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

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Chapter 1: - GST in India – An Introduction

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

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

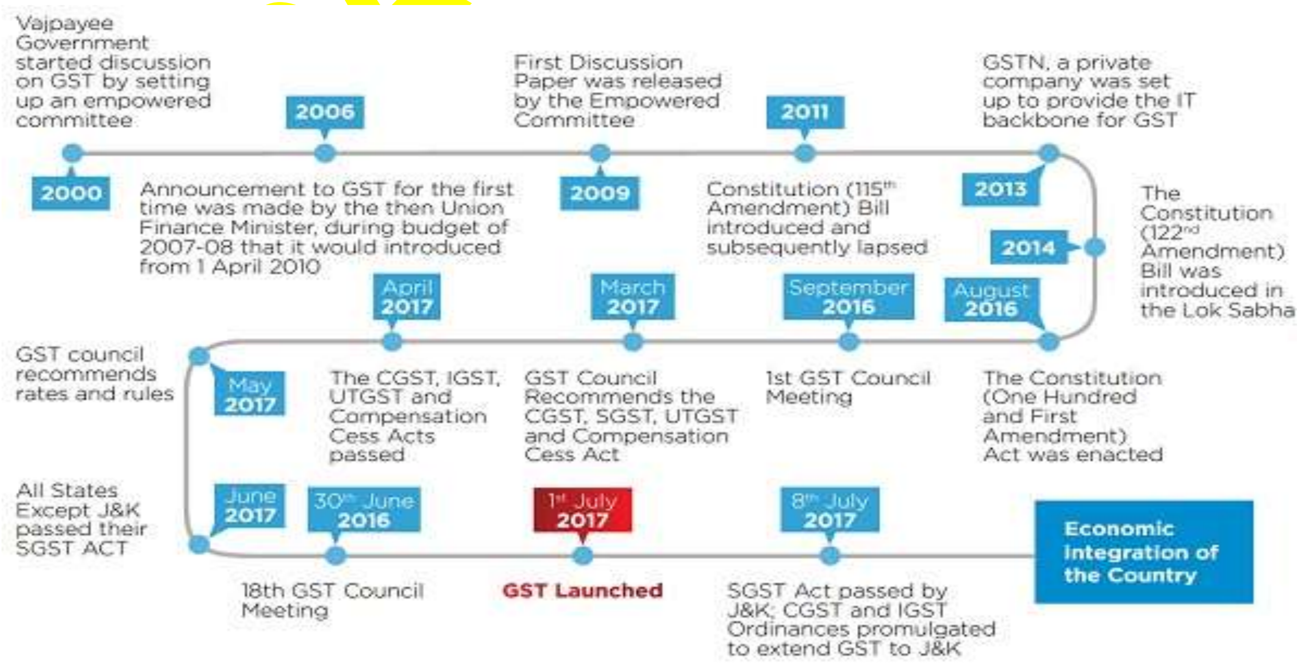
World has moved towards Goods & Services Tax long ago. After 16 years of its opposition, India has moved into GST on 1st July 2017 (in J & K, it was made applicable from 8th July 2017).

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

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

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

Genesis of GST in India



GST is a path breaking indirect tax reform which attempts to create a common national market. GST has subsumed multiple indirect taxes like excise duty, service tax, VAT, CST, luxury tax, entertainment tax, entry tax etc.

VAT and GST are often used inter-changeably. France was the first country to implement VAT in 1954. Presently, more than 160 countries have implemented VAT/GST in some form or the other. Most of the countries follow unified GST i.e., a single tax applicable throughout the country. However, Brazil and Canada, a dual GST system is prevalent.

Under dual system, GST is levied by both the federal and the State Governments. India has adopted a dual GST.

CA Final Syllabus CGST & IGST Act

Overall structure of GST

- Broadly there is 2 forms of GST in India: -
  - For supplies within the State or Union Territory –
    a) Central Tax (Central GST i.e. CGST) is payable to Central Government and
    b) State Tax (State GST i.e. SGST) or Union Territory Tax (Union Territory GST i.e. UTGST) is payable to State Government or Union Territory. Area up to 12 nautical miles inside sea is part of State or Union Territory which is nearest.

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

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

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

    IGST is imposed under IGST Act. IGST is intermediary tax and revenue from IGST will be apportioned among Union and States by Parliament on basis of recommendation of Goods & Service Tax Council. IGST is unique concept nowhere else been tried in the world.

- In addition, GST Compensation Cess will be payable on pan masala, tobacco products, coal, aerated waters, motor cars etc.
- The rates of IGST – NIL, 0.1% (DTA to Merchant Exporter), 0.25% (rough diamonds), 3% (gold & jewelry), 5%, 12%, 18% & 28%. In case of supply within State, CGST will be 50% of IGST Rates and SGST/UTGST for supply within the State or Union Territory will be 50% of IGST rates.

IGST rate = CGST rate + SGST rate

- Though tax is payable to both Central Government and State Government/Union Territory Administration, control will be exercised either by State Government/Union Territory Authorities or Central Government Authorities. This will avoid dual control.
- Central Excise duty will continue on petroleum products i.e. petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. These products are outside the purview of GST at present and will be brought under GST later.
- Alcoholic liquor for human consumption is subject to State duty. This product is outside the purview of GST.
- Tobacco products will be subject to excise duty plus GST.
- Distinction between goods and services will be considerably reduced except in cases relating to place of supply and time of supply. This will considerably reduce ambiguities and litigations.
- Check posts at State borders have been abolished, however road checks to check e-way bills have been introduced.
- Under GST, a taxable person can establish hub and spoke approach for distribution of his final products. He can maintain depots at few strategic locations in country and from those locations, he can distribute goods to nearby States. This will be very cost-effective distribution network.

Body of GST Law

Acts		• Central Goods & Services Tax Act, 2017 • Integrated Goods & Services Tax Act, 2017 • Union Territory Goods & Services Tax Act, 2017 • State Goods & Services Tax Acts 2017 • Goods & Services Tax (Compensation to States) Act, 2017
Rules		• Central Goods & Services Tax Rules, 2017 • Integrated Goods & Services Tax Rules, 2017 • Union Territory Goods & Services Tax Rules, 2017 • State Goods & Services Tax Rules, 2017 • Goods & Services Tax (Compensation to States) Rules, 2017 • GST Settlement of Funds Rules, 2017
Notifications	CGST	➢ Central Tax Notifications [CT] – [Non-Tariff] ➢ Central Tax (Rate Notifications) [CT (Rate)] – [Tariff]
	IGST	➢ Integrated Tax Notifications [IT] – [Non-Tariff] ➢ Integrated Tax (Rate) Notifications [IT (Rate)] [Tariff]
	UTGST	➢ Union Territory Tax Notifications [UTT] [Non-Tariff] ➢ Union Territory Tax (Rate) Notifications [UTT (Rate)] [Tariff]
	GST Cess	➢ Compensation Cess Notifications [GST Compensation Cess] [Non-Tariff] ➢ Compensation Cess (Rate) Notifications [GST Compensation Cess (Rate)] [Tariff]
Circulars		➢ CGST ➢ IGST ➢ UTGST ➢ SGST ➢ GST Compensation Cess

Deficiency in the earlier Indirect tax regime

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

Benefits of GST

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

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

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

Net Tax Payable = Value Addition * Tax Rate
For **Wholesaler** = 10 {Profit/Value Addition} * 18% = 1.80
For **Retailer** = 10 {Profit/Value Addition} * 18% = 1.80

Framework of GST in India

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

➢ **CGST/SGST/UTGST/IGST:-**

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

➢ HSN (Harmonized system of nomenclature) code is used for classifying the goods, under the GST. HSN is 8 digits code. New Service Accounting codes (6 digits) has been devised to take care of services.

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

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

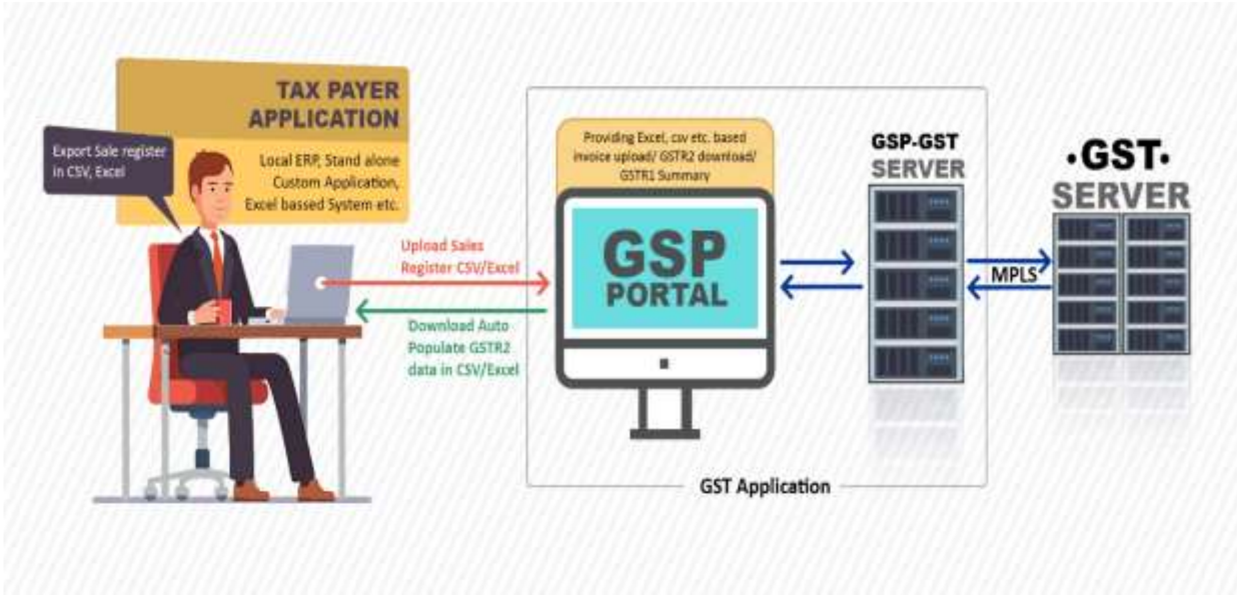
➢ **Seamless flow of credit: -** Since GST is destination-based consumption tax, revenue of SGST ordinarily accrues to the consuming states. The revenue of inter-State sales doesn't accrue to the exporting State.

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

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

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

For the implementation of GST in the country, the Central & State Governments have jointly registered Goods & Services Tax Network (GSTN) as a not-for-profit, non-Government Company to provide shared IT infrastructure and services to Central & State Governments, tax payers and other stakeholders. The key objectives of GSTN are to provide a standard and uniform interface to the taxpayers, and shared infrastructure and services to Central and State/UT Governments.
GSTN has selected certain IT, ITeS & financial technology companies, to be called GST Suvidha Providers (GSPs). GSPs develop applications to be used by taxpayers for interacting with the GSTN. They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services. They customize products that address the needs of different segment of users. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers & GSPs.



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

Outside GST !

Alcohol for human consumption	Power to tax remains with the State
Five petroleum products – crude oil , diesel, petrol, natural gas and ATF	GST Council to decide the date from which GST will be applicable
Tobacco	Part of GST but power to levy additional excise duty with Central Government
Entertainment tax levied by local bodies	Power to tax remains with local bodies

➢ **<u>Taxes subsumed in GST: -</u>**

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

Constitutional Provision

Definition of GST

Article 366(12A)

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

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

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

Article 265 – As per Article 265 of Constitution of India 'No Tax shall be levied or collected except by the authority of law'. The term "authority of law" means that tax proposed to be levied must be within the legislative competence of the Legislature imposing the tax.

Article 245 – Part XI of the Constitution deals with relationship between the Union and States. The power for enacting the laws is conferred on the Parliament and on the Legislature of a State by Article 245 of the Constitution. The said Article provides as under:

- Subject to the provisions of this Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State may make laws for the whole or any part of the State.
- No law made by the Parliament shall be deemed to be invalid on the ground that it would have extra-territorial operation.

Article 246 – It gives the respective authority to Union & State Governments for levying tax. Whereas Parliament may make laws for the whole of India or any part of the territory of India, the State Legislature may make laws for whole or part of State. Seventh Schedule to Article 246 contain 3 lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

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

Article 246A – Newly Inserted

The provisions of Article 246A are notwithstanding anything contained in Articles 246 and 254. Article 254 deals with the supremacy of the laws made by Parliament.

Special provision w.r.t GST

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

<u>Who can levy which tax</u>

	Central Government	State Government
Taxes on alcoholic liquor for human consumption	Power to levy CST on inter State sale (Entry No. 92A)	Power to levy both excise (Entry No. 51) and sales tax on local sale (Entry No. 54)
Taxes of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, ATF	Power to levy excise duty (Entry No. 84) Power to levy CST on inter State sale (Entry No. 92A)	Power to levy sales tax on local sale (Entry No. 54)
Taxes on Tobacco and Tobacco Products	Power to levy excise (Entry No. 84) and CGST (Article 246A)	Power to levy SGST (Article 246A)
Other goods or services or both	Power to levy tax on supply of goods or services of both (Article 246A)	Power to levy tax on supply of goods or services or both (Article 246A)
Entertainment and amusements	Power to levy CGST (Article 246A)	Power to levy SGST (Article 246A) Local authority shall also have power to levy entertainment tax (Entry No. 62)

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

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

Article 269A – Newly Inserted

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

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

Article 270 – Amendment

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

Article 271 – Amendment

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

Article 279A – Newly Inserted

Goods and Service Tax Council

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

► GST Council shall consist of the following members:

Union Finance Minister (Chairperson);
Union Minister of State in charge of Revenue or Finance (Member);
Minister in charge of Finance or Taxation or any other Minister nominated by each State Government (Members)
Members of the GST Council shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council.

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

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

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

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

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

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

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

- ✓ Vote of the Central Government shall have a weightage of $1/3^{rd}$ (33.33%) of the total votes cast,
- ✓ Votes of all the State Governments taken together shall have a weightage of 2/3rd (66.67%) of the total votes cast, in that meeting.
  Thus, practically, Central Government has veto powers. Any decision in GST council cannot be taken without consent of Central Government.

No act or proceedings of GST Council shall be invalid merely by reason of—
- ✓ Any vacancy in, or any defect in, the constitution of the Council; or
- ✓ Any defect in the appointment of a person as a member of the Council; or
- ✓ Any procedural irregularity of the Council not affecting the merits of the case.

GST Council shall establish a mechanism to adjudicate any dispute—
- ✓ Between the Government of India and one or more States; or
- ✓ Between the Government and any State or States on one side and one or more other States on the other side; or
- ✓ Between two or more States,

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

Article 286 – Amendment

Restrictions as to imposition of tax on the sale or purchase of goods
- ► The words "sale or purchase of goods where such sale or purchase takes place" are substituted with "supply of goods or of services or both, where such supply takes place"

Article 368 – Amendment

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

Seventh Schedule [Article 246] – Amendment
List I – Union List
- ► Entry No 84 to be substituted as under: -
  Duties of excise on the following goods manufactured or produced in India, namely
  - ✓ Petroleum crude;
  - ✓ High Speed Diesel;
  - ✓ Motor Spirit (Commonly known as petrol)
  - ✓ Natural Gas
  - ✓ Aviation Turbine Fuel; and
  - ✓ Tobacco and tobacco products
- ► Earlier entry no 84 included duties of excise on tobacco and other goods manufactured or produced in India excluding alcoholic liquor for human consumption, opium, Indian hemp and other narcotic drugs and narcotics but including medicinal and toilet preparations containing alcohol or opium.
- ► Following entries shall be deleted:
  Entry No 92 – Taxes on the sale or purchase of newspapers and on advertisements published therein
  Entry No 92C – Taxes on services

List II – State List
- ► Entry No 54 to be substituted as under:
  Taxes on the sale of petroleum crude, HSD, motor spirit (commonly known as petrol), natural gas, ATF and alcoholic liquor for human consumption, but not including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.
  Earlier it included taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I.
- ► Entry No 62 to be substituted as under:
  Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.
  Earlier it included taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
- ► Following entries shall be deleted:
  Entry No 52 – Taxes on the entry of goods into a local area for consumption, use or sale therein.
  Entry No 55 – Taxes on advertisements other than advertisements published in the newspapers and advertisements broadcast by radio or television.

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

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

(2) **"address of delivery"** means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;
The address on which actual delivery of goods take place. This may be different from address on records.

(3) "**address on record**" means the address of the recipient as available in the records of the supplier;
The address mentioned on records/books maintained by the supplier.

(4) "**adjudicating authority**" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub section (2) of section 171;

(5) "**agent**" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;
Agent can work purely on commission basis. Even e-commerce companies like Flipkart, Amazon and Uber may be covered in some situations. But the relevance of being an agent is more pronounced while examining whether a transaction between a principal and agent is itself a supply under para 3 of Schedule I (Chapter 2 of this book). Very often, the word agent or agency is used without necessarily implying that the transaction is one of agency as understood under Indian Contract Act such as, recruitment agency, travel agency etc. Care must be taken to identify whether the parties intended to constitute an agency as understood in law and nothing less.
Mercantile agents: These are appointed in customary course of business with an authority to sell goods, or to consign goods or to raise money.
Brokers: He negotiates & makes contract for sale & purchase of goods & other property of which he is not entrusted with possession or control in the ordinary course of business.
Auctioneer: He is an agent for the vendor to sell at any open sale.
Arhatia: A broker or middle man, especially one who has a shop, sometimes with considerable storage accommodation, in ganj or emporium for the sale of grain. Hence, more generally, a business agent or correspondent.
Del Credere Agent: Sales agent who guarantees that a buyer is trustworthy and, in case the buyer defaults, he compensates the principal (the seller). To cover such risks, del credere agents charge higher than normal commission rates.
Commission Agent: Those agents who only facilitates supply of goods or services.

(6) "**aggregate turnover**" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;
The phrase "aggregate turnover" is widely used under the GST laws. Aggregate Turnover is an all-encompassing term covering all the supplies effected by a person having the same PAN (all India basis).
It specifically excludes:

- *Inward supplies effected by a person which are liable to tax under reverse charge mechanism; &*
- *Various taxes under the GST law, Compensation cess (let use the term "GST Family Taxes").*

(7) "**agriculturist**" means an individual or a Hindu Undivided Family who undertakes cultivation of land—
(a) by own labour, or
(b) by the labour of family, or
(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;
It would be relevant to highlight that for the purpose of undertaking cultivation, ownership of land is not necessary. Acquisition under lease shall work evenly.
Further, cultivation must be carried out by an individual or HUF, which means any cultivation carried out by any corporate body or co-operative societies under co-operative farming shall not be covered under the ambit of this definition.

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

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

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

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

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

(17) "**Business**" includes—
(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
Education, charitable and religious activities also covered here in business. Salman khan running a not for profit organisation still covered under business.
(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
Sale of waste or scrap, unserviceable parts, sale of hypothecated or pledged goods by bank or sale of repossessed goods by insurance company;
Incidental activity is taxable only if main activity is business e.g. sale of Laddu by Tirupati Devasthanam cannot be business since main activity of temple is not business.
(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
Akshay Kumar, an actor sells his biography once in his life time.
(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
Transaction of sale or purchase effected for commencement of business shall be treated as undertaken in the course or furtherance of business. The person shall be eligible for ITC and shall be liable to pay GST. Similar concept shall be applied in case of closure of business.
(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
Restaurant, swimming pool facility, sports facility, library, open ground etc.
(f) admission, for a consideration, of persons to any premises;
Sale of tickets for admission to movie theatre, amusement parks, concert etc.
(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
If a practicing CA is appointed as an independent director of a company, it means that he accepts this office of directorship in the course or furtherance of his professional practice. Any service provided by him as an independent director to the company appointing him shall be regarded as business.
(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and

Meridian Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator. For providing the service of facilitating wagering transactions, Meridian Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

The term business has been defined in an inclusive manner. This definition is very wide and covers all the transactions that were previously subjected to various taxes that are being subsumed in the GST Laws.

This definition of business is important since levy is on supplies undertaken in the course or furtherance of business.

Profit motive is irrelevant. Thus, occasional transactions are subject to GST.

Incidental or ancillary activities taxable i.e. sale of used car, sale of scrap, sale of old machinery, sale of old furniture etc. is subject to GST, though normally the taxable person may not be in business of selling cars, furniture or machinery.

'Wager' is also included in the definition of business to impose GST on betting transactions;

Government activities excluding sovereign functions are also subject to GST.

(19) "**capital goods**" means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;

An attempt has been made to align the meaning of capital goods to the generally accepted standards of accounting of what is considered as revenue and what as capital.

(20) "**casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

Example, Mumbai registered taxable person participate in exhibition in 'Delhi'.

The threshold limits for registration would not apply to casual taxable person and he would be required to obtain registration irrespective of his turnover.

(30) "**composite supply**" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

In this definition "taxable" term is being used but Section 8, which is for taxability of composite supply (Chapter 2), "taxable" term missing.

(31) "**consideration**" in relation to the supply of goods or services or both includes—

(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

Inducement means to gives something to a person so that he will do something else in return.

Consideration is not the amount that the recipient pays but the amount that the supplier collects whether from the recipient or third Party.

Example 1: A football player is offered a car as an inducement for him to join the club. In this case, the car offered is the consideration that induces the player to join the club to provide his football skills. There is a direct link between the act of joining the club and the provision of the car.

Example 2: A restaurant owner offered 'free' meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premise. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.

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

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;
Forbearance means delaying the action for which compensation is charged.
Non-refundable deposit will be part of consideration.
Example 3: An amount paid as contractual penalty for non-supply of goods on timely basis could be treated as "monetary value of forbearance" and therefore, may be considered as consideration for applicability of GST.
Example 4: Penalty charges on early termination of an agreement could be treated as "monetary value of any act" and therefore, may be considered as consideration.

(32) "**continuous supply of goods**" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;
Example: Open purchase orders with daily delivery schedule (Just in Time Approach) subject to acceptance tests only at the time of issue-for-production and understanding of fortnightly billing.

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

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

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

(42) "**drawback**" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;
The definition of Drawback is relevant when refund of Input Tax Credit is claimed. The law provides that refund of unutilized input tax credit will not be allowed if the supplier has availed drawback of such tax.

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

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

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

(48) "**existing law**" means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;
This covers all the existing Central & State Laws, relating to levy of tax on goods or services like Central Excise Law, Service tax law, State VAT Laws etc. Therefore, laws that don't levy tax or duty on goods or services i.e. the Indian Stamp Act, 1899 would not be covered here.

(49) "**family**" means, —
(i) the spouse and children of the person, and
(ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;

(50) “**fixed establishment**” means a place (other than the registered place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
Temporary presence of staff in a place by way of a short visit to a place or so doesn’t make that place a fixed establishment. The definition is relevant to determine where the taxable person should obtain GST registration in particular State.
Example 5: An overseas business house sets up offices with staff in Mumbai to provide services to Indian customers. Its fixed establishment is in India.
Example 6: A company with a business establishment abroad buys a property in India which it leases to a tenant. The property by itself doesn’t create a fixed establishment. If the company sets up an office in India to carry on its business by managing the property, this will create a fixed establishment in India.

(52) “**goods**” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
Term “movable property” is not defined anywhere in the Act but the same is defined in Section 3 (36) of the General Clauses Act, 1897.
The item must be such that it is capable of being bought or sold. This is the test of ‘Marketability’. The goods must be known in the market. Unless this test of marketability is satisfied, these will not be goods. This view, expressed in judgements. It was held that to become ‘goods’ an article must be something which can ordinarily come to market to be bought and sold.

Goods = Movable Property + Actionable Claims + Crops, grass & other things forming part of land - Money - Securities

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

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

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

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

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

(63) “**input tax credit**” means the credit of input tax;

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

(68) "**job work**" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

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

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

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

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

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

(74) **"mixed supply"** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.
Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

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

Money is out of the scope of taxation under GST. Supply of currency held for its numismatic values will be liable to GST.

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

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

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

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

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

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

(83) "**outward supply**" in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;
The phrase 'outward supply' can be applied to a supply only when such supply is made in the course or furtherance of business i.e. business assets are put to personal use. In such a case, even the transaction is deemed to be a supply (made without consideration), it can't be treated as an 'outward supply', since the application of the business asset for personal use was neither in the course nor furtherance of business.
Supplies not qualifying as outward supplies would also be included for the purpose of computing the 'aggregate turnover'.
Details of supplies on which tax is payable, but which do not amount to 'outward supplier' would also have to be declared in the return for outward supplies (GSTR-1)

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

(85) "**place of business**" includes—
(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services

or both; or
(b) a place where a taxable person maintains his books of account; or
(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

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

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

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

(92) "**Quarter**" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year.

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

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

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

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

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

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

securities are excluded from definition of services but transaction in securities will be included. Although industry is already charging GST on these transactions.

Services = Anything – {Goods+ money + securities} +use of money or its conversion from one form, currency or denomination to another

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

(103) "**State**" includes a Union territory with Legislature;

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

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

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

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

(112) "**turnover in State**" or "**turnover in Union territory**" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;
The 'turnover in State' (including UT) is a reproduction of the expression 'aggregate turnover', but 'turnover in State/UT' is restricted to the turnover of a taxable person in particular State/UT, whereas aggregate turnover is PAN-based (i.e., turnover of all taxable persons having the same PAN, across States). It is important term for 'composition scheme', 'ISD' etc.

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

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

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

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

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

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

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

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

(6) **"export of services"** means the supply of any service when, -
(i) the supplier of service is located in India;
(ii) the recipient of service is located outside India;
(iii) the place of supply of service is outside India;
(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian Rupees wherever permitted by the Reserve Bank of India; and
(v) the supplier of service and the recipient of service are not merely establishments of a distinct Person in accordance with Explanation 1 in section 8;

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

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

(13) **"intermediary"** means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;
Intermediary simply facilitate/arrange the transaction so that the transaction happens between two persons (the seller and the buyer) i.e. he is neither the supplier nor a recipient i.e. Stock brokers.

(16) **"non-taxable online recipient"** means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation. –For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body, –

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government, with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a Panchayat under article 243 G or a municipality under article 243W of the Constitution;

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

(i) advertising on the internet;

(ii) providing cloud services;

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

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

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

(vi) digital data storage; and

(vii) online gaming;

Question & Answer

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

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

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

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

Q2. Whether 'securities' are goods or services?

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

Q3. Discuss how GST resolved the double taxation dichotomy under previous indirect tax laws.

A.

- A comprehensive tax structure covering both goods and services viz. Goods and Service Tax (GST) addresses these problems. Simultaneous introduction of GST at both Centre and State levels has integrated taxes on goods and services for the purpose of set-off relief and ensures that both the cascading effects of CENVAT and service tax are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.

- In the GST regime, the major indirect taxes have been subsumed in the ambit of GST. The erstwhile concepts of manufacture or sale of goods or rendering of services are no longer applicable since the tax is now levied on "Supply of Goods and/or services".

Q4. What is the difference in between 'Nil rated', 'Zero rated' supply of goods and services?
A. There exist a difference between a 'Nil rated" and a 'Zero rated' supply as per GST law.
'Nil rated supply' means a supply of goods or services which has Nil rate in tariff or exempt by notification.
'Zero rated supply' means a supply of goods or services for export or to SEZ units {Section 16 of IGST}.

Q5. List the class of officers that the Government can appoint, by notification, under the CGST Act, 2017.
A. The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely: –

i. Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,
ii. Chief Commissioners of Central Tax or Directors General of Central Tax,
iii. Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,
iv. Commissioners of Central Tax or Additional Directors General of Central Tax,
v. Additional Commissioners of Central Tax or Additional Directors of Central Tax,
vi. Joint Commissioners of Central Tax or Joint Directors of Central Tax,
vii. Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
viii. Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and
ix. any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act
In this regard, Government has issued following notifications-

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

Q6. Is there any provision for cross empowerment of officers of State and Central Government under GST?
A. Yes. As per Section 6(1) of CGST Act, 2017, the officers appointed under the SGST / UTGST Act are authorised to be the proper officers for the purposes of CGST/IGST Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify. Similar provisions in the SGST/UTGST Act empower the central government officials to be the proper officers under the SGST/UTGST Act.

Q7. ABC Furnisher, registered under GST, has been served a demand order under GST by Central GST Officer. Does ABC Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?
A. GST law makes provisions for cross empowerment between CGST and SGST/UTGST officers so as to ensure that if a proper officer of one Act (say CGST) passes an order with respect to a transaction, he will also act as the proper officer of SGST for the same transaction and issue the order with respect to the CGST as well as the SGST/UTGST component of the same transaction. The law further provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act). Similarly, if any order is passed by the proper officer of SGST, any appeal/review/revision/rectification will lie with the proper officer of

SGST only. Thus, ABC Furnishers is required to file an appeal only with the Central Tax Appellate Authority [Section 6 of CGST Act].

Q8. What is GSTN and its role in the GST regime? Discuss functions of GSTN.

A. GSTN stands for Goods and Services Tax Network (GSTN). It is not-for profit company incorporated under provisions of Sec 8 of Companies Act, 2013. GSTN has been set up to cater to the needs of GST. GSTN has made up site/ portal which has been notified as common GST electronic portal (U/s 146 of CGST Act)
Thus, GSTN has provided IT infrastructure under GST law. GST portal developed by it is used by Central Government as well as by the State Governments. GST portal is referred as 'common portal'. This portal is the taxpayer interface with the Government.

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

i. Facilitation of registration;
ii. Payment of GST;
iii. Returns filing;
iv. Maintenance of ledgers of taxpayers;
v. Running the matching engine for matching, reversal and reclaim of input tax credit;
vi. Providing analysis of tax payers' profile;
vii. Sharing of information in taxpayers returns with Centre and State Governments / tax authorities;
viii. Providing various MIS reports to the Central and the State Governments based on the tax payer return information;
ix. Computation and settlement of IGST (transfer of funds in between Central Tax Account, State Tax Accounts and Integrated Tax Account);

Q9. Which are the commodities proposed to be kept outside the purview of GST?

A. Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. So, alcoholic liquor for human consumption is kept out of GST by way of definition of GST in constitution.
Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out and GST Council shall decide the date from which they shall be included in GST.

Q10. ITC Ltd. a company manufactures Cigarette and supply it to the distributor Mr. A for Rs. 2,00,000 on which ITC Ltd. charged excise as well as GST. Mr. A further supplied to the retailer Mr. Z for Rs. 2,50,000 and charged GST. Explain whether treatment by ITC Ltd. & distributor Mr. A is correct?

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

Q11. Determine whether the following activities fall under the ambit of 'works contracts'.

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

A.

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

Q12. What is IGST?

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

Q13. What would be the role of GST Council?

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

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

Q14. Differentiate between a taxable supply & non-taxable supply under GST?

A.

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

Chapter 2: - Supply under GST

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

	Excise	Service Tax	VAT	CST
Taxable Event in previous IDT laws	Manufacturing of Goods	Provision of Services	On Sale of Goods Intra State	On Inter State Sale of Goods
Taxable Event in GST	Supply of Goods or Services or Both			

Section 7: Scope of supply

Inclusive provision

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

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

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

Ingredients of supply: - For any transaction to be constituted as supply, following conditions must be complied with:

1. *Supply should be of goods or services or both*
2. *Supply should be made or agreed to be made for a consideration (Schedule I is an exception to this condition)*
3. *Supply should be done by a person*
4. *Supply should made in course of or in furtherance of business*

Notification No. 14/2017-Central Tax (Rate), dated 28th June 2017

In exercise of the powers conferred U/s 7 (2), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government or Union Territories or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:-

"Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution."

Notification No. 25/2019-Central Tax (Rate), dated 30th September 2019

Activities or transactions undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service, namely:

"Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called."

Circular No. 121/40/2019 dated 11th October 2019

The license fee or application fee charged by the States for grant of Liquor licences to vendors, not a supply and hence, not liable to GST.

(i) Services provided by the Government to business entities including by way of grant of privileges, licences, mining rights, natural resources such as spectrum etc. against payment of consideration in the form of fee, royalty etc. are taxable under GST. Tax is required to be paid by the business entities on such services under reverse charge.

(ii) However, considering the agreement between the Central & State Government, with respect to the liquor licences, the council has suggested to notify the service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or others as neither a supply of goods nor a supply of service.

(iii) Further, it is clarified that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments.

Sales	Transferring the property in goods from one to another, upon valuable consideration i.e. buying laptop.
Transfer	Any transfer of goods or right in goods or undivided share in goods without transfer of title thereof i.e. Head office sends the goods to its branch. It may be noticed that title is not transferred by Head Office.
Barter	To exchange one commodity/service for another without use of money i.e. CA provides tax consultancy service in exchange of saloon services.
Exchange	To swap, to part with, give or transfer for an equivalent with the use of money i.e. Mobile worth Rs. 25,000 in exchange of an old mobile Rs. 10,000. Balance paid in cash.
License	Permission granted by competent authority to exercise certain privileges, without such authorization the activity would have constituted as an illegal act i.e. license of software.
Rental	Periodical payment for the use of another's property i.e. office on rent.

Lease	It is a contract by which an owner gives to some other person a right to use the goods for a specified period in lieu of specified payments i.e. Government agency lease of industrial plot.
Disposal	Disposal is an action or process of getting rid of something i.e. ABC Ltd., a company engaged in manufacturing furniture, removes wooden scrap generated in process of manufacturing furniture to another company where it is used for feeding the furnace, for a very nominal value. It shall be treated as supply by XYZ Ltd., to attract GST.

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

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

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

Example 4: ABC Ltd. is engaged in the business of transmission of power across the Maharashtra. Transmission of power is carried out through the networks of transmission lines and sub-stations constructed by ABC Ltd. It has a market share of 50% transmission network in India. This is example of 'in course of business'.
ABC Ltd. appointed consultants to increase market share from 50% to 60%. It can be organic or un-organic route. This is example of 'in furtherance of business'.

Example 5: Import of free services from Google and Facebook, without any consideration, are not considered as supply. It is important to note that downloading 'Hollywood Movie' from foreign website for consideration for personal use would be a supply of service, even though same is not in the course or furtherance of business.

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

1. Permanent transfer or disposal of business assets where ITC has been availed on such assets.
   (transfer of entire business as going concern is not subject to GST).
   Example 6: A Ltd. (retail stores dealing in food items), gives food items to the poor children on the festival of Diwali. In this case, transfer of business stock would amount to 'supply' if it had claimed input tax credit on its purchase of the business assets.

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

2. Supply between related persons or distinct persons, when made in the course or furtherance of business.
   Gifts not exceeding Rs. 50,000 in value in a financial year by an employer to employee shall not be treated

as supply of goods or services or both. However, reversal of ITC shall be required.

In case any goods or services are provided to the employee by the employer & the same is mentioned in the employment contract (e.g. mobile), then this shall not be covered under supply (it is going to be covered under para 1 of Schedule III). Further if the value of gift exceeds Rs. 50,000 and is not mentioned in the employment contract, then it shall be considered as supply.

Please note that cash gifts of any value given by the employer to employee shall not be considered as 'Supply', considering the fact that 'transaction in money' is not subject matter of supply.

Section 25 (4) & (5) of CGST Act categorize following as distinct person in GST: -

(a) Each registration of a person in one or more State/UT

(b) Each registration of a person in respect of establishments in or more State/UT.

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

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

3. Supply of goods between principal & agents (whether principal supply to agents or agents supply to principal).

Example 9: A Ltd. appoints B Ltd. as an agent. B Ltd. receives spare parts supplied by A Ltd. as and when an order is received by A Ltd. from its dealers, an instruction will be sent to B Ltd. to supply the parts. Supply of spare parts by A Ltd. to B Ltd. will qualify as supply even though B Ltd. has not paid any consideration.

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

Invoice in the name of principal:- However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Para 3. above.

Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by Para 3 above.

Example 10: Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A.

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

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

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

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

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

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

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

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

4. Import of services by a person from a related person (will understand in Chapter 7 about related person) or from any of his other establishments outside India, in the course or furtherance of business.
   Import of services by entities which are not registered under GST (let take example, say they are only making exempted supplies) but are otherwise engaged in business activities shall be liable to tax when received from a related person or from any of their establishments outside India.
   Services supplied by establishment of person in India to own establishments out of India is exempt, if place of supply is out of India.

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

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

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

Example 16: Mr. A has taken legal advice with regard to his family dispute for free, from his brother who is settled in USA. This would not constitute supply since this is not for furtherance of business. If suppose Mr. A has taken this advice for his business dispute then also it wouldn't be supply since brother is not dependent on A {Recollect 'family definition'}.

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

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

		on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless – i. The business is transferred as a going concern to another person; or ii. The business is carried on by a personal representative who is deemed to be a taxable person Transfer of entire business is not subject to GST. Only goods transferred are subject to GST.		
5	(a)	Renting of immovable property Since lease of building and land is already covered in clause 2 (a) and (b) above, this can cover renting of accommodation in any hotel, Inn, Guest House etc.		✓
	(b)	Construction of complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its final occupation, whichever is earlier This covers sale of flat in a residential complex before it is occupied. If builder is selling, he will be exempt from GST only If he sales after completion certificate is obtained (Schedule III). If first occupancy of immovable property is proved before receiving any consideration, then it would not be considered as supply of services and GST would not be payable even if CC is not yet received. But, determining first occupancy is a contentious issue.		✓
	(c)	Temporary transfer or permitting the use or enjoyment of any intellectual property right This cover allowing use of trade mark, copyright, design, patents.		✓
	(d)	Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software This covers development of software but not software itself in physical forms. CBIC in their sectoral FAQs on IT/ITES has clarified if a pre-developed or pre-designed software is supplied in any medium/storage (commonly bought off-the-shelf) or made available through the use of encryption keys, the same is treated as a supply of goods.		✓
	(e)	Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act Penalty on early termination of agreement, late delivery charges, prepayment charges on early payment of loan installment, demurrage charges paid to the port authorities etc.		✓
	(f)	Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration This is renting (e.g. car), where possession and control of goods is transferred to recipient.		✓
6		Following composite supplies –		
	(a)	Works contract as defined in Section 2 (119)		✓
	(b)	Supply, by way of or as part of any service or in any other manner whatsoever of goods, being goods or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration. This clause doesn't say 'in restaurant'. So, even home delivery of cooked food will be covered, as it includes service. However, sale of tinned food items is sale of goods as no 'service' element is involved. Sale of packed farsan or pre-prepared sweets or samosa/pakoda across the counter is not 'supply of service'. However, same item supplied in restaurant or eating joint is 'supply of service'.		✓

7	Supply of goods by any unincorporated AOP or body of persons to a member there for cash, deferred payment or other valuable consideration Interestingly, this doesn't cover supply of services.	✓	

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

1.Services by an employee to the employer in the course of or in relation to his employment.
If it is part of employment letter. Fringe benefits/Perquisites are not subject to GST, clarified by the Government in press release. If services such as membership of a club, health and fitness center etc. are provided free of charge to all the employees by the employer, the same will not be subjected to GST.

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

3.

(a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
Example 17: Member of Parliament gets paid for coming in some television advertisement, the amount received shall be liable to be taxed subject to the threshold limit for registration.

(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity (like Election Commission of India); or

(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

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

5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
Remember, construction of a new building is subject to GST before completion certificate. Please also refer to Q & A for more clarity. Also note that sale of TDR (Transferable Development Right) is not sale of land. It allows its owner additional construction area (FSI). Such sale of TDR shall be subject to GST.

6. Actionable claims other than lottery, betting and gambling
Example 18: Lottery ticket, Insurance policy, Claim for arrears of rent, Unsecured loans, Reward points earned by customer on purchases made by him under loyalty programme. These are examples of actionable claims but remember only lottery, betting and gambling are subject to GST.

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. Merchant trading.
Example 19: Mr. Amit purchased goods from China and sold it to Mr. John in Canada without bringing the goods in India. This transaction is neither supply of goods nor supply of services.

8. (a) Supply of warehoused goods to any person before clearance for home consumption; In-bond sale.
Example 20: Mr. X imported some goods in India, but kept the goods in custom bonded warehouse without clearing it for home consumption. In the meantime, Mr. X sold these goods to Mr. Y while they were in warehouse. This transaction between Mr. X and Mr. Y is neither supply of goods nor supply of services.

(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption. High Seas Sales.
For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.
Example 21: Mr. P of India imported some goods from Japan. While the goods were in high seas, Mr. P sold the goods to Mr. Q in India by way of endorsement of documents of title of goods. This transaction between Mr. P and Mr. Q is neither supply of goods nor supply of services.

Section 8: Composite & Mixed supply

Composite Supply [Sec. 2(30)]	**Mixed Supply [Sec. 2(74)]**
Consist of 2 or more supplies	Consist of 2 or more supplies
Naturally Bundled	Not Naturally Bundled
In conjunction with each other	Independent of each other
One is principal supply	Single Price
Tax liability shall be rate of principal supply	Tax liability will be the rate applicable to the supply attracts highest rate of tax
Example: 22. Meals free with Rajdhani ticket. 23. Charger & Warranty with mobile. 24. A 5-star hotel booked for conference & includes accommodation, breakfast, access to business centre, tea & coffee during conference, access to fitness room. 25. Goods are packed and transported with insurance, packing materials etc. .	Example: 26. Bucket free with detergent. 27. Gift pack of dry fruits, sweets etc. 28. Car check-up camps organized by Car Workshop wherein along with standard check-up, oil and filter are being charged at a single price. 29. A house is given on rent, one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business.

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

Some important circulars

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

JV being an unincorporated temporary association constituted for the limited purpose of carrying out a specified project within a time frame, a comprehensive examination of the various JV agreements (at times, there could be number of inter se agreements between members of the JV) holds the key to understanding of the taxation of transactions involving taxable services between the JV and its members or inter-se between the members of a JV.
Thus, whether a cash call is merely a transaction in money and hence not in the nature of consideration for taxable service, would depend on the terms of the Joint Venture Agreement, which may vary from case to case. 'Cash calls' are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programmes and budget. Let us understand the taxability of cash calls with the help of following examples:
Example 30: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member purchases machinery for Rs. 400 for the JV to be used in oil production.
In above case, cash calls will not be subject to GST since the operating member is not carrying out an activity for another for consideration. Here, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.
Example 31: There are 4 members in the JV including the operating member and each one contributes Rs. 100 as part of their share. A total amount of Rs. 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.
In above case, the operating member uses its own machinery and is therefore providing 'service' within the scope of 'supply' because here operating member is recovering the cost appropriated towards machinery & services from other JV members in their participating interest ratio.
[Circular No. 35/9/2018 GST Dated 05.03.2018]

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

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

Inter-State movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, including Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts,
(a) carrying goods or passengers or both; or
(b) for repairs and maintenance,
[except in cases where such movement is for further supply of the same conveyance] is not regarded as supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.
[Circular No. 1/1/2017 IGST Dated 07.07.2017**]

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

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

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

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

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

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

Supply

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

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

General Rule 'A'

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

Special Rule 'B'

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

(please co-relate with Chapter 4 Exemptions)

Special Rule 'C'

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

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

Schedule II Activities or transactions to be treated as supply of goods or supply of services (Distinction/Classification)
Logic: Permanent transfer – Goods, temporary given to use – Services {2 exceptions to this, recollect video lecture}

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

Question & Answer

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

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

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

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

Q2. Mr. A buys a laptop for his personal use and after a year sells it to a laptop dealer. Will it constitute supply?

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

Q3. State whether the following activities will be considered as a supply in relation to 'Money' in accordance with GST Act.

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

A.

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

Q4. A bank takes charge of the property of the borrower as per loan agreement. It then goes on to sell the movable goods so taken over (inventory), How will this transaction be dealt in GST?

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

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

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

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

A. ABC Limited has 2 factories in Rajasthan, 1 in Delhi & 1 in Maharashtra. As per GST Act, ABC may have 1 registration for 2 factories in Rajasthan (ABC discretion), 1 for Delhi & 1 for Maharashtra. The factories at Rajasthan, Delhi & Maharashtra will be treated as distinct person for any transactions since they have separate registration but 2 factories in Rajasthan will not be treated as distinct person since they have 1 registration.

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

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

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

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

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

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

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

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

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

Q11. A Charitable trust, engaged in providing medical relief free of cost, donates books and stationery to children living in slum area? Can it be considered as supply?

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

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

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

Q13. Decide whether following activities are supply or not: -

i. Free seminar to educate people for mutual fund.
ii. An individual buys a car for personal purpose and after a year, sells it to a car dealer.
iii. ABC Ltd. donated old office furniture to Charitable Hospital. ABC Ltd. has taken ITC on such office furniture.
iv. Mr. A gift Rs. 75,000 to his son on his birthday.
v. Mr. A gave his flat on leave & license agreement to Mr. B.

vi. Employer has paid notice period amount to employee on termination.
vii. A local club supplies snacks to its members during AGM for a nominal amount.
viii. Mr. A gives computer (claimed ITC) brought for office use, to his friend on his birthday.
ix. ABC Ltd. give gift voucher of Rs. 1,00,000 to it employee Mr. A. If let say amount is Rs. 45,000 then what will be your answer.
x. Mr. A has taken voluntarily registration. He sells computers.

A.

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

Q14. ABC Ltd. is an authorized dealer of motor vehicles and is having registered office in Delhi. It is also running authorized service station of motor vehicles registered in UP. Certain motor vehicles are taken from Delhi (show-room) to UP (service-station) for repairs. Whether this inter-state movement of vehicles would amount to supply of goods under GST?

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

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

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

A.

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

Q16. Tips music company charged a late fee as a penalty for late return of a DVD to its customer. Will the late fee charged to its customer be considered as a part of consideration?

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

Q17. Mr. A is the owner of a truck valued at Rs. 10,00,000. He transfers the right to operate the truck to Mr. B for a consideration but the ownership of the truck is not transferred. Determine whether it will be considered as a supply?

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

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

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

Q19. Please explain Importation of services for consideration with example?

A. Import of free services from Google and Facebook, without any consideration, are not considered as supply. It is important to note that downloading 'Hollywood Movie' from foreign website for consideration for personal use would be a supply of service, even though same is not in the course or furtherance of business.

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

Q20. Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

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

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

Q21. ABC Ltd. is an aircraft operator operating pan-India air travel services. It has registered offices in different states. It sent some parts and accessories of aircraft from its Delhi registered premise to Maharashtra registered premise. Whether this transaction would amount to supply of goods under GST?

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

Q22. ABC is providing service of transportation of goods/passengers which is taxable under GST in hands of ABC. It has registered offices in different states which are treated as deemed distinct persons under GST law. Whether inter-state movement of any conveyance carrying goods/passengers from one registered premise to another registered premise will amount to supply of such conveyance under GST law (e.g. Bus carrying passenger from Mumbai, Maharashtra bus terminal to Bangalore, Karnataka bus terminal, dropping passengers there and then picking passengers from Bangalore, Karnataka bus terminal to Mumbai, Maharashtra bus terminal)? In this case, whether inter-statement movement of bus from Mumbai, Maharashtra bus terminal to Bangalore, Karnataka bus terminal would amount to supply?

A. Under GST law, scope of supply has been defined under section 7 of CGST Act. Only transactions falling within scope laid down in Sec 7 will amount to supply. As per given facts, ABC is registered supplier of transportation services. During course of such service, conveyance moves from one registered premises to another registered premise. This transaction of inter-state movement of vehicles is not involving any further supply of such conveyance. Such inter-state movement will not amount to supply within the meaning of Section 7 of CGST Act. This has been clarified through Circular No. 1/1/2017-IGST dated 7-7-2017.

Q23. Discuss whether the following activities constitute 'Supply' in accordance with Section 7 of CGST Act:

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

A.

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

v. Yes, it is supply. Supply of alcoholic liquor for human consumption is out of the scope of GST.

Q24. Determine whether the following activities fall under the scope of business?

i. ABC is engaged in the manufacture of auto parts for industrial purpose.
ii. ABC acquired capital goods lying in stock of Mr. A as on takeover of business of Mr. A.
iii. ABC provides a free trekking camp to non-members of the club.
iv. Essel World charges Rs. 1000 as an entry fee for amusement park.
v. Goods sold in store maintained by the company for the welfare of the employees.
vi. Activities of Pune Race Club for horse race collected Rs. 5 Lakhs through licensed book marker or totalizer or activities of licensed book marker in such a club.

A.

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

Q25. "Transaction in money, per se, is outside the ambit of GST." — Explain.

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

For example, a foreign exchange dealer while exchanging one currency for another also charges a commission (Often inbuilt in the difference between the purchase price and selling price of forex).

Similarly, allowing others to use money for consideration in form of interest is also a supply of service transaction.

Q26. Discuss whether GST is applicable in the following transaction

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

A.

i. GST is applicable on supply of goods or services or both. Debentures are securities. Under GST law, securities are neither 'goods' (as defined u/s 2(52)) nor 'services' (as defined u/sec 2(102)). Thus, transfer of debentures (securities) is not subject to GST.
ii. Plot of land, being immovable property, is not 'goods' as defined u/s 2(52) of CGST Act. It is covered by definition of 'service' as given u/s 2(102) of CGST Act. However, transaction of sale of land are out of scope of supply under GST law {Sec 7(2) of CGST Act read with Schedule III of CGST Act}. Thus, sale consideration is not subject to GST.
iii. "Flowers" are goods. It is subject to GST.

Q27. Examine whether the following activities would amount to supply under section 7 of the CGST Act

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

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

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

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

A.

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

ii. Foreign Head Office situated at USA has provided technical support service to its Indian branch office. Under GST law, foreign head office (establishment of a person outside India) and Indian branch office (establishment of same person in India) shall be treated as 'deemed distinct persons (establishment of distinct persons)' [Explanation to Sec 8 of IGST Act] Import of any service without consideration amounts to supply in terms of Sec 7(1)(c) read with Schedule I (Para 4) if it is in the course or furtherance of business. The import of service by ABC Pvt. Ltd. (whether taxable person or not) from its other establishment outside India (which is deemed distinct entity) which is in course or furtherance of business will constitute supply, even if no consideration has been charged for such supply

iii. In the given case, Mr. A being ECO is a taxable person. It has received legal advice for his personal matter and therefore this is not import of service in the course or furtherance of business. It would not amount to supply though he has imported such service from his son, who is a related person under GST law. Thus, such import of service will not fall within the scope of supply under section 7 read with Schedule I of the CGST Act.

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

Q28. Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017?

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

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

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

A.

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

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

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

Q29. Mr. A, an air-conditioner dealer in Ahmedabad, needs 4 ACs for his newly constructed house in Nadiad. Therefore, he transfers 4 ACs [ITC availed] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017. Further, a Mr. B, approached Mr. A, to sell an AC to Mr. A for Rs. 5,000. Mr. B had bought the said AC six months before, for his residence. Does sale of the AC by Mr. B to Mr. A amount to supply under section 7 of the CGST Act, 2017

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

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

Q30. ABC Ltd. (GST registered FMCG manufacturer) has started canteen services exclusively for its employees. The canteen running expenses were recovered from its employees without any profit margin. Yours opinion is sought as to whether recovery of food expenses from employees for the canteen services provided by the it will be taxable under GST law.

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

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

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

Q31. Mr. Amit is CFO of Sodexho. For the financial year 2018-19, CTC of Mr. Amit (as per appointment letter) is as follows —

Salary Rs. 1,00,00,000

Residential accommodation worth Rs. 12,00,000

Conveyance & others reimbursement Rs. 3,00,000

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

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

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

A. Taxability in hands of Mr. Amit: -

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

Q32. Discuss whether GST is applicable in the following transactions :-

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

A.

i. Renting of immovable property constitutes 'supply of service'. It attracts levy of GST. Though, renting of residential dwelling units for use as residence is exempt, that exemption is not applicable to this case since A Ltd. use the property for commercial purposes. Thus, rent is chargeable to GST. (Refer Chapter 4)
ii. Renting of immovable property constitutes 'supply of service'. It attracts levy of GST. Though, renting of residential dwelling units for use as residence is exempt, that exemption is not applicable to this case since it is being used as car parking (not for use as residence). Thus, rent is chargeable to GST. (Refer Chapter 4)
iii. Renting of immovable property constitutes 'supply of service'. It attracts levy of GST. However, renting of agriculture land for agricultural activities has been exempted from GST. (Refer Chapter 4)

Q33. Mr. Sumit (GST registered trader) is in the business of selling electronic goods. He closes down his business on March 31, 2019. Value of unsold stock of electronic goods on that date is Rs. 10 lakhs. Discuss the applicability of GST on this unsold stock.

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

Q34. Whether software is regarded as supply of goods or services in GST?

A. In terms of Section 7(1A) read with Schedule II of CGST Act (Para 5), development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software and temporary transfer or permitting the use or enjoyment of any intellectual property right are treated as services. But, if a pre-developed or pre-designed software is supplied in any medium/storage (commonly bought off-the shelf), the same is treated as a supply of goods classifiable under heading 8523.

Q35. State whether the following activities are covered within scope of supply or not:

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

A.

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

Q36. Mr. A is owner of ABC Printing press. Discuss GST treatment of following activities carried out by Mr. A:-

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

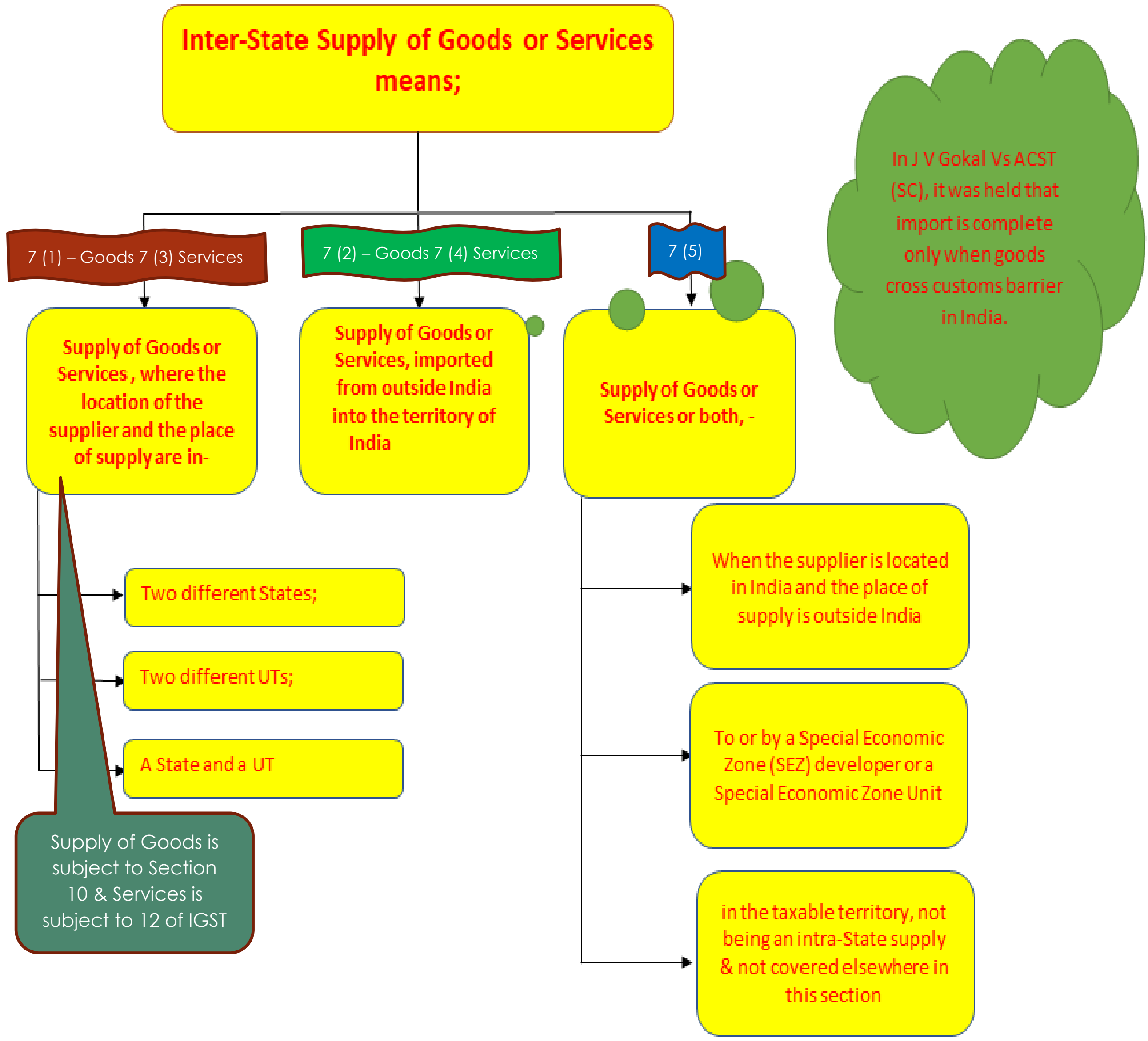
A. According to CBIC's Circular No. 11/11/2017-GST dated 20.10.2017, GST treatment of given activities shall be as follows:

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

Chapter 3: - Charge of GST

Section 7 of IGST	Inter State supply
Section 8 of IGST	Intra State supply
Section 9 of IGST	Supplies in Territorial Water
Section 9 of the CGST	Levy & Collection of CGST
Section 5 of IGST	Levy & Collection of IGST
Section 10 of CGST	Composition Scheme

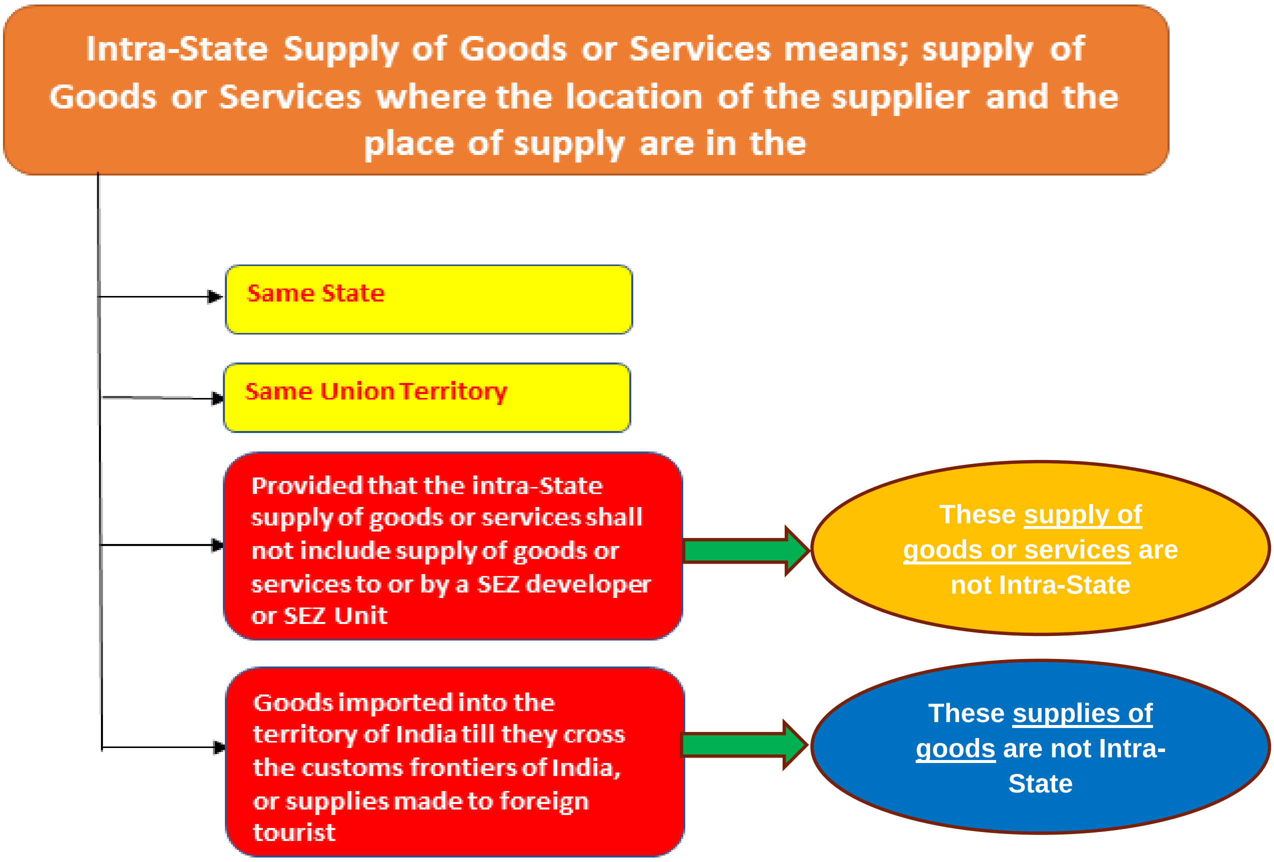
Section 7 Inter-State supply (IGST Act)



Other Points: -

- ✓ As per section 7(2), supply of goods imported into the territory of till they cross the customs frontiers of India, shall be treated as supply of goods in the course of inter-State trade or commerce,
- ✓ In case of import of services, keep in mind that as per section 2 (11) of the IGST Act: -
    - the supplier of service is located outside India;
    - the recipient of service is location in India;
    - the place of supply of service is in India.

Section 8 Intra-State supply (IGST Act)



Other Points: -

✓ Where a person has,

1. an establishment in India & any other establishment outside India;
   (ABC Ltd., a company incorporated in Delhi, is having its subsidiary company in Dubai)
2. an establishment in a State/UT and any other establishment outside that State/UT; or
   (ABC Ltd., a company incorporated in Delhi, is having branch office in Rajasthan)
3. an establishment in a State/UT and any other establishment registered within that State/UT then such establishments shall be treated as establishments of distinct person.
   (ABC Ltd., a company incorporated in Delhi, is having one of its branch office is in Greater Kailash and other branch office in Ashok Vihar)

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

Section 9 Supplies in Territorial Waters (IGST Act)

Notwithstanding anything contained in this Act-

(a) where the location of the supplier is in the territorial waters, the location of such supplier; or

(b) where the place of supply is in the territorial waters, the place of supply,

shall, for the purposes of this Act, be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

Section 9 Levy & Collection of CGST

Section 9(1)

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

Seciton 9(2)

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

Section 9(3)

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both

Section 9(4)

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

Section 9(5)

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

Section 5 Levy & Collection of IGST (IGST Act)

Section 5(1)

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

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

Seciton 5(2)

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

Section 5(3)

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both

Section 5(4)

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

Section 5(5)

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

NORMAL GST PAYMENT PROCESS

GST PAYMENT IN CASE OF REVERSE CHARGE

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

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

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

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

	"Legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.	litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services.
3	Services by an Arbitral tribunal	Any business entity located in the taxable territory.
4	Services of Sponsorship (Note that it is not the advertisement, it is sponsorship)	Any body corporate or partnership located in taxable territory
	"body corporate" or "corporation" includes a company incorporated outside India, but does not include— (i) a co-operative society registered under any law relating to co-operative societies; and (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf;	
5	Services supplied by the Central Government, State Government, UT or local authority to a business entity excluding: - 1. Renting of immovable property 2. (i) services by the Departments of posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central, State, Union or Local authority (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport (iii) transport of goods or passengers	Any business entity located in the taxable territory.
5A	Services supplied by the Central, State, Union or local authority by way of renting of immovable property to a person registered under the CGST Act, 2017 "renting of immovable property" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.	Any person registered under the CGST Act, 2017 In case of unregistered person, then CG,SG, UT or local authority have to pay GST as forward charge
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Promoter
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Promoter
	• The term "apartment" shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017). • the term "promoter" shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017). • the term "project" shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP); • "the term "Real Estate Project (REP)" shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016). • The term "Residential Real Estate Project (RREP)" shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP. • "floor space index (FSI)" shall mean the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built.	

6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	The company or a body Corporate, located in the taxable territory
7	Services supplied by an insurance agent to any person carrying on insurance business	Any person carrying on insurance business, located in the taxable territory
8	Services supplied by a recovery agent to a banking company or FI or NBFC	A banking company or a FI or a NBFC, located in the taxable territory
9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music company, producer or the like, located in the taxable territory
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher.	Publisher located in the taxable territory.
	<u>Reverse charge not applicable if:</u> Provided that nothing contained in this entry shall apply where, - (i) the author has taken registration under the CGST Act, 2017, and filed a declaration, in prescribed form, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay IGST / CGST / SGST on the service specified in column (2), under forward charge in accordance with Section 5(1) of the IGST Act, or 9(1) of CGST Act under forward charge, and to comply with all the provisions of the said Act as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option; (ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.	
10	Supply of Services by the members of overseeing committee to RBI	RBI
11	Supply of services by individual Direct Selling Agent (DSAs) other than a body corporate partnership or LLP to bank or NBFC	Banking company or NBFC located in the taxable territory
12	Services provided by business facilitator (BF) to a banking company	A banking company, located in the taxable territory
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	A business correspondent, located in the taxable territory
14	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, - (i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 (composition scheme) of the said Act.	A registered person located in the taxable territory
15	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in	Any body corporate located in the taxable territory.

A registered person receiving security services from any person other than a body corporate (like individual, firm, AOP etc.) is required to pay GST on reverse charge basis

	the consideration charged from the service recipient, provided to a body corporate. (Supplier of services: - Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6% to the service recipient)	

Sr. No.	Supplier of Service	Recipient of Service	GST Rate Charged	RCM Applicable	Person liable to pay GST	Remarks
1	Body Corporate	Any recipient	12%	No	Supplier of Service	ITC available
2	Body Corporate	Any recipient	5%	No	Supplier of Service	Restricted ITC
3	Non-body Corporate	Body Corporate	12%	No	Supplier of Service	ITC available
4		Body Corporate	5%	Yes	Recipient of Service	NA
5		Non-body Corporate	12%	No	Supplier of Service	ITC available
		Non-body Corporate	5%	No	Supplier of Service	Restricted ITC

16	Services of lending of securities (supplier of service-Lender) under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

Circular No. 119/38/2019-GST dated 11th October 2019

GST is payable on the lending fees received by lender for the lending of securities under "Securities Lending Scheme, 1997"

- Under the Scheme, lender of securities lends to a borrower through an approved intermediary under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the period along with the corporate benefits accruing on the securities borrowed.
- The lenders earn lending fee for the same.
- The activity of lending of securities is not a transaction in securities as it does not involve disposal of securities and therefore is not excluded from the definition of services.
- The supply of lending of securities under the scheme is classifiable under heading 997119 and is leviable to GST@18% under Sl. No. 15 (vii) of **Notification No. 11/2017-CT (Rate)**.

For the past period i.e. from 01.07.2017 to 30.09.2019, **IGST** is payable under forward charge by the lender and w.e.f. 01-Oct-19, the borrower of securities shall be liable to discharge GST under RCM – Sl. No 16 of **Notification No. 22/2019-CT(Rate)**.

Provision of reverse charge notification, in so far as they apply to Central & State Governments, shall also apply to the Parliament and State Legislatures.

Reverse Charge applicable under IGST Act

17	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in the taxable territory other than non-taxable online recipient
18	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	Importer, in relation to any goods at any time between their importation and the time when

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

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

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

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

Highlighted in grey, is out of syllabus

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

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

(ii) New rate of 5% without ITC shall be applicable on construction of:
   - (a) all houses other than affordable houses, and
   - (b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

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

(a) Input tax credit shall not be available.

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

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

Further, where Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present {from unregistered supplier even for Rs. 1 & RCM is to be paid every month}.

GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates {from unregistered supplier even for Rs. 1 & RCM is to be paid every month}.

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

Example 1: -

Purchase of input and input services			
Particulars	**Purchase from**	**Value in a FY**	**Percentage**
Cement	Registered person	4,000	20%
Inputs or input services	Registered person	5,000	25%
Inputs or input services	Unregistered person	11,000	55%
Total		20,000	100%

Since there is purchase of more than 20% from unregistered person then RCM u/s 9(4) becomes payable. In this case it is 35%.
Value on which RCM u/s 9(4) is payable is 35% of 20,000 = 7,000 Amount payable is 18% of 7,000 = 1,260.

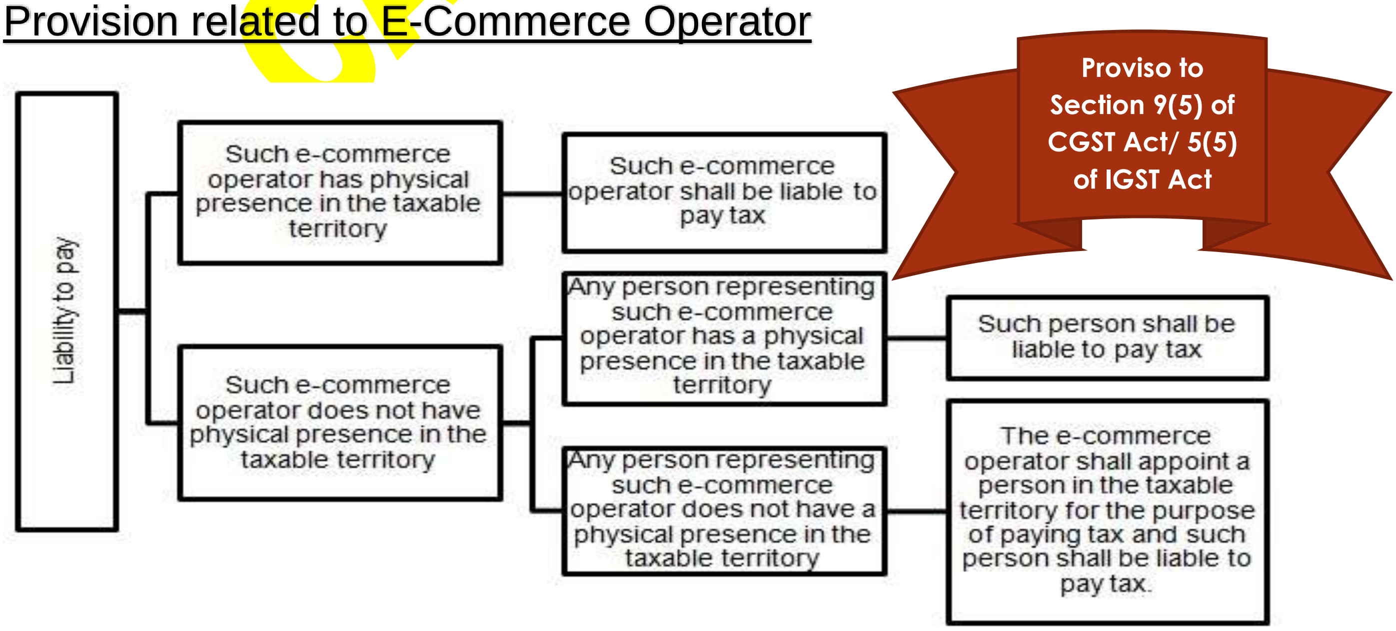
Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer exempt from GST

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

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

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

Provision related to E-Commerce Operator



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

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

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

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

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

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

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

Section 10 Composition Scheme (CGST Act)

<table>
<tr>
<td>Composition Scheme for Supplier of Goods U/s 10(1) of CGST Act, 2017</td>
<td>
1. Objective of Scheme: To bring Simplicity and reduce the compliance cost for the small tax payers
2. Eligibility: - As per Section 10(1), A registered person whose aggregate turnover in the previous financial year did not exceed 1.5 crore (as amended by the Notification Notification No. 14/2019 – Central Tax, Dated 07.03.2019) The limits for special category states (i) Arunachal Pradesh (ii) Uttarakhand (iii) Manipur (iv) Meghalaya (v) Mizoram (vi) Nagaland (vii) Sikkim (viii) Tripura, remains 75 lakhs.

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

Example 2: - Mr. A has opted for composition scheme in the financial year 2019-2020. His turnover in FY 2018-19 is Rs. 60 lakh. In FY 2019-2020, he can supply services [other than restaurant services] upto a value of not exceeding:
(a) 10% of Rs. 60 lakh, i.e. Rs. 6 lakh. or
(b) Rs. 5 lakh,
whichever is higher.
Thus, he can supply services upto a value of Rs. 6 lakh in FY 2019-2020.

3. Rates of Tax:
<table>
<tr><th>Person</th><th>% of the turnover State/UT</th></tr>
<tr><td>Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco, aerated water</td><td>CGST 0.50% + SGST/UTGST 0.50%
{Tax is payable even on exempted supply}</td></tr>
<tr><td>Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [e.g. Restaurant service]</td><td>CGST 2.50% + SGST/UTGST 2.50%
{Tax is payable even on exempted supply}</td></tr>
<tr><td>In case of other suppliers (e.g. Traders)</td><td>CGST 0.50% + SGST/UTGST 0.50% (on turnover of taxable supplies of goods and services)</td></tr>
</table>
Note: Along with CGST, equivalent amount of SGST/UTGST is also payable by the taxable person.
</td>
</tr>
<tr>
<td>Eligibility to opt for composition scheme {As per Section 10(2)}

Trader can opt</td>
<td>
The registered person shall be eligible to opt under sub-section (1), if:—
(a) save as provided in sub-section (1), he is not engaged in the supply of services;
(b) he is not engaged in making any supply of goods which are not leviable to tax under this Act (non-taxable supply);
(c) he is not engaged in making any inter-State outward supplies of goods;
(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52;
(e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; and
(f) he is neither a casual taxable person nor a non-resident taxable person.
</td>
</tr>
</table>

	Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.
Composition Scheme for Supplier of Services U/s 10(2A) of CGST Act, 2017	Registered persons who are ineligible U/s 10(1) and 10(2) i.e. Service providers and manufacturers/traders providing services in excess of the aforementioned threshold limits (value not exceeding ten percent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher) can opt for this scheme. The threshold limit of aggregate turnover for opting for the scheme is Rs. 50 Lakhs (if it exceed Rs. 50 Lakhs then not eligible) in the preceding financial year (for all states). The maximum tax rate is 6% (3% CGST + 3% SGST/UTGST) on the amount of turnover in the State/UT. Please note that these are the maximum rates but the current rates have to be prescribed by means of rules. **However, no rates have been prescribed under the rules yet.** This seems to be a procedural lapse from the government which shall be rectified soon {in erstwhile Notification No. 02/2019 CT (R) Government notified tax rate 6% (3% CGST + 3% SGST/UTGST}. Registered person ineligible for scheme, if:- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act; (b) engaged in making any inter-State outward supplies of goods or services; (c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52; (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and (e) a casual taxable person or a non-resident taxable person: Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under this sub-section. It is important to note that one of the conditions to opt for benefit under Notification No. 2/2019 CT (R) is that the registered person must not be a supplier of notified goods, while under sub-section (2A), the condition for opting for the concessional rate under said subsection is that the registered person must neither be a manufacturer of notified goods nor be a supplier of notified services.
Other conditions	• As per Section 10(3), the option availed of by a registered person under sub-section (1) or sub-section (2A), as the case may be, shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified U/s 10 (1) or U/s 10 2A), as the case may be; • As per Section 10 (4), a taxable person to whom the provisions of Section 10(1) or as the case may be Section 10(2A) apply, shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
Person despite not eligible, opted for composition scheme	As per Section 10(5), if the proper officer has reasons to believe that a taxable person has paid tax U/s 10(1) or U/s 10(2A), as the case may be, despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of Section 73 or Section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

Let Compare both the Composition Schemes

Composition scheme U/s 10 (1)	Tax Rate of the turnover in a State/UT	Composition scheme U/s 10 (2A)	Tax Rate of the turnover in a State/UT
Manufacturer	1%	For those suppliers who are ineligible for composition scheme U/s 10(1) i.e. Service providers other than restaurant/ caterers or traders/ manufacturers who are providing services exceeding 10% of the turnover in the state in preceding FY or Rs. 5,00,000 whichever is higher	6%
Restaurant/Caterers*	5%		
Others (Traders)	1% (on taxable supply)		
*other service providers are not eligible for composition scheme U/s 10(1) except for services allowed to be provided up to the threshold limits as above			

Explanation for calculating Aggregate Turnover & Turnover in a State/UT	Aggregate Turnover shall include the value of supplies made by such person from 1st day of April of a financial year upto the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount. Turnover in a State/UT shall not include the value of following supplies, namely:- i. Supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and ii. Exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
Special Point with respect to Aggregate Turnover & Turnover in a State/UT	Aggregate Turnover and Turnover in a State/UT shall not include the interest/discount earned on the exempted service of advancing deposits/loans. Aggregate Turnover shall be determined for the previous financial year and current financial year as well. Aggregate Turnover for previous financial year is for determining eligibility of opting for the scheme in the current financial year. Aggregate Turnover for current financial year is for determining up to which date can a person pay tax under composition scheme. Turnover in the State/UT is only relevant for determining the amount of tax which has to be paid by the composition taxpayer. Also, this is important to determine the amount up to which services can be rendered by a person opting for composition scheme U/s 10 (1).
	Example 3: - Mr. A is not a registered person during Financial Year 2019-20. From 1st April 2020, new financial year commences. Upto September 2020, he achieves the aggregate turnover of Rs. 20 Lakhs and is liable for registration under GST Laws w.e.f. 1st October 2020. From October 2020 to December 2020, he made outward supply of Rs. 30 Lakhs. And, from January 2021 to March 2021, he made outward supply of Rs. 15 lakh. His turnover of Rs 50. Lakh for recognising his benefit U/s 10 (2A) will be counted from 1st April 2020. However, tax under this scheme shall be payable only for the supplies made during October 2020 to December 2020 (i.e. on Rs. 30 lakhs). As the limit of Rs. 50 Lakhs under this scheme exhausted till 31st December 2020 (i.e. Rs. 20 Lakhs before registration and Rs. 30 Lakhs after registration), hence, from 1st

	January 2021 onwards, tax shall be payable under normal provisions of GST as applicable for regular dealers.
Intimation for Composition Levy (Rule 3 & 4)	1. Option to pay composite tax along with application for registration – Intimation for composition scheme [Rule 3 (2)]: - Any person who applies for registration may give an option to pay tax under composition scheme in Part B of Form GST REG – 01, which shall be considered as an intimation to pay tax under this scheme. Effective Date: -From the date of Registration as per Rule 4 of CGST Rules, 2017 2. Filing of intimation before the beginning of financial year [Rule 3(3)]: - Registered person shall electronically file an intimation in Form GST CMP – 02. Duly signed or verified through electronic verification code, on the common portal, prior to commencement of the FY. He shall furnish the statement in prescribed form within a period of 60 days from the commencement of the relevant FY. Effective Date: -From the beginning of FY as per Rule 4 of CGST Rules, 2017 3. One intimation applicable for all places in case of same PAN [Rule 3 (5)] Provided that any registered person who opts to pay tax under section 10 for the financial year 2020-21 shall electronically file an intimation in FORM GST CMP-02, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, on or before 30th day of June, 2020 and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 upto the 31st day of July, 2020.
Conditions and restrictions for composition levy (Rule 5)	1. The person opting for the scheme must neither be a casual taxable person nor a non-resident taxable person. 2. The goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under section 9(4). 3. He shall pay tax U/s 9(3)/(9(4) on inward supply of goods or services or both. 4. He shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him. 5. Mandatory display of the words "Composition Taxable Person" on every notice and signboard displayed at a prominent place. 6. Not to be engaged in manufacturer of specified goods during the preceding FY {Ice cream and other edible ice whether or not containing cocoa, Pan Masala, Tobacco and manufactured tobacco substitutes, Aerated Water} The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.
Validity of Composition levy (Rule 6)	1. Validity of Scheme: As long as the prescribed conditions are met, the option exercised by a Registered Person to pay tax U/s 10 shall remain valid. 2. Duties of the Person when Scheme becomes invalid or mandatory cessation of composition levy on violation of conditions: (a) Liable to pay tax under normal scheme (b) Shall issue tax invoice for every taxable supply (c) within 7 days of occurrence of such event, shall file an intimation for withdrawal in Form GST CMP – 04 Example 4: - Aggregate turnover of a composition taxpayer U/s 10 (2A) exceeds Rs. 50 Lakhs on 20/02/2021. He shall issue a tax invoice for each supply from thereon and also file a CMP-04 within 7 days i.e. 27/02/2021 to intimate the department that he has opted out of the scheme. 3. The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in Form GST CMP-04.

	4. Show Cause Notice shall be given by the Proper officer if he has reasons to believes that the registered person was not eligible to pay tax U/s 10 or has contravened the provisions of the Act or Rules. Response to this notice should be furnished by taxable person within 15 days. 5. <u>Acceptance/Refusal by the Proper Officer:</u> Upon receipt of reply to the show cause notice from the registered person, the Proper Officer shall issue an order within 30 days of receipt of such reply, either accepting the reply, or denying the option to pay tax u/s 10. 6. <u>Details of Stocks to be furnished by:</u> Person who has furnished an intimation, or filed an application for withdrawal, or order of withdrawal of option has been passed by the proper officer shall file a statement containing details of stock within 30 days, from the date from which the option is withdrawn or from the date of order passed. He shall be entitled to avail input tax credit in respect of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him and on capital goods held by him on the date of withdrawal. 7. Withdrawal applies to all units under same PAN.
Other Points	➢ Composition taxable person can import goods or services. ➢ Composition taxable person is not entitled to export goods.
Circular No. 77/51/2018 Dated 31.12.2018	It is clarified that in a case where the taxpayer has sought withdrawal from the composition scheme, the effective date shall be the date indicated by him in his intimation/application filed in FORM GST CMP-04 but such date may not be prior to the commencement of the financial year in which such intimation/application for withdrawal is being filed. If at any stage it is found that he has contravened any of the provisions of the CGST Act or the CGST Rules, action may be initiated for recovery of tax, interest and penalty. In case of denial of option by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date as may be determined by tax authorities, but shall not be prior to the date of contravention of the provisions of the CGST Act or the CGST Rules. In such cases, as provided under sub-section (5) of section 10 of the CGST Act, the proceedings would have to be initiated under the provisions of section 73 or section 74 of the CGST Act for determination of tax, interest and penalty for the period starting from the date of contravention of provisions till the date of issue of order in FORM GST CMP-07. It is also clarified that the registered person shall be liable to pay tax under section 9 of the CGST Act from the date of issue of the order in FORM GST CMP-07. Provisions of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.

In view of introduction of Section 10(2A), the following notifications have become redundant subject to government prescribing the rules for rates of tax U/s 10(2A):

i. *<u>Notification No. 2/2019-Central Tax (Rate) Dated 7th March 2019</u>, as amended from time to time which notified such persons who are ineligible for composition scheme U/s 10 (1) can opt to pay tax @ 6%. [Same provisions are now contained in Section 10 (2A)].*

ii. *<u>Notification No.21 /2019 – Central Tax Dated 23rd April 2019</u>, as amended from time to time which notified the persons as mentioned in Notification No. 2/2019, to follow procedure for furnishing of return and payment of tax. [After introduction of Section 10 (2A), the rules and procedures applicable to a composition taxpayer U/s 10 (1) are equally applicable to composition taxpayer U/s 10 (2A)]*

iii. *<u>Circular No. 97/16/2019-GST Dated the 5th April 2019</u> as amended from time to time which also clarified the procedures and formalities for persons opting to pay tax under Notification No. 2/2019. [These procedures and formalities are now applicable to composition taxpayer U/s 10 (2A) otherwise too]*

Question & Answer

Q1. XYZ Ltd. is a manufacturing concern in Mumbai. In FY 18-19 total value of supplies including inward supplies taxed under reverse charge basis are Rs. 1,55,00,000, please see below break up?

Particulars	Amount
Intra State Supplies	60,00,000
Intra State Supplies made which are subject to 0% CGST	60,00,000
Intra State Supplies which are wholly exempt	30,00,000
Value of inward supplies which is payable under RCM	5,00,000

Explain whether XYZ Ltd. is eligible to opt for composition scheme U/s 10(1) in FY 19-20?

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

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

Since, aggregate turnover doesn't exceed Rs. 1,50,00,000 during the FY 18-19, so XYZ Ltd. is entitled for composition scheme U/s 10(1).

Q2. XYZ Ltd. is a manufacturing concern in Mumbai. It opted for composition U/s 10(1) in FY 18-19. Total value of supplies including inward supplies taxed under reverse charge basis are Rs. 90,00,000, please see below break up?

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

Compute composition tax liability and total tax liability?

A.

Particulars	Amount
Intra State Supplies @ 5%	40,00,000
Intra State Supplies @ 12%	10,00,000
Intra State Supplies made which are subject to 0% CGST	20,00,000
Intra State Supplies which are wholly exempt	10,00,000
Value of inward supplies which is payable under RCM @ 5%	NIL
Aggregate Turnover	80,00,000
Rate of Tax @ 1% (CGST+SGST)	80,000

XYZ Ltd. has to pay tax under reverse charge section 9(3) of CGST Act, 2017 Rs. 50,000 (10,00,000*5%).

Total Tax Liability is Rs. 80,000+Rs. 50,000 = Rs. 1,30,000

Q3. XYZ Ltd. had opted for payment of tax under composition scheme U/s 10(1) during 2017-18. Its turnover during 17-18 was as follows: -

(a) Supply of manufactured goods Rs. 20 Lacs

(b) Supply of traded goods Rs. 10 Lacs

(c) Supply of service Rs. 10 Lacs
(d) Export of goods Rs. 15 Lacs
On all these supplies SGST @ 6% & CGST rate is 6%. Calculate the tax liability.
A. Composition Scheme is not available if a taxable person is exporting goods. Hence, he is liable to pay tax on Rs. 40 Lacs (20+10+10) as follows – SGST @ 6% = Rs. 2,40,000 and CGST @ 6% = Rs. 2,40,000.
He can make export of goods without payment of tax.

Q4. Please discuss provision related to alcoholic liquor for human consumption & for industrial consumptions.
A. The constitutional amendment put alcoholic liquor for human consumption out of the purview of GST i.e. this product will continue to fall under the ambit of State Excise Duty. It should be noted that alcoholic liquor for industrial consumption and non-alcoholic beverages are covered within the gamut of GST.

Q5. What happens if a taxable person who has opted to pay taxes under the composition scheme crosses the threshold limit during the year?
A. In such case, from the day the taxable person crosses the threshold, the permission granted earlier is deemed to stand withdrawn, and he shall be liable to pay taxes under the regular scheme i.e. section 9, from such day.

Q6. A hotel provided accommodation in Himachal Pradesh, through an electronic commerce operator – Makemyyatra.com. The hotel is not liable to get registered as per the provisions of Section 22 (1) of the CGST Act. Who is the person liable to pay GST in this case? Will your answer be different if the Electronic Commerce operator Makemyyatra.com does not have a physical presence in India?
A. As per Section 9(5) of the CGST Act, 2017, person liable to pay GST in this case is the Electronic Commerce Operator (ECO) i.e. Makemyyatra.com. All the provisions of the GST Law shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of such services. If Makemyyatra.com does not have a physical presence in India, person liable to pay tax is the person representing Makemyyatra.com.

Q7. Who is responsible to pay taxes?
A. The persons responsible for payment of taxes are as under –
1. Supplier: The person effecting taxable supplies is liable to pay taxes.
2. Recipient – Reverse Charge: Section 9(3) of the CGST Act, 2017 inter alia provides that, the Government may, on the recommendations of the council, by notification specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.
   In terms of Section 9(4), specified registered recipient for inward supply of specified categories of goods or services or both is liable to pay tax under reverse charge in the event supplier is not registered.
3. E-Commerce Operator: U/s 9(5) of CGST Act, 2017, categories of services have been notified by the Government on the recommendation of the Council, the tax on which is paid by the electronic commerce operator as if such services are supplied through it.

Q8. ABC Ltd., a manufacturing concern is affecting intra-State taxable supply and inter-State supply. The company wants to opt for composition scheme U/s 10(1). Please advise ABC Ltd. whether they can opt for composition scheme U/s 10(1) or not?
A. As per provisions of Section 10 of CGST Act, 2017, a manufacturer can opt for composition scheme U/s 10(1) if he is not engaged in making any inter-State outward supplies of goods. In this case, since ABC Ltd. has affected interstate taxable supply of goods, hence it cannot opt for composition scheme.

Q9. What are the consequences, if a taxable person violates the conditions prescribed for composition scheme?

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

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

Q10. ABC Ltd. a trading concern in Rajasthan has opted for composition scheme U/s 10(1) furnishes you with the following information for Financial Year 2019-20. It required you to determine its tax liability. The details are: -

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

A.

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

Note: Previous year figure are not given so it is assumed that ABC Ltd. is eligible for composition scheme.

Q11. Comment on chargeability of following transaction: -

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

A.

i. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9(3) since it is liable to pay freight for transportation of goods so ABC Ltd. shall be treated as recipient of service. If GTA has paid GST under forward charge @ 12% then it is not subject to reverse charge.

ii. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9(3). Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly, are subject to reverse charge except where legal services provided to business entity whose aggregate turnover is upto Rs. 20 Lacs are exempt, vide Entry No. 45 Notification No. 12/2017-CT (Rate) and Entry no. 47 of Notification No. 9/2017-IT (Rate).

iii. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9(3). Services supplied by a director of a company or a body corporate to the said company or the body corporate, are subject to reverse charge.

iv. In this case GST shall be paid by ABC Ltd. under reverse charge U/s 9(3). Services supplied by the Central Government, State Government, Union Territory or local authority to a business entity, are subject to reverse charge.

v. In this case sponsorship is received by ABC Ltd. so they are subject to reverse charge U/s 9(3). If it is provided to Mr. A then GST will be payable by supplier of service. Service provided by way of sponsorship to anybody corporate or partnership firm are subject to reverse charge.

vi. It is subject to reverse charge U/s 9(3).

vii. In this case ABC Insurance company will be liable to pay GST under reverse charge basis U/s 9(3). It cannot claim exemption since it is recipient of service.

viii. XYZ Ltd. is liable to pay GST. Even if it is provided by Mr. A, treatment remain same i.e. service provider Mr. A, is liable to pay GST.

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

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

xi. 'ECO' shall not be termed as 'insurance agent' unless such 'ECO' is licensed under Section 42 of Insurance Act. Unless 'ECO' can be termed as 'insurance agent', RCM shall not be applicable.

Q12. Whether a Restaurant is supplying liquor/alcohol is eligible for Composition Scheme U/s 10(1)?

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

Q13. Mr. A, a retailer who keeps on inventories, presents the following expected information for the year –
Purchase of goods: Rs. 60 Lacs (GST @ 5%)
Sales (at fixed selling price inclusive of all taxes): Rs. 72 Lacs (GST @ 5%)
Discuss whether he should opt for composition scheme U/s 10 (1) if composite tax is 1% of turnover.
Expenses of keeping detailed statutory records required under the GST Laws will be Rs. 1,44,000 p.a., which shall get reduced to Rs. 60,000 if composition scheme is opted for. Other expenses are Rs. 3,60,000 p.a.

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

	Normal GST Scheme	Composition Scheme*
Cost of goods sold (*No credit under compositions scheme, hence, cost of goods sold will be higher)	60,00,000	63,00,000
Add: Costs of Maintaining records	1,44,000	60,000
Add Normal Expenses	3,60,000	3,60,000
Total Costs	65,04,000	67,20,000
Sales (inclusive of taxes)	72,00,000	72,00,000

Less Tax (GST = 72,00,000* 5/105); Composition Tax = (72,00,000*1%)	3,42,857	72,000
Sales (Net of Taxes)	68,57,143	71,28,000
Profit	3,53,143	4,08,000

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

Q14. Will a taxable person be eligible to opt for composition scheme only for one out of 3 business verticals?

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

Q15. Can composition scheme be availed if the taxable person has inter-State inward supplies?

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

Q16. How to compute 'aggregate turnover' to determine eligibility for composition scheme?

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

Q17. Can a person paying tax under composition scheme make supplies to SEZ?

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

Q18. Mr. A is a whole-time director of ABC Ltd. Salary is Rs. 5,00,000 per month. Besides he gets sitting fees for Board's meetings. During Dec'17 and Mar'18, sitting fees is Rs. 1,00,000 for five meetings. Find out GST liability if any.

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

Q19. Mr. A has written a book which is published by ABC Ltd. of Mumbai. You are required to find the following: (a) who is liable to pay GST? (b) Rework, if publisher is located in Paris, then who is liable to pay GST?

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

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

Q20. A tourist from USA visits India and purchases a handicraft wooden item in Mumbai. How it is going to be taxed under GST?

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

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

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

Q21. What happens if the receiver of goods and/or services is required to pay tax under Reverse Charge but is not a registered dealer?

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

Q22. Is Input Tax Credit allowed under Reverse Charge?

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

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

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

Above figures are exclusive of GST. Please analyze each case and give your answer mentioning forward charge or reverse charge. {Do this question after completing Chapter 4}

A.

a) Services provided to X, shall be exempt as provided to individual advocate via entry no. 45.
b) Services provided to B & Co., shall be exempt via entry no. 45
c) Services provided to C, shall be exempt since provided to non-business entity
d) Services provided to D Ltd., shall be exempt as provided to business entity having turnover not exceeding Rs 20,00,000
e) This will be subject to reverse charge & E Ltd. has to pay reverse charge @ 18% i.e. Rs. 90,000.

Q24. Would GST be payable on goods not intended to be sold, taken out for participation in overseas exhibitions and trade fairs and brought back into India as these goods are meant for exhibition only ?

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

Q25. Whether IGST on import of goods would be levied under IGST Act or under Customs Act?

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

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

Q26. Exploration site is at 150 nautical miles from base line. Some minerals explored (not petroleum etc.) and sent to refinery in Maharashtra, the nearest State. Whether this will attract IGST or CGST and SGST?

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

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

Q27. Whether CGST & SGST/UTGST is applicable on import of goods or service or both?

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

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

Q28. Will withdrawal intimation for composition scheme in any one place be applicable to all places of business?

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

Q29. ABC Associates a recovery agent taken on board by XYZ Bank, Mumbai. The following service supplied by ABC Associates in the month of January 2018:

i. Fee of Rs 10,00,000 for supply of services in relation to recovery of dues from the defaulting Borrowers.

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

Answer the following:

(a) Is it supply of service?

(b) If so, who is liable to pay GST?

(c) What is the GST liability if tax rate is 18%?

A. (a) Yes. It is taxable supply of service.

(b) XYZ Bank being recipient of service is liable to pay GST under RCM.

(c) GST liability = Rs. 2,70,000 [(Rs. 10,00,000 + 5,00,000) x 18%]

Q30. Salim Khan a renowned writer and author of novels transferred the copyright of his one published novel to Yashraj Publishers for a consideration. Examine the tax implications as per GST Act?

A. As per section 9(3) of CGST Act read with relevant notifications, services supplied by an author by way of transfer or permitting the use or enjoyment of copyright covered under sec. 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher, reverse charge shall be applicable. Thus, in the given case the liability to pay GST shall be upon Yashraj Publishers as it is the recipient of service. RCM not applicable in case author has taken registration and filed a declaration in prescribed form, that he exercises the option to pay GST under forward charge.

Q31. A hotel owner is providing following services:

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

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

A. As per section 9(5) of CGST Act, ECO is liable to pay GST only in respect of notified services supplied through ECO. One of the notified service is service by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration U/s 22(1) of the CGST Act. So, in above mentioned cases:-

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

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

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

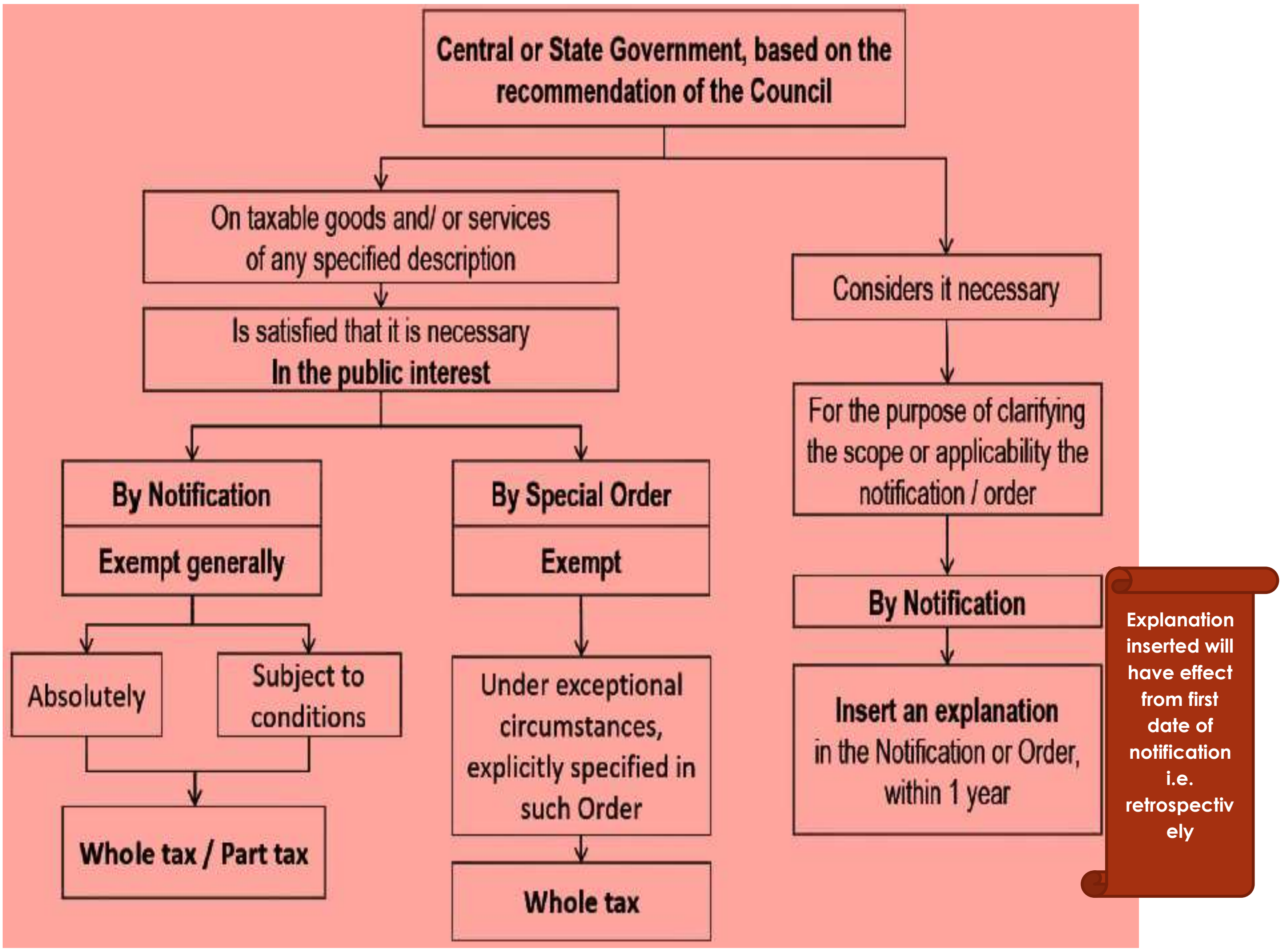
However, such service are subject to reverse charge where client of advocate firm shall be deemed to be the recipient of such service (he being the actual litigant/applicant/ petitioner) and hence, shall be liable to pay GST on services of senior advocate.

Chapter 4: - Exemptions from GST

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

Memorize this

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



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

Memorize this

Sr. No.	Description of Services	Remarks
1	Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities. 1. Any services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of religion, spirituality or yoga are exempt. 2. Any fee or consideration charged in any other form from the participants for participating in a religious, Yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga shall be exempt. 3. Any Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable. 4. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable. {Circular No. 66/40/2018 Dated 26th October 2018} Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities. However, accommodation service in hostels including such services provided by trusts having value of supply below Rs. 1,000 per day is exempt under Sr. No. 14 of the Notification. {Circular No. 32/06/2018-GST Dated 12.02.2018]	If such entity provides any other services other than charitable activity then it is subject to GST i.e. renting of commercial property owned by such entity/trust. The term 'charitable activities' mean activities relating to 1) Public health e.g. care or counselling of terminally ill, people afflicted with HIV or AIDS etc., public awareness of preventive health etc. 2) Advancement of Religion, spirituality or yoga 3) Advancement of Educational Programmes/Skill, relating to abandoned/orphaned children, prisoners, physically or mentally abused and traumatized persons, persons over the age of 65 years residing in a rural area 4) Preservation of environment including watershed, forests & wildlife.

Circular No. 116/35/2019-GST dated 11th October 2019

Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.
Displaying the name of the Donors (Individuals) by the recipient of the Donation is not a supply, subject to the following conditions:

- ✓ The gift or donation is made to a charitable organization;
- ✓ The payment has the character of gift or donation;
- ✓ The purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement.

The clarification is specific for the Individual donors

Examples: -

(i) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.

"Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

2	Services by way of transfer of a going concern, as a whole or an independent part thereof.	
3	Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government entity by way of any activity in relation to any function entrusted to a panchayat under article 243G of the Constitution or in relation to any function entrusted to a municipality under article 243W of the Constitution.	Important term is Municipality/ Panchayat
3A	Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a panchayat under article 243G of the Constitution or in relation to any function entrusted to a municipality under article 243W of the Constitution.	
4	Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution.	
5	Services by governmental authority by way of any activity in relation to any function entrusted to a panchayat under article 243 G of the Constitution.	
6	Services by the Central Government, State Government, Union territory or local authority excluding the following services— (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities. Services provided by State Government by way of general insurance (managed by government) to employees of the State government/Police personnel, employees of Electricity Department or students of colleges/private schools etc. wherein the total premium for insurance policy is paid by employees, students etc. are exempt. [Circular No. 16/16/2017 GST Dated 15.11.2017]	Let take example of post office services which are subject to GST: - 1. Rural postal life insurance services 2. Speed post & Express post parcel 3. Collection of telephone and electricity bill 4. Distribution of mutual funds, bonds and passport application etc.
7	Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017. Explanation.- For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to- (a) services,- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and (b) services by way of renting of immovable property.	Co-relate with reverse charge specified U/s 9 (3)
8	Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority: Provided that nothing contained in this entry shall apply to services- (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a	

	port or an airport; (iii) of transport of goods or passengers.	
9	Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees: Provided that nothing contained in this entry shall apply to- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers: Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.	
9A	Services provided by and to FIFA and its subsidiaries directly or indirectly related to any of the events under FIFA U 17 World Cup 2017 to be hosted in India are exempt.	Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly/indirectly related to any of the events under FIFA U-17 world cup 2017.
9AA	Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India.	Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.
9B	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) are exempt	
9C	Supply of service by Government Entity to Central Government, State Government, Union Territory, local authority or any person specified by Central Government, State Government, Union Territory or local authority against consideration received from Central Government, State Government, Union Territory or local authority, in the form of grants is exempt	
9D	Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) to its residents (aged 60 years or more) against consideration upto twenty five thousand rupees per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.	
10	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.	
10A	Services supplied by electricity distribution utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.	

11	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.	
11A	Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.	
12	Services by way of renting of residential dwelling for use as residence. Grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt [Circular No.44/18/2018 CGST Dated 02.05.2018]	Giving for entertainment, hotel, religious body or any other commercial activity etc. is subject to GST.
13	Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act: Provided that nothing contained in entry (b) of this exemption shall apply to,- (i) renting of rooms where charges are one thousand rupees or more per day; (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are Rs. 10,000 or more per day; (iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.	
14	Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.	
15	Transport of passengers, with or without accompanied belongings, by – (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air- conditioned stage carriage. Elephant/camel joy rides are not classified as transportation services and will attract GST @ 18% with threshold exemption being available to small service providers. (Circular No. 32/06/2018-GST dt. 12-2-2018)	
16	Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding: Provided that nothing contained in this entry shall apply on or after the expiry of a period of three years from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.	
17	Service of transportation of passengers, with or without accompanied belongings, by— (a) railways in a class other than— (i) first class; or (ii) an air-conditioned coach; (b) metro, monorail or tramway; (c) inland waterways; (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rickshaws).	AC carriage is taxable

18	Services by way of transportation of goods- (a) by road except the services of— (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways.	
19	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.	
19A	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India.	Nothing contained in this serial number shall apply after the 30th day of September, 2020
19B	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India.	Nothing contained in this serial number shall apply after the 30th day of September, 2020
20	Services by way of transportation by rail or a vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure.	All the transportation are not exempt i.e. transport of postal mails and bags, household items, petroleum product, alcoholic beverages etc.
21	Services provided by a goods transport agency, by way of transport in a goods carriage of – (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments.	Entry No. 20 & 21 are identical. In case of Entry No. 21 – GTA, (b) & (c) are extra exempt. In case of Entry No. 20 – Rail or Vessel, (d) is extra exempt.
21A	Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely:- (a) any factory registered under or governed by the Factories Act, 1948; or (b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any Cooperative Society established by or under any law for the time being in force; or (d) any body corporate established, by or under any law for the time being in force; or (e) any partnership firm whether registered or not under any law including association of persons; (f) any casual taxable person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act.	Co-relate with reverse charge specified U/s 9(3). Key word is "unregistered person & unregistered casual taxable person".
21B	Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, - (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies,	Co-relate with Reverse Charge list

	which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under Section 51 and not for making a taxable supply of goods or services.	
22	Services by way of giving on hire – (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers; or (b) to a goods transport agency, a means of transportation of goods. (c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.	
23	Service by way of access to a road or a bridge on payment of toll charges.	Commission earned on toll receipt is taxable
23A	Service by way of access to a road or a bridge on payment of annuity is exempt.	
24	Services by way of loading, unloading, packing, storage or warehousing of rice.	
24A	Services by way of warehousing of minor forest produce.	
24B	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.	
25	Transmission or distribution of electricity by an electricity transmission or distribution utility. The services provided by DISCOMS against recovery of charges from consumers are taxable in GST e.g. application fee for releasing connection of electricity, rental charges against metering equipment, testing fee for meters/transformers, capacitors etc., labour charges from customers for shifting of meters or shifting of service lines, charges for duplicate bill etc. [Circular No. 34/8/2018-GST Dated 01.03.2018]	
26	Services by the Reserve Bank of India.	
27	Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers. The service provided by CG/SG to any business entity by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable. [Circular No. 34/8/2018-GST Dated 01.03.2018] The services provided by Asian Development Bank (ADB) and International Finance Corporation (IFC) are exempt from GST. The exemption will be available only to the services provided by ADB and IFC and not to any entity appointed by or working on behalf of ADB or IFC. [Circular No. 83/02/2019- GST Dated 01.03.2019]	Since going by "Service" definition sky is limit. Government has exempted interest in this clause. Any processing fees or service fees will be subject to GST
27A	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)	
28	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of2013).	
29	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.	

29A	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.	
29B	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.	
30	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.	
31	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.	
31A	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.	
31B	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.	
32	Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999.	
33	Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.	
34	Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service. Explanation.— For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.	
34A	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings(PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.	
35	Services of general insurance business provided under following schemes – (a) Hut Insurance Scheme; (b) Cattle Insurance under Swaranjayanti Gram Swarozgar Yojana (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha Bima Yojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. (r) Bangla Shasya Bima	

36	Services of life insurance business provided under following schemes- (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of two lakhs rupees; (d) Varishtha Pension BimaYojana; (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yogana; (g) Pradhan Mantri Vaya Vandan Yojana.	The Key is Social welfare.
36A	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.	
37	Services by way of collection of contribution under the Atal Pension Yojana.	
38	Services by way of collection of contribution under any pension scheme of the State Governments.	
39	Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area. As per CBIC Circular No. 86/05/2019- GST, Dated 1st January, 2019, the services provided by a BF/BC to a banking company in their respective individual capacities should fall under the Heading 9971 (Financial and related services) and such services should be with respect to accounts in a branch located in the rural area of the banking company. The criteria for classification of branch of a bank as located in rural area and the services which can be provided by BF/BC, is governed by the RBI guidelines. Therefore, classification adopted by the bank in terms of RBI guidelines in this regard should be accepted.	“Business facilitator or Business Correspondent” means an intermediary appointed under the business facilitator model or the business correspondent model by a company or an insurance company under the guidelines issued by the RBI. Rural area is normally village which is not notified as urban area and also doesn’t come under any municipality.
39A	Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR). Explanation.- For the purposes of this entry, the intermediary of financial services in IFSC is a person,- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.	
40	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory. General Insurance policies provided to employees of the State Government/ Police personnel, employees of Electricity Department or students of colleges/private schools etc. wherein the total premium for insurance policy is paid by the Central Government, State Government, Union territory are exempt [Circular No. 16/16/2017-GST Dated 15.11.2017]	

41	Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of 30 years, or more of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area. Explanation.- For the purpose of this exemption, the Central Government, State Government or Union territory shall have 20% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory. Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area: Provided further that the State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard: Provided also that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty: Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same. It is hereby clarified that GST exemption on the upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, is admissible irrespective of whether such upfront amount is payable or paid in one or more installments, provided the amount is determined upfront. {Circular No. 101/20/2019-GST Dated 30-04-2019}	
41A & 41B	Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them. Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property	
42	Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.	
43	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.	
44	Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:- (a) the total turnover had not exceeded fifty lakh rupees during the	

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

47A	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.	
48	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio- incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.	
49	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.	
50	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.	
51	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.	
52	Services by an organiser to any person in respect of a business exhibition held outside India.	
53	Services by way of sponsorship of sporting events organised – (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country; (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; (c) by the Central Civil Services Cultural and Sports Board; (d) as part of national games, by the Indian Olympic Association; or (e) under the Panchayat Yuva Kreeda Aur Khel Abhiyaan Scheme.	This need to be co-related with services notified under Reverse Charge under section 9 (3) of CGST Act, 2017. Please refer to Chapter 3 for this.
53A	Services by way of fumigation in a warehouse of agricultural produce.	
54	Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce. (h) services by way of fumigation in a warehouse of agricultural produce. GST rate on loading, unloading, packing, storage or warehousing of agricultural produce is Nil. So, processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and thus exemption from GST is not available to their loading, packing, warehousing etc. (Circular No. 16/16/2017-GST Dated 15-11-2017)	"Agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training "Agricultural produce marketing committee or Board" means any committee or board constituted under a state law for regulating the marketing of agricultural produce "Agricultural produce" means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer

Refer Sr. No. 24B new amendment

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

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

	Vocational training and examinations conducted by Government ITIs is exempt as these are in the nature of services provided by the Central Government or State Government to individuals {Entry 6}. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs. (Circular No. 55/29/2018-GST Dated 10-8-2018)	➢ Fees form prospective employers for campus interview ➢ Renting of flats for temporary stay to different persons
As per CBIC Circular No. 82/01/2019-GST Dated 1 January 2019, With effect from 31 January 2018 i.e., the date from which the IIM Act, 2018 came into effect, all the Indian Institutes of Management (IIMs) will qualify as 'educational institutions' as defined under Notification No. 12/2017-Central Tax (Rate). With effect from 31 January 2018, all IIMs are eligible for exemption benefit under GST. Thus, the courses which are offered on or after 31 January 2018 are eligible for exemption under Sl. No. 66 of the said notification. However, so far as short duration courses are concerned, where IIMs issue participation certificate to executives/ professionals (participants), the same are not exempt and attract GST @ 18%. All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives – Exempt All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law - Not exempt from GST As per CBIC Circular No. 117/36/2019-GST dated 11th October 2019, the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST. The exemption is subject to meeting the conditions specified at Sl. No. 66 of the NN 12/ 2017- Central Tax (Rate) dated 28.06.2017.		
~~67~~	~~Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: –~~ ~~(a) two year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management;~~ ~~(b) fellow programme in Management;~~ ~~(c) five year integrated programme in Management.~~	
68	Services provided to a recognised sport body by- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body; (b) another recognised sports body.	Receipts from IPL are subject to GST. Receipts from acting as brand ambassador for corporate client, is subject to GST.
69	Any services provided by, _ (a) the National Skill Development Corporation set up by the Government of India; (b) a Sector Skill Council approved by the National Skill Development Corporation; (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation; (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to- (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any other Scheme implemented by the National Skill Development Corporation.	
70	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.	
71	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering	

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

Circular No. 109/28/2019-GST dated 22nd July 2019

1.

Annual turnover of RWA	Monthly maintenance charge	Whether exempt?

More than Rs. 20 Lakhs	More than Rs. 7500/-	No
	Rs. 7500/- or less	Yes
Rs. 20 lakhs or less	More than Rs. 7500/-	Yes
	Rs. 7500/- or less	Yes

2. RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
3. <u>A person owns two or more flats in the housing society or residential complex:</u> As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. The ceiling of Rs. 7500/- per month per member shall be applied separately for each residential apartment owned by him i.e. if a person owns two residential apartments in a residential complex and pays Rs. 15000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.
4. The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed Rs. 7500/- per month per member. In case the charges exceed Rs. 7500/- per month per member, the entire amount is taxable. For example, if the maintenance charges are Rs. 9000/- per month per member, GST @18% shall be payable on the entire amount of Rs. 9000/- and not on [Rs. 9000 - Rs. 7500] = Rs. 1500/-.

77A	Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,- (i) activities relating to the welfare of industrial or agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs 1,000/-) per member per year.	
78	Services by an artist by way of a performance in folk or classical art forms of- (a) music, or (b) dance, or (c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees: Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.	
79	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.	
79A	Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts, for the time being in force.	
80	Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	
81	Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event; (d) planetarium, where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than Rs. 500 per person.	
82	Services by way of right to admission to the events organized under FIFA U-17 World Cup 2017 are exempt.	
82A	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020 are exempt.	

<table>
<tr><th colspan="3">Exemption under IGST</th></tr>
<tr><td>1</td><td>Services received from a provider of service located in a non-taxable territory by
(a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession
(b) an entity registered under section 12AA of the Income-Tax Act, 1961 for the purpose of providing charitable activities
(ba) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of-
(i) pre-school education and education up to higher secondary school or equivalent; or
(ii) education as a part of an approved vocational education course;
(c) a person located in a non-taxable territory are exempt.
However the exemption shall not apply to:-
(i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or
(ii) Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.</td><td>Co-relate with provisions of reverse charge U/s 5 (3) of IGST Act, 2017.</td></tr>
<tr><td>2</td><td>Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory.</td><td>Following documents shall be maintained for a minimum duration of five years:
1) Copy of Bill of Lading
2) Copy of executed contract between Supplier/Seller and Receiver/Buyer of goods
3) Copy of commission debit note raised by an intermediary service provider in taxable territory from service recipient located in non-taxable territory
4) Copy of certificate of origin issued by service recipient located in non-taxable territory
5) Declaration letter from an intermediary service provider in taxable territory on company letter head confirming that commission debit note raised relates to contract when both supplier and receiver of goods are outside the taxable territory.</td></tr>
<tr><td>3</td><td>Services received by RBI from outside India in relation to management of Foreign Exchange Reserves.</td><td></td></tr>
<tr><td>4</td><td>Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India are exempt.</td><td></td></tr>
<tr><td>5</td><td>Services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons in accordance with Explanation 1 in section 8 of the Integrated Goods and Services Tax Act, 2017.</td><td>Provided the place of supply of the service is outside India in accordance with section 13 of Integrated Goods</td></tr>
</table>

		and Services Tax Act, 2017.
6	Import of services by United Nations or a specified international organisation for official use of the United Nations or the specified international organisation. Explanation. - For the purposes of this entry, unless the context otherwise requires, "specified international organisation" means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947 (46 of 1947), to which the provisions of the Schedule to the said Act apply.	
7	Import of services by Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be exempt from IGST, subject to the conditions, - ***(i)*** that the foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein, are entitled to exemption from integrated tax, as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity; ***(ii)*** that the services imported are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his or her family. ***(iii)*** that in case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post; ***(iv)*** that the exemption from the whole of the integrated tax granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.	
	Other Exemptions	
1	Intra-State supplies of goods or services or both received by a deductor under section 51, from any unregistered supplier, is exempt from the whole of the central tax leviable thereon under Section 9 (4), subject to the condition that the deductor is not liable to be registered otherwise than under section 24 (vi)	
2	All services imported by a unit/developer in the SEZ for authorized operations are exempt from the whole of the integrated tax leviable thereon U/S 3 (7) of the Customs Tariff Act, 1975 read with section 5 of the IGST Act, 2017	
3	Central Government's share of profit petroleum exempted from CGST Intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf. [Notification No. 5/2018 CT (R) Dated 25.01.2018] Parallel exemption from IGST has been extended to inter-State supply of such services vide Notification No. 5/2018 IT (R) Dated 25.01.2018.	
4	IGST exempted to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007 IGST leviable on import of services in relation to temporary transfer or permitting the use or enjoyment of any intellectual property right has been exempted to the extent of the aggregate of the duties of customs leviable under section 3(7) of the Customs Tariff Act, 1975, on the consideration declared under section 14(1) of the Customs Act, 1962 towards royalties and license fees included in the transaction value as specified under rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of customs have been paid [Notification No. 6/2018 IT (R) Dated 25.01.2018].	

Question & Answer

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. The liability as well as reason: -

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

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

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

d. Services by a veterinary clinic in relation to health care of animals or birds is not liable to GST as it is specifically exempt vide Sr. No. 46 of Notification No. 12/2017- CT (Rate).

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

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

a. Services of transportation of passenger by vessels in National waterways.

b. Services of transportation of passenger by AC Stage carrier.

c. Services of transportation of non AC Stage carrier.

d. Services of transportation of passengers by contract carriage for tourism.

e. Services of transportation of passenger Kolkata to Chennai in a vessel and such service is not for tourism purpose.

f. Services of transportation of passengers in Non-AC contract carriages.

g. Services of transportation of passengers in AC contract Carriages.

A. Our comments: -

a. This is exempt under Sr. No. 17 of Notification No. 12/2017-CT (Rate).

b. This is liable to GST.

c. This is exempt under Sr. No. 15 of Notification No. 12/2017-CT (Rate).

d. This is liable to GST.

e. This is exempt under Sr. No. 17 of Notification No. 12/2017-CT (Rate).

f. This is exempt under Sr. No. 15 of Notification No. 12/2017-CT (Rate).

g. This is liable to GST.

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

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

A. Our comments: -

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

Q5. Please comment whether below instances are subject to tax or no?

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

A. Our comments: -

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

Q6. Please comment whether below instances are subject to tax or no?

a. Monthly subscription Rs. 7,501 collected by Resident Welfare Association from member families.
b. Electricity charges levied by State Electricity Board collected by Resident Welfare Association

and deposited with Electricity Board.

c. Common area electricity charges collected by Resident Welfare Association..

d. Rs. 100 collected for entertainment program organized by Resident Welfare Association

e. Other Services to non-members.

A. Our comments: -

a. If per month per member contribution of any or some members of Resident Welfare Associations is higher than Rs. 7,500, then such amount is subject to GST (>7,500, paying members).

b. This is pure agency services so not subject to GST.

c. This isn't pure agency contract since common are charges would be in the name of Resident Welfare Association so it is subject to tax.

d. This is exempt under Sr. No. 81 of Notification No. 12/2017-CT (Rate) -Lesser then Rs. 500.

e. This is liable to GST.

Q7. With reference to the provisions of CGST Act, 2017 examine whether GST is leviable in the following situations?

a. Government of Rajasthan has provided services to ABC Ltd. of Rajasthan in the month of Nov'17 for a consideration of Rs. 1,00,000. The Turnover of ABC Ltd. in FY 16-17 is 11 Lacs.

b. Government of Rajasthan has provided services to ABC Ltd. in the month of Oct'17 for a consideration of Rs. 5,000. The turnover of ABC Ltd in FY 16-17 was Rs. 25 Lacs.

c. Jaipur Municipal corporation has awarded a contract for construction of road to ABC Ltd. failed to perform the contract and paid liquidated damages amounting Rs. 50 Lacs in accordance with the terms of contract.

d. ABC Ltd. has applied for registration under Companies Act, 2013 to ROC, Rajasthan and has paid registration charge of Rs. 10 Lacs.

e. Delhi Government has charged Rs. 40 Lacs from ABC Ltd. for allocation of natural resources for agricultural purposes in the month of Nov'17.

f. ABC Ltd. has paid to customs department Rs. 1 Lac on account Merchant Overtime Charges for deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo.

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

A. Our comments: -

a. Services provided by the Central Government, State Government, Union Territory or local authority to a business entity with an aggregate turnover of upto Rs. 20 Lacs in the preceding financial year are exempt vide Sr. No. 7 Notification No. 12/2017-CT (Rate).

b. Services provided by Central Government, State Government, Union Territory or a local authority where the consideration for such services doesn't exceed Rs. 5,000 are exempt vide Sr. No. 9 of Notification No. 12/2017 CT (Rate).

c. Services provided by the Central Government, State Government, Union Territory or local authority of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union Territory or local authority under such contract are exempt vide Sr. No. 62 of Notification No. 12/2017-CT (Rate).

d. It is exempt vide Sr. No. 47 of Notification No. 12/2017.

e. Services by way of allocation of natural resources to an individual farmer for the purposes of agriculture have been exempted vide Sr. No. 63 of Notification No. 12/2017-CT (Rate). Such allocations/auctions to categories of persons other than individual farmers would be leviable to GST. Hence, ABC Ltd. will be liable to pay GST.

f. Services provided by the Central Government, State Government, Union Territory by way of deputing officers after office hours or on holiday for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges are exempt from GST vide Sr. No. 65 of Notification No.. 12/2017 CT (Rate).

g. ABC Ltd. will be liable to pay GST on assignment of rights to use minerals in the State of Bihar.

Q8. State the difference between General & Special Exemption.

A.

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

Q9. Jain hostel trust registered U/s 12 AA of Income Tax Act 1961, provides hostel accommodation facility to students and charges Rs. 900 per day. Determine whether such service of accommodation is covered under the ambit of charitable activity and also its taxability in GST Act?

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

Q10. Siddhivinayak Charitable trust is a registered religious trust U/s 12 AA of Income Tax Act 1961. Discuss the treatment of following transaction under GST law:-

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

A.

i. Deluxe room rent is exempt. Exemption is available for renting of rooms wherein the rent charged is less than Rs. 1,000 per day (Sr. No. 13 of Notification No. 12-2017-CT (R) Dated 28-06-2017).
Since Super Deluxe room rent is Rs. 1,000 per day, it is not exempt.

ii. Renting of small community hall for Rs. 9,000 per day is exempt. Exemption is available for renting of community halls wherein the rent charged is less than Rs. 10,000 per day (Sr. No. 13 of Notification No. 12-2017-CT (R) Dated 28-06-2017).
Since Renting of large community hall is more than Rs. 10,000 per day, it is not exempt.

iii. It is not exempt. Exemption is available to renting of shops wherein the rent charged is less than Rs. 10,000 p.m. (Sr. No. 13 of Notification No. 12-2017-CT (R) Dated 28-06-2017).

iv. It is exempt. Meditation hall falls under the purview of precincts of the religious place.

v. It is exempt vide Sr. No. 1 of Notification No. 12-2017-CT (R) Dated 28-06-2017

vi. It is exempt Sr. No. 1 of Notification No. 12-2017-CT (R) Dated 28-06-2017

vii. This is exempt. Service recipient is liable to pay GST in case of a taxable service provided by any person located in a non-taxable territory and received by any person located in the taxable territory. However, services received from a provider of service located in a non-taxable territory by an entity registered U/s 12 AA of the Income-Tax Act, 1961 for the purposes of providing charitable activities are exempt from vide Sr. No. 10 of Notification No. 9/2017-IT (R) Dated 28-06-2017.

viii. It is exempt Sr. No. 1 of Notification No. 12-2017-CT (R) Dated 28-06-2017

ix. It is exempt. Exemption is available for renting of residential dwelling for use as a residence vide Sr. No. 12 of Notification No. 12-2017-CT (R) Dated 28-06-2017).

x. It is not exempt since it is used for commercial activity. Only residential use is exempt.

xi. It is exempt vide Circular No. 44/18/2018 CGST Dated 02.05.2018. If it is commercial dwelling then it is not exempt.

Q11. Orchid Hotel provides the following information relating to their services for the month of January 2019:
The hotel has 50 rooms, out of which 30 rooms are Super Deluxe rooms with a declared tariff of Rs. 2,000 per day, 10 rooms are Deluxe rooms with a declared tariff of Rs. 1,200 per day, rest is Semi Deluxe with a declared tariff of Rs. 800 per day.
The hotel has practice of giving 25% discount on Super Deluxe & Deluxe room.
In January 2019 occupancy was 80%.
Please calculate value of taxable supply.

A.

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

Q12. Discuss the treatment of following transaction under GST law:-

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

and patient's relative. Sodexo bill Columbia Hospital for in-patient food services & collect directly from others.

A.

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

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

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

iv. The supply of services by government are exempt vide S. No. 7 of Exemption Notification No. 12/2017-Central Tax (Rate) and no GST is payable on such services by ABC Enterprise on reverse charge.

v. This is exempt vide S. No. 9B of Exemption Notification No. 12/2017-Central Tax (Rate).

vi. This is exempt vide S. No. 9C of Exemption Notification No. 12/2017-Central Tax (Rate).

vii. It is exempt vide S. No. 10 of Exemption Notification No. 12/2017-Central Tax (Rate).

viii. This is exempt. Mr. A gets his house constructed on a vacant land, such construction would qualify as Original work vide S. No. 11 of Exemption Notification No. 12/2017-Central Tax (Rate).
However, Mr. Y modifications would not qualify as Original works. So it is taxable.

ix. Such consideration is exempt from GST vide S. No. 11A of Exemption Notification No. 12/2017-Central Tax (Rate) as amended by Notification No. 21/2017-Central Tax (Rate) and 47/2017-Central Tax (Rate).

x. Service by any person by way of conduct of any religious ceremony would be exempt from GST vide S. No. 13 of Exemption Notification No. 12/2017-Central Tax (Rate).

xi. This is exempt vide S. No. 16 of Exemption Notification No. 12/2017-Central Tax (Rate).

xii. It is exempt from tax vide S. No. 18 of Exemption Notification No. 12/2017-Central Tax (Rate).

xiii. Such transportation services shall be exempt vide S. No. 19 of Exemption Notification No. 12/2017-Central Tax (Rate).

xiv. Such services shall be considered as exempt services vide S. No. 22 of Exemption Notification No. 12/2017-Central Tax (Rate).

xv. This would be exempt from GST vide S. No. 23A of Exemption Notification No. 12/2017-Central Tax (Rate), amended by Notification No. 32/2017-Central Tax (Rate) Dated 13.10.2017.

xvi. This would be exempt from GST vide S. No. 32 of Exemption Notification No. 12/2017-Central Tax (Rate).

xvii. This would be exempt from GST vide S. No. 33 of Exemption Notification No. 12/2017-Central Tax (Rate).

xviii. Such services shall be exempt vide S. No. 52 of Exemption Notification No. 12/2017-Central Tax (Rate).

xix. This is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate).

xx. This would be exempt from tax vide S. No. 57 of Exemption Notification No. 12/2017-Central Tax (Rate).

xxi. In this case as the tolerating of a non-performance of an act is specifically covered under the S. No. 62 of Exemption Notification No. 12/2017-Central Tax (Rate), no GST would be leviable on such damage recovered from the erring party.

xxii. These services would be exempt from GST vide S. No. 65 of Exemption Notification No. 12/2017-Central Tax (Rate).

xxiii. GST would be leviable on the same even though admission charges are less than Rs. 500 since exhibition of cinematographic films is not covered in the exemptions under GST Act.
In case of Circus, it is exempt vide S. No. 81 of Exemption Notification No. 12/2017-Central Tax (Rate).

xxiv. Columbia charges to Mr. A is exempt vide S. No. 74 of Exemption Notification No. 12/2017-Central Tax (Rate). Even services provided by Doctor to Hospital is also exempt. It is immaterial whether Doctor work as employees of hospital or not. It is clarified by Circular No. 32/06/2018-GST.

xxv. Sodexo catering services to in-patients is taxable since Sodexo is billing Columbia Hospital. Columbia Hospital billing to in-patients is although exempt.
Sodexo catering services to visitor & patient's relative is also subject to GST.

Q13. Mr. A, the owner of a residential building in a commercial locality, furnishes the following information relating to his residential building for the month of January 2019:-

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

Compute the value of taxable supply.

A.

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

Q14. Columbia Hospital has received the following amounts in the month of January 2019 in lieu of various services rendered by it in the same month. You are required to determine its taxable value for January 2019 from the details furnished below:-

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

Compute the value of taxable supply.

A.

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

Q15. 'ABC Farmers Association' is engaged in providing services relating to agriculture. You are required to determine its taxable value for January 2019 from the details furnished below:-

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

Compute the value of taxable supply.

A.

Particulars	Amount (in INR)
Cultivation of ornamental flowers is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Packing of tomato & chili ketchup (Not an agriculture produce)	15,00,000
Warehousing of potato chips (Not an agriculture produce)	20,00,000
Sale of tea on commission basis	30,00,000
Packaging of pulses in 1 KG packing (it is not necessary to pack pulses for making it marketable)	15,00,000

Training of farmers on use of scientific tools and agro machinery is exempt. Agriculture extension services are exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Leasing of vacant land to a stud farm (rearing of horses) – Rearing of horses is specifically kept out from exemption	30,00,000
Grading of wheat according to its quality is exempt. Grading which doesn't alter the essential characteristics of the agriculture produce but makes it only marketable for the primary market is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Testing of samples from plants for pest detection is exempt. Agricultural operations directly related to production of any agriculture produce is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Rearing of silk worms is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Breeding of fish is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Supply of farm labour is exempt vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Leasing of vacant land to a poultry farm is exempt. Agriculture means the rearing of all forms of animals other than rearing of horses. Renting of vacant land is exempt when used for agriculture purpose vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Renting of Agro-machinery vide S. No. 54 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Value of Taxable Supply for the month January 2019	1,10,00,000

Q16. You are required to determine value of taxable supply for January 2019 from the details furnished below:-

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

Compute the value of taxable supply.

A.

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

Q17. ABC Ltd. Is engage in providing various service to educational institutional and furnishes you with the following information for the month of January 2019. You are required to determine the value of taxable supply and GST payable thereon if all charges are exclusive of GST.

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

Compute the value of taxable supply.

A.

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

Q18. XYZ Ltd., providing educational services, furnishes you with the following information for the various service provided by it. It has collected an aggregate sum of Rs. 30 lakhs during the month January 2019 as under:

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

Compute the value of taxable supply.

A.

Particulars	Amount (in INR)
Total Receipt	30,00,000
Less:-	
Receipts of 'Gyan Vijay' an industrial training institute (ITI) affiliated to the National council for vocational Training (NCVT) is exempt vide S. No. 66 of Exemption Notification No. 12/2017-Central Tax (Rate)	(-) 1,20,000

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

Q19. Axis IDFC Bank Ltd. furnishes following information relating to services provided during the month of January 2019. Compute the value of taxable supply from following information :

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

A.

Particulars	Amount (in INR)
Amount of commission received for debt collection service Banking services are provided by way of extending deposits, loans or advances in so far as represented by interest are exempt. Commission received in not covered in exemption	10,00,000
Discount earned on LC discounted is exempt vide S. No. 27 of Exemption Notification No. 12/2017-Central Tax (Rate)	NIL
Dealing in sale and purchase of forward contract. Forward contract comes under the purview of "Securities" as per Section 2 (101) of CGST Act, 2017. Securities is excluded from the definition of Goods U/s 2 (52) & Services U/s 2 (102) respectively. Thus, the same would not be liable to GST	NIL
Charges received on credit card and debit card facilities extended	4,00,000
Penal interest recovered from the customers for the delay in repayment of loan	11,00,000
Commission received for service rendered to Government for GST collection	7,00,000
Margin earned on reverse repo transactions. These are financial instruments of short term call money market that are normally used by banks to borrow from or lend money to RBI. The margins, called the repo rate or reverse repo rate in such transactions are nothing but interest charged for lending or borrowing money. Also interest earned on reverse repo transactions are exempt from GST	NIL

Interest on credit card	1,00,000
Administrative charges & Folio charges collected	10,000
Charges for ATM card transactions	5,00,000
Commission received for DD, pay order and cheque collection	4,00,000
Value of Taxable Supply for the month January 2019	42,10,000

Q20. Please comment, whether the following services are exempt under GST or not:

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

A.

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

Q21. An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST? (ICAI Module)

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

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

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

Q22. RXL Pvt. Ltd. manufactures beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth Rs. 1,20,000 will be donated to a charitable organization. Whether Ms. Ahana Kapoor will be required to pay any GST? (ICAI Module)

A. Services by an artist by way of a performance in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than Rs. 1,50,000. However, such exemption is not available in respect of service provided by such artist as a brand ambassador. Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

Chapter 5: - Place of Supply

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

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

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

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

		according to provisions of Section 31(1)(a).

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

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

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

Example 5: Mr. Amit of Delhi has rented an electric generator to Mr. Namit of Jaipur. The electric generator has been installed in the factory of Mr. Namit which is situated in Indore. Later on Mr. Namit purchased the electric generator from Mr. Amit. POS = Indore.

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

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

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

Example 7: A Ltd. Mumbai entered into contract with the ABC airlines for the supply of food to the passenger on Mumbai – Delhi route. The goods were loaded in Kolkata (previous journey leg), so in this case place of supply is Kolkata.

Example 8: A boarded Rajdhani train from Mumbai along with food items. He sold all the food items between Mumbai to Delhi journey. The place of supply is Mumbai where food items loaded.

Example 9: A is travelling from Delhi to Guwahati via train. He ordered dinner to pantry person. Food items were loaded in Kanpur and delivered to him in Allahabad. The place of supply is Kanpur.

Example 10: Mr. X of Delhi has supplied watches to Airlines at Delhi airport. Such watches were further supplied to passenger during their journey from Mumbai to Kolkata. There are 2 transactions. Transaction between Mr. X & Airlines, POS is going to be Delhi according to Section 10(1)(a). Transaction between Airlines & passenger, POS is going to be Delhi according to Section 10(1)(e).

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

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

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

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

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

Example 11: A Ltd., Delhi imported goods from B Ltd., China. Location of supplier is China. Place of supply is Delhi (taxable territory). It will be subject to IGST.

Example 12: A Ltd., Delhi exported goods to B Ltd., China. Location of supplier is Delhi (taxable territory). Place of supply is China (outside India). It will be treated as exported.

Example 13: A Ltd., Delhi received order from B Ltd., to deliver goods in USA. A Ltd. sourced these goods from UK & delivered this in USA. The transactions will not be considered as import as the goods being sold have not been brought into India (not crossed custom barrier) even though both the supplier & recipient are in India (Para 7 of Schedule III).

Example 14: A Ltd., Delhi received order from B Ltd., China to deliver goods at Maharashtra. As per section 2 (5), export of goods means taking goods out of India to a place outside India. A Ltd., Delhi is in India & delivering goods in India i.e. Maharashtra. This will be considered as Inter-State supply and will be subject to IGST. Goods has not been taken out as per section 2 (5), so will not be considered as export.

Example 15: ABC Ltd. of Madhya Pradesh imported 100 kg of goods from XYZ Pte. ltd. of Singapore. The goods are received at JNPT, Mumbai. If

- ✓ Goods are cleared from customs and brought back to place of business at Madhya Pradesh of ABC Ltd., POS shall be the location of importer i.e. Madhya Pradesh;
- ✓ Goods are cleared from customs and directly supplied to customer in Maharashtra. This transaction for supply of goods of ABC Ltd. of Madhya Pradesh to customer in Maharashtra will be treated as inter-State supply of goods & IGST shall be levied.
- ✓ Goods are cleared from customs but are stored in ABC Ltd.'s warehouse in Maharashtra for supply to made later. According to definition of 'place of business' U/s 2 (85) of the CGST Act, includes 'a warehouse'. Thus ABC Ltd. will be required to take registration in Maharashtra. Later while supplying goods from Maharashtra warehouse to customer in Maharashtra, the transaction will be treated as intra-State supply of goods.
- ✓ Goods are cleared from customs and sent to job-worker in Tamil Nadu. This is not supply so will be delivered with delivery challan and e-way bill.

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

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

Provision	Place of Supply	Remarks
Sec. 12(1) This section deals with the situation where supplier of services and location of the recipient of service, both are in India. Sec. 12(2) This sub-section applies except the services specified in Sec. 12(3) to Sec. 12(14).	If person is registered then Place of supply will be location of such person. Person is other than a registered person then if address on record exists then location of recipient otherwise location of supplier	It looks like sub-section (2) is a residual sub-section. Sub Section (3) to sub section (14) is a specific section which determines place of supply on specific transactions. Hence, it may be concluded that, to determine Place of Supply, we need to first refer to sub-section (3) to sub section (14) first, then if the transaction doesn't fall in any of sub-section, then place of supply shall be decided by sub-section (2)
Example 16: ABC & Co., a tax professional firm based in Ahmedabad rendering professional services to XYZ Ltd. a company registered in GST for their office in Mumbai. The POS shall be Mumbai. Let say in above example, if tax manager of XYZ Ltd., visit Ahmedabad to discuss tax matter, still POS shall be Mumbai.		
Sec. 12(3)(a) Directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work. This includes any services ancillary as per section 12(3)(d). Sec. 12(3)(b) By way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, an including a house boat or any other vessel. This includes any services ancillary as per section 12(3)(d). Sec. 12(3)(c) By way of accommodation in any immovable property for organizing any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at	➢ General – Location at which it is located or intended to be located ➢ If located outside India, Place of supply = Location of recipient ➢ If located in more than one State/Union Territory then place of supply will be proportionate*	*Proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed. As per Section 7(5)(b) of IGST Act, supply of goods or services or both to SEZ unit or SEZ developer is inter-State supply. This is specific provision and hence will prevail over general provision as contained in section 12(3)(c) of IGST Act. Hence, in case of supply of such services, IGST will be payable and not CGST and SGST/UTGST. If such supply is for authorized operations, IGST will be refunded if paid or ITC refund can be obtained if supplied under LUT/Bond subject to

Provision	Place of Supply	Remarks
such property. This includes any services ancillary as per section 12(3)(d).		endorsement of specified officer of SEZ. [Circular No. 48/22/2018 Dated 14.06.2018]

Example 17: A company in Kolkata contracts with a Delhi based architect to design a structure in Mumbai. POS is place of immovable property i.e. Mumbai.

Example 18: A from Mumbai, goes on official trip to Bangalore and stay in hotel for one night. POS is Bangalore.

Example 19: A from Jaipur, arranged his son wedding in Resort at Ooty, Tamil Nadu. The POS is Ooty, Tamil Nadu.

Example 20: A Mumbai based builder provides construction services to Chennai based company in respect of construction of its factory in South Africa. POS will be Chennai.

Example 21: Let say an interior decorator is engaged by a retail chain to design a common décor for all its store in India, this service would not be directly related to immovable property. The default provision i.e. Section 12 (2) of the IGST Act will apply in this case.

Circular No. 103/22/2019-GST dated 28th June 2019

As per section 12(3) of IGST Act, in case of services supplied in relation to immovable property, place of supply will be the location of such immovable property. Services provided by port:

- ✓ Some of the services provided by port in relation to cargo handling are as under:
  - service in respect of arrival of wagons at port;
  - haulage of wagons inside port area up to place of unloading;
  - siding of wagons inside the port;
  - unloading of wagons;
  - movement of unloaded cargo to berth;
  - shipment/ loading of vessel.

It is clarified that the above services are ancillary or related to cargo handling services and are not related to immovable property. Accordingly, place of supply of such services shall be determined as per section 12(2) or section 13(2) of IGST Act, as the case may be, depending upon contractual terms between the supplier and recipient.

Rule 4 of IGST Rules

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

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

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

(iii) in case of services provided by way of lodging accommodation by a house boat or any other vessel and services ancillary to such services, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the time spent by the boat or vessel in each such State or Union territory, which shall be determined on the basis of a declaration made to the effect by the service provider.

Provision	Place of Supply	Remarks
Example 22: A hotel chain X charges a consolidated sum of Rs. 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs. 20,000/- in the Union territory of Delhi and Rs. 10,000/- in the State of Uttar Pradesh . Example 23: There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States. Example 24: A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.		
Sec. 12(4) Restaurant & catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where the services are actually performed	Only listed are covered here. Let say if photography services, then it is not covered here.
Example 25: Mrs. A from Mumbai, went to Udaipur and availed Beauty Parlour services. The POS is Udaipur.		
Sec. 12(5) Services in relation to Training and performance appraisal to – ➢ A registered person ➢ A person other than registered person	➢ Location of such person ➢ Location where the services are actually performed	
Example 26: ABC Ltd., Delhi has entered into a contract with XYZ Ltd., Chennai for training and performance appraisal of their employees. Training was conducted at Pune, Maharashtra. In case ABC Ltd. is registered then POS will be Delhi. In case ABC Ltd. is not registered then services where it is actually performed i.e. Pune, Maharashtra.		
Sec. 12(6) Services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto	Place where the event is actually held or where the park or such other place is located	
Example 27: Mr. A from Mumbai, did online booking for Kaziranga National Park, Assam and hired a cab to be taken around. The place of supply is Kaziranga National Park, Assam and hiring a cab is ancillary service since it is being taken to make trip more convenient. The POS remain same.		
Sec. 12(7) Services provided by way of, - (a) organization of a cultural, artistic, sporting, educational or entertainment event including supply of services in		

Provision	Place of Supply	Remarks
relation to a conference, fair, exhibition, celebration or similar events; or (b) services ancillary to organization of any of the events or services referred to in clause (a), or assigning of sponsorship to such events, - ➢ A registered person	➢ Location of such person	This sub-section mainly deals with the organization of events & not the admission to the events which is specifically covered & discussed in Section 12(6) of IGST Act
➢ A person other than registered person -If event is held in India	➢ Place where event is actually held	
-If event is held outside India	➢ Location of the recipient If located in more than one State/Union Territory then place of supply will be proportionate*	*Proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Example 28: ABC Ltd., Mumbai held exhibition event in USA. ABC Ltd. hires these services from XYZ Ltd., Delhi. The POS is Mumbai assuming that ABC Ltd. is registered. If ABC Ltd. is unregistered then POS is again Mumbai. If let say this exhibition had been held at Ahmedabad, Gujarat then POS is place of exhibition i.e. Ahmedabad (considering ABC Ltd. unregistered).

Example 29: Taxongo, a registered firm in Delhi, hired ABC & Associates registered in Mumbai for conducting Taxation seminar in Marriot Hotel in Kolkata. Further, Bharat Ltd. registered in Kolkata offered to sponsor the entire seminar. Mr. Amit from Delhi (unregistered person) registered himself for the seminar.

Services Supplied	Supplier	Recipient	POS	Remarks
Organization of taxation seminar	ABC & Associates (registered in Mumbai)	Taxongo (registered in Delhi)	Delhi	As the recipient is registered, therefore POS is the location of registered recipient {Section 12(7)}
Sponsorship Services	Taxongo (registered in Delhi)	Bharat Ltd. (registered in Kolkata)	Kolkata	As the recipient is registered, therefore POS is the location of registered recipient {Section 12(7)}
Admission to taxation seminar	Taxongo (registered in Delhi)	Mr. Amit from Delhi (unregistered person)	Kolkata	POS is location where the event actually held {Section 12(6)}

<u>Rule 5 of IGST Rules</u>

Where the services are supplied to a person other than a registered person, the event is held in India in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in each of the respective States or Union territories, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined by application of the generally accepted accounting principles.

<table>
<tr><th>Provision</th><th>Place of Supply</th><th>Remarks</th></tr>
<tr><td colspan="3">Example 30: An event management company E has to organise some promotional events in States S1 and S2 for a recipient R. 3 events are to be organised i.e. one in S1 and 2 events in S2. They charge a consolidated amount of Rs.10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs. 6,00,000/- in S1 and Rs. 4,00,000/- in S2 .</td></tr>
<tr><td>Sec. 12(8)
Services by way of transportation of goods, including by mail or courier to, -
➢ A registered person
➢ A person other than registered person
Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.</td><td>➢ Location of such person
➢ Location at which such goods are handed over for their transportation</td><td>POS shall be decided on the basis of who is paying freight i.e. supplier or recipient.</td></tr>
<tr><td colspan="3">Example 31: ABC Ltd., Mumbai is a registered company. It sends courier to Delhi through XYZ courier company. Since ABC Ltd. is registered the place of supply is Mumbai. If suppose ABC Ltd. is unregistered and his representative sends courier from Bangalore to Chennai then POS is Bangalore.
Example 32: The registered person (‘XYZ’) in India has to export certain goods to China. The contract to transport goods by road (‘GTA service’) has been entered with the goods transport agency (‘supplier’) located in India. In light of the amended provision, the place of supply of service provided by the supplier shall be the destination of goods i.e. China. The place of supply shall neither be the location of XYZ nor the location of the supplier in India.</td></tr>
<tr><td>Sec. 12(9)
Passenger transportation service to,
➢ A registered person
➢ A person other than registered person
Where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the POS of such service shall be determined in the manner specified in sub-section (2), i.e. the default provision.</td><td>➢ Location of such person
➢ Place where the passenger embarks on the conveyance for a continuous journey</td><td>The return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.</td></tr>
<tr><td colspan="3">Example 33: Mr. A, Mumbai (registered person) travels from Bangalore to Chennai by Jet Airways. He bought this ticket from Jet Airways, Kolkata. The POS is Mumbai.
Example 34: Mr. A, Mumbai (unregistered person) travels from Bangalore to Chennai to Kochi (continuous journey) by Jet Airways. He bought this ticket from Jet Airways, Bangalore. The POS is Bangalore (CGST). If suppose, Mr. A also booked return flight along with this then this will be separate journey & the POS is Kochi & it will be subject to IGST.</td></tr>
<tr><td>Sec. 12(10)
Services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,</td><td>Location of the first scheduled point of departure of that conveyance for the journey</td><td></td></tr>
</table>

Provision	Place of Supply	Remarks
Example 35: Mr. A, Mumbai travels from Nepal-Kolkata-Mumbai. During Kolkata-Mumbai leg, he has ordered movie on demand. Since his first scheduled point of departure is Nepal which is outside the taxable territory, so it is not liable to tax.		
Sec. 12(11) Telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall-		Where the leased circuit is installed in more than one State or UT and a consolidated amount is charged for supply of services relating to such circuit, the POS of such services shall be taken as being in each of the respective States or UT in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.
(a) Fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna,	➢ Place of installation	
(b) Mobile connection and Internet on post-paid basis	➢ Billing Address on the record of supplier of services	
(c) Mobile connection, Internet connection, DTH provided on pre-payment basis through a voucher or any other means – (i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher	➢ Address of the selling agent/re-seller/distributor as per the record of the supplier at the time of supply	
(ii) by any person to the final subscriber,	➢ Location where pre-payment received or such vouchers are sold	
If such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment	➢ Location of the recipient of services on the record of the supplier of services	
(d) in other cases, (i) if address of the recipient as per the records of the supplier of services is available	➢ Address of the recipient as per the records of the supplier of services	
(ii) where such address is not available	➢ Location of supplier of services	
Example 36: Mr. A, Mumbai has connection of fixed line in Mumbai with billing address Kolkata. The POS is Mumbai. Example 37: Mr. A, Mumbai has postpaid mobile connection with billing address Kolkata. The POS is Kolkata. Example 38: Mr. A, Mumbai has prepaid mobile connection and he has bought prepaid voucher online. His address in mobile company is Kolkata. The POS is Kolkata. Example 39: Mr. A, Mumbai has bought prepaid card from seller in Delhi. The POS is Delhi.		

<table>
<tr><th>Provision</th><th>Place of Supply</th><th>Remarks</th></tr>
<tr><td colspan="3"><u>Rule 6 of IGST Rules</u>
In the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:-

(a) The number of points in a circuit shall be determined in the following manner:
(i) in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points;
(ii) any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point;
(b) the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.

Example 40: A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.
Example 41: A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.
Example 42:: A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.</td></tr>
<tr><td>Sec. 12(12)
Banking and other financial services, including stock broking services to any person

If the location of recipient of services is not on the records of the supplier</td><td>➢ Location of the recipient of services as per the records of the supplier
➢ Location of the supplier of services</td><td></td></tr>
<tr><td colspan="3">Example 43: Mr. A, Mumbai registered person buys shares from a broker in Delhi on NSE (Mumbai). The POS is Mumbai (location of recipient of services as per record of supplier of services).
Example 44: Mr. A, Mumbai avail some services from SBI, Chennai. If the service is linked with account then the POS is location of recipient of supplier i.e. Mumbai. If it is not available in record then Chennai.</td></tr>
<tr><td>Sec. 12(13)
Insurance services, -
(a) to a registered person

(b) to a person other than a registered person</td><td>➢ Location of such person
➢ Location of the recipient of services on the records of the supplier of services.</td><td></td></tr>
<tr><td colspan="3">Example 45: Mr. A, Mumbai is an unregistered person, take travel insurance policy from Delhi to Kolkata flight. The POS is Mumbai.</td></tr>
</table>

Provision	Place of Supply	Remarks
Sec. 12(14) Advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement	Place of supply shall be taken as being in each of such States or Union Territories	Value of such supplies specific to each State or UT shall be in proportion to : • Amount attributable to services provided by way of dissemination in the respective States or UT as may be determined in terms of the contract or agreement entered into in this regard or, • In the absence of such contract or agreement, on such other basis as may be prescribed.
Example 46: Gujarat Government gives an advertisement contract to an advertising agency (registered in Ahmedabad) to promote Gujarat tourism throughout the country. The place of supply is in all the States and Union Territories of India. Example 47: Delhi Government gives an advertisement contract to an advertising agency registered in Delhi to promote its 'Every Child Can Read' campaign in Delhi. The place of supply is Delhi.		

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

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

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

Rule	In case of	Value of supply will be
3(a)	Newspaper and publications	On the basis of number of editions in each State/UT
Example 48: ABC Government agency, release order to a DEF newspaper (Head office is in Delhi) for an advertisement 'Beti Bachao Beti Padhao' to be published in the edition of Delhi, Pune, Mumbai, Lucknow and Jaipur. So place of supply will be Delhi, Maharashtra, UP & Rajasthan and invoice needs to be raised on the basis of ratio of editions in above State.		
3(b)	Printed material like pamphlets, leaflets, diaries, calendars, T-Shirts etc.	On the basis of number of such material in each State/UT
3(c)(i)	Hoardings other than those on trains	Hoardings located in each State/UT
3(c)(ii)	Advertisements placed on trains	Ratio of the length of the railway track in each State/UT for that train
Example 49: ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for		

advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www.indianrail.gov.in. The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is Rs. 1,20,000, then KL will have to calculate the State-wise and Union territory-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory. In the given example, the State-wise and Union territory-wise breakup works out to Delhi (Rs. 5,000), Haryana (Rs. 5,000), Uttar Pradesh (Rs. 20,000), Madhya Pradesh (Rs. 20,000), Maharashtra (Rs. 30,000), Karnataka (Rs. 30,000) and Goa (Rs. 10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.		
3(d)(i)	Advertisements on the back of utility bills of oil and gas companies etc.	Bills pertaining to consumers having billing addresses in each State/UT
3(d)(ii)	Advertisements on railway tickets	Ratio of the number of railway stations in each State/UT
Example 50: ABC has issued a Purchase order to MN for display of advertisements relating to the "Ujjwala scheme" on the railway tickets that are sold from all the stations in the States of MP & Chhattisgarh. • The place of this service is in MP and Chhattisgarh. • The value of advertisement service attributable to these 2 States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website www.indianrail.gov.in. • Let us assume that this ratio is 713:251 and the total bill is Rs. 9,640. The breakup of amount between MP and Chhattisgarh in this ratio works out to Rs. 7130 and 2510 respectively. • Separate invoice will have to be issued State wise by MN to ABC indicating the value pertaining to that State.		
3(e)	Advertisements over radio stations	The amount payable to such radio station, which by virtue of its name is part of a State/UT
Example 51: For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations. The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued State-wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.		
3(f)	Advertisements on TV Channels	Value of service in each State/UT = Total Amount payable for such service * Ratio of viewership of such channel in concerned State/UT. Viewership shall be calculated in the following manner:- i. State/UT-wise figure for that channel published by Broadcast Audience Research Council; ii. Figures published in last week of preceding quarter shall be used for succeeding quarter; iii. If channel viewership figures relate to a region comprising of more than one State/UT, then, viewership figures for a State/UT = Viewership figure for region * Ratio of

		populations of that State/UT, as determined in the latest census.

Example 52: ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.
The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under —

I. QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand.
II. Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census.
III. By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively.
IV. In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively.
V. The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).
VI. This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is Rs. 20,00,000, the State-wise breakup is Rs. 5,00,000 (Delhi), Rs. 9,00,000 (Uttar Pradesh), Rs. 1,00,000 (Uttarakhand), Rs. 4,00,000 (Bihar) and Rs. 1,00,000 (Jharkhand). Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory.

3(g)	Advertisements at cinema halls	The amount payable to a cinema hall or screens in a multiplex, in a State/UT
3(h)	Advertisements over internet the service shall be deemed to have been provided all over India. Thus, the value of such service will be apportioned amongst all States and UTs, of India in the manner prescribed.	Value of service in each State/UT = Total amount payable for such service * Ratio of No. of internet subscribers in concerned State/UT. No. of internet subscribers shall be calculated in the following manner:- i. State/UT-wise figures published by TRAI; ii. Figures published for last quarter of preceding FY shall be used for succeeding FY; iii. If figure of No. of internet subscribers relates to a region comprising of more than one State or UT, then, No. of internet subscribers in a State or UT = No. of subscribers for region * Ratio of populations of that State or UT, as determined in the latest Census;

Example 53: ABC issues a Purchase order to WX for a campaign over internet regarding linking Aadhar with one's bank account and mobile number. WX runs this campaign over certain websites.

- In order to ascertain the State wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the TRAI figures for quarter ending March 2017, as indicated on their website www.trai.gov.in. These figures show the service area

		wise internet subscribers. There are twenty two service areas. Some relate to individual States some to 2 or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas. • In order to calculate the State wise breakup, first the State wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census). Once the actual number of subscribers for each State has been determined. • The second step for WX involves calculating the State wise ratio of internet subscribers. Let us assume that this works out to 8:1:2…and so on for Andhra Pradesh, Arunachal Pradesh, Assam…and so on. • The third step for WX will be to apply these ratio to the total amount payable to WX so as to arrive at the value attributable to each State. • Separate invoices will have to be issued State wise and Union territory wise by WX to ABC indicating the value pertaining to that State or Union territory.
3(i)	Advertisements through SMS	Value of service in each State/UT = Total amount payable for such service * Ratio of No. of telecom subscribers in concerned States or UTs. No. of telecom subscribers shall be calculated in the following manner, namely:- i. State/UT-wise figures published by TRAI; ii. Figures published for preceding quarter shall be used for succeeding quarter; iii. If figure of No. of telecom subscribers relates to a telecom circle comprising of more than one State or UT, then, No. of telecom subscribers in a State or UT = No. of subscribers for telecom circle * Ratio of populations of State or UT, as determined in the latest Census;

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

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

Location of Service Provider	Location of Service Recipient	Applicable section for POS
In India	In India	Section 12 of IGST
In India	Outside India	Section 13 of IGST
Outside India	In India	Section 13 of IGST

Provision	Place of Supply	Remarks
Sec. 13(1) This section deals with the situation where supplier of services or location of the recipient of services, is outside India. Sec. 13(2) Sub-section 13(2) applies except the services specified in Sec. 13(3) to Sec. 13(13)		
Location of the recipient available in the ordinary course of business	Location of the recipient	
Location of the recipient is not available in the ordinary course of business	Location of the supplier of services	
Sec. 13(3) (a) Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services.	Location where the services are actually performed	
From remote location through electronic means.	Location where goods are situated at the time of supply of services.	
Goods temporarily imported into India for repairs or for any other treatment or process and are exported back after such repairs or treatment or process without being put to any ~~other~~ use in India, other than that which is required for such repairs or treatment or process.	Provisions of section 13(3)(a) will not be applicable and place of supply shall be determined as per section 13(2)	

Provision	Place of Supply	Remarks
(b) Services supplied to an individual either as recipient or acting on behalf of others, where his physical presence is required with supplier	Location where the services are actually performed.	
Example 54: ABC Ltd., Mumbai imports a machine from China for being installed in its factory at Pune. To install such machine, respective engineer came from China. The POS is Pune. Example 55: ABC Ltd., Mumbai provide service to XYZ Ltd., USA through electronic means i.e. fixing bugs in software. The POS is USA. Example 56: ABC Ltd., Mumbai exported a machine to China. It came back for repairing. ABC Ltd., fixed the issue under warranty terms and sent machine back to China. The POS is China. Example 57: Mr. A singer, Mumbai singer travel to Singapore for Music concert. The POS is Singapore. Example 58: ABC Ltd., got gold & diamond from XYZ, USA for certain treatment and it exported back after such treatment. The POS shall be USA. Example 59: A modelling agency (Chennai) contracts with a beauty parlor from USA for beauty treatment of 20 models. Here is a situation where the modelling agency is the receiver of the service, but the service is rendered to the models. This transaction will also quality to be covered U/s 13 (3) (b) of the IGST Act and POS shall be the location where the services are actually performed.		
<u>Circular No. 103/22/2019-GST dated 28th June 2019</u> Doubts have been raised about the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India? It is clarified that in case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India and are not put to any use in India, the place of supply shall be determined as per section 13(2) of IGST Act and not as per section 13(3)(a) of IGST Act. <u>Circular No. 118/37/2019-GST dated 11th October 2019</u> Determination of place of supply in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in non-taxable territory by using the sample hardware kits provided by the service recipient. It is stated that a number of companies that are part of the growing Electronics Semiconductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted. Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.		
Sec. 13(4) Services relating to immovable property	Place where the immovable property is location or intended to be located	Includes, hotel, right to use immovable property, construction work including architects or interior decorations, estate agents etc.

Provision	Place of Supply	Remarks
Example 60: Mr. A, Mumbai provides services to Mr. Z, Singapore for the property located in Chennai. The POS is Chennai. Example 61: A US based company has been awarded mineral exploration contract in respect of specific sites in South Africa by Mumbai based company. The POS will be South Africa. Example 62: A company in Singapore contracts with a Delhi based tax professional to provide his general opinion with respect to capital gains tax liability arising from the commercial property in Delhi. Here, the service of tax professional is basically an advice on taxation in general even though it is related to immovable property. Thus, POS is Singapore according to default provision i.e. Section 13 (2) of the IGST Act.		
Sec. 13(5) Services relating to events	Place where the event is actually held	Conference, sporting, cultural, fair, exhibition etc.
Example 63: ABC pte., Singapore organizes circus in Mumbai. The POS is Mumbai.		
Sec. 13(6) Services provided at more than one location including location in taxable territory for services referred in Sec. 13(3), 13(4) & 13(5)	Location in the taxable territory	
Example 64: ABC Ltd., Mumbai organizes a training event for XYZ pte., Singapore in Sri Lanka, Singapore & Mumbai India. The POS is Mumbai.		
Sec. 13(7) Services provided at more than one State/UT for services referred in Sec. 13(3), 13(4) & 13(5)	Place of supply shall be taken as being in each of such States or Union territories	Value of such supplies specific to each State or Union territory shall be in proportion to: ➢ Value of services separately collected or determined in terms of the contract or agreement entered into in this regard ➢ In the absence of such contract or agreement, on such other basis as may be prescribed
Rule 7 of IGST Rules The supply of services attributable to different States or Union territories, under subsection (7) of section 13 of the said Act, in the case of services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services, or in the case of services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, where the location of the supplier of services or the location of the recipient of services is outside India, and where such services are supplied in more than one State or Union territory, shall be taken as being in each of the respective States or Union territories, and the proportion of value attributable to each such State and Union territory in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:- *(i)* in the case of services supplied on the same goods, by equally dividing the value of the service in each of the States and Union territories where the service is performed;		

<table>
<tr><th>Provision</th><th>Place of Supply</th><th>Remarks</th></tr>
<tr><td colspan="3">

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

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

Example 65: A company C which is located in Kolkata is providing the services of testing of a dredging machine and the testing service on the machine is carried out in Orissa and Andhra Pradesh. The place of supply is in Orissa and Andhra Pradesh and the value of the service in Orissa and Andhra Pradesh will be ascertained by dividing the value of the service equally between these two States.

Example 66: A company C which is located in Delhi is providing the service of servicing of two cars belonging to Mr. X. One car is of manufacturer J and is located in Delhi and is serviced by its Delhi workshop. The other car is of manufacturer A and is located in Gurugram and is serviced by its Gurugram workshop. The value of service attributable to the Union Territory of Delhi and the State of Haryana respectively shall be calculated by applying the ratio of the invoice value of car J and the invoice value of car A, to the total value of the service.

Example 67: A makeup artist M has to provide make up services to an actor A. A is shooting some scenes in Mumbai and some scenes in Goa. M provides the makeup services in Mumbai and Goa. The services are provided in Maharashtra and Goa and the value of the service in Maharashtra and Goa will be ascertained by applying the generally accepted accounting principles.

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

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

(b) Intermediary services</td><td>
Location of the supplier of services

Location of the supplier of services</td><td></td></tr>
</table>

Provision	Place of Supply	Remarks
(c) Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month	Location of the supplier of services	
Example 68: Mr. A, Mumbai books a tour of famous cultural cities in India for a Singapore resident. The POS is Mumbai. Example 69: ABC contractors provide a service of hiring of a fleet of cars to a company on an annual contract. If suppose fixed establishments of ABC contractors is located in New Delhi & the company is located in Singapore, then Section 13 (8) of the IGST Act, covers situations where the hiring is for a period of upto one month. Then in this case, POS shall be determined in terms of Section 13 (2) of the IGST Act i.e. receiver's location which in this case is Singapore.		
Sec. 13(9) Services of transportation of goods, other than by way of mail or courier	Place of destination of goods	
Example 70: A shipping line, Mumbai, Maharashtra transports a shipment of flowers from Mumbai to Paris, for an event management company based in Paris. The POS is Paris.		
Sec. 13(10) Passenger transportation services	Place where the passenger embarks on the conveyance for a continuous journey	
Example 71: Mr. A, a foreign tourist, has booked a ticket for New Delhi-Sri Lanka flight from an airline registered in New Delhi for a continuous journey without any stopover. The POS is New Delhi.		
Sec. 13(11) Services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board	First scheduled point of departure of that conveyance for the journey	
Sec. 13(12) The place of supply of online information and database access or retrieval services	Location of the recipient of services	It is difficult to determine the location of the recipient in case of OIDAR as such recipients normally access the services online and not required to disclose the location. On satisfying any two (2) non-contradictory conditions out of such seven (7) conditions, the service recipient is deemed to be located in the taxable territory i.e. India: - 1. the recipient gives an Indian address through internet. 2. the payment is settled by an Indian credit card/debit card/other card. 3. the recipient has an Indian billing address.

Provision	Place of Supply	Remarks
		4. the computer used by the recipient has an Indian IP address. 5. the recipient uses an Indian bank account for payment. 6. the country code of the subscriber identity module card used by the recipient of services is of India 7. the recipient receives the service through an Indian fixed line.

Sec. 13(13)
In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

<u>Notification No. 04/2019- IT, dated 30th September 2019</u>

The Central Government, on being satisfied that it is necessary in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, on the recommendations of the Council, hereby notifies following description of services or circumstances as specified below, in which the place of supply shall be the place of effective use and enjoyment of a service as specified in the corresponding entry in Column "Place of Supply", namely:-

Description of services or circumstances	Place of Supply
Supply of research and development services related to pharmaceutical sector (Integrated discovery and development, Integrated development, Evaluation of the efficacy of new chemical/ biological entities in animal models of disease, Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays, Drug metabolism and pharmacokinetics of new chemical entities, Safety Assessment/ Toxicology, Stability Studies, Bio-equivalence and Bioavailability Studies, Clinical trials, Bio analytical studies) by a person located in taxable territory to a person located in the non-taxable territory.	The place of supply of services shall be the location of the recipient of services subject to fulfilment of the following conditions: - (i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory. (ii) Such supply of services fulfils all other conditions in the definition of export of services, except sub- clause (iii) provided at clause (6) of Section 2 of Integrated Goods and Services Tax Act, 2017.
Supply of maintenance, repair or overhaul service in respect of aircrafts, aircraft engines and other aircraft components or parts supplied to a person for use in the course or furtherance of business.	The place of supply of services shall be the location of the recipient of service.

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

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

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

Question & Answer

Q1. Determine Place of Supply of service for the following case:-

a) Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai.

b) Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mauritius.

c) Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at New Delhi.

d) Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at Seychelles. (ICAI Question)

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

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

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

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

c) The recipient being an unregistered person, the place of supply is the location where the event is held i.e., New Delhi.

d) The recipient being an unregistered person and the event held outside India, the place of supply is the location of the recipient i.e., Hyderabad and not the location where the event is held i.e., Seychelles.

Q2. A person from Kolkata travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What will be the place of supply?

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

Q3. Software Ltd., a company based out of Pune, awards online maintenance contract of its servers located in Hyderabad office to ABC, a company based out of France, and as per the terms of the online maintenance ABC shall be required to perform regular maintenance from France using Internet. What will be POS?
A. The place of supply of maintenance services shall be Hyderabad.

Q4. Software Ltd., gets an order from a French Bank, based out of Paris, to monitor transactions on the servers located in Paris using internet facilities. What will be POS?
A. The place of supply of such monitoring services shall be at Paris.

Q5. Bookmyticket.com, a company based out at Pune providing online ticketing services for admission to various events, sells online tickets for IPL tournament to be held across India. What will be POS?
A. The place of supply of services for admission to each cricket match shall be the location where the match is actually played.

Q6. Mr. A of Mumbai, orders a mobile from Flipkart to be delivered to his mother in Kolkata. ABC Ltd. (registered online seller in Indore) processes the order and Mr. A is billed by Flipkart. What will be POS?
A. It will be assumed that the buyer in Mumbai has received the goods & IGST will be charged.

Q7. In case of ambiguity, how is place of supply of goods determined U/s 10?
A. In case of any ambiguity where place of supply cannot be determined as provided in Section 10(1)(a) to 10(1)(e) of the IGST Act, 2017, the place of supply of goods will be determined in the manner as will be prescribed.

Q8. In case of import of goods into India what is the place of supply of goods?
A. The location of the importer is the place of supply of goods in case of import of goods into India. It may be noted that importer has not been defined in the IGST Act, 2017. Therefore, the meaning given under Customs Act, 1962 will have to be taken. As per Section 2(26) of the Customs Act, 1962 "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.

Q9. In case of export of goods from India, what is the location of supply of goods?
A. The location of supply of goods exported from India shall be the location outside India.

Q10. What is the place of supply of services by way of transportation of goods (Section 12 & 13)?
A. Section 12(8) of the IGST Act, 207 provides that services by way of transportation of goods provided to a registered person shall be the location of registered person. Such services if provided to a person other than a registered person, shall have place of supply and the location at which such goods are handed over for their transportation. Example, if Express limited, a goods transport company based out of Chennai, provides transportation services to Cars Limited, an automobile company based out of Bangalore, for movement of their cars from the warehouse of Cars Limited at Silvassa to Delhi, then the place of supply of transportation services shall be Bangalore if Cars Limited is a registered person. If Cars Limited is not a registered person, then the place of supply of transportation services shall be Silvassa (location at which such goods are handed over).
As per Section 13(9) of the IGST Act, 2017 the place of supply of services of transportation of goods, other than by way of mail or courier will be the place of destination of the goods. Example: If PQ shipping Co.

located in India charges ocean freight charges for transport of goods to Germany for a customer located in India, the place of supply of service will be Germany.

Q11. XZ Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from KTS Builders (Gurugram). It also enters into a separate contract with KTS Builders for purchase of pre-installed office furniture and fixtures in the building. Determine Place of Supply. (ICAI Example).

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

Q12. Determine Place of Supply of service for the following case:-

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

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

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

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

Chapter 6: - Time of Supply

Section 31	**Issue of Tax invoice under GST (Extract)**
Section 12	**Time of Supply of Goods**
Section 13	**Time of Supply of Services**
Section 14	**Change in rate of tax in respect of supply of goods or services**

Section 31 Extract of Issue of Tax Invoice under GST

Goods	Services
Section 31(1) A registered taxable person shall issue a tax invoice showing descriptions, quantity and value of goods, tax charged thereon and other prescribed particulars, before or at the time of a. Removal of goods for supply to the recipient, where supply involves movement of goods or b. Delivery of goods or making available thereof to the recipient in other cases.	**Section 31(2)** A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed. Note: As per Rule 47 of CGST Rules, Invoice should be issued within 30 days from the date of provision of Services. In case of Insurance, Banks or Financial Institution & NBFC's the above limit is extended to 45 days. An insurer or a banking company or a financial institution, including a NBFC, or a telecom operator, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

Example 1: Amit Manufacturers, Delhi supplies goods to Kavita Electronics Mumbai. The goods were removed from its factory in Delhi on 30th September. Amit Manufacturers needs to issue a tax invoice on or before 30th September.

Example 2: Gagan Ltd. provides security services to ABC Ltd. for exhibition to be organized on 5th November 2017. Gagan Ltd. needs to issue a tax invoice within 30 days of supply of services i.e. 5th December 2017.

Example 3: ABC Ltd. entered into an AMC contract for pest control with XYZ Ltd. for one financial year. As per the contract for AMC contract payment had to be made by 7th April 2018. However, XYZ Ltd. paid payment by 15th April 2018. ABC Ltd. has to issue invoice by 7th April 2018.

Example 4: ABC Bank rendered banking services to XYZ Ltd. a company registered in GST for their office in Mumbai on 10.11.2018. ABC bank can raise the invoice any time before or after the provision of services, but within 45 days from the date of supply of services i.e. till 25.12.2018.

Example 5: Mumbai branch of ABC bank rendered banking services to its Chennai branch on 10.11.2018. The transaction was recorded in books of account of Mumbai branch of ABC bank on 12.11.2018. Mumbai branch of ABC bank can raise invoice either:

- On or before 12.11.2018 i.e. when entry was made in books of account; or
- Before 31.12.2018 i.e. before the close of quarter during which the supply was made.

Section 31(4) In case of continuous supply of goods, where successive statements of accounts or successive payment are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.	**Section 31(5)** In case of continuous supply of services (a) if due date is ascertainable from the contract, invoice shall be issued on or before such due date of payment; (b) where the due date is not ascertainable, the invoice shall be issued before or at the time of receiving payment (c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.
Section 31(7) The goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.	**Section 31(6)** In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.
Section 12 must be read with section 31, which prescribes in detail the date on which tax invoice must be issued in various situations.	Section 13 must be read with section 31 and rule 47, which prescribes in detail the date on which tax invoice must be issued in various situations.

Section 12 Time of Supply of Goods & Section 13 Time of Supply of Services

Time of supply of Goods (Sec. 12)	Time of supply of Services (Sec.13)
Time of supply of goods [Sec. 12(2)] The time of supply of goods shall be the earlier of the following – (a) Date of issue of invoice by the supplier or the last date of which he is required U/s 31 to issue the Invoice with respect to the supply, Or (b) Date of receipt of payment by the supplier with respect to the supply** ** Notification No. 66/2017-Central Tax, Dated 15/11/2017 (a supplier of goods needs not to pay tax on advances). So time of supply of goods shall be earlier of Date of issue of invoice or last date of issue of invoice. This notification is not applicable on registered person who opted for composition levy U/s 10 of CGST Act, 2017. A composition supplier has to pay, in lieu of tax payable by him, an amount calculated at the prescribed rate applied on his 'turnover in the State/Union Territory' for a quarter. Therefore, the composition supplier is not required to pay any tax on advance received as the same does not form part of taxable supplies and, in turn, also does not form part of	**Time of supply of services [Sec. 13(2)]** The time of supply of services shall be the earlier of- (a) Invoice issued U/s 31 (e.g. within 30/45 days): Date of issue of invoice by the supplier, or the date of receipt of payment, whichever is earlier, or (b) Invoice not issued U/s 31 (e.g. not within 30/45 days): Date of provision of service or the date of receipt of payment, whichever is earlier, or (c) Date of which recipient shows the receipt of services in his books of account, in case where the provision of (a) or (b) as above do not apply.

the 'turnover in a State/Union Territory' at the end of the quarter (tax period).

Example 6: Normal supply of goods:

Last date to invoice	Date of Invoice	Date of receipt of payment	Time of Supply (TOS)
12.06.2018	12.06.2018	50% advance on 30.05.2018 & balance on 01.07.2018	12.06.2018
12.06.2018	30.05.2018	50% advance on 30.05.2018 & balance on 01.07.2018	30.05.2018
12.06.2018	02.07.2018	50% advance on 30.05.2018 & balance on 01.07.2018	12.06.2018

Example 7: Continuous Supply of goods:

Date of issue of statement of accounts (As per contract 2nd of successive month)	Last date to issue invoice	Date of Invoice	Date of receipt of payment (As per contract 5th of successive month)	Time of Supply (TOS)
02.02.2019	02.02.2019	02.02.2019	05.02.2019	02.02.2019
02.02.2019	02.02.2019	31.01.2019	05.02.2019	31.01.2019
02.02.2019	02.02.2019	01.03.2019	05.02.2019	02.02.2019
02.02.2019	02.02.2019	02.02.2019	31.01.2019	02.02.2019

Example 8: Normal supply of services:

Date of provision of service	Date of Invoice	Date on which payment received	Time of Supply	Remarks
15.06.2019	10.07.2019	15.07.2019	10.07.2019	Invoice issued within 30 days and before receipt of payment
15.06.2019	10.07.2019	05.07.2019	05.07.2019	Invoice issued within 30 days but payment received before invoice
15.06.2019	10.07.2019	05.07.2019 (Part) and 30.07.2019 (remaining	05.07.2019 & 10.07.2019	Invoice issued within 30 days. Part payment received before invoice and remaining payment after invoice.
15.06.2019	10.07.2019	06.06.2019 (Part) and 05.07.2019 (remaining	06.06.2019 & 05.07.2019	Invoice issued within 30 days. Part Payment (in the form of advance) received before issue of invoice and remaining payment received after completion of service
15.06.2019	25.07.2019	25.08.2019	15.06.2019	Invoice not issued within 30 days and payment received after completion of service
15.06.2019	25.07.2019	05.06.2019 (part) and 25.08.2019 (remaining)	05.06.2019 and 15.06.2019	Invoice not issued within 30 days. Part payment received as advance before completion of service and remaining payment received subsequently

15.06.2019	25.07.2019	05.06.2019 (part) and 20.07.2019 (remaining)	05.06.2019 and 15.06.2019	Invoice not issued within 30 days. Part payment received as advance before completion of service and remaining payment received subsequently but before issue of invoice
Not yet provided	05.07.2019	30.06.2019	30.06.2019	Payment received as advance

Example 9: Continuous supply of services (ICAI BGM):
Mr. X is getting construction services from a developer against buying of an under-construction flat for the period 01/07/2017 to 31/03/2018 for Rs. 150,00,000. The transactions are structured as follows:

Situation 1: Equal instalments to be paid at the end of every quarter

Periodic completion of service	Date of Invoice	Actual payment dates	Value
30-09-2017	03-10-2017	15-10-2017	50,00,000
31-12-2017	02-12-2017	03-02-2018	50,00,000
31-03-2018	10-04-2018	20-03-2018	50,00,000

Situation 2: Payment to be made as per mutual understanding

Periodic completion of service	Date of Invoice	Actual payment dates	Value
31-12-2017	04-01-2018	12-01-2018	90,00,000
31-03-2018	22-04-2018	02-04-2018	60,00,000

Situation 3: 40% payment on 40% completion and balance payment on 100% completion

Periodic completion of service	Date of Invoice	Actual payment dates	Value
01-10-2017	29-09-2017	05-10-2017	60,00,000
31-03-2018	24-04-2018	28-04-2018	90,00,000

A. This is a case of continuous supply of services. The first question that should be determined in these cases is whether the invoice is issued within the prescribed time period. If issued within the prescribed time period, the time of supply will be the date of issue of invoice or the date of receipt of payment whichever is earlier. If the invoice is issued after the prescribed period, then the time of supply will be the date of completion of service or the date of receipt of payment whichever is earlier.

Situation 1: In this situation, the due date of payment can be ascertainable from the contract. So, the last date of issuance of invoice will be the due date of payment. The due date of payment will be end of each quarter. So, the time of supply will be determinable as follows:

Periodic Completion of service	Date of Invoice	Actual payment dates	Value	Invoice issued within time limit	Time of Supply
30-09-2017	03-10-2017	15-10-2017	50,00,000	No	30-09-2017
31-12-2017	02-12-2017	03-02-2018	50,00,000	Yes	02-12-2017
31-03-2018	10-04-2018	20-03-2018	50,00,000	No	20-03-2018

Situation 2: In this situation, due date of payment is not ascertainable from the contract. So, the invoice is to be issued before or at the time when the supplier of services receives the payment. So, the time of supply will be determinable as follows:

Periodic Completion of service	Date of Invoice	Actual payment dates	Value	Invoice issued within time limit	Time of Supply
31-12-2017	04-01-2018	12-01-2018	90,00,000	Yes	04-01-2018
31-03-2018	22-04-2018	02-04-2018	60,00,000	No	31-03-2018

Situation 3: In this situation, the payment is linked to the completion of event. The invoice should be raised on or before the completion of that event (i.e. 40% or 100% completion as the case may be). So, the time of supply will be as follows:

Periodic Completion of service	Date of Invoice	Actual payment dates	Value	Invoice issued within time limit	Time of Supply
01-10-2017	29-09-2017	05-10-2017	60,00,000	Yes	29-09-2017
31-03-2018	24-04-2018	28-04-2018	90,00,000	No	31-03-2018

Date of receipt of payment shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier

Where amount received is in excess of invoice with amount upto Rs. 1,000, supplier has option to choose time of supply as date of issue of fresh invoice for the said excess amount.

Example 10: ABC enterprises, raised Rs. 49,500 invoice on 14.02.2018. Recipient made round off payment of Rs. 50,000 on 02.03.2018. In this case, time of supply for Rs. 49.500 will be 14.02.2018. But for balance Rs. 500, time of supply shall at the option of supplier.

Reverse Charge [Sec. 12(3)]

The time of supply in case of reverse charge, shall be the earliest of the following dates:

(a) the date of receipt of the goods, or

(b) the date of payment, or

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

If it is not possible to determine the time of supply under clause (a), (b) or (c) above, the time of supply shall be the date of entry in the books of account of the recipient of supply.

This proviso will bear its impact on provisional entries passed on month end or year-end closing i.e. provision of expenses made for those vendors who do not submit their bills.

Reverse Charge [Sec. 13(3)]

The time of supply shall be the earlier of the following dates:

(a) the date of payment, or

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

If it is not possible to determine the time of supply under clause (a), or (b) above, the time of supply shall be the date of entry in the books of account of the recipient of supply.

In case of supply by 'associated enterprises', where the supplier of service is located outside India, the time of supply shall be the date of entry in books of account of the recipient of supply or the date of payment, whichever is earlier.

Date of self-invoicing by the recipient will not hold any importance in arriving at the TOS for reverse charge cases. For determining TOS under reverse charge, date of invoice of supplier or any other document issued by the supplier, by any name whatsoever (whether registered or unregistered) will be relevant.

Supply of Voucher [Sec. 12(4)]

In case of supply of vouchers by a supplier, the time of supply shall be:

(a) the date of issue of voucher, if supply is

Supply of Voucher [Sec. 13(4)]

In case of supply of vouchers by a supplier, the time of supply shall be:

(a) the date of issue of voucher, if supply is

Identifiable at that point; or (b) the date of redemption of voucher, in all the other cases.	Identifiable at that point; or (b) the date of redemption of voucher, in all the other cases.
Residual Supply [Sec. 12(5)] Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall: (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or (b) in any other case, be the date on which the tax is paid.	**Residual Supply [Sec. 13(5)]** Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall: (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or (b) in any other case, be the date on which the tax is paid.
Example 11: Investigation reveals clandestine (secretively) removal of goods by a supplier who is not registered under GST. The evidence is in the form of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case. The time of supply will be the date on which the tax is paid, as being unregistered, the supplier is not required to file periodical returns.	
Additional consideration like interest, fee & penalty [Sec. 12(6)] Date on which supplier receives such additional value.	**Additional consideration like interest, fee & penalty [Sec. 13(6)]** Date on which supplier receives such additional value.

Section 14 Change in rate of Tax in respect of supply of goods or services

Section 12 & 13 has been over-ruled by this section i.e. in case of change in rate of tax, time of supply of goods or service or both shall be determined under this section: -

Taxable goods or services or both has been supplied before the change in rate of Tax	**Taxable goods or services or both has been supplied after the change in rate of Tax**
Invoice issued – Before Change Receipt of payment – After Change Time of Supply – Date of Invoice	Invoice issued – Before Change Receipt of payment – After Change Time of Supply – Date of payment
Invoice issued – After Change Receipt of payment – After Change Time of Supply – Date of Invoice or payment, Whichever is earlier	Invoice issued – Before Change Receipt of payment – Before Change Time of Supply – Date of Invoice or payment, Whichever is earlier
Invoice issued – After Change Receipt of payment – Before Change Time of Supply – Date of payment	Invoice issued – After Change Receipt of payment – Before Change Time of Supply – Date of invoice
Date of receipt of payment shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier. However, the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.	
Example 12: Date of change in rate of tax is 15th June 2017. Earlier rate of tax was 15% and the same has been changed to 18%	

Invoice issued – 10th June 2017 Receipt of payment – 20th June 2017 Time of Supply – 10th June 2017 (15%)	Invoice issued – 10th June 2017 Receipt of payment – 20th June 2017 Time of Supply – 20th June 2017 (18%)
Invoice issued – 20th June 2017 Receipt of payment – 25th June 2017 Time of Supply – 20th June 2017 (18%)	Invoice issued – 5th June 2017 Receipt of payment – 25th May 2017 Time of Supply – 25th May 2017 (15%)
Invoice issued – 20th June 2017 Receipt of payment – 10th June 2017 Time of Supply – 10th June 2017 (15%)	Invoice issued – 20th June 2017 Receipt of payment – 10th June 2017 Time of Supply – 20th June 2017 (18%)

Example 13: Mr. A buy a motor car from a car dealer. Mr. A has made payment and car dealer has issued an invoice on 25th December 2017. The car was to be delivered on new year i.e. 1st Jan'18. The applicable rate of car is changed upward on 26th December 2017. As per section 14 (b) (ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the old rate of tax remains applicable.

Example 14: Payment is credited in books of accounts on 29th April. Payment is credited in the bank account on 8th May. Date of change in tax rate is 1st May. In this scenario, date of payment shall be treated as 8th May as the actual credit in the bank account has occurred after more than 4 working days. If suppose payment is credited in bank account on 3rd May then date of payment shall be treated on 29th April (credited in books of accounts)

Special procedure under section 148 for payment of tax in case of joint development agreements in real estate sector

In a Joint Development Agreement (JDA), a landowner transfers the land/ development rights over the land to a developer to develop and construct a real estate project and in return gets a certain percentage of constructed area in the project, depending upon the terms and conditions agreed upon between them. The developer receives consideration for the construction service provided by him, from
(i) landowner, in the form of land /development rights; and
(ii) from other buyers (of the constructed area), normally in the form of money.
In exercise of the powers conferred by section 148, the Central Government, on the recommendations of the GST Council, has issued Notification Nos. 4/2018 CT (R) & 4/2018 IT (R) both Dated 25.01.2018 to defer the liability to pay GST in case of

- supply of development rights against consideration in the form of construction service of complex, building or civil structure;
- supply of construction service of complex, building or civil structure against consideration in the form of transfer of development rights

to the time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (e.g. allotment letter).
Explanation- Nothing contained in this notification shall apply with respect to the development rights supplied on or after 1st April, 2019.

Example 15 (ICAI): Mr. X enters into a joint development agreement with SM Constructions Ltd. on 12th January whereby the development right over the plot of land owned by Mr. X is transferred to SM Constructions to build a residential complex. SM Constructions agrees to transfer 3 flats out of 20 flats to be built in the residential complex to Mr. X as a consideration for transfer of development rights.
The other details are:
Land development rights are transferred on 31st January Construction begins on 1st April
Construction of 3 flats gets completed on 30th June
Construction of entire complex gets completed on 30th November Allotment letter for 3 flats issued to Mr. X on 25th December

By virtue of the special procedure notified under section 148, payment of GST on transfer of development rights by Mr. X and supply of construction service by SM Constructions to Mr. X is postponed to the date of allotment letter i.e., 25th December.

Notification No. 06/2019-CT (Rate) & 06/2019-IT (Rate) Dated 29th March 2019

With effect from 01.04.2019, supply of services by a landowner to a developer by way of –

(i) transfer of transferable development rights (TDR) or floor space index (FSI);

(ii) granting of long term lease,

for construction of residential apartments have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate or first occupation of the project, whichever is earlier, and tax is paid on them.

Such exemption for TDR, FSI, long term lease (premium) shall not be available in case of flats which remain un-booked on the date of issuance of completion certificate or first occupation of the project, whichever is earlier. The promoter (developer) shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of (i) value of development rights and/or FSI, or (ii) upfront amount paid for long term lease, as is attributable to such un-booked residential apartments.

In view of the above change, **with effect from 01.04.2019**, a special procedure for payment of tax has been laid down for following classes of registered persons, namely:-

(i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 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 in cash;

(ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),

as the registered persons in whose case the liability to pay central tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;

(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI(including additional FSI),

shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

Question & Answer

Q1. A Machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

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

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

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

Q2. Determine the time of supply from the given information.

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

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

Q3. Determine the time of supply from the given information.

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

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

Q4. ABC Ltd. sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food/provisions in the outlets that are part of the program.

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

Q5. With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza.

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

Q6. Determine the time of supply from the given information.

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

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

Q7. Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.
A. The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of supplier is also not available. Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.
Thus, time of supply will be 4th April, the date on which the Apartment Owner's Association records the receipt of service in its books of account.

Q8. Determine the time of supply from the given information (assuming that service being supplied is taxable under reverse charge).

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

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

Q9. Determine the time of supply from the given information

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

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

Q10. A supplier of services received an advance when rate of tax on services was 18%. However, while raising the invoice, tax rate on service was reduced to 5%. How will the invoice be raised?
A. As per provision of section 14 of CGST Act, 2017, in case wherein service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax but payment is received before change in rate of tax, time of supply shall be date of issue of invoice.
Therefore, in the instant cases assuming as service has been supplied after change in rate of tax and invoice has also been issued after change in rate of tax, therefore tax rate applicable at the time of raising of invoice for supply of service would be 5%. Excess tax collected at the time of receipt of advance can be adjusted against future liabilities.

Q11. What is the time of supply in case of addition in value by way of Interest, late fees or penalty for delayed payment of any consideration?

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

Example: Mr. A had supplied services to Mr. B for Rs.1,00,000 on 1st March. Mr. B had to make the payment to Mr. A within one month of the supply otherwise interest was chargeable at the rate of 15%. Mr. B fails to make the payment within one month and makes the payment after a delay of one month i.e. by 30th April. Mr. A raises a debit note against Mr. B for the interest on delayed payment of Rs. 1,250 on 10th May. Mr. B makes the payment of the Interest of Rs. 1,250 on 15th June.

The time of supply in such case would not be the date of raising of debit note i.e. 10th May but it would be the date when Mr. B makes the payment of the interest to Mr. A i.e. 15th June.

Q12. Time of supply of services under reverse charge mechanism where the supplier of service is associated enterprises?

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

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

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

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

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

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

Q13. Time of supply where services are supplied online?

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

Q14. From the following information determine the time of supply of goods where supply involves movement of goods:

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

A.

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

Q15. From the following information determine the time of supply if goods are supplied on approval basis:

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

A.

Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment	Time of Supply	Remarks
01-12-2017	15-12-2017	05-12-2017	25-12-2017	05-12-2017	Time of supply shall be the date of acceptance by the recipient as invoice was issued after that date.

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

Q16. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

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

A.

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

Q17. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017:

Date of Actual provision of services	Date of Invoice	Payment entry in supplier's book	Credit in bank account	Remarks
20-10-2017	21-10-2017	26-10-2017	30-10-2017	
20-10-2017	30-10-2017	24-10-2017	22-10-2017	
16-11-2017	26-12-2017	28-01-2018	29-01-2018	

01-12-2017	30-10-2017 30-10-2017	30-10-2017 06-12-2017	30-10-2017 08-12-2017	Rs, 5,00,000 is received in advance on 30-10-2017 and balance amount Rs. 6,80,000 is received on 06-12-2017

A.

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

Q18. Determine the time of supply in each of the following independent cases in accordance with provisions of CGST Act, 2017 if recipient is liable to pay tax on reverse charge basis:

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

A.

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

Q19. Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

Date of payment by recipient of services	Date of issue of invoice by supplier of services
10-10-2017	29-08-2017
10-10-2017	01-08-2017
Part payment made on 30-08-2017 and balance amount paid on 01-11-2017	29-08-2017

Payment is entered in the books of account on 28-08-2017 and debited in recipient's bank account on 30-08-2017	01-08-2017
Payment is entered in the books of account on 30-08-2017 and debited in recipient's bank account on 26-08-2017	29-08-2017

A.

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

Q20. Mehra Sons, a registered supplier, is a wholesale supplier of ready-made garments located in Bandra, Mumbai. On 5th September, 20XX, Subhadra, owner of Aura Boutique located in Dadar, Mumbai, approached Mehra Sons for supply of a consignment of customised dresses for ladies and kids.

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

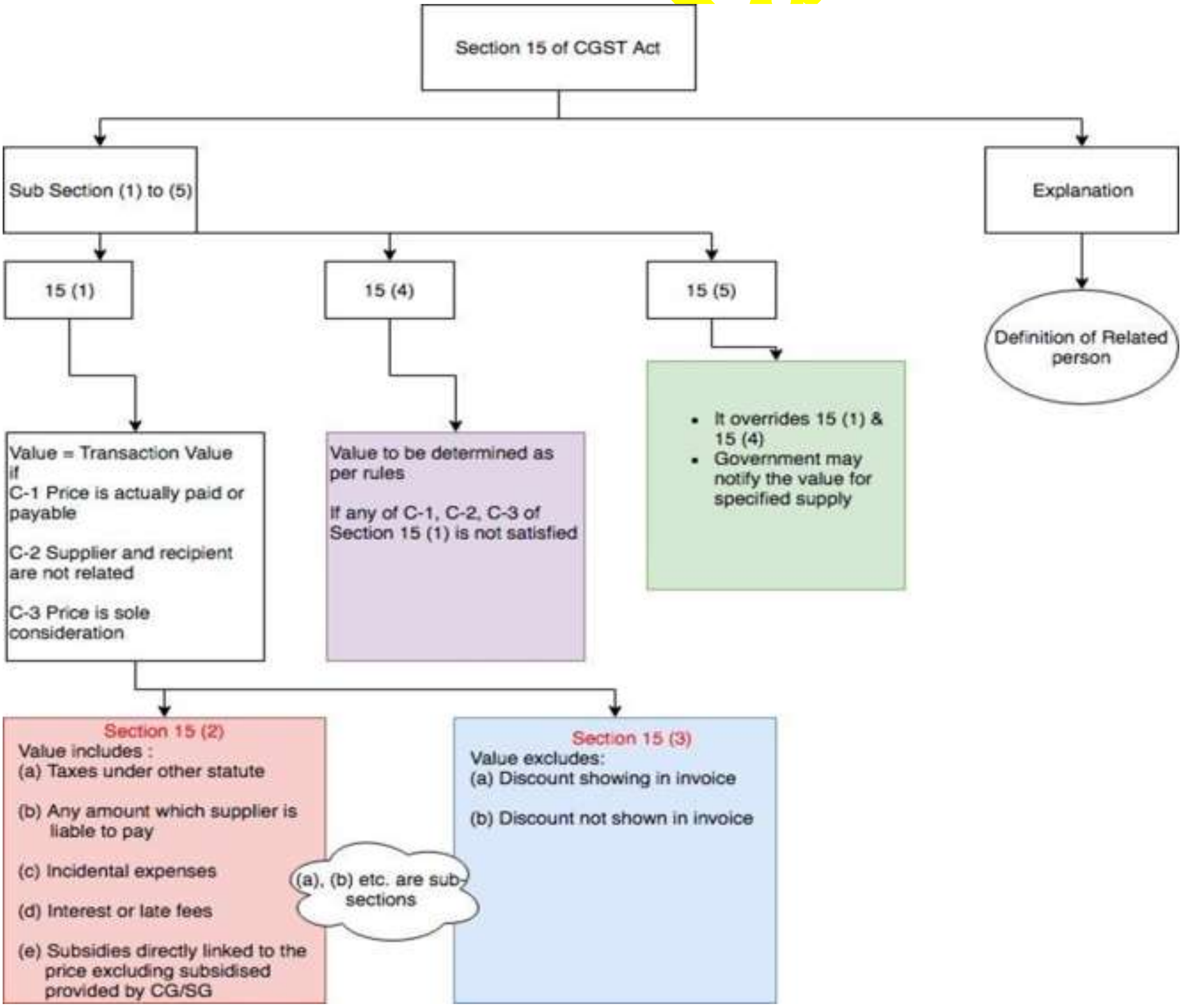
(CA Inter – MTP- May 2018)

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

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

Chapter 7: - Value of Supply

Section 15	**Value of Taxable Supply**
Rule 27	**Value of supply of goods or services where the consideration is not wholly in money**
Rule 28	**Value of supply of goods or services or both between distinct or related persons, other than through an agent**
Rule 29	**Value of supply of goods made or received through an agent**
Rule 30	**Value of supply of goods or services or both based on cost**
Rule 31	**Residual method for determination of value of supply of goods or services or both**
Rule 31A	**Value of supply in case of lottery, betting, gambling and horse racing**
Rule 32	**Determination of value in respect of certain supplies**
Rule 33	**Value of supply of services in case of pure agent**
Rule 34	**Rate of exchange of currency, other than INR, for determination of value**
Rule 35	**Value of supply inclusive of IGST, CGST, SGST & UTGST**



Section 15 Value of Taxable Supply

Meaning [Sec. 15(1)]

1. The value of a supply of goods and/or services shall be the Transaction Value.
2. Transaction value applicable: -

• Where the supplier and the recipient of the supply are not related and • Price is sole consideration for the supply	The price actually paid or payable for the said supply of goods and/or services.

3. Free Supply: - No GST: When no consideration is received (either in monetary or non-monetary form) for a taxable supply, then there is no value, consequently no GST as well (except Schedule I activities).
4. Power of Government to notify manner of valuation [Sec. 15(4) & (5)]: When the value of the supply of goods or services or both cannot be determined U/S 15(1), Government on the recommendation of the GST Council, notify the manner of determination of value of such supplies.

Inclusions [Sec. 15(2)]:

The value of supply includes –

(a) Any Taxes, Duties, Cesses, Fees and Charges separately charged by the supplier other than GST Tax (CGST, IGST, SGST/UTGST, Cess).
The CBIC vide circular No. 76/50/2018-GST Dated 31.12.2018, has clarified that for the purpose of determination of value of supply under GST, Tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax. Central excise duty continues to be levied on tobacco along with GST, then Central excise duty will be included in the transaction value for supply of tobacco for the chargeability of GST.

(b) Any amount that the supplier is liable to pay in relation to such supply, but which has been actually, incurred by the recipient and which is not included in the price.
Example 1: ABC contractor got supply contract at Rs. 10 Lacs + GST for constructing shed. However, recipient supplied cement and paint (amounting to Rs. 1 Lac) on "Free of cost – FOC" basis to ABC contractor. ABC Ltd. will raise invoice of Rs. 9 lacs + GST on Rs. 10 Lacs (Value of supply Rs. 9 Lacs + Rs. 1 Lacs), so total invoice value shall be Rs. 9 Lacs + Rs. 1.80 Lacs (Rs. 10 Lacs * 18%) = Rs. 10.80 Lacs.

(c) Incidental expenses i.e. commission, packing etc. charged by the supplier. Thus, expenses like weighment, loading in factory, inspection, testing before supply will be includible in 'value'. Design charges incurred before supply will be also included. Any amount charged for anything done by the supplier in respect of the supply of goods or services, at the time of, or before delivery of goods or supply of services.

(d) Interest or late fee or penalty for delayed payment of any consideration for supply.

(e) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Government.

Exclusions [Sec. 15(3)]:

(a) Before or at the time of the supply: Such discount has been duly recorded in the invoice issued in respect of such supply.

(b) After the supply has been effected:
  (i) Such discount is established in terms of an agreement_ entered into at or before the supply and specifically linked to relevant invoices, and
  (ii) Input tax credit has been reversed by the recipient of the supply as it is attributable to the discount on the basis of document issued by the supplier.

Thus, discount after supply is permissible as deduction only if it was known before or at the time of supply.

In some cases, goods are packed in returnable packing, like gas cylinder, drums etc. In such case, tax is payable only on consideration received for the supply. {S No. 61 of Tweet FAQ released by CBIC on 26-6-2017}. Thus, it is not required to add amortized cost of durable and returnable packing.

In case of FOR basis contracts, the supplier arranges transport. In that case, he pays GST under reverse charge on outward freight. He then charges outward freight in the tax invoice. In such case, the outward freight charged is part of value of goods and GST is payable on value including outward freight. Similarly, packing charges, weighment charges and other charges are includible in value of levy of GST. The GST rate is same as applicable to goods, as this is a composite supply as per section 2(30) of CGST Act. It is not correct to charge freight separately and charge GST @ 5% as the service of supplier of goods is not GTA services at all.

Where the Value of Supply cannot be determined by the u/s 15(1), then the Value shall be determined as per the CGST Rules. Such valuation may be required in following situations: -

- The consideration, whether paid or payable, is not in money, wholly or partly.
- The supplier and the recipient of the supply are related.

Related Person, shall be: -

1. They are officers or directors of one another's businesses;
2. Legally recognized partners in business;
3. Employer and employee;
4. Any person directly or indirectly owns, controls or holds twenty five per cent or more of the outstanding voting stock or shares of both of them;
5. One of them directly or indirectly controls the other;
6. Both of them are directly or indirectly controlled by a third person;
7. Together they directly or indirectly control a third person; or
8. Members of the same family
9. Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, however described, of the other, shall be deemed to be related.

The term "person" includes legal persons

This has been copied from Rule 2(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and Rule 2(2) of Customs Valuation (Determination of Value of Export Goods) Rules, 2007, except that in clause (4) mentioned above, the percentage shareholding has been increased from 5% to 25%.

Example 2: The selling price of a notebook is Rs. 50. For notebooks sold to students in Government Schools, a company uses its CSR funds to pay the seller Rs. 30, so that the students pay only Rs. 20 per notebook. The taxable value of the notebook will be Rs. 50, as this is a non-government subsidy. If the same subsidy is paid by the Central Government or State Government, the taxable value of the notebook would be Rs. 20.

Example of discount deductible from value of supply

Example 3: ABC gives a discount of 30% on the list price to its distributors. Thus, for a carton of Krack bisk, in the invoice in the list price is mentioned as Rs. 200, on which a discount of 30% is given to arrive at the final price of Rs. 140. The taxable value is Rs. 140, as the discount is allowed at the time of supply and shown in the invoice.

Example 4: The agreement of ABC with its dealers is that sale of rice cookers over 100 pieces in the Diwali month will entitle them to discount of 5% per cooker sold in the next month. The next month's stock has already been dispatched when the sales figures for the Diwali month are worked out. However, as the agreement was in existence at the time of supply, and the discount can be worked out for each invoice, the taxable value will be billed price minus 5%. The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.

Example of non- deductible discount

Example 5: A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. As these discounts were not known at the time of supply of the goods, they will not be deducted from taxable value of those goods.

Example of Related Parties

Example 6:

(i) Mr. A is holding shares having voting rights of 25% or more in ABC Ltd. and XYZ Ltd., then both ABC Ltd. and XYZ Ltd. shall be deemed to be related persons in GST.

(ii) Mr. B is a major shareholder of ABC Ltd. and Mr. A is a major shareholder of XYZ Ltd. If Mr. A is appointed as an officer/director in ABC Ltd., and Mr. B is appointed as officer/director in XYZ Ltd., then ABC Ltd. & XYZ Ltd. will be treated as related persons in GST.

(iii) ABC Ltd. plays significant role in policy decisions, quality control, HR planning of XYZ Ltd. it may be said that ABC Ltd. controls XYZ Ltd., and hence to be treated as related persons in GST.

(iv) If ABC Ltd. and MNO Ltd. together controls XYZ Ltd., then ABC Ltd. and MNO Ltd., shall be treated as related persons in GST.

(v) If ABC enterprises is sole distributor of goods manufactured by XYZ Ltd., then ABC enterprises and XYZ Ltd., shall be treated as related persons in GST.

Rule 27 Value of supply of goods or services where the consideration is not wholly in money: -

Rule 27 (a)	• Open Market Value of such supply
Rule 27 (b)	• If Open Market Value is not available then sum of total consideration in money & money equivalent to consideration not in money (if such amount is known at the time of supply)
Rule 27 (c)	• If the value of supply is not determinable under clause (a) & (b) above then the value of supply of goods or services or both of like kind and quality
Rule 27 (d)	• Residuary option if value not determinable under clause (a), (b) & (c) above then the sum of total of consideration in money and such further amount in money that is equiavalent to consideration not in money as determined by the applicable of rule 30 or rule 31 in that order.

APPLY IN THIS ORDER

Open Market Value, is the full value in money (excluding taxes) payable by an unrelated party as sole consideration of such supply at the same time when supply being valued, is made.

"Supply of goods or services or both of like kind and quality" means:-

- Any other supply of goods or services or both;

- Made under similar circumstances i.e. value of a product in Delhi may be higher than the value of the product in Salem (Tamilnadu) due to different circumstances prevailing. Therefore, it is provided that supply under similar circumstances shall be prevailed;
- That, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both i.e. hotel prices differ hugely due to their reputation.

Example 7: Where a new phone is supplied for Rs. 20,000 along with exchange of an old phone and if the price of the new phone without exchange is Rs. 24,000, the open market value of the new phone is Rs. 24,000.

Example 8: ABC Ltd. supplies a customised laptop for Rs. 1,00,000 along with exchange of old laptop to Mr. A. Similar type of customised laptop in terms of configuration, quality, functional components etc., was supplied to another customer Mr. B few days back (without exchange) for Rs. 1,25,000. Thus, value of customized laptop supplied to Mr. A shall also be Rs. 1,25,000.

Example 9: Where a laptop is supplied for Rs. 40,000 along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs. 4,000 but the open market value of the laptop is not known, the value of the supply of the laptop is Rs. 44,000.

Example 10: Mr. A supplied goods to Mr. B for consideration of Rs. 5,00,000 (excluding taxes). Mr. B also gave some material to Mr. A as consideration for supply whose value was Rs. 20,000 (excluding taxes). Mr. A has supplied the same goods to another person at price of Rs. 5,10,000.

In this case it will be open market value i.e. 5,10,000 as per Rule 27 (a)

If suppose above open market is not available then as per Rule 27 (b), it is Rs. 5,00,000+Rs. 20,000 = Rs. 5,20,000

If suppose even open market value is also not available but at the time of supply of goods, identical goods have been supplied at value of Rs. 5,25,000 then as per Rule 27 (c), it is Rs. 5,25,000.

Rule 28 Value of supply of goods or services or both between distinct or related persons, other than through an agent: -

- Rule 28(a) • Open Market Value of such supply
- Rule 28 (b) • If Open Market Value is not available then the value of supply of goods or services or both of like kind and quality
- Rule 28 (c) • If the value of supply is not determinable under clause (a) & (b) above then the value as determined by the application of rule 30 or rule 31, in that order

APPLY IN THIS ORDER

Note: -

- If goods are intended for further supply as such by the recipient, value shall, at the option of supplier be equivalent to 90% of price charged for LIKE KIND AND QUALITY by the recipient to his customer (they should not be related)
- Where recipient is eligible for ITC, value declared in invoice shall be deemed to be open market value. This is very sensible provision as when the recipient can take entire ITC, there cannot be any intention to evade tax.

Example 11: ABC Ltd. manufactures a customized product in Maharashtra and supplies it to its another establishment, located in West Bengal (distinct person). The contracted sale price is Rs. 10,00,000. The cost of production is Rs. 12,00,000. ABC Ltd. is the sole manufacturer of this product.
The value of supply is to be determined as per Rule 28 (c) read with Rule 30 or CGST Rules, 2017 i.e. 110% of the cost of production (12,00,000*110%) = Rs. 13,20,000.
If suppose West Bengal unit is eligible for full ITC, then value declared in invoice i.e. Rs. 10,00,000, will be taken as per Rule 28.
Example 12: ABC Ltd. was the only Indian company making and selling a customize product to companies. However, the international prices of this product dropped and the companies began to import rather than buying from ABC Ltd. The promoters of ABC Ltd. then set up another company, which had a manufacturing unit that could use 'A' with common directors and senior management for better integration of functionality. ABC Ltd. started suppling to this unit at low margins. This unit is not eligible for full ITC.
As per provision of Rule 28, the invoice value could not be the basis of valuation for a supply made to a related person if the recipient is not eligible for full ITC. Under rule 28 (a), the open market value of this product should be value of taxable supply i.e. imported price plus custom duties should be adopted for valuation after excluding the component of IGST on import.

Rule 29 Value of supply of goods made or received through an agent (this rule is applicable only for supply of goods): -

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Rule 29 (a)

- Open Market Value of such supply, or
- At the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.

Rule 29 (b)

- If the value of supply is not determinable under clause (a) above then the value as determined by the application of rule 30 or rule 31, in that order

Rule 28 is applicable wherever there is supply of goods or services or both between distinct or related persons. But this rule is not applicable when such supplies are made through an agent. Meaning thereby reference to Rule 29 has to be made for all cases of supply of goods made or received between principal & agent and vice versa even if they are related person.

Example 13: P (principal) supplies groundnuts to A (agent). A in turn sells groundnuts at Rs. 5,000 per quintal. Another independent supplier sells groundnuts at Rs. 4,550 per quintal.
Thus, the open market value of groundnut is Rs. 4,550 per quintal. 90% of A's selling price in the normal course of trade is Rs. 4,500 per quintal.
P has the option to adopt the open market price (Rs. 4,550) or 90% of A's onward selling price (Rs. 4,500) as the taxable value of the groundnuts supplied by him to A.

Rule 30 Value of supply of goods or services or both based on cost: -

Where the value of supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be 110% of the

- cost of production or manufacture; or
- cost of acquisition of such goods; or
- cost of provision of such services.

Service providers have the option to directly move to rule 31 bypassing rule 30.

Rule 31 Residual method for determination of value of supply of goods or services or both: -

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter.

Service providers have the option to directly move to rule 31 bypassing rule 30.

Example 14: ABC Ltd. furnish the following expenditure incurred by them and want you to find the assessable value for the purpose of paying GST. Determine the cost of production in terms of Rule 30.

Particulars	Amount	Calculation under Rule 30
Direct Material (cost per unit inclusive of GST at 10%)	Rs. 880	Rs. 800
Direct Wages	Rs. 250	Rs. 250
Other Direct Expenses	Rs. 100	Rs. 100
Indirect Materials	Rs. 75	Rs. 75
Factory Overheads	Rs. 200	Rs. 200
Administrative Overhead (25% relating to production capacity)	Rs. 100	Rs. 25
Selling & Distribution Expenses	Rs. 150	-
Quality control	Rs. 25	Rs. 25
Sale of scrap realized	Rs. 20	Rs. (-) 20
Actual profit margin	15%	
Cost of Production		Rs. 1,455
Add: 10% on Rs. 1,450		Rs. 145.50
Assessable Value for GST		Rs. 1600.50

Rule 31A Value of supply in case of lottery, betting, gambling and horse racing: -

Rule 31A (2)	• The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organising State, whichever is higher.
Rules 31A (3)	• the value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

Example 15: Government of Manipur has organized a lottery:

- The face value of the tickets issued by Manipur is Rs. 250 Lacs. Price notified in official gazette is Rs. 256 lacs. So higher of Face Value or Notified Price i.e. Rs. 256 Lacs. Value 100/128 of 256 Lacs = Rs. 200 Lacs

Example 16: Mr. A has placed an amount of Rs. 100 lacs into the totalisator on Horse No. 9. If he wins, he gets 10 times the amount. The value of such supply = 100% of the amount paid into the totalisator = Rs. 100 Lacs.

Rule 32 Determination of value in respect of certain supplies: -

Rule	Provision
• This rule provides the valuation methods for five specific supplies. • This rule overrides other rules of valuation. Thus, the supplies prescribed in this rule need not be valued by sequentially following rule 27 to 31. • The valuation methods prescribed under this rule are optional; the supplier can use them if he so desires. He can also opt to value his supplies in accordance with other valuation rules.	
32 (2)	Value of Supply of services in relation to the purchase or sale of foreign currency, including money changing, is determined by either of two methods: - (a) <u>Case 1: Transaction where one of the currencies exchanged is INR</u> Where Currency exchanged from/to INR The value of supply, shall be computed by the following method : - Value= {Difference between Buying or Selling Rate and RBI Reference rate} * Total units of currency Where RBI reference rate is not available, value shall be 1% of Gross amount of INR provided/received by the person changing the money. Example 17: On 10th May, Mr. Doshi converted US $ 100 into Rs. 6,400 @ Rs. 64 per US $ through Eastern Money Changers. RBI reference rate on 10th May for US $ is 63. The value of supply in this case is (Rs. 63-Rs. 64) * US $ 100 = Rs. 100 and GST will be levied on this amount.

If the RBI reference rate is not available, then 1% of Rs. 6,400 i.e. Rs. 64 will be the value of supply of service.

Case 2: Transaction where neither of the currencies exchanged is INR

The value of supply is 1% of the lesser of the two amounts the person changing the money would have received by converting (at RBI reference rate) any of the 2 currencies in INR

Example 18: US $ 9,000 are converted into UK pound 4,500. RBI reference rate at that time for US $ is Rs. 63 per US $ and for UK pound is Rs. 82 per UK pound. In this case, neither of the currencies exchanged is INR.

Hence in the given case, value of taxable service would be 1% of the lower of the following: -

(a) US dollar converted into INR = US $ 9,000* Rs. 63 = Rs. 5,67,000

(b) UK pound converted into INR = UK Pound 4,500 * Rs. 82 = Rs. 3,69,000

Value of taxable service = 1% of Rs. 3,69,000 = Rs. 3,690

(b) The person supplying the service may also exercise the following option (based on slab rates) to ascertain the value of service, however, once opted he cannot withdraw it during the remaining part of the financial year:

Currency Exchanged	Value of Supply
Upto Rs 1 lacs	1% of Gross Amount of currency exchanged, min Rs 250/-
Above 1 lacs and upto 10 Lacs	Rs. 1,000 + 0.50% of the gross amount of currency exchanged for an amount exceeding 1 Lacs & upto 10 Lacs
Above 10 Lacs	Rs 5,500 +0.1% of amount exceeding Rs 10 lac, subject to maximum amount of Rs. 60,000

Example 19: Mr. X, a money changer, has exchanged US $ 10,000 to INR @ Rs. 65 per US $. Mr. X wants to value the supply in accordance with rule 32 (2) (b) of CGST Rules. Determine the value of supply made by Mr. X.

Value of currency exchanged in INR [Rs. 65 * US $ 10,000] = Rs. 6,50,000
Upto 1,00,000 = Rs. 1,000
For Rs. 5,50,000 = Rs. 2,750
Value of Supply = Rs. 3,750

32 (3) Value of service provided by the air travel agent, in case of booking of air ticket shall be calculate as follow: -

Nature of Travel	Value
Domestic Travel	5% of Basic Fare
International Travel	10% of Basic Fare

Basic fare means that part of air fare on which commission is normally paid to air travel agent by the airlines.

Example 20:

Particulars	Basic Fare	Other Charges & Fee	Taxes	Total Value of tickets
Domestic Booking	1,00,900	10,000	5,000	1,15,900
International Booking	3,16,880	20,000	16,000	3,52,880

Value of Supply: -
Domestic Booking Rs. 1,00,900*5% = Rs. 5,045
International Booking Rs. 3,16,880*10%= Rs. 31,688

Example 21:

Basic Air Fare collected for domestic booking of tickets	70,00,000
Basic Air Fare collected for international booking of tickets	50,00,000
Commission received from the airline	10,00,000

<table>
<tr><td></td><td>As per Section 15 of the CGST Act 2017, the GST is payable on the transaction value of services. As per these provisions, only the commission received by the air travel agent from the airline is included in the value of taxable service. The air fare collected by the air travel agent in respect of the service provided by him doesn’t form part of the value of taxable service. Accordingly, the GST liability would be computed as under: -
• Value of Taxable Supply i.e. commission received from airlines Rs. 10,00,000
• However, if we apply Rule 32 then {(Rs. 70,00,000*5%)+(Rs. 50,00,000*10%)} = Rs. 8,50,000.
• So, it is beneficial to opt for Rule 32 of CGST Rules 2017.</td></tr>
<tr><td>32 (4)</td><td>Value of supply in relation to life insurance business shall be: -
(a) The gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service
(b) In case of single premium annuity policies, value shall be 10% of single premium charged from the policy holder [other than covered in (a)]
(c) In all other case, 25% of premium charged from the policy holder for 1st year and 12.5% from subsequent year.
If policy with only risk cover then entire premium charged from the policy will be taxable value.
Example 22: ABC Life Insurance Company Ltd. (ALICL) has charged gross premium of Rs. 180 Lacs from policy holders with respect to life insurance policies in the 2017-18, out of which Rs. 100 Lacs have been allocated for investment on behalf of the policy holders.
Amount allocated for investment intimated to policy holder at the time of supply of service then value of service = Rs. 180 Lacs – Rs. 100 Lacs = Rs. 80 Lacs
If it is Single Premium Annuity policy then taxable value Rs. 180 * 10% = Rs. 18 Lacs.
Amount allocated for investment not intimated to policy holder at the time of supply of service then value of service = 25% of Rs. 180 Lacs = Rs. 45 Lacs.
If premium is only towards risk cover then value of service Rs. 180 Lacs.</td></tr>
<tr><td>32 (5)</td><td>Value of supply in case of second hand goods shall be the difference in selling price and purchase price, subject to ITC is not availed. If the value so arrived is negative, then it shall be ignored (Intra- State supplies of second hand goods by an unregistered supplier to registered second hand goods dealer exempt from GST)
Further, purchase value of goods repossessed from defaulting borrower (who is not registered), shall be the purchase value as reduced by 5% points per quarter or part thereof, between the date of purchase and date of disposal.

The provision applies to all taxable persons dealing in second hand goods, including old and used empty bottles. {PIB press release, Dated 15-7-2017 15:35 IST – CBIC press release No. 79/2017, Dated 15-7-2017}

When ITC is not availed [Margin Scheme]
• Value = Selling price - Purchase price
• Selling price < Purchase price ⇒ Ignore negative value
• CGST on second hand goods received from unregistered supplier exempt

When ITC is availed
• Normal valuation as per other applicable provisions</td></tr>
</table>

	Example 23: A company X Ltd, which deals in buying and selling of second hand cars, purchases a second hand Maruti Alto Car of March, 2014 for Rs. 3 Lacs from an unregistered person and sells the same after minor furbishing for Rs. 3.5 Lacs. The supply of the car to the company for Rs. 3 Lacs shall be exempted and the supply of the same by the company to its customer shall be taxed at (Rs. 3.5 Lacs – Rs. 3 Lacs) = Rs. 50,000 shall be taxed. If margin scheme is opted for a transaction of second hand goods, the person selling the car to the company shall not issue any taxable invoice and the company purchasing the car shall not claim any ITC. Example 24: Mr. A purchased a motor car on 1st October 2017 for Rs. 20,00,000. 80% of the purchase price of car was finance by ABC Finance Ltd. The loan was payable in 60 monthly installments beginning with 1st November 2017. Mr. A defaulted in repayment of loan and ABC Finance Ltd. repossessed the car on 15th May 2018. The car was disposed on 10th December 2018 for Rs. 15,50,000. So, number of quarter is 5 (total percentage 25%). So, purchase value of car is Rs. 15,00,000. Sale price of car is Rs. 15,50,000 and Purchase value of car is Rs. 15,00,000 so value of taxable supply is Rs. 50,000.
32 (6)	Value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon or stamp. Example 25: ABC Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon has a face value of Rs. 900 but it redeemable for supplies worth Rs. 1,000. In terms of rule 32 (6) of the CGST rules relating to valuation, the value of a coupon is the money value of goods redeemable against it. Therefore, though the coupon is sold for Rs. 900, its value is Rs. 1,000.
32 (7)	The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in Section 25, where ITC is available, shall be deemed to be NIL.

Rule 33 Value of supply of services in case of pure agent: -

Value of supply in case of services provided by the pure agent shall exclude the expenditure or cost incurred by the him, if: -

(i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient.
(ii) Payment made by pure agent and the same has been shown separately on his invoice.
(iii) Supplies procured by the pure agent from the third party are in addition to the supplies on his own account.

Who is a pure Agent?
A person who -

1. Enters into a contract to act as a pure agent to incur expenditure or cost in course of supply of goods or services or both
2. Neither intends nor hold any title of goods or services or both
3. Doesn't use his own interest on goods/service procured
4. Receives only the actual amount incurred (100% reimbursement)

Example 26: Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

Example given in Service Tax Law

Example 27: X contracts with Y, a real estate agent to sell his house and thereupon Y gives an advertisement in television. Y billed X including charges for television advertisement and paid service tax on the total consideration billed. In such a case, consideration for the service provided is what X pays to Y. Y does not act as an agent on behalf of X when obtaining the television advertisement even if the cost of television advertisement is mentioned separately in the invoice issued by X. Advertising service is an input service for the estate agent in order to enable or facilitate him to perform his services as an estate agent.

This illustration clearly shows distinction between payments made as 'pure agent' and payment made as 'Principal'.

Rule 34 Rate of exchange of currency, other than Indian rupees, for determination of value: -

Applicable rate shall be: -

Rate of Exchange For	Applicable Rate
Taxable Goods	Rate notified by Board under Sec 14 of Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.
Taxable Services	Rate as per generally accepted accounting principles for the date of supply of such services in terms of section 13 of the Act.

Rule 35 Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax: -

Where value of supply includes tax amount, i.e. Integrated tax, central tax, State tax or union territory tax, then tax amount shall be calculated by following method :-
Tax Amount = (Value inclusive of Tax * Tax Rate in %) / (100+ sum of tax rate in %)

Note that the provision applies only the value of supply included GST. The rule doesn't say that the value is deemed to be inclusive of GST.

Circular No. 47/21/2018 GST Dated 8th June 2018

It has been clarified that while calculating the value of the supply made by the component manufacturer using moulds and dies owned by Original Equipment Manufacturers (OEM) sent free of cost (FOC) to him, the value of such moulds and dies shall not be added to the value of supply made by him because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b).
However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components.

Circular No. 86/05/2019 GST dated 1st January 2019

Issue: What is the value to be adopted for the purpose of computing GST on services provided by BF/BC to a banking company?

Clarification: As per RBI's Circular and subsequent instructions on the issue (referred to as 'guidelines' hereinafter), banks may pay reasonable commission/fee to the BC, the rate and quantum of which may be reviewed periodically. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner. The arrangements of banks with the BCs specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.

Hence, banking company is the service provider in the BF model or the BC model operated by a banking company as per RBI guidelines. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via BF or BC.

Circular No. 92/11/2019-GST dated 7th March 2019

Free samples and gifts

- It is a common practice among certain sections of trade and industry, to provide free samples and gifts. For example, pharmaceutical companies often provide drug samples to their stockists, dealers, medical practitioners, etc., without charging any consideration.
- Samples which are supplied free of cost, without any consideration, do not qualify as 'supply' under GST (except where the activity falls within the ambit of Schedule I of the CGST Act).
- ITC shall not be available on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.
- However, where the activity of distribution of gifts or free samples falls within the scope of supply in terms of the provisions contained in Schedule I of the CGST Act, the supplier of gifts/ free samples would be eligible to avail ITC.

Buy one, get one free offer (BOGO)

- Sometimes, companies announce offers like 'Buy One, Get One free'. It may appear at first glance that in case of offers like 'Buy One, Get One Free', one item is being supplied free of cost without any consideration. Let say, "buy one soap and get one soap free".
- In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.
- Taxability of such supply will depend upon whether it is a composite or a mixed supply and the rate of tax shall be determined accordingly.
- ITC shall be available with respect to inputs, input services and capital goods used in relation to supply of goods or services as a part of such offers.

Discounts including 'Buy more, save more' offers

- Sometimes, the supplier offers staggered discount to the customers (i.e. increase in discount rate with increase in purchase volume). Such discounts are shown on the invoice itself.
- Some suppliers also offer periodic/ year ending discounts to their stockists, etc. Such discounts are not shown on the invoice as the actual quantum of such discount gets determined after the supply has been effected, generally at the year end. However, such discounts are established in terms of an agreement entered into at or before the time of supply. Further, the discount is passed on by supplier through credit notes.
- Such discounts offered by the suppliers to customers (including staggered and post supply discounts) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in Section 15(3) of the CGST Act.4

- Further, the supplier shall be entitled to avail the ITC on inputs, input services and capital goods used in relation to such supply of goods or services at discount.

Get 10 % discount for purchases above Rs. 5,000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-.

Secondary Discounts

- These are the discounts which are not known at the time of supply or are offered after the supply is already over.
- In such cases, financial / commercial credit notes can be issued by the supplier for passing of discount, even if the conditions mentioned in Section 15(3)(b) of the CGST Act are not satisfied.
- However, such discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in Section 15(3)(b) of the CGST Act are not satisfied.
- In this case, there will be no impact on availability of ITC in the hands of supplier.

Circular No. 102/21/2019 GST dated 28th June 2019

Under GST, as per Sr. No. 27 of NN 12/2017-CT (R) dated 28.06.2017, "Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services), is exempt".

Further, the term 'interest' has been defined to mean interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized. The circular clarifies GST implication on additional/ penal interest with respect to following arrangements:

Vendor providing an option to pay consideration in installments: -

- X sells a mobile phone to Y, the cost of which is INR 40,000. X gives Y an option to pay in installments of INR 11,000 each over next four months. In case there is delay in payment of installment, Y would be liable to pay INR 500 per month for the delay.
- In some cases, separate invoicing may be done by X for cost of the product (INR 40,000) and service of providing loan facility (consideration for which is interest of 2.5% per month and an additional/penal interest of INR 500 for delay in payment).
- In this case, the additional or penal interest charged for delay in payment of installments would be included in value of supply of mobile, irrespective of the manner of invoicing. Hence, GST would be applicable on such additional/penal interest.

Loan facility extended by third party: -

- X sells mobile phone to Y for INR 40,000. For purchase of mobile, Y has an option to avail loan at interest of 2.5% per month from M/s ABC Ltd.
- The terms of loan allow Y a period of 4 months to repay the loan. Additional/penal interest will be charged at 1.25% per month for any delay in payment.
- In the above case, value of supply of mobile shall be INR 40,000.

- Penal interest is charged for a transaction between Y and M/s ABC Ltd. and will be covered under the definition of interest. Thus, the same would be exempt from GST.
- Further, any service fee or other charges levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify as 'interest' and the same will not be exempt.

As per entry 5(e) of Schedule II of CGST Act, agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act is a supply of services. Thus, Circular also clarifies that levy of additional/ penal interest could not be regarded as consideration received for agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act.

Circular No. 115/34/2019 GST dated 11th October 2019

User Development Fee (UDF) & Passenger Service Fee (PSF) being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of GST on UDF or PSF, provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. It is the licensee, that is the airport operator (AAI, DIAL, MIAL etc.) which is liable to pay ST/GST on UDF and PSF.

Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.

The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.

The collection charges (airline collecting on behalf of airport operator so they levy collection charges INR 5 to airport operator) paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc.) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

Question & Answer

Q1. ABC suppliers Ltd. Mumbai has issued following invoices on 22th July 2017:

(a) XYZ Ltd. Ahmedabad, Value of goods Rs. 20,000. Packing charges Rs. 800, Outward Freight Charges Rs. 1,200.

(b) CDE Ltd. Pune, Value of goods Rs. 50,000, weighment charges Rs. 1,600, discount for prompt payment Rs. 1,200.

(c) Brain cert, USA – FOB value Rs. 40,000.

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

A. (a) Tax is payable on value plus packing plus outward freight i.e. Rs. 22,000. Since customer is from out of state, IGST is payable @ 18%. Hence IGST payable is Rs. 3,960.

(b) Tax is payable on 50,000+1,600-1,200 = Rs. 50,400. The supply is within the State. Hence, tax payable is as follows, SGST @ 9% = Rs. 4,536 & CGST @ 9% = Rs. 4,536

(c) Since the goods are exported, IGST is not payable assuming ABC has LUT.

Q2. A taxable person engaged in trading of second hand cars has given following information for Sept'17:

(a) Purchased second hand car at Rs. 4,00,000 and sold at Rs. 5,00,000.

(b) Purchased second hand car at Rs. 3,00,000 and sold at Rs. 2,90,000.

(c) Purchased second hand car at Rs. 7,00,000. He could not sale in that month.

The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%, Compensation Cess 3%.

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

(a) Value Rs. 1,00,000 [5,00,000-4,00,000], CGST @ 14% Rs. 14,000, SGST @ 14% Rs. 14,000 & Compensation Cess @ 3% 3,000. Total Rs. 31,000.

(b) No tax payable as value of supply is negative.

(c) No tax as the car is not sold.

Q3. A CA in Mumbai supplied service relating to incorporation of a company to Mr. Amit in Kolkata. He charged fees as follows:

(a) Professional fees for incorporate of company Rs. 1,00,000.

(b) Filing fees and registration charges paid to ROC Rs. 90,000.

(c) Reimbursement of Travelling and out of pocket expenses Rs. 10,000.

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

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

Q4. A in Kolkata supplied machinery of Rs. 2,00,000 to B in Kolkata in July 2017. He charged Rs. 24,000 as charges for erection and commissioning of the machinery and Rs. 20,000 as machine design charges. As per payment terms, the payment was to be made within 30 days. However, B did not pay within 30 days. Hence A recovered Rs. 6,000 as interest for late payment in Sept'17.

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

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

Q5. A manufacturer of drugs from Ahmedabad sales the product @ Rs. 5,000 for a box of medicines to wholesalers in Gujarat in Oct'17. He is sending to same goods to his consignment agent in Delhi in Oct'17.

The consignment agent is selling the box of medicines @ Rs. 5,300 per box. Calculate the GST payable.
The tax rates were as follows: - CGST 2.5%, SGST 2.5%, IGST 5%. Calculate the tax liability in each case.
A. (a) for sale to wholesales in Gujarat the tax is as follows –
CGST @ 2.5% of Rs 5,000 = Rs. 125. SGST @ 2.5% = Rs. 125.
(b) for supplies to consignment agent in Delhi he can charge tax on 90% of the sale price in Delhi i.e. 90% of 5,300 = Rs. 4,770. IGST @ 5% of Rs. 4,770 = Rs. 238.50

Q6. A manufacturer of refrigerators from Punjab sales the refrigerator Rs. 50,000 to wholesalers in Punjab. He is sending to same refrigerators to his depot in Karnataka. He is selling the refrigerators in Karnataka Rs. 46,000 due to heavy competition. The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax liability for supply to Karnataka.
A. Since the entire tax paid in Punjab will be available as ITC in Karnataka, the tax can be paid on any value while sending goods from Punjab.

Q7. An AC manufacturer in Chennai has made an exchange offer. As per terms of offer, if you return your old AC of any make, you will get new AC of specified high capacity for Rs. 56,000, excluding taxes. The normal price of the new air conditioner of that capacity is Rs. 68,000, excluding taxes. You made enquiry with dealers of second hand AC and they are willing to purchase your AC for Rs. 7,000. You are staying at Chennai.
The tax rates were as follows: - CGST 14%, SGST 14%, IGST 28%. Calculate the tax payable.
A. Tax is payable on Rs. 68,000. Tax payable – CGST @ 14% Rs. 9,520, SGST @ 14% Rs. 9,520.

Q8. How value of supply to be arrived at in case of supply of goods or services between related persons?
A. Let's understand it with an example wherein Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs. 50,000 from the shop. The following would be the steps to find out the value of supply between Mr. A and Mr. B: -

(a) If the open market value of the goods or services supplied by the supplier is known then open market value of the goods or services supplied would be the value of supply.
Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. He selects goods worth Rs 50,000 on the shop and asks how much he has to pay for it. Mr. B asks Mr. A to pay Rs 40,000. In this transaction, as Mr. B is brother of Mr. A, Mr. B has charged lesser price from Mr. A. Thus, the open market price in the given case would be Rs. 50,000.
(b) If open market value is not available, it will be the value of supply of goods or services of like kind and quality.
Example: Mr. A who is brother of Mr. B, comes to the shop of Mr. B. Supposedly, goods selected by him have been imported for the first time from outside the country and no price has been specified on such goods. Mr. B asks Mr. A to pay Rs. 40,000. In this transaction, as Mr. B is brother of Mr. A and the open market value is not available, price of goods with similar features would be the value of supply of the goods. Supposedly, similar goods are available for Rs. 45,000 in the market, therefore value of supply would be Rs. 45,000.
(c) If value is not determinable under either of the two methods above, value of supply would be the value as determined by application of Rule 30 or Rule 31 of Central Goods and Services Tax Rules, 2017, in that order.
(d) Where the goods are intended for further supply as such by the recipient, the value at the option of the supplier, be an amount equivalent to ninety per cent of the price charged for the supply of goods of like kind and quality by the recipient to his customers not being his related person.

(e) If the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be open market value of the goods or services.

Q9. Is GST Leviable on Securities Transaction Tax and Stamp Duty?

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

Q10. Admission to ABC Theater is Rs. 100 per ticket for a Kannada Movie as well as for a Hindi Movie plus entertainment tax 10% on Kannada Movie and 20% on other languages. In the month of November, ABC Theater sold 2000 tickets of Kannada Movie and 2000 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18%. Find the GST liability if any?

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

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

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

GST Tax Liability

CGST = Rs. 4,60,000*9%= Rs. 41,400

SGST = Rs. 4,60,000*9%= Rs. 41,400

Q11. ABC Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer whose account are linked with Aadhar card. Selling price per cylinder is Rs. 900. Customer received subsidy Rs. 300 directly from Government to his bank account. Net outflow of the buyer is Rs. 600. Find the value of supply of goods (per cylinder) in the hands of ABC Gas. Calculate assessable value to levy tax.

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

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

Hence, transaction value is Rs. 900 per cylinder.

Q12. ABC owns a coaching institute in Pune. The institute charges Rs. 18,000 per student for giving training in international taxation. However, this training programmes is subsidized by different institutions as follows – State Government of Maharashtra : Rs. 500 per student, XYZ Charitable Trust : Rs. 200 per student and Government of USA: Rs. 200 per student. Calculate tax liability assuming CGST & SGST @ 9% each.

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

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

GST Tax Liability

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

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

Q13. ABC has provided the following details relating to goods sold:-

Particulars	Amount
List price of the goods (excluding of taxes, subsidy and discounts)	50,000

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

Calculate the value of taxable supply.

A.

Statement showing calculation of value of taxable supply

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

Q14. ABC buys the 'Super Motor' in Rajasthan from XYZ. Both agreed for the below conditions:

Value of Motor (including GST @ 5%) Rs. 3,00,000

Taxes (other than GST) paid - Not included in above value Rs. 5,000

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

Freight Expenses Rs. 3,500

Consultancy charges for erection Rs. 2,000

Testing Charges Rs 500

Insurance Charges Rs 4,500

Other details:-

Subsidy received from Rajasthan Government (deducted from value) Rs. 10,000

Subsidy received from manufacturer for supply of power generator (deducted from value) Rs. 25,000

Trade discount shown in Invoice Rs. 2,000

Cash discount due to instant payment Rs. 5,500

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

A.

Sr. No.	Action	Particulars	Amount	Remarks
1		Value of Motor	3,00,000	
2	Add	Taxes (other than GST) paid	5,000	Section 15(2)(a) – Value of supply shall include any taxes, duties, cesses, fees

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

Q15. ABC footwear, a registered supplier of Kanpur, has a non-moving stock worth Rs. 10,00,000 of a particular variety of shoes that are out of fashion. It has not been able to find market in spite of huge discount offered. It was able to sell this stock at a very low price of Rs. 2,00,000 to a retailer in Maharashtra with a condition that the retailer would display hoardings of ABC footwear in all their retail outlets in the State. Determine the taxable value of supply.

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

Q16. ABC is facing serious liquidity problems and requests XYZ to pay within 2 days. It offers additional 1% cash discount. XYZ agrees and pays.

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

Q17. ABC Ltd. is a registered manufacturer of pendrive. It sells its pendrive exclusively through distributors appointed across the country. The MRP printed on package of a pendrive is Rs. 1,000. ABC Ltd. sells the pendrives to distributors at Rs. 700 per pendrive (exclusive of GST). The applicable rate of GST is 18%.

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

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

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

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

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

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

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

Value of Taxable Supply (Amount in INR):-

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

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

Q18. ABC provides management consultancy to a group of companies for annual retainership fees of Rs. 22 Lakhs. It is given an office cabin in head office of the group for its exclusive use. ABC pays GST on the amount of Rs. 22 Lakhs. Is the value for the service provided by ABC, correct under GST laws? Please explain.

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

Q19. Mr. A located in Pune purchases 2,000 parker pen for Rs. 2,00,000 from ABC Ltd. (wholesaler) located in Indore. Mr. A's son is an employee in ABC Ltd. The price of each parker pen in the open market is Rs. 120. The supplier additionally charges Rs. 5,000 for delivering the goods to the recipient's place of business.

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

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

Q20. ABC Ltd. owned by XYZ Ltd. is popularly known for assembly of large machines. PQR Ltd. (also owned by XYZ Ltd.) is engaged in fabrication of small machines. A factory contracts ABC Ltd. of its machinery, for a fee of Rs. 6,00,000. ABC Ltd. sub-contracts the work to PQR Ltd. for Rs. 4,00,000 and ensures supervision of the work performed by them. Generally, PQR Ltd. charges a fixed sum of Rs. 1,200 per man hour to its clients; its spends 400 hours on this project. Determine taxable value of supply.

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

Q21. ABC Ltd. (Mumbai) has 10 agents located across Maharashtra (except Mumbai). The stock of water purifier is dispatched on Just in time basis from ABC Ltd., to the location of the agents, based on receipt of orders from various dealers, on a fortnightly basis. ABC Ltd. is also engaged in wholesale supply of water purifier in Mumbai. An agent places an order for dispatch of 20 water purifier on 10-12-2017. ABC Ltd. had sold 20 water purifier to a retailer in Mumbai on 8-12-2017 for Rs. 1,30,000. The agent effects the sale of the 20 units to a dealer who would affect the sale on MRP basis i.e. Rs. 7,000- per unit. Calculate taxable value of supply.

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

Q22. ABC Insurance provides you the following information for the month of September, 2018. You are required to compute value of taxable supply of services under Rule 32 (4) of Determination of value of supply Rules, 2017.

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

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

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

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

Q23. Will the Section 15 read with Chapter IV of the CGST Rules, 2017 apply to IGST payable on import of goods? How valuation will be done in case of import of services?

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

Q24. Is reference to the CGST Rules required in all cases?

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

Q25. If related persons transact at arm's length price, can the valuation still be questioned?

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

Q26. What is the meaning of the term "Price is not the sole consideration"?

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