

Study Circle

**FOR
DEC. 2023
ATTEMPT**



CA JINESH SHAH

CS EXECUTIVE

GROUP - 2

INDIRECT TAX

SUPPLY

Example 1:

Mr. Akshay a dealer sells a washing machine for Rs. 30,000 to earn a profit. Does it qualify as a supply?

Solution:

Yes, it qualifies as supply as per Section 7(1)(a) of CGST Act, 2017.

Example 2:

Mr. Ram (an unregistered person) wants to do MBA abroad. He takes Education consultancy services from a UK based consultant for Rs. 10,000. Does it qualify as a supply?

Solution:

Yes, it qualifies as supply, because as per Section 7(1)(b) of CGST Act, 2017, Supply includes import of services for a consideration whether or not in the course or furtherance of business. Hence, in the above case it will be treated as supply.

Example 3:

ABC Ltd. a manufacturing company scraps old plant and machinery due to renovation of manufacturing facility. The company has taken Input Tax Credit on plant and machinery so scrapped without consideration. Does it qualify as a supply?

Solution:

As per Section 7(1)(c) read with Schedule I of CGST Act, 2017, Permanent transfer or disposal of business assets where Input Tax Credit has been availed shall be treated as supply even made without consideration. Hence scrapping of old plant and machinery without consideration shall qualify as supply since Input Tax Credit has been availed by ABC Ltd.

Example 4:

American Express Pvt. Ltd. makes gifts to an employee worth Rs. 75,000 during the year. Do such gifts qualify as a supply? Would your answer be different if gifts of Rs. 45,000 have been given to employee?

Solution:

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, supply of goods or services between related persons is treated as supply even if it is without consideration. As per Explanation to Section 15 of CGST Act, 2017, persons shall be deemed to be "related persons" if such persons are employer and employee. Thus, gifts to employee worth Rs. 75,000 will qualify as supply and such supply would be leviable to GST.

If gifts of Rs. 45,000 are given instead of Rs. 75,000, the same will not qualify as supply since it has been specifically provided that gifts not exceeding Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Example 5:

Honda Motors Ltd. engages DB Motors as an agent to sell motorcycle on its behalf. For the purpose, Honda Motors Ltd. has supplied 500 cars to the showroom of DB Motors located in Punjab. Does it qualify as supply?

Solution:

As per Section 7(1) (c) read with Schedule I of CGST Act, 2017, Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal shall be treated as supply even if made without consideration. In view of the same Supply of motorcycles by Honda Motors Ltd. To DB Motors will qualify as supply.

Example 6:

Raheja Builders (a registered taxable person) receives architectural design supplied by a foreign architect to design a residential complex to be built in Faridabad for a consideration of Rs. 1 crore. Does it qualify as supply?

Solution:

As per Section 7(1) (b) of CGST Act, 2017, Importation of services for a consideration whether or not in the course or furtherance of business is covered under supply. In the above case it will be treated as supply and will be liable to GST.

PLACE OF SUPPLY

Section 7 of the IGST Act, 2017 deals with the situations where a supply is categorized as inter-State supply.

Such situations are tabulated as under –

Transaction Type	Nature of supply
<p>Domestic Supply of goods [Section 7(1)] or supply of services [Section 7(3)] where location of the supplier and the place of supply are in: two different States; two different Union territories; or a State and a Union territory</p>	inter-State
<p>Imports Supply of Imported goods into the territory of India till they cross the customs frontiers of India [Section 7(2)] Supply of service imported into the territory of India [Section 7(4)]</p>	inter-State
<p>Exports and other scenarios Supply of goods or services or both,- Where the supplier is located in India and the place of supply is outside India; to or by a Special Economic Zone developer or a Special Economic Zone (SEZ) unit; or in the taxable territory, not being an intra-State supply and not covered elsewhere in this section.</p>	inter-State

Section 8 of the IGST Act deals with the situations where a supply is categorized as intra-State supply. Such situations are tabulated as under –

intra-State Supply		
Supply of	Goods [Section 8(1)] Services [Section 8(2)]	Nature of Supply
Where location of the supplier and the place of supply are in	Same State or same Union Territory	intra-State

Supply in Territorial Waters [Section 9 of the IGST Act, 2017]

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,

Note: 1 nautical mile = 1.853 Km approximately

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.

Example 1: Suppose there is a supply from the territorial waters where the supplier is located and the nearest base line is at Kandla, Gujarat state, then the place of supply is said to be in Gujarat.

Example 2: Some goods were supplied to a fishing trawler located in territorial waters near Yanam, apart of Union Territory of Puducherry. Since the nearest base line is at Yanam, place of supply shall be the Union Territory of Puducherry. If the supplier is located in Puducherry, it shall be an intra-State supply. If the supplier is located in Chennai, it is an inter-State supply.

Note: **supplies to or by Special Economic Zones (SEZs) are defined as inter-State supply**

Example 3 : Divya GST Registered person in Varanasi (Uttar Pradesh) provides Management Consultancy services to Aman GST Registered person in Noida for Rs. 8 lakhs. The place from where the supply is made is Varanasi and the place where the supply is received is Noida. The supply in this situation is an intra-State supply

Example 4: Divya GST registered person in Varanasi (Uttar Pradesh) provides Management Consultancy services to Aman GST registered person in the Mumbai (Maharashtra) for Rs. 8 lakhs. The place from where the supply is made is Varanasi and the place where the supply is received is in Mumbai. The supply in this situation is an inter-State supply.

Example 5: Amrinder, a Company Secretary GST registered person in Maharashtra for the past 5 years and having a flourishing practise there, goes to Delhi for 10 days as a visiting faculty for a summer course at a reputed College. While in Delhi, Amrinder earns Rs. 5 Lakh as Professional Fee for the services rendered.

This is an example of inter-State Supply because, Amrinder does not have a registered place of business in Delhi, or a fixed establishment in Delhi. The location of supplier will thus have to be taken as Maharashtra where Amrinder is registered under GST. Since the location of supplier is in Maharashtra and the place of supply is in Delhi, the supply is an inter-State supply, though no supply has actually taken place from Maharashtra

UTILISATION OF INPUT TAX CREDIT (SECTION 9A)

Order of utilisation of Input Tax Credit [Section 9B]

There is no offset available between the CGST and the SGST/ UTGST.

First fully exhaust ITC on IGST towards output liability of IGST and CGST/SGST/UTGST.

CGST/SGST/UTGST output liability payment can be in any order or ratio. Later, utilize ITC on CGST to pay output liability of CGST and balance of IGST, if any. Further, utilize ITC on SGST/UTGST to pay output liability of SGST/ UTGST and balance of IGST, if any.

GST Compensation Cess

On 24.06.2022, the Ministry of Finance vide Notification No 1/2022 Compensation Cess has notified Goods and Services Tax (Period of Levy and Collection of Cess) Rules, 2022, w e f 01.07.2022 through which it has extended the time period for levy of compensation Cess up to 31st March 2026.

However, no such Cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section 10 of the Central Goods and Services Tax Act, 2017.

COMPOSITE & MIXED SUPPLY

Section 2(30) provides that a **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.

Further, section 8(a) stipulates that a composite supply comprising two or more supplies, one of which is a principal supply, is treated as a supply of such principal supply. Hence, one needs to ascertain what constitutes the principal supply in this supply. As per section 2(90), principal supply is the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

Under Section 2(74) of CGST Act, 2017, "**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**

1. When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.
2. Package of accommodation facilities and breakfast are naturally bundled, thus a composite supply.
3. Suppose a dealer sells Laptop along with bags. The rate of GST on Laptop and bag are different. Since the Laptop is a principal supply, the rate of Laptop shall be applicable on such composite supply.
4. A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.

5. Cadbury sold gift packets of chocolate and fresh Juices. The GST rate of chocolate is **28%** & fresh juice liable to GST at **12%**. This is the example of mixed supply & would be liable to GST at **28%** (higher of **12%** or **28%** applicable).

Difference between Nil Rated, Exempt, Zero Rated and Non-GST supplies

Supply Name	Description
Zero Rated	Exports
Nil Rated	Supplies made to SEZ or SEZ Developers. ITC can be availed. Supplies that have a declared rate of 0% GST. ITC cannot be availed. Example: Salt, grains, jaggery etc.
Exempt Supply	which attracts Nil rate of tax or which are specifically exempt from GST through government notification and includes non-taxable supply. ITC cannot be availed. Example: Fresh milk, Fresh fruits, Curd, Bread etc.
Non-GST	These supplies do not come under the purview of GST law. ITC cannot be availed. Example: Alcohol for human consumption, Petrol etc.

EXEMPTIONS

Example 1 :

Ashish acts as a team manager for Indian Sports Authority (ISA), a recognised sports body, for a tennis tournament organised by a multinational company and received a remuneration of Rs. 2,00,000. Determine whether GST is payable on the remuneration received by Ashish.

Solution : Services provided by a team manager to a recognised sports body for participation in a sporting event are exempt from GST provided said sporting event is organised by a recognized sports body.

In the given case, the services are being provided by a team manager to a recognised sports body, but the sporting event is not organised by a recognised sports body. Therefore, the services provided by Ashish are not exempt from GST.

Example 2 :

Ramu Transporters, a Goods Transport Agency, transported relief materials meant for victims of Kerala floods, a natural disaster, by road from Delhi to Ernakulam, for a company. Ramu Transporters is of the view that it is not liable to pay GST on the said services provided as said services are exempt. You are required to advise it on the said issue.

Solution : Services provided by a goods transport agency, by way of transport in a goods carriage of relief materials meant for victims of, inter alia, natural or man-made disasters, calamities, are exempt from GST.

Therefore, services provided by Ramu Transporters will be exempt from GST.

COMPOSITION OF SCHEME

Composition of Scheme (Section 10 of CGST Act 2017)

Notwithstanding anything to the contrary contained in this act but subject to the provisions of sub-sections (3) and (4) of section 9,

- a registered person,
- whose aggregate turnover in the preceding financial year,
- did not exceed One Crore and fifty lakh rupees (Rs.1.5 Crore)*,
- may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9,
- an amount of tax calculated at the rates as prescribed under Rule 7 of the CGST Rules, 2017.

In case of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand the threshold limit is Rs. 75 lakhs [instead of Rs. 1.5 Crore] (Notification No. 14/2019 Central Tax dated March 07,2019).

Optees of Composition Scheme allowed to provide limited quantum of service -

A person who opts to pay tax under composition scheme may supply services (other than restaurant service) of value **not exceeding ten per cent.** of turnover in a State or Union Territory in the preceding financial year.**or five lakh rupees (Rs.5,00,000), whichever is higher.**

Exclusion of interest/discount from the value of turnover in a State/ Union Territory

Presently, following rates have been prescribed under Rule 7 of CGST Act, 2017.

With effect from April 01, 2022, Notification No. 14/2019 Central Tax dated 07.03.2019 has been amended to include following items also

Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks

Bricks of fossil meals or similar siliceous earths

Building bricks

Earthen or roofing tiles.

The registered person shall be eligible to opt under sub-section (1), if: -

- (a) save as provided in sub-section (1) he is not engaged in the supply of services;

- (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;
- (c) he is not engaged in making any Inter-State outward supplies of goods;
- (d) he is not engaged in making any supply of goods through an ECO who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council.

Example 3 :

Mr. A, a retailer, presents the following information for the year -

Purchases of goods: Rs. 30,00,000., out of which goods worth Rs. 2,00,000 purchased from unregistered

dealer. Sale of Goods: Rs. 49,00,000. He has opted the composition scheme. Show the treatment in GST, assuming that rate under GST are 0.5% CGST and 0.5% (composition scheme) and 9% CGST and 9% SGST (Regular scheme).

Solution:

Tax payable under Composition Scheme:

CGST payable = $49,00,000 \times 0.5\% = 24,500$

SGST payable = $49,00,000 \times 0.5\% = 24,500$

Example 4 :

Delite Brothers, engaged in the sale of spare parts of motor vehicles, have opted for composition. During

the year, apart from the sale of spare parts for Rs. 1.2 Cr, they also provided maintenance service to their

few customers for which they earned revenue of Rs.8 Lakhs. Please advise the eligibility of Delite Brothers of composition levy under Section 10 of the CGST Act.

Solution:

Under Section 10 of the CGST Act, the registered person opting to pay tax under composition levy can apart from manufacture / supply of goods, provide service not exceeding 10% of their turnover or Rs. 5 lakhs whichever is higher. In this case, the turnover representing service comes to Rs.8 lakhs which is less than 10% of their total turnover. Thus, Delite brother shall be eligible for composition levy in that financial year.

Example 5 :

A person availing composition scheme during a financial year crosses the turnover of Rs. 150 Lakhs (Rs.75 lakhs in specified States) during the course of the year, i.e., say he crosses the turnover in December?

Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e., till 31st March?

Solution:

No. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds Rs. 150 Lacs (Rs. 75 lakhs in specified States).

Example 6 :

Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2), provided their turnover in preceding year does not exceed Rs.1.5 crore:

- (i) Ram Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State.
- (ii) Shyam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.

Solution :

- (i) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes and aerated waters are notified under this category. However, in the given case, since Ram Enterprises is engaged in trading of pan masala and not manufacture and his turnover does not exceed Rs.1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.
- (ii) Since supplier of inter-State outward supplies of goods or services is not eligible for composition levy, Shyam Manufacturers is not eligible for composition levy.

TIME OF SUPPLY

Illustration:

Antra Ltd. supplied goods to Mantra Ltd., under a contract for the goods to be delivered to the factory of Antra Ltd. The goods were removed from the factory of Antra Ltd. on 9th September, 2022 and the goods were delivered to the factory of Mantra on 16th September, 2022.

The invoice was issued on 18th September, 2022 and the payment was credited to Antra's account on 20th October, 2022 although the entry in the books was made on 19th September, 2022 when the cheque was received.

Please advise on the Time of Supply.

Solution: In the above case, the relevant dates are as under:

- ◆ Date of issue of invoice: 18th September, 2022.
- ◆ Due date for issue of invoice: 9th September, 2022 (as the supply involved movement of goods).
- ◆ Date of receipt of payment: 19th September, 2022 (earlier of the entry in the books and the credit in the bank account) [Date of payment not relevant in terms of Notification No. 66/2017 - CT dated 15.11.2017]

Hence, the time of supply will be 9th September, 2022.

Illustration

Mr. A, an agriculturist supplies raw cotton (under reverse charge) to Mr. B who manufactures cotton shirts. The date wise turnout of events is given below:

01.04.2022- Mr. B approaches Mr. A and places an order for 1 ton of cotton

10.05.2022- Mr. B receives the goods

15.05.2022- Mr. A issues an invoice

20.05.2022- Mr. B makes a payment by cheque and accordingly records it in his books of accounts. 25.05.2022- The payment gets debited from Mr. B's bank account

Solution:

In this case, the time of supply shall be the earlier of the following dates:

- a) The date of receipt of goods i.e. 10.05.2022
- b) The date of payment as recorded in the books of Mr. B i.e., 20.05.2022 or the date when the payment gets debited in the books of the recipient i.e. 25.05.2022 whichever is earlier
- c) The date immediately following thirty days from the date of issue of invoice, i.e. 15.05.2022 + 30 days + 1 day = 15.06.2022

Therefore, the time of supply will be 10.05.2022.

Illustration:

ABC Ltd., enters in to an arrangement with "Hush Puppies", buys the vouchers, these vouchers were issued on 14th December, 2022. The Company then distributes these vouchers with denomination INR 4,000/- to all its employees on 24th December, 2022 valid until 31st January, 2023, so that they can use these vouchers for buying shoes of their choice. The employees make the most of it and redeem these vouchers on the New Year's, i.e., on 1st January, 2023.

Solution:

In this case, the supply is identifiable at the point of issue of the voucher and hence the time of supply would be construed as 14th December, 2022.

Illustration :

Nisha buys a voucher from Shoppers Stop for INR 10,000 and gifts it to Tarun on 14th February. The voucher was valid until 29th February. Tarun redeems the vouchers at the nearby Shoppers Stop store on 29th February.

Solution:

In this case, the supply was not identifiable at the point of issue of the voucher as Tarun was open to purchase anything from Shoppers Stop, therefore the time of supply would be construed as the date of redemption of the voucher, that is 29th February.

Illustration :

Shiva Supplies goods to Ramesh for Rs. 4,00,000 on 01.03.2022 on one month credit. It is also specified in the invoice that if the recipient fails to make payment within one month, then interest @Rs. 4,000 shall be charged for every delay of one month or part thereof. Ramesh makes the payment of Rs. 4,00,000 on 22.04.2022. However, in respect of interest, he requests Shiva for complete waiver, but Shiva agrees for waiving only 50% of Rs. 4,000. Consequently, Ramesh makes payment of Rs. 2,000 as interest on 30.04.2022. Determine the time of supply of goods and time of supply in relation to value of supply by way of interest.

Solution:**(1) Time of supply of goods**

Date of invoice is 01.03.2022

Date of receipt of payment is 22.04.2022 Whichever is earlier

Thus the time of supply of goods shall be 01.03.2022.

(2) Time of supply in relation to value of supply by way of interest

It shall be 30.04.2022 i.e. the date of receipt of the interest amounting to Rs. 2,000.

Illustration:

Determine the time of supply from the following particulars:

15th October, 2022	The marriage hall was fixed and the advance of INR 25,000 was paid (amount agreed was INR 1,00,000)
20th October, 2022	Invoice issued for INR 25,000
30th November, 2022	The marriage ceremony took place in the hall
14th December, 2022	The invoice was issued for balance INR 75,000 indicating & adjusting the advance paid earlier
31st December, 2022	The balance payment was received

Solution:

In the above case, the invoice was issued within the prescribed time (that is within 30 days of the event) and hence the time of supply would be the earlier of:

- Date of invoice: which is 14th December, and
- The date of receipt of payment: which is 31st December

Therefore, for the amount of INR 75,000, the time of supply would be 14th December. For the advance of INR 25,000, the date of payment precedes the invoice and hence the time of supply for that amount would be 15th October.

Illustration:

Mr. A provides legal services as an advocate to Mr. B which fall under reverse charge basis. 10.04.2022 The services are provided to Mr. B

12.04.2022 – Mr. A issues an invoice to Mr. B

10.07.2022 – The payment is made by Mr. B through a cheque and recorded in his books of accounts 15.07.2022 – The payment gets debited from Mr. B's bank account

Solution:

In this case, the time of supply shall be earlier of the following dates:

- ◆ The date of payment i.e. 10.07.2022 (earlier of 10.07.2022 and 15.07.2022)

- ◆ The date immediately following sixty days from the date of issue of invoice i.e. 12.06.2022 (12.04.2022 + 60 days+ 1day).
Therefore, the time of supply shall be 12.06.2022.

Illustration:

M/s ABC Dry Cleaners issues vouchers of Rs. 40,000 to M/s XYZ on 22.11.2022. M/s XYZ distributes the vouchers amongst its employees who shall get it redeemed in due course of time.

Determine the time of supply of vouchers.

Solution:

In above case, the time of supply shall be 22.11.2022 for the supply of vouchers made by M/s ABC Dry Cleaners to M/s XYZ because the vouchers are identifiable with particular supply of dry cleaning service. Tax liability can be determined at the time of issue of vouchers.

Illustration:

BA Telecommunications Ltd. charges Rs. 100 as late fees from the customer on account of non-payment of bill on due date for the month of February 2022. The customer paid such late fee on 05.04.2022.

Determine the time of supply of late fees.

Solution:

The time of supply of such late fees will be the date on which BA Telecommunications Ltd. receives the amount of late fees from the customer which is 05.04.2022.

Illustration:

Mr. X residing in Noida, purchase 40,000 Markers @ Rs. 20 each from Anika & Stationary, wholesalers at Delhi. Mr. X's sister working as Manager in Anika & Stationary. Open Market Value of Marker is Rs. 23. Anika & Stationary additionally charges Rs. 15,000 for transporting markers to Mr. X's business place.

Solution:

The transaction Value includes ancillary expenses borne by Anika & Stationary in regard of supply till the time of delivery of goods to the recipient. The transaction value will be Rs. 8,00,000 (40,000*20) + 15,000 = 8,15,000.

Mr. X and Anika & Stationary Wholesaler are not related persons solely as Mr. X 's sister is an employee in Anika & Stationary, whereas Mr. X 's sister and Anika & Stationary are not to be considered as related persons.

Therefore, the transaction value taken as value of supply.

Illustration:

Mr. Rama Swami a manufacturer provides the following particulars:

Price of the machine	2,00,000
Packing charges	20,000
Designing charges	40,000
Transit insurance	2,000
Freight outward	16,000
Cash discount to customer	2%

Compute the value of machine when Rama Swami has to deliver machine to factory of recipient.

Solution:

Also, assume that the buyer has paid cash and availed cash discount.

Price of the machine	2,00,000
Add : Packing charges	20,000
Add : Designing charges	40,000
Add : Transit insurance	2,000
Add : Freight outward	16,000
Less [Cash discount to customer 2,00,000* 2%]	(4,000)
Total value	2,74,000

Illustration:

M/s XYZ an event management company for organizing large scale events like marriages, birthday parties etc. owned by Mr. Sharma. Another Event organizer M/s ABC Ltd. in Gurugram contracts with M/s XYZ to arrange a celebrity concert charging Rs. 16,00,000. The company sub-contract the same work to M/s Well Events Management Company which were also controlled and managed by Mr. Sharma for Rs. 12,00,000. M/s Well Events Management Company charges Rs. 12,40,000 from market for the same work.

Solution:

M/s. XYZ and M/s Well Events Management Company are managed and controlled by Mr. Sharma so both the businesses will be considered as related persons. The value of service will be the open Market Value being Rs. 12,40,000 rather than sub-contract price of Rs. 12,00,000.

Illustration:

A is principal and supplies groundnuts to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs. 5,000 per quintal on the day of the supply.

Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs. 4,550 per quintal.

Determine the value of supply of groundnuts.

Solution:

The value of the supply made by the principal shall be Rs. 4,550 per quintal or where he exercises the option, the value shall be 90 per cent of Rs. 5,000 i.e., Rs. 4,500 per quintal.

Illustration:

Mr. X is planning to visit California, USA to meet his cousin and want some foreign currency (i.e. US\$) for his travel. He converted US\$500 from the authorised money changer @ 82 per US\$ and receive Rs. 41,000. RBI reference rate for US\$ is 82.50 for that day. Compute the value of taxable supply.

Solution:

As per RBI reference rate the amount should have been $500 \times 82.50 = 41,250$.

Thus the difference of Rs. 250 (i.e. Rs. 41,250 - Rs.41,000) will be treated as taxable value of the service in relation to exchange of money.

If the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian rupees provided by the person changing the money. Thus it shall be 1% of Rs. 41,000= Rs. 410

Illustration:

Nisha Enterprises had made supplies of INR 7,50,000 to Tee Kay Services. There was a tax levied by Municipal Authorities on such sale of INR 75,000/-. CGST and SGST chargeable on the supply was 37,500/-. Packing charges, not included in the price above amounted to INR 15,000.

Nisha Enterprises received a subsidy of INR 30,000/- from an NGO on the sale of such goods, and the price mentioned above is after taking in to account the subsidy. Discount offered is @ 1% and that's mentioned on the Invoice.

Determine the Value of Supply.

Solution:

	Price Charged	7,50,000
ADD :	Tax Charged by Municipal Authorities	75,000
	Packing charges	15,000
	Subsidy from NGO	30,000
	Total after all inclusions	8,70,000
LESS :	Discount @ 1%	7,500

Notes :

1. CGST and SGST is not included in the determination of value of supply, rather taxed post determination on the same.
2. Subsidy since received from a non-governmental body is added back to determine the value of supply.
3. Discount on basic price is an exclusion.

Illustration:

Divya GST registered person in Varanasi (Uttar Pradesh) provides Management Consultancy services to Aman GST registered person in the Mumbai (Maharashtra) for Rs. 8 lakhs.

Solution:

The place from where the supply is made is Varanasi and the place where the supply is received is in Mumbai. The supply in this situation is an inter-State supply.

ITC AND GST LIABILITY

Illustration:

Mr. A orders 30,000 tonnes of goods which are to be delivered by the supplier via 3 lots of 10,000 each. The lots are sent under a single invoice with the first lot and the payment is made by the recipient for Value of Supply plus GST and the supplier has also deposited the tax with the Government.

Solution:

The 3 lots are supplied in May, June and July 2020. The ITC is available to Mr. A only after the receipt of the 3rd lot. The reason is simple, one of the conditions to avail ITC is the receipt of goods which is completed only after the last lot is delivered.

Illustration

Input X is used to produce and supply output Y which is exempt, no ITC is available on input X because it was used for exempt supply.

Solution:

In the above example if the output Y is exported or supplied to an SEZ unit, ITC is available on Input X as the out-ward supply is zero rated.

Illustration:

Mr. B becomes liable to pay tax on 1st August 2022 and has obtained registration on 17th August 2022.

Solution:

He will hence be entitled to take ITC effective 31st July 2022 in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock.

It must be noted that if the application is not made within 30 days, then he will be able to claim ITC effective the date of grant of such registration

Illustration: Aqua Limited has taken registration as an Input Service Distributor and has received following invoices of input services in relation to its three locations (A , B & C) wherein IGST charge is as follows:

Invoice no. 1: Rs. 10,00,000 (IGST) attributable solely to A location

Invoice no. 2: Rs. 6,00,000 (IGST) attributable solely to B & C location

Invoice no. 3: Rs. 12,00,000 (IGST) attributable solely to all locations

The Turnover of each location is as follows:

Turnover of A : Rs. 80,00,000

Turnover of B: Rs. 70,00,000

Turnover of C: Rs. 50, 00,000

Compute the amount of ITC attributable to each location.

Solution:

Particulars	A	B	C
TURNOVER	80,00,000	70,00,000	50,00,000
ITC Distributed of Invoice no. 1	10,00,000	0	0
ITC Distributed of Invoice no. 2 Location B : Rs. $6,00,000 \times 70,00,000 / 1,20,00,000$ Location C : Rs. $6,00,000 \times 50,00,000 / 1,20,00,000$	0	3,50,000	2,50,000
ITC Distributed of Invoice no. 3 Location A : Rs. $12,00,000 \times 80,00,000 / 2,00,00,000$ Location B : Rs. $12,00,000 \times 70,00,000 / 2,00,00,000$ Location C : Rs. $12,00,000 \times 50,00,000 / 2,00,00,000$ 0	4,80,000	4,20,000	3,00,000
Total ITC Distributed	14,80,000	7,70,000	5,50,000

PLACE OF SUPPLY & VALUE OF SUPPLY

Illustration:

M is located in Delhi. He provides the following information :

Particulars	Amount in Rs.
Value of taxable supply of goods in Delhi	23,00,000
Value of supply of exempt supply	18,00,000

Does M require any registration?

Solution :

M require registration since the aggregate turnover exceed the threshold limit of Rs. 40,00,000 (i.e. $41,00,000 = 23,00,000 + 18,00,000$) by including the value of taxable supply of goods and value of services.

Illustration: L Pvt Ltd. Having its factory in Hyderabad is engaged in the manufacture and supply of goods.

It has following turnover

- i) Taxable turnover within Telangana Rs. 5 lacs
- ii) Inwards supplies liable to tax under reverse charge Rs. 8 lacs
- iii) Exempt turnover Rs. 16 lacs

Does L Pvt. Ltd. require any registration?

Solution :

For computing aggregate turnover, items (i) and (iii) shall be considered which comes to Rs. 21 lacs. For Telengana, the threshold for goods is Rs. 20 lacs, Thus, L Pvt. Limited is liable to take registration

Illustration:

Seema & Co. has entered into an AMC (Annual Maintenance Contract) with Vir Enterprises for one-year effective 1st September, 2017 for the stabilisers installed in the factory. As per contract, the invoice must be issued by 9th September, 2018.

Solution :

In this case, since there is a continuous supply of services where the due date is ascertainable from the contract, the tax invoice must be issued before or on 9th September, 2018.

Illustrations(SECTION 77)

Situation	Suggested procedure
A Registered person has wrongly paid Central tax and State Tax / Union Tax on a transaction, which is considered to be intra-State, subsequently held to be inter-State, shall be refunded the amount of taxes so paid	There is no actual refund back of the tax paid. Rather, there shall have to be an amendment of invoice/invoices to be made while filing return of any subsequent tax period.
A registered person who has paid integrated tax on a transaction considered to be an inter-State supply, shall not be required to pay any interest on the amount of Central tax and State tax/Union territory tax.	Similar procedure as above & no interest is payable.

CUSTOMS

Illustration:

Answer with reference to the provisions of section 14 of the Customs Act, 1962 and the rules made thereunder:

- (i) What shall be the value, if there is a price rise of the imported goods in international market between the date of contract and the date of actual importation but the importer pays the contract price?
- (ii) Whether the payment for post-importation process is includible in the value if the same is related to imported goods and is a condition of the sale of the imported goods?

Solution:

- i) The value of the imported goods or export goods is its transaction value, which means the price actually paid or payable for the goods. Where a contract has been entered into, the transaction value shall be the price stated in the contract, unless it is not legally acceptable.
Price rise between date of contract and date of actual import is irrelevant, as the price actually paid or payable shall be taken to be the value. Thus, price stated in the contract (unless unacceptable) shall be taken.
- ii) As per explanation to Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, the payment for post-importation process is includible in the value of the imported goods if the same is related to such imported goods and is a condition of the sale thereof.

Template for Calculation of Import Duties

Particulars	INR	
Assessable Value (AV)	1000	
Basic Custom Duty (BCD)	100	Taken at 10% of AV
Safeguard Duty	300	Taken at 300% of AV
Social Welfare Surcharge (SWS)	10	Taken at 10% of BCD
Anti Dumping Duty	200	
Total	1610	
IGST	289.8	Taken 18% of Total
GST Compensation Cess (GCC)	241.50	Taken 15% of Total

Total Taxes and Duties	1141.30
-------------------------------	----------------

Illustration :

Ms. Nisha imported 2500 Tonnes of goods and materials valued at USD 50 per tonne (C.I.F.). Exchange Rate per notification (CBIC) was \$1= INR 63.84. The Basic Customs Duty was chargeable @ 10% and over and above, there was an Anti-Dumping Duty levied on the goods, which was the differential between the amount so calculated as the Landed Value . Basic Customs Duty and Cess is INR 100,00,000/-. Calculate the Anti- Dumping Duty.

Solution:

Description	Tonnes	Rate	USD	INR
C.I.F. Value	2,500	50	1,25,000	79,80,000
Assessable Value				79,80,000
Basic Custom Duty (BCD) @ 10%				7,98,000
Social Welfare Cess @ 10% of BCD				79,800
Landed Value				88,57,800
Landed value as per Notification				1,00,00,000
Anti Dumping Duty				11,42,200

Note : Anti-Dumping Duty is levied to promote the local industry and to curb imports, and to ensure that India is not used as a dumping ground, which could otherwise have serious repercussions on the economic growth of the Nation. This Anti-dumping duty is continued even under the GST regime.

Illustration :

M/s XYZ Chemicals Ltd. imported a machine from ABC Inc. at USA (Boston). The price of the machine was contracted at USD 12500 and the machine was shipped on 1st February, 2022. Meanwhile XYZ Chemicals, renegotiated a price reduction owing to the past relationship, and this price reduction was agreed vide an e-mail and a fax on 15th February, 2022. The machine arrived in India (Mumbai Port) on 1st March, 2022.

The assessing authorities claimed that the duty would be payable basis the Original Contracted price, pre - shipment. Please advise your stand as a Tax Consultant to XYZ Chemicals Ltd.

Solution:

The stand taken by the Customs Authorities is factually incorrect and can be challenged under the Law. The basic reason is that the Transaction Value is considered at the time and place of importation. Hence, it was contended that the Import is complete only when the Goods become a part of the Country. Here, in the present case, the price was mutually revised while the Goods were still in transit. Hence, the revised price could be considered for arriving at the Assessable Value and the same was also enunciated under the case law : Gujarat Heavy Chemicals vs. Commissioner of Customs, Ahmedabad 2004.

Illustration :

Determine the Customs Duty payable including the safeguard duty of 20%, for Goods with Assessable Value of INR 50,00,000 considering BCD @ 10%, IGST @ 18%.

Solution:

Item	INR	
Assessable Value	50,00,000	
Basic Custom Duty @ 10%	5,00,000	A
Social Welfare Surcharge @ 10%	50,000	B
Safeguard Duty @ 20%	10,00,000	C
Total for IGST(AV + All Custom Duties)	65,50,000	
IGST @ 18%	11,79,000	D
Total Duty & Taxes payable(A+B+C+D)	27,29,000	

BAGGAGE

Illustration: Mr. Ram, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2020. His wife also joined him in London on 01.12.2020. The following details are submitted by them with the Customs authorities on their return to India on 30.04.2021:

- used personal effects worth Rs. 95,000
- a music system worth Rs. 34,000
- the jewellery brought by Mr. Ram for Rs. 44,000 and the jewellery brought by his wife worth Rs.25,000

Determine their eligibility with regard to duty free allowance.

Solution:

As per the Baggage Rules, in case of passengers other than tourists there is no customs duty on used personal effects and general free allowance is Rs.50,000 per passenger. Thus, their duty liability is nil for the personal effects and a music system.

However, the additional duty-free allowance, that is jewellery allowance is applicable to non-tourist passenger of Indian origin who had stayed abroad for period exceeding one year. The additional jewellery allowance is as follows: -

Gentleman Passenger - Rs.50,000/-

Lady Passenger - Rs.1,00,000/- Thus, there is no duty liability on the jewellery brought by Mr. Ram as he had stayed abroad for period exceeding one year.

However, his wife is not eligible for this additional jewellery allowance as she had stayed abroad for a period less than a year. Thus, she has to pay customs duty on the amount of jewellery brought by her. However, she is eligible to avail GFA of Rs.50,000. To the extent of satisfaction of the Assistant commissioner of customs, Jewellery brought back which was taken out earlier by the passenger or by a member of his family from India shall be allowed clearance free of duty.

Thanks



Our Rankers



Pulak Bansal



Sidra Khan



Albiya Shaikh



Khushi Dubey



Kushal Todi



Richa Chokhani



Isha Shah



Kartiki Tulaskar



Mansi Rawat



Deep Patel



Aditya Dakh



Aditi Menon



Femi Jain



Ibrat Khan



Rahul Lakhwani



Kausha Sheth



Kimaya Sonawdekar



Suyash Kasat



Siddharth Nair



Anjali Vishwakarma



Kedar More



Raj Singh



Dhruvi Patel



Vaibhavi Palkar



Kinjal Solanki

: Address :

Office no 15-16 Bhagwan Bhuvan, Opp Andheri Police Station,
Above Azad Stores Andheri (East) Mumbai - 400069

Phone : 8286881716 / 7738305533

www.studycircleprofessional.com