



PAPER – 5: INDIRECT TAX LAWS

- (1) All questions have been answered on the basis of position of (i) GST law as amended by the Finance (No. 2) Act, 2024 including significant notifications and circulars and other legislative amendments made, up to 31st October, 2024 and (ii) customs law as amended by the Finance (No. 2) Act, 2024 including significant notifications and circulars and other legislative amendments made, up to 31st October, 2024.
- (2) Unless otherwise specified, the section numbers and rules referred in questions and answers relating to GST pertain to the Central Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Rules, 2017 respectively.
- (3) The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.



QUESTIONS

Case scenario - I

Vardhmaan Limited [hereinafter referred to as 'company'], registered in Delhi, has operations in multiple States across India. The company has taken separate GST registration in all the States where it operates. During the month of January, the tax team presented following information in its report to the management:

1. The company sold goods valuing ₹ 5 crore from its warehouse located at Kandla Port, Gujarat to a buyer located in Ahmedabad by way of transfer of title in goods. The responsibility of clearance of goods shall be on the buyer. The goods were imported by the company from Vietnam and were not cleared for home consumption since then.
2. The company got a favourable advance ruling order on a particular issue from the Authority for Advance Ruling, Rajasthan. The application was filed by the company through its registered place of business in Rajasthan.
3. The company received an order from the Adjudicating Authority in Maharashtra, wherein a demand of tax amounting to ₹ 1 crore and penalty amounting to ₹ 10 lakh and interest amounting to ₹ 25 lakh was confirmed by the Adjudicating Authority. The dispute in this case was similar to the issue for which a favourable order from Advance Ruling Authority was received by the company in the State of Rajasthan as discussed in para 2 above. The company feels that it has a strong case in the matter before the Appellate Authority.
4. The company has issued tax invoice in relation to certain supplies wherein the total tax collected from the recipients amounted to ₹ 3 crore. Subsequently, it was noticed that the supplies were not liable to GST and the amount has been wrongly collected by the company from the recipients of supply.
5. A special audit was initiated by the Chartered Accountant nominated by the State Tax authorities of Madhya Pradesh against the company in the State of Madhya Pradesh.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 5 below:

1. In relation to the goods sold from its warehouse in Kandla, Gujarat, the company shall_____
 - (a) be liable to pay customs duty and IGST as applicable.
 - (b) be liable to pay customs duty only.
 - (c) be liable to pay IGST only.
 - (d) not be liable to pay any tax or duty.

2. In relation to the advance ruling order received by the company in Rajasthan,
 - (a) the order is binding on the company only in Rajasthan but on jurisdictional officers across all registrations of the company in India.
 - (b) the order is binding on the company across all States in India.
 - (c) the order is binding on the company and the jurisdictional officer, in Rajasthan.
 - (d) the order is binding on the company and the jurisdictional officers across all registrations of the company in India.
3. In case the company prefers an appeal before the Appellate Authority against the order passed by Adjudicating Authority in Maharashtra, the amount of pre-deposit to be made by the company is _____.
 - (a) ₹ 11 lakh
 - (b) ₹ 13.5 lakh
 - (c) ₹ 10 lakh
 - (d) nil
4. In case where the tax has been wrongly collected by the company from the recipients,
 - (a) the company shall pay such amount to the Government.
 - (b) the company shall refund back the amount to the recipients.
 - (c) the company shall deposit such amount with the consumer welfare fund.
 - (d) the company can retain such amount with itself.
5. In case of special audit being conducted in the State of Madhya Pradesh,
 - (a) the remuneration of Chartered Accountant is payable by company as per agreed terms.
 - (b) the remuneration of Chartered Accountant is payable by the company as directed by the Commissioner of State Tax.
 - (c) the remuneration of the Chartered Accountant is payable by the Commissioner, but the expenses of the examination and audit of records shall be reimbursed by the company.

- (d) expenses of the examination and audit of records, including the remuneration of Chartered Accountant, shall be paid by the Commissioner.

Case scenario II

Vidhyut Corporation Ltd. is a Public Sector Undertaking (PSU) engaged in the business of generation of electricity from conventional & non-conventional sources. The Government of India holds 75% equity in the said company & balance equity is held by institutional and domestic investors. The company has taken separate registration under GST in each State where it has business operations. The company has its head office (HO) in Delhi & its power plants are located in the States of Bihar, Odisha & Chhattisgarh.

Following transactions were carried out by the company during the month of February:

Particulars	Delhi H.O. (₹)	Bihar plant (₹)	Odisha plant (₹)	Chhattisgarh plant (₹)
Sale of electrical energy to DISCOM	---	2,50,00,000	3,50,00,000	4,50,00,000
Bank interest received on saving bank account & fixed deposit	18,00,000	3,00,000	5,00,000	8,00,000
House rent recovered from the employees for residential accommodation provided to them	55,000	30,000	25,000	40,000
Rent collected from bank, ATM, post office & shops located in office premises	48,000	15,000	12,000	16,000
Sale of metal scrap (covered under Chapter 72) (excluding TCS @ 1% as per the Income-tax Act, 1961)	-	85,000	65,000	45,000

to Birla Scrappers, unregistered under GST				
Other Income	2,50,000	-	-	45,000

In addition to above information, following transactions were also carried out during the month of February:

- (1) A supply order for stationery items was awarded by Delhi H.O. to M/s Stationery Mart, New Delhi for ₹ 3,36,000 (including GST @ 12%) in January.

The vendor supplied stationery items worth ₹ 44,800 (including GST @ 12%) & issued the tax invoice in February. Delhi H.O. had made the payment of the said bill in February by crediting the vendor's account for that amount on the same date in its books. The remaining amount was paid in April on supply of balance items.

- (2) Odisha plant purchased office furniture for ₹ 2,80,000 during February from an unregistered dealer. Rate of GST on said furniture item is 18%.
- (3) A Board meeting for raising term loan for project expansion was held in February. The Delhi H.O. paid ₹ 20,000 each as sitting fee to 4 independent directors (all registered under GST) who attended the meeting. Further, it paid ₹ 80,000 to one of these directors, who had rented the office building to Delhi H.O.
- (4) For safety & security of its H.O. & power plants, the company engaged private security as well as CISF (Central Industrial Security Force). Following payments were made in February, in respect of said services:

Particulars	Delhi H.O. (₹)	Bihar plant (₹)	Odisha plant (₹)	Chhattisgarh plant (₹)
CISF	---	10,00,000 (paid on 7 th February)	8,00,000 (paid on 15 th February)	14,00,000 (paid on 5 th February)
ABS Security Services Pvt. Ltd.	5,00,000 (paid on 11 th February)	-	-	-

- (5) The Bihar plant purchased a machinery in February from M/s Sahoo Enterprises, Patna (not registered under GST) for ₹ 86,000. Full payment was made in February. Rate of GST on the said machinery is 18%.

All the amounts mentioned above are excluding GST, wherever applicable (unless otherwise specified).

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 6 to 11 below:

6. The value of taxable supply on which GST is payable by Delhi H.O. under forward charge, for the month of February is _____.
- (a) ₹ 18,00,000
 - (b) ₹ 2,98,000
 - (c) ₹ 21,53,000
 - (d) ₹ 48,000
7. The value of taxable inward supply on which GST shall be payable under reverse charge by Bihar power plant is _____.
- (a) ₹ 11,80,000
 - (b) ₹ 10,00,000
 - (c) ₹ 10,86,000
 - (d) ₹ 10,30,000
8. The value of supply on which TDS under section 51 shall be deducted by Delhi H.O. while making payment to M/s Stationery Mart in February is _____.
- (a) ₹ 40,000
 - (b) ₹ 44,800
 - (c) ₹ 3,00,000
 - (d) TDS is not deductible since payment made in February is less than ₹ 2,50,000.

9. The value of taxable inward supply on which GST shall be payable under reverse charge by Delhi H.O. and Odisha plant is _____ and _____ respectively.
 - (a) ₹ 1,60,000 and ₹ 10,80,000
 - (b) ₹ 80,000 and ₹ 8,00,000
 - (c) ₹ 6,80,000 and ₹ 2,80,000
 - (d) ₹ 5,80,000 and ₹ 2,80,000
10. Which of the following statements is most appropriate with respect to sale of metal scrap by Chhattisgarh plant?
 - (a) GST on value of supply of ₹ 45,000 of metal scrap is payable by Birla Scrappers under reverse charge.
 - (b) GST on value of supply of ₹ 45,000 of metal scrap is payable by Chhattisgarh plant under forward charge.
 - (c) GST on value of supply of ₹ 45,450 of metal scrap is payable by Chhattisgarh plant under forward charge.
 - (d) Sale of metal scrap, on which TCS is being collected under Income-tax Act, 1961, is an exempt supply under GST.
11. Which of the following supplies is/are not taxable under reverse charge mechanism? Choose the most appropriate option.
 - (i) House rent recovered from the employees for residential accommodation provided to them.
 - (ii) Rent collected from bank, ATM, post office & shops located in office premises.
 - (iii) Sale of metal scrap (covered under Chapter 72) to Birla Scrappers.
 - (a) (i) and (ii)
 - (b) (i), (ii) and (iii)
 - (c) (i) and (iii)
 - (d) (ii) and (iii)

12. Lamba Industry, India, has imported an 'Article Gamma' in large quantities from Malaysia, a developing country, to meet the increased domestic demand of its final product. The Central Government, concerned about the increased imports of said product, is considering the imposition of safeguard measures, as after conducting enquiry, it is satisfied that such imports are threatening to cause serious injury to the domestic industry. The share of imports of 'Article Gamma' from Malaysia constitutes 4% of the total imports of that article into India.

Which of the following statements is/are correct in relation to imposition of safeguard measures in the given case? Choose the most appropriate option.

- (i) The Central Government is empowered to impose safeguard measures for a maximum period of 10 years from the date of its imposition.
 - (ii) Safeguard measures can be imposed since share of imports of 'Article Gamma' from Malaysia exceeds 3% of the total imports of that article into India.
 - (iii) The Central Government is empowered to impose safeguard measures for a maximum period of 4 years from the date of its imposition with no further extension permitted.
 - (iv) Safeguard measures cannot be imposed since share of imports of 'Article Gamma' from Malaysia exceeds 3% of the total imports of that article into India.
- (a) (i) and (ii)
 - (b) (iii)
 - (c) (iv)
 - (d) (ii) and (iii)
13. Poorva Impex Ltd., a registered entity under GST in the State of Maharashtra, is engaged in making various supplies. It is not engaged in agricultural operations. Poorva Impex Ltd., India is a subsidiary of Poorva Inc., an entity incorporated in USA, engaged in providing information technology services to customers in India. It provides the following information for the month of April:

S. No.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Undertook the promotion and marketing of information technology services on principal-to-principal basis in India for Poorva Inc.	20,00,000
(ii)	Printed letter cards supplied to Subhashini Enterprises, registered in Maharashtra. A logo depicting the vision of the firm was to be imprinted on each letter card and said logo was provided by the firm. Material cost was ₹ 8,00,000 and printing cost was ₹ 72,000.	8,72,000
(iii)	Supplied raw cotton to Dhruvtara Traders, registered in Maharashtra. The raw cotton was purchased from the local farmers during the previous month.	5,00,000
(iv)	Supplied maintenance services to Municipal Corporation of Greater Mumbai which has awarded a contract of maintenance of street-lights in Greater Mumbai Municipal area. Maintenance work involved the replacement of defunct lights and other spares. [Out of total value of supply of ₹ 1,20,000, value of defunct lights and other spares replaced is ₹ 32,000.]	1,20,000
(v)	Given on hire 10 cars (seating capacity of 5 persons including driver) to Gujarat State Road Transport Corporation (GSRTC)	3,00,000
	INWARD SUPPLY:	
(i)	Purchased processing machines from Bobby & Co., registered under GST, in the State of Gujarat. Machines were bought in "as is where is condition" at Gujarat to produce taxable items.	5,00,000

(ii)	Purchased metal scrap (covered under Chapter 72) from Mansukh Traders of Maharashtra, an unregistered person, to be used in manufacturing process	2,00,000
(iii)	Procured information technology services for its business through electronic mode from Thomas Inc., a company located in Germany	1,50,000
(iv)	A machinery to be used for manufacturing was sent to George Inc., USA for carrying out repair work on the same. The consideration to George Inc. was paid for such repair work. Machine was received after repair, in the month of May.	5,00,000

The company provided the following additional information:

- (i) Poorva Inc., USA provided a corporate guarantee of ` 1.5 crore on behalf of Poorva Impex Ltd. to Manimani Bank, Maharashtra, free of cost. The tax invoice for the same has been issued on the value as per rule 28(2).
- (ii) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of services and rates of CGST, SGST and IGST are 6%, 6% and 12% respectively for both inward and outward supply of goods, except in case of supply of raw cotton where the applicable rates of CGST, SGST and IGST are 2.5%, 2.5% and 5% and in case of supply of metal scrap where the applicable rates of CGST, SGST and IGST are 9%, 9% and 18%
- (iii) All the amounts given above are exclusive of taxes, wherever applicable.
- (iv) There was no opening balance of any ITC for the relevant period.
- (v) All exports made by Poorva Impex Ltd. are through furnishing of LUT without payment of IGST.

From the information given above, you are required to compute the minimum net GST liability payable in cash (CGST, SGST or IGST, as the

case may be) for the month of April for the Poorva Impex Ltd., Maharashtra.

14. In an appeal filed with the High Court by Prateek Ltd., on the question whether activity undertaken by Prateek Ltd. amounts to supply, the appeal was decided in favour of Prateek Ltd. The amount of tax, interest and penalty involved were IGST of ₹ 1.2 crore, interest of ₹ 60 lakh and penalty of ₹ 50 lakh.

However, the Department does not agree with the order passed by the High Court and contends that the said activity amounts to supply under GST. The Department wants to file an appeal before the Supreme Court relating to the dispute pertaining to demand of tax, interest and penalty. You are required to examine whether appeal can be filed by the Department in the given case. Will your answer change, in case matter is related to valuation of services instead of determining whether the said activity amounts to supply?

15. Smith Inc., a company located in USA, charges subscription fee from its unregistered customers in India at its online money gaming portal. The Department contends that GST should be charged on the subscription fees which Smith Inc. receives from Indian customers.

Smith Inc. opposes the above view stating that since online money gaming are intangible goods and do not cross customs frontiers physically in this case, GST is not leviable thereon.

Considering the above facts, you are required to answer the following questions:

- (i) What would be the place of supply in this case?
 - (ii) Whether GST is leviable on the subscription fee charged by Smith Inc. from unregistered customers? If yes, who is required to pay said GST?
16. Mr. Divas, a registered person in Agra, Uttar Pradesh purchased a car for ₹ 12,50,000 on 15th October. On 31st October, the car met with an accident resulting in minor damage.

Due to urgency, he got his car repaired in the local garage of a nearby market instead of garage authorized by his general insurance company, i.e. Suraksha Insurance Company, through which his car was insured.

The total cost of repairs was ₹ 54,000 (excluding GST @ 18%). On the instructions of Mr. Divas, the invoice for the entire amount was raised by garage in the name of Suraksha Insurance Company. The insurance company approved the claim amount of only ₹ 40,000 after the survey and reimbursed the same amount alongwith GST @ 18% to Mr. Divas.

In light of the above facts, you are required to answer the following questions:

- (i) Whether Suraksha Insurance Company is eligible to avail ITC on the basis of the invoice raised by garage? If yes, what would the amount of eligible input tax credit?
 - (ii) Would your answer be different, if garage had issued two different invoices, one for ₹ 40,000 + GST @ 18% to Suraksha Insurance Company and another for ₹ 14000 + GST @ 18% to Mr. Divas?
 - (iii) In case, the garage issued the invoice in the name of Mr. Divas, would Suraksha Insurance Company be eligible to avail ITC?
17. List the scenarios where goods or conveyances are liable to confiscation under section 130 of the CGST Act, 2017.
 18. Mr. Manmeet imported certain goods from his son, Mr. Harbhajan residing in US and transaction value has been rejected. Rules 4 and 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 are found inapplicable as no similar/ identical goods are imported in India.

Mr. Manmeet furnishes cost-related data of imports and requests customs authorities to determine value accordingly as per rule 8. The relevant data are given below:-

Sr. No.	Particulars	Amount
1.	Cost of materials incurred by Mr. Harbhajan	\$ 2000
2.	Fabrication charges incurred by Mr. Harbhajan	\$ 1000

3.	Other chargeable expenses incurred by Mr. Harbhajan	\$ 400
4.	Other indirect costs incurred by Mr. Harbhajan	\$ 250
5.	Freight from Mr. Harbhajan 's factory to US port	\$ 250
6.	Loading charges at US port	\$ 100
7.	Normal net profit margin of Mr. Harbhajan	20% of FOB
8.	Air freight from US port to Indian port	\$ 1,500
9.	Insurance from US port to Indian port	\$ 50
10.	Exchange rate	₹ 85 per \$

The customs authorities are of the opinion that since value as per rule 7 can be determined at ₹ 5,00,000, there is no need to apply rule 8.

Can the request of Mr. Manmeet be legally acceptable? If so, compute the assessable value under the Customs Act, 1962.

19. Green Peppers Company imported goods valued at ₹ 20,00,000 vide a Bill of Entry presented before the proper officer on 15th July, on which date the rate of customs duty was 10%. Green Peppers Company has produced all the necessary documents and furnished full information. However, the proper officer deemed it necessary to make further enquiry and therefore, the same were provisionally assessed at a value of ₹ 20,00,000 and Green Peppers Company paid provisional duty of ₹ 2,00,000 on the same date.

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 provided that:

- (i) Green Peppers Company voluntarily pays duty of ₹ 50,000 on 20th August.
 - (ii) Final duty is assessed on 31st August at ₹ 3,00,000.
 - (iii) Green Peppers Company pays balance duty on the date of assessment of final duty.
20. Briefly discuss the provisions of section 69 of the Customs Act, 1962 relating to clearance of warehoused goods for export.

**SUGGESTED ANSWERS**

Question No.	Answer	
1.	(d)	not be liable to pay any tax or duty.
2.	(c)	the order is binding on the company and the jurisdictional officer, in Rajasthan.
3.	(c)	₹ 10 lakh
4.	(a)	the company shall pay such amount to the Government.
5.	(d)	expenses of the examination and audit of records, including the remuneration of Chartered Accountant, shall be paid by the Commissioner.
6.	(b)	₹ 2,98,000
7.	(b)	₹ 10,00,000
8.	(a)	₹ 40,000
9.	(b)	₹ 80,000 and ₹ 8,00,000
10.	(b)	GST on value of supply of ₹ 45,000 of metal scrap is payable by Chhattisgarh plant under forward charge.
11.	(b)	(i), (ii) and (iii)
12.	(a)	(i) and (ii)

13. Computation of minimum net GST payable in cash for the month of April

Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
<u>GST payable under forward charge</u>				
Promotion and marketing of information technology	20,00,000	-	-	-

services to Poorva Inc. [Since the place of supply of promotion and marketing services is the location of recipient – Poorva Inc., viz, outside India, they qualify as export of services by Poorva Impex Ltd. to Poorva Inc. since all the conditions of section 2(6) of the IGST Act, 2017 are complied with ¹ . Further, all exports made by Poorva Impex Ltd. are through furnishing of LUT without payment of IGST.]				
Supply of printed letter cards [Since letter cards are supplied by the printer using its own physical inputs to print the logo supplied by the recipient, it is a composite supply wherein the predominant/ principal supply is supply of goods. It is an intra-State supply since the place of supply is Maharashtra being the location where movement of goods terminates, in terms of section 10(1)(a).]	8,72,000	52,320 [8,72,000 X 6%]	52,320 [8,72,000 X 6%]	
Intra-State supply of raw cotton [Taxable under forward charge]	5,00,000	12,500 [5,00,000 × 2.5%]	12,500 [5,00,000 × 2.5%]	

¹ Holding company and Subsidiary company are not considered as "merely establishments of a distinct person" for the purpose of complying with the conditions of export of service, in terms of Circular No. 161/17/2021 GST dated 20.09.2021.

in terms of <i>Notification No. 4/2017 CT (R) dated 28.06.2017</i> . Reverse Charge mechanism is not applicable since here, raw cotton is being sold by a person other than agriculturist.]				
Maintenance services provided to Municipal Corporation of Greater Mumbai [Taxable, since the value of supply of goods constitutes more than 25% of the value of composite supply of goods and services provided to the local authority [<i>Notification No. 12/2017 CT (R) dated 28.06.2017</i>]. Further, principal supply is supply of maintenance services. It is an intra-State supply since the place of supply is Maharashtra being location of the recipient, in terms of section 12(2) of the IGST Act, 2017.]	1,20,000	10,800 [1,20,000 × 9%]	10,800 [1,20,000 × 9%]	
Inter-State service of giving motor vehicles on hire [Services by way of giving on hire to a State Transport Undertaking (STU), a motor vehicle are exempt only when such motor vehicle is meant to carry more than 12 passengers. Thus, in the given case, service of giving cars on	3,00,000			54,000 [3,00,000 × 18%]

hire is not exempt [Notification No. 9/2017 IT (R) dated 28.06.2017]. Further, it is an inter-State supply as place of supply being location of recipient is Gujarat, in terms of section 12(2) of the IGST Act, 2017.]				
Total output tax		75,620	75,620	54,000
Less: ITC available for set off [Refer working note] [ITC of IGST is utilized for payment of IGST liability and ITC of CGST and SGST is utilized for payment of CGST and SGST liability respectively.]		(18,000)	(18,000)	(54,000)
Net GST		57,620	57,620	Nil
<u>GST payable under reverse charge</u>				
Metal scrap purchased [Tax on metal scrap purchased by a registered person from an unregistered person is payable under reverse charge in terms of Notification No. 4/2017 CT (R) dated 28.06.2017.]	2,00,000	18,000 [2,00,000 × 9%]	18,000 [2,00,000 × 9%]	
Information technology services procured from Thomas Inc. through electronic mode [Tax on information technology services imported is payable under reverse charge vide Notification No. 10/2017 IT (R) dated 28.06.2017.]	1,50,000			27,000 [1,50,000 × 18%]

Corporate guarantee provided by Poorva Inc. [Where corporate guarantee is provided by the foreign/overseas entity for a related entity located in India, GST would be payable under reverse charge mechanism, by the recipient of service, i.e., the related entity located in India. Further, since supplier - foreign/ overseas entity - is unregistered, self-invoice shall be issued by it in terms of section 31(3)(f). Moreover, if a supplier gives a corporate guarantee on behalf of a related party located in India for securing of credit facilities from a bank/financial institution by such related party, as per rule 28(2), the value of service is 1% of the amount of guarantee offered per annum or actual consideration, whichever is higher, i.e. 1% of ₹ 1.5 crore; invoice is raised at said value. Since Poorva Impex Ltd. is eligible for full ITC, value of supply will be value declared in the invoice [Proviso to rule 28(2)].	1,50,000			27,000 [1,50,000 × 18%]
Total net GST payable in cash		75,620	75,620	54,000

Working Note - Computation of eligible ITC available for set off

Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Machines purchased [It is intra-State supply since place of supply in case of goods not involving movement of goods is location of goods at the time of delivery to recipient, viz. Gujarat, in terms of section 10(1)(c) of the IGST Act, 2017. However, ITC of the same will not be available since the recipient of said intra-State supply is located in a different State / UT than that of place of supply ² .]	Nil	-	-	-
Metal scrap purchased [It is intra-State supply since place of supply is Maharashtra being the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, in terms of section 10(1)(a) of the IGST Act, 2017. ITC is available since said goods are being used in course	2,00,000	18,000 [2,00,000 × 9%]	18,000 [2,00,000 × 9%]	

² Circular No. 170/02/2022 GST dated 06.07.2022

or furtherance of business.]				
Information technology services procured from Thomas Inc. [The place of supply is Maharashtra being location of the recipient, in terms of section 13(2) of the IGST Act, 2017. Supply of any services where supplier is outside India and the recipient and place of supply is in India, qualifies as import of services. Further, in case of import of service, tax is payable by the person importing such service vide <i>Notification No. 10/2017 IT (R) dated 28.06.2017</i>. ITC is available since said services are being used in course or furtherance of business.]	1,50,000			27,000 [1,50,000 × 18%]
Machinery sent for carrying out repair work to George Inc. [Since the place of supply of repair services is outside India being the location where the services are actually performed in terms of section 13(3) of the IGST	Nil			

Act, 2017, said services are not amenable to tax.]				
Corporate guarantee provided by Poorva Inc. [ITC is available since said services are being used in course or furtherance of business.]	1,50,000			27,000 [1,50,000 × 18%]
Eligible ITC available for set off [ITC on goods and services issued for making taxable outward supplies including zero-rated supplies (promotion and marketing of information technology services provided to Poorva Inc.) is fully eligible for set-off, in terms of section 17.]		18,000	18,000	54,000

14. Section 120 of the CGST Act, 2017 provides that the Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter. CBIC vide *Circular No. 207/1/2024 GST dated 26.06. 2024* has fixed the following monetary limits for filing appeals/ applications/ Special Leave Petition by the Department before GSTAT, High Courts and Supreme Court subject to specified exclusions:

Appellate forum	Monetary limit (Amount involved in ₹)
GSTAT	20 lakh
High Court	1 crore
Supreme Court	2 crore

Further, where the dispute pertains to demand of tax (with or without penalty and/or interest), the aggregate of the amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess) only shall be considered while applying the monetary limit for filing appeal, viz. ₹ 1.2 crore (amount of tax only) in the given case. Thus, appeal cannot be filed by the Department to Supreme Court in the given case as the amount involved as per the circular does not exceed the monetary limit of ₹ 2 crore.

However, the circular further provides that the monetary limits specified above for filing appeal or application by the Department before GSTAT or High Court and for filing Special Leave Petition or appeal before the Supreme Court shall not be applicable in the following circumstances where the decision to file appeal shall be taken on merits irrespective of the said monetary limits:

- i. Where any provision of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Constitution of India; or
- ii. Where any rules or regulations made under the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act have been held to be ultra vires the parent Act; or
- iii. Where any order, notification, instruction, or circular issued by the Government or the Board has been held to be ultra vires of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act or the rules made thereunder; or
- iv. Where the matter is related to -
 - a. valuation of goods or services; or
 - b. classification of goods or services; or
 - c. refunds; or
 - d. place of supply; or
 - e. any other issue,

which is recurring in nature and/or involves interpretation of the provisions of the GST law/ the Rules/ notification/ circular/ order/ instruction etc.; or

- v. Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers; or
- vi. Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

In view of the above, if in the given case the matter is related to valuation of services, appeal can be filed by the Department to the Supreme Court based on the merits irrespective of the monetary limits.

- 15. (i)** As per section 11 of the IGST Act, 2017, the place of supply of goods imported into India is the location of the importer. Online money gaming being specified actionable claim is covered in goods, in terms of section 2(52) read with section 2(102A). Accordingly, in the given case, the place of supply would be location of the recipient of specified actionable claim of online money gaming, i.e., India.
- (ii)** As per proviso to section 5(1) of the IGST Act, 2017, IGST on goods imported into India is 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 at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

However, in case of intangible goods, it is not possible to levy and collect IGST on imports in said manner, as the goods do not cross the customs frontiers physically. Resultantly, the Government has notified certain goods for whom proviso to section 5(1) of the IGST Act, 2017 will not be applicable for levy and collection of IGST; in such cases, IGST shall be levied and collected in the manner specified in section 5(1) only. Supply of online money gaming has been notified for the said purpose.

So, import of specified actionable claim of online money gaming will be taxed under IGST as import of goods.

Accordingly, the contention of department is correct in this case and Smith Inc. is liable to pay IGST on subscription fees that it receives from unregistered customers from India.

As per section 14A of the IGST Act, 2017, a supplier of online money gaming, not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, be liable to pay IGST on such supply. Section 24(xia) makes it mandatory for a every person supplying online money gaming from a place outside India to a person in India to obtain registration irrespective of quantum of aggregate turnover. A supplier of online gaming services is required to take a single registration under a Simplified Registration Scheme.

However, if the supplier has a representative in India for any purpose, such person (representative in India) shall get registered and pay IGST on behalf of the supplier.

In case the overseas supplier neither has a physical presence nor has any representative for any purpose in India, he may appoint a person in India for the purpose of paying IGST and such person shall be liable for payment of such tax.

Accordingly, in the given case, since Smith Inc. is required to pay the IGST on the subscription fees that it charges from Indian customers, it is required to pay the IGST in the manner specified above.

- 16. (i)** Section 17(5) provides that ITC in respect of services of repair of motor vehicles shall be available where received by a taxable person engaged in the supply of general insurance services in respect of motor vehicles insured by him. Further, section 2(93) defines recipient of supply of goods or services or both, as the person who is liable to pay the consideration, where such consideration is payable for the said supply of goods or services or both. As per section 2(31), consideration includes any payment

made or to be made in relation to supply of the goods or services or both, whether by the recipient or by any other person.

CBIC vide *Circular No. 217/11/2024 GST dated 26.06.2024* has clarified that in reimbursement mode of claim settlement, the payment is made by the insurance company for the approved cost of repair services through reimbursement to the insured.

Further, irrespective of the fact that the payment of the repair services to the garage is first made by the insured, which is then reimbursed by the insurance company to the insured to the extent of the approved claim cost, the liability to pay for the repair service for the approved claim cost lies with the insurance company, and thus, the insurance company is covered in the definition of recipient in respect of the said supply of services of vehicle repair provided by the garage, in terms of section 2(93), to the extent of approved repair liability.

Moreover, availment of credit in respect of input tax paid on motor vehicle repair services received by the insurance company for outward supply of insurance services for such motor vehicles is not blocked under section 17(5).

Accordingly, it is clarified that ITC is available to insurance companies in respect of motor vehicle repair expenses incurred by them in case of reimbursement mode of claim settlement. It is further clarified that if the invoice for full amount for repair services is issued to the insurance company while the insurance company makes reimbursement to the insured only for the approved claim cost, then the ITC may be available to the insurance company only to the extent of reimbursement of the approved claim cost to the insured, and not on the full invoice value.

In the given case, although the invoice for the full amount of repair services (₹ 54,000 +GST) is raised in the name of Suraksha Insurance Company, it is liable to pay the repair service to the extent of the approved claim cost (₹ 40,000 +GST). Thus, it is covered in the definition of 'recipient' under section 2(93), to the extent of approved claim cost.

Hence, it is eligible to avail the ITC to the extent of the GST paid on the amount of ₹ 40,000 (approved claim cost). Thus, ITC of ₹ 7,200 ($₹ 40,000 \times 18\%$) is available to Suraksha Insurance Company.

- (ii) The circular further clarifies that in cases where the garage issues two separate invoices in respect of the repair services, one to the insurance company in respect of approved claim cost and second to the customer for the amount of repair service in excess of the approved claim cost, ITC may be available to the insurance company on the said invoice issued to the insurance company subject to reimbursement of said amount by insurance company to the customer.

Thus, in the given case, if the garage has issued two different invoices, the answer would remain the same because the approved claim of service cost which was reimbursed by Suraksha Insurance Company to Mr. Diwas was ₹40,000 only. Thus, ITC of ₹ 7,200 ($₹ 40,000 \times 18\%$) is available to Suraksha Insurance Company.

- (iii) The circular also clarifies that where the invoice for the repair of the vehicle is not in name of the insurance company, condition of clauses (a) and (aa) of section 16(2) is not satisfied and accordingly, ITC will not be available to the insurance company in respect of such an invoice. Thus, in the given case, if the invoice has been raised in the name of Mr. Diwas, then Suraksha Insurance Company would not be eligible to avail the ITC.

17. As per section 130, where any person—

- (i) supplies or receives any goods in contravention of any of the provisions of GST law or the rules made thereunder with intent to evade payment of tax;
- (ii) does not account for any goods on which he is liable to pay tax under GST law; or
- (iii) supplies any goods liable to tax under GST law without having applied for registration; or
- (iv) contravenes any of the provisions of GST law or the rules made

thereunder with intent to evade payment of tax; or

- (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of GST law or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

- 18.** Rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as Import Valuation Rules), *inter alia*, provides that persons shall be deemed to be "related" if they are members of the same family. Thus, since Mr. Manmeet and his son are related, transaction value has been rejected [Rule 3]. Rules 4 and 5 are found inapplicable as no similar/ identical goods are imported in India. Rule 6 provides that if the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. Thus, the value of the imported goods is determined under rule 8 if the same cannot be determined under the earlier rules. However, the order of application of rules 7 and 8 can be reversed at the request of the importer and with the approval of the proper officer.

Thus, request of Mr. Manmeet for determination of value under rule 8 is legally acceptable, if the same is also approved by the proper officer.

Assuming that the request of Mr. Manmeet has been approved by the proper officer, the assessable value of the imported goods under rule 8 will be the sum of-

- (a) the cost of materials and fabrication or other processing
- (b) an amount for profit and general expenses
- (c) the cost or value of all other expenses under rule 10(2) of the said rules.

Computation of assessable value

Particulars	Amount (\$)
Cost of materials	2,000
Add: Fabrication charges	1,000
Other chargeable expenses	400
Other indirect costs	<u>250</u>
Cost of the goods at Mr. Harbhajan's factory	3,650
Add: Net profit margin @ 20% of FOB, i.e. 25% of total cost Total cost till US port = Cost of the goods at factory + Freight from factory to US port and loading charges at US port = \$ 4,000 [\$ 3,650 + \$ 250 + \$ 100] FOB value = Total cost till port + profit = \$ 5,000 (\$ 4,000 + \$ 1,000)	1,000
Add: Freight & loading/unloading charges [In case of import by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are restricted to 20% of FOB value]	1,000
Insurance charges	<u>50</u>
Assessable value	5,700
Particulars	Amount (₹)
Assessable value in Indian Rupees (Exchange rate - ₹ 85 per \$)	4,84,500

19. Section 18 of the Customs Act, 1962 further stipulates that the importer is liable to pay interest, on any amount payable consequent to the final assessment order @ 15% p.a. from the first day of the month in which the duty is provisionally assessed till the date of payment thereof.

Accordingly, amount of interest payable will be:

$$\begin{aligned}
 &= [₹ 50,000 \times 15\% \times 51/365] + [₹ 50,000 \times 15\% \times 62/365] \\
 &= ₹ 1,048 + ₹ 1,274 = ₹ 2,322
 \end{aligned}$$

20. Warehoused goods can be exported without payment of import duty in accordance with the provisions of section 69, for instance, ship stores, which are meant to be exported only; goods meant for re-export and goods supplied to duty free shops and the like. Section 69 provides that any warehoused goods may be exported to a place outside India without payment of import duty if:

- (a) a shipping bill or a bill of export or the form as prescribed under section 84 has been presented in respect of such goods;
- (b) the export duty, fine and penalties payable in respect of such goods have been paid; and
- (c) an order for clearance of such goods for export has been made by the proper officer. Order for clearance of warehoused goods for export may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

In case Government of India is of the opinion that goods of any specified description are likely to be smuggled back into India, it may by notification in the Official Gazette, direct that such goods:

- (i) shall not be exported to any place outside India without payment of duty or
- (ii) be allowed to be so exported subject to such restrictions and conditions as may be specified in the notification.