EXCEL COMMERCE ACADEMY PRIVATE LIMITED, JODHPUR

UPDATE FOR CA (Intermediate / IPC) for Nov. 2019

INDEX

Note:
The amendments given in shaded portion are already included in our Books given to you and also discussed in regular classes. Hence those amendments shall not be re-discussed in Amendment Class.

With Best Wishes – BM Biyani, B.Com, LLB, FCA, CS
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PART "A" – IDT

Chapter 2 – Definitions and Concept of Supply

Section 2(17) – Definition of "Business" amended:

- Old law:
  Business includes "services provided by a race club by way of totalisator or a licence to book-maker in such club".

- New law:
  Business includes "activities of a race club including by way of totalisator or a licence to book-maker or activities of a licensed book-maker in such club".

Section 2(102) – Definition of "Service" amended:

- Old law:
  "Securities" are excluded from definition of "goods" as well as "service". Hence sale or purchase of securities is not taxable under GST. But a doubt arose - whether the activities relating to facilitating or arranging transactions in securities shall also be taxable or not?

- New law:
  "Service" includes "facilitating or arranging transactions in securities".

- Example:
  Emkay Shares Ltd. is charging service charges, service fee, documentation fee, brokerage, etc. in relation to transactions of securities. This would amount to providing "service" and GST shall be chargeable.

Section 7(1)(c) – Schedule – I amended:

- Old law:
  Import of services by a **taxable person** from a related person or from any of his other establishments outside India, in the course or furtherance of business, is deemed to be a supply even if made without consideration.

- New law:
  Import of services by a **person** from a related person or from any of his other establishments outside India, in the course or furtherance of business, is deemed to be a supply even if made without consideration.

- Example:
  M/s A is making only exempted supplies and therefore not registered under GST. It imports services from a related person or from any of its establishments outside India without consideration. The importation of service shall be deemed to be a supply.

<u>Circular No. 57/31/2018 GST dated 04.09.2018 – Concept of Supply</u>:

We are aware that in Point No. 3(a) of Schedule – I, the "supply of goods by a principal to his agent **<u>where the agent undertakes to supply such goods on behalf of the principal</u>** is treated as supply even though it is made without consideration. Further in Point No. 3(b) of Schedule – I, the "supply of goods by an agent to his principal **<u>where the agent undertakes to receive such goods on behalf of the principal</u>** is treated as supply even though it is made without consideration.

What is exact interpretation of above language of Point No. 3(a) / 3(b)?

The CBIC has clarified that in order to determine whether a particular principal-agent relationship falls within the ambit of Point No. 3(a) / 3(b) of Schedule – I or not, the deciding factor shall be "invoicing system" adopted by parties.

Hence –

(i) If the invoice for further supply is issued by the agent in his own name **(i.e. Pakka agent)**, the supply of goods by principal to agent would fall in Point No. 3(a). However, if the invoice for further supply is issued by agent to the customer in the name of principal **(i.e. Kaccha agent)**, Point No. 3(a) shall not apply.

(ii) Similary where the goods being procured by agent on behalf of the principal are invoiced in the name of agent **(i.e. Pakka agent)**, the supply of goods by agent to principal would fall in Point No. 3(b). However, if the goods being procured by agent on behalf of principal are invoiced in the name of principal **(i.e Kaccha agent),** Point No. 3(b) shall not apply.

Section 7 - Circular No. 73/47/2018 GST dated 05.11.2018:

- Earlier in Circular No. 57/31/2018 dated 04.09.2018 it was clarified that, in order to determine whether a principal-agent relationship falls within the scope of Schedule-I or not, we have to see whether the invoice for further supply on behalf of principal is issued by agent in his own name or not. If the agent issues invoice in his own name, the situation would fall within the ambit of Schedule-I but if the agent issues invoice in the name of principal, Schedule – I shall not apply.
- In practical life, the services of Del-Credere Agents (DCA) are used. DCA is an agent who guarantees the payment to the Principal. The DCA can apply various methods, like extending temporary short-term transaction-based loans to the buyer (i.e. debtor) or paying to the Principal from his own pocket and recovering the same from the buyer with interest after some period. Now certain doubts have arises in the context of DCA. Hence Circular No. 73/47/2018 dated 05.11.2018 has been issued as under:

(i) Query 1 – Whether a DCA falls under the ambit of an agent under Schedule – I?
Answer – The principal enunciated in Circular No. 57/31/2018 dated 04.09.2018 shall apply. Hence if the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall within "agent". But if the invoice is issued by the Principal to the buyer (either himself or through DCA), the DCA does not fall within "agent".

(ii) Query 2 – Where DCA is not treated as an "agent", whether the interest charged by DCA on temporary short-term transaction-based loan extended by the DCA to the buyer, is to be included in the value of supply made by the Principal?
Answer – In such a case, following activities take place:
(1) Supply of goods by Principal to Buyer.
(2) Supply of agency services by DCA to the Principal.
(3) Supply of extension of loan services by DCA to the Buyer.

In such a case, the temporary short-term transaction based loan given by the DCA to the buyer is an independent supply to the Buyer. Hence the interest charged by the DCA shall not form part of the value of supply in the hands of Principal u/s 15(2). It should also be noted that "services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than credit card services) is exempt under GST. Thus, neither the Principal nor the DCA shall be liable to GST on interest amount.

(iii) Query 3 – If the DCA is treated as an "agent", what will be the treatment of interest?
Answer – In such a case, following activities take place:
(1) Supply of goods by Principal to DCA
(2) Further supply of goods by DCA to Buyer
(3) Supply of agency services by DCA to the Principal
(4) Supply of extension of loan services by DCA to the Buyer

In such a case, the temporary short-term transaction based loan given by the DCA to the Buyer shall not retain character of an independent supply and it shall be a part of the transaction of supply of goods by DCA to the Buyer. Hence the interest shall be included in the value of supply u/s 15(2) and liable to GST in the hands of DCA. ***[Are you able to understand - What will be the treatment in the hands of Principal? Try!!!]***

Section 7 - Circular No. 44/18/2018 dated 02.05.2018 – Concept of Supply:
In our country "Pagadi system" is prevalent. In "Pagadi system" a tenancy right in a property is transferred by owner of property to a tenant against consideration in the form of "tenancy premium". This activity shall be treated as a "supply of service" under Entry No. 2 of Schedule-II and liable to GST.

Further, service provided by an outgoing tenant by way of surrendering the tenancy right against consideration in the form of a portion of tenancy premium, is also a "supply of service" and liable to GST.

Section 7 - Circular No. 1/1/2017 IGST dated 07.07.2017:
We are aware that --

- Under section 24(1)(i) of the CGST Act, the persons making any inter-State taxable supply are compulsorily required to be registered.

- Under section 25(4) of the CGST Act, a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons.

- Schedule - I to the CGST Act specifies 4 situations where the activities are to be treated as supply even if made without consideration. Those 4 situations include the supply of goods/services/both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

On the basis of this legal position, a very interesting issue has arisen. The issue is -- whether the inter-state movement of various modes of conveyance [Trains, buses, trucks, tankers, trailers, vessels, containers, aircrafts, etc.) carrying goods or passengers or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST Act, 2017, (except in cases where such movement is for further supply of the same conveyance) shall be treated as "supply" and hence GST shall be leviable?

There is a view that this supply shall attract GST.

Now, the Govt. has issued clarification that such supply shall not be liable to GST. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

Section 7 - Circular No. 21/21/2017 GST dated 22.11.2017:
The content of Circular No. 1/1/2017 dated 07.07.2017 (discussed above) shall apply *mutatis mutandis* to the inter-state movement of rigs, tools, spares and all goods on wheels (like cranes).

Section 7 and 8 - Circular No. 11/11/2017 GST dated 20.10.2017:
Following clarifications have been given --

- Supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes, etc. printed with logo, design, name, address or other content supplied by the recipient of such supply, are composite supplies and the question, whether such supply constitutes Supply of Goods or Supply of Services, would depend upon the nature of "Principal supply".

- In the case of printing of **books, pamphlets, brochures, annual reports, and the like,** where only content is supplied by the publisher (i.e. the person who owns the usage rights to the intangible inputs) while the physical inputs including paper used for printing belong to the printer, supply of printing of the content supplied by the recipient of supply is the "principal supply" and therefore such supplies would constitute "**supply of service"**.

- In the case of supply of **printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper, etc.** printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, principal supply is that of goods and the supply of printing of the content supplied by the recipient of supply is ancillary to the principal supply of goods and therefore such supplies would constitute "**supply of goods".**

Circular No. 34/08/2018 GST dated 01.03.2018:
Following issues have been clarified:

- Issue No. 1 - Whether the activity of bus body building, is a supply of goods or service?
Clarification – The activity of bus body building is a "composite supply". Its classification as supply of goods or service would depend upon "which supply is the principal supply?". This has to be determined on the basis of facts of each case. **Jai ho .. kya clarification diya hai !!!**

- Issue No. 2 – Whether retreading of tyres is a supply of goods or service?
Clarification – Retreading of tyres is a "composite supply". However, the principal supply is the process of retreading. The rubber used for retreading is an ancillary supply. Hence the retreading of tyres shall be treated as supply of service. But please take care - Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

<u>Circular No. 47/21/2018 dated 08.06.2018 – Concept of Supply</u>:
Sometimes the supplier makes a mixed supply of multiple goods or multiple services or multiple goods + services and charges separate consideration for each goods or service. In such a case, the concept of "mixed supply" shall not apply.

Example – In the case of servicing of cars involving supply of goods (spare parts) and services (labour) where the value of goods and services are shown separately, the goods and services shall be liable to tax at the respective rates as applicable to the respective goods and services. This would not be a case of "mixed supply".

Chapter 3 – Charge of tax

Section 9(3) of CGST Act / 5(3) of IGST Act:
Following supplies have been brought under RCM:

Sl	Category of supply	Supplier	Recipient
1	Service supplied by a Business facilitator TO a Banking Company located in taxable territory	Business facilitator	Banking Company, located in taxable territory
2	Service supplied by an agent of Business Correspondent TO Business Correspondent located in taxable territory	Agent of Business Correspondent	Business Correspondent located in taxable territory
3	Supply of Security Personnel provided by a person other than a body corporate TO a registered person located in taxable territory *Note: This provision shall not apply if the service is provided TO:* *(i)(a) Department or Establishment of the Central Govt. or State Govt. or UT Govt.,* *(b) Local authority, or* *(c) Governmental agencies,* *which has taken registration under the CGST Act, 2017 only for the purpose of deducting TDS u/s 51 and not for making a taxable*	Any person other than a body corporate	A registered person, located in taxable territory

	supply of goods or services; *(ii) A registered person paying tax under Composition Scheme.*		
4	Services supplied by any person by way of Transfer of Development Rights (TDR) or Floor Space Index (FSI) or additional FSI for construction of a project by a Promoter	Any person (in simple words – land owner)	Promoter
5	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called premium, salami, cost, price, development charges or any other name) and / or periodic rent for construction of a project by a Promoter	Any person (in simple words – land owner)	Promoter

Section 9(4) of CGST Act / 5(4) of IGST Act:

- Old law:
  The GST in respect of the supply of taxable goods/services/both received by a registered person from an unregistered person, shall be paid by the Recipient on Reverse Charge Basis (RCM) and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods/services/both. **This provision was suspended from time to time.**

- New law:
  The Govt. may, on the recommendation of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods/services/both received from an unregistered supplier, pay tax on RCM and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods/services/both.

The Govt. has issued Notification No. 7 / 2019 CT(R) dated 29.03.2019, has been issued as under:

Sl	Category of supply	Supplier	Recipient
1	Value of inputs and input services (other than cement) purchased by a Promoter from Registered Suppliers is less than 80% of total inward supplies *Note: RCM shall be applicable to the extent of deficiency i.e. shortage in purchase as compared to 80%*		Promoter
2	Cement	Unregistered persons	Promoter
3	Capital goods		Promoter

Section 10 – Composition Scheme:

- Earlier a registered person, whose Aggregate Turnover (AT) in the preceding Financial Year did not exceed Rs. 1 Crore [Rs. 75 lakh for 9 special category states] could opt for Composition Scheme.
- W.e.f. 01.04.2019, these limits have been changed. Hence, a registered person whose Aggregate Turnover (AT) in the preceding Financial Year did not exceed Rs. 1.50 Crore [Rs. 75 lakh for 8 special category states, viz. (1) Arunachal Pradesh, (2) Uttrakhand, (3) Manipur, (4) Meghalaya, (5) Mizoram, (6) Nagaland, (7) Sikkim, and (8) Tripura] can opt for Composition Scheme.

Section 10 – Composition Suppliers allowed to provide services upto a specified limit:

- Background:
  We have studied that the Composition Scheme is not allowed to service sector except the services covered under Paragraph 6(b) of Schedule – II (i.e. restaurant / catering service). Sometime a manufacturer / trader is also engaged in supply of services (although the quantum of such services may be very small). Similarly, a person engaged in providing restaurant / catering service may also be engaged in supplying other services. Such persons are not able to take benefit of Composition Scheme.

- New law:
  Now the Registered Persons opting for Composition Scheme can also supply services (other than restaurant / catering services) of the value not exceeding:
  (i) 10% of turnover in a State / UT in the preceding financial year, or
  (ii) Rs. 5 lakh,
  which ever is HIGHER.

  Notes:
  (1) If the value of services supplied exceeds the above limit, the person become ineligible for the Composition Scheme and has to opt out of the Composition Scheme.
  (2) The tax rates on services portion shall be 0.50% of "turnover of taxable supplies of services" for CGST + 0.50% for SGST / UTGST = 1% total .

- Example:
  Mr. A has aggregate turnover of Rs. 60 lakh in the financial year 2018-19. During the financial year 2019-20, he opts for Composition Scheme. Hence he can supply services (other than restaurant / catering services) upto HIGHER of:
  (i) 10% of Rs. 60 lakh = 6 lakh
  (ii) Rs. 5 lakh.
  Hence the maximum limit shall be Rs. 6 lakh.

Section 10 – Composition Scheme:

- Old law:
  Please refer Page No. 88 of my book on which the Order No. 01 / 2017 dated 13.10.2017 has been given. For your ready reference, this order is given below:

Order No. 01 / 2017 dated 13.10.2017:
We are aware that –
✓ A person (i) supplying goods (may be manufacturer or trader), or (ii) supplying restaurant/ catering service covered under paragraph 6(b) of Schedule – II, is eligible to opt for "Composition Scheme". A person supplying service [except a person providing restaurant/ catering service covered under paragraph 6(b) of Schedule – II] is not eligible for Composition Scheme.

✓ The Composition Scheme can be availed only if the "Aggregate Turnover" does not exceed Rs. 1 Crore (Rs. 75 lakh for 9 Special Category States).

✓ The "Aggregate turnover" includes "exempt supplies" of goods / services / both.

The effect of above provisions is such that a person who is eligible for composition scheme [i.e. a person (i) supplying goods, or (ii) supplying restaurant / catering service covered under paragraph 6(b) of Schedule – II], becomes ineligible just because he is making "exempt supply of services".

Due to this, the business community is not able to avail the benefit of Composition Scheme. A simple practical example could be – An eligible person getting interest from bank, becomes ineligible because he is making exempt supply of service.

In order to remove this difficulty, the Central Govt. has issued **Order No. 01/2017 CT dated 13.10.2017** to clarify as under:
(i) It is hereby clarified that if a person (i) supplies goods, and/or (ii) supplies services referred to in paragraph 6(b) of Schedule - II [i.e. restaurant / catering service] and also supplies any **exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount**, the said person *shall not be ineligible* for the composition scheme u/s 10 subject to the fulfilment of all other conditions specified therein.

(ii) It is further clarified that in computing his "Aggregate turnover" in order to determine his eligibility for Composition Scheme, the value of supply of any **exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount,** shall not be included.

- New law:
  Now, since the Govt. has allowed a composition person to supply services upto a specified limit (Higher of 10% of turnover in the preceding financial year or Rs. 5 lakh), the above order No. 01 / 2017 dated 13.10.2017 has been superseded by a New order No. 01 / 2019 dated 01.02.2019.

  New Order No. dated 01 / 2019 dated 01.02.2019:
  This new order provides that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account:
  (i) for determining the newly permitted limit for supply of services (i.e. 10% of turnover in the preceding financial year or Rs. 5 lakh, whichever is higher).
  (ii) in computing the aggregate turnover to determine the eligibility for composition scheme.

Section 10 – Composition Scheme – Circular No. 77 / 51 / 2018 GST 31.12.2018:

New law:
It is clarified that in case of denial of Composition Scheme by Proper Officer, the effective date of such denial shall be a date, including a retrospective date, as may be determined by the Proper Officer. However, such effective date of denial cannot be a date prior to the date of contravention of the provisions of CGST Act / Rules.

Notification No. 2 / 2019 CT(R) dated 07.03.2019 – New Concessional Scheme of 6% tax:

- **What is New Concessional Scheme?**
  The new Concessional Scheme is an option to small tax payers to pay GST at a very concessional rate i.e. @ 3% CGST + 3% SGST / UTGST = 6% on "First Supplies of goods and / or services" upto an aggregate turnover of Rs. 50 lakh made on / after 1st April in any Financial Year.

- **Need of Concessional Scheme?**
  GST laws are, too some extent, complex. Hence small persons, not eligible to opt for Composition Scheme u/s 10 (for example – A person exclusively engaged in supplying services other than restaurant service), have demanded a concessional scheme of taxation. In order to provide relief to them, a concessional scheme has been launched.

- **Conditions:**
  Concessional Scheme is allowed only to a registered person:
  (i) whose Aggregate Turnover (AT) in the preceding financial year did not exceed Rs. 50 lakh,
  (ii) who is not eligible to pay tax u/s 10(1) [i.e. not eligible to opt Composition Scheme]
  (iii) who is not engaged in making any supply which is not leviable to tax under CGST Act/ SGST Act / UTGST Act [for example – Suppliers of alcoholic liquor for human consumption, 5 PPs].
  (iv) who is not engaged in making any inter-state outward supply – **neither of goods nor of services. Please take care.**
  (v) who is neither a CTP nor a NRTP,
  (vi) who is not engaged in making any supply through ECO who is required to collect TCS u/s 52,
  (vii) who is not engaged in making supplies of notified goods, viz. (i) Ice cream, (ii) Pan masala and (iii) Tobacco.

- **Restrictions:**
  The person opting under this scheme:
  (i) shall not collect any tax from the recipient on supplies made by him,
  (ii) shall not be entitled to ITC.
  (iii) shall issue a Bill of Supply instead of Tax Invoice,
  (iv) shall mention the words **"Taxable Person paying tax in terms of Notification No. 2 / 2019 CT(R) dated 07.03.2019, not eligible to collect tax on supplies",** at the top of the "Bill of Supply" issued by him.

- ***Extra Points:***

(i) Where more than one registered persons are having the same PAN, supplies by all such registered persons shall be liable to tax @ 6% under this Scheme.

(ii) The registered person opting to pay tax @ 6% under this Scheme, shall be liable to pay:
  (a) GST @ 6% on all outward supplies i.e. first supplies of goods/services/both upto an Aggregate Turnover of Rs. 50 lakh made on or after the 1st April in Financial Year, regardless of any exemption available u/s 9(1) or 11.
  (b) Tax under RCM u/s 9(3) / 9(4) at the applicable rate.

(iii) In computing the Aggregate Turnover of a registered person, the value 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 included.

(iv) Where any registered person who has availed of ITC, opts to pay tax under this Scheme, he shall pay an amount, by way of debit to ECrL or ECL, equivalent to the ITC in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods as if the supply made under this Scheme attracts the provisions of section 18(4) of CGST Act and after payment of such amount, the balance of ITC, if any, lying in his ECrL shall lapse.

(v) All Rules contained in Chapter II of CGST Rules, 2017 as applicable to a person paying tax under Composition Scheme u/s 10, shall apply *mutatis mutandis*, to a person paying tax under this Scheme [i.e. Rule 3 regarding Intimation for opting this scheme, Rule 4 regarding Effective date of Scheme, Rule 6 regarding Validity of Scheme], except the following Rules:
  (a) The option of payment of tax in this scheme in respect of any place of business in any State / UT shall be deemed to be applicable in respect of all other places of business registered on the same PAN.
  (b) The option to pay tax under this scheme shall be effective from the beginning of the FY or from the date of registration in case where new registration has been obtained during the Financial Year.

(vi) Meaning of **"first supplies of goods / services / both"**: The expression "first supplies of goods / services / both", shall –
  (a) for the purpose of determining the eligibility of a person to opt this Scheme – shall include the supplies from 1st April of a Financial Year to the date from which he becomes liable for registration,
  (b) but for the purpose of determination of 6% tax payable under this Scheme -- shall not include the supplies from the first day of April of a FY to the date from which he becomes liable for registration.

Chapter 4 – Exemptions

Entry No.	Amendment
New Entry 21B	Services provided by a GTA, by way of transport of goods in a goods carriage, to – (a) Department or Establishment of the Central Govt. or State Govt. or UT Govt., (b) Local authority, or (c) Governmental agencies, which has taken registration under the CGST Act, 2017 only for the purpose of deducting TDS u/s 51 and not for making a taxable supply of goods or services, shall be exempt.
New Entry 27A	Services provided by a Banking Company TO Basic Saving Bank Deposit (BSBD) Account Holders under Pradhan Mantri Jan Dhan Yojana, shall be exempt.
Entry 34A modified	Existing law: Services supplied by Central Govt., State Govt., UT to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the financial institutions, shall be exempt. New law: Services supplied by Central Govt., State Govt., UT to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the **banking companies** and financial institutions, shall be exempt.
New Entry 74A	Services provided by Rehabilitation Professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as is covered under that Act, at medical establishments, educational institutions, rehabilitation centres established by Central Govt., State Govt., UT Govt or an entity regd. u/s 12AA of Income-tax Act, 1961, shall be exempt.
Entry 67 deleted	Existing Entry 67: Services provided **by** the Indian Institute of Managements (IIMs) to their students as per guidelines of Central Govt., by **way of** the following educational programs [except Executive Development Programme]— (a) 2 year full time program for the Post Graduate Diploma in Management (PGDM) to which admissions are made on the basis of Common Admission Test (CAT), (b) fellow programme in Management, (c) 5 year integrated programme in Management New law: The above Entry 67 has been deleted. The reason is - Now IIMs have been covered in the definition of “Educational institution” and hence the exemption available under Entry 66 shall be available. <u>Circular No. 82 / 01 / 2019 dated 01.01.2019</u>: Query - IIMs also conduct short duration programs for executives / professionals. Whether such activity shall be exempt under Entry No. 66? Answer - It has been clarified that these programs do not fall within “qualification recognised by law”. Hence exemption is not allowed. Therefore, IIMs will have to pay GST on conduct of these programs.

New Entry 41A and 41B	Supply of TDR, FSI and long-term lease of land by a land owner TO a Promoter for construction of residential apartments shall be exempted provided the constructed flats are sold before issuance of completion certificate or first occupation of the project, whichever is earlier, and GST is paid on them, shall be exempt. However, this exemption shall be withdrawn in respect of flats sold after issuance of completion certificate (i.e. the flats which remain un-booked on the date of issuance of completion certificate). In such a case, the Promoter shall be liable to pay GST at the applicable rate, on RCM basis, on the proportionate value of TDR / FSI / upfront amount of long-term lease, as is attributable to un-booked residential apartments. But the withdrawal of exemption shall be limited to 1% of the value in case of affordable houses and 5% of value in case of other houses.
Circular No. 101 / 20 2019 GST dated 30.04.2019	Existing Entry No. 41: Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease (30 years or more) lease of industrial plots or plots for development of infrastructure for financial business, provided by the State Govt. Industrial Development Corporations or State Govt. Industrial Undertakings or by any other entity having 50% or more ownership of Central Government, State Government or Union territory to the industrial units or the developers in any industrial or financial business area, is exempt. Now the Circular clarifies that the exemption under Entry 41 shall be allowed irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront.

Chapter 5 – Time of Supply

Notification No. 4/2018 CT(R) dated 25.01.2018:

- Section 148 of CGST Act empowers the Central Govt. to notify special provisions and procedures to be followed by any person for registration, payment of tax, filing of Return, etc. [Section 148 is not in our syllabus].

- Now exercising the power of section 148, the Central Govt. has prescribed that in the case of –
  (a) registered persons who supply developmental right to a developer, builder, construction company, any other person etc. against consideration in the form of construction service of complex, building or civil structure, or
  (b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration in the form of transfer of development rights (TDR),

  the liability to pay GST shall arise at the time when the said developer / builder / construction company / any other person transfers possession or the right in the developed property, complex, building, etc. to the person supplying developmental rights by entering into a conveyance deed or similar instrument (For example – Allotment letter).

In simple words, the liability to pay GST in case of Transfer of Development Rights (TDR) against consideration in the form of construction service and on construction service against consideration in the form of TDR shall be deferred till the time when possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument.

[Note: Similar provision is prescribed in section 45(5A) of Capital Gain head in Income-tax Act]

Notification No. 6 / 2019 CT (R) dated 29.03.2019 / IT(R)* dated *29.03.2019:

(a) We have discussed earlier the New Entry 41A and 41B in the Exemptions, according to which the supply of TDR, FSI and long-term lease of land by a land owner TO a Promoter for construction of residential apartments shall be exempted provided the constructed flats are sold before issuance of completion certificate or first occupation of the project, whichever is earlier, and GST is paid on them. It was further discussed that the exemption shall be withdrawn in respect of flats sold after issuance of completion certificate (i.e. the flats which remain un-booked on the date of issuance of completion certificate). In such a case, the Promoter shall be liable to pay GST at the applicable rate, on RCM basis, on the proportionate value of TDR / FSI / upfront amount of long-term lease, as is attributable to un-booked residential apartments. But the withdrawal of exemption shall be limited to 1% of the value in case of affordable houses and 5% of value in case of other houses.

(b) In view of above changes, a special procedure for payment of tax has been prescribed for following classes of persons:

(i) Promoters who receive TDR / FSI on or after 01.04.2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including cash;

(ii) Promoters who receive long-term lease of land on or after 01.04.2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (i.e. premium, salami, cost, price, development charges or by any other name).

For such Promoters, the liability to pay tax on, --

1) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of TDR / FSI,
2) the money paid by him for, for supply of TDR / FSI relatable to construction of residential apartments in the project,
3) the upfront amount paid by him for long-term lease of land relatable to construction of residential apartments in the project, and
4) the supply of construction service by him against consideration in the form of TDR / FSI,

shall arise on the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

Chapter 6 – Value of Supply

Circular No. 76 / 50 / 2018 GST dated 31.12.2018:

It has been clarified that the TCS under Income-tax, shall not be included in the value of supply for the purpose of GST.

Example:
A Ltd. sells scrap to Mr. B and collects Rs. 1000 as sale price + TCS of Rs. 10 under Income-tax. How much amount of GST, shall A Ltd. collect from Mr. B assuming rate of GST is 18%?
Answer – A Ltd. shall collect 18% of Rs, 1,000 = Rs. 180 only.

Chapter 7 – ITC

Section 16(2)(b) – Bill to – Ship to mode allowed for services:

- **Old law:**
  Under Explanation to section 16(2)(b) it is deemed that the registered person has received the **goods** where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise. This has been prescribed to allow flow of ITC in **"Bill to – Ship to"** model transactions. However, this provision is applicable in case of "goods" only.

- **New law:**
  Now, this provision has been extended to supply of service too. Hence it is prescribed that where the services are provided by the supplier to any person on the direction of and on account of such registered person, the flow of ITC shall be allowed.

Section 17(3) – Apportionment of ITC – Rule 42 and 43:

- **Old law:**
  The existing law prescribes that, for the purpose of apportionment of ITC, the values of "Exempt Supply (i.e. E)" and "Full Supply (i.e. F)", shall be exclusive of the following amounts:
  (i) Duty levied under Entry 84 of the List-I of the Schedule VII to the Constitution [i.e. Central excise duty],
  (ii) Tax levied under Entry 51 of the List-II of the Schedule VII to the Constitution [i.e. State excise duty],
  (iii) Tax levied under Entry 54 of the List-II of the Schedule VII to the Constitution [i.e. State VAT]

- **New law:**
  The values of "E" and "F" shall also be exclusive of Tax levied under Entry 92A of List-I of the Schedule VII to the Constitution [i.e. Central Sales Tax].

Section 17(3) – Apportionment of ITC – Rule 42 and 43:

- **Old law:**
  We have studied that the existing law prescribes a "modified meaning" of "Exempt supply (i.e. "E") for the purpose of apportionment of credit, according to which "Exempt supply (i.e. "E") includes the following outward supplies:
  (i) Outward supplies on which the recipient is liable to pay tax on RCM,
  (ii) Transactions in securities,
  (iii) Sale of land and,
  (iv) Sale of building [except the sale of building covered in Entry No. 5(b) of Schedule – II].

- **New law:**
  An Explanation has been inserted in section 17(3) to further clarify that the value of "Exempt supply (i.e. "E") shall not include the value of activities or transactions specified in Schedule-III, except the sale of land and building. Hence, the ITC related to sale of land and building shall be reversed but the ITC related to all other activities or transactions covered in Schedule – III shall not be reversed.

- **Hey!! … Do you know?**
  What is the main difference between "activities or transactions covered in Schedule – III" and "supplies which are exempted u/s 11"?

Section 17(3) – Apportionment of ITC – Rule 42 and 43:

- Old law:
  We have studied that the existing law prescribes a "modified meaning" of "Exempt supply (i.e. "E") for the purpose of apportionment of credit, according to which "Exempt supply (i.e. "E") excludes the following outward supplies:
  (i) The value of supply of services specified in Notification No. 42 / 2017 IT(R) dated 27.10.2017 (i.e. the supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees),
  (ii) The value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount. [However, the value of such services shall be included in "Exempt Supply" when the same are provided by banking company, financial institution or a Non-Banking Finance Company],
  (iii) The value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

- **New law:**
  Point (i) has been deleted from the list of exclusions.

Section 17(3) – Apportionment of ITC – Rule 42 and 43:

- **Old law:**
  Several amounts relating to Rule 42 / 43 (for example – T1, T2, T3, T4, C3, D1, D2, Te, addition of ineligible portion of ITC to the output tax liability, etc. are required to be declared by the Registered Person in GSTR-2.

- **New law:**
  Presently, GSTR-2 is not active. Hence Rule 42 and 43 have been amended to provide that the various amounts shall be declared in GSTR-2 / GSTR-3B.

Section 17(5)(a) - Blocked credit:

The clause (a) has been substituted by new clauses (a), (aa) and (ab), as under:

Old Clause (a):

No credit shall be available in respect of:

(a) motor vehicles and other conveyances except when they are used—
  (i) for making the following taxable supplies, namely:—
    (A) further supply of such vehicles or conveyances; or
    (B) transportation of passengers; or
    (C) imparting training on driving, flying, navigating such vehicles or conveyances;
  (ii) for transportation of goods.

New Clause (a), (aa) and (ab):

No credit shall be available in respect of:

(a) motor vehicles for transportation of persons having approved seating capacity of **not more than 13** persons (including the driver), except when they are used for making the following taxable supplies, namely:—
  (A) further supply of such motor vehicles; or
  (B) transportation of passengers; or
  (C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used––
  (i) for making the following taxable supplies, namely:—
    (A) further supply of such vessels or aircraft; or
    (B) transportation of passengers; or
    (C) imparting training on navigating such vessels; or
    (D) imparting training on flying such aircraft;
  (ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

  Provided that the input tax credit in respect of such services shall be available -
  (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein,
  (ii) where received by a taxable person engaged—
    (I) in the manufacture of such motor vehicles, vessels or aircraft; or
    (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him.

Examples on (a):

1	ITC on motor vehicles for transportation of passengers with seating capacity upto 13 persons (including driver)	Generally blocked. But the ITC is allowed in some exceptional situations
2	ITC on motor vehicles for transportation of passengers with seating capacity above 13 persons (including driver)	Allowed always

3	ITC on any other motor vehicle used for any other purpose (e.g. motor vehicle used for transportation of goods, dumpers, tippers, etc.)	Allowed always
4	ITC on cars purchased by a company for official use of employees	Blocked
5	ITC on cars purchased by a car dealer	Allowed
6	ITC on cars purchased by a company engaged in renting out cars for transportation of passengers	Allowed
7	ITC on cars purchased by a car driving school	Allowed
8	ITC on buses purchased by a company for transportation of its employees from their residence to office and back	Allowed
9	ITC on trucks purchased by a manufacturing company for transportation of its finished goods	Allowed
Examples on (aa):		
1	ITC on vessels and aircrafts	Generally blocked. But the ITC is allowed in some exceptional situations.
2	ITC on aircrafts purchased by a manufacturing company for official use of its employees	Blocked
3	ITC on aircrafts purchased by an aviation school providing training on flying	Allowed
Examples on (ab):		
1	ITC of general insurance, servicing, repair and maintenance relating to motor vehicles on which ITC is not allowed	Blocked
2	ITC of general insurance, servicing, repair and maintenance relating to vessels or aircrafts on which ITC is not allowed	Blocked
3	ITC of general insurance, servicing, repair and maintenance relating to motor vehicles on which ITC is allowed	Allowed
4	ITC of general insurance, servicing, repair and maintenance relating to vessels or aircrafts on which ITC is allowed	Allowed
5	ITC of general insurance on cars used by employees	Blocked
6	ITC of repair and maintenance for a truck used by a manufacturing company for transportation of finished goods	Allowed

Section 17(5)(b) - Blocked credit:
The clause (b) has been substituted by new clause (b) as under:

Old Clause (b):
No credit shall be available in respect of:

(b) the following supply of goods/services/both—
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods/services/both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods/services/both or as an element of a taxable composite or mixed supply;
- (ii) membership of a club, health and fitness centre;
- (iii) rent-a-cab, life insurance and health insurance except where—
  - (A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods/services/both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods/services/both or as part of a taxable composite or mixed supply; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession;

New Clause (b):

No credit shall be available in respect of:

(b) the following supply of goods/services/both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods/services/both shall be available where an inward supply of such goods/services/both is used by a registered person for making an outward taxable supply of the same category of goods/services/both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods/services/both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

Examples:

1	M/s A, a caterer, has received a contract for catering in a marriage. M/s A purchased snacks from M/s B, the snacks to be served in the marriage. ITC on snacks purchased by M/s A shall be	Allowed
2	ITC on outdoor catering supply taken by a company for a development event organised for its employees	Blocked
3	ITC on outdoor catering taken by a company to run a canteen in its factory. The Factories Act requires the company to run canteen.	Allowed

Section 18(3) read with Rule 41: Transfer of credit in case of change in constitution:

- **Old law:**
  We are aware that, in the case of any change in the constitution of a registered person on account of (i) sale, (ii) merger, (iii) de-merger, (iv) amalgamation, (v) lease, or (vi) transfer of the business ***with the specific provisions for transfer of liabilities***, the registered person shall be allowed to transfer the ITC which remains unutilised in his Electronic Credit Ledger **(ECrL)** to such sold, merged, demerged, amalgamated, leased or transferred business.

  It is also provided that in the case of de-merger, the ITC shall be apportioned in the ratio of the “value of assets” of the new units as specified in the de-merger scheme.

- **New law:**
  It is prescribed that, for the purpose of this section, the “value of assets” shall mean “the value of the entire assets of the business, whether or not ITC has been availed thereon”.

New Rule 41A for the purpose of section 18(3) - Transfer of credit on obtaining separate registrations for multiple places of business within a State / UT:

- Section 25(2) [to be discussed later in "Registration"] has been amended to allow separate registrations of multiple places of business within a State / UT.

- Hence a new Rule 41A has been introduced which prescribes that a registered person who has obtained separate registration for multiple places of business and who intends to transfer (wholly or partly) the unutilised ITC lying in his ECrL (transferor) to any or all of the newly registered places of business (transferee), shall furnish the details in a prescribed form **[Form ITC-02A]** on the Common Portal within 30 days from obtaining separate registration. Thereafter, the transferee shall accept the details. Upon acceptance, the ITC would get credited to the ECrL of transferee.

- The ITC shall be transferred to the newly registered entities in the ratio of the **"value of assets"** held by them at the time of registration. Here **"value of assets"** shall mean the **"value of the entire assets of the business whether or not ITC has been availed thereon".**

Circular No. 96 / 15 / 2019 dated 28.03.2019:

- Section 18(3) prescribes that, in the case of any change in the constitution of a registered person on account of (i) sale, (ii) merger, (iii) de-merger, (iv) amalgamation, (v) lease, or (vi) transfer of the business ***with the specific provisions for transfer of liabilities***, the registered person shall be allowed to transfer the ITC which remains unutilised in his Electronic Credit Ledger **(ECrL)** to such sold, merged, demerged, amalgamated, leased or transferred business.

- Now, it is clarified that the benefit of section 18(3) shall also be allowed in case of transfer or change in ownership of business due to death of the sole proprietor.

Circular No. 92 / 11 / 2019 GST dated 07.03.2019:

Several promotional schemes are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarifications on the aspects of taxability, valuation and availability of ITC are issued as under:

	Sales promotion scheme	**Taxability / valuation**	**Availability of ITC**
A	Free samples and gifts are given	Free supply of samples and gifts given to stockists, dealers, etc. is a supply without consideration. Hence it will not constitute "supply" except in cases covered under Schedule – I.	Section 17(5) blocks the ITC in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Hence the ITC shall not be available in respect of inputs, input services and capital goods to the extent they are used in relation to the free samples or gifts distributed without any consideration. But if the activity of distribution of free samples or gifts falls within the scope of "supply" under Schedule-I, the ITC shall be allowable.

B	"Buy One – Get One" offers	In case of offers like "Buy One – Get One", although it may appear at the first glance that one item is being supplied free of cost without any consideration but in reality, it is a case of two or more individual supplies for one price. Hence it will be a case of a "composite supply" or "mixed supply" and the provisions of section 8 shall apply.	ITC shall be available for the inputs, input services and capital goods used in relation to supply of goods/ services/both as part of such offers.
C	"Buy more, Save more" offers:	(i) Some suppliers offer staggered discount (increase in discount rate with increase in purchase volume) to their customers, like 10% discount on purchase above Rs. 5,000, 20% discount for purchase above Rs. 10,000, 30% discount for purchase above Rs. 20,000. Such discounts are shown on the invoice itself. (ii) Some suppliers offer post-supply volume discounts (periodic / year-end discounts based on volume given post-supply) to their stockists, like 1% additional discount if the stockists purchase 10,000 pieces in a year, 2% additional discount if they purchase 15,000 pieces in a year. Such discounts are established in terms of agreement entered into at or before the time of supply and given through Credit Notes. Such staggered discounts / volume discounts shall be excluded in determining the "value of supply" provided the condition of reversal of ITC by the Recipient as prescribed in section 15(3) is satisfied.	ITC shall be available for the inputs, input services and capital goods used in relation to the supply of goods/services/both as part of such discounts.
D	Secondary discounts	These discounts are not known at the time of supply. They are offered after the supply is over. Example – M/s A supplies 10,000 packets of biscuits to M/s B @ Rs. 10 per packet. Subsequently, M/s A re-values @ Rs. 9 per packet and gives a discount @ Re. 1 per packet by issuing Credit Note. Such discount shall not be excluded in determining the "value of supply".	ITC shall be available for the inputs, input services and capital goods used in relation to the supply of goods/services/both as part of such discounts.

Chapter 8 – COMPUTATION OF TAX LIABILITY

Section 49(5) amended + New section 49A, 49B + New Rule 88A:

- **Old law:**
  The law prescribed only one direction – Order of Output Tax against which ITC can be utilised
- **New law:**
  Second direction is also prescribed – Order of ITC to be utilised.
- **Effect:**
  Now we will have to follow **"matrix approach"** as under:

First use of	1st Preference	2nd Preference	3rd Preference
IGST	IGST	CGST or SGST/UTGST (in any manner and any proportion)	
CGST	CGST	IGST	***Not allowed***
SGST/UTGST	SGST / UTGST	IGST	***Not allowed***

Example on old system:

ITC of	IGST (1000)	CGST (300)	SGST (300)	Balance
IGST (1300)	1000	100	100	100
CGST (200)	0	200	0	0
SGST (200)	0	0	200	0
Total (1700)	1000	300	300	100

Example on New system – Option -1:

ITC of	IGST (1000)	CGST (300)	SGST (300)	Balance
IGST (1300)	1000	200	100	0
CGST (200)	0	100	0	100
SGST (200)	0	0	200	0
Total (1700)	1000	300	300	100

Example on New system – Option -2:

ITC of	IGST (1000)	CGST (300)	SGST (300)	Balance
IGST (1300)	1000	100	200	0
CGST (200)	0	200	0	0
SGST (200)	0	0	100	100
Total (1700)	1000	300	300	100

Note: Credit of IGST can be utilized against payment of CGST or SGST / UTGST in any manner and any proportion. Hence some more options are also possible.

Alert: This is the most important amendment for exam. Please understand carefully.

Chapter 9 – Registration

Section 22:

- **Old law:**
  The threshold limit for registration in 10 Special Category States was Rs. 10 lakh (Although J&K is also a Special Category State, but it opted for threshold of Rs. 20 lakh) and for rest of India, it was Rs. 20 lakh.

- **New law:**
  Following changes have been made:
  (a) Threshold of Rs. 10 lakh shall apply only to 4 Special Category States:
    (i) Manipur,
    (ii) Mizoram,
    (iii) Nagaland and
    (iv) Tripura.
    Rest of India shall have threshold of Rs. 20 lakh.

  (b) Any person who is engaged in **exclusive supply of goods** and whose Aggregate Turnover in the financial year does not exceed Rs. 40 lakh, has been exempted from registration. But this exemption is not allowed to:
    - Persons required to take compulsory registration u/s 24,
    - Persons engaged in making supplies of ice-cream, pan masala, tobacco and tobacco products
    - Persons engaged in making intra-state supplies in following States, viz. Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Uttarakhand, Puducherry, Telangana.
    - Persons who have opted for voluntary registration
    - Registered Persons who intend to continue with their registration

- **Conclusion:**
  Now we have three types of thresholds for registration, viz. Rs. 10 lakh, Rs. 20 lakh and Rs. 40 lakh.

Rs. 10 lakh	**Rs. 20 lakh**	**(i) Rs. 40 lakh for exclusive goods** **(ii) Rs. 20 lakh for services** **(iii) Rs. 20 lakh for goods + services**
Manipur	Arunachal Pradesh	Assam
Mizoram	Meghalaya	Himachal Pradesh
Nagaland	Sikkim	J&K
Tripura	Uttarakhand	Rest of India
	Puducherry	
	Telangana	
4 Special Category State	**4 Special Category States + 2 Normal States**	**3 Special Category States + Rest of India**

Example:

Location	Activity	Aggregate Turnover	Threshold	Liable for registration?
Assam	Goods	22 lakh	40 lakh	No
Assam	Pan Masala / Ice cream / Tobacco	22 lakh	20 lakh	Yes
Assam	Services	22 lakh	20 lakh	Yes
Assam	Goods + Services	22 lakh	20 lakh	Yes
Telangana	Goods	22 lakh	20 lakh	Yes
Telangana	Pan Masala / Ice cream / Tobacco	22 lakh	20 lakh	Yes
Telangana	Services	22 lakh	20 lakh	Yes

Telangana	Goods + Services	22 lakh	20 lakh	Yes
Manipur	Goods	12 lakh	10 lakh	Yes
Manipur	Pan Masala / Ice cream / Tobacco	12 lakh	10 lakh	Yes
Manipur	Services	12 lakh	10 lakh	Yes
Manipur	Goods + Services	12 lakh	10 lakh	Yes

Circular No. 96/15/2019 GST dated 28.03.2019 – Section 22(3):

Section 22(3) prescribes that where a business carried on by a taxable person registered under this Act is transferred (whether on account of succession or otherwise) to another person as a going concern, the transferee/successor, shall be liable to be registered with effect from the date of such transfer/succession.

Now, the Circular clarifies that this provision shall also apply in case of transfer of business or change in ownership of business due to death of the sole proprietor.

Section 23: Persons not liable for registration:
Under this section, several persons have been notified as not liable for registration. In our regular classes, we have discussed the various Notifications issued by Govt. in this regard. Subsequently, some minor amendments have been made. The latest status of various notifications is given below ***<u>(the amendments have been italicized and underlined for a quick understanding)</u>***:

Persons notified by the Govt. who are not liable for registration u/s 23

N/N	Person	Condition-1 [Turnover]	Condition-2 [PAN]	Condition-3 [E-way Bill]	Condition-4
5/2017 CT	A person exclusively engaged in making taxable outward supplies of goods/services/both, the tax on which is liable to paid by the Recipient u/s 9(3)				
65/2017 CT	Persons making supplies of services other than supplies specified u/s 9(5), through an ECO who is required to collect TCS u/s 52 (i.e. Supplier of services through ECO)	AT during the financial year should not exceed Rs. 20 lakh / 10 lakh during the financial year			
10/2017 IT	A person making inter-state supplies of taxable services (i.e. Inter-state supplier of services)	AT during the financial year should not exceed Rs. 20 lakh / 10 lakh.			

~~8/2017 IT~~ ***<u>New No. 3 / 2018</u>***	(i) A person making inter-state taxable supplies of handicraft goods (i.e. Inter-state supplier of handicraft goods) ***<u>(ii) A person making inter-state taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process</u>***	Aggregate value of such supplies computed on all India basis, does not exceed Rs. 20 lakh / 10 lakh during the financial year	Such person obtains PAN	Such person generates E-Way Bill		
~~32/2017 IT~~ ***<u>New No. 56/2018</u>***	(i) A CTP making inter-state taxable supplies of handicraft goods (i.e. CTP who is inter-state supplier of handicraft goods) ***<u>(ii) A CTP making inter-state taxable supplies of notified products, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process</u>***	Aggregate value of such supplies computed on all India basis, does not exceed Rs. 20 lakh / 10 lakh during the financial year	Such person obtains PAN	Such person generates E-Way Bill		
7/2017 IT	Job workers engaged in making inter-state supply of services to a registered person (i.e. Small job worker)	He should not be liable for registration u/s 22(1) *[In simple words - AT does not exceed Rs. 20 lakh / 10 lakh during the financial year]*			Exemption is not available to a job worker involved in making supply of services in relation to jewellery, goldsmiths' articles or silversmiths' articles	

Section 24:

- **Old law:**
  Under the existing law, following persons are compulsorily required to obtain registration:
  (i) ECOs
  (ii) Persons who are required to pay tax u/s 9(5) [i.e. ECOs of notified services]

- **New law:**
  Now, the Point No. (i) above has been amended as under:
  "ECOs who are required to collect TCS u/s 52."

Section 25:

- **Old law:**
  Registration is State-wise. Hence one registration is allowed in one State / UT. Separate registrations within a State / UT is optionally allowed only in case of "Business Verticals".

- **New law:**
  Entire concept of "Business Vertical (B/V)" has been substituted by "Place of Business (POB)". Hence following amendments have been made:

Section/ Rule	Old law	New law
2(18)	Definition of "Business Vertical"	This definition is omitted.
Section 25 read with Rule 11	A person having multiple "B/Vs" in a State or UT has option to obtain separate registration of each such "B/V", subject to fulfillment of following conditions: (i) The person shall have to submit a separate application for registration of each B/V. (ii) The separately registered B/Vs shall have to pay GST on supply made by one to another and also issue a Tax Invoice for such supply. (iii) By virtue of section 25(4)/(5), all separately registered B/Vs shall be treated as "distinct persons". Consequently, the supply of goods/services/both made by one B/V to another B/V shall be treated as "supply" under Schedule-I even if such supply is made without consideration. (iv) If one B/V pays tax under Normal levy, all B/Vs shall pay tax under Normal levy. Similarly, if one B/V pays tax under Composition Scheme, all B/Vs will have to pay tax under Composition Scheme only.	A person having multiple "POBs" in a State or UT has option to obtain separate registration of each "POB", subject to prescribed conditions: (i) The person shall have to submit a separate application for registration of each POB. (ii) The separately registered POBs shall have to pay GST on supply made by one to another and also issue a Tax Invoice for such supply. (iii) By virtue of section 25(4)/(5), all separately registered POBs shall be treated as "distinct persons". Consequently, the supply of goods/services/both made by one POB to another POB shall be treated as "supply" under Schedule-I even if such supply is made without consideration. (iv) If one POB pays tax under Normal levy, all POBs shall pay tax under Normal levy. Similarly, if one POB pays tax under Composition Scheme, all POBs will have to pay tax under Composition Scheme only.

Do you remember the definition of "Place of Business" – Section 2(85)?

"Place of business" includes –

(a) a place from where the business is ordinarily carried on,

(b) a warehouse, godown or any other place where a taxable person stores his goods, supplies or receives goods/services/both,

(c) a place where a taxable person maintains his books of account, and

(d) a place where a taxable person is engaged in business through an agent.

Section 29 – Cancellation or Suspension of Registration:

- **Old law:**
  The existing law section 29 makes provisions for "cancellation of registration".

- **New law:**
  (i) Section 29 is now titled as "Cancellation or Suspension of registration".

  (ii) Once a registered person has applied for cancellation of registration or the Proper Officer has, on his own motion, initiated action to cancel the registration, the Proper Officer may suspend registration during the pendency of the proceeding relating to cancellation, for such period and in such manner as may be prescribed. The reason of such suspension is to ensure that the taxpayer is freed from routine compliances including filing of Returns, during the pendency of cancellation proceedings.

  (iii) Rule 21A has also been introduced. This Rule prescribes the period and manner of suspension of registration, as under:

If the registered person has applied for cancellation of registration	The registration shall be deemed to be suspended from: (a)the date of submission of application, or (b)the date from which the cancellation is sought, whichever is earlier
If the Proper Officer has, on his own motion, initiated action to cancel the registration	If the Proper Officer has reason to believe that the registration of a person is liable to be cancelled, he may, after affording a reasonable opportunity of hearing to such person, suspend the registration w.e.f. a date to be determined by him.

  (iv) A registered person, whose registration has been suspended:
  (a) shall not make any taxable supply during the period of suspension, and
  (b) shall not be required to furnish any Return u/s 39

  (v) The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by the Proper Officer. Such revocation shall be effective from the date on which the suspension had come into effect.

Section 30 – Revocation of Cancellation of Registration:

- **Old law:**
  The existing Rule 23 prescribes that if the registration has been cancelled on account of failure of the registered person to furnish Returns, no application for revocation of cancellation of registration shall be filed, unless the pending Returns are furnished and any amount *due as tax, in terms of such Returns, along with applicable interest, penalty and late fee,* is paid.

- **New law:**
  Now following provisions have also been prescribed for furnishing of pending Returns:

If the registration was cancelled w.e.f. the date of order of cancellation	(1) All Returns due till the date of order of cancellation, shall be furnished before filing the application for revocation, and (2) All Returns for the period from the date of order of cancellation of registration till the date of order of revocation, shall be furnished within 30 days from the date of order of revocation.
If the registration was cancelled with retrospective effect	The application for revocation of cancellation can be filed, subject to the condition that all Returns relating to the period from the effective date of cancellation of Registration till the date of order of revocation, shall be furnished within a period of 30 days from the date of order of revocation.

Chapter 10 - Tax Invoice, Credit Note and Debit Note

Circular No. 10/10/2017 GST dated 18.10.2017:

Many a time businessmen carry goods (For example – Jewellery) from one place to another in the same State or a different State for approval. Thereafter, if the buyer approves, the supplier issues a Tax Invoice at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and also not able to estimate their tax liability in advance, it is not possible for them to obtain registration as Casual Taxable Person. To remove this difficulty, it has been clarified that the supplier can carry goods on delivery challan (alongwith E-way Bill, wherever applicable) and the invoice may be issued at the time of actual supply. The supplier can carry the Invoice Book with him so that he can issue Invoice. It is further clarified that in such a case, if the supplier carries goods from one State to another and supplies them in a different State, the sale would be treated as Inter-state and IGST shall be applicable.

Circular No. 22/22/2017 dated 21.12.2017:

- In practical life Artists give their art work to Art-Galleries and the Art-Galleries exhibit such art work. An interesting issue arises – Whether any taxability would be attracted when the Artist gives art work to the Art-Gallery or at the time of actual supply by the Art-gallery to the ultimate buyer?

- Rule 55 provides that if there is a transportation of goods for reasons other than supply, the supplier shall issue a Delivery-Challan. It is further prescribed in Rule 55 that the supplier shall declare such Delivery-Challan in E-way Bill (where E-way Bill is applicable). It is further prescribed in Rule 55 that where the goods being transported are for the purpose of supply to the recipient but the Tax Invoice could not be issued at the time of removal of goods, the supplier shall issue a Tax Invoice after delivery of goods.

- On the basis of above Rule 55, it has been clarified that the Artist can move goods according to Rule 55 on Delivery-Challan basis along with E-Way Bill (where applicable) and the Tax Invoice may be issued subsequently at the time of actual supply of art work.

- It is further clarified that the supply of art work by the Artist to Art-Gallery shall not be treated as supply. The supply shall be treated as taken place at the time of actual sale by the Art-Gallery and applicable GST shall be levied. (It is further clarified that in such a case, if the supply of art work is from one State to another, IGST shall be levied).

Section 34(1) – Credit Note / Section 34(3) – Debit Note:

- **Old law:**
  A Credit Note / Debit Note is required to be issued invoice-wise. This task is quite cumbersome.

- **New law:**
  Section 34(1) has been amended to permit the registered person to issue one (consolidated) or more Credit Notes in respect of multiple invoices issued in a financial year without linking the same to individual invoices. Similarly, section 34(3) has also been amended to permit the registered person to issue one (consolidated) or more Debit Notes in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

Rule 46 / Rule 49:

- **Old law:**
  A Tax Invoice or Bill of Supply should contain signature or digital signature of the Supplier or his authorized representative.

- **New law:**
  Signature/digital signature of the Supplier/his authorized representative is not required on (i) Electronic Tax Invoice, (ii) Electronic Monthly Consolidated Tax Invoice issued by an Insurer / Banking Company / Financial Institution / NBFC (iii) Electronic Bill of Supply, (iv) Electronic Ticket for passenger transportation service, issued in accordance with Information Technology Act, 2000.

Rule 53:

- **Old law:**
  The contents prescribed for Revised Tax Invoice, Credit Note and Debit Note are same.

- **New law:**
  New contents have been prescribed for Revised Invoice, Credit Note and Debit Note.

- **Effect:**
  Now the contents of Revised Invoice, Credit Note and Debit Note shall be as under:

	Revised Invoice	Credit Note	Debit Note
(i)	"Revised Invoice" to be indicated	Nature of document (i.e. Credit Note) to be indicated	Nature of document (i.e. Debit Note) to be indicated
(ii)	Name, address and GSTIN of the supplier	Same	Same
(iii)	A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets/numerals/special characters - hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year	Same	Same
(iv)	Date of issue	Same	Same
(v)	If the recipient is registered -- Name, address and GSTIN or UIN of the recipient	Same	Same
(vi)	If the recipient is unregistered – Name and address of the recipient and the address of delivery, along with the name of the State and its code.	Same	Same
(vii)		Value: Taxable value of supply of goods/services/both	Same
(viii)		Rate of CGST, SGST, IGST, UTGST or Cess	Same
(ix)		Amount of CGST, SGST, IGST, UTGST or Cess credited / debited to the recipient	Same
(x)	Cross-reference (i.e. Serial number and date of the corresponding Invoice / Bill of supply earlier issued)	Same	Same

	(xi)	Signature/digital signature of the supplier / his authorised representative	Same	Same

<u>Circular No. 72 / 46 / 2018 GST dated 26.10.2018 – Treatment of sales return</u>:
Representations have been made to CBIC seeking clarification on treatment of sales-return (and the procedure to be followed for documenting sales-return). The CBIC has issued a clarification.

Note - For the sake of a better understanding, we formulate one example. Mr. A supplied goods to Mr. B. Subsequently, Mr. B returns goods to Mr. A.

The CBIC has clarified that any of the following two options can be followed for sales-return:
Option 1 – Sales-return may be treated as a fresh supply from Mr. B to Mr. A.
Option 2 – Sales-return may be dealt by issuing a Credit Note.

The CBIC has further clarified several issues which are likely to arise in these two Options, as under:

<u>Issues relating to Option 1 – Sales Return to be treated as a fresh supply</u>

Sl.	Status of the person making the sales-return (i.e. status of Mr. B)	Condition	Value of goods returned	Whether ITC available to Recipient of sales return (Mr. A)?
1	A registered person (other than a composition supplier)	Return the good treating as a fresh supply. Hence Mr. B will issue a "Tax Invoice", collect output tax from Mr. A and pay to Govt.	The value as shown in the original invoice on the basis of which the relevant goods were initially supplied by Mr. A to Mr. B, may be taken as the value of sales-return	Yes, Mr. A shall be eligible to claim ITC.
2	A composition person	Return the good treating as a fresh supply. Since Mr. B is a Composition Person, he will issue a "Bill of Supply" to Mr. A and pay tax as applicable to composition scheme.	- do -	No. Mr. A cannot claim ITC.
3	An unregistered person	Mr. B can issue any commercial document to Mr. A without charging GST. Further, Mr. B will not pay any tax to Govt.	- do -	No. Mr. A cannot claim ITC.

If the returned goods are destroyed by Mr. A, he will be required to reverse the ITC availed on such sales-return and not the ITC attributable to the manufacture of those goods. Suppose Mr. A had availed ITC of Rs. 10/- at the time of manufacture of goods. At the time of Return of such goods, the ITC available to Mr. A on the basis of fresh invoice issued by Mr. B is Rs. 15/-. So, if the returned goods are destroyed by Mr. A, he would be required to reverse ITC of Rs. 15/- and not of Rs. 10/-.

Issues relating to Option 2 – Sales Return to be dealt with by issuing Credit Note

Mr. B may return goods to Mr. A on a delivery challan. Thereafter, Mr. A can issue a Credit Note to Mr. B u/s 34(1) of CGST Act.

There is no time-limit in GST laws for issuance of Credit Note. Hence Mr. A can issue Credit Note to Mr. B at any time. However, the adjustment of tax liability of Mr. A shall be governed by section 34(2) of CGST Act, as under:

(a) If the Credit Note is issued within the time allowed u/s 34(2) of CGST Act, Mr. A can adjust his tax liability, subject to the condition that Mr. B has either not availed ITC or if availed has reversed the ITC related to returned goods. In this case, Mr. A shall be required to declare Credit Note on the Common Portal.

(b) If the Credit Note is issued beyond the time allowed u/s 34(2) of CGST Act, Mr. A cannot adjust his tax liability. In this case, Mr. A shall not be required to declare Credit Note on Common Portal.

If the returned goods are destroyed by Mr. A, he will be required to reverse the ITC attributable to the manufacture of those goods, as per section 17(5)(h). This is illustrated by following example:

Date of original supply	Date of Return	Treatment for Mr. A
01.07.2018	20.09.2019	Mr. A will issue Credit Note to Mr. B and upload the details of such Credit Note on Common Portal. Mr. A will adjust tax liability provided Mr. B has not availed ITC or if availed has reversed ITC.
01.07.2018	20.10.2019	Mr. A will issue Credit Note to Mr. B but cannot adjust his tax liability. Hence there would be no requirement to upload the details of Credit Note on Common Portal.

E-Way Bill:

There is no change in E-Way Bill system. However, I have revised my topic on E-Way Bill for a better and smooth understanding. Please read the newly released topic.

Chapter 11 – Payment of tax

Section 49(5) amended + New section 49A, 49B + New Rule 88A:

These amendments have introduced "matrix approach" for utilization of ITC. We have already discussed these amendments in "Chapter 8 – Computation of Tax liability".

Chapter 12 – Return

Rule 62 – Section 39(2):

- **Old law:**
  The existing Rule 62 prescribes a simple procedure for filing of Return [in Form GSTR-4] by a Composition Supplier (i.e. a person paying tax u/s 10).

- **New law:**
  Rule 62 has been thoroughly amended. A comparative analysis of old provision and new provision is given below:

Provision	Old provision	New provision
Applicability	Applicable to Composition Suppliers only.	Applicable to: (i) Composition Suppliers, and (ii) Persons paying tax under Notification No. 02/ 2019 CT(R) dated 07.03.2019 (i.e. Persons opting for 6% Concessional Scheme).

Title of Rule	Form and Manner of submission of Quarterly Return by the Composition Supplier	Form and Manner of submission of Statement and Return
Filing of Return	Every Composition Supplier shall electronically furnish Quarterly Return in a prescribed form (i.e. Form GSTR-4) on Common Portal.	Every (i) Composition Supplier, and (ii) a person paying tax under Notification No. 02/ 2019 CT (R) dated 07.03.2019, shall electronically furnish on Common Portal: (a) a Statement in a prescribed form [Form GST CMP-08] containing the details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter, **[i.e. Quarterly Statement]** and (b) a Return in a prescribed form [Form GSTR-4] for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year **[i.e. Annual Return]**.
Payment of tax, interest, penalty, fee or other amount	Every Composition Supplier shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act by debiting his ECrL, at the time of filing of Return.	Every (i) Composition Supplier, and (ii) a person paying tax under Notification No. 02/ 2019 CT (R) dated 07.03.2019, shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act by debiting his ECrL, at the time of filing of Quarterly Statement.
Details of inward supplies and outward supplies to be included in the Return	The Return shall include: (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and (b) consolidated details of outward supplies made.	The Annual Return shall include: (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and (b) consolidated details of outward supplies made.
Returns for the period prior to opting for Composition Scheme – *Switching from Regular tax payer to Composition Supplier*	***"Lakshman Rekha":*** A registered person opting for Composition Scheme from the beginning of a financial year (i.e. Please note that Composition Scheme can be opted from beginning of financial year only. It cannot be opted from mid of the year) shall furnish GSTR-1 and GSTR-3B relating to the period prior to opting for Composition levy. The Return must be filed till the – (a) due date of furnishing the Return for the month of September of the succeeding financial year ***[i.e. 20th October of next financial year]***, or (b) furnishing of annual return of the preceding financial year, whichever is EARLIER.	Same

Returns for the period prior to exiting from Composition Scheme – *Switching from a Composition Supplier to Regular tax payer*	***"Modified Lakshman Rekha"*** A registered person existing from Composition Scheme shall furnish GSTR-4 relating to the period prior to exiting from Composition levy. The Return must be filed till the – (a) due date of furnishing the Return for the quarter ending September of the succeeding financial year ***[i.e. 18th October of next financial year]***, or (b) furnishing of annual return of the preceeding financial year, whichever is EARLIER.	A registered person exiting from Composition Scheme / 6% Concessional Scheme, shall furnish: (a) the Quarterly Statement in Form CMP-08 for the period prior to exiting from Composition levy, till the 18th day of the month succeeding the Quarter in which the date of withdrawal falls, and (b) the Annual Return in GSTR-4 for the period prior to exiting from Composition levy, till the 30th day of April following the end of the financial year in which the date of withdrawal falls.
Extra Points	(1) Composition Supplier is not required to file **GSTR-1** and **GSTR-3B**. (2) The inward supplies taken from registered suppliers shall be auto-populated through **Form GSTR-4A** received from **Common Portal**.	Same

Section 48 - GSTP:

- **Old law:**
  A GSTP can undertake following activities on behalf of a registered person (if he is so authorised by the registered person) --
  (a) furnish the details of outward supplies u/s 37 [i.e. GSTR-1]
  (b) furnish the details of inward supplies u/s 38 [i.e. GSTR-2]
  (b) furnish all Returns u/s 39, 44 or 45
  (c) make deposit for credit into the Electronic Cash Ledger **(ECL)**;
  (d) file a claim for refund
  (e) file an application for registration, amendment or cancellation of registration.
  (f) appear before any officer of Department, Appellate Authority, Appellate Tribunal

- **New law:**
  Now, a GSTP can also undertake following activities on behalf of a registered person (if he is so authorised by the registered person) --
  (a) furnish information for generation of E-Way Bill,
  (b) furnish the details of challan in the prescribed form,
  (c) file an application for amendment or cancellation of enrolment under Rule 58 [Rule 58 is not in the syllabus of CA Inter],
  (d) file an intimation to pay tax under Composition Scheme or withdraw from Composition Scheme

Section 48 - GSTP:

- **Old law:**
  Any person enrolled as GSTP by virtue of being a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws, could remain enrolled as a GSTP only for a period of 18 months from the date on which GST laws came into effect, unless he passes the examination conducted by NACIN (National Academy of Customs, Indirect Taxes and Narcotics).

- **New law:**
  The time limit of 18 months has been increased to 30 months.

PART "B" – DT

Chapter 2 – Residential Status and Scope of Total Income

Circular No. 13 / 2017 dated 11.04.2017 – Section 5 "Scope of Total Income":

We are aware that under section 5, any income received in India is taxable in India even if the assessee is non-resident. Hence the employees of shipping industry (called "seafarers") are facing a serious problem due to this provision. They remain out of India (generally they remain on-board in the high sea) and become non-resident. But since most of the time they have to remain on-board in the high sea, they are forced to receive salary in their bank accounts maintained in India. Hence their salary becomes taxable in India on receipt basis. On their representation, the Govt. has decided that the salary of non-resident seafarers shall not be taxed in India even if they receive such salary in their bank accounts maintained in India.

Chapter 3 – Exempted Incomes

Circular No. 4 / 2018 dated 14.08.2018 – CIT Vs. HCL Technological Ltd. (SC) - Section 10AA:

We are aware that the exemption u/s 10AA is computed as follows:

Step 1: Compute **'Qualifying Profit'** by using following formula --

Income of SEZ Unit computed as per "Business Profession" head	X	"Export Turnover" of SEZ Unit / "Total Turnover" of SEZ Unit

Step 2: Thereafter, the exemption shall be allowed as under:

First 5 assessment years	100% of the **'Qualifying Profit'**
Next 5 assessment years	50% of the **'Qualifying Profit'**
Next 5 assessment years	50% of the **'Qualifying Profit'** or the amount of profit transferred to Special Economic Zone Re-investment Allowance Reserve A/c (SEZRAR A/c), whichever is less

While section 10AA specifically prescribes that the amount of "Export Turnover" in Step-1 shall be taken at FOB figure, it is silent about the amount of "Total Turnover". Hence a dispute has cropped up as to whether the "Total Turnover" in Step-1 should be CIF figure or FOB figure. The assessees have claimed that since "Export Turnover" is FOB figure, the "Total Turnover" should also be "FOB" figure. Now the Supreme Court has accepted the claim of assessees. Further, the department has also issued Circular and confirmed the same.

What is CIF and FOB?

In international trade, two terms are prevalent, viz. Cost including Insurance and Freight (CIF) and Free on Board (FOB).

FOB = CIF (-) freight, telecommunication charges or insurance attributable to delivery of the articles or things outside India (-) Expenses incurred in foreign currency for providing technical services outside India.

Chapter 4 – Income from Salary

Notification No. 16 / 2019 dated 08.03.2019:

- **Old law:**
  In the case of Non-Govt. employees covered under Payment of Gratuity Act, 1972, the maximum limit of exemption was Rs. 20 lakh but in the case of Non-Govt. employees not covered under Payment of Gratuity Act, 1972, the maximum limit of exemption was Rs. 10 lakh.

- **New law:**
  Now, in the case of Non-Govt. employees **not covered** under Payment of Gratuity Act, 1972, the maximum limit of exemption has been increased from Rs. 10 lakh to Rs. 20 lakh. Thus, the maximum limit of exemption shall be Rs. 20 lakh in case of all Non-Govt. employees irrespective of whether they are covered under Payment of Gratuity Act, 1972 or not.

Chapter 6 – Income from BPV

Section 40(b) – Question No. 9 in Mock Test Series – II for May, 2019 Exam:

Following question was set out in Mock Test Series. This is a tricky question, suitable to CA Final level. However, since it has been set out in Mock Test, we step to understand:

Question:
M/s ABC & Co., a firm carrying on business, furnishes the following particulars for the PY 2018-19:

Book Profits (before setting of unabsorbed depreciation and brought forward business loss)	2,50,000
Unabsorbed depreciation of PY 2012-13	1,20,000
Brought forward business loss of PY 2017-18	2,00,000

Compute the amount of remuneration allowable u/s 40(b) from the book profit:
(a) Rs. 2,25,000
(b) Rs. 1,80,000
(c) Rs. 1,50,000
(d) Rs. 1,17,000

Solution:

Related provisions of Income-tax Act, 1961:
(i) The maximum allowable remuneration u/s 40(b) is linked with "Book-Profit".
(ii) "Book-Profit" means "Income u/s 28 (Income under BP head) before deducting remuneration to partners"
(iii) Unabsorbed depreciation of earlier year is brought forward u/s 32(2).
(iv) Brought forward business loss of earlier year is set off u/s 72.
(v) The "Sequence of set off" prescribed in Income-tax Act, 1961 is:
    (a) First set off – Brought forward business loss
    (b) Then set off – Unabsorbed depreciation
(vi) The conclusion is – While computing "Book-Profit", we have to adjust "unabsorbed depreciation". but not "Brought forward business loss". However, we have to apply "Sequence of set off".

Keeping in mind above provisions, the computation of "Book-Profit" shall be as under:

Book Profits given in question (before setting of unabsorbed depreciation and brought forward business loss)	2,50,000
Less: Brought forward business loss of PY 2017-18 – deducted for the limited purpose to maintain the requirement of sequence of set off prescribed in section 72	2,00,000
	50,000
Less: Unabsorbed depreciation of PY 2012-13 – Rs. 1,20,000 but maximum possible set off is Rs. 50,000	50,000
	Nil
Add: Brought forward business loss of PY 2017-18 not to be set off as per definition of "Book-Profit"	2,00,000

Book Profit	**2,00,000**
Maximum allowable remuneration shall be – Rs. 1,50,000 or 90% of Rs. 2,00,000, whichever is Higher	1,80,000
Correct option	**(b)**

Chapter 8 – Income from Other Sources

We have already studied the entire status of dividend income. However, the provisions are given below for your immediate revision:

Situation		**Treatment for the company**	**Treatment for the shareholder**
Dividend received from a domestic company and covered u/s 2(22)(a)/(b)/(c)/(d)	If section 115BBDA is applicable: [i.e. Total dividend in excess of Rs. 10 lakh received by an individual / HUF/ firm (resident in India) from one or more domestic companies during a previous year]	The company shall pay Corporate Dividend Tax @ 15% + Surcharge + Cess	• Dividend in excess of Rs. 10 lakh shall be taxable under Other Sources. • Flat tax rate of 10%. • Actual expenses incurred for earning such dividend are not allowed. • Deductions under Chapter VI-A not allowed. • MANCT is not allowed. • Losses cannot be set off against such dividend income.
	If section 115BBDA is not applicable	The Company shall pay Corporate Dividend Tax @ 15% + Surcharge + Cess	The shareholder shall be exempted u/s 10(34)
Dividend received from a domestic company and covered u/s 2(22)(e)		The Company shall pay Corporate Dividend Tax @ 30% + Surcharge + Cess	The shareholder shall be exempted u/s 10(34). Even section 115BBDA shall not apply.
Dividend received from a foreign company		No tax	Taxable under Other Sources.

Chapter 14 – Individual

<u>CBDT Circular No. 28 / 2016 dated 27.07.2016 – How to compute age of an assessee</u>:
A resident individual who has attained the age of 60 years or more (i.e. a senior resident) at any time during the previous year is entitled to Basic Exemption Limit of Rs. 3,00,000 and a resident individual who has attained the aged of 80 years or more (very senior resident) at any time during the previous year is entitled to Basic Exemption Limit of Rs. 5,00,000. Now, a question has arisen - How to calculate the age of 60 years or 80 years for assessees born on 1st April? The CBDT has given a very interesting clarification. According to CBDT, a person born on 1st April shall be deemed to have attained the age of 60 years / 80 years on 31st March i.e. the day preceding the anniversary of his birthday.

Example:
A resident individual whose 60th birthday falls on 01.04.2019, shall be treated as having attained the age of 60 years on 31.03.2019 i.e. in the PY 2018-19 and hence eligible to claim basic exemption limit of Rs. 3,00,000/- in the PY 2018-19, AY 2019-20. Similarly, a resident individual whose 80th birthday falls on 01.04.2019, shall be treated as having attained the age of 80 years on 31.03.2019 i.e. in the PY 2018-19 and hence eligible to claim basic exemption limit of Rs. 5,00,000/- in the PY 2018-19, AY 2019-20.

Chapter 16 – Return of Income

Notification No. 82 / 2018 dated 19.11.2018 – Section 139A:

Old law:
The time-limits for making application for allotment of PAN, are as under:

	Person required to apply for PAN	Time limit
(i)	Any person whose total income exceeds the maximum amount not chargeable to tax **(MANCT)**	31st May of the relevant assessment year
(ii)	Any other person who is required to apply for PAN	Before end of the relevant previous year

New law:
The Govt. has prescribed new time-limits as under:

	Person required to apply for PAN	Time limit
(i)	Any person whose total income exceeds the maximum amount not chargeable to tax **(MANCT)**	31st May of the relevant assessment year
(ii)	Any person (other than an individual) who is resident in India and who enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more in a financial year,	
(iii)	Any person who is the managing director, director, partner, trustee, author, founder, KARTA, chief executive officer, principal officer or officer bearer of the person referred to in (ii) or any person competent to act on behalf of the person referred to in (ii).	
(iv)	Any other person who is required to apply for PAN	Before end of the relevant previous year

Notification No. 6 / 2019 dated 31.03.2019 and No. 31 / 2019 dated 31.03.2019 – Section 139AA:

In pursuance to section 139AA, the CBDT has notified as under:
(1) All Income-tax Returns being filed after 01.04.2019, cannot be filed without quoting the Aadhar Number.
(2) Every person who was having PAN as on 01.07.2017, shall intimate his Aadhaar Number to Income-tax Department by 30.09.2019.

Just to remind you:

The requirement of quoting aadhar number u/s 139AA shall not apply to an individual who does not possess aadhar number and is:
- ***(i) residing is Assam, J&K or Meghalaya, or***
- ***(ii) a non-resident, or***
- ***(iii) of the age of 80 years or more (very senior), or***
- ***(iv) not a citizen of India.***

Chapter 17 – TDS

Notification No. 27 / 2018 dated 18.06.2018 and 28 / 2018 dated 18.06.2018 – Section 193:
No TDS shall be required out of interest payable on bonds issued by “Power Finance Corporation Ltd.” and “Indian Railway Finance Corporation” for the purpose of section 54EC.

PART "C" – How to attend Paper in Exam?

❖ Rule 1 – Don't panic

Remember that you are not required to score 90% or above (this is not CBSE exam). Even if you do not know any question or part of question, just relax. Do not panic at all.

❖ Rule 2 – Attempt all questions

Never leave any question unanswered. Attempt all question. Be cautious of time-management.

❖ Rule 3 - Read carefully

- Read carefully what is exact requirement of question?
- Answer what is required by question.
- Do not answer what is not required by question.
- If the question has multiple requirements – answer all those requirements.

❖ Rule 4 – Write carefully

(i) How to answer Practical Question?

Use following format:

COMPUTATION OF TOTAL INCOME / TAX LIABILITY / GST LIABILITY

Particulars	Working Note No.	Amount
	1	
	2	

Working Notes:

(1) ____________________

(2) ____________________

Please be aware that - Working Notes have substantial marks. If you do not give Working Notes, there would be a big loss of marks. Mention brief working notes / assumptions. It's better to mention working notes separately under the heading "Working Notes". Don't include Working Notes in the Main Answer.

(ii) How to answer General Theory Questions / Narrative Question?

Use following format:

(a) Write the opening paragraph (It is very easy. You can extract from the language of question)

(b) Narrate / Explain the provision of law

(iii) How to answer Case-Study/True-False/State with reasons/Statement Validity Question?

Use following format:

(a) **Facts --** Write the facts (This is very easy. You have to reproduce the language of question itself in your own style)

(b) **Issue -** Write the issue involved (This is also very easy. You have to reproduce the language of question itself in your own style)

(c) **Law -** Write the relevant provision of law

(d) **Application -** Apply the provision of law to the Issue involved

(e) **Conclusion --** Write your conclusion (like the Statement is True - False / Valid - Invalid)

Note: Please try to write keywords of law

Best of luck ... God bless you .. Do give feedback on 9414130248