, section 7(5)(b) is a specific provision relating to supplies of goods and/or services made to a SEZ unit/Developer, which states that such supplies shall be treated as inter-State supplies.

Further, proviso to section 8(2) also lays down that intra-State supply of services do not include supply of services to a SEZ unit/Developer. It is, therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ unit/Developer shall be treated as an inter State supply.

Q2. How are exports treated under the GST Law?

Ans. Under the GST Law, export of goods or services has been treated as:

- Inter-State supply and covered under the IGST Act.
- 'Zero rated supply', i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage.

Q3. How are imports taxed under GST?

Ans. All imports are deemed as inter-state supplies for the purposes of levy of GST (IGST). The incidence of tax follows the destination principle and the tax revenue in case of SGST accrues to the State where the imported goods and services are consumed. IGST paid on import of goods and services is available as ITC for set off against the output tax liability. IGST on import of goods is leviable under the provisions of the Customs Tariff Act.

Q4. How are exports taxed under GST?

Ans. Exports of goods and services are zero rated. The exporter has the option either to export under bond without payment of IGST and claim refund of ITC or pay IGST at the time of export and claim refund thereof.

Q5. Is it necessary to execute a bond for effecting zero rated supplies?

Ans. No. The facility to export under LUT has been extended to all zero rated suppliers (barring a few exceptions such as those who have been prosecuted for an offence involving tax of Rs. 2.5 crore) vide Notification No. 37/2017 CT dated 4.10.2017. The other conditions for executing LUT have been specified in Circular No. 8/8/2017 GST dated 4.10.2017.

## Questions from GST Main Book / Other Questions

Q6. Can the NRI's claim refund of tax paid under Section 15 of IGST Act, 2017?
Ans. Yes, since the NRI's are not normally resident in India they will be treated as tourist if the stay in India is for legitimate non-immigrant purpose for a period of less than 6 months.

Q7. Who is the person liable to pay tax in respect of OIDAR services received by non-taxable online recipient ?
Ans. The supplier of OIDAR services located in non-taxable territory shall be the person liable to pay IGST on supply of such services.

Q8. How would the supplier of OIDAR services located outside India comply with the responsibilities entrusted under GST ?
Ans. The supplier of OIDAR service should comply with GST as follows:

a. The Supplier (or intermediary) of OIDAR services should take single GST registration for payment of IGST.
b. If there is a person representing overseas supplier in taxable territory for any purpose, then such representative in India should pay IGST on behalf of overseas supplier.
c. If the overseas supplier has no physical presence or representative in the taxable territory, then he may appoint a person in the taxable territory for the purpose of payment of IGST.

Q9. What is the place of supply of OIDAR Service ?
Ans. The place of supply of OIDAR services is location of recipient of services.

Q10. What are the conditions to be satisfied by the service recipient is deemed to be located in the taxable territory ?
Ans. It is difficult to determine the location of the recipient in case of OIDAR services. The service recipient is deemed to be located in taxable territory on satisfying any of the 2 conditions:-

1. The recipient gives an Indian address through Internet.
2. The payment is settled by an Indian credit card /debit card/other card.
3. The recipient has Indian billing address.
4. The computer used by the recipient has Indian IP address.
5. The recipient uses an Indian bank account for payment.
6. The country code of the subscriber identity module card used by the recipient of service is of India.
7. The recipient receives the service through an Indian fixed land line.

Q11. Who shall be liable to collect and discharge the Integrated tax liability in cases of provision of cross border B2C OIDAR services?
Ans. Service providers providing OIDAR services to a non-taxable online recipient in taxable territory would be responsible for collection and discharge of integrated tax.

Q12. Under what circumstances an intermediary, who arranges or facilitates the supply of OIDAR services would not be liable to collect tax from non-taxable online recipient?
Ans. If the intermediary satisfies the following conditions, he shall not be liable to collect tax from non-taxable online recipient;

(a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;

(b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
(c) the intermediary involved in the supply does not authorise delivery; and
(d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

Q13. Who is non-taxable online recipient?
Ans. "Non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Q14. Would a supplier of OIDAR required to take registration in all states in India in GST Act?
Ans. No. The CBIC has notified the Principal Commissioner of Central Tax, Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

Q15. Mr. A is supplying goods to SEZ Unit. Whether he has to charge IGST on supply of goods.
Ans. As per the provision of section 16 of IGST Act, 2017, Supply to SEZ Unit are Zero Rated Supplies. Therefore, in such case Mr. A can either supply goods against payment of IGST (which can be claimed as refund) or he can supply goods without payment of IGST (against LUT /Bond).

Q16. A person had submitted Bank Guarantee for Issue of Bond for export of goods without payment of tax. He was granted Bond with a validity period upto 31st March 2018. However, in view of Notification No. 37/2017 – Central Tax dated 4th October 2017, he wants to submit Letter of Undertaking and get the bond released which was submitted earlier. Can he do so.
Ans. Yes, he can submit a Letter of Undertaking as per the guidelines issued vide Notification No. 37/2017 – Central Tax dated 4th October 2017 and get the bond submitted earlier released.

Q17. What is the meaning of the term "Zero Rated Supply"?
Ans. "Zero Rated Supply" refers to supplies made to SEZ units / developers or exports of goods or services or both. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will taxed at "0" (Zero) Rate or will be exempt from IGST unconditionally.

Q18. Are exports and supplies to SEZ units/Developers out of the ambit of GST?
Ans. No. They are treated as IGST supplies under the IGST Act, 2017. However, the tax burden on the same will be neutralized by granting refunds to persons making such supplies.

Q19. Can SEZ unit / Developers claim refund of IGST charged by his supplier?
Ans. No. The IGST Act, 2017 allows the supplier of SEZ unit / developer to claim refund of IGST paid by him on supplies to SEZ unit / Developers.

Q20. Are supplies made by SEZ units/Developer are Zero rated supplies?
Ans. No. only the supplies made TO SEZ units/Developer are zero rates supplies. However, Exports done by SEZ units/Developer will be zero rated supplies.

# Chapter 15: - Refunds

This chapter includes "15 Q & A" of GST main book.

## ICAI Test your knowledge

Q1. Is there any time limit for sanctioning of refund under section 54 of the CGST Act, 2017?
Ans. Yes, refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest @ 6% p.a. will have to be paid in accordance with section 56 of the CGST/SGST Act.
However, in case where provisional refund to the extent of 90% of the amount claimed is refundable in respect of zero-rated supplies made by certain categories of registered persons in terms of sub-section (6) of section 54 of the CGST/SGST Act, the provisional refund has to be given within 7 days from the date of acknowledgement of the claim of refund.

Q2. Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2) of the CGST Act, 2017.
Ans. The amount of advance tax deposited by a casual taxable under section 27(2), shall be refunded only when such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39 [Section 54(13)].
Further, refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him [Fourth proviso to rule 89(1)].

Q3. In case of refund under exports of goods, whether BRC/FIRC is necessary for granting refund?
Ans. In case of refund on account of export of goods, the refund rules do not prescribe BRC/FIRC as a necessary document for filing of refund claim. However, for export of services details of BRC/FIRC is required to be submitted along with the application for refund.

Q4. A taxable person has mistakenly paid CGST and SGST for an inter-State supply. Subsequently, when he discovers the same, can he adjust the IGST liability against the wrongly paid CGST and SGST?
Ans. Section 77, inter alia, stipulates that a registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed. The IGST liability cannot be adjusted against the CGST and SGST wrongly paid.

Q5. State the exceptions to the principle of unjust enrichment as applicable to refund claims.
Ans. The principle of unjust enrichment is applicable in all cases of refund except in the following cases:

i. Refund of tax paid on export of goods or services or both or on inputs or input services used in making such exports.
ii. Unutilized input tax credit in respect of (i) zero rated supplies made without payment of tax or, (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies.
iii. refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued.
iv. refund of tax in pursuance of section 77 of CGST/SGST Act i.e. tax wrongfully collected and paid to Central Government or State Government.
v. if the incidence of tax or interest paid has not been passed on to any other person.
vi. such other class of persons who has borne the incidence of tax as the Government may notify.

# Additional Questions & Answers

## These are apart from Examples in main book

## Questions from GST Main Book / Other Questions

Q6. To whom should the claim for refund be made?
Ans. The refund application is to be made before the proper officer of IGST/CGST/SGST exercising jurisdiction over the Claimant.

Q7. Is there any other case apart from those covered in Section 54, wherein refund can be claimed under GST?
Ans. Yes, as per Section 55 of the CGST Act, the Government may, on the recommendations of the Council, by notification, specify any specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to certain conditions and restrictions, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.Further, the Central Government vide Notification No. 20/2018 – Central Tax dated 28th March, 2018 has increased the time limit from 6 months to 18 months from the last date of the quarter in which such supply was received ,within which the specified persons shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority.

Q8. Would interest be paid on the amount of refund sanctioned?
Ans. Yes, in terms of section 56, interest would be paid at a rate not exceeding 6%, if the refund is not sanctioned with 60 days from the receipt of refund application.It is pertinent to note that the Government vide Notification No. 13/2017 – Central Tax dated 28-6-2017 has prescribed the rate of interest @ 6%.

Q9. If refund is made based on the order of appellant authority, then would interest be paid?
Ans. Yes, interest (at a rate not exceeding 9%) would be computed and paid for the period starting from expiry of 60 days from the date of application consequent to the order till the date of actual refund of tax. It is pertinent to note that the Government vide Notification No. 13/2017 – Central Tax dated 28-6-2017, has prescribed the rate of interest @ 9%.

Q10. How would the interest be computed and paid?
Ans. Interest would be computed and paid for the period after expiry of 60 days from the receipt of refund application till the date of actual refund of tax.

Q11. What is the Processing of refund applications filed by Canteen Stores Department?
Ans. The Canteen Stores Department (the CSD), under the Ministry of Defence, as a person who shall be entitled to claim a refund of 50 % of the applicable IGST/CGST paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD in terms of Notifications No. 6/2017-Central Tax (Rate), No. 6/2017-Integrated Tax (Rate) both all dated 28.06.2017.
In this regard, Central Government vide Circular No. 60/34/2018-GST dated 4.09.2018 has provided a manner and procedure for filing and processing of refund claims by CSD which is explained as below:

1. <u>Invoice-based refund:</u> It is clarified that the instant refund to be granted to the CSD is not for the accumulated input tax credit, but refund based on the invoices of the inward supplies of goods received by them.
2. <u>Manual filing of claims on a quarterly basis:</u> the CSD are required to apply for refund on a quarterly basis the CSD shall apply for refund by filing an application in FORM GST RFD-10A manually to the jurisdictional tax office which shall be accompanied with prescribed documents

3. Processing and sanction of the refund claim : Upon receipt of the complete application in FORM GST RFD-10A, an acknowledgement shall be issued manually within 15 days of the receipt of the application in FORM GST RFD-02 by the proper officer. In case of any deficiencies in the requisite documentary evidences the same shall be communicated to the CSD by issuing a deficiency memo manually in FORM GST RFD-03.
4. The proper officer may scrutinize:
   - The details contained in FORM RFD-10A, FORM GSTR-3B and FORM GSTR-2A.
   - The proper officer should ensure that the amount of refund sanctioned is 50 % of the taxes paid on the supplies received by CSD.
5. Sanctioning of Refund: The proper officer shall issue the refund sanction/rejection order manually in FORM GST RFD-06 along with the payment advice manually in FORM GST RFD-05 for each tax head separately.

Further, it is clarified that the CSD will apply for refund with the jurisdictional Central tax/State tax authority to whom the CSD has been assigned. However, the payment of the sanctioned refund amount in relation to central tax / integrated tax shall be made by the Central tax authority while payment of the sanctioned refund amount in relation to State Tax / Union Territory Tax shall be made by the State tax/Union Territory tax authority.

Q12. My smart Ltd. furnishes following information. Please compute maximum refund eligible on account of inverted duty structure:

| | |
|---|---|
| ITC availed on inputs | 3,60,000 |
| ITC availed on inputs services | 36,000 |
| ITC availed on capital goods | 2,00,000 |
| Turnover of inverted rated supply of goods (taxable @ 5%) | 30,00,000 |
| Turnover of inverted rated supply of services (taxable @ 5%)<br>Note:- included in turnover of other supplies of goods & services i.e. Rs. 15,00,000 | 3,00,000 |
| Turnover of other supplies of goods and services (including exempt supplies Rs. 5,00,000) | 15,00,000 |

Ans.

| | |
|---|---|
| Net ITC i.e. ITC availed on Inputs | 3,60,000 |
| Turnover of inverted rated supply of goods & services (30,00,000+3,00,000) | 33,00,000 |
| Total Adjusted Turnover {30,00,000+15,00,000-5,00,000} | 40,00,000 |
| Tax paid on inverted rated supply of goods & services (33,00,000*5%) | 1,65,000 |
| Maximum Refund {33,00,000 x 3,60,000÷ 40,00,000} – 1,65,000 | 1,32,000 |

Q13. ABC Ltd. is a registered taxable company having registered office at Hyderabad, engaged in providing consultancy service to its client in India and outside India. It is exporting services without payment of IGST under LUT. The company after adjusting all the taxable liability for the period September 2017 to March 2018, claim excess ITC as refund from the department. The following are the information provided by the company, for calculating amount of ITC eligible for refund (all amount in INR)

| Sr. No. | Particular | Turnover | Taxable @ 18% on outward supply | Inward Supply | Tax @ 18% on inward supply |
|---|---|---|---|---|---|
| 1. | Domestic Outward Supply | 1000 | 180 | 1250 | 225 |
| 2. | Export (Zero rated supply) | 500 | | | |
| 3. | Exempt Supply | 250 | | - | - |
| | Total | 1750 | 180 | 1250 | 225 |

Additional information:-

| Sr. No. | Other Inward Supplies | Value | Tax @ 18% on inward supply |
|---|---|---|---|
| 1. | Consultancy Services | 100 | 18 |

| | | | |
|---|---|---|---|
| 2. | Rent | 250 | 45 |
| 3. | Food Items (assume 18%) | 200 | 36 |
| 4. | Cleaning Services | 50 | 9 |
| | Total | 600 | 108 |

Note: Impact of Rules 42 & 43 is ignored for simplicity.

Ans.

| Particular | Amount | Total |
|---|---|---|
| Turnover for zero rated supply | 500 | 500 |
| Adjusted total turnover | | |
| Total Turnover | 1750 | |
| Less: Exempt Supply | 250 | 1500 |
| Input Tax Credit | | |
| Inward input tax credit | 225 | |
| Add: Total common input tax credit | 108 | |
| Less: Blocked credit [U/s 17 (5)] | 36 | |
| Less: Outward Tax | 180 | 117 |

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷Adjusted Total Turnover

Refund Amount = 500/1500*117 = 39 i.e. Rs. 39

Q14. XYZ Ltd. is a registered manufacturing company at Kochi, indulged in the business of processing of woven fabrics which is taxable @ 5%. The inputs used for making such product are taxable @ 12%. The company wants to determine the ITC eligible for refund.

Following are the information provided by the company during the period January to March 2019:

| Sr. No. | Particular | Amount | Tax Amount |
|---|---|---|---|
| 1. | Raw materials used (inward supply) @ 12% | 100 | 12 |
| 2. | Woven fabrics (outward supply) @ 5% | 150 | 7.5 |
| 3. | Consultancy service @ 18% (other inward supply) | 10 | 1.8 |

Ans.

Maximum Refund Amount = {(Turnover of inverted rated supply of goods & Services) x Net ITC ÷ Adjusted Total Turnover} – tax payable on such inverted rated supply of goods & services

Maximum Refund Amount= {150*12/150)/150}-7.5 = Rs. 4.5

Note:- No refund permissible for accumulated credit on input services i.e. Rs. 10

Q15. What are the cases under which refund of unutilized input tax credit shall not be allowed?

Ans. As per first proviso to Sec. 54 (3), no refund of unutilized ITC shall be allowed except in following cases:

a. Zero rated supplies made without payment of tax, or
b. Credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than Nil rated or exempt supplies). However, such refund should not relate to supply of goods or services or both as may be notified by the government on recommendation of GST council.

Thus, except the above two exceptions, refund of unutilized credit will not be allowed.

Q16. Whether refund of unutilized ITC can be allowed in case where export of goods is subject to export duty?

Ans. As per second proviso to Sec. 54 (3), no such refund will be allowed in case goods exported out of India are subject to levy of export duty.

Q17. Whether refund of unutilized ITC can be allowed in case where exporter of goods or services claims drawback or refund of taxes paid on such supplies?

Ans. The export of goods has to be free from the effect of any taxes. It is important to note that refund of unutilized credit is only one of the methods to free export transactions from the burden of taxes. The other 2 methods are drawback of taxes or refund of taxes paid on such supplies. As per second proviso to sec. 54 (3), refund of input taxes shall not have allowed in case supplier of goods or services avail drawback of central taxes or claims refund of IGST paid on such supplies.

Q18. In case of rejection of refund application, what would happen to the amount debited from Input Tax Ledger?
Ans. As provided in rule 93 (2), in case of rejection of refund application wholly or partly, the amount of claim rejected will be re-credited in the electronic ledger of the applicant.
Example: A Ltd. made an application of refund of unutilized ITC amounting to Rs. 7 Lacs. A Ltd. reduced the balance of Rs. 7 lacs from their electronic credit ledger. The proper officer was not satisfied with claim of Rs. 2 Lacs. He approved the claim of Rs. 5 lacs and rejected the claim of Rs. 2 lacs. Rs. 5 lacs will be credited to the bank account of A Ltd and Rs. 2 lacs will be re-credited to electronic credit ledger of A Ltd.

Q19. ABC Ltd., filed an application for refund of tax amounting Rs. 9,00,000 on 1st Nov''17. The refund was granted on 25th Jan'17. Compute the interest payable?
Ans. Interest is payable after 60 days which is completing on 31st Dec'17 (60 days from 1st Nov'17). So, interest is payable for 25 days @ 6% i.e. Rs. 9,00,000 * 6% * 25/365 = Rs. 3,698

Q20. Mr. A has opted for Export against LUT / Bond without payment of taxes. LUT/ Bond issued by the Jurisdictional Officer is valid till 31st March 2018. He has exported goods against such LUT / Bond till December 2017. Can he start to export goods against payment of IGST from January 2018?
Ans. Yes, even though validity of LUT / Bonds is till 31st March 2018, Mr. A can start exporting goods against payment of IGST from January, 2018.

Q21. Mr. A is supplying goods to SEZ Unit. Whether he has to charge IGST on supply of goods?
Ans. As per the provision of section 16 of IGST Act, 2017, Supply to SEZ Unit are Zero Rated Supplies. Therefore, in such case Mr. A can either supply goods against payment of IGST (which can be claimed as refund) or he can supply goods without payment of IGST (against LUT /Bond).

Q22. A person had submitted Bank Guarantee for Issue of Bond for export of goods without payment of tax. He was granted Bond with a validity period upto 31st March 2018. However, in view of Notification No. 37/2017 – Central Tax dated 4th October 2017, he wants to submit Letter of Undertaking and get the bond released which was submitted earlier. Can he do so.
Ans. Yes, he can submit a Letter of Undertaking as per the guidelines issued vide Notification No. 37/2017 – Central Tax dated 4th October 2017 and get the bond submitted earlier released.

Q23. Can goods be sold to EOU without payment of GST as was being done prior to implementation of GST?
Ans. No, goods cannot be supplied to EOU without payment of taxes, however, as per Notification No. 48/2017 – Central Tax Dated 18th October 2017, domestic supplies to holder of Advance Authorization / EPCG and EOUs would be treated as deemed exports under section 147 of CGST / SGST Act and refund of tax paid on such supplies can be claimed by the supplier.
Following supplies have been treated as deemed exports under section 147 of the CGST Act:

| Sr. No. | Description of supply |
|---|---|
| i. | Supply of goods by a registered person against Advance Authorisation<br>Provided that goods so supplied, when exports have already been made after availing input tax credit on inputs used in manufacture of such exports, shall be used in manufacture and supply of taxable goods (other than nil rated or fully exempted goods) and a certificate to this effect from a chartered accountant is submitted to the |

| | |
|---|---|
| | jurisdictional commissioner of GST or any other officer authorised by him within 6 months of such supply,; Provided further that no such certificate shall be required if input tax credit has not been availed on inputs used in manufacture of export goods. |
| ii. | Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization. |
| iii. | Supply of goods by a registered person to Export Oriented Unit |
| iv. | Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017 – Customs, Dated the 30th June, 2017, (as amended) against Advance Authorization. |

Explanation – For the purposes of this notification, -
"Advance Authorization" means an authorization issued by the Director General of Foreign Trade under Chapter 4 of the Foreign Trade Policy 2015 – 20 for import or domestic procurement of inputs on pre – import basis for physical exports.
Export Promotion Capital Goods Authorization means an authorization issued by the Director General of Foreign Trade under Chapter 5 of the Foreign Trade Policy 2015 – 20 for import of capital goods for physical exports.
"Export Oriented Unit" means an Export Oriented Unit or Electronic Hardware Technology Park Unit or Software Technology Par Unit or Bio – Technology Par Unit approved in accordance with the provisions of Chapter 6 of the Foreign Trade Policy 2015 – 20.

Q24. Will unutilized ITC at the end of the financial year (after introduction of GST) be refunded?
Ans. There is no such provision to allow refund of such unutilized ITC at the end of the financial year in the GST Law. It shall be carried forward to the next financial year.

Q25. Are SEZ Units liable to pay taxes on their inward supplies? Who will be eligible for refund of taxes paid on supplies to SEZ?
Ans. No. SEZ units shall not be charged with taxes for supplies made to them.
In respect of supplies to a SEZ unit or a SEZ developer, the application for refund shall be filed by the –
(a) supplier of goods after such goods have been admitted in full in the SEZ for authorised operations,
(b) supplier of services along with such evidence regarding receipt of services for authorised operations; as endorsed by the specified officer of the Zone.

Q26. Can the refund of balance in cash ledger be claimed?
Ans. Yes, as per provisions of Section 49(6), the balance of cash ledger after payment of tax, interest, penalty, fee or any other amount payment refund can be claimed as per provisions of Section 54. Once the refund is claimed, the amount of credit of CGST/SGST/ IGST (as the case may be) would be reduced to that extent.

Q27. Whether separate applications need to be filed for refund in case of export of goods and export of services?
Ans. Yes, there shall be separate application and different procedure for refund of export of goods and export of services.

Q28. Who can file an application for refund in case of deemed export?
Ans. In terms of third proviso to Rule 89 inserted vide Notification No. 47/2017 – Central Tax dated 10.10.2017, application for refund in case of deemed export can be filed by:
(a) the recipient of deemed export supplies; or
(b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund

# Chapter 16: - Job Work

This chapter includes "13 Q & A" of GST main book.

## ICAI Test your knowledge

Q1. Under what circumstances can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?

Ans. The goods can be supplied directly from the place of business of job worker without declaring it as additional place of business in two circumstances namely where the job worker is a registered taxable person or where the principal is engaged in supply of such goods as may be notified by the Commissioner.

Q2. What happens when the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period?

Ans. If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it would be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out by the principal (or on the date of receipt by the job worker where the inputs or capital goods were sent directly to the place of business of job worker). Thus the principal would be liable to pay tax accordingly.

Q3. Who is responsible for the maintenance of proper accounts related to job work?

Ans. It is completely the responsibility of the principal to maintain proper accounts of job work related inputs and capital goods.

Q4. Genie Engineers had a mould delivered directly to a job worker from the supplier for making certain precision parts for use in the factory of Genie Engineers. As per agreement, the mould was to remain with the job worker as long as work was being sent to him.

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

Ans. Genie Engineers should reply on the following lines:

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

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

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

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

## Questions from GST Main Book / Other Questions

Q5. Whether the goods of principal directly supplied from the job worker's premises will be included in the aggregate turnover of the job worker?

Ans. No. It will be included in the aggregate turnover of the principal. However, the value of goods or services used by the job worker for carrying out the job work will be included in the value of services supplied by the job worker.

# Additional Questions & Answers

## These are apart from Examples in main book

Q6. What are the conditions prescribed in respect of inputs and capital goods sent for job work?

Ans. The conditions prescribed in respect of inputs and capital goods sent for job work are set out in Rule 45 of the CGST Rules, 2017 as under:

(a) The inputs, semi-finished goods or capital goods are to be sent to the job worker under the cover of a challan issued by the principal including cases where the inputs, semi-finished goods or capital goods are sent directly to job worker;
[and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:
Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:
Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.]

(b) The challan issued by the principal should contain the details as specified in Rule 55 of the CGST Rules, 2017

(c) The details of challan in respect of goods dispatched to/ received from a job worker or sent from one job worker to another during a quarter shall be included in Form GST ITC-04 furnished for that period on or before the 25th day of the month succeeding the said quarter or within such further period as may be extended by the Commissioner by a notification in this behalf.

(d) If the inputs/ capital goods are not returned within the 1 year/ 3 years, respectively, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in Form GSTR-1. Further, the principal shall be liable to pay the tax along with applicable interest.

Q7. Bedi Manufacturers, a registered person, instructs its supplier to send the capital goods directly to Rajesh Enterprises, who is a job worker, outside its factory premises for carrying out certain operations on the goods. The goods were sent by the supplier on 10-04-2018 and were received by the job worker on 15-04-2018. Rajesh Enterprises carried out the job work, but did not return the capital goods to their principal - Bedi Manufacturers. Discuss whether Bedi Manufacturers are eligible to retain the input tax credit availed by them on the capital goods. What action under the GST Act is required to be taken by Bedi Manufacturers.
What would be your answer if in place of capital goods, jigs and fixtures are supplied to the job worker and the same has not been returned to the principal? (CA Final Nov 2018 Old)

Ans. As per section 19(5) of the CGST Act, 2017, the principal is entitled to take input tax credit of capital goods sent for job work even if the said goods are directly sent to job worker.
Further, section 19(6) of the CGST Act, 2017 stipulates that where the capital goods sent directly to a job worker are not received back by the principal within a period of 3 years of the date of receipt of capital goods by the job worker, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were received by the job worker.
In view of aforementioned provisions, Bedi Manufacturers are eligible to retain the input tax credit availed by them on the capital goods.
However, if the capital goods are not returned by Rajesh Enterprises within 3 years from 15.04.2018 (date of receipt of capital goods by job worker), it shall be deemed that such capital goods had been supplied by Bedi Manufacturers to Rajesh Enterprises on 15.04.2018 and Bedi Manufacturers shall be liable to pay the tax along with applicable interest.
However, there is no time limit for return of moulds and dies, jigs and fixtures or tools sent out to a job worker for job work [Section 19(7) of the CGST Act, 2017.
However, if Rajesh Enterprises does not return the jigs and fixtures to Bedi Manufacturers, it shall not be considered as a supply of jigs and fixtures to Rajesh Enterprises by Bedi Manufacturers. In this case also, Bedi Manufacturers will be eligible to retain the input tax credit availed by them.

Q8. ABC Ltd. sends the goods to XYZ & Co. for making finished goods on 30-08-2017. What are the tax implications, in the following cases if GST @ 18% is levied:

i. XYZ & Co. sends the goods back to ABC Ltd. within one year of being sent.
ii. XYZ & Co. sells the goods directly to the customer on behalf of ABC Ltd.

Ans. As per Section 143 of CGST Act 2017, supply of goods to a job worker without payment of tax is permissible upon an intimation. In the given example, the implications are as follows:

- On supply of goods to XYZ & Co., as per the section 143 of CGST Act 2017, no tax shall be payable on supply of goods to XYZ & Co., However, the tax will be payable if finished goods is not returned before one year from 30-08-2017.
- XYZ & Co. sends the finished goods back to ABC Ltd.: As per the act, there is no tax liability on returning of goods back to the principal i.e. ABC Ltd. within a period of one year. Hence, post completion of Job work, no tax is leviable on finished goods returned to ABC Ltd.
- XYZ & Co. sells the finished goods on behalf of ABC Ltd.: Section 143 also allows the job worker to directly sell the goods on behalf of principal, wherein the liability to pay tax is of the principal and not the job worker. ABC Ltd. is liable to pay GST on sale of finished goods to customer by XYZ & Co.
  However, ABC Ltd. must declare the premises of XYZ & Co., as 'additional place of business' and the sale of finished goods will form part of aggregate turnover of ABC Ltd. Such a declaration is not required in case where:
  i. Job worker is registered under section 25; or
  ii. Principal is engaged in supply of notified goods.

Q9. ABC Ltd. sends the goods (inputs) to XYZ & Co. for further processing on 30-08-2017. The value of goods sent for Job work is Rs. 2,00,000. What are the tax implications, in following cases, if GST @ 18% is levied:

(i) XYZ & Co. sends the processed goods back to ABC Ltd on 30-11-2017
(ii) XYZ & Co. sends the processed goods back to ABC Ltd on 30-10-2018.

Ans. XYZ & Co. sends the processed goods back to ABC Ltd. on 30-11-2017: As per Section 143 of the Act, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from principal to Job worker as on 30-08-2017 and subject to tax along with interest.

(i) In the present case, as the inputs are received back on 30-11-2017 i.e. before completion of one year, and hence no tax is payable.
(ii) XYZ & Co. sends the processed goods back to ABC Ltd. on 30-10-2018: In the present case, the goods are received after the period of one year and hence, ABC Ltd. needs to pay the tax along with the interest on the supply made by him to XYZ & Co. Hence, ABC Ltd. need to pay Rs. 18,000 (CGST) and Rs. 18,000 (SGST) along with specified interest.

Q10. ABC Ltd. sends the machinery to XYZ & Co. for fixing of some technical issue and maintenance on 15.8.2017.
The value of goods sent to XYZ & Co. is Rs. 2,00,000. What are the tax implications, in the following cases:

(i) XYZ & Co. sends the machinery back to ABC Ltd. on 30.12.2018.
(ii) XYZ & Co. sends the machinery back to ABC Ltd. on 30.09.2020.

Ans. In the given example the implications are as follows:

(i) XYZ & Co. sends the machinery back to ABC Ltd. on 30.12.2018: As per Section 143 of the Act, Principal can remove the goods without payment of tax and take input tax credit provided capital goods sent for job work are returned back within 3 years of removal. Otherwise, it shall be treated as supply from principal to job worker as on 15.8.2017 and subject to tax along with interest.
In the present case, as the machinery is received back on 30.12.2018 i.e. before completion of 3 years, and hence no tax is payable.

(ii) XYZ & Co. sends the machinery back to ABC Ltd. on 30.9.2020: In present case, the machinery is received after the period of three years and hence ABC Ltd. needs to pay tax taken along with the interest. ABC Ltd. needs to pay Rs. 18,000 (CGST) and Rs. 18,000 (SGST) along with specified interest.

Q11. Are transactions of repair included in job work?
Ans. The activity of carrying out repairs on goods will get covered on job work and thus would be covered by provisions of section 143.

Q12. Whether job worker has to be a different person or can some other unit of principal can also become job worker?
Ans. Job worker has been defined to mean undertaking of treatment or process by a person on the goods belonging to another registered taxable person. In view of the fact that another unit of the same person has been categorized as a distinct person. As a distinct person, it has got all the obligations as are applicable to separately registered person, it can be concluded that even if the job worker happens to be another unit of the same person, it would be covered by provisions of sec 143 of the GST Act.

Q13. What would happen in case job worked goods are not received back by the principal within a period of one year?
Ans. In case job worked goods are not received back by the principal within one year of their being sent for job work, it shall be deemed that such goods were supplied by the job worker on the day when these goods were sent out and the principal is required to pay GST on the goods so sent for job work along with interest at the appropriate rate.

Q14. Can goods be sent by the principal for further job work from one job to another job worker?
Ans. Yes, inputs/capital goods can be sent for further job work from one job worker to another job worker. However, time limit of one year/three year to bring back inputs/capital goods after completion of job work, would be counted from the date when they were first sent for job work.

Q15. If job worker purchased additional material and incorporate the same in the goods received from the principal amount to supply?
Ans. Yes, it amounts to supply in the hands of the job worker as composite supply or otherwise.

Q16. Can a job worker take input credit on the inputs used in the process of job work?
Ans. Yes, the job worker is eligible to claim input tax credit since the processing charges received in respect of labour charges and the supply of additional goods added is taxable in the hands of the job worker.

Q17. If the job-worker subsequently registers, should the principal amend his registration by cancelling the job-workers premises as his additional place of business?
Ans. Yes.

Q18. Whether intermediate goods can also be sent for job work?
Ans. Yes. The term inputs, for the purpose of job work, includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or job worker.

# Chapter 17: - Assessment & Audit

This chapter includes "17 Q & A" of GST main book. Do refer "2 examples" in GST main book.

## ICAI Test your knowledge

Q1. Is summary assessment order to be necessarily passed against the taxable person?

Ans. No. In certain cases, like when goods are under transportation or are stored in a warehouse, and the taxable person in respect of such goods cannot be ascertained, the person in charge of such goods shall be deemed to be the taxable person and will be assessed to tax.

Q2. Whether principal of natural justice is must to be followed before passing assessment order against the taxable person?

Ans. Yes, principal of natural justice is must to be followed before passing assessment order against the taxable person seeking to impose any financial burden on him.

Q3. In what cases, assessment order passed by proper officer may be withdrawn?

Ans. Assessment Order passed by proper officer may be withdrawn in the following cases:-

i. Assessment of Non-filers of return – The best judgment order passed by the Proper Officer under section 62 of CGST Act shall automatically stand withdrawn if the taxable person furnishes a valid return for the default period (i.e. files the return and pays the tax as assessed by him), within thirty days of the receipt of the best judgment assessment order
ii. Summary Assessment – A taxable person against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/Joint Commissioner within thirty days of the date of receipt of the order. If the said officer finds the order erroneous, he can withdraw it and direct the proper officer to carry out determination of tax liability in terms of section 73 or 74 of CGST Act. The Additional/Joint Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

Q4. What recourse may be taken by the officer in case proper explanation is not furnished for the discrepancy detected in the return filed, while conducting scrutiny under section 61 of CGST ACT?

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

(a) Proceed to conduct audit under section 65 of the Act;
(b) Direct the conduct of a special audit under section 66 which is to be conducted by a Chartered Accountant or a Cost Accountant nominated for this purpose by the Commissioner; or
(c) Undertake procedures of inspection, search and seizure under section 67 of the Act; or
(d) Initiate proceeding for determination of tax and other dues under Section 73 or 74 of the Act.

Q5. Who can conduct audit of taxpayers?

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

(a) Audit by Chartered Accountant or a Cost Accountant: Every registered person whose turnover exceeds the prescribed limit, shall get his accounts audited by a chartered accountant or a cost accountant.
    Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.
    (Section 35(5) of the CGST Act)
(b) Audit by Department: The Commissioner or any officer of CGST or SGST or UTGST authorized by him by a general or specific order, may conduct audit of any registered person.

The frequency and manner of audit will be prescribed in due course. (Section 65 of the CGST Act)

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

## Questions from GST Main Book / Other Questions

Q6. How is the assessment made if the taxable person is not able to determine the value of goods and/or services or determine the rate of tax?

Ans. Where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him. [(Section 60(1)]

Q7. Whether Self-Assessment and provisional assessment are mutually exclusive?

Ans. Yes, if the taxable person opts for self-assessment, he cannot opt for provisional assessment for the same period for same supply. However, he can opt for provisional assessment if he is unable to determine taxable value / tax liability/ (rate of tax) for any subsequent periods.

Q8. What conditions needs to be satisfied by a taxable person for assessment of taxes on provisional basis?

Ans. The proper officer may allow for payment of tax on provisional basis subject to execution of bond in prescribed form along with surety / security as the proper officer may deem fit binding the taxable person for differential tax, if any. [Section 60 (2)]

Q9. What is the time limit for passing final assessment order in case of provisional assessment?

Ans. Section 60 (3) of the CGST Act 2017 provides that the proper officer shall, within a period of six months from the date of communication of the provisional assessment order U/s 60 (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment. However, the time limit of six months can be further extended on sufficient cause being shown and for reasons to be recorded in writing in the following manner:

(a) by the Joint / Additional Commissioner for a further period of six months;
(b) by the Commissioner for such further period not exceeding four years.

Q10. What does scrutiny of returns mean under CGST Act, 2017?

Ans. The CGST Act, 2017 empowers proper officer to scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in a manner as may be prescribed. In case of any discrepancies, the proper officer should seek explanation from registered person. On receipt of satisfactory explanation, the proper officer is not required to take any further action. [Section 61 (1) &(2)]
In the event, after accepting the discrepancies, no satisfactory explanation is furnished within a period of thirty days or such further extended time. If the taxable person fails to take the corrective measures in the return for the month in which discrepancy is accepted, the proper officer may initiate audit under Section 65 or special audit under Section 66 or inspection, search and seizure under Section 67 or proceed to determine the tax and other dues under Section 73 or Section 74.

Q11. Whether, the CGST Act, 2017 provides for assessment in case of registered taxable person who does not furnish returns under Section 39 and 45?
Ans. In terms of Section 62(1) of the CGST Act, 2017, the proper officer is empowered to assess the tax liability on such registered taxable person to the best of his judgment taking into account all the relevant materials which is available, or which is gathered and issue an assessment order in FORM GST ASMT-13 within a period of five years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates. (Section 62(1) read with Rule 100 (1) of the CGST Rules)

Q12. Whether the registered person will get immunity from interest & late fee leviable if assessment order passed under Section 60(1) is withdrawn?
Ans. No, registered person will still be liable for interest under section 50(1) and late fee under Section 47 of CGST Act. {U/s 60 (2)}

Q13. What is the Time limit for passing the assessment order on the unregistered person?
Ans. The proper officer, in relation to assessment of taxes on the unregistered taxable person, shall issue the assessment order in FORM GST ASMT-15 within 5 years from the date specified under Section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Q14. Please clarify below related to summary assessment U/s 64 of CGST Act, 2017:-

a) Whether proper officer can proceed suo-moto to assess the tax liability of any person on possession of relevant evidence?
b) Whether the summary assessment can be initiated based on mere change in opinion of proper officer?
c) Whether summary assessment can only be initiated on previously filed return (u/s 34 and u/s 40)?
d) Whether the Additional / Joint Commissioner can withdraw the summary assessment order only on application by the taxable person?

Ans.

a) No, the proper officer has to obtain prior permission of Additional/Joint Commissioner to proceed to assess the tax liability.
b) No, mere change in opinion cannot be treated as evidence for initiation of summary assessment.
c) Summary assessment can be initiated on any taxable person. Submission of return u/s 39 and u/s 45 is not prerequisite.
d) The Additional / Joint Commissioner can, on his own motion may withdraw the summary assessment order in the event such order is erroneous and thereafter may follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, willful mis-statement etc., or otherwise.

Q15. What is the remedy available to the taxable person if the order passed U/s 64 is erroneous?
Ans. On an application made in FORM GST ASMT–17 within 30 days by taxable person from the date of receipt of order passed summary assessment order the Additional/Joint Commissioner may withdraw such order and follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, willful mis-statement etc., or otherwise. {U/s 64 (2)}

Q16. What is the scope of audit U/s 65?
Ans. In an audit, examination is done:
(a) to verify the correctness of
1. Turnover declared
2. Taxes paid

3. Refund claimed and
4. Input Tax credit availed

(b) to assess the compliance with the provisions of this Act or rules made thereunder.

Q17. Whether audit by officer can be done for a person other than registered person U/s 65?
Ans. Audit by officer cannot be ordered for a person who is not registered even if he is required to be registered as per the provisions of the law. [S. 65(1)]

Q18. What shall be the period and frequency of audit U/s 65?
Ans. The period of audit to be conducted, shall be a financial year or part thereof or multiple thereof. [R.101 (1)].

Q19. What process of audit is required to be followed by the officer in case audit is conducted U/s 65?
Ans. Following process is to be followed for conduct of audit by officer:

1. Proper Officer shall verify the documents, correctness of turnover, exemptions and deductions claimed, the rate of tax applied, input tax credit availed and utilized and refund claimed. [R.101(3)]
2. Proper Officer shall record the observations in audit notes. [R. 101(3)]
3. Proper Officer may inform discrepancies noticed during audit to registered person [R.101(4)]
4. Registered Person shall reply to discrepancies [R. 101(4)]
5. Proper officer shall finalize findings of audit only after due consideration of reply [R. 101(4)]
6. On the conclusion of audit, Proper Officer shall inform the Registered Person whose records are audited about the:
    - findings
    - reasons for findings,
    - assessee's rights and obligations. [S. 65(6)]
7. Information of findings, reasons, right and obligations shall be made within 30 days (in FORM GST ADT-02) [S. 65(6)]

Q20. What action will be initiated when the audit conducted u/s 65(1) results in a demand?
Ans. Where the audit u/s 65(1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the proper officer may initiate action under Section 73 or Section 74.

Q21. At what stage the directions of special audit can be given?
Ans. At any stage of scrutiny, inquiry, investigation or any other proceedings, having regard to the nature and complexity of the case and interest of revenue, a direction to Registered Person to get its accounts examined and audited can be given [S.66(1)]

Q22. Whether already audited accounts are also covered by special audit?
Ans. Special Audit may be directed even if accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.[S.66(3)]

Q23. How to deal with detection of short paid taxes as a result of special audit?
Ans. Where audit results in detection of tax not paid/short paid /erroneous paid or ITC wrongly availed or utilized, Proper Officer may initiate action u/s 73 or 74 [S.66(6)]

Q24. Whether the phrase "nature and complexity of the case" is defined in the Act?
Ans. No, Section 66 does not define the phrase "nature and complexity of the case'. However, there is enough jurisprudence under the Income Tax Laws to determine what will constitute complexity of the case.

Q25. Divy Trader obtained permission for provisional assessment and supplied three consignments of furniture on 28th April, 2018. The tax payment on provisional basis was made in respect of all the three consignments on 20th May, 2018.
Consequent to the final assessment order passed by the Assistant Commissioner on 21st June, 2018, a tax of Rs. 1,20,000 and Rs. 1,50,000 became refundable on 1st and 3rd consignments, whereas a tax of Rs. 1,20,000 became due on 2nd consignment. Divy Trader applies for the refund of the tax on 1st and 3rd consignments on 12th July, 2018 and pays the tax due on 2nd consignment on the same day. Tax was actually refunded to it of 1st consignment on 8th September, 2018, whereas of 3rd consignment on 18th September, 2018. Customers of Divy Trader who purchased the consignments have not taken Input Tax Credit (ITC).
Determine the interest payable and receivable, if any, under CGST Act, 2017 by Divy Trader.
(CA Final Nov 2018- New Syllabus)

Ans. Where tax becomes due consequent to order of final assessment, interest is payable @ 18% p.a., from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before/after the issuance of order for final assessment.
In the given case, due date for payment of tax on goods cleared on 28.04.2018 under provisional assessment is 20.05.2018.
Thus, interest payable in respect of 2nd consignment
= Rs. 1,20,000 × 18% × 53 [21.05.2018 – 12.07.2018]/365 = Rs. 3,136 (rounded off)

Further, section 56 of CGST Act, 2017 provides that where tax becomes refundable consequent to the order of final assessment, interest is receivable @ 6% p.a. from the date immediately after the expiry of 60 days from the date of receipt of refund application till the date of refund of such tax.
In the given case, since refund of tax of 1st consignment has been paid on 08.09.2018 which is within 60 days from the date of receipt of application of refund (12.07.2018), interest is not receivable on tax refunded in respect of 1st consignment.
However, interest receivable in respect of 3rd consignment is as follows:
60 days from the date of receiving the refund application expire on 10.09.2018.
= Rs. 1,50,000 × 6% × 8 [11.09.2018-18.09.2018]/365 = Rs.197 (rounded off).

Q26. Can a person who has furnished a return on self-assessment basis make a request for provisional assessment?
Ans. For provisional assessment a request needs to be made to proper officer for filing return on provisional basis. In case the taxable person furnishes the return on self-assessment basis, he foregoes the right to make an application for permission to furnish return and pay tax on provisional basis.

Q27. Please provide brief summary on various assessments.
Ans.

| Section | Type of Assessment | Assessment by | Conditions precedent to assessment |
|---|---|---|---|
| 59 | Self-assessment | Taxable Person | Where registered taxable person assesses his tax liability himself. |
| 60 | Provisional assessment | Proper Officer | Where registered taxable person is unable to determine following:<br>• Value of supply, and/or<br>• Rate of applicable tax on supply |
| 61 | Scrutiny assessment | Proper Officer | Verifying the correctness of the return by scrutinizing the return and particulars furnished by taxable person. |

| | | | |
|---|---|---|---|
| 62 | Assessment of non-fliers of return (Best Judgement Assessment) | Proper Officer | Where the registered taxable person fails to furnish return U/s 39 or Sec. 45 even after service of notice U/s 46. |
| 63 | Assessment of unregistered person (Best judgment assessment) | Proper Officer | Where a taxable person fails to obtain registration, even though liable to do so. |
| 64 | Summary Assessment | Proper Officer | To protect the interest of revenue with previous permission of Additional/Joint Commissioner. |

Q28. Audit has to be completed within a stipulated period of three months (subject to extension) from the date of commencement. What is implied by date of commencement of audit?
Ans. 'Commencement of audit' shall imply that date on which the records and other documents, called for by the tax authorities, are made available by the taxable person or date of actual institution of audit at the place of business, whichever is later. The period of three months can be extended by six months for reasons to be recorded in writing.
Example:

| | |
|---|---|
| Date of which documents requested | 1st April 2017 |
| Date of which documents/recorded made available | 20th April 2017 |
| Date of actual institution of audit at auditee's placed | 5th May 2017 |
| The date of commencement of audit will be taken as | 5th May 2017 |
| Date by which audit should be completed in normal course | 4th Aug 2017 |
| Last date by which audit should be completed (including extended period) | 4th Feb 2018 |

Q29. What is the difference between the two audit Sec. 65 and Sec. 66?
Ans.

| Issue | Audit U/s 65 | Audit U/s 66 |
|---|---|---|
| Trigger Point | General audit; audit of business transaction, no specific reason to be cited | Nature & complexity of case, interest of revenue, incorrect value of supply or abnormal availment of credit |
| Nature of Audit | Departmental Audit | Special Audit |
| Conducted by | Officers of department authorized by commissioner | Chartered Accountant/cost accountant appointed by commissioner |
| Frequency | Discretionary | Discretionary |
| Prior notice to auditee | Yes, 15 days' notice is required | No such notice/intimation envisaged |
| Time for conclusion of audit | 3 months, further extension of 6 months allowed | 90 days, further extension of 90 days allowed |
| Audit findings report | To be intimated soon on completion of audit | Report to deputy/assistant commissioner |
| Audit expenses | Borne by department | Borne by department |
| Opportunity of being heard | No specific provision | Yes, where material gathered during audit is to be used in any proceedings against the auditee |
| Action based on report | If results in demand of tax, shall be recovered U/s 73 or 74 | If results in demand of tax, shall be recovered U/s 73 or 74 |

Q30. What would be the process of Scrutiny of Returns?
Ans. The proper officer would inform registered person of the discrepancies noticed during the course of scrutiny of returns. The proceedings would be dropped if the explanation submitted by the registered person is found acceptable. However, if no explanation is furnished within the stipulated

period by the registered person or no corrective action is taken by the registered person after accepting discrepancy, proper officer may initiate appropriate action against the registered person.

Q31. What are the consequences on conclusion of provisional assessment by way of passing final assessment order in so far as short/excess remittance of tax is concerned?

Ans. The consequences on concluding the provisional assessment by way of passing final assessment order would be as follows:

- Additional tax liability: In case of short remittance of taxes in terms of final assessment order, the additional tax liability, if any should be remitted along with interest at the rate prescribed U/s 50 (1) for delay in remittance of taxes viz., from the 1st day after the due date of remittance of taxes as prescribed U/s 39 (7) till the date of actual payment.
- Excess remittance of tax on provisional basis: In case of excess remittance of taxes in terms of final assessment order, the registered person is entitled to refund of such excess remittance in the manner as provided in Section 54 (8) along with interest as provided under Section 56.

Q32. Whether any time limit has been specified to issue notice for scrutiny?

Ans. No, the provisions relating to scrutiny assessments do not specify time limit for issuing notice for scrutiny of assessments.

Q33. Whether any reason to believe or evidence is required for initiate audit U/s 65?

Ans. No, Section 65 doesn't specify any such requirements. Commissioner can initiate audit on any taxable person for such period, at such frequency and in such manner as may be prescribed.

Q34. Is there any additional opportunity provided for taxable person to submit a return even after passing an assessment order under Section 62 (1)?

Ans. Yes, if the registered person furnishes a valid return within 30 days from the date of service of best judgement assessment order u/s 62 (1), the said assessment order shall be deemed to have been withdrawn.

# Additional Questions & Answers

These are apart from Examples in main book

# Chapter 18: - Inspection, Search, Seizure & Arrest

This chapter includes "10 Q & A" of GST main book.

## ICAI Test your knowledge

Q1. Who can order for carrying out "Inspection" and under what circumstances? Can any premises be inspected by CGST officers?

Ans. As per Section 67(1), Inspection can be carried out by any officer of Central tax only upon a written authorization in Form GST INS-01 given by a proper officer not below the rank of Joint Commissioner. Such proper officer can give such authorization only if he has reasons to believe that the person concerned has –

(a) suppressed any transaction of supply;
(b) suppressed stock of goods in hand;
(c) claimed excess input tax credit;
(d) contravened any provisions of this Act or rules made thereunder to evade tax;
(e) a transporter or an owner or operator of a warehouse or godown or any other place, has kept goods which have escaped payment of tax or has kept his accounts or goods in a manner that is likely to cause evasion of tax.

CGST officer authorized by the proper officer not below the rank of Joint Commissioner shall have the powers to carry out inspection of any of the following places / premises:

(a) any place of business of a taxable person;
(b) any place of business of a person engaged in the business of transporting goods;
(c) any place of business of an owner or an operator of a warehouse or godown;
(d) any other place

Q2. Who can order for search and seizure under the provisions of CGST Act?

Ans. Proper officer not below the rank of Joint Commissioner can himself or authorize any other CGST officer in FORM GST INS-01 (Chapter-XVII-Inspection, Search and Seizure of the CGST Rules) to carry out search and seize goods, documents, books or things. Such authorization can be given only where the proper officer has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted / hidden in any place.

Where any goods, documents, books or things are liable for seizure, the proper officer or an authorised officer shall make an order of seizure in FORM GST INS-02.

Q3. What powers can be exercised by an officer during valid search?

Ans. An officer carrying out a search has the power to search for and seize goods (which are liable to confiscation) and documents, books or things (relevant for any proceedings under the Act) from the premises searched. During search, the officer has the power to seal or break open the door of the any premises authorized to be searched if access to the same is denied. Similarly, while carrying out search within the premises, he can break open any almirah, electronic devices, box, receptacle if access to such almirah, electronic devices, box, receptacle is denied and in which any goods, account, registers or documents are suspected to be concealed.

Q4. What are the duties of the person to whom summons has been issued?

Ans. A person who is issued summon is legally bound to attend either in person or by an authorized representative and he is bound to state the truth before the officer who has issued the summon upon any subject, which is the subject matter of examination and to produce such documents and other things as may be required.

Q5. What is meant by the term "arrest"? When can the proper officer authorize 'arrest' of any person under CGST Act?

Ans. The term 'arrest' has not been defined in the GST Act. However, as per judicial pronouncements, it denotes 'the taking into custody of a person under some lawful command or authority'. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or colour of lawful warrant. The Commissioner of CGST, by order, can authorize any CGST officer to arrest a person, if he has reasons to believe that such person has committed an offence specified in clause (a) or (b) or (c) or (d) of section 132(1) which is punishable under clause (i) or (ii) of section 132(1) or section 132(2) of the Act. This essentially means that a person can be arrested only when the amount of tax evaded or the amount of input tax credit wrongly availed or utilized or the amount of refund wrongly taken exceeds Rs. 2 Crores or where a person has earlier been convicted for an offence under section 132 of the CGST Act.

## Questions from GST Main Book / Other Questions

Q6. What is the meaning of 'Inspection', 'Search' & 'Seizure'?

Ans.

| Inspection | Search | Seizure |
|---|---|---|
| It is a softer provision than search to enable officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner or an operator of a warehouse or godown. | The term 'search', in simple language, denotes an action of a government machinery to go, look through or examine carefully a place, area, person, object etc. in order to find something concealed or for the purpose of discovering evidence of a crime. The search of a person or vehicle or premises etc. can only be done under proper and valid authority of law. | In Law Lexicon Dictionary, 'seizure', is defined as the act of taking possession of property by an officer under legal process. It generally implies taking possession forcibly contrary to the wishes of the owner of the property or who has the possession and who was unwilling to part with the possession. |

Q7. Which are the places of business / premises which can be inspected by the CGST officer?

Ans. CGST officer authorized by the proper officer not below the rank of Joint Commissioner shall have the powers to carry out inspection of any of the following places / premises:

(a) any place of business of a taxable person;

(b) any place of business of a person engaged in the business of transporting goods;

(c) any place of business of an owner or an operator of a warehouse or godown or any other place;

Q8. Is it mandatory that such 'reasons to believe' has to be recorded in writing by the proper officer, before issuing authorization for Inspection or Search and Seizure?

Ans. Although the officer is not required to state the reasons for such belief before issuing an authorization for search, but he should disclose the material on which his belief was formed. 'Reason to believe' need not be recorded invariably in each case.

Q9. Is there any special document required to be carried during transportation of taxable goods?

Ans. Yes. The person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount to carry with him such documents and devices as may be prescribed by the Government. On interception of the conveyance, the person in charge shall produce the prescribed documents and devices for verification and allow inspection of goods by the proper officer. Rule 138A of the CGST Rules, 2017 provides for the following documents and devices to be carried:-

a) the invoice or bill of supply or delivery challan, as the case may be; and

b) copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

Q10. What is meant by term 'Arrest' and 'Cognizable & Non Cognizable Offence'?
Ans.

| Arrest | Cognizable Offence | Non Cognizable Offence |
|---|---|---|
| The term 'arrest' has not been defined in the CGST/SGST Act. However, as per judicial pronouncements, it denotes 'the taking into custody of a person under some lawful command or authority'. In other words, a person is said to be arrested when he is taken and restrained of his liberty by power or colour of lawful warrant. | Generally, cognizable offence means serious category of offences in respect of which a police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a Court. | Non-cognizable offence means an offence in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without the permission of a Court. |

Q11. What are the safeguards provided for a person who is placed under arrest?
Ans. The following are the safeguards provided for a person who is placed under arrest:

a) If a person is arrested for a cognizable offence, he must be informed in writing of the grounds of arrest and he must be produced before a Magistrate within 24 hours of his arrest;
b) If a person is arrested for a non-cognizable and bailable offence, the Deputy/ Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.
All arrest must be in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrest.

Q12. Can the proper officer access business premises of a registered taxable person?
Ans. Yes. An audit party of CGST, deputed by proper officer or a cost accountant or chartered accountant nominated under section 66 have access to any business premises without issuance of a search warrant for the purposes of revenue carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of. Further, in terms of Section 71(1), an officer authorised by a proper officer not below the rank of Joint Commissioner can also have access business premises of a registered person.

Q13. What is the distinction in law between 'Seizure' and 'Detention'?
Ans. Denial of access to the owner of the property or the person who possesses the property at a particular point of time by a legal order/notice is called detention. Seizure is taking over of actual possession of the goods by the department. Detention order is issued when it is suspected that the goods are liable to confiscation. Seizure can be made only on the reasonable belief which is arrived at after inquiry/investigation that the goods are liable to confiscation.

Q14. What is meant by the expression 'reason to believe'?
Ans. The expression, 'reason to believe' is not defined anywhere but needs to be understood through judicial interpretation, some of which are as follows:
In ITO v Lakhmani Mewal Das (1976) 103 ITR 437 (SC), it was held that the expression 'reason to believe' doesn't mean a purely subjective satisfaction on the part of the income-tax officer. The reason must be held in good faith. It cannot be merely a pretence.
In CIT v Kelvinator India Ltd. (2010) 320 ITR 562 (SC), it was held that there must be tangible material for the formation of the belief in the context of search.

As per Sec. 26 of IPC, a person is said to have reason to believe a thing, if he has sufficient cause to believe that thing, but not otherwise.

Q15. Will access to place of business premises U/s 71 also include unregistered premises?
Ans. Perhaps, yes. This provision facilitates access to a business premise which is not registered by a taxable person as a principal or additional place of business but has books of accounts, documents, computers etc. which are required for audit or verification of accounts of a taxable person.

Q16. Whether the list of documents/information is exhaustive and no other document can be inspected?
Ans. No, the list of documents is considered illustrative. Certain documents are specifically listed in this provision but if any other relevant records are maintained at the said premises, they may also be required to be produced.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 19: - Demands & Recovery

This chapter includes "33 Q & A" of GST main book. Do refer "6 examples" in GST main book.

### ICAI Test your knowledge

Q1. Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth Rs. 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76 of the CGST Act, 2017.

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

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

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

Q2. Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74 of the CGST Act, 2017.

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

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

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

Q3. Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017? If yes, discuss the same.

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

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

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

Q4. A person is chargeable with tax in case of fraud. He decides to pay the amount of demand alongwith interest before issue of notice. Is there any immunity available to such person?

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

Q5. Briefly discuss the modes of recovery of tax available to the proper officer.

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

(a) Deduction of dues from the amount owned by the tax authorities payable to such person.
(b) Recovery by way of detaining and selling any goods belonging to such person;
(c) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
(d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
(e) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
(f) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
(g) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
(h) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

## Questions from GST Main Book / Other Questions

Q6. What is the prescribed monetary limit for different levels of officers for issuance of show cause notices and orders under Section 73 and 74?

Ans. As per Circular No. 31/05/2018-GST dated 9.02.2018, the monetary limit prescribed for different levels of officers for issuance of show cause notices and orders under Section 73 and 74 is as below:

| Designation of Officer | Monetary limit of the amount of CGST (including cess) for issuance of show cause notices & orders u/s 73 & 74 of CGST | Monetary limit of the amount of IGST (including cess) for issuance of show cause notices & orders u/s 73 and 74 of CGST Act made applicable to IGST | Monetary limit of the amount of CGST and IGST (including cess) for issuance of show cause notices & orders u/s 73 and 74 of CGST Act made applicable to IGST |
|---|---|---|---|
| Superintendent | Up to Rs.10 lakhs | Up to Rs.20 lakhs | Up to Rs.20 lakhs |
| Deputy or Assistant Commissioner | Above Rs.10 lakhs up to Rs.1 crore | Above Rs.20 lakhs up to Rs.2 crore | Above Rs.20 lakhs up to Rs.2 crore |
| Additional or Joint Commissioner | Above Rs.1 Crore | Above Rs.2 Crore | Above Rs.2 Crore |

Q7. Please explain time limit for issue of notice U/s 73 & U/s 74 by giving example.

Ans. Under Section 73: Let say, in case Mr. A has not paid the tax on a transaction considering it to be exempt for the tax period of August 2017. The due date of filing annual return for which will be 31st December 2018. The proper officer may serve the notice at least three months prior to the last date of order of demand.

The order of demand shall be served within 3 years from 31st December 2018 i.e. 31st December 2021. Therefore, show cause notice shall be required to be served by 30th September, 2021.

Under Section 74: Let say, in case Mr. A has not paid the tax on a transaction for the tax period of August 2017. The due date of filing annual return for which will be 31st December 2018. The proper officer may serve the notice at least six months prior to the last date of order of demand

# Additional Questions & Answers

## These are apart from Examples in main book

The order of demand shall be served within 5 years from 31st December 2018 i.e. 31st December 2023. Therefore, show cause notice shall be required to be served by 30th June, 2023.

Q8. Whether proper officer can issue similar show cause notice for any periods other than those covered under section 73(1)?
Ans. Yes, it can be issued for subsequent periods on same grounds raised in the show cause notice. The proper officer may serve a statement under section 73(3) along with a summary electronically in Form GST DRC-02 containing details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized where the grounds relied upon by the proper officer for such periods are the same as are mentioned in the earlier notice issued under section 73(1). The service of such statement shall be deemed to be service of show cause notice on the person chargeable with tax.

Q9. Whether notice for a period of 5 years is valid even if charge of suppression, fraud and misstatement are not sustained?
Ans. No, when the allegations of fraud, suppression or misstatement are not established, the notice issued under section 74 would get covered under section 73 and 3 years' time would be applicable for date of issue of order.

Q10. What happens when the Notice issued under Section 74(1) is held not sustainable by any Appellate Authority or Tribunal or Court for the reason that the charges of fraud or any willful misstatement or suppression of facts to evade tax has not been established?
Ans. The proper officer shall determine the tax payable by such person deeming as if the Notice were issued under section 73(1).

Q11. What is the time limit for issue of order in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a Court?
Ans. The order shall be issued within 2 years from the date of communication of the said direction.

Q12. What happens in cases where Notice is issued but order has not been passed within 3 years (Section 73) or 5 years (Section 74)?
Ans. The adjudication proceedings shall be deemed to be concluded if the order is not issued within the limitation period of 3 years under section 73(10) or 5 years under section 74(10), as the case may be.

Q13. Is interest applicable in all cases, even if not specifically mentioned?
Ans. Yes, interest is applicable whenever the tax is payable whether or not it is specifically mentioned.

Q14. In case the person does not deposit tax collected in contravention of Section 76, is the same recoverable with interest?
Ans. Yes. In addition to the amount payable by him, the person is required to pay interest under Section 50 on the same from the date of collection of the amount till the date such amount is paid to the Government.

Q15. Is there any time limit for issue of notice under section 76 in cases where tax collected but not paid to Government?
Ans. No. Notice can be issued on detection of such cases without any time limit. Once show cause notice is issued, the proper officer shall pass the order within 1 year from the date of issue of such notice.

Q16. How is the amount of surplus left after adjustment with tax payable dealt with?

Ans. Where any surplus is left after the adjustment against the tax payable, the amount of such surplus shall either be credited to the Consumer Welfare Fund or, as the case may be, refunded to the person who has borne the incidence of such amount.

Q17. What happens if the tax demand is not paid within the time limit prescribed under section 78?
Ans. The proper officer shall initiate recovery proceedings if the tax demand is not paid within 3 months from the date of service of the order.

Q18. Whether the proper officer can require a taxable person to make payment of tax demand within shorter period lesser than 3 months?
Ans. Yes. If it is expedient in the interest of the revenue, the proper officer, after recording reasons in writing, may require taxable person to make such payment within shorter period as may be prescribed by him.

Q19. What are the methods of recovery as prescribed in Section 79?
Ans.

- Deduction out of any money owing to defaulter.
- By detaining and selling the goods belonging to defaulter.
- Recovery from any other person who owes money to defaulter.
- Collection by detention of any movable or immovable property.
- Recovery through District Collector.
- Recovery through Magistrate.

Q20. Whether proper officer can allow payment of self-assessed tax in instalments U/s 80?
Ans. No. The proper officer shall have the power to allow payment of any amount due under this Act in instalments on tax other than the self-assessed tax.

Q21. Under which proceedings the property of a taxable person can be provisional attached?
Ans. Provisional attachment shall be applicable for the following pending proceedings of a taxable person:

(a) Assessment of non-filers of returns. (Section 62)
(b) Assessment of unregistered persons. (Section 63)
(c) Summary assessment in certain special cases. (Section 64)
(d) Inspection, search and seizure. (Section 67)
(e) Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any wilful misstatement or suppression of facts. (Section 73)
(f) Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any wilful-misstatement or suppression of facts. (Section 74)

During the pendency of any proceedings under section 62, 63, 64, 67, 73 or 74, the Commissioner may pass an order in Form GST DRC-22 to attach any property including bank account belonging to a taxable person provisionally for the purpose of protecting the interest of the Government revenue.

Q22. Whether any amount payable by the taxable person under this Act is a first charge on his property?
Ans. Yes. As per section 82 of CGST Act 2017, notwithstanding anything to the contrary contained in any law for the time being force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, first charge shall be on –

a) the property of taxable person in respect of any amount payable by such taxable person, or
b) the property of any other person on account of tax, interest or penalty which he is liable to pay to the Government.

# Additional Questions & Answers

## These are apart from Examples in main book

Q23. In case of recovery of SGST/UTGST by CGST officer in the course of recovery of CGST, where the total amount recovered is Rs. 5 Crore whereas the amounts due were Rs. 5 Crores of CGST and Rs. 10 Crore of SGST/UTGST, to which account, the amount recovered would be allocated?
Ans. Rs. 5 Crores recovered will be allocated between Centre and State/Union Territory in the proportion of 1:2.

Q24. 'A' requested the Commissioner to provide the benefit to pay Rs. 5,00,000/- under installments. Commissioner directs 'A' to make the payment in five monthly installments. How to pay the interest?
Ans. It is assumed that the actual date on which the tax was required to be paid as 06.06.2015. Benefit of instalment was granted by Commissioner on 25.05.2016 to be paid w.e.f. 02.06.2016 onwards over 5 installments.

| Payment date | Interest to be paid as per section 45 – No of days | Amount on which interest to be paid |
|---|---|---|
| 1st Instalment – 02.06.2016 | 06.06.2015 to 01.06.2016 = 361 days | Rs. 100,000 |
| 2nd Instalment – 02.07.2016 | 06.06.2015 to 01.07.2016 = 391 days | Rs. 100,000 |
| 3rd Instalment – 02.08.2016 | 06.06.2015 to 01.08.2016 = 422 days | Rs. 100,000 |
| 4th Instalment - 02.09.2016 | 06.06.2015 to 01.09.2016 = 453 days | Rs. 100,000 |
| 5th Instalment – 02.10.2016 | 06.06.2015 to 01.10.2016 = 483 days | Rs. 100,000 |

Q25. Please provide comment for below with respect to provision U/s 81.

- Mr. Defrauder was served with a notice of demand for Rs. 20 Lakhs on 10th June 2018. He filed a reply for the said notice on 20th June 2018, stating that he was unable to deposit tax dues as he was financially stressed. On 15th June 2018, Mr. Defrauder transferred all the property worth Rs. 35 Lakhs under his name to the name of his wife for a consideration of Rs. 10,000/-. Is this act of Mr. Defrauder valid?
- In the above illustration, if transfer of property was for a consideration of Rs. 42 Lakhs to Mr. X who is unaware of the pending proceedings of Mr. Defrauder. The transfer took place on 15th June 2018. Is the act of Mr. Defrauder valid?
- On Mr. Perfect, notice was issued on 10th June 2018. However, the same was received by Mr. Perfect on 20th June, 2018. Meanwhile the property of Mr. Perfect was sold to Mr. Perfectionist for Rs. 35 lakhs. Is the sale void or valid?

Ans.

- As per section 81, the said transfer would be void and the property worth Rs. 35 Lakhs would be considered still to be in the hands of Mr. Defrauder.
- In this case the transaction would be a valid act, since the transfer was made for adequate consideration and also without notice of the pendency of proceeding.
- The sale is valid since on the date of sale there was no pending proceeding on Mr. Perfect.

Q26. How should the recovery proceedings of enhanced demand under an appeal, revision of application or other proceedings to be continued U/s 84?
Ans. In case of enhanced demand consequent to appeal, revision of application or other proceedings, then

- the Commissioner is required to issue fresh notice of demand only for enhance demand.
- If already recovery proceedings of Govt. dues is served on taxable person before disposal of appeal, revision of application or other proceedings, then the enhanced demand would be merged with the first recovery proceedings.

Q27. Checkernot has self-assessed tax liability under IGST Act, 2017, as Rs. 80,000. He fails to pay the tax within 30 days from the due date of payment of such tax.
Determine the interest and penalty payable by him explaining the provisions of law, with the following particulars available from his records:
Date of collection of tax 18th December, 2017

Date of payment of tax 26th February, 2018
No Show Cause Notice (SCN) has been issued to him so far, while he intends to discharge his liability, even before it is issued to him, on the assumption that no penalty is leviable on him as payment is made before issue of SCN. (CA Final May 2018 Old)

Ans. Due date for payment of tax collected on 18.12.2017 is 20.01.2018. However, since tax is actually paid on 26.02.2018, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with Notification No. 13/2017 CT dated 28.06.2017.

Amount of interest is: = Rs. 80,000 × 18% × 37/365 = Rs. 1,460 (rounded off)

As per section 73(11) of CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to
(i) 10% of tax, viz., Rs. 8,000 or
(ii) Rs. 10,000,
whichever is higher,
is payable in terms of section 73(9) of CGST Act, 2017. Therefore, penalty of Rs. 10,000 will have to be paid by Checkernot.

However, CBIC vide Circular No. 76/50/2018-GST dated 31-12-2018 has clarified that penalty U/s 73 (11) can be levied only when show cause notice is issued as per the provisions of Section 73 of the Act. No penalty in accordance with Section 73 (11) of the CGST Act should be levied in cases where the return in Form GSTR – 3B has been filed after the due date of filing such return. However, general penalty U/s 125 can be imposed in such cases.

New amendment for Nov 2019

Q28. Mr. X, registered under GST Act, had made short payment of GST for the month of July 2017. He does not want a show cause notice to be served on him by proper officer. Advice Mr. X, if :
(i) Short payment of tax is on account of reasons other than fraud
(ii) Short payment of tax is on account of fraud. (CA Final Nov 2018 Old)

Ans.

**(i) Short payment of tax is on account of reasons other than fraud**

As per section 73 of the CGST Act, 2017, the show cause notice will not be issued by the proper officer, if Mr. X pays the amount of tax short paid along with interest payable thereon on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer, before the service of notice and inform the proper officer in writing of such payment.

**(ii) Short payment of tax is on account of fraud**

As per section 74 of the CGST Act, 2017, the show cause notice will not be issued by the proper officer, if Mr. X pays the amount of tax short paid along with interest payable thereon and a penalty equal to 15% of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer, before the service of notice and inform the proper officer in writing of such payment.

Q29. Mr. Anant Kumar Gupta self-assessed his tax liability as Rs. 90,000 for the month of April 2018 but failed to make the payment.
Subsequently the Department initiated penal proceedings against Mr. Anant Kumar Gupta for recovery of penalty under section 73 of CGST Act, 2017 for failure to pay GST and issued show cause notice on 10-08-2018 which was received by Mr. Anant Kumar Gupta on 14-08-2018.
Mr. Anant Kumar Gupta deposited the tax along with interest on 25/08/2018 and informed the department on the same day.
Department is contending that he is liable to pay a penalty of Rs. 45,000 (i.e. 50% of 90000).
Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act, 2017, explain the relevant provisions in brief. (CA Final Nov 2018 New)

# Additional Questions & Answers



Ans. Due date for payment of tax for the month of April, 2018 is 20.05.2018.
As per section 73 of the CGST Act, 2017, where self-assessed tax is not paid within 30 days from due date of payment of such tax, penalty equivalent to 10% of tax or Rs. 10,000, whichever is higher, is payable. Thus, option to pay tax within 30 days of issuance of SCN to avoid penalty, is not available in case of self-assessed tax.
Since in the given case, Mr. Anant Kumar Gupta has not paid the self-assessed tax within 30 days of due date [i.e. 20.05.2018], penalty equivalent to:
(i) 10% of tax, viz., Rs. 9,000 (10% of Rs. 90,000) or
(ii) Rs. 10,000,
whichever is higher, is payable by him. Thus, penalty payable is Rs. 10,000.
Hence, the stand taken by the Department that penalty will be levied on Mr. Anant Kumar Gupta is correct, but the amount of penalty Rs. 45,000 is not correct.

Q30. Will Omission on the part of the taxable person to provide correct information constitute ‘suppression of facts’ for the purpose of Section 74 of the CGST Act, 2017? Write a brief note with reasons.
Ans. Yes. As per explanation to Section 74 of CGST Act, 2017, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer. Thus, omission on the part of the taxable person to provide correct information constitute “suppression of facts”.

Q31. A ltd. is entitled for exemption from tax under GST Act. It collected tax from its buyers in Nov’17. It has not deposited the said amount collected as GST with the Government. What are the consequences of not depositing the same with Government as provided U/s 76?
Ans. It is mandatory to pay amount, collected from other person representing tax under GST Act, to the Government [Sec. 76]. Every person who has collected from any other person any amount as representing the tax under GST Act, and has not the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not. Proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice.
The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined along with interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

Q32. Can the person chargeable with the tax seek adjournment of hearings?
Ans. Yes, the person chargeable with tax can seek adjournment of hearing and he can be granted time in case sufficient cause is shown by person chargeable with tax. The hearing will be adjourned for reasons to be recorded in writing. As provided in Sec. 75 (5) of the GST Act, no such adjournments shall be provided for more than 3 times.

Q33. Would taxable person would be liable for payment of interest besides paying the tax U/s 77? Can the refund claim on account of Sec. 77 be subjected to provision of undue enrichment?
Ans. No, Sec. 77 (2) provides that such taxable person would not be liable for payment of interest on the amount of central tax or state tax as the case may be.
No, the claim of refund due to Sec. 77 will not be subjected to provision of undue enrichment. This has also been clarified by the Government in flier of refunds issued by CBEC.

Q34. Can GST be collected, during a search operation, without an assessment order being passed by the concerned authority?

Ans. No. In case law Chitra Builder Pvt. Ltd. V Addl. Commi. Of CCex & ST [2013] [Mad], it was held that it is a well settled position in law that no tax can be collected from the assessee, without an appropriate assessment order being passed by the authority concerned and without following the procedures established by law.

Q35. When can extended period of limitation can be invoked?
Ans. U/s 74, extended period of limitation can be invoked if the GST has not been paid or has been short-paid or erroneously refunded by reason of fraud or wilful mis-statement or suppression of facts or contravention of any of the provision of CGST Act or of rules made thereunder with an intent to evade the payment of GST.

Q36. M/s ABC Ltd., were granted a refund by the Appellate Authority under CGST Act, 2017. The jurisdictional Assistant Commissioner has issued a notice U/s 73 demanding the amount of refund on the ground that such a refund is erroneous. Briefly discuss whether the action taken by Assistance Commissioner of Central Excise is valid in law.
Ans. It is well settled law that if an order passed by statutory authority is not challenged by way of appeal/revision or otherwise and the same becomes final, the said order holds the field and the same has to be given full effect to. Nothing can be done and/or adjudicated, which is in contravention of what has been held in that order. In overseas Engineers V/s CCEx [2007] [Tri], it was held that where orders sanctioning refund were not appealed against or reviewed by Department, then, recovery from the appellant of refund paid to him, by issuance of show cause notice U/s 73 is not tenable/sustainable.

Q37. How to compute period of limitation referred to in Section 73 (10) or Section 74 (10) where an issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of the revenue in some other proceedings and an appeal in the Appellate Tribunal or the High Court or the Supreme Court against such decision is pending?
Ans. While computing the period of limitation referred to in Section 73 (10) or Section 74 (10), the period spent between the date of the decision of the Appellate Authority/Appellate Tribunal/High Court and the date of the decision of the Appellate Tribunal/High Court/Supreme Court as the case may be, shall be excluded.

Q38. What will be the recourse available to the proper officer in case of default in payment of any instalment on its due date by the taxable person?
Ans. Where there is default in payment of any one instalment on its due date by the taxable person, the whole outstanding balance payable on such date shall become due and payable forthwith, without any further notice. The proper officer can initiate recovery of dues.

Q39. In case the person does not deposit tax collected in contravention of Section 76, what is the course of action available to the proper officer?
Ans. The proper officer shall issue notice requiring him to show cause as to
- Why the amount so collected as tax should not be paid by him to the Government;
- Why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of the Act; and
- The proper officer shall adjudicate the matter and issue order within 1 year from the date of issue of the show cause notice.

Q40. Whether the amount of tax, interest and penalty demanded in the order can exceed the amount specified in the notice?
Ans. No. The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 20: - Liability to pay tax in certain cases

This chapter includes "7 Q & A" of GST main book. Do refer "2 examples" in GST main book.

### ICAI Test your knowledge

Q1. Avataar Industries, a registered person under GST, has sold whole of its business to Rolex Manufacturers. Determine the person liable to pay GST, interest or any penalty under GST law [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.
Ans. Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.
Thus, in the given case, Avataar Industries and Rolex Manufacturers shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay GST, interest or any penalty [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

Q2. ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. Raghav & Sons sells goods to Swami Associates on behalf of ABC Manufacturers Ltd. Determine the liability to pay GST payable on such goods as per the provisions of section 86 of the CGST Act.
Ans. Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.
Thus, in the given case, ABC Manufacturers Ltd. and Raghav & Sons shall, jointly and severally, be liable to pay GST payable on such goods.

Q3. A person, liable to pay GST, interest and penalty under GST law, dies. Determine the person liable to pay the GST, interest and penalty due from such person under GST law determined after his death if the business carried on by such person is continued after his death by his legal representative.
Ans. Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

Q4. In the question 3. above, would your answer be different if the business carried on by the person who has died, is discontinued after his death.
Ans. Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then if a business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act, whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

Q5. What happens to the GST liability when the estate of a taxable person is under the control of Court of Wards?
Ans. Where the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable is under the control of the Court of Wards/Administrator General/Official

Trustee/Receiver or Manager appointed under any order of a Court, the tax, interest or penalty shall be levied and recoverable from such Court of Wards/Administrator General/Official Trustee/Receiver or Manager to the same extent as it would be determined and recoverable from a taxable person.

## Questions from GST Main Book / Other Questions

Q6. In respect to Section 85, whether the transferor of business is liable to pay tax / interest / penalties even in respect of the transactions undertaken after the transfer of business?
Ans. No. The transferor of business is liable to pay tax / interest / penalties arisen (whether determined prior to transfer or post transfer) upto the date of transfer of business.

Q7. Whether an agent can only be held liable for payment of tax on transactions effected on behalf of principal?
Ans. No. Both agent and principal are jointly and severally liable to pay the tax on such transactions.

Q8. In case of an amalgamation, supplies effected for the period from effective date till the date of order of the Court between the Companies inter-se is liable to tax?
Ans. Yes. In terms of Section 87(1) of the CGST Act, 2017, the supplies between the Companies inter-se for the period starting from effective date and ending with the date of order of the Court is liable to tax and supply and receipt shall be included in the turnover of supply or receipt of the respective Companies.

Q9. Whether in an amalgamation, the Companies shall be treated as separate entities for the period starting from effective date and ending on the date of Order of the Court?
Ans. Yes, for the purposes of this Act, the two or more companies amalgamated or merged in pursuance of an Order of Court or of Tribunal or otherwise, shall be treated as distinct companies for the period up to the date of the said Order and the registration certificates of the said companies shall be cancelled with effect from the date of the said Order.

Q10. Please explain provision related to Liability in case of discontinuation of business by HUF / AOP / firm U/s 94?
Ans. Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

1. the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and
2. every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

Q11. Liability in case where HUF / AOP/ firm where the property is partitioned/dissolved amongst the members?
Ans. In case where the property of HUF/AOP is partitioned amongst the various members or groups of members, then each member or group of members shall jointly and severally, be liable to pay tax, interest or penalty pertaining to the period prior to the date of partition. Similarly, all the partners of the partnership firm shall be jointly and severally liable to pay tax, interest or penalty for the period prior to the date of dissolution. Such unpaid amount of tax, interest or penalty is determined either prior to partition / dissolution or otherwise.

# Additional Questions & Answers

## These are apart from Examples in main book

Q12. ABC Ltd. engages XYZ Ltd. as an agent to sell goods on its behalf. XYZ Ltd. sells goods to DEF Ltd. on behalf of ABC Ltd. Who will be liable U/s 86?
Ans. Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act. Thus, in the given case, ABC Ltd. and XYZ Ltd. shall, jointly and severally, be liable to pay GST payable on such goods.

Q13. Whether the minor for whom the business is carried out by Guardian can escape liability on the ground of minority of the beneficiary?
Ans. The minor is deemed to be a major for the purposes of collection of any tax/interest/penalties arising out of the business carried out for him. Hence the general principle of law has no application and the Guardian, Trustee or Agent cannot escape such liability.

Q14. Who is liable to pay tax dues if the estate of a taxable person is controlled by Court of Wards?
Ans. The dues are recoverable from the Court of Wards as if he is conducting the business for himself. Mr. Amit Roy is appointed as manager of Mr. Sumit, to manage the estate of Mr. Sumit, who owns the business of glasses. Mr. Sumit is liable to pay Rs. 10 Lakhs of GST, interest & penalty to the Government. The department can recover such dues from Mr. Amit Roy who is managing the estates of Mr. Sumit by invoking Section 92.

Q15. Whether the director of a Private Limited Company is liable for the payment of tax in respect of the supply made by or to such Private Company?
Ans. Yes. Every director of the private company during the period for which. tax, interest or penalty due in respect of any supply of goods or services or both, is not recovered shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the Company.

Q16. Whether the liability of the director still exists if such Private Limited Company is converted into Public Limited Company?
Ans. No. If a Private Limited Company is converted into a Public Limited Company, then the provisions of this section do not apply. However, any other personal penalty could be imposed on the Director.

Q17. Discuss the liability of the retiring partner of a firm to pay any tax, interest or penalty, if any, leviable on the firm under CGST / IGST / SGST Act. (CA Final Nov 2018 Old)
Ans. Where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing. Such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date.
However, if no such intimation is given within 1 month from the date of retirement, the liability of such partner shall continue until the date on which such intimation is received by the Commissioner [Section 90 of the CGST Act, 2017].

# Chapter 21: - Offences & Penalties

## ICAI Test your knowledge

This chapter includes "8 Q & A" of GST main book. Do refer "7 examples" in GST main book.

Q1. What are the various type of offences which may be committed by a taxable person liable to penalty?

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

**Offences having nexus with invoice**

(i) Issue of invoice or bill without making supply;
(ii) Issuing invoice or document using GSTIN of another person;
(iii) Making a supply without invoice or with false/ incorrect invoice;

**Offences having nexus with payment of tax**

(iv) Not paying any amount collected as tax for a period exceeding three months;
(v) Not paying tax collected in contravention of the CGST/SGST Act for a period exceeding 3 months;
(vi) Non deduction or lower deduction of tax deducted at source or not depositing tax deducted at source under section 51;
(vii) Non collection or lower collection of or non- payment of tax collectible at source under section 52;
(viii) Availing/utilizing input tax credit without actual receipt of goods and/or services;
(ix) Availing/distributing ITC by an Input Service Distributor in violation of Section 20;
(x) Fraudulently obtains any refund of tax;
(xi) Suppressing turnover;

**Offences having nexus with Records and related information**

(xii) Falsification/substitution of financial records or furnishing of fake accounts/ documents or Furnishing false information/return with intent to evade payment of tax;
(xiii) Failure to maintain accounts/documents in the manner specified in the Act or failure to retain accounts/documents for the period specified in the Act;
(xiv) Failure to furnish information/documents required by an officer in terms of the Act/Rules or furnishing false information/documents during the course of any proceeding;
(xv) Tampering/destroying any material evidence/documents;
(xvi) Obstructing or preventing any official in discharge of his duty;

**Offences having nexus with Registration**

(xvii) Failure to register despite being liable to pay tax;
(xviii) Furnishing false information regarding registration particulars either at the time of applying for registration or subsequently

**Offences having nexus with Supply/Transport of goods**

(xix) Transporting goods without prescribed documents;
(xx) Supplying/transporting/storing any goods liable to confiscation;
(xxi) Disposing of /tampering with goods detained/ seized/attached under the Act.

Q2. What is the quantum of penalty for an offence mentioned under section 122(1)?

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

(a) Rs. 10,000/-; or
(b) An amount equivalent to, any of the following (Applicable as the case may be) –
    (i) Tax evaded; or
    (ii) Tax not deducted under section 51 or short deducted or deducted but not paid to the Government; or
    (iii) Tax not collected under section 52 or short collected or collected but not paid to the Government; or

(iv) Input tax credit availed of or passed on or distributed irregularly; or
(v) Refund claimed fraudulently

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

(a) Rs. 10,000/-; or
(b) 10% of the tax due from such person

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

Q3. Is there any penalty prescribed for a person other than the taxable person?

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

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

Q4. Mr. X, an unregistered person under GST purchases the goods supplied by Mr. Y who is a registered person without receiving a tax invoice from Mr. Y and thus helps in tax evasion by Mr. Y. What disciplinary action may be taken by tax authorities to curb such type of cases and on whom?

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

Mr. X – Penalty under section 122(3) which may extend to Rs. 25,000/-;
Mr. Y – Penalty under section 122(1), which will be higher of following, namely
(i) Rs. 10,000/- or (ii) 100% of tax evaded.

Q5. Suppose, in the above case, a disciplinary action is taken against Mr. X and an adhoc penalty of Rs. 20,000/- is imposed by issue of SCN without describing contravention for which penalty is going to be imposed and without mentioning the provisions under which penalty is going to be imposed. Should Mr. X proceed to pay for penalty or challenge SCN issued by department?

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

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

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

## Questions from GST Main Book / Other Questions

Q6. Mr. A has collected tax on supply of exempted goods and did not remit the tax so collected to the Government account. Would Mr. A, be liable to penal and other consequences?

Ans. Yes, in terms of Section 122(1) (iv) of the CGST Act, 2017, collection of tax in contravention to the provisions of the CGST Act, 2017 and subsequent failure to remit the same to the credit of the Government beyond a period of 3 months from the date on which such payment becomes due is an offence attracting penalty of Rs. 10,000/- or amount equal to the amount of tax so collected, whichever is higher. Further, in terms of Section 132(1) (d) read with Section 132(1) (I) of the CGST Act, 2017, the said offence attracts imprisonment which may extend from 1year to 5 years based on the quantum of tax evasion.

Q7. Is there any penalty prescribed for any person other than the taxable person U/s 122?
Ans. Yes. Section 122(3)of the CGST Act provides for levy of penalty extending to Rs. 25,000/- for any person who:

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

Q8. What is the penalty prescribed for a person who opts for composition scheme despite being ineligible for the said scheme?
Ans. Section 10(5) of the CGST Act provides that if a person who has paid under composition levy is found as not being eligible for compounding then such person shall be liable to penalty to an amount equivalent to the tax payable by him under the provisions of the Act i.e. as a normal taxable person and that this penalty shall be in addition to the tax payable by him.

Q9. When general penalty under Section 125 of CGST Act could be imposed?
Ans. Section 125 of the CGST Act, provides for general penalty which may extend to Rs. 25,000/- on any person, who contravenes any of the provisions of this Act or any rules made thereunder. This penalty would be applicable only where no penalty is separately provided for in this Act.

Q10. Whether officer appointed under GST law has power to detain / seize the goods? When such detention or seizure could be undertaken U/s 129?
Ans. Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of the GST Act or rules made thereunder, all such goods and the conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyances shall be liable to detention or seizure.

Q11. Under what circumstances the detained goods and conveyance seized could be released?
Ans. The goods/ conveyance could be released under the following circumstances:

(a) on payment of the applicable tax and penalty equal to 100% of the tax payable on such goods, and in case of exempted goods on payment of an amount equal to 2% of the value of goods or twenty-five thousand rupees, whichever is less where the owner of the goods comes forward for payment of such tax and penalty;
(b) on payment of the applicable tax and penalty equal to the fifty percent of the value of the goods reduced by the tax amount paid thereon, and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, where the owner of the goods does not come forward for payment of such tax and penalty;
(c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed.

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

# Additional Questions & Answers

## These are apart from Examples in main book

Q12. What is meant by confiscation?
Ans. The word 'confiscation' has not been defined in the CGST/SGST Act. The concept is derived from Roman law wherein it meant seizing or taking into the hands of emperor, and transferring to Imperial "fiscus" or Treasury. The word "confiscate" has been defined in Aiyar's Law Lexicon as to "appropriate (private property) to the public treasury by way of penalty; to deprive of property as forfeited to the State." In short it means transfer of the title to the goods to the Government.

Q13. Whether prosecution or other punishments could also be initiated along with confiscation or penalty?
Ans. In terms of section 131 confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall not prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

Q14. Whether tax evaded under State GST Act or IGST Act would also be taken in to account for the purpose of the prosecution?
Ans. Yes. In terms of explanation to Section 132 the term tax has been defined to include amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Q15. Whether Government employee could also be prosecuted and punished U/s 133?
Ans. Yes, Government servant could also be punished. However, where the person punishable is a Government servant he shall not be prosecuted for any offence under this section except with the previous sanction of the Government.

Q16. What are the consequences of an offence (U/s 137 of CGST Act) has been committed by a Company and it is proved that the offence has been committed with the consent of any director, manager, secretary or other officers of the company?
Ans. If an offence under the Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officers of the Company, then such director, manager, secretary or other officers of the Company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Q17. What are the consequences of offences U/s 137 committed by taxable person being a partnership firm or a LLP or HUF or a trust?
Ans. If offences are committed by taxable person being a partnership firm or a LLP or HUF or a trust, the partner or Karta or managing trustee respectively shall deemed to be guilty of offence and shall be liable to be proceeded against and punished accordingly.
Further, If offences are committed by partnership firm or a LLP or HUF or a trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, the partner or Karta or managing trustee respectively, then such partner or Karta or managing trustee shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Q18. What is meant by compounding of offences? Is compounding of offence made after making payment of tax, interest and penalty involved in such offences U/s138?
Ans. Section 320 of the Code of Criminal Procedure defines "compounding" as to forbear from prosecution for consideration or any private motive. Yes, compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

Q19. What happens after the offence has been compounded U/s138?

Ans. On payment of compounding amount, no further proceeding shall be initiated under the CGST Act, 2017 against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence shall stand abated.

Q20. Mangeshwar, registered under the CGST Act, 2017 has made a breach in payment of tax amounting to Rs. 6,100. Assessing Authority has imposed a penalty as per law applicable to the breach. Invoking the provisions of section 126, Mangeshwar argues that it is a minor breach and therefore, no penalty is imposable.

In another instance, Mangeshwar has omitted certain details in documentation that is not easily rectifiable. This has occurred due to the gross negligence of his accountant and he makes a plea that he was unaware of it and therefore no penalty should be levied.

Mangeshwar voluntarily writes accepting a major procedural lapse from his side and requests the officer to condone the lapse as the loss caused to the revenue was not significant.

Also a lapse on the part of Mangeshwar has no specific penalty provision under the CGST Act, 2017. He is very confident that no penalty should be levied without a specific provision under the Act.

Discuss, what action may be taken by the Assessing Authority under law for each of the above breaches. (CA Final Nov 2018 Old)

Ans. As per section 126(1) of the CGST Act, 2017, no penalty shall be leviable under the Act for minor breaches of tax regulations. In terms of Explanation (a) to section 126(1), a breach shall be considered as "minor breach", if tax involved is less than Rs. 5,000. Breach made by Mangeshwar is not a 'minor breach' since the amount involved is not less than Rs. 5,000. So, penalty is imposable. Any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent/gross negligence is not liable for penalty in terms of section 126(1) of the CGST Act, 2017. Thus, penalty is imposable in the present case, since the omission in the documentation is not easily rectifiable and has occurred due to gross negligence.

As per section 126(5) of the CGST Act, 2017, where there is a voluntary disclosure of breach, prior to its discovery by the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Since Mangeshwar has voluntarily disclosed the breach of procedural requirement to the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Therefore, the quantum of penalty will depend on the facts and circumstances of the case.

As per section 125 of the CGST Act, 2017, when no specific penalty has been specified for contravention of any of the provisions of the Act or any rules made there under, it shall be liable to a penalty which may extend to Rs. 25,000. Therefore, general penalty upto Rs. 25,000 may be imposed on Mangeshwar as when no specific penalty is provided for any contravention, a general penalty may be imposed.

Q21. Examine the implications as regards the bailability and quantum of punishment on prosecution, in respect of the following cases pertaining to the period December, 2017 under CGST Act, 2017;

(i) 'X' collects Rs. 245 lakh as tax from its clients and deposits Rs. 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.

(ii) 'Y' collects Rs. 550 lakh as tax from its clients but deposits only Rs. 30 lakh with the Central Government.

What will be the implications with regard to punishment on prosecution of 'X' and 'Y' for the offences? What would be the position, if 'X' and 'Y' repeat the offences?

It may be assumed that offences are proved in the court. (CA Final May 2018 New)

Ans.

(i) As per section 132(1)(d)(iii) of the CGST Act, 2017, failure to pay any amount collected as tax beyond 3 months from due date of payment is punishable with specified imprisonment and fine

provided the amount of tax evaded exceeds at least Rs. 100 lakh. Therefore, failure to deposit Rs. 4 lakh collected as tax by 'X' will not be punishable with imprisonment. Further, falsification of financial records by 'X' is punishable with imprisonment up to 6 months or with fine or both vide section 132(1)(f)(iv) of the CGST Act, 2017 and the said offence is bailable in terms of section 132(4) of the CGST Act, 2017 assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017.
(ii) Failure to pay any amount collected as tax beyond 3 months from due date is punishable with imprisonment upto 5 years and with fine, if the amount of tax evaded exceeds Rs. 500 lakh in terms of section 132(1)(d)(i) of the CGST Act, 2017. Since the amount of tax evaded by 'Y' exceeds Rs. 500 lakh (Rs. 550 lakh – Rs. 30 lakh), 'Y' is liable to imprisonment upto 5 years and with fine. It has been assumed that amount of Rs. 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax. Further, the imprisonment shall be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment vide section 132(3) of the CGST Act, 2017. Such offence is nonbailable in terms of section 132(5) of the CGST Act, 2017.
If 'X 'and 'Y' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017. Such imprisonment shall also be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment.

Q22. From the details given below determine the maximum amount of fine in lieu of confiscation leviable under section 130 of CGST, Act, 2017 on:
(i) The goods liable for confiscation.
(ii) On the conveyance used for carriage of such goods.
Details are as follows:
Cost of the goods for owner before GST Rs. 15,00,000
Market Value of Goods Rs. 20,00,000
GST on such goods Rs. 3,60,000
You are also required to explain relevant legal provisions in brief. (CA Final May 2018 New)
Ans.
(i) As per section 130(2) of the CGST Act, 2017, in case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is the market value of the goods confiscated, less the tax chargeable thereon.
Therefore, the fine leviable = Rs. 20,00,000- Rs. 3,60,000 = Rs. 16,40,000 The aggregate of fine and penalty shall not be less than the amount of penalty leviable under section 129(1).

(ii) In case of conveyance used for carriage of such goods and liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is equal to tax payable on the goods being transported thereon [Third proviso to section 130(2) of the CGST Act, 2017].
Therefore, the fine leviable = Rs. 3,60,000

Q23. Where an offence under the GST law is committed by a taxable person being a trust, who are deemed to be guilty of the offence and under what circumstances? When do the relevant provisions become inapplicable in respect of individuals concerned with the trust? (CA Final Nov 2018 Old)
Ans. Section 137 of the CGST Act, 2017 stipulates that where an offence under the GST law is committed by a taxable person being a trust, the managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Further, where it is proved that the offence committed by the trust has been committed –

- with the consent or connivance of, or
- is attributable to any negligence on the part of any other individual concerned with the trust,

he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

The relevant provisions will become inapplicable in respect of individuals concerned with the trust, if they prove that the offence was committed without their knowledge or that they had exercised all due diligence to prevent the commission of such offence.

Q24. Department initiated prosecution proceedings against a taxable person who had evaded GST of Rs. 4.2 crores. He has approached the Commissioner with a request for compounding the offence. After considering the request, the Commissioner has directed him to pay an amount of Rs. 2.5 crores as compounding amount. Indicate the minimum and maximum limits for compounding amount. Is the amount fixed by the Commissioner in this case within the limits prescribed under the law? What is the consequence of the decision of the commissioner allowing the request for compounding the offence? (CA Final Nov 2018 Old)

Ans. As per section 138 of the CGST Act, 2017,
the minimum limit for compounding amount is higher of the following amounts:-

i. 50% of tax involved, or
ii. Rs. 10,000, and

the upper limit for compounding amount is higher of the following amounts: -

i. 150% of tax involved or
ii. Rs. 30,000

In the present case, the minimum limit for compounding is Rs. 2.10 crores. [Rs. 2.10 crores (50% x Rs. 4.2 crores) or Rs. 10,000, whichever is higher].
The maximum limit for compounding in this case is Rs. 6.3 crores [Rs. 6.3 crore (150% x Rs. 4.2 crores) or Rs. 30,000, whichever is higher].
Thus, the amount fixed by the Commissioner at Rs. 2.5 crores is within the limits prescribed under the law.
If the taxable person pays the compounding amount decided by the Commissioner, no further proceedings shall be initiated under GST law against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Q25. What is the difference between the penalty under sub-section (1) and (3) of sec. 122?
Ans. Apart from the amount of penalty and nature of offences, in sub-section (1) penalty is imposed on a taxable person whereas in sub-section (3), penalty is imposed on any person who may or may not be a taxable person.

Q26. When breach of law will be considered as a minor breach and easily rectifiable mistakes?
Ans. As per explanation to sub-section (1) of section 126 of the GST Act, provides that a 'minor breach' shall be considered as minor breach if the amount of tax involved is less than Rs. 5,000. An omission or mistake in documentation will be considered to be 'easily rectifiable' if the same is an error apparent on record.

Q27. I am collecting tax on supply of goods & services and did not remit the same within 3 months to the Government. Does the same attract penalty? If yes, what is the amount of penalty?
Ans. Collection of tax and non-remittance of the same within 3 months to the Government from the due date for remittance is considered to be an offence under Section 122 (1) (iii) of the CGST Act, 2017 attracting penalty of (a) an amount equal to the tax so collected or (b) an Rs. 10,000 (whichever is higher).

Q28. Whether prosecution or other punishments could also be initiated along with confiscation or penalty?
Ans. In terms of section 131 confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall not prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 22: - Appeals & Revisions

This chapter includes "32 Q & A" of GST main book. Do refer "3 examples" in GST main book .

### ICAI Test your knowledge

Q1. Does CGST law provide for any appeal to a person aggrieved by any order or decision passed against him by an adjudicating authority under the CGST Act? Explain the related provisions under the CGST Act.

Ans. Yes. Any person aggrieved by any order or decision passed by an adjudicating authority under the CGST Act has the right to appeal to the Appellate Authority under section 107. The appeal should be filed within 3 months from the date of communication of such order or decision. However, the Appellate Authority has the power to condone the delay of up to 1 month in filing the appeal if there is sufficient cause for the delay. The appeal can be filed only when the admitted liability and 10% of the disputed tax (subject to a maximum of Rs. 25 Crores) amount is paid as pre-deposit by the appellant. However, no appeal can be filed against the following orders in terms of section 121:-

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer;
(b) an order pertaining to the seizure or retention of books of account, register and other documents; or
(c) an order sanctioning prosecution under the Act; or
(d) an order passed under section 80 (payment of tax in installments).

Q2. Describe the provisions relating to Departmental appeal to Appellate Authority under section 107 of the CGST Act.

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

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

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

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

Q3. Specify the amount of mandatory pre-deposit which should be made along with every appeal before the Appellate Authority and the Appellate Tribunal. Does making the pre-deposit have any impact on recovery proceedings?

Ans. Section 107(6) provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—

(a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
(b) a sum equal to 10% of the remaining amount of tax in dispute subject to a maximum of Rs. 25 crores, arising from the impugned order.

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

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

(b) 20% of the remaining amount of tax in dispute, in addition to the amount deposited before the Appellate Authority, arising from the said order subject to a maximum of Rs. 50 crores, in relation to which appeal has been filed.

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

Q4. With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.

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

Section 108 of the Act authorizes such "revisional authority" to call for and examine any order passed by his subordinates and in case he considers the order of the lower authority to be erroneous in so far as it is prejudicial to revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, can revise the order after giving opportunity of being heard to the noticee. The "revisional authority" can also stay the operation of any order passed by his subordinates pending such revision.

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

(a) the order has been subject to an appeal under section 107 or under section 112 or under section 117 or under section 118; or
(b) the period specified under section 107(2) has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised.
(c) the order has already been taken up for revision under this section at any earlier stage.
(d) the order is a revisional order

Q5. The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement.

Ans. The statement is partially correct. It can refuse to admit an appeal where –

- the tax or input tax credit involved or
- the difference in tax or the difference in input tax credit involved or
- the amount of fine, fees or penalty determined by such order, does not exceed Rs, 50,000.

## Questions from GST Main Book / Other Questions

Q6. Who is an Appellate Authority?

Ans. "Appellate Authority" means an authority appointed or authorised to hear appeals as referred to in section 107. Section 107 provides that appeal shall be preferred before such Appellate Authority as may be prescribed. Rule 109A provides that for the purpose of appeal, an Appellate Authority shall be:

(a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
(b) Any officer not the below the rank of Joint Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent.

Q7. Under what circumstances Commissioner could direct the Officer to prefer an appeal against the order of the adjudicating authority?

Ans. The Commissioner may, on his own motion, or upon request from the Commissioner of State tax Commissioner of Union Territory tax, call for and examine the records of any proceeding in which an adjudicating authority has passed any decision or order under the CGST Act or the SGST Act or the UTGST Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order. The Commissioner may by an order, direct any Officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

Q8. What type of order could the Appellate Authority pass? Whether Appellate Authority could refer the case back to Adjudicating Authority?
Ans. The Appellate Authority may pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against. The order shall be in writing giving details as to determination. The Appellate Authority shall, along with its order under section 107(11), issue a statement in FORM GST APL-04 clearly indicating the final amount of demand confirmed. However, the Appellate Authority does not have power to refer the case back to the Adjudicating Authority that passed the said decision or order.

Q9. Whether Order of the Appellate Authority could also be stayed by Revisional Authority?
Ans. The Order which has been subject to an appeal before the Appellate Authority (section 107) as well as orders of the Appellate Authority which are appealed before the Tribunal cannot be stayed by the Revisional Authority. However, the Revisional Authority could pass an order under revisionary power on any point which has not been raised and decided in an appeal before Appellate Authority. Such, revision order could be passed within 1 year from the date of the order of the Appellate Authority or 3 years from the date of the original order, whichever is later.

Q10. When a Revisional Authority cannot exercise its powers?
Ans. Revisional authority shall not exercise its powers, in case of following:
(a) When the order has been subject to an appeal before the adjudicating authority (under section 107) or the Tribunal (under section 112) or the High Court (under section 117) or the Supreme Court (under section 118); or
(b) If the period of 6 months as specified under 107(2) for preferring an appeal by department before Appellate Authority has not yet expired or where more than three years have expired after the passing of the decision or order sought to be revised; or
(c) where the order has already been taken for revision under section 108 at any earlier stage; or
(d) revisionary order passed under section 108(1).

Q11. What is the Constitution of National Appellate Tribunal and how the same is constituted? Where the National Bench and Regional Bench shall be located?
Ans. The Central Government shall on the recommendation of the GST Council by Notification constitute Goods and Services Tax Appellate Tribunal (hereinafter referred to as the Appellate Tribunal) for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.
National bench shall be located at New Delhi. The Central Government on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required.

Q12. What is the composition of National Bench and Regional Benches?
Ans. National Bench shall be headed by the National president along with one Technical member (Centre) and one Technical Member (State). Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

Q13. What is jurisdiction of National or Regional Benches of the Appellate Tribunal?
Ans. National or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.

Q14. What is State Bench or Area Bench?
Ans. The Government, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal, for exercising the powers of the Appellate Tribunal within the concerned State or Union territory. Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council.

Q15. What is jurisdiction of State Bench or Area Bench?
Ans. State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in all cases other than those involving matters where one of the issues involved relates to the place of supply.

Q16. What is the composition of State Bench and Area Benches?
Ans. Each State Bench and Area Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

Q17. Whether any matter could be heard by bench consisting of members less than 3 as set out above?
Ans. Yes, in the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members. Further, where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed Rs. 5 Lakhs and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

Q18. What would be consequence where there is a difference of opinion on any issue among the members of the bench?
Ans. If the Members of the Bench (National/Regional/State/Area) differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

Q19. Can the Tribunal reject to entertain an appeal based on the monetary limits?
Ans. Yes. The Tribunal has been conferred with discretion to refuse to admit an appeal where:
- the tax or input tax credit involved or
- the difference in tax or input tax credit involved or
- the amount of fine, fee or penalty determined by such order,

does not exceed Rs. 50,000.

Q20. Which are the matters on which the appeal against order of the Tribunal could be preferred before the High Court?
Ans. Appeal shall lie to the High Court against an Order passed by the State Bench or Area Benches of the Tribunal.

Q21. Whether all decisions and orders can be appealed?
Ans. No. in terms of Section 121, orders listed below cannot be appeal against:
(a) An order of the Commissioner or other competent authority for transfer of proceeding from one officer to another officer; or

(b) An order pertaining to the seizure or retention of books of account, register and other documents; or
(c) An order sanctioning prosecution under this Act; or
(d) An order passed under section 80 relating to payment of tax, interest and other dues in installments.

Q22. An aggrieved person received an order of the Additional Commissioner of Central Tax in relation to adjudication of a demand on 27-08-2017. However, he was aggrieved by the said order, hence he filed an appeal to Commissioner (Appeals) on 27-11-2017. The Commissioner (Appeals), in response, rejected the appeal as he was of the opinion that it was time barred. Discuss.
Ans. Section 107 of CGST Act 2017, provides that a person aggrieved by the order of adjudicating authority may appeal to the Commissioner (Appeals) within 3 months from the date of the communication to him of such decision or order.
In the given case, the aggrieved person received the order of Additional Commissioner on 27-08-2017, hence he could file the appeal to Commissioner (Appeals) within 3 months from the said date which expires on 27-11-2017.
Therefore, the aggrieved person has made the appeal within time and the opinion of the Commissioner (Appeals) is not tenable.

Q23. XY Company received an adjudication order passed by the Assistant Commissioner of Central Tax on 01-11-2017 under section 73 of the CGST Act, 2017 wherein it was decided as follows:

| Particulars | |
|---|---|
| CGST and SGST due (Total) | Rs. 6,00,000 |
| Interest | @ 18% p.a. for number of delayed days |
| Penalty | Rs. 60,000 |

The assessee filed an appeal before the Appellate Authority on 26-11- 2017.
Case I How much the company has to pay as pre-deposit of duty under section 107(6) of the CGST Act, 2017?
Case II Whether your answer would be different if the assessee appeals only against part of the demanded amount say Rs. 4,00,000 and admits the balance liability of tax amounting to Rs. 2,00,000 arising from the said order. (CA Final May 2018 New)
Ans. Section 107(6) of the CGST Act, 2017 provides that no appeal shall be filed before Appellate Authority, unless the appellant pays:-
(a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and
(b) 10% of remaining tax in dispute arising from the impugned order subject to maximum of Rs. 25 crores.
Thus, in Case-I, XY Company has to make a pre-deposit of 10% of Rs. 6,00,000, which is Rs. 60,000 assuming that XY Company disagrees with the entire tax demanded.
However, in Case-II, since XY Company admits the tax liability of Rs. 2,00,000 and disputes the tax demanded of only Rs. 4,00,000, it has to make a pre-deposit of:
(i) Rs. 2,00,000 + Rs. 20,000 [proportionate penalty on tax admitted] + interest @ 18% p.a. payable on the tax admitted for the period of delay, and
(ii) 10% of Rs. 4,00,000 which is Rs. 40,000.

Q24. ABC deposits the required amount of Rs. 1,00,000 as pre-deposit on 30-09-2017 and files and appeal before the tribunal. The said appeal is decided in favour of ABC on 30-11-2017. ABC forwards a letter seeking refund of pre-deposit on 07-12-2017 and the same was refunded on 15-12-2017. Explain whether ABC is entitled to payment of interest and compute the amount of interest payable on refund of such pre-deposit.
Ans. As per Section 115 of CGST Act, 2017, where an amount paid by the appellant as pre-deposit is required to be refunded consequent to any order of the Appellate Authority or of the Appellate

Tribunal, interest @ 6% p.a. shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.
There ABC will be entitled to payment of interest on such delayed refund of pre-deposit as under :-

| | |
|---|---|
| Amount of pre-deposit | Rs. 1,00,000 |
| Date of payment of pre-deposit | 30-09-2017 |
| Date of refund of pre-deposit | 15-12-2017 |
| No. of days of delay | 76 days |
| Amount of interest (rounded off) | Rs. 1,249 (Rs. 1,00,000*6%*76/365) |

Q25. Rule 112 of the CGST Rules lays down that the appellant shall not be allowed to produce before the Appellate authority (AA) or the Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the AA.
What are the exceptional circumstances specified in the rule where the production of additional evidence will be allowed? Can AA or the Tribunal direct production of any document or examination of any witness? (CA Final Nov 2018 New)
Ans. Exceptional circumstances specified in rule 112 of the CGST Rules, 2017 where the production of additional evidence will be allowed are as follows:

(a) where the adjudicating authority/appellate authority (AA) has refused to admit evidence which ought to have been admitted.
(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority/AA.
(c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority/AA any evidence which is relevant to any ground of appeal; or
(d) where adjudicating authority/AA has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

Yes, the AA or the Tribunal can direct the production of any document or examination of any witness to enable it to dispose of the appeal.

Q26. The original adjudicating authority confirmed a demand of GST of Rs. 42,50,000 with interest and imposed a penalty of Rs. 4,25,000 in its order dated 1st September, 2017. The assessee filed an appeal before appellate authority challenging the demand as well as penalty. The internal audit party, after an audit of the records of the assessee, submitted a note to the Commissioner that actual amount demanded should have been Rs. 48,50,000. While the issue was pending before the appellate authority, based on the note, the Commissioner stayed the order of the original authority and issued a show cause notice on 15th March, 2018, proposing revision of the order of the original authority and revise the demand on the basis of the audit note. Examine the correctness of the action taken by the Commissioner in accordance with the provisions of GST law.
(CA Final Nov 2018 Old)
Ans. As per section 108 of the CGST Act, 2017, Revisional Authority cannot revise an order if, inter alia, such order has been subject to an appeal before Appellate Authority or Tribunal or High Court or Supreme Court. The Revisional Authority may, however, pass an order on any point which has not been raised and decided in an appeal before Appellate Authority/Tribunal/High Court/Supreme Court. In the given case, the Commissioner wants to revise the order on the point which is the subject matter in the appeal.
Therefore, the Commissioner cannot exercise the power of revision in respect of such order.
Note:- It has been logically assumed that the revision is on the point which is the subject matter in appeal in the absence of the specific mention of the issue involved.

Q27. What is the time limit for filing appeal to the Appellate authority by a person aggrieved by any decision or order passed by an adjudicating authority? Whether this time limit can be extended?

Ans. A person aggrieved by any decision or order passed by an adjudicating authority may file an appeal to the Appellate Authority within 3 months from the date of communication of decision/order of adjudicating authority. The Appellate Authority can condone the delay in filing of appeal by 1 month if it is satisfied that there was sufficient cause for such delay.

Q28. Section 113 (3) of the CGST Act, 2017 provides that the Appellate Tribunal, may at any time within 3 months of the date of order, with a view to rectifying any mistake apparent from the record, amend any order passed by it. What would constitute "mistake apparent from record" for the purpose of this provision?
Ans. Failure to make into consideration the material evidence, which is present on record, would amount to a "mistake apparent on the face of the record". [CCEx V. Bharat Bijlee Ltd. 2006 (SC)]
When a decision rendered by the Apex Court is not considered, non-consideration of such binding precedent constitutes an error apparent on the face of the record. The binding decision of the Apex Court would cover even the period prior to the inception of such law during which the orders contrary to such ratio of the subsequent decision were passed [HLL V. CCEx, 2006 (Tri. LB)]
Other mistakes apparent on the face of the record, which can be rectified by the Tribunal in terms of section 113 (3), can be typographical error, calculation mistakes, point raised in appeal but not considered, retrospective amendments in the statute, etc.

Q29. An assessee moved an application on 15th December 2018 under section 113 (3) for rectification of mistake in order passed on 30th September 2018. The Tribunal took up the application on 15th May 2019 and dismissed the same on the ground that the Tribunal cannot entertain an application for rectification beyond a period of 3 months. Is this correct?
Ans. Section 113 (3) states that the Appellate Tribunal may at any time within 3 months from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it. Since, in the present case, the application has been made within 3 months from the date of the order, it is not relevant for the purpose of limitation as to when the Tribunal takes up the same for hearing and disposal. Therefore, in this case, the Tribunal cannot reject the application for rectification of mistake on the ground of limitation if application is made with in time limit.

Q30. Discuss with the help of decided case, whether the re-appreciation of evidence on a debatable point by the GST Appellate Tribunal can be considered as rectification of mistake apparent on record U/s 113 (3)?
Ans. No, re-appreciation of evidence by GST Appellate Tribunal on a debatable point cannot be considered to be rectification of mistake apparent on record U/s 113 (3) of the CGST Act, 2017.
Supreme Court, in case of CCE V RDE Concrete India Pvt. Ltd. [2011] observed that a mistake apparent on record must be an obvious and patent mistake. It need not be established by a long-drawn process of reasoning. Arguments not accepted earlier during disposal of appeal cannot be accepted while hearing rectification of mistake application.
The Supreme Court held that CESTAT had reconsidered its legal view as it concluded differently by accepting the arguments which it had rejected earlier. Hence, the court opined that in pursuance of a rectification application, CESTAT cannot reappreciate the evidence and reconsider its legal view taken earlier.

Q31. Can department file appeal in respect of same assessee, if in respect of some years, no appeal was filed involving identical dispute?
Ans. It was held in C.K. Gangadharan V. CIT [2008] (SC) that if the revenue has not filed an appeal against any order/judgement in one case, it would not be allowed to file an appeal in another case when the same issue is involved due to the reasons that it cannot pick and choose and certainty in law should be ensured.
However, the revenue can file an appeal in another case involving same/similar issue –

- Where there is just cause in doing so i.e. where appeal was not preferred earlier in view of small amount involved; or
- Where it is in public interest to do so; or
- For a pronouncement by higher court when divergent views are expressed by Tribunals/High Courts.

Section 120 provides that the Board may issue orders or instructions or directions fixing monetary limits for the purposes of regulating the filing of appeal, etc. by the Department. If Department has not filed an appeal, etc. as per circular fixing monetary limits, the Department may file any appeal, application or revision in any other case involving the same or similar issues or questions of law and the assessee cannot contend that the Department has accepted the decision on the disputed issue by not filing the appeal.

Q32. Where Commissioner of CGST feels that the order passed is not legal or proper, whether he can revise the order on his own?
Ans. The Commissioner cannot revise the order U/s 107. For CGST, as per Sec. 107 (2), if the commissioner finds an order or decision (passed by an adjudication authority) to be not legal or proper, he can pass an order setting out the points for determination where he is of the view that the order is not legal and proper and directing a GST officer sub-ordinate to him to file an application to appellate authority. Such application is then treated by the appellate authority as if it were an appeal.

Q33. Does the AA have the power to remand the case back to the adjudicating authority for whatever reasons?
Ans. No. Section 107(11) specifically states that the AA shall, after making such inquiry as may be necessary, pass such order, as he thinks just and proper, confirming, modifying or annulling the decision or order appealed against, but shall not refer the case back to the authority that passed the decision or order.

Q34. When the Tribunal is having powers to refuse to admit the appeal?
Ans. In cases where the appeal involves –

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

does not exceed Rs 50,000/-, the Tribunal has discretion to refuse to admit such appeal. (Section 112(2))

Q35. Compute the quantum of pre-deposit required to be made on U/s 107 of the CGST Act 2017 in each of the following independent case:

(a) In an order dated 18-10-2018 issued to ABC Ltd., the Joint Commissioner of central tax has confirmed a tax demand of Rs. 50,00,000. ABC Ltd. has admitted Rs. 5,00,000 as tax liability and intends to file an appeal with the Commissioner (Appeals) against tax demand of Rs. 45,00,000.

(b) In an order dated 18-10-2018 issued to XYZ Ltd., the Joint Commissioner of central tax has confirmed a tax demand of Rs. 50,00,000 and imposed a penalty of Rs. 5,00,000. XYZ Ltd. intends to file an appeal with the Commissioner (Appeals) against the said order.

Ans.

(a) Section 107 (6) of the CGST Act 2017, require an appellant before Appellate Authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of Rs. 25 crores. Thus, ABC Ltd. has to pre-deposit Rs. 5,00,000 (admitted tax) and 10% of Rs. 45,00,000 (tax in dispute) = Rs. 9,50,000.

(b) Section 107 (6) of the CGST Act 2017, require an appellant before Appellate Authority to pre-deposit full amount of tax, interest, fine, fee and penalty, as is admitted by him, arising from the impugned order and a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to maximum of Rs. 25 crores. In this case since entire amount of tax demanded is in dispute, hence XYZ Ltd. has to pre-deposit 10% of Rs. 50,00,000 = Rs. 5,00,000.

Q36. Whether other party could file cross objections against the appeal preferred by the assessee or by the department?
Ans. On receipt of notice that an appeal has been preferred under section 112, other party against whom an appeal is preferred, could file a cross objection to the appeal even though he has not preferred an appeal. A Memorandum of Cross-Objections have to be filed within 45 days from the date of receipt of the notice of appeal in FORM GST APL-06. The Tribunal shall dispose of the cross objections as if it is an appeal.

Q37. Whether appeal / application / cross objections filed beyond the time limit would be entertained?
Ans. Tribunal has been conferred with powers to condone the delay upto 3 months, beyond the period of 3 months or 6 months in case of filing of appeals, where sufficient cause for the delay is shown. Similarly, delay upto 45 days could be condoned by the Tribunal in filing the memorandum of cross objections where sufficient cause for the delay is shown.

Q38. Whether interest becomes payable on refund of pre-deposit amount?
Ans. Yes. As per sec 115 of the Act, where an amount deposited by the appellant under section 107(6) or under section 112(8) is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, as the case may be. Interest at the rate specified under section 56 (6% p.a.) shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Q39. Whether the Tribunal has power to rectify / amend the orders passed by it?
Ans. Yes, the Tribunal may amend any order passed by it under in terms of Section 113(1) so as to rectify any mistake apparent from the record. The Hon'ble Tribunal could undertake rectification on its own or on application by either of the parties to the appeal (by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal). The application for rectification shall be made within a period of three months from the date of the Order sought to be rectified.
However, no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under section 113(3), unless the Tribunal has given notice to him of its intention to do so and has allowed him a reasonable opportunity of being heard.

Q40. What are the orders against which appeal could be preferred before the Supreme Court?
Ans. Following orders could be challenged before the Supreme Court:
a) Order passed by the National Bench or Regional Benches of the Appellate Tribunal; or (no appeal in High Court)
b) Judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

# Chapter 23: - Advance Ruling

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

## ICAI Test your knowledge

Q1 Which are the matters enumerated in Section 97 for which advance ruling can be sought? What are the matters on which Advance Ruling cannot be sought?

Ans. The Advance Ruling can be obtained on the following matters:

(a) classification of any goods or services or both;
(b) applicability of a notification issued under provisions of the Act;
(c) determination of time and value of the supply of goods or services or both;
(d) admissibility of input tax credit of tax paid or deemed to have been paid;
(e) determination of the liability to pay tax on any goods or services or both;
(f) whether applicant is required to be registered;
(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Advance Ruling cannot be sought on any matters other than those specified above (No advance ruling can be sought for Place of Supply matters). Additionally, if the matter on which advance ruling is sought is already pending or decided in any proceedings in the applicant's case under any of the provisions of the Act, then the AAR shall not admit such application.

Q2. What is the objective of having a mechanism of Advance Ruling?

Ans. The broad objectives for setting up a mechanism of Advance Ruling are:

- provide certainty in tax liability in advance in relation to an activity proposed to be undertaken by the applicant;
- attract Foreign Direct Investment (FDI)
- reduce litigation
- pronounce ruling expeditiously in a transparent and inexpensive manner

Q3. To whom will the Advance Ruling be applicable?

Ans. As per Section 103, an advance ruling pronounced by AAR or AAAR shall be binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant. This clearly means that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

Q4. What is the time period for applicability of Advance Ruling?

Ans. As per Section 103, the law does not provide for a fixed time period for which the ruling shall apply. Instead, it has been provided that advance ruling shall be binding till the period when the law, facts or circumstances supporting the original advance ruling have not changed.

Q5. Can an advance ruling given be nullified?

Ans. Section 104 states the circumstances under which the ruling would be considered as void and hence would lose its binding value.

If the Authorities (AAR and Appellate Authority) find that the advance ruling pronounced has been obtained by the applicant/appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio.

Consequently, all the provisions of the CGST Act shall apply to the applicant as if such advance ruling had never been made (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued).

An order declaring advance ruling to be void can be passed only after hearing the applicant/ appellant.

A copy of the order so made shall be sent to the applicant, the concerned officers and the jurisdictional officer.

Example: ABC Ltd. sought an advance ruling regarding the taxability of “Kumkum” manufactured by them & used for pooja & other religious purposes as claimed by them. The authority ruled in favour of ABC Ltd. and exempted their product “Kumkum” from the levy of GST as a pooja material. Later, it brought into the notice of the Authority that the said product is actually used as a colorant in the cloth industry as a dying agent. After giving opportunity, the authority can now pass an order U/s 104, declaring the advance ruling as void ab initio.

## Questions from GST Main Book / Other Questions

Q6. Is Advance Ruling authority treated as Adjudicating Authority?

Ans. No. The definition of “Adjudicating Authority” as provided in Section 2(4) of the CGST Act, 2017 excludes both Advance Ruling Authorities - {Authority for Advance Ruling (in short “AAR”) and the Appellate Authority for Advance Ruling (In short “AAAR”)}.

Q7. Whether the Ruling given by AAR of one State/UT shall be applicable in another State/UT?

Ans. No. The AAR is constituted under the respective State/UT Act and not the Central Act. Hence, the Ruling given by AAR of one State/UT shall be applicable only within the jurisdiction of the concerned State/UT.

Q8. What if, the members of AAR have different viewpoints on the Advance Ruling sought?

Ans. Where the members of the AAR differ on any question on which the Advance Ruling is sought, they shall state the point or points on which they differ and make a reference to the AAAR for hearing and decision on such question.

Q9. Is there any time limit within which Appellate order (AAAR) is to be passed?

Ans. The order, either confirming or modifying the ruling appealed against or referred to, shall be passed within 90 days from the date filing of appeal or reference, after giving the parties to the appeal or reference an opportunity of being heard. A copy of the Advance Ruling so pronounced duly signed by the members and certified in the manner prescribed shall be sent to the applicant and the appellant, the concerned officer/jurisdictional officer of the CGST and SGST/UTGST and the AAR after such pronouncement.

Q10. What if, the Appellate Authority is not able to decide on the matters referred to them in appeal or reference?

Ans. In that case, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

Q11. Is advance ruling binding on all tax payers & department officers?

Ans. No – Advance Ruling pronounced by AAR or AAAR shall be binding only on the applicant who has sought it. Additionally, Advance Ruling shall be binding only on the concerned officer or the jurisdictional officer in respect of the applicant.

Q12. From when will the Advance Ruling be applicable?

Ans. Sec. 103(2) of the CGST Act, 2017 provides that the decision of advance ruling shall be binding unless there is change in law, facts or circumstances supporting the original Advance Ruling, have changed. Hence, unless the case is covered by the said exceptions, it shall be binding on the applicant in respect of all the transactions covered by the Ruling in case of the applicant.

Example: AAR or AAAR has decided the advance ruling and issued the order on 31st July 2018 deciding the tax shall be payable by the recipient on reverse charge on a particular transaction and later on 30th September 2018 the law gets amended on which basis the advance ruling was decided. Such advance ruling made earlier shall no longer binding on such person from the date of such amendment.

Q13. Where does the application for AAR or the appeal before AAAR shall be filed?
Ans. The application or the appeal shall be filed in the jurisdictional office of the respective State AAR or State AAAR respectively.

Q14. Can the application made to the authority for advance ruling can be withdrawn at any time?
Ans. It appears that there is no such provision under GST Law.

Q15. What are the powers of AAR or AAAR?
Ans. The AAR or AAAR shall have all the powers of the Civil Court under the Code of Civil procedure, 1908 regarding;

(a) discovery and inspection;
(b) enforcing the attendance of any person and examining him on oath;
(c) issuing commissions and compelling production of books of accounts and other records.

Q16. Whether Appeal can be filed before High Court or Supreme Court against the ruling of Appellate Authority for Advance Rulings?
Ans. The CGST /SGST Act do not provide for any appeal against the ruling of Appellate Authority for Advance Rulings. Thus, no further appeals lie and the ruling shall be binding on the applicant as well as the jurisdictional officer in respect of applicant.
However, writ petition may lie before Hon'ble High Court or the Supreme Court.

Q17. Can advance ruling be applied for after supply of goods and/or services?
Ans. Yes, as per section 95 (a) of the Act, application can be made for advance ruling in relation to the supply of goods and/or services, being undertaken by applicant.

Q18. When AAR shall not admit the application for advance ruling?
Ans. AAR shall not admit the application where the issue raised is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act.

Q19. Are the tax authorities bound by the advance ruling?
Ans. Only the jurisdictional officer/concerned officer, in respect of applicant who has sought advance ruling is bound by such rulings pronounced.

Q20. Can the Ruling issued by the AAR or order passed by the AAAR be rectified?
Ans. In case there is any error apparent on the face of the records, the AAR or AAAR as the case may be, can amend the original order passed by it, if such error is noticed by the AAAR or AAAR on its own record or is brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant, within a period of 6 months from the date of said order.
However, no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard. Example: In case AAR or AAAR has decided the advance ruling and issued the order on 31st July 2018 and later on 28th September 2018, it has been noticed by the authority itself (or any concerned officer or any jurisdictional officer or applicant) that there is some mistake apparent on record then the authority may rectify such order. The tax rate decided in earlier order was taken as 18% instead of 28%, then before rectifying such order the Authority shall provide the opportunity of hearing to the applicant.

# Additional Questions & Answers

These are apart from Examples in main book

## Chapter 24: - Miscellaneous Provisions

This chapter includes "4 Q & A" of GST main book.

### ICAI Test your knowledge

Q1. How shall the GST compliance rating score be determined?
Ans. As per section 149(2), the GST compliance rating score shall be determined on a scale of ten on the basis of prescribed parameters.

Q2. When shall the power to collect statistics be exercised under GST laws?
Ans. As per section 151, if the Commissioner considers that collection of statistics is necessary for the purpose of better administration of the Act, he may direct that statistics be collected.

Q3. When shall the particulars relating to any proceedings or prosecution be published under GST laws?
Ans. When the Commissioner/authorised officer is of opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under the CGST Act in respect of such person, it may cause to be published such name and particulars [Section 159(1)].
No publication under this section shall be made in relation to any penalty imposed under the CGST Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of [Section 159(2)].

Q4. Explain the provisions relating to rectification of errors apparent on the face of record under section 161 of the CGST Act, 2017?
Ans. Section 161 lays down that any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any GST officer or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.
However, no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document. Further, the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission.
Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

Q5. What is Anti-profiteering measure?
Ans. As per section 171 of the CGST Act, any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices. National Anti-profiteering Authority may examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

## Questions from GST Main Book / Other Questions

Q6. What are the circumstances when assessment/ adjudication proceedings etc. are not be treated as invalid?

Ans. As per Section 160, the following proceedings:

1. Assessment
2. Re-assessment
3. Adjudication
4. Review
5. Revision
6. Appeal
7. Rectification
8. Notice
9. Summons or
10. Other proceedings

done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall not be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any old law.

Q7. What are the circumstances when service of notice/ order etc. shall not be called in question?

Ans. The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Q8. Who has to bring the mistake apparent on record to the notice of the authority?

Ans. The GST authority:

1. On its own motion or
2. Where such error is brought to its notice by (a) Any officer appointed under CGST Act or (b) An officer appointed under SGST Act or (c) An officer appointed under the UTGST Act or
3. The affected person

can bring the mistake apparent on record to the notice of the respective authority.

Q9. Within what period should the mistake apparent on record be brought to the notice of the authority?

Ans. The time limit is 3 months but extendable to 6 months from the date of issue of such decision or order or notice or certificate or any other document. But in case of clerical or arithmetic mistakes, the 6 months outer limit is not applicable. Such clerical error must be due to accidental slip or omission.

Q10. What is the date, the notice/ order etc. is deemed to have been served?

Ans. Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in section 169 (1).

Q11. What if the notice/ order sent through registered post/ speed post is not received by the person to whom it is intended?

Ans. As per Section 169 of CGST Act 2017, when a decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Q12. What does the Anti-Profiteering Measure provision seek to do?

Ans. Anti-Profiteering measure seeks to pass on:

1. Reduction in rate of tax on any supply of goods or service
2. Benefit of input tax credit

received by supplier to the recipient by way of commensurate reduction in prices of goods or services.

Q13. What are the duty of the Anti-Profiteering Authority?

Ans. Duties of Authority constitute:

i. to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
ii. to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
iii. to order,
    a. reduction in prices;
    b. return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;
    c. imposition of penalty as specified in the Act; and
    d. cancellation of registration under the Act.
iv. to furnish a performance report to the Council by the tenth of the close of each quarter.

Q14. A show cause notice was issued demanding GST of Rs. 1,80,180 for the month of July, 2017 on 1st October, 2017. However, adjudicating authority after the personal hearing found that there was a typographical error while mentioning the amount of GST and he confirmed the demand for Rs. 10,80,180. Assessee seeks your advice.

What would be your advice if: (a) assessee comes to you after issue of order or (b) a corrigendum revising the amount to Rs. 10,80,180 on 15th November, 2017, is issued. (CA Final Nov 2018 Old)

Ans.

(i) Advice after issue of order:- As per section 75(7) of the CGST Act, 2017, inter alia, the amount of tax, interest and penalty demanded in the order cannot exceed the amount specified in the notice. Since, in the given case, the amount of tax demanded in the order exceeds the amount of tax demanded in the show cause notice, the assessee can file an appeal against the adjudication order within the prescribed time limit.

*Note:- It has been assumed that order demanding higher tax has been made, but the rectification of show cause notice has not been done.*

(ii) Advice after issue of corrigendum:- Any authority, who has issued, inter alia, any notice, may rectify any error which is apparent on the face of record in such notice, inter alia, on its own motion within a period of 6 months from the date of issue of such notice except where the rectification is

purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission [Section 161 of the CGST Act, 2017].
In the given case, since the corrigendum has been issued to rectify a typographical error in the show cause notice, which is an error apparent on the face of the record, the rectification is correct in law.
Further, being rectification of a clerical error, the time limit of 6 months will not apply.
Therefore, the assessee should reply to the show cause notice considering the revised amount of demand.
*Note:- It has been assumed that corrigendum has been issued in respect of show cause notice.*

Q15. Is there any condition that consideration must be received in foreign currency for deemed export goods?
Ans. There is no condition that consideration for goods notified as deemed exports must be received in convertible foreign exchange. The consideration may be received in Indian Rupees also.

Q16. Whether imported goods, supplied 'as such' qualify for deemed exports?
Ans. Only goods manufactured in India, which are notified by Central Government qualify to be treated as deemed exports. Thus goods notified u/s 147, if imported do not qualify as deemed exports, if they are supplied 'as such'.

Q17. Whether goods notified u/s 147, if manufactured in India from imported goods qualify for the benefit of deemed exports?
Ans. Provisions of Section 147 apply to 'goods manufactured in India'. There is no restriction that raw materials required for manufacture of notified goods must also be manufactured in India. Hence notified goods, if manufactured from imported goods would qualify as deemed exports.

Q18. Who can rectify a mistake apparent on record U/s 161?
Ans. Any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document.

# Additional Questions & Answers

## These are apart from Examples in main book

## ICAI Additional Questions & Answers

Q1. "State Government has exclusive power to notify a transaction to be supply of goods or services." Discuss the correctness of the statement.

Ans. The said statement is not correct. State Government can notify a transaction to be supply of goods or services but only on the recommendations of the GST Council. Further, Central Government or State Government, both on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

Q2. Pepper & Salt Ltd., registered in Madhya Pradesh has the turnover amounting to Rs. 80 lakh in the financial year 2017-18. It wants to avail the benefit of composition scheme in the year 2018-19. You are required to advise Pepper and Salt Ltd. regarding the availability of composition scheme in the year 2018-19.

Will your answer change, if Pepper & Salt Ltd. is registered in Arunachal Pradesh?

Ans. Pepper & Salt Ltd. can avail the benefit of the composition scheme in the year 2018-19 as the threshold for composition scheme is Rs. 1.5 Crore of aggregate turnover in the preceding financial year under section 10(1) of CGST Act, 2017. The benefit of composition scheme can be availed up to the turnover of Rs. 1.5 Crore in current financial year. However, it has to be ensured that Pepper & Salt Ltd. fulfills the following conditions as given under section 10(2) of CGST Act, 2017:-

(i) Save as provided in Section 10 (1), he is not engaged in the supply of services,

(ii) It is not engaged in making any supply of goods which are not taxable under the CGST Act/SGST Act/ UTGST Act.

(iii) Pepper & Salt Ltd. do not make any inter-State outward supplies of goods.

(iv) It does not supply goods through an electronic commerce operator.

(v) It does not manufacture ice cream, pan masala and tobacco etc.

If Pepper & Salt Ltd. is registered in Arunachal Pradesh, it can not avail the benefit of composition in the year 2018-19 as its turnover in the preceding financial year (Rs. 80 lakhs) exceeds the threshold limit (Rs. 75 lakhs).

Q3. LMN & Co, an unregistered supplier under GST wants to claim input tax credit and collect tax. Can it do so?

Ans. No, LMN & Co. cannot claim input tax credit and collect tax. A person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him. However, if LMN & Co. nevertheless wants to claim input tax credit and collect tax, it can apply for voluntary registration under section 25(3) of CGST Act, 2017.

Q4. What is the difference between casual and non- resident taxable persons?

Ans. Casual and Non-resident taxable persons are separately defined in the CGST Act in Sections 2(20) and 2(77) respectively. Some of the differences are outlined below:

| Casual Taxable Person | Non-resident Taxable Person |
|---|---|
| Occasionally undertakes transactions involving supply of goods or services or both in a State or Union territory where he has no fixed place of business. | Occasionally undertakes transactions involving supply of goods or services or both, but has no fixed place of business or residence in India. |
| Has a PAN Number | Do not have a PAN Number; A non- resident person, if having PAN number may take registration as a casual taxable person |
| Same application form for registration as for normal taxable persons. | Separate application form for registration by non-resident taxable person. |

| | |
|---|---|
| Has to undertake transactions in the course or furtherance of business | Business test is absent in the definition. |
| Can claim input tax credit of all inward supplies. | Can get input tax credit only in respect of import of goods and /or services. |

Q5. State the necessary elements for a supply to be chargeable to GST.
Ans. The following elements are required to be satisfied for a supply to be chargeable to GST, i.e.-
a) the activity involves supply of goods or services or both;
b) the supply is for a consideration unless otherwise specifically provided for;
c) the supply is made in the course or furtherance of business;
d) the supply is a taxable supply; and
e) the supply is made by a taxable person.

Q6. Modest Ltd., registered in Delhi dealing in supply of electronic items transferred some of its stock to its another unit located in Haryana (inter-state transfer). Whether such self-supplies are taxable under GST?
Ans. Yes, transfer of stock made by Modest Ltd. are taxable under GST. The definition of supply given under section 7 of CGST Act, 2017 is an inclusive one. It does not specify that supply is to be made by one person to the another. So, self-supplies are to be treated as supply in terms of section 7 of CGST Act. Further, section 25(5) provides that where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons.
Clause (2) of Schedule I of CGST Act, 2017 inter alia provides that supply of goods between distinct persons as specified in section 25 made in the course or furtherance of business is to treated as supply even if made without consideration.
Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration. Every supplier is liable to register under the GST law in the State or Union territory from where he makes a taxable supply of goods or services or both in terms of Section 22 of the CGST Act. However, intra-state self- supplies are not taxable subject to not opting for separate registration.

Q7. Mr. P supplied goods for the value of Rs. 10,000 to its customer Miss Prem on 01.01.20XX on the condition that payment for the same will be made within a week. However, Miss Prem made payment for the said goods on 02.02.20XX and thus paid interest amounting to Rs. 500. What is the time of supply with regard to addition in the value by way of interest in lieu of delayed payment of consideration?
Ans. As per section 12(6) of CGST Act, 2017, the time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed payment of consideration shall be the date on which the supplier received such additional consideration.
Thus, time of supply in respect of interest would be the date on which the supplier has received such additional consideration, i.e. 02.02.20XX.

Q8. There are separate valuation provisions for CGST, SGST and IGST and for Goods and Services. Examine the correctness of the statement.
Ans. No, the said statement is not correct. Section 15 of CGST Act determines the value of supply of goods or services or both. Further, section 15 is applicable for determining value of taxable supply under IGST as well vide section 20 of IGST Act. Section 20 of IGST Act inter alia provides that the provisions of CGST Act relating to time and value of supply shall mutatis mutandis apply in relation to integrated tax as they apply in relation to central tax. Thus, section 15 is common for all three taxes and also common for goods and services.

# Additional Questions & Answers

## These are apart from Examples in main book

Q9. Whether post-supply discounts or incentives are allowed as admissible deduction under section 15 of the CGST Act? If yes, what are the necessary conditions to be complied with for availing such deduction?

Ans. Yes, post-supply discounts or incentives are allowed as admissible deduction under section 15 of the CGST Act. Where the post-supply discount is established as per the agreement which is known at or before the time of supply and where such discount specifically linked to the relevant invoice and the recipient has reversed input tax credit attributable to such discount, the discount is allowed as admissible deduction under Section 15(3)(b) of the CGST Act.

Q10. The time of liability to pay GST is independent of the time of supply of goods/ services. Discuss the correctness of the statement?

Ans. The said statement is not correct. Liability to pay arises at the time of supply of goods as explained in Section 12 and at the time of supply of services as explained in Section13 of CGST Act. The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections.

Q11. LP Ltd., obtains registration for paying taxes under section 9 of CGST Act. He asked his tax manager to pay taxes on quarterly basis. However, LP Ltd.'s tax manager advised the Co.to pay taxes on monthly basis. You are required to examine the validity of the advice given by tax manager?

Ans. The advice given by tax manager is valid in law. Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month (GSTR 3B). Cash payments will be first deposited in the Cash Ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. However, payment can also be debited from the Credit Ledger.

Payment of taxes for the month of March shall be paid by the 20th of April. Composition tax payers will need to pay tax on quarterly basis.

Q12. Wisdom Public School, a higher secondary school in Delhi, is of the view that no tax is payable on the education provided by it to its students as education plays a significant and remedial role in balancing the socio-economic fabric of the country.

Examine whether GST law provides any scope of exemption to supply of goods or services with particular reference to the contention raised by school?

Ans. Yes, GST law provides the scope of exemption to supply of goods and services. Section 11 of CGST Act, 2017 provides that in the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions. Further, the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both. As regards the contention raised by Wisdom Public School, the same is valid in law since Notification No. 12/2017 CT (R) dated 28.06.2017 specifically wholly exempts services provided by an educational institution to its students, faculty and staff.

Q13. Mr. X of Mumbai often participates in the jewellery exhibition at Trade Fair in Delhi, which is organised every year in the month of February. Mr. X applied for registration in January. The proper officer demanded an advance deposit of tax in an amount equivalent to the estimated tax liability of Mr. X.

You are required to examine whether any advance tax is to be paid by Mr. X at the time of obtaining registration?

Ans. Yes, advance tax is to be paid by Mr. X at the time of obtaining registration. Since Mr. X occasionally undertakes supply of goods in the course or furtherance of business in a State where he has no fixed place of business, thus he qualifies as casual taxable person in terms of section

2(20) of CGST Act, 2017.

While a normal taxable person does not have to make any advance deposit of tax to obtain registration, a casual taxable person shall, at the time of submission of application for registration is required, in terms of section 27(2) read with proviso thereto, to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. If registration is to be extended beyond the initial period of 90 days, an advance additional amount of tax equivalent to the estimated tax liability is to be deposited for the period for which the extension beyond 90 days is being sought.

Q14. Explain the significance of the place of supply of goods and services under GST.
Ans. The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may at the point of consumption. So, place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter- state. In other words, the place of Supply of goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

Q15. Why does GST law provide separate rules for place of supply in respect of B2B (supplies to registered persons) and B2C (supplies to unregistered persons) transactions?
Ans. In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes. For B2B transactions, the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted into B2C transaction. In respect of B2C transactions, the supply is finally consumed and the taxes paid actually come to the government.

Q16. M/s Kingsize Airlines has issued a ticket/pass to Mr. Saxena, the winner of annual lucky draw, for travelling to anywhere in India . Determine the place of supply in this case.
Ans. As per section 12(9) of the IGST Act, 2017, the place of supply of passenger transportation service to a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey. In the above case, the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation.

The proviso to section 12(9) provides that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of 12(2). Thus, in such cases, the default rule shall apply i.e., the place of supply of services made to any person other than a registered person shall be the location of the recipient where the address on record exists and the location of the supplier of services in other cases.

Q17. M/s Voguish Furnitures has purchased log woods upon payment of Rs. 20,00,000 including taxes and has directed the supplier to directly send the same to Mr. Ramlal for sawmilling process on job work basis.
Give your opinion as to whether M/s Voguish Furniture can avail input tax credit in respect of log woods directly sent to Mr. Ramlal?
Ans. Section 19 of CGST Act, 2017 inter alia provides that principal shall be entitled to take credit of taxes paid on inputs sent to a job worker whether sent after receiving them at his place of business or even when such the inputs are directly sent to a job worker without their being first brought to his place of business. However, the inputs, after completion of job work, are required to be received back or supplied from job worker's premises, as the case may be, within a period of one year of

their being sent out.
Thus, in view of the above mentioned provisions, M/s Voguish Furniture can avail input tax credit in respect of log woods directly sent to Mr. Ramlal provided log woods are received back or supplied from Ramlal's premises, as the case may be, within a period of one year of their being sent out.

Q18. Mr. X, a registered person supplied the following goods to Miss Neetu for further processing on job work basis.

| S. No. | Goods | Particulars |
|---|---|---|
| 1 | P | Taxable under GST |
| 2 | Q | Exempted vide an exemption notification under CGST Act |
| 3 | R | Non-taxable under GST |

You are required to examine whether the provisions of job work will be applicable to all categories of goods?

Answer given by ICAI

Ans. The provisions of job work are not applicable to all categories of goods. The provisions relating to job work are applicable only when registered person intends to send taxable goods. In other words, these provisions are not applicable to exempted or non-taxable goods or when the sender is a person other than registered person.
Thus, in the present case, the provisions of job work are not applicable to "Q" being an exempted goods and "R" as the same is not taxable good. Thus, job work provisions will apply only to "P", the same being taxable good.

Q19. Is it mandatory that job worker and principal be located in the same State or Union territory for the applicability of job work provisions under GST law? Discuss.
Ans. No, this is not mandatory that job worker and principal be located in the same State or Union territory for the applicability of job work provisions under GST law. The provisions relating to job work have been adopted in the IGST Act vide section 20 of the IGST Act as well as in UTGST Act and therefore job-worker and principal can be located either is same State or in same Union Territory or in different States or Union Territories.

Q20. Mr. Zaid, registered in Arunachal Pradesh is engaged in making inter-State outward supplies of apparels. The aggregate turnover of Mr. Zaid in the financial year 2017-18 is 70 lakh. He opted for composition levy in the year 2018-19 and paid tax for the quarter ending June, 2018 under composition levy. The proper officer has levied penalty on Mr. Zaid in addition to the tax payable by him. You are required to examine the validity of the action taken by proper officer.
Ans. The action taken by proper officer is valid in law. Section 10(1) of CGST Act, 2017 inter alia provides that the benefit of composition levy can be availed by a registered person if the aggregate turnover in the preceding financial year does not exceed Rs. 1.5 crore. However, the said threshold is reduced to Rs. 75 lakh in case of special category state Arunachal Pradesh.
Further, section 10(2) inter alia specifies that registered person is eligible to opt for composition levy if he is not engaged in making any inter-state outward supplies of goods. In the present case, Mr. Zaid is engaged in making inter-State outward supplies of goods. So, he is not eligible to opt for composition levy irrespective of aggregate turnover in the preceding financial year.
Moreover, section 10(5) provides that if a person who has paid under composition levy is found as not being eligible for compounding then such person shall be liable to penalty to an amount equivalent to the tax payable by him under the provisions of the Act i.e., as a normal taxable person and that this penalty shall be in addition to the tax payable by him. Thus, levy of penalty on Mr. Zaid is valid in law in terms of section 10(5).

Q21. Explain the meaning of "mens rea". Is 'mens rea' or culpable mental state necessary for prosecution under CGST Act?

Ans. "Mens rea" means guilty mind, or criminal intent in committing the act. It is the mental element of a person's intention to commit a crime or knowledge that one's action or lack of action would cause a crime to be committed.
Yes, 'mens rea' or culpable mental state is necessary for prosecution under CGST Act. However, Section 135 of CGST Act, 2017 presumes the existence of a state of mind (i.e. "culpable mental state" or mensrea) required to commit an offence if it cannot be committed without such a state of mind.

Q22. "A tax officer can suo-moto ask the assessee to pay tax on provisional basis." Examine the validity of the statement.
Ans. The said statement is not valid. As a taxpayer has to pay tax on self-assessment basis, a request for paying tax on provisional basis has to come from the taxpayer which will then have to be permitted by the proper officer. In other words, no tax officer can suo-moto order payment of tax on provisional basis. This is governed by section 60 of CGST Act. Tax can be paid on a provisional basis only after the proper officer has permitted it through an order passed by him. For this purpose, the taxable person has to make a written request to the proper officer, giving reasons for payment of tax on a provisional basis. Such a request can be made by the taxable person only in such cases where he is unable to determine:

a. the value of goods or services to be supplied by him, or
b. determine the tax rate applicable to the goods or services to be supplied by him.

In such cases the taxable person has to execute a bond in the prescribed form, and with such surety or security as the proper officer may deem fit.

Q23. Mr. Venkateshwara, the taxable person under GST filed the prescribed tax return. During the course of scrutiny of the tax returns, the proper officer detected certain discrepancy in the return filed by Mr. Venkateshwara and asked him to explain the same. However, Mr. Venkateshwara could not offer any proper explanation for the said discrepancy within the prescribed time.
Examine the scenario and offer your views/ comments on as to what recourse may be taken by the proper officer in such a case.
Ans. Section 61 of the CGST Act, 2017 inter alia provides that if during scrutiny of returns, the taxable person does not provide a satisfactory explanation within 30 days of being informed (extendable by the officer concerned) or after accepting discrepancies, fails to take corrective action in the return for the month in which the discrepancy is accepted, the proper officer may take recourse to any of the following provisions:

(a) Proceed to conduct audit under section 65 of the Act;
(b) Direct the conduct of a special audit under section 66 which is to be conducted by a Chartered Accountant or a Cost Accountant nominated for this purpose by the Commissioner; or
(c) Undertake procedures of inspection, search and seizure under section 67 of the Act; or
(d) Initiate proceeding for determination of tax and other dues under section 73 or 74 of the Act.

Thus, in view of the above mentioned provisions, the proper officer may take any of the recourse mentioned above against Mr. Venkateshwara.

Q24. Miss Vaishno, a registered tax payer paying tax under regular scheme failed to file the return for the month of January, 20XX. Explain the legal recourse available to the tax officer, if any.

Ans. The proper officer has to first issue a notice to the Miss Vaishno under section 46 of CGST Act, 2017 requiring him to furnish the return within a period of 15 days. If Miss Vaishno fails to file return within the given time, the proper officer shall proceed to assess the tax liability of the return defaulter to the best of his judgement taking into account all the relevant material available with him in terms of section 62 of CGST Act, 2017.

Q25. A summary assessment order has been issued against Mr. Kanhaiya Mittal, a taxable person under GST. Mr. Kanhaiya Mittal does not wish to take recourse to appellate machinery against the assessment order.

He has approached you for seeking advice on whether there is any other recourse available to him against the said summary assessment?

Ans. Yes, Mr. Kanhaiya Mittal has other recourse available to him against summary assessment order other than appellate remedy. Mr. Kanhaiya Mittal against whom a summary assessment order has been passed can apply for its withdrawal to the jurisdictional Additional/Joint Commissioner within 30 days of the date of receipt of the order vide section 64 of CGST Act. If the said officer finds the order erroneous, he can withdraw it and direct the proper officer to carry out determination of tax liability in terms of section 73 or 74 of CGST Act. The Additional/Joint Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

Q26. Examine whether GST is payable in the following independent cases:-

*(i)* Amar Jyoti Charitable trust, registered under section 10(23C)(v) of the Income-tax Act manages a temple in Shahdara, Delhi. It has given on rent a community hall, located within temple premises, to public for celebration of new year evening. Rent charged is Rs. 9,500.

*(ii)* Speed post services by Department of Post to Union Territory of Lakshadweep.

*(iii)* XY Ltd. has given on hire 7 trucks to Jaggi Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are Rs. 6,200 per truck per day.

Ans.

(i) Renting of community hall by Amar Jyoti charitable trust is exempt from GST, as rent is less than Rs. 10,000 per day. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 has exempted the said service wholly from GST.
The said notification provides exemption to services by a person inter alia by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act . However, this exemption does not apply where renting charges of premises, community halls, kalyanmandapam or open area are Rs. 10,000 or more per day.

(ii) GST is not payable in case of speed post services by Department of Post to Union territory of Lakshadweep. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 has exempted the said service wholly from GST.
Exemption Notification inter alia provides exemption to services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to the Central Government, State Government, Union territory. Therefore GST is payable, if such service is provided to a person other than Central Government/State Government/Union Territory.

(iii) GST is not payable in case of hiring of trucks to Jaggi Transporters. The Exemption Notification No. 12/2017 CT (R) dated 28.06.2017/ Notification No. 9/2017 IT (R) dated 28.06.2017 provides exemption to services by way of giving on hire inter alia to a goods transport agency, a means of transportation of goods.

Q27. Singhal Brothers, registered in Uttarakhand has supplied 30 tons of a chemical @ Rs. 50,000 per ton (excluding taxes) to P of Uttarakhand on 8th September, 20XX. The invoice for the supply has also been issued on the same date. Further, following additional amounts were also charged from P:-

| Particulars | Amount |
|---|---|
| Freight | 1,80,000 |
| Packing charges | 1,10,000 |

| | |
|---|---|
| Weighing charges | 20,000 |
| Cost of instrument specially purchased by Singhal Brothers to manufacture the chemical | 3,10,000 |

As per the terms of the contract of supply, Singhal Brothers is required to get the chemical inspected by an independent testing agency before the delivery of the same to P. P has paid such inspection charges amounting to Rs. 12,000 directly to the testing agency. Singhal Brothers has also received Rs. 50,00,000 as a subsidy from State Government for setting up chemical manufacturing plant in Uttarakhand.

P is required to make payment within 15 days of supply in terms of the contract. However, P delayed the payment of consideration and made payment in November, 20XX thus paid Rs. 15,000 as interest. You are required to calculate the GST liability in this case and due date of deposit. Assume the rate of GST to be 18%.

Note: Singhal Brothers and P are not related and price is the sole consideration for the supply

**Ans.**

**Computation of GST liability of Singhal Brothers**

| **Particulars** | **Amount** |
|---|---|
| Price of chemicals (Rs. 50,000 x 30 tons) [Note-1] | 15,00,000 |
| Freight [Note-2] | 1,80,000 |
| Packing charges [Note-3] | 1,10,000 |
| Weighing charges [Note-3] | 20,000 |
| Cost of special instrument [Note-4] | 3,10,000 |
| Inspection charges [Note-5] | 12,000 |
| Government subsidy [Note-6] | - |
| Interest for late payment [Note 7] (Rs. 15,000 x 100/118) | 12,712 |
| Value of taxable supply | 21,44,712 |
| **Tax liability for the month of September 20XX** | |
| Value of taxable supply (Rs. 21,44,712- Rs. 12,712) [Note-8] | 21,32,000 |
| CGST @ 9% | 1,91,880 |
| SGST @ 9% | 1,91,880 |
| **Tax liability for the month of November 20XX** | |
| Interest for late consideration [Note-9] | 12,712 |
| CGST payable @ 9% | 1,144 |
| SGST payable @ 9% | 1,144 |

**Due date of deposit of GST**

| **Particulars** | ***Time of Supply*** | ***Due date of deposit* [Note-11]** |
|---|---|---|
| GST liability of Rs. 3,83,760 for the taxable supply made by Singhal Brothers | September 8, 20XX | October 20, 20XX |
| Interest amounting to Rs. 2,288 [Note-9] | November, 20XX | December 20, 20XX |

**Notes:**

(1) As per section 15(1) of the CGST Act, 2017, the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and

the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The given supply is a composite supply involving supply of goods (chemical) **and** services (freight) where the principal supply is the supply of goods.
As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (chemical) has been considered.

(3) All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.

(4) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.

(5) Any amount that the supplier is liable to pay in relation to supply but incurred by the recipient of supply and not included in the price actually paid for the goods is includible in the value of supply in terms of section 15(2)(b) of CGST Act, 2017.

(6) Subsidies not directly linked to the price and provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017.

(7) Interest for the delayed payment of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d) of the CGST Act, 2017.

The interest has to be considered as cum tax value and tax payable thereon has to be computed by making back calculations in terms of rule 35 of CGST Rules, 2017.

(8) The tax liability for the month of September, 20XX will not include the tax payable on the amount of interest as the tax liability for the delayed payment of interest arises on the date of receipt of interest in terms of section 12(6) of CGST Act, 2017.

(9) As per section 12(6) of the CGST Act, 2017, the time of supply in case of addition in value by way of interest for delayed payment of consideration for goods is the date on which the supplier receives such addition in value. Thus, the time of supply of interest received on account of delayed payment of consideration is the date of receipt of interest.

(10) As per section 39(1) of CGST Act, 2017 every person registered under regular scheme of payment of tax has to furnish the prescribed return on or before 20th of the succeeding month. Further, section 39(7) provides that every regular registered person is liable to pay tax due to the Government by the last date on which he is required to furnish such return. Thus, GST is liable to be paid on or before 20th of the succeeding month.

Q28. Compute the GST liability of Mr. Mayank, an air travel agent, for the month ended December 31, 20XX using the following details:-

| Particulars | Amount |
|---|---|
| Basic air fare collected for domestic booking of tickets Basic | 50,00,000 |
| Air fare collected for international booking of tickets | 80,00,000 |
| Commission received from the airlines on the sale of domestic and international tickets | 5,00,000 |

Ans. As per rule 32 of the CGST Rules, 2017, the value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of 5% of the basic fare in the case of domestic bookings, and at the rate of 10% of the basic fare in the case of international bookings of passage for travel by air. Thus, GST liability would be computed as under:

| Particulars | Amount |
|---|---|
| 5% of the basic air fare collected for domestic booking of tickets [Rs. 50,00,000 × 5%] | 2,50,000 |
| 10% of the basic air fare collected for international booking of tickets [Rs. 80,00,000× 10%] | |
| **GST payable on** | **10,50,000** |

Q29. Siddhi Ltd. exported some goods to Samson Inc. of USA. It received US $ 9,000 as consideration for
the same and sold the foreign currency @ Rs. 61 per US dollar. Compute the value of supply of money changing service under GST law and rules made thereunder in the following cases:-
(a) RBI reference rate for US dollar at that time is Rs. 62 per US dollar.
(b) RBI reference rate for US dollars is not available.
What would be the value of supply if US $ 9,000 are converted into UK £ 4,500. RBI reference rate at that time for US $ is Rs. 63 per US dollar and for UK £ is Rs. 101 per UK Pound.

Ans. (a) Rule 32 of CGST Rules, 2017 inter alia provides that for a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency.

Hence, in the given case, value of taxable service would be as follows:-

RBI reference rate for $ – Selling rate for $) × Total units of US $

=Rs. (62-61) × 9,000

=Rs. 9,000

**(b)** If the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money.
Hence, in the given case, value of taxable service would be as follows:- 1% of Rs. (61 × 9,000)
=Rs. 5,490

**In case neither of the currencies exchanged is Indian Rupee:**

The value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Hence, in the given case, value of taxable service would be 1% of the lower of the following:-

(a) US dollar converted into Indian rupees = $ 9,000 × Rs. 63 = Rs. 5,67,000

(b) UK pound converted into Indian rupees= £ 4,500× Rs. 101 = Rs.4,54,500

Value of taxable service = 1% of Rs. 4,54,500 = Rs. 4,545

Q30. A manufacturer of machinery supplied a special machine to LM Furnishers. Following details are provided in relation to amounts charged:

# Additional Questions & Answers

## These are apart from Examples in main book

| S.No. | Particulars | ` |
|---|---|---|
| (i) | Price of machinery excluding taxes (before cash discount) | 6,00,000 |
| (ii) | Transit insurance | 11,000 |
| (iii) | Packing charges | 9,000 |
| (iv) | Extra charges for designing the machine | 20,000 |
| (v) | Freight | 12,000 |

Charges mentioned in (ii) to (v) are not included in (i) above. Other information furnished is -

*(a)* Cash discount @ 2% on price of machinery has been allowed to the customer at the time of supply and also recorded in invoice.

*(b)* GST rate – 18%.

Calculate value of supply of the special machine.

Ans.

**Computation of value of special machine**

| **Particulars** | **Amount** |
|---|---|
| Price of machinery | 6,00,000 |
| *Add:* Transit insurance [Note 1] | 11,000 |
| Packing charges [Note 2] | 9,000 |
| Extra design charges [Note 3] | 20,000 |
| Freight [Note 1] | 12,000 |
| Total | 6,52,000 |
| *Less*: 2% cash discount on price of machinery [Rs. 6,00,000 x 2%] [Note 4] | 12,000 |
| Value of taxable supply | 6,40,000 |

**Notes:**

(1) The given supply is a composite supply involving supply of goods (special machine) **and** services (transit insurance and freight) where the principal supply is the supply of goods.
As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly. Thus, tax rate applicable to the goods (special machine) has been considered

(2) All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.

(3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017. Thus, extra designing charges are to be included in the value of supply.

(4) Cash discount was given at the time of supply and also recorded in invoice, so the same is not to be included while computing value of supply in terms of section 15(3)(a) of CGST Act, 2017.