



## 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 Act, 2025 including significant notifications and circulars and other legislative amendments made, which are effective up to 31<sup>st</sup> October, 2025 and (ii) customs law as amended by the Finance Act, 2025 including significant notifications and circulars and other legislative amendments made, which are effective up to 31<sup>st</sup> October, 2025.
- (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

Carbonlite Industries Ltd. (CIL) is supplier registered under GST in Ahmedabad, Gujarat. It is engaged in manufacture of smart watches and supply of various other goods and services. The smart watches are supplied with a standard warranty period of 1 year. In addition, CIL also offers an optional extended warranty for a further period of 6 months under separate agreement entered

into with various customers for smart watches sold through its distributors. Extended warranty is effective after expiry of original warranty which has been provided at the time of actual sale of smart watches. It provides the details of various activities undertaken by it during the month of October as follows:

(A)	Details of outward supplies				Amount (₹)
i	Outward supply of smart watches with standard warranty period of 1 year to various distributors during the month –				50,00,000
a.	Within Gujarat	15,00,000			
b.	Outside Gujarat	35,00,000			
ii	Amount received by CIL for extended warranty provided by it –				
	Sr. No.	Particulars	For effected during the month of October	For effected during the month of September	
a.	Within Gujarat	1,50,000	50,000		
b.	Outside Gujarat	3,00,000	1,00,000		
iii	Cost of spare parts replenished by CIL to its distributors through delivery challans, without separately charging any consideration, for replacement of parts by the distributor to the customers under warranty –				55,000
a.	Within Gujarat	25,000			
b.	Outside Gujarat	30,000			
(B)	Details of inward supplies				Amount (₹)
i	Raw material imported from Germany [Value of the goods was worked out by the Customs authorities as ₹ 10,00,000 for the purpose of levy of IGST.]				–

ii	Debit note received from a distributor registered in the State of Karnataka for providing repair services on 2 <sup>nd</sup> October as part of warranty to one of the customers on behalf of CIL. No consideration was charged from the customer for the same. Date of issue of debit note for repairs undertaken was 25 <sup>th</sup> October and payment was made by CIL on same day.	15,000
iii	Purchase of goods on 21 <sup>st</sup> September from M/s Patagonia LLP, registered in Tamilnadu and filing monthly GSTR-1. M/s Patagonia LLP has filed its Form GSTR-1 for the month of September on 15 <sup>th</sup> October.	2,00,000
iv	Intra-State purchase of manufacturing machine sent directly to job worker's premises under delivery challan	4,00,000

The company provided the following additional information for the month of October:

- (i) CIL took delivery of the raw material imported Germany from Kandla Port, Gujarat on 13<sup>th</sup> October after payment of applicable customs duty and social welfare surcharge @ 10%.
- (ii) CIL supplied taxable goods in the territorial waters to InnoMek Builders for ₹ 6,00,000. Territorial waters is located at a distance of 12 nautical miles from the baseline of Kerala and 15 nautical miles from the baseline of Tamil nadu.
- (iii) CIL supplied solar panels (used for business purpose & on which no ITC has been taken yet) given free of cost to unrelated person based in Gujarat.  
[Purchased 2 years' back at a price of ₹ 1,12,100 (including GST). Open market value is ₹ 75,000.]
- (iv) CIL supplied moulds and dies owned by it to unrelated component manufacturers free of cost in October; market value of the same was ₹ 3,30,000.
- (v) CIL provided free training on 'Sales & Customer Engagement Skills' to all its agents free of cost in October; cost of such training was ₹ 1,80,000.

- (vii) Opening balance of input tax credit at the beginning of October is ₹ 95,000 -CGST, ₹ 65,000 -SGST and ₹ 5,25,000 -IGST.
- (viii) All the figures given are exclusive of GST, wherever applicable, except stated otherwise.
- (ix) Subject to the information given above, all other conditions necessary for claiming ITC were complied with.
- (x) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except warranty services for which rates of CGST, SGST and IGST are 2.5%, 2.5% and 5% respectively.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 1 to 6 below:

1. Which of the following activities/ transactions undertaken by CIL do not amount to supply?
- (i) Supply of taxable goods in territorial waters.
  - (ii) Solar panels being used for business purpose given free of cost to unrelated person.
  - (iii) Supply of moulds and dies owned by it to unrelated component manufacturers free of cost.
  - (iv) Free of cost training provided to agents.
- Choose the most appropriate option.
- (a) (ii) and (iv)
  - (b) (ii), (iii) and (iv)
  - (c) (i), (iii) and (iv)
  - (d) (i), (ii) and (iii)
2. GST payable on smart watches supplied along with extended warranty offered for sales in October is \_\_\_\_\_.
- (a) CGST - ₹ 1,35,000, SGST - ₹ 1,35,000 and IGST- ₹ 6,30,000
  - (b) CGST - ₹ 1,48,500, SGST - ₹ 1,48,500 and IGST- ₹ 6,84,000

- (c) CGST - ₹ 1,38,750, SGST - ₹ 1,38,750 and IGST- ₹ 6,45,000  
(d) CGST - ₹ 1,35,000, SGST - ₹ 1,35,000 and IGST- ₹ 6,45,000
3. GST payable on extended warranty offered for sales effected in September is \_\_\_\_\_.
- (a) CGST - ₹ 4,500, SGST - ₹ 4,500 and IGST- ₹ 18,000  
(b) CGST - ₹ 4,500, SGST - ₹ 4,500 and IGST- ₹ 5,000  
(c) CGST - ₹ 1,250, SGST - ₹ 1,250 and IGST- ₹ 5,000  
(d) CGST - ₹ 1,250, SGST - ₹ 1,250 and IGST- ₹ 18,000
4. GST payable on the spare parts replenished by CIL to its distributors for replacement of parts by the distributor to the customers under warranty is \_\_\_\_\_.
- (a) CGST - ₹ 625, SGST - ₹ 625 and IGST- ₹ 1,500  
(b) CGST - ₹ 2,250, SGST - ₹ 2,250 and IGST- ₹ 5,400  
(c) CGST - ₹ 2,875, SGST - ₹ 2,875 and IGST- ₹ 6,900  
(d) CGST - Nil, SGST - Nil and IGST - Nil
5. Amount of ITC admissible to CIL for the month of October is \_\_\_\_\_.
- (a) CGST - ₹ 1,31,000, SGST - ₹ 1,01,000 and IGST- ₹ 7,43,700  
(b) CGST - ₹ 1,33,500, SGST - ₹ 1,03,500 and IGST- ₹ 7,05,000  
(c) CGST - ₹ 95,000, SGST - ₹ 65,000 and IGST- ₹ 7,05,000  
(d) CGST - ₹ 95,000, SGST - ₹ 65,000 and IGST- ₹ 7,07,700
6. Place of supply of goods in territorial waters is \_\_\_\_\_ and tax payable on the same is \_\_\_\_\_.
- (a) Gujarat, CGST - ₹ 54,000 and SGST - ₹ 54,000  
(b) Kerala, IGST- ₹ 1,08,000  
(c) Tamil Nadu, IGST- ₹ 1,08,000  
(d) Tamil Nadu, CGST - ₹ 54,000 and SGST - ₹ 54,000

**Case scenario – II**

HydroCool Enterprises, a partnership firm, is a supplier of water coolers located in Kota, Rajasthan, and is duly registered under the GST law in the State of Rajasthan. It undertakes both intra-State and inter-State supplies in the ordinary course of trade.

In the month of January, HydroCool Enterprises supplied water coolers to ChillPure Traders, Kerela, an unrelated party, for a total consideration of ₹ 2,95,000 (inclusive of GST @ 18%). In addition to this monetary payment, ChillPure Traders also provided certain materials to HydroCool Enterprises as an additional consideration. These materials were valued at ₹ 10,000 (exclusive of GST). At the same time, HydroCool Enterprises supplied water coolers of the same quality and specifications to another unrelated customer for a price of ₹ 2,97,360 (inclusive of GST @ 18%).

HydroCool Enterprises also entered into a contractual arrangement with Apexion Innovations (Bengaluru, Karnataka), an Information Technology service provider, for availing data backup and database access services. The details of said services availed are as follows:

Particulars	Date
Apexion Innovations raised an invoice on HydroCool Enterprises for data backup and database access service.	21 <sup>st</sup> February
HydroCool Enterprises issued and dispatched a demand draft as payment.	25 <sup>th</sup> February
Demand draft was received and recorded in the books of Apexion Innovations.	28 <sup>th</sup> February
Apexion Innovations encashed the demand draft	3 <sup>rd</sup> March
Apexion Innovations provided database access to HydroCool Enterprises.	4 <sup>th</sup> March onwards

In the meanwhile, the rate of GST is changed from existing 18% to 5% from 1<sup>st</sup> March.

In February, HydroCool Enterprises got a favourable advance ruling order on a particular issue from the Authority for Advance Ruling, Rajasthan. The application was filed by HydroCool Enterprises through its registered place of business in Rajasthan.

In the month of March, as the financial year drew to a close, HydroCool Enterprises launched a special performance-linked incentive scheme to motivate its sales team. Under this scheme, each employee who achieved the targeted sales milestone was rewarded with a total incentive payment of ₹ 75,000. The incentive was part of the employees' salary structure, formed part of employment remuneration and was subject to applicable tax deduction at source (TDS) under the Income-tax Act.

HydroCool Enterprises intended to transfer the business as going concern to Dhruv & Sons (DS) on 31<sup>st</sup> March. As per the terms of transfer, HydroCool Enterprises will transfer all the business assets worth ₹ 15,00,000 and all the liabilities valued at ₹ 20,00,000. Balance of ITC as on 31<sup>st</sup> March is ₹ 40,000.

Based on the facts of the case scenario given above, choose the most appropriate answer to Q. Nos. 7 to 11 below:

7. Determine the value of water coolers supplied in January by HydroCool Enterprises to ChillPure Traders.
  - (a) ₹ 2,50,000
  - (b) ₹ 2,52,000
  - (c) ₹ 2,40,000
  - (d) ₹ 2,60,000
8. Time of supply of the data backup and database access services provided by Apexion Innovations is:
  - (a) 21<sup>st</sup> February
  - (b) 25<sup>th</sup> February
  - (c) 28<sup>th</sup> February
  - (d) 1<sup>st</sup> March

9. In case of transfer of business to DS, what is the amount of input tax credit which shall stand transferred to DS?
- (a) ₹ 20,000
  - (b) ₹ 40,000
  - (c) Nil. In case of partnership firm input tax credit cannot be transferred on account of transfer of business.
  - (d) Nil as the value of liabilities is more than the value of assets.
10. Which of the following statements is correct with respect to incentive paid to the employees in March?
- (a) GST is payable on incentive since the incentive is linked to sales performance and constitutes consideration for supply of services by employee.
  - (b) GST is payable on incentive since incentives are not covered under Schedule III.
  - (c) GST is not payable on incentive since it is covered under Schedule III.
  - (d) GST is payable on incentive since the incentive amount exceeds ₹ 50,000 per employee in a financial year.
11. In relation to the advance ruling order received by HydroCool Enterprises in Rajasthan,
- (a) the order is binding on HydroCool Enterprises only in Rajasthan but on jurisdictional officers across all registrations of the firm in India.
  - (b) the order is binding on HydroCool Enterprises across all States in India.
  - (c) the order is binding on HydroCool Enterprises and the jurisdictional officer, in Rajasthan.
  - (d) the order is binding on HydroCool Enterprises and the jurisdictional officers across all registrations of the firm in India.

12. Bharti Company imported goods valued at ₹ 10,00,000 vide a Bill of Entry presented before the proper officer on 15<sup>th</sup> July on which date the rate of customs duty was 20%. The proper officer decided that the goods should be subject to chemical or other test and therefore, the same were provisionally assessed at a value of ₹ 10,00,000 and Bharti company paid provisional duty of ₹ 2,00,000 on the same date. Bharti Company wants to voluntarily pay duty of ₹ 1,50,000 on 20<sup>th</sup> August.

The amount of interest payable under section 18 of the Customs Act, 1962 is \_\_\_\_\_ assuming that the payment of ₹ 1,50,000 as stated above is made on 20<sup>th</sup> August, and that the final duty is assessed on 31<sup>st</sup> August at ₹ 4,00,000 and the balance duty is paid on the same day.

- (a) Nil  
 (b) ₹ 3,144  
 (c) ₹ 1,274  
 (d) ₹ 4,418
13. Earthovia Ltd., a registered entity under GST in the State of Maharashtra, is engaged in making various supplies. It provides the following information for the month of April:

S. No.	Particulars	Amount (₹)
	<b>OUTWARD SUPPLY:</b>	
(i)	Information technology services provided to unrelated clients located in foreign countries. In all cases, the consideration has been received in convertible foreign exchange	20,00,000
(ii)	Supplied 50 bluetooth speakers at Hyderabad to the State Government of Telangana.	8,00,000
	Charging cables mandatorily required for charging the bluetooth speakers were also supplied along with these speakers.	72,000

(iii)	Provided intra-State service as a Direct Selling Agent (D.S.A.) to Ujval Growth Small Finance Bank Limited for their retail loan products	3,80,000
(iv)	Passenger transportation service provided to tourists by the company owned ferries between two islands in the State of Maharashtra for tourism purpose.	1,20,000
(v)	Supplied goods to its agent in the State of Bihar. Open market value of the said goods were ₹ 3,00,000. The said agent is supplying goods of like kind and quality to his unrelated customer at ₹ 3,20,000.	
	<b>INWARD SUPPLY:</b>	
(i)	Purchased silk yarn (to be used as raw material) from Mr. Subhash, who manufactures silk yarn from raw silk. Mr. Subhash is registered in the State of Maharashtra.	4,00,000
(ii)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials. The company claimed depreciation under the Income-tax Act on the value of new truck purchased including all applicable taxes.	14,00,000
(iii)	Fees paid to a Chartered Accountant - Mr. Prashant, registered in Gujarat (₹ 35,000 for the statutory audit of preceding financial year and ₹ 25,000 for certification work.)	2,00,000

The company provided the following additional information:

- (i) Earthovia Ltd. wishes to choose the most beneficial option in respect of supply to agent and branch transfer.
- (ii) Earthovia Ltd. transferred certain taxable items to its Kerala branch for distributing as free samples on the occasion of inauguration of said branch which is yet to be registered. Value declared in the invoice for transfer was ₹ 2.50 lakh whereas open market value of

the same was ₹ 3 lakh. Kerala branch has yet not sold such kind of goods to any of the customer.

- (iii) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except charging cable for which the rates of CGST, SGST and IGST are 2.5%, 2.5% and 5% respectively.
- (iv) All the amounts given above are exclusive of taxes, wherever applicable.
- (v) No inward supply is used for non-business purpose.
- (vi) There was no opening balance of any ITC.

From the information given above, you are required to compute the eligible Input Tax Credit (ITC) available and minimum net GST liability payable in cash (CGST, SGST or IGST, as the case may be) for the month of April for the Earthovia Ltd., Maharashtra.

14. 'XYZ', a statutory body, deals with the all the advertisement and publicity of the Government. It has issued a release order to 'Buzz Box' TV channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Government in the month of September. The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'E'. The total value of the service contract entered into between 'Buzz Box' and 'XYZ' is ₹ 10,00,000 (exclusive of GST).

You are required to determine the place of supply of the services in the instant case as also the value of supply attributable to the States of 'A', 'B', 'C', 'D' and 'E'.

Further, compute the GST liability [CGST & SGST or IGST, as the case may be] of 'Buzz Box' as also advise it as to whether it should issue one invoice for the entire contract value or separate State-wise invoices.

The other relevant information is given hereunder:

**Table 1**

States	Viewership figures of 'Buzz Box' TV channel in the last week of June as provided by the Broadcast Audience Research Council
A	50,000
B + C	1,00,000
D + E	50,000

**Table 2**

States	Population as per latest census (in crores)
A	50
B	180
C	20
D	100
E	25

The applicable rate of tax is as under:

CGST	SGST	IGST
9%	9%	18%

15. Sattva & Associates is a supplier of taxable goods. It has entered into a contract to supply a consignment of certain taxable goods. However, since it is unable to determine the value of the goods to be supplied by it, it applies for payment of tax on such goods on a provisional basis along with the required documents in support of its request.

On 12<sup>th</sup> January, the Assistant Commissioner of Central Tax issues an order allowing payment of tax on provisional basis indicating the value on the basis of which the assessment is allowed on provisional basis and the amount for which the bond is to be executed and security is to be furnished.

Sattva & Associates complies with the same and supplies the goods on 25<sup>th</sup> January thereafter paying the tax on provisional basis in respect of said consignment on 19<sup>th</sup> February.

Consequent to the final assessment order passed by the Assistant Commissioner of Central Tax on 21<sup>st</sup> March, a tax of ₹ 1,80,000 becomes due on the consignment.

Sattva & Associates pays the tax due on 9<sup>th</sup> April. Determine the interest payable, if any, by Sattva & Associates in the above case.

Assuming all the other facts remaining the same, if consequent to the final assessment order passed on 21<sup>st</sup> March, a tax of ₹ 4,20,000 becomes refundable on the consignment, refund of which is applied by Sattva & Associates on 9<sup>th</sup> April and tax was refunded to it on 5<sup>th</sup> June, determine the interest receivable, if any, by Sattva & Associates in the given case.

16. PrimeAxis Ltd. and BluePeak Ltd., two well-established manufacturing companies registered under GST in the State of Maharashtra, decided to strengthen their market presence by merging their operations. After following due legal procedures, they filed an application for merger before the Court. On 22<sup>nd</sup> May, the Court passed an order approving the merger, stating that it would take effect retrospectively from 1<sup>st</sup> April. However, an important transaction had already taken place on 15<sup>th</sup> May, wherein PrimeAxis Ltd. supplied a consignment of taxable goods to BluePeak Ltd.

The accountant of PrimeAxis Ltd. took the view that no GST was payable on this transaction. According to him, since the merger was effective from 1<sup>st</sup> April (as per the Court's order), both companies were deemed to be one entity from that date. Therefore, the transfer of goods on 15<sup>th</sup> May does not qualify as "supply" under GST. You are required to assess the technical veracity of the claim of the accountant of PrimeAxis Ltd.

17. Briefly illustrate the specific categories of services notified under section 9(5) the tax on supplies of which is payable by the electronic commerce operator (ECO) if such services are supplied through it.
18. David Ltd. is the manufacturer of semi-conductors in the State of Gujarat. It imported machinery by air from France for making sub parts

to be used in assembling of semi-conductor. The following particulars are furnished by it:

S. No.	Particulars	Amount US \$
i	CIF value of the machinery	50,000
ii	Freight paid (Air)	12,500
iii	Insurance charges	2,500

Additional information:

- (i) Design and patent charges of USD 2000 was required to be paid in France, which is not included in CIF value given above.
- (ii) Date of filing the Bill of entry was 24<sup>th</sup> September and the rate of exchange notified by CBIC on this date was ₹ 80 per US \$.
- (iii) Date of arrival of aircraft was 20<sup>th</sup> October and the rate of exchange notified by CBIC on this date was ₹ 84 per US \$.

From the above information, you are required to compute the assessable value under the Customs Act, 1962.

19. SuperArc Paper Mills Ltd. imported 500 tons of bamboo pulp paper rolls on 5<sup>th</sup> April. It warehoused the said rolls in its private bonded warehouse, as per the order dated 15<sup>th</sup> April permitting deposit of the said goods in warehouse for 5 months. The rate of customs duty applicable on the date of deposit was 5%.

SuperArc Paper Mills Ltd. filed an application for extension of warehousing period on 10<sup>th</sup> September which was rejected. So, an 'ex-bond bill of entry' was filed on 4<sup>th</sup> October claiming nil customs duty since the rate of customs duty on bamboo pulp paper rolls was exempted by virtue of an exemption notification with effect from 2<sup>nd</sup> October and valid till 15<sup>th</sup> October.

On 17<sup>th</sup> October under section 72 of the Customs Act, 1962, a notice has been issued to the company demanding customs duty @ 7.5%, rate being effective on the date of issue of notice along with interest.

You are required to determine the technical veracity of claim of SuperArc Paper Mills Ltd. and notice issued by the proper officer.

Explain in brief the relevant provisions of the Customs Act, 1962. Rates of customs duty mentioned here represents rates of basic customs duty.

20. Aurex Global Industries Ltd. imported certain machinery, and the customs authorities passed an assessment order determining the duty payable. Aurex Global Industries Ltd. was of the view that excess duty had been levied due to an incorrect classification adopted in the assessment order. However, Aurex Global Industries Ltd. paid the duty under protest. Subsequently, the company filed a refund application contending that the duty had been wrongly assessed and excess duty had been collected.

With reference to the principles laid down in a decided case law, if any, examine whether the refund claim filed by Aurex Global Industries Ltd. is maintainable in law.

### SUGGESTED ANSWERS

Question No.	Answer
1.	(b) (ii), (iii) and (iv)
2.	(b) CGST - ₹ 1,48,500, SGST - ₹ 1,48,500 and IGST- ₹ 6,84,000
3.	(c) CGST - ₹ 1,250, SGST - ₹ 1,250 and IGST- ₹ 5,000
4.	(d) CGST - Nil, SGST - Nil and IGST - Nil
5.	(a) CGST - ₹ 1,31,000, SGST - ₹ 1,01,000 and IGST- ₹ 7,43,700
6.	(b) Kerala, IGST- ₹ 1,08,000
7.	(b) ₹ 2,52,000
8.	(a) 21 <sup>st</sup> February
9.	(b) ₹ 40,000
10.	(c) GST is not payable on incentive since it is covered under Schedule III of the CGST Act, 2017.

11.	(c) the order is binding on HydroCool Enterprises and the jurisdictional officer, in Rajasthan.
12.	(d) ₹ 4,418

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

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	<b>Output tax liability</b>				
(i)	Information technology services provided to unrelated clients located in foreign countries. [The activity is an export of service in terms of section 2(6) of the IGST Act, 2017 as- <ul style="list-style-type: none"> <li>• the supplier of service is located in India;</li> <li>• the recipient of service is located outside India;</li> <li>• place of supply of service is outside India (in terms of section 13(2) of the IGST</li> </ul>	20,00,000	-	-	Nil

	<p>Act, 2017);</p> <ul style="list-style-type: none"> <li>• payment for the service has been received in convertible foreign exchange or in Indian rupees wherever permitted by the RBI; and</li> <li>• supplier of service and recipient of service are not merely establishments of distinct person.</li> </ul> <p>Export of services is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero-rated supply can be supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.<sup>1</sup>]</p>				
(ii)	Supply of 50 bluetooth speakers	8,72,000 [8,00,000 + 72,000]	-	-	1,56,960 [8,72,000 × 18%]

<sup>1</sup> It is assumed that export has been made under LUT.

	<p>[It is an inter-State supply since place of supply here is the location where the movement of goods terminates, viz. Hyderabad.</p> <p>Further, supply of bluetooth speaker with charging cable is a composite supply, chargeable to tax at the rate applicable to the principal supply (viz. supply of bluetooth speakers) i.e., 18%.]</p>				
(iii)	<p>Intra-State supply as Direct Selling Agent (DSA)</p> <p>[Taxable under forward charge. Reverse charge mechanism is not applicable since services are provided by a body corporate and not by an individual DSA.]</p>	3,80,000	34,200 [3,80,000 × 9%]	34,200 [3,80,000 × 9%]	-
(iv)	<p>Passenger transportation service</p>	1,20,000	10,800	10,800	-

	<p>[Passenger transportation service provided for tourism purpose, in a vessel between places located in India is taxable.</p> <p>Further, the place of supply of passenger transportation service to an unregistered person, shall be the place where the passenger embarks on the conveyance for a continuous journey. Thus, in the given case, place of supply is Maharashtra.]</p>				
(v)	<p>Supply of goods to an agent [Value of inter-State supply of goods to agent shall be: (i) Open Market Value (₹ 3,00,000) or (ii) 90% of the</p>	2,88,000	-	-	<p>51,840 [2,88,000 × 18%]</p>

	price of goods of like kind and quality charged by recipient to unrelated customer [₹ 2,88,000 (3,20,000 × 90%)], at the option of supplier, in terms of rule 29 <sup>2</sup> ].				
(vi)	Inter-State transfer of taxable items to Kerala branch [Since recipient is not eligible for full ITC and goods are not intended for further supply as such by the recipient, value of supply of goods to branch shall be open market value, in terms of rule 28.]	3,00,000	-	-	54,000 [3,00,000 × 18%]
	<b>Total output tax</b>		<b>45,000</b>	<b>45,000</b>	<b>2,62,800</b>
	Less: ITC available		36,000	36,000	36,000

<sup>2</sup> Since the company wishes to choose most beneficial option, least of the two values has been taken.

	for set off [Refer note below]				
	Net GST payable		9,000	9,000	2,26,800
	Add: GST payable under reverse charge [Tax on silk yarn purchased by a registered person from any person who manufactures silk yarn from raw silk.]		36,000	36,000	
	<b>Minimum net GST payable in cash</b>		<b>45,000</b>	<b>45,000</b>	<b>2,26,800</b>

**Note - Computation of eligible ITC available for set off**

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	Silk yarn purchased [Intra-State supply since place of supply is location where movement of goods terminates, viz. Maharashtra. Further, ITC	4,00,000	36,000 [4,00,000 × 9%]	36,000 [4,00,000 × 9%]	-

	on goods to be used in course or furtherance of business is available.]				
	Truck purchased [ITC of truck purchased is not available in terms of section 17(5) since depreciation has been claimed on the GST component.]	14,00,000	-	-	-
	Fees paid to a Chartered Accountant [It is inter-State supply since place of supply is Maharashtra. Further, services of the Chartered Accountant are being used in the course/furtherance of business and	2,00,000	-	-	36,000 [2,00,000 × 18%]

	thus, credit of input tax paid on such service is available.]				
	<b>Eligible ITC available for set off</b>		<b>36,000</b>	<b>36,000</b>	<b>36,000</b>

14. As per section 12(14) of the IGST Act, 2017, the place of supply of 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 is taken as being in each of such States or Union territories (where the advertisement is broadcasted/ run /played/disseminated).

Therefore, in the given case, the place of supply of advertisement service is in the States of 'A', 'B', 'C', 'D' and 'E'.

The value of the supply of such advertisement services specific to each State/Union territory is in proportion to the amount attributable to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard.

In the absence of such a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/run/played/ disseminated) is computed in accordance with rule 3 of the IGST Rules, 2017.

As per rule 3(f) of the IGST Rules, 2017, in the case of advertisement on television channels, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely: -

- (i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;

- (ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter;
- (iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;
- (iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Therefore, value of supply attributable to 'A', 'B', 'C', 'D' and 'E', will be computed as under:

States	Viewership figures of 'Buzz Box' TV channel as provided by the Broadcast Audience Research Council in the last week of June	Viewership ratio of 'Buzz Box' TV channel in the States 'A', ('B' + 'C') and ('D' + 'E')	Proportionate value of advertisement services for States 'A', ('B' + 'C') and ('D' + 'E')
A	50,000	50,000: 1,00,000: 50,000 = 1:2:1	₹ 10,00,000 x 1/4 = ₹ 2,50,000
B + C	1,00,000		₹ 10,00,000 x 2/4 = ₹ 5,00,000
D + E	50,000		₹ 10,00,000 x 1/4 = ₹ 2,50,000

States	Population as per latest census (in crores)	Population ratio in the States 'B' & 'C' and 'D' & 'E'	Proportionate value of advertisement services in the States 'A', 'B', 'C', 'D' & 'E'
A	50		₹ 2,50,000

B	180	B:C = 180:20 = 9:1	₹ 5,00,000 x 9/10 = ₹ 4,50,000
C	20		₹ 5,00,000 x 1/10 = ₹ 50,000
D	100	D:E = 100:25 = 4:1	₹ 2,50,000 x 4/5 = ₹ 2,00,000
E	25		₹ 2,50,000 x 1/5 = ₹ 50,000

Since there are five different places of supply in the given case, 'Buzz Box' channel will have to issue five separate invoices for each of the States namely, 'A', 'B', 'C', 'D' & 'E' indicating the value pertaining to that State. The GST liability of 'Buzz Box' channel will, therefore, be worked out as under:

**Computation of GST liability of 'Buzz Box' TV channel**

States	Proportionate value of advertisement services (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
A	2,50,000	22,500	22,500	
B	4,50,000			81,000
C	50,000			9,000
D	2,00,000			36,000
E	50,000			9,000

Only in case of supply of services in State 'A', the location of supplier (State 'A') and the place of supply are in the same State, hence the same is an intra-State supply in terms of section 8(1) of the IGST Act, 2017 and is thus, liable to CGST and SGST. In all the remaining cases of supply of services, the location of the supplier (State 'A') and the places of supply (States 'B', 'C', 'D' & 'E') are in two different States, hence the same are inter-State supplies liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

15. Section 60(4) stipulates that where the tax liability as per the final assessment is higher than under provisional assessment i.e. tax becomes due consequent to order of final assessment, the registered person shall be liable to pay interest on tax payable on supply of goods but not paid on the due date, at the rate specified under section 50(1) [18% p.a.], from the first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.

In the given case, due date for payment of tax on goods cleared on 25<sup>th</sup> January under provisional assessment is 20<sup>th</sup> February.

In view of the provisions of section 60(4), in the given case, Sattva & Associates is liable to pay following interest in respect of the consignment of goods supplied:

$$= ₹ 1,80,000 \times 18\% \times 48/365$$

$$= ₹ 4,261 \text{ (rounded off)}$$

If, in the given case, it is assumed that consequent to the final assessment order passed on 21<sup>st</sup> March, a tax of ₹ 4,20,000 becomes refundable to Sattva & Associates, answer would be as follows:

Section 60(5) stipulates that where the tax liability as per the final assessment is less than in provisional assessment i.e. tax becomes refundable consequent to the order of final assessment, the registered person shall be paid interest at the rate specified under section 56 [6% p.a.] from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.

However, since in the given case, refund has been made (05<sup>th</sup> June) within 60 days from the date of receipt of application of refund (09<sup>th</sup> April), interest is not payable to Sattva & Associates on tax refunded.

16. As per section 87, when two or more companies are merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two

or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

For the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order. The registration certificates of the said companies shall be cancelled with effect from the date of the said order.

Thus, in the given case, then such transactions of supply and receipt shall be included in the turnover of supply and receipt of PrimeAxis Ltd. and BluePeak Ltd. respectively and they shall be liable to pay tax accordingly.

- 17.** *Notification No. 17/2017 CT (R) dated 28.06.2017* as amended has notified the following categories of services supplied through electronic commerce operator (hereinafter referred as ECO) for this purpose –
- (a) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, or any other motor vehicle except omnibus;
  - (b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company\*\*.
  - (c) 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).
  - (d) Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through

electronic commerce operator is liable for registration under sub-section 22(1).

- (e) Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
- (f) Services by way of local delivery except where the person supplying such services through electronic commerce operator is liable for registration under section 22(1).

*\*\*The tax on services by way of transportation of passengers by an omnibus provided by a company through ECO is not payable by ECO. It will be payable by the company itself.*

**18. Computation of assessable value of machinery**

Particulars	Amount in \$
CIF price of the machine	50,000
Less: Freight	12,500
Less: Insurance	<u>2,500</u>
	<b>35,000</b>
Add: Design and patent charges paid in France (Note-1)	<u>2,000</u>
FOB value for customs	37,000
Add: Freight (Note-2)	7,400
Add: Insurance (Actual)	<u>2,500</u>
CIF value for customs purpose	46,900
<b>Assessable value</b> in rupees [46,900 × 80] (Note-3)	<b>37,52,000</b>

**Notes**

1. Design and engineering work undertaken elsewhere than in India and necessary for the production of the imported goods is includible in the assessable value [Rule 10(1)(b)(iv) of the Customs (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred as CVR)].

2. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the CVR].
  3. The rate of exchange notified by the CBIC on the date of presentation of bill of entry has been considered [Section 14 of the Customs Act, 1962].
- 19.** As per section 72 of the Customs Act, 1962, the proper officer may demand, the full amount of duty chargeable on account of warehoused goods together with interest, fine and penalties payable in respect of such goods, where any warehoused goods have not been removed from a warehouse at the expiration of the period during which such goods are permitted.

In case of *Kesoram Rayon v. CC 1996 (86) ELT 464 (SC)*, it was held that goods which are not removed from the warehouse after the expiry of the period permitted for warehousing or extended, are deemed to be improperly removed in terms of section 72. The rate of duty applicable in such case will be the rate in force on the date of deemed removal, i.e. the date on which the permitted period or its permitted extension comes to an end. When the demand notice is issued is not relevant for determining the rate of duty. Section 15(1)(b) has no application in such cases where the goods are removed from warehouse beyond the permitted period of warehousing; it is applicable only to the cases where a bill of entry is presented for removal from warehouse under section 68, i.e. only when goods are cleared from the warehouse within the permitted period or its permitted extension.

In the given case, the date of deemed removal will be 15<sup>th</sup> September, being 5 months from 15<sup>th</sup> April. Accordingly, the applicable rate of duty will be 5%.

Hence, neither SuperArc Paper Mills Ltd. nor the proper officer is correct.

- 20.** No, the refund claim filed by Aurex Global Industries Ltd. is not maintainable in law. In the case of *Priya Blue Industries Limited v. CCus. (Preventive) 2004 (172) ELT 145 (SC)*, Supreme Court ruled that unless an assessment order has been reviewed and/or modified in an appeal, that

assessment order stands. Duty is payable only as per that assessment order. A refund claim is not an appeal proceeding. Further, the officer considering the refund claim, cannot review the assessment order. Thus, refund claims based on challenge to an order of assessment are liable to be rejected.

In view of the above ruling of the Supreme Court, refund claims based on challenge to an order of assessment are liable to be rejected.

Appeal should be filed and not a refund claim when adjudication order has been issued or even when self-assessment is made. An adjudication order should be appealed against, if assessee is aggrieved by adjudication order. The order cannot be challenged by filing refund application.