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INDIRECT TAX LAWS

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INDIRECT TAX LAWS

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SOURCE OF QUESTIONS

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INDIRECT TAX LAWS

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Part II: CUSTOMS & FTP

Chapter	SM	Past Papers	RTP	MTP
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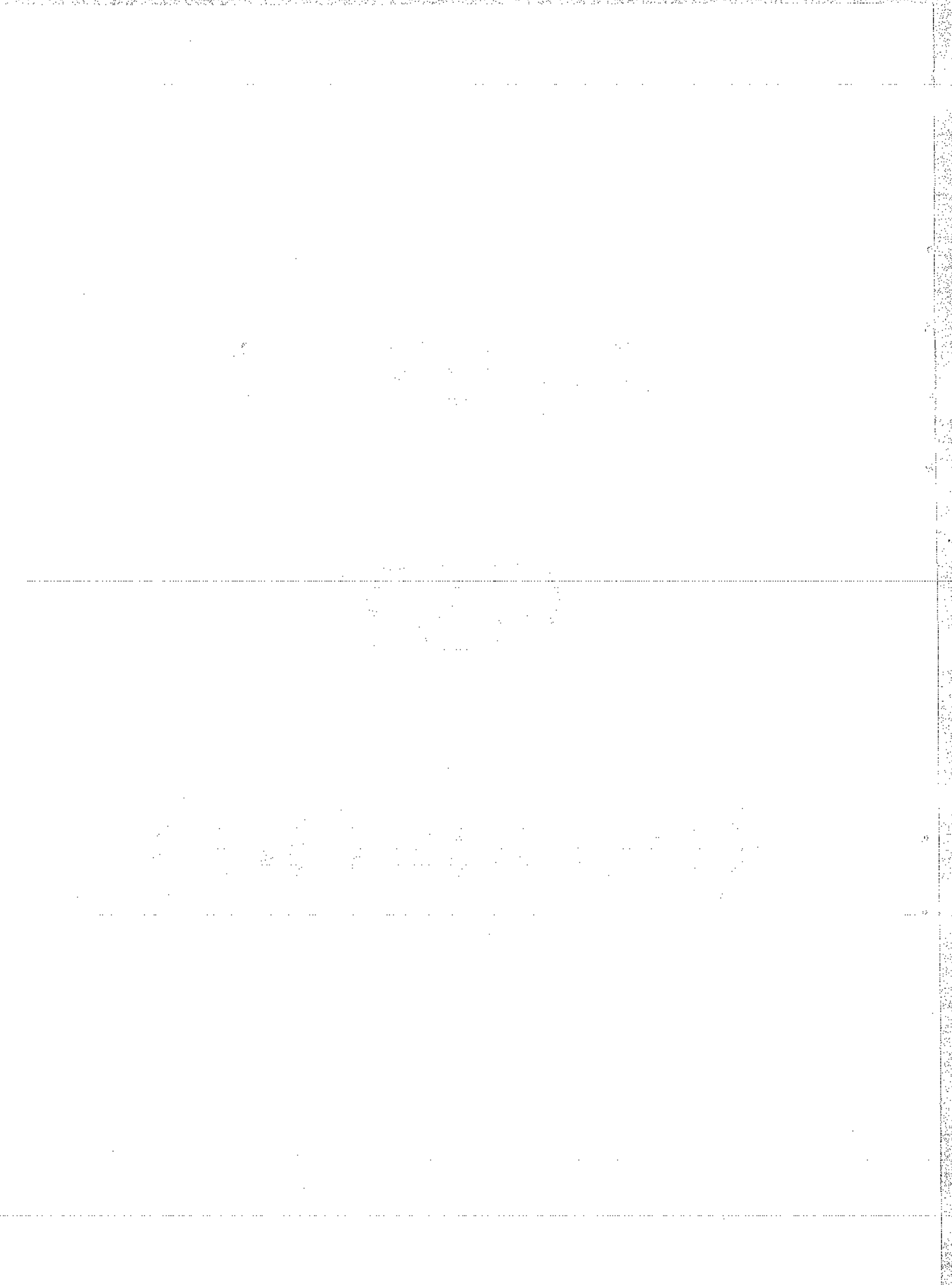
PART - I

GST

(80 Marks)



CHAPTER - 1
Supply under GST

Basics of Supply

Question 1

(a) Rudraksh Kapoor, owner of Rudraksh Publishing House, Ghaziabad, U.P., donated some money to a Divyaprakash Charitable Trust in the memory of his late father. The Divyaprakash Charitable Trust constructed a room in the school run by it from such donation and wrote "Donated by Rudraksh Kapoor in the memory of his father" on the door of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.

(b) In the above question, if the Divyaprakash Charitable Trust had written on the door of the room constructed in the school run by it from the money donated by Rudraksh Kapoor "Donated by Rudraksh Publishing House, Ghaziabad, U.P.", would given transaction/activity qualifies as supply.

Answer

In case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premises, in such a manner, which can be said to be an **expression of gratitude** and public recognition of donor's act of philanthropy and is **not aimed at giving publicity to the donor** in such manner that it would be an advertising or promotion of his business, then it can be said that there is **no supply of service** for a consideration (in the form of donation). Donations received by the charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Thus, **GST is not leviable** where all the **following three conditions are satisfied** namely:

- Gift or donation is made to a **charitable organization**
- Payment has the character of **gift or donation**
- **Purpose is philanthropic** (i.e., it leads to no commercial gain) and **not advertisement.**

(a) In the backdrop of the above discussion, since in the given case, the way the name of Rudraksh Kapoor is displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, **it is only an expression of gratitude** and public recognition of Rudraksh's act of philanthropy **and is not aimed at advertising** or promoting his business. There is no reference/mention of his publishing house which otherwise would have got advertised.

Thus, the money donated by Rudraksh Kapoor is **not a leviable to GST.**

(b) In the given case, since the name of Rudraksh Publishing House has been displayed on the door of the room constructed in the school run by Divyaprakash Charitable Trust, it might be **aimed at advertising or promoting his business.** There is a **direct mention of his publishing house** which is being **advertised.** In such a case, it is a **supply of service by Divyaprakash Charitable Trust for a consideration received in the form of donation.**

Schedule I, II, III

Question 2

Answer the following questions:

(a) Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers.

Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act.

(b) Prithvi Enterprises appoints Champak to procure certain goods from the market. Champak identifies various suppliers who can provide the goods as desired by Prithvi Enterprises, and asks a supplier – Satya Manufacturers to send the goods and issue invoice directly to Prithvi Enterprises.

You are required to determine whether Champak can be considered as an agent of Prithvi Enterprises in terms of Schedule I of the CGST Act.

Answer

(a) As per section 7(1)(c) read with **Schedule I** of the CGST Act, **permanent transfer or disposal of business assets is treated as supply even** though the same is made **without consideration.** However, this provision would **apply only if input tax credit has been availed** on such assets. Therefore, the disposal of computers by Sudama Associates is **not a supply as the input tax credit has not been availed on the same.**

(b) As per section 7(1)(c) read with **Schedule I** of the CGST Act, **supply of goods by an agent to his principal** where the agent undertakes to receive such goods on behalf of the principal **qualifies as supply even** if the same is made **without consideration.** Further, Circular No. 57/31/2018 GST dated 04.09.2018 clarifies that principal-agent relationship falls within the ambit of the Schedule I only where the goods being procured by the agent on behalf of the principal are **invoiced in the name of the agent.** In that case, further provision of the said goods by the agent to the principal without consideration, would be covered in Schedule I and thus would **qualify as supply.**

In the given case, Champak is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. The **invoice is being issued in the name of Prithvi Enterprises and not Champak.** Hence, Champak is not an agent of Prithvi Enterprises for the supply of goods in terms of Schedule I of the CGST Act.

Question 3

Mokshabhumi Industries has its manufacturing unit in the State of Maharashtra. It stores the finished goods manufactured by it at a depot located in the State of Gujarat. The depot is owned by Punyabhumi Ltd. – a related person of Mokshabhumi Industries. Punyabhumi Ltd. has not charged any consideration from Mokshabhumi Industries for usage of depot for storage purpose. Whether the storage of goods permitted by Punyabhumi Ltd. to Mokshabhumi Industries qualifies as supply under GST?

Answer

As per section 7(1)(c) read with **Schedule I** of the CGST Act, **supply** of goods or services or both **between related persons without consideration** when made **in the course** or furtherance **of business qualifies as supply.** Thus, the storage services provided by Punyabhumi Ltd. to Mokshabhumi Industries in course or furtherance of business qualifies as supply under GST even though no consideration has been charged for the same.

Question 4

Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures taxable products. The firm also provides taxable consultancy services.

Mr. Rajesh Surana has provided the consultancy service to his brother – Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges ₹ 3,00,000 for providing similar consultancy services to other independent customers located in USA.

Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

Answer

Consultancy service to Mr. Akhilesh Surana (located in USA) has been provided without any consideration. Activity without consideration is not a supply in terms of section 7(1)(a) of the CGST Act, 2017. However, **Schedule I** to the CGST Act, 2017 enlists the activities to be treated as supply even if made without consideration. Accordingly, Para 2 of Schedule I treats **supply** of goods or services or both **between related persons or between distinct persons** as specified in section 25, when made **in the course** or furtherance **of business as a supply even if made without consideration.**

However, a **brother who is not dependant** on the person supplying the service, does **not come within** the purview of term **family** as defined under section 2(49) of the CGST Act, 2017 and hence, is **not a related person.** Therefore, the export of service to an independent brother without any consideration will not fall under para 2. of the Schedule I to CGST Act, 2017. Hence, the **activity is not a supply and** is thus, **not liable to any tax.**

Question 5

Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:

a. Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.

b. Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.

Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Answer

a. **Schedule I**, inter alia, stipulates that **supply** of goods or services or both **between related persons or between distinct persons** as specified in section 25, **is supply even without consideration** provided it is made **in the course** or furtherance **of business.** Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons [Section 25(4)].

In view of the same, **factory and depot** of Sulekha Manufacturers **are distinct persons.** Therefore,

supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply u/s 7 read with Schedule I.

b. **Schedule I** of CGST Act, inter alia, stipulates that **import of services by a taxable person from a related person located outside India, without consideration is treated as supply if** it is provided **in the course** or furtherance **of business.** Explanation to section 15, inter alia, provides that persons shall be deemed to be **"related persons" if they are members of the same family.** Further, as per section 2(49) of the CGST Act, 2017, **family means**,

i. the **spouse and children** of the person, and

ii. the **parents, grand-parents, brothers and sisters** of the person if they are **wholly or mainly dependent** on the said person.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, **Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman.** Further, Raman has **taken legal advice from him in personal matter** and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would **not be treated as supply** under section 7 of the CGST Act read with Schedule.

In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would **still not be treated as supply** under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have **not been received from a related person.**

Question 6

Chandragupta Maurya is an artist who makes contemporary paintings. He is registered in Kolkata. Chandragupta Maurya appoints Dhruv Kumar to auction his painting in Maharashtra. Dhruv Kumar arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by Dhruv Kumar on the behalf of Chandragupta Maurya but in his own name and painting is delivered to the successful bidder.

Examine whether Dhruv Kumar can be considered as an agent of Chandragupta Maurya under Para 3 of Schedule I of the CGST Act, 2017.

Answer

An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, **supply of goods by a principal to his agent** where the agent undertakes to supply such goods **on behalf of the principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name** [Section 7(1)(c) read with Para 3 of Schedule I of the CGST Act, 2017].

Circular No. 57/31/2018 GST dated 04.09.2018 provides that where the invoice for further supply of goods is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3 of Schedule I

In the given case, **Dhruv Kumar is not merely providing auctioneering services** to Chandragupta Maurya, but is **also supplying painting on behalf of Chandragupta Maurya** to the successful bidder **and has the authority to transfer title** of painting on behalf of Chandragupta Maurya. **Dhruv Kumar**

issued the invoice in his own name for supply of painting on behalf of Chandragupta Maurya. Thus, **Dhruv Kumar can be considered as an agent of Chandragupta Maurya** under Para 3 of Schedule I.

Question 7

Angad Private Ltd. is engaged in the business of distribution of construction material. As an incentive, Angad Private Ltd. pays an amount of ₹ 75,000 to its employees upon achieving a specified sales target. The incentive is part of the salary of the employees and applicable tax is deducted at source as per relevant income tax provisions. Angad Private Ltd. is of the view that GST is not leviable on such incentive paid to the employees. Whether the view taken by Angad Private Ltd. is correct?

Answer

Yes, Angad Private Ltd.'s view is **correct.** In terms of section 7(2) read with **Schedule III** of the CGST Act, **services by an employee to employer** in the course of or in **relation to his employment shall not be treated as supply under GST.** Further, the amount paid as **incentive** by Angad Private Ltd. is **not in the nature of gift**, and thus, is **not covered under Schedule I** of the CGST Act. In fact, in the given case, the incentive is part of the salary and is directly linked to the sales target. Therefore, the services provided by the employees in return of the incentive given to them shall **not be treated as a "supply".**

In light of above discussion, **GST is not leviable on incentive** paid by Angad Private Ltd. to employees.

Question 8

Krishnadev is a trader based in India. Ramakrishna, brother of Krishnadev, is located in China and is also engaged in business of trading of goods. Krishnadev places an order with Ramakrishna for procurement of certain goods from local market in China. Before the shipment of goods from China to India, Krishnadev sold such goods to Christiano, a trader located in Brazil. The goods were subsequently shipped from China to Brazil. Comment on the taxability of transaction between Krishnadev and Christiano under GST in India.

Answer

The transaction between Krishnadev and Christiano is in the nature of merchant trading. As per **Schedule III** of the CGST Act, transactions involving **sale of goods from a place in non-taxable territory to another place in non-taxable territory, without such goods entering into India**, shall **not be treated as supply** under GST. Therefore, the transaction between Krishnadev and Christiano shall not be treated as supply and is thus **not leviable to GST.**

Question 9

Mohandas International entered into a transaction for import of goods from a vendor located in Italy. Due to financial issues, Mohandas International was not in a situation to clear the goods upon payment of import duty. Mohandas International sold the goods to Radhakrishnan Export House by endorsement of title to the goods, while the goods were in high seas. The agreement further provided that Mohandas International shall purchase back the goods in future from Radhakrishnan Export House. Discuss the taxability of transaction(s) involved, under the GST law.

Answer

As per **Schedule III** of the CGST Act, **high seas sale transactions** i.e. supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but **before clearance for home consumption** shall **not be considered as supply** under GST. Thus, the sale of goods by Mohandas International to Radhakrishnan Export House in high seas shall **not be liable to GST.**

Further, import duty including IGST shall be payable by Radhakrishnan Export House at the time of clearance of goods at port of import. In case the goods are sold back by Radhakrishnan Export House to Mohandas International at a subsequent point of time, same shall be treated as normal domestic sale transaction and GST shall be applicable on same subject to other conditions prescribed under GST Law.

Question 10

Mr. Zombi, a supplier registered in Hyderabad (Telangana), procures goods from China and directly supplies the same to a customer in US. With reference to the provisions of GST law, examine whether the said activity of supply of goods by Mr. Zombi to customer in US is taxable under GST. If yes, determine the place of supply of the same.

Answer

Schedule III to the CGST Act specifies transactions/activities which shall be neither treated as supply of goods nor supply of services. One of such activity/transaction is **supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.** Thus, it seeks to exclude from the tax net such transactions which involve movement of goods, caused by a registered person, from one non-taxable territory to another non-taxable territory.

Therefore, in view of the above-mentioned provisions, the said activity is **not a supply.** Hence, it is **not leviable to GST** since "supply" is the taxable event for chargeability of GST. Therefore, since the transaction is not leviable to GST, the question of place of supply does not arise in the given case.

Composite & Mixed Supply

Question 11

Sharma Carriers is a Good Transport Agency engaged in transportation of goods by road. As per the general business practice, Sharma carriers also provides intermediary and ancillary services like loading/unloading, packing/unpacking, transhipment and temporary warehousing in relation to transportation of goods by road. With reference to the provisions of GST law, analyse whether such services are to be treated as part of the GTA services, being a composite supply or as mixed supply.

Answer

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** [Section 2(30) of the 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** [Section 2(74) of the CGST Act, 2017].

The various intermediary and ancillary services provided by GTA are not provided as independent services but as ancillary to the principal service, namely, transportation of goods by road. The invoice issued by the GTA for providing the said service includes the value of intermediary and ancillary services. In view of this, if any **intermediary and ancillary service is provided in relation to transportation of goods** by road, and charges, if any, for such services are included in the invoice issued by Sharma Carriers, such service **would form part of the GTA service**, and thus **will be composite supply, and not a mixed supply** even though a single price is charged for the supply.

Further, if such incidental services are provided as separate services and are **billed separately**, whether in the same invoice or separate invoices, they will be **treated as separate supply and not composite supply** and there being no single price, the supply will also not be treated as mixed supply.

Question 12

Diligent Force, a professional training institute, gets its training material of 'Aptitute Quotient' printed from 'Durga Printing House' - a printing press. The content of the material is provided by the Diligent Force who owns the usage rights of the same while the physical inputs including paper used for printing belong to the Durga Printing House. Ascertain whether supply of training material by the Durga Printing House constitutes supply of goods or supply of services.

Answer

Circular No. 11/11/2017 has clarified that **supply of books printed with contents supplied by the recipient of such printed goods, is composite supply** and question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act, 2017 as 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.

In the case of printing of books where content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, **supply of printing** [of the content supplied by the recipient of supply] **is the principal supply** and therefore, such supplies would constitute supply of service.

Thus, in view of the above-mentioned provisions, the supply of training material by the Durga Printing House would **constitute supply of services.**

Question 13

Satyamev Printers is a printing house registered under GST. It receives an order for printing 5,000 copies of a book on yoga and meditation authored by a well-known yoga guru. The content of the book is to be provided by the yoga guru to Satyamev Printers. It is agreed that Satyamev Printers will use its own paper to print the said books.

You are required to determine the rate of GST applicable on supply of printed books by Satyamev Printers assuming that rate of GST applicable on printing services is 18% whereas the rate of GST applicable on supply of paper used in printing the books is 12%.

Answer

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.**

Circular No. 11/11/2017 has clarified that **supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies.**

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.

The above circular further clarifies that in the composite supply of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, **supply of printing** [of the content supplied by the recipient of supply] **is the principal supply and therefore such supplies would constitute supply of service.**

Accordingly, in the given case, the supply of printed books by Satyamev Printers is a composite supply wherein the principal supply is supply of printing services. Thus, the **rate of GST applicable thereon is the rate applicable on supply of printing services, i.e. 18%.**

Question 14

Shivaji Pvt. Ltd., a registered supplier, supplies the following goods and services for construction of buildings and complexes -

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

For a given month, the receipts (exclusive of GST) of Shivaji Pvt. Ltd. are as follows:

- Hire charges for excavators – ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator – ₹ 20,000
- Service charges for soil testing and seismic evaluation at three sites – ₹ 2,50,000

Compute the GST payable by Shivaji Pvt. Ltd. for the given month. Assume the rates of GST to be as under:

Hiring out of excavators – 12%

Supply of manpower services and soil-testing and seismic evaluation services – 18%

Answer

Computation of GST payable by Shivaji Pvt. Ltd.

Particulars	Value received (₹)	Rate of GST	GST payable (₹)
Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note 1]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note 2]	2,50,000	18%	45,000
GST liability			**2,63,400**

Notes:

1. Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of **composite supply** under section 2(30) wherein the **principal supply is the hiring out of the excavator.**

   As per section 8(a), the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the **rate applicable** for hiring out of the excavator (principal supply), which is **12%.**

2. Soil testing and seismic evaluation services being **independent** of the hiring out of excavator will be taxed at the rate applicable to them, which is **18%.**

Question 15

Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January:

(i) Supply of a laptop along with laptop bag to a customer of Mumbai for ₹ 55,000 (exclusive of GST).

(ii) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.

(iii) 100 kits are given as free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35. Input tax credit has not been taken on the goods contained in the kit.

(iv) Event management services provided free of cost to her brother (wholly dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000.

(v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017.

Assume rates of GST to be as under:

S.No.	Particulars	Rate of GST
1.	Laptop	18%
2.	Laptop bag	28%
3.	Hair oil	18%
4.	Beauty soap	28%
5.	Hair comb	12%

6.	Event management service	5%
7.	Service of renting of chairs and coolers	12%
8.	Transportation service	5%

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January and determine the rate of GST applicable on the same.

Answer

S.No.	Particulars	Rate of GST
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, supply of laptop bag along with laptop is a **composite supply** which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a). Accordingly, rate of principal supply, i.e. laptop will be charged.]	**18%**
(ii)	Supply of kits to Ram Fancy Store [It is a **mixed supply** and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b).]	**28%**
(iii)	Free gifts to customers [**Cannot be considered as supply** under section 7 read with Schedule I as the gifts are given to unrelated customers without consideration.]	**Nil**
(iv)	Event management services provided free of cost to her brother for his son's marriage shall be **considered as supply** as the services are being provided to a related person. Since it is an individual supply, it will be taxed at the rate applicable on said service.	**5%**
(v)	Chairs and coolers hired out to Function Garden [Transportation services provided by Mrs. Kajal are exempt. However, since chairs and coolers are hired out along with their transportation, it is a case of **composite supply** wherein the principal supply is hiring out of chairs and coolers. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers*]	**12%**

*Note: As per section 2(30) of the CGST Act, 2017, composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since **in point (v),** service of hiring out of chairs & coolers is taxable while transportation service is exempt, **it is possible to take a view that this is not a case of composite supply.** In that case, the **two services will be treated as independent services** and taxed accordingly.

Miscellaneous Circulars related to Supply

Question 16

Mr. Kanjilal Adani is an oil exploration & production contractor and is registered under GST in the State of Gujarat. He entered into a Production Sharing Contract (PSC) with Government of Gujarat wherein he gets a license to explore, exploit and sell the petroleum crude and/or natural gas from the Government in Aliabet Oilfield in lieu of royalty and a share in profit petroleum.

In the month of June, Mr. Kanjilal Adani explored the petroleum reserves at Aliabet Oilfield. He got a portion of the petroleum silt (non-taxable under GST) worth 3,00,000 as part of compensation. This petroleum silt is part of cost petroleum as per the contract entered with the Government.

Examine the taxability of the petroleum silt received by Mr. Kanjilal Adani under the GST law.

Answer

Compensation is received by Mr. Kanjilal Adani in the form of petroleum silt which, as per the contract with the Government of Gujarat, is part of cost petroleum.

As per Circular No. 32/06/2018, **the cost petroleum is not a consideration received** by the oil exploration & production contractors for the services provided to Government under a Production Sharing Contract (PSC) and thus not taxable per se. The reason for the same is that the contractors carry exploration and **production of petroleum for themselves and not as a service to Government**. They had acquired the right to explore, exploit and sell petroleum in lieu of royalty and a share in profit petroleum. Consequently, the cost petroleum received by Mr. Kanjilal Adani is **not taxable under GST.**

Question 17

Mr. Happy has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace surrenders his tenancy rights to Mr. Serene for a tenancy premium of 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of 1,00,000 to Mr. Happy (unregistered under GST) from June.

Determine the taxability of the transaction(s) involved in the given case, for the month of June.

Answer

Circular No. 44/2018 CT clarifies that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e. any lease, tenancy, easement, license to occupy land is a **supply of services.**

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST.

The transfer of tenancy rights cannot be treated as sale of land/building in Schedule III. Thus, it is not a non-supply under GST and consequently, a consideration for the said activity shall attract levy of GST. Services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in form of a portion of **tenancy premium is liable to GST**. Hence, in the given case, the tenancy premium of **10,00,000 received by Mr. Peace** for surrendering his tenancy rights to Mr. Serene **is liable to GST.**

The circular further clarifies that since renting of **residential dwelling for use as a residence to an unregistered person is exempt**, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both to an unregistered person is exempt. Consequently, **monthly rent 1,00,000 received by Mr. Happy from Mr. Serene is exempt.**

Question 18

Rob Shareholding Ltd., an approved intermediary, has entered into a transaction wherein certain securities were to be lent to Dhandhan Bank, under Securities Lending Scheme, 1997. Dhandhan Bank shall pay specified lending fee against such lending of securities to it. Explain the taxability of transactions involved in the Securities Lending Scheme, 1997.

Answer

Securities Lending Scheme, 1997 (hereafter referred to as SLS) facilitates the lending and borrowing of securities. **Securities are neither covered in the definition of goods nor covered in the definition of services.** Therefore, a **transaction in securities** which involves disposal of securities **is not a supply in GST and hence not taxable.**

However, **SLS doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services.** The lending fee charged from the borrowers of securities has the character of consideration and is **taxable under GST.** Apart from above, the **activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable** separately [Circular No. 119/38/2019 GST dated 11.10.2019].

CHAPTER - 2
Charge of GST

Reverse Charge Mechanism (RCM)

Question 1

Panini Private Limited agrees to sponsor a sports event organized by Pink City Club in Jaipur. Panini Private Limited has paid an amount of ₹ 50,00,000 for such sponsorship of the sports event. Consequently, said event was named after the brand name of Panini Private Limited. Examine who is the person liable to pay tax in the given case.

Answer

Notification no 13/2017 CT (R) dated 28.06.2017 as amended (hereinafter referred to as reverse charge notification), provides that **sponsorship services provided by any person to a body corporate or partnership firm located in the taxable territory, shall be liable to GST under reverse charge** in the hands of recipient.

In the present case, Pink City Club is the supplier of sponsorship services which is receiving the consideration in the form of sponsorship fee of ₹ 50,00,000 from Panini Private Limited, against the provision of sponsorship service. Since the recipient of sponsorship services- Panini Private Limited is a body corporate, the **tax on said services is payable by the recipient - Panini Private Limited, under reverse charge.**

Question 2

Arpan Singhania is a director in Narayan Limited. The company paid him the sitting fee amounting to ₹ 25,000, for the month of January. Further, salary was paid to Arpan Singhania amounting to ₹ 1.5 lakh for the month of January on which TDS was also deducted as per applicable provisions under Income-tax law. Tapasya & Associates, in which Arpan Singhania is a partner, supplied certain professional services to Narayan Limited in the month of January for an amount of ₹ 2 lakh. Discuss the person liable to pay tax in each of the supplies involved in the given case.

Answer

Sitting fee paid to director – As per reverse charge notification, tax on services supplied by a director of a company/body corporate to the said company/body corporate, located in the taxable territory, is payable under reverse charge. Hence, in the present case, the sitting fee amounting to 25,000, payable to Arpan Singhania by Narayan Limited, is liable to GST under reverse charge and thus, **recipient of service - Narayan Limited – is liable to pay GST** on the same.

Salary paid to director - As per Circular No.140/10/2020 GST dated 10.06.2020, the part of director's remuneration which is declared as salary in the books of a company and subjected to TDS under section 192 of the Income-tax Act, are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of **Schedule III.** Therefore, in the given case, the **salary received by Arpan Singhania of ₹ 1.5 lakh is not liable to GST.**

Services provided by Tapasya & Associates – Tapasya & Associates have rendered certain professional services to Narayan Limited. The fact that Arpan Singhania is a partner in Tapasya & Associates and a director in Narayan Limited does not have any impact on the taxability of the professional services

supplied by Tapasya & Associates to Narayan Limited. The professional services provided by Tapasya & Associates to Narayan Limited are liable to GST under forward charge and thus, **supplier - Tapasya & Associates – is liable to pay GST** on the same.

Question 3

M/s All-in-One, a partnership concern and a registered supplier under GST, is engaged in providing various services under one roof. The concern provides the following information pertaining to supply made/input services availed by it during the month of March 20XX:

	Particulars	₹
(i)	Provided Direct Selling Agent service to Y Bank Ltd.	4,00,000
(ii)	Provided security services to ABC P. Ltd., a registered person under GST	60,000
(iii)	Provided security services to PSR Trust, an unregistered person under GST	1,00,000
(iv)	Provided renting of motor vehicle to Amaze Tours Ltd. and supply value included cost of fuel	75,000
(v)	Provided renting of motor vehicle to Priti & Co., CA firm and supply value included cost of fuel	40,000
(vi)	Availed representational service from PB and Co., a law firm towards a Consumer Court case	70,000

Determine the GST liability of M/s All-in-One for the month of March, 20XX by giving necessary explanations for treatment of various items. Rate of tax for both inward and outward supply is CGST/SGST@ 9% each except renting a vehicle, for which CGST/SGST @ 2.5% each is applicable. M/s All-in-One commenced its business from February, 20XX. All the supplies are intra-State only.

Answer

GST liability of M/s All-in-One

	Particulars	Value [₹]	CGST payable [₹]	SGST payable [₹]
A.	**GST liability on outward supply**			
(i)	Direct selling agent service to Y Bank Ltd. [Tax is payable under **forward charge** since the supplier of such service is partnership firm and not individual.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]
(ii)	Security services to ABC P. Ltd., a registered person* [Tax is payable under **reverse charge** by the recipient since security services are provided by a non-body corporate to a registered person.] *It is assumed that security services are the services provided by way of supply of security personnel. And it is also assumed that ABC Pvt. Ltd. pays tax under section 9 of the CGST Act, 2017.	-		
(iii)	Security services to PSR Trust, an unregistered person	1,00,000	9,000 [1,00,000 x	9,000 [1,00,000 x

	[Tax is payable under **forward charge** since security services are provided by a non-body corporate to an unregistered person.]		9%]	9%]
(iv)	Renting of motor vehicle to Amaze Tours Ltd. where value included cost of fuel [Tax is payable under **reverse charge** by recipient since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%.]	-		
(v)	Renting of motor vehicle to Priti & Co., CA firm, where supply value included cost of fuel [Tax is payable under **forward charge** since such services are provided by a non-body corporate to a non-body corporate.]	40,000	1,000 [40,000 x 2.5%]	1,000 [40,000 x 2.5%]
Total GST liability on outward supplies			**46,000**	**46,000**
B.	**GST liability on inward supplies under reverse charge**			
(vi)	Availed representational service from PB and Co, a law firm [Legal services provided by a partnership firm of advocates/individual advocate other than a senior advocate to a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration, are exempt from GST. Since M/s All-in-One started its business in February 20XX, its turnover in the preceding financial year is zero making it eligible for exemption from registration in the preceding financial year and hence, the **legal services provided to it are exempt from GST**.]	-	-	-
	GST liability on inward supplies under reverse charge		-	-

Composition Levy

Question 4

Examine whether the suppliers are eligible for composition levy under section 10 in the following independent cases in the beginning of the current financial year.

(a) Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is ₹ 125 lakh. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in the current financial year.

(b) M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of ₹ 112 lakh in the preceding financial year. In view of the growing customer demand, it will also start intra-State trading of juices in Delhi.

(c) Sitaram Associates, registered in Sikkim, is engaged in running a food chain 'Veg Kitchen' in the State. It has a turnover of ₹ 73 lakh in the preceding financial year. In the current financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-State architect services.

(d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of ₹ 34 lakh in the preceding financial year.

Will your answer be different, if Deepti Services Ltd. also start supplying beauty products alongwith providing hair styling services in the current financial year?

Answer

As per section 10(1), the following registered persons, whose **aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore**, **may opt** to pay tax under **composition levy**:

(i) **Manufacturer**,

(ii) Persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (**restaurant services**), and

(iii) **Any other supplier eligible** for composition levy.

The composition scheme under **sub-sections (1) and (2) of section 10 can essentially be availed in respect of goods and only one service** namely, restaurant service. However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such **marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher.** Further, the registered person should **not be engaged in making any inter-State outward supplies of goods.**

Furthermore, newly inserted **section 10(2A) provides an option** to a registered person, **who is not eligible to pay tax under section 10(1) and 10(2), of paying tax @ 6%** (CGST-3% and SGST/UTGST-3%) provided his **aggregate turnover in the preceding financial year is upto ₹ 50 lakh.** Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions. One of such conditions is that the registered person should **not be engaged in making any inter-State outward supplies of goods or services.**

In view of the above-mentioned provisions, the answer to the given independent cases is as under:

(a) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 for Jalandhar (Punjab) is ₹ 1.5 crore in the preceding financial year. Thus, Technology Enterprises **can opt for said composition scheme** as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is making intra-State supplies. Further, since the registered person opting for composition scheme can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher.

Thus, Technology Enterprises **can supply repair services up to a value of ₹ 12.5 lakh** [10% of ₹125 lakh] in the current financial year.

(b) In the given case:

(i) the turnover in the preceding year is less than the eligible turnover limit under composition

scheme under sub-sections (1) and (2) of section 10 for Delhi, i.e. ₹ 1.5 crore.

(ii) the supplier is engaged in providing restaurant service which is an eligible supply under said composition scheme.

(iii) the supplier wants to engage in trading of goods which is also an eligible supply under said composition scheme.

Thus, M/s. Siddharth & Sons is **eligible for composition scheme under sub-sections (1) and (2) of section 10.**

(c) The turnover limit for being eligible for composition scheme under sub-sections (1) and (2) of section 10 for Sikkim is ₹ 75 lakh in the preceding financial year. However, a registered person who is exclusively engaged in supplying services other than restaurant services are not eligible for said composition scheme. Thus, Sitaram Associates cannot opt for composition scheme under sub-sections (1) and (2) of section 10.

However, the benefit of composition scheme under section 10(2A) is available in case of a registered person who is not eligible to pay tax under sub-sections (1) and (2) of section 10 provided its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh.

Thus, in view of the above-mentioned provisions, Sitaram Associates **cannot avail the benefit of composition scheme under section 10(2A)** also **as its aggregate turnover in the preceding financial year is more than ₹ 50 lakh.**

(d) A service provider can opt for composition scheme under sub-sections (1) & (2) of section 10 only if he is engaged in supply of restaurant services. Said scheme permits supply of marginal services for a specified value, but only when same are supplied along with goods and/or restaurant service.

Since Deepti Services Ltd.is exclusively engaged in supply of services other than restaurant services, it is not eligible for composition scheme sub-sections (1) and (2) of section 10 even though its turnover in the preceding year is less than ₹ 75 lakh, the eligible turnover limit for Uttarakhand.

However, since Deepti Services Ltd. is not eligible to opt for composition scheme under sub-sections (1) and (2) of section 10 and its aggregate turnover in the preceding financial year does not exceed ₹ 50 lakh, Deepti Services Ltd.is **entitled to avail benefit of composition scheme under section 10(2A)** in the current financial year.

Further, the **answer will remain the same even if Deepti Services Ltd. also start supplying beauty products** alongwith providing hair styling services in the current financial year since it fulfils the conditions laid down for availing the benefit of composition scheme under section 10(2A) of the CGST Act. It can avail the benefit of composition scheme under section 10(2A) till the time its aggregate turnover in the current year doesn't exceed ₹ 50 lakh.

Question 5

MN Ltd. has two registered places of business in the State of Haryana. Its aggregate turnover during the previous financial year for both the places of business was ₹ 62 lakh. It wishes to opt for composition levy under sub-sections (1) and (2) of section 10 for one of the place of business in the current year and wants to continue with registration under regular scheme and pay taxes at the normal rate for the other place of business. Can MN Ltd. do so? Explain with reason.

Answer

As per proviso to section 10(2), where more than one registered persons are having the **same PAN** issued under Income-tax Act, 1961, registered person shall **not be eligible** to opt for composition scheme under section 10(1) **unless all such registered persons opt to pay tax under said composition scheme.**

In the given case, since MN Ltd. has two places of business (they are not separate entities under the Income-tax Act, 1961), they would be registered under the same PAN. Therefore, MN Ltd. **cannot opt for composition levy for only one of the places of business and pay tax under regular scheme for other place of business.**

Question 6

Ranveer Industries, registered in Himachal Pradesh, is engaged in making inter-State supplies of readymade garments. The aggregate turnover of Ranveer Industries in the preceding financial year is ₹ 70 lakh. It has opted for composition levy under sub-sections (1) and (2) of section 10 in the current financial year and paid tax for the April – June quarter of current year under composition levy.

The proper officer has levied penalty for wrongly availing the scheme on Ranveer Industries in addition to the tax payable by it.

Examine the validity of the action taken by proper officer.

Answer

As per section 10(1), a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore in a State/UT [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir], may opt for composition scheme.

However, he shall not be eligible to opt for composition scheme if, inter alia, he is engaged in making any inter-State outward supplies of goods.

In the given case, **since Ranveer Industries is engaged in making inter-State supplies** of readymade garments, **it is not eligible to opt for composition scheme** in current year irrespective of its turnover not exceeding the threshold limit of ₹ 1.5 crore in the preceding FY.

Further, if the proper officer has reasons to believe that a taxable person has paid tax under composition scheme despite not being eligible, such person shall, in addition to any tax payable, be liable to a penalty and **provisions of section 73 or 74 shall**, mutatis mutandis, **apply** for determination of tax and penalty.

Thus, the **action taken by the proper officer of levying the penalty for wrongly availing the composition scheme is valid in law.**

Question 7

Mr. Rajbeer, a registered person at Delhi, is in the business of selling goods relating to interior decoration under the firm name M/s. Rajbeer & Sons. He has opted for composition scheme for FY 2023-24.

His turnover for FY 2023-24 is ₹ 80 lakh and is expected to achieve ₹ 130 lakh in FY 2024-25. Discuss whether M/s Rajbeer & Sons can still enjoy the benefits of composition scheme in FY 2024-25.

His son Karan wants to start business of providing services relating to interior decoration, after completing post-graduation course in interior decoration under same firm name M/s Rajbeer & Sons with effect from 01.04.2024 and wants to enjoy the benefits of composition scheme under GST.

Advise Mr. Rajbeer and his son Karan.

Answer

As per section 10 of the CGST Act, 2017, **a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore** in a State/UT **may opt for composition scheme**, provided he is, inter alia, engaged in supply of goods and/or restaurant service.

However, a person who opts for composition scheme is **permitted to supply services** other than restaurant service **of value not exceeding 10% of turnover** in a State/UT in the preceding financial year **or ₹ 5 lakh, whichever is higher.**

In the given case, M/s. Rajbeer & Sons, engaged in business of selling goods relating to interior decoration, **is eligible for composition scheme** in FY 2024-25 since its aggregate turnover in preceding FY (viz. ₹ 80 lakh) does not exceed ₹ 1.5 crore.

If Karan wishes to start the business of providing services relating to interior decoration under the same firm name M/s Rajbeer & Sons, In such a case, the **firm can provide services relating to interior decoration up to a value of ₹ 8 lakh** (10% of ₹ 80 lakh or ₹ 5 lakh, whichever is higher) to continue enjoying the benefit of composition scheme in FY 2024-25.

Question 8

Mr. Prem is running a restaurant in New Delhi. In the preceding financial year, it has an aggregate turnover of ₹ 120 lakh from the restaurant services. In the current financial year, apart from restaurant service, he also wants to provide food delivery services to other small restaurants. He estimated the turnover of such services is upto ₹ 5 lakh.

Mr. Prem wishes to opt for composition scheme under sub-sections (1) and (2) of section 10 in the current financial year. You are required to advise him for same.

Answer

As per section 10(1), **a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt** to pay, in lieu of the tax payable by him, an amount calculated at the specified rates if, inter alia, he is not engaged in the supply of services other than restaurant services.

However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such **marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher.**

In the present case, since the aggregate turnover of Mr. Prem was ₹ 120 lakh in preceding financial year (i.e. it did not exceed ₹ 1.5 crore), **he is eligible for composition scheme** in the current financial year. Further, in the current financial year, **he can also supply services** other than restaurant services **for a value upto ₹ 12 lakh** (10% of ₹ 120 lakh) or ₹ 5 lakh, whichever is higher. Thus, till the time his turnover from food delivery services does not exceed ₹ 12 lakh, he is eligible for the scheme.

Question 9

Shubhlaxmi Foods is engaged in supplying restaurant service in Maharashtra. In the preceding financial year, it had a turnover of 140 lakh from the restaurant service. Further, it had earned the bank interest of ₹ 20 lakh from the fixed deposits. You are required to advise Shubhlaxmi Foods whether it is eligible for the composition scheme under sub-sections (1) and (2) of section 10 in the current financial year.

Further, assuming that in current financial year, its turnover is ₹ 130 lakh from the supply of restaurant services and ₹ 10 lakh from the supply of farm labour in Maharashtra. It has also earned the bank interest of ₹ 30 lakh from the fixed deposits. Compute the tax payable by Shubhlaxmi Foods in the current FY.

Answer

As per section 10(1), **a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt** to pay, in lieu of the tax payable by him, an amount calculated at the specified rates if, inter alia, he is not engaged in the supply of services other than restaurant services.

However, the scheme permits supply of other marginal services for a specified value along with the supply of goods and restaurant service, as the case may be. Such **marginal services can be supplied for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher** [Second proviso to section 10(1)]. Although exempt services are included in determining the value of turnover in a State or Union territory, explanation to section 10(1) clarifies that for the purposes of second proviso to section 10(1), the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.

Further, the exempt services are also included in the aggregate turnover [Section 2(6)]. However, explanation 1 to section 10 **excludes** value of exempt supply of **services provided by way of extending deposits, loans or advances** in so far as the consideration is **represented by way of interest or discount from aggregate turnover.**

In this backdrop, in the given case, the **aggregate turnover of Shubhlaxmi Foods in the preceding FY is ₹ 140 lakh** (since bank interest of ₹ 20 lakh from the fixed deposits will not be taken into account for computing aggregate turnover). Resultantly, it is **eligible to opt for composition scheme** under sub-sections (1) and (2) of section 10 in the current FY.

Further, apart from restaurant services, it **can provide services upto ₹ 14 lakh** [i.e. 10% of ₹ 140 lakh or ₹ 5 lakh, whichever is higher], in the current FY. As already seen, bank interest of ₹ 20 lakh from fixed deposits will not be considered while determining this limit.

Further, **tax payable @ 5%** (2½% CGST+ 2½% SGST) **of the turnover** in the State by Shubhlaxmi Foods in the current financial year is as follows:

= 5% of ₹ 1,40,00,000 [₹ 1,30,00,000 + ₹ 10,00,000]

= ₹ 7,00,000 [CGST = ₹ 3,50,000 and SGST = ₹ 3,50,000]

[(Bank interest of ₹ 30 lakh from the fixed deposits is not considered while computing turnover in the State for determining tax payable under composition scheme (In terms of explanation 2 to section 10)]

Question 10

Bansal and Chandiok started a partnership firm of Chartered Accountants in Jaipur (Rajasthan) on 1st April. The firm specializes in providing audit services to banks in Rajasthan. It provided the following details of its turnover:

Quarter	Amount (in ₹)
Apr-Jun	10 lakh
Jul-Sep	20 lakh

It crossed the threshold limit of ₹ 20 lakh on 1st August. Bansal and Chandiok wishes to opt to pay tax at concessional rate under section 10(2A). Examine whether the firm is eligible for this scheme? If yes, then determine the tax payable by it in quarters (i) Apr-Jun & (ii) Jul-Sep?

Answer

The composition scheme under sub-sections (1) and (2) of section 10 is available in case of goods and restaurant service. Further, marginal services upto specified limit can be provided along with the supply of goods or restaurant service, as the case may be. Since, in the given case, Bansal and Chandiok is supplying services other than restaurant services, it is not eligible to pay tax under sub-sections (1) and (2) of section 10. However, **section 10(2A) provides an option to a registered person**, who is not eligible to pay tax under sub-sections (1) and (2) of section 10, **of paying tax @ 6%** (CGST-3% and SGST/UTGST-3%) **provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh.** Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions.

In the given case, Bansal and Chandiok has started the supply of services in the current financial year. Therefore, its aggregate turnover in the preceding financial year is Nil. Consequently, **it is eligible to avail the benefit of composition scheme under section 10(2A)** of the CGST Act in the current financial year. It becomes eligible for the registration when its aggregate turnover exceeds ₹ 20 lakh. While registering under GST, it has to opt for composition scheme under section 10(2A).

Tax payable by the firm is as follows:

(i) **Apr-Jun quarter: Tax payable by the firm in first quarter is nil** since the firm's turnover [₹ 10 lakh] has not yet exceeded the threshold limit of ₹20 lakh (viz. the threshold limit applicable for registration in the State of Rajasthan).

(ii) **July-Sep quarter:** While computing the tax payable by the firm in second quarter, the turnover from 1st April to the date from which he becomes liable for registration under the Act is to be excluded. Tax payable will be computed as under-

Total Turnover	₹ 30,00,000/-
Less: Threshold limit for registration	₹ 20,00,000/-
Taxable Turnover	**₹ 10,00,000/-**
Tax @ 6%	**₹ 60,000/-***
*CGST = ₹ 30,000 and SGST = ₹ 30,000	

Question 11

Varun & Arun Associates started a partnership firm of architects in Bhopal (Madhya Pradesh) on 1st April. The firm provides architecture services, in Madhya Pradesh. It provided the following details of its turnover:

April - June	₹ 20 lakh
July - Sept	₹ 30 lakh
Oct - Dec	₹ 20 lakh

The firm has obtained the registration under section 22 and pays tax under composition scheme. Determine the tax liability of Varun & Arun Associates for the quarters: Apr-Jun, Jul-Sept and Oct-Dec.

Note: The rates of tax on architectural services are CGST- 9% and SGST-9%.

Answer

The composition scheme under sub-sections (1) and (2) of section 10 is available in case of goods and restaurant service. Further, marginal services upto specified limit can be provided along with the supply of goods or restaurant service, as the case may be. Since, in the given case, Varun & Arun Associates is supplying services other than restaurant services, it is not eligible to pay tax under sub-sections (1) and (2) of section 10. However, **section 10(2A) provides an option** to a registered person, who is not eligible to pay tax under sub-sections (1) and (2) of section 10, **of paying tax @ 6%** (CGST-3% and SGST/UTGST-3%) **provided his aggregate turnover in the preceding financial year is upto ₹ 50 lakh.** Said person can pay tax @ 6% of the turnover in State or turnover in Union territory up to an aggregate turnover of ₹ 50 lakh, subject to specified conditions.

In the given case, Varun & Arun Associates has started the supply of services in the current financial year. Therefore, its aggregate turnover in the preceding financial year is Nil. Consequently, **it is eligible to avail the benefit of composition scheme under section 10(2A)** of the CGST Act in the current financial year. It becomes eligible for the registration when its aggregate turnover exceeds ₹ 20 lakh. While registering under GST, it has to opt for composition scheme under section 10(2A).

For determining its turnover of the State for payment of tax under composition scheme under section 19(2A), **turnover of April-June quarter [₹ 20 lakh] shall be excluded** as the value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act are to be excluded for this purpose.

On next ₹ 30 lakh [turnover of July-Sept quarter], it shall **pay tax @ 6%** [3% CGST and 3% SGST], i.e. **CGST ₹ 90,000 and SGST ₹ 90,000.**

By the end of July-Sept quarter, its aggregate turnover reaches ₹ 50 lakh*.

Consequently, its option to avail composition scheme under section 10(2A) shall **lapse by the end of July-Sept quarter and thereafter, it is required to pay tax at the normal rate.** Thus, the **tax payable for Oct-Dec quarter is ₹ 20 lakh × 9%, i.e. CGST - ₹ 1,80,000 and SGST - ₹ 1,80,000.**

*Note - While computing aggregate turnover for determining Varun & Arun Associates' eligibility to pay tax under composition scheme, value of supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act (i.e. turnover of April-June quarter), are also included.

Question 12

M/s Heeralal and Sons, registered in Karnataka, has opted to avail the benefit of composition scheme under sub-sections (1) and (2) of section 10. It has furnished the following details for the quarter ended on 30th June

S. No.	Items	₹
(i)	Taxable turnover of goods within the State	15,00,000
(ii)	Exempted turnover of goods within the State	17,00,000
	Total Turnover	32,00,000

Using the above information, calculate tax to be paid by the firm for quarter ended on 30th June in

following independent situations:

(i) M/s Heeralal and Sons is a manufacturer

(ii) M/s Heeralal and Sons is a trader

Answer

Computation of amount payable under composition scheme

(i) If M/s Heeralal and Sons is a manufacturer:

Tax is to be paid @ 1% (½% CGST+ ½% SGST) of the turnover in the State as under:

1% of ₹ 32,00,000 [₹ 15,00,000 + 17,00,000]

= ₹ 32,000 [CGST = ₹ 16,000 and SGST = ₹ 16,000]

(ii) If M/s Heeralal and Sons is a trader:

Tax is to be paid @ 1% (½% CGST + ½%SGST) of the turnover of **taxable supplies** of goods and services in the State as under:

= 1% of ₹ 15,00,000

= ₹ 15,000 [CGST = ₹ 7,500 and SGST = ₹ 7,500]

Question 13

Mr. Yash, doing business in the State of Kerala, commenced his business in the month of April 20XX and provides the following further information.

(i) His intra-State turnover for the first two quarters was as follows:

April, 20XX - June, 20XX – ₹ 20 lakh

July, 20XX - September, 20XX – ₹ 100 lakh

(ii) In each of the quarters, exempt supply made by him was 25% of the total turnover for the said quarter.

(iii) Since the product supplied by him was eligible for composition scheme, he opted for registration under composition scheme with effect from 1st July, 20XX.

You are required to compute the tax payable by Mr. Yash under GST laws from the above information:

(i) If he is a manufacturer

(ii) If he is a trader

Answer

As per section 10 of the CGST Act, 2017 read with rule 7 of the CGST Rules, 2017, a registered person opting for composition levy for goods pays tax at the rates mentioned below during the current FY, in lieu of the tax payable by him under regular scheme:

Manufacturers, other than manufacturers of notified goods	**1%** (½% CGST+ ½% SGST/UTGST) **of the turnover** in the State/Union territory
Trader	**1%** (½% CGST+ ½% SGST/UTGST) **of turnover of taxable supplies** of goods & services in the State/Union territory

Turnover prior to getting registered will not be considered for determining the turnover in a State/Union Territory.

(i) If Mr. Yash is a manufacturer

CGST = ₹ 100 lakh x 0.5% = **₹ 50,000**

SGST = ₹ 100 lakh x 0.5% = **₹ 50,000**

(ii) If Mr. Yash is a trader

CGST = ₹ 75 lakh (as 25% of turnover is exempt) x 0.5% = **₹ 37,500**

SGST = ₹ 75 lakh (as 25% of turnover is exempt) x 0.5% = **₹ 37,500**

Question 14

B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

B & D Company has furnished the following details with respect to its turnover (exclusive of taxes) and stock (exclusive of taxes):

Particulars	Turnover for the quarter ended 30th June (₹)	Turnover for the quarter ended 30th September (₹)
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

The extract of the only bill book maintained by the firm showed the following details-

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	1st October	2,00,000	3,000	2,03,000
2307	1st October	1,36,000	2,250	1,38,250
2308	2nd October	67000	39,250	1,06,250
2309	3rd October	58,750	33,750	92,500
2310	5th October	1,00,000	-	1,00,000
2311	6th October	94,000	6,000	1,00,000
2312	6th October	-	17,000	17,000
2313	8th October	50,000	6,000	56,000
2314	9th October	60,000	9,000	69,000
2315	.....	.....	.....	.....
.....	.....	.....	.....	.....

Further, B & D Company paid freight of ₹ 1,40,000 to Goods Transport Agency during the period April to October. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume that the goods for which the freight is paid on 10th day of the month are transported between 11th to 20th day of the month. Also, assume that GTA has not opted to pay tax under forward charge.

All the above amounts are exclusive of taxes, wherever applicable.

Compute the GST liability (ignoring ITC provisions) of B & D Company for the period April to October under composition scheme under sub-sections (1) and (2) of section 10 showing calculations for each quarter separately.

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each. Stock is valued at cost price.

Answer

As per section 10(3), the option availed by a registered person to pay tax under composition scheme under sub-sections (1) and (2) of section 10 shall **lapse with effect from the day on which his aggregate turnover during a financial year exceeds ₹ 1.5 crore** [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir].

As per section 2(6), **aggregate turnover means the aggregate value of all taxable supplies** (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), **exempt supplies, exports** of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis **but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.**

In the given case, firm is registered under composition scheme in the State of Maharashtra. The aggregate turnover of firm exceeds ₹ 1.5 crore on 3rd October [aggregate of both taxable and exempt turnover from 1st April to 3rd October, i.e. ₹ 1,50,05,000 (1,44,65,000 + ₹ 2,03,000 + ₹ 1,38,250 + ₹ 1,06,250 + ₹92,500)]

The inward supplies of goods transportation services in respect of which the firm has to pay tax under reverse charge have not been included in the aggregate turnover in terms of section 2(6). The tax is payable under reverse charge on such services as the GTA has not opted to pay tax under forward charge.

Thus, the firm will have to pay tax under regular scheme (Section 9) from 3rd October.

Output tax liability of B & D Company under composition scheme

During the period when the firm pays tax under composition scheme, i.e. from 1st April to 2nd October, tax will be payable on quarterly basis and no ITC will be available [Section 10(4) read with sub-sections (2) and (7) of section 39]. Further, since the firm is trading in goods, tax will be payable @ 1% (½% CGST + ½% SGST)] of the turnover of taxable supplies of goods and services (i.e. 'P') in the State [Section 10(1) read with rule 7].

The tax liability for the quarters ended June, September and December under composition scheme will be computed as under

Particulars	Quarter ended 30th June (₹)	Quarter ended 30th September (₹)	Quarter ended 31st December (₹)
Turnover of 'P' (Taxable supplies)	60,00,000	50,00,000	4,03,000 [2,00,000 + 1,36,000 + 67,000]
CGST @ 0.5% [A1]	30,000	25,000	2,015
SGST @ 0.5%[B1]	30,000	25,000	2,015
CGST @ 2.5% [A2]	1,500	1,500	-
SGST @ 2.5% [B2]	1,500	1,500	
Total CGST [A1 + A2]	31,500	26,500	2,015
Total SGST [B1 + B2]	31,500	26,500	2,015

Total CGST liability for period from 1st April to 2nd October	**60,015 [31,500 + 26,500 + 2015]**
Total SGST liability for period from 1st April to 2nd October	**60,015 [31,500 + 26,500 + 2015]**

Question 15

Mr. X, a trader dealing exclusively in supply of goods and paying tax under normal scheme (also eligible for composition scheme), submit the following details for coming financial year 20XX. You are required to determine which scheme will be more beneficial to him and whether Mr. X should opt for composition scheme. Estimated data for coming financial year 20XX are as follows:

Particular	**Amount (₹)**
Inward supplies of goods from registered suppliers (amount exclusive of GST and goods chargeable to normal rate of GST @12%)	70,00,000
Outward supplies of goods to unregistered customers (sale price of goods inclusive of GST) - Normal Rate of GST is @12%)	90,00,000

Other information is as given below:

(i) Inherent nature expenses ₹ 4,50,000 per year under both the schemes.

(ii) Books of account maintenance cost under normal scheme ₹ 2,00,000 yearly whereas under composition scheme it will be ₹ 75,000 yearly.

(iii) Return filing expenses under normal scheme ₹ 48,000 yearly whereas under composition scheme it will be ₹ 12,000 yearly.

Answer

Particulars	**Composition scheme (₹)**	**Regular scheme (₹)**
Tax payable under GST law	90,000 [90,00,000 × 1%]	9,64,286 [80,35,714* × 12%]
Less: ITC on inward supplies	A person opting for composition scheme is not entitled for ITC	8,40,000 [70,00,000 × 12%]
Net amount payable under GST law	90,000 [Forms part of cost]	1,24,286
Inherent expenses	4,50,000	4,50,000
Add: Books of accounts maintenance cost	75,000	2,00,000
Add: Return filing expenses	12,000	48,000
Add: Cost of inward supplies	78,40,000	70,00,000
Total cost involved	84,67,000	76,98,000
Sale Proceeds	90,00,000	80,35,714
Profit Margin (Sale proceeds Less Total Cost)	**5,33,000**	**3,37,714**

Thus, it can be concluded that Mr. X should opt for composition scheme for financial year 20XX as it is more beneficial for him.

*Note-Outward supplies excluding GST = ₹ 80,35,714 (90,00,000 × 100/112)

CHAPTER - 3
Time of Supply

Time of Supply of Goods

Question 1

Kanchenjunga Pvt. Ltd. supplies taxable goods to Sutlej Pvt. Ltd. for ₹ 2,50,000 on 23rd June and issues the invoice on 25th June. Payment for the goods is made by Sutlej Pvt. Ltd. on 15th July.

Determine the time of supply of goods for the purpose of payment of tax.

Answer

In terms of section 12(2), the **time of supply of goods is the earlier of, the date of issue of invoice/last date on which invoice is required to be issued or date of receipt of payment.** However, Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

As per section 31(1), invoice for supply of goods should be issued before or at the time of removal of goods for supply to the recipient, where supply involves movement of goods. Therefore, **time of supply of goods is 23rd June** being the last date on which invoice ought to have been issued and not 25th June when the invoice is actually issued.

Question 2

Chiku Traders is a registered supplier of plastic goods. On 10th April, 20XX, Chiku Traders received an order from Neelu Traders for supply of a consignment of plastic goods. Chiku Traders gets the consignment ready by 15th April, 20XX. The invoice for the consignment was issued the next day, 16th April, 20XX. Neelu Traders collects the consignment from the godown of Chiku Traders on 25th April, 20XX and hands over the cheque towards payment on the same date. The said payment is entered in the books of accounts of Chiku Traders on 26th April, 20XX and amount is credited in their bank account on 27th April, 20XX.

Determine the time of supply of the plastic goods supplied by Chiku Traders to Neelu Traders as per the provisions of CGST Act, 2017.

Answer

In terms of section 12(2) of the CGST Act, the **time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.** However, Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) of the CGST Act, 2017, i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

As per section 31(1), the invoice in case of supply of goods needs to be issued either before or at the time of removal/delivery of goods.

In this case, invoice is issued before the removal of the goods and is thus, within the time limit prescribed under section 31(1). Therefore, **time of supply is** the date of issue of invoice, which is **16th April, 20XX.**

Question 3

A machine has to be supplied at site. It is done by sourcing various components from vendors and assembling the machine at site. The details of the various events are:

17th September	Purchase order with advance of Rs. 50,000 is received for machine worth Rs. 12 lakh and entry duly made in the seller's books of account
20th October	The machine is assembled, tested at site, and accepted by buyer
23rd October	Invoice raised
4th November	Balance payment of Rs. 11,50,000 received

Determine the time of supply(ies) in the above scenario for the purpose of payment of tax.

Answer

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or last date on which invoice ought to have been issued in terms of section 31.

Therefore, the **time of supply** for the purpose of payment of tax **for the entire amount of ₹ 12,00,000 is 20th October** which is the date on which the goods were made available to the recipient as per section 31(1)(b), and the invoice should have been issued on this date [Section 12(2)(a)].

Question 4

Trust Industries Ltd. has entered into a contract with VST Ltd. to supply gas by a pipeline to VST Ltd. for a period of one year. As per the terms of the contract-

(i) VST Ltd. shall make monthly payments [Payment for a month shall be made by 7th day of the next month]

(ii) Every quarter, Trust Industries Ltd. shall issue a statement of account showing the quantity and value of goods dispatched, payments received and payment due.

(iii) The differential amount, if any, as mentioned in the statement of account shall be paid by VST Ltd.

The details of the various events are:

August 5, September 5, October 6	Payments of ₹ 2 lakh made in each month for the quarter July-September
October 3	Statement of accounts for the quarter July – September issued by the supplier showing amount of ₹ 2,56,000 as unpaid
October 17	Balance payment of ₹ 56,000 received by supplier for the quarter July – September

Determine the time of supply of goods for the purpose of payment of tax.

Answer

As per Notification No. 66/2017 CT dated 15.11.2017, a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms

of section 31. As per section 31(4), **in case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice is issued before or at the time of each such statement is issued or**, as the case may be, **each such payment is received.**

Therefore, invoices should be issued for ₹ 2 lakh each on or before August 5, and September 5, when monthly payments of ₹ 2 lakh are received. Further, invoice should also be issued for differential payment of ₹ 2,56,000 on or before October 3, when statement of account is issued

Thus, assuming that the invoice is issued on August 5, September 5 and October 3, the **time of supply** for the purpose of payment of tax **will be August 5 and September 5 respectively for goods valued at ₹ 2 lakh each and October 3 for the goods valued at ₹ 2,56,000.**

Question 5

Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

SN	Date of receipt of goods (1)	Date of payment by the recipient of goods (2)	Date of issue of invoice by the supplier of goods (3)
(i)	July 1	August 10	June 29
(ii)	July 1	June 25	June 29
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
(vi)	August 1	August 10	June 29

Answer

SN	Date of receipt of goods (1)	Date of payment by the recipient of goods (2)	Date of Issue of invoice by the supplier of goods (3)	Date immediately following 30 days from the date of invoice (4)	Time of supply of goods [Earlier of (1), (2) & (4)] (5)
(i)	July 1	August 10	June 29	July 30	**July 1**
(ii)	July 1	June 25	June 29	July 30	**June 25**
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29	July 30	**June 30** for part payment made and **July 1** for balance amount
(iv)	July 5	Payment is entered in books of account on	June 1	July 2	**June 28** (i.e., when payment is entered

		June 28 and debited in recipient's bank account on June 30			in the books of account of the recipient)
(v)	July 1	Payment is entered in books of account on June 30 and debited in recipient's bank account on June 26	June 29	July 30	**June 26** (i.e., when payment is debited in the recipient's bank account)
(vi)	August 1	August 10	June 29	July 30	**July 30** (i.e., 31st day from issuance of invoice)

Question 6

Andes Pvt. Ltd., a registered supplier, manufactures product 'A' and 'B'. While 'A' is taxable under forward charge, 'B' is taxable under reverse charge. The following details are provided in relation to two individual supplies of products 'A' and 'B' made by the company:

S. No	Date	Event
I	10th February	Payment of ₹ 1,00,000 made by buyer for supply of 'A' to be delivered in the month of March
II	13th February	Receipt of ₹ 1,00,000 [as mentioned in point (i) above]
III	17th February	Payment of ₹ 2,00,000 made by buyer for supply of 'B' to be delivered in the month of March
IV	20th February	Receipt of ₹ 2,00,000 [as mentioned in point (iii) above]
V	5th March	Product 'A' manufactured and removed
VI	6th March	Receipt of product 'A' [as mentioned in point (v) above] by the buyer
VII	10th March	Product 'B' manufactured and removed
VIII	23rd March	Receipt of product 'B' [as mentioned in point (vii) above] by the buyer
IX	4th March	Invoice for ₹ 2,00,000 issued for supply of 'A'
X	11th March	Invoice for ₹ 4,00,000 issued for supply of 'B'
XI	25th March	Payment made by the buyer of 'A'
XII	31st March	Payment [as mentioned in point (xi) above] received
XIII	1st April	Payment made by the buyer of 'B'
XIV	4th April	Payment [as mentioned in point (xiii) above] received

Determine the time of suppl(ies) of goods for the purpose of payment of tax.

Answer

In terms of section 12(2), the time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

Also, it is important to note that the relief of not paying GST at the time of receipt of advance is available only in case of supply of goods, the tax on which is payable under forward charge. In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment) [Section 12(3)].

Therefore, **time of supply of product 'A', which is taxable under forward charge, is 4th March** being the date of issue of invoice. However, **time of supply of product 'B', which is taxable under reverse charge, is 17th February to the extent of ₹ 2,00,000 paid as advance** being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (17th February) and date immediately following 30 days of issuance of invoice (11th April). **For balance ₹ 2,00,000, the time of supply of product 'B' is 23rd March** being the earliest of the three stipulated dates namely, date of receipt of goods (23rd March), date of payment (1st April) and date immediately following 30 days of issuance of invoice (11th April).

Time of Supply of Services

Question 7

Determine the time of supply from the following particulars:

8th September	Community hall booked for a marriage, sum agreed ₹ 1,20,000, advance ₹ 20,000 recorded in the books of account.
10th September	Advance amount credited in bank account.
2nd November	Marriage held in the Community hall.
18th December	Invoice issued for ₹ 1,20,000 indicating the balance of ₹ 1,00,000 payable
22nd December	Balance ₹ 1,00,000 recorded in the books of account.
24th December	Payment ₹ 1,00,000 credited to the bank account

Answer

As per section 31(2) of the CGST Act, 2017 read with rule 47 of CGST Rules, 2017 a tax invoice is to be issued within 30 days of supply of service. In the given case, the invoice is not issued within the prescribed time limit. As per section 13(2)(b) of CGST Act, 2017, in a case where the invoice is not issued within the prescribed time, the time of supply of service is –

(i) date of provision of service

or

(ii) date of recording the payment in the books of account of the supplier

or

(iii) date of crediting of payment in the supplier's bank account whichever is earlier.

Therefore, the **time of supply of service to the extent of advance of ₹ 20,000 is 8th September** (date of recording the payment in the books of account) as it is earlier than the date of crediting of payment in the bank account and the date of provision of service.

The **time of supply of service to the extent of the balance ₹ 1,00,000 is 2nd November**, which is the date of provision of service as it is earlier than the other two events in this case.

Question 8

Dhruv & Co. sends certain textile products for dyeing to Bhanushali Manufacturers on job work basis on 16th August. On 18th August, Dhruv & Co. credited 100% of the job work charges to the bank account of Bhanushali Manufacturers in advance and recorded it in its books of accounts on the same date. Bhanushali Manufacturers issues the invoice for the same in first week of September.

Assuming that inputs are received back by Dhruv & Co. after job work in the month of October (i.e. within time limit prescribed under section 143 of the CGST Act, 2017), determine the time of supply for such job work done by Bhanushali Manufacturers.

Answer

As per Schedule II of the CGST Act, 2017, activity by way of any treatment or process which is applied to another person's goods is a supply of services. Hence, job work is squarely covered within the purview of supply of services. Accordingly, time of supply shall be determined as per section 13 of CGST Act, 2017.

As per section 13, time of supply of services where invoice has been issued within 30 days of provision of services is:

(a) date of issuance of invoice, or

(b) date of recording the payment in the books of accounts of the supplier, or

(c) date on which payment is credited in the bank account of the supplier, whichever is earlier.

In the present case, the service charges for job work are paid as advance at the time of sending inputs to job worker. Hence the **time of supply** of job work services shall be triggered at the time of payment of advance by Dhruv & Co., i.e. **18th August.**

Question 9

SRK Limited, registered under GST, is engaged in sale of fabrics as well as doing job work of knitting of yarn for garment manufacturers. The company provides the following information in respect of order received for both sale of fabrics and job work:

Event	Supply of fabrics	Job work of knitting
Date of confirmation of order	01-08-20XX	10-09-20XX
Date of receipt of advance of ₹ 1,00,000 each	05-08-20XX	12-09-20XX
Date of removal of goods on completion of order	10-08-20XX	15-09-20XX
Date of issue of invoice for full amount	15-08-20XX	20-09-20XX
Date of receipt of balance payment of ₹ 50,000 each	25-08-20XX	25-09-20XX

Determine the time of supply for the purpose of payment of tax under CGST Act, 2017, in respect of the above orders executed by the company.

Answer

Time of supply in case of supply of fabric:

Supply of fabric is supply of goods. The time of supply of goods for the purpose of payment of tax is the date of issue of invoice or the last date when the invoice ought to have been issued viz. before/at the time of removal of goods for supply to the recipient, where supply involves movement of goods. Thus, the **time**

of supply for advance of ₹ 1,00,000 as well as for the balance payment of ₹ 50,000 received for the supply of fabric is 10.08.20XX.

Time of supply in case of job work:

Job work is treated as supply of services. The time of supply of services in case where the invoice is issued within 30 days of provision of service is the earlier of date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services). Thus, the **time of supply for advance of ₹ 1,00,000 received for the supply of job work services is 12.09.20XX and for balance payment of ₹ 50,000 is 20.09.20XX.**

Question 10

M/s KLM Ltd., a publishing and printing house registered in Maharashtra, is engaged in supply of books, letter cards, envelopes, guides and reference materials. The following information is provided by the company:

Event	Printing of books	Printing of envelopes
Date of entering into printing contract	16th March	20th March
Date of receipt of advance	20th March	25th March
Date of completion of printing	10th April	5th April
Date of issue of invoice	15th May	10th April
Date of removal of books and letter heads to buyer	13th May	7th April
Date of receipt of balance payment	31st May	30th April

In respect of printing of books, content was supplied by the author. For printing of envelopes, the design and logo were supplied by the buyer. Determine the time of suppl(ies) for the purpose of payment of tax.

Answer

As per Circular No. 11/11/2017 GST dated 20.10.2017, in case of **printing of books** where only content is supplied by the person who owns usage rights to intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore, such supplies would constitute **supply of service.**

In case of **supply of printed envelopes** by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore, such supplies would constitute **supply of goods.**

Accordingly, time of supply of books and envelopes will be governed by sections 12 and 13 respectively.

In terms of section 12(2), the time of supply of goods is the earlier of, the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment. However, Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier) has to pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a), i.e. date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

As per section 31(1), invoice for supply of goods should be issued before or at the time of removal of goods for supply to the recipient, where supply involves movement of goods. Therefore, in the given case, the last date by which invoice ought to have been issued is 7th April. Thus, the **time of supply of**

envelopes for the purpose of payment of tax is 7th April.

As per section 13, the time of supply of services is the earlier of the dates arrived at by methods (A) and (B), as follows:

(A) Date of invoice or date of receipt of payment (to the extent the invoice or payment covers supply of services), whichever is earlier, if invoice is issued within time prescribed under section 31;

(B) Date of provision of service or date of receipt of payment (to the extent the payment covers supply of services), whichever is earlier, if invoice is not issued within time prescribed under section 31.

Since in the given case, invoice for the services is not issued within 30 days, the **time of supply for the advance received is the date of receipt of payment, i.e. 20th March** being earlier than the date of provision of service. However, the **time of supply for the balance payment is the date of provision of service, i.e. 10th April** being earlier than the date of receipt of balance payment.

Question 11

Renduhoot Ltd. enters into a contract with XYZ Ltd. on 2nd July 2024 for a period of 2 years for construction of a new building - to be used for commercial purposes - for a total consideration of ₹ 150 lakh. As per the terms of contract, Renduhoot Ltd. is required to make payment at different stages of completion of the building namely, 50%, 75% and 100%.

Determine the time of supply using relevant details given as under:

Stage	Date of various stages	Date of issuance of invoice	Date of payment	Amount paid (₹)
Initial booking	02.07.2024	02.07.2024	02.07.2024	15 lakh
50% completion of building	15.03.2025	22.03.2025	29.03.2025	60 lakh
75% completion of building	20.06.2025	24.07.2025	23.07.2025	35 lakh
100% completion of building	30.09.2025	30.09.2025	20.09.2025	40 lakh

Answer

As per section 13, the time of supply of services is the earlier of the dates arrived at by methods (A) and (B), as follows:

(A) Date of invoice or date of receipt of payment (to the extent the invoice or payment covers supply of services), whichever is earlier, if invoice is issued within time prescribed under section 31;

(B) Date of provision of service or date of receipt of payment (to the extent the payment covers supply of services), whichever is earlier, if invoice is not issued within time prescribed under section 31

Since in the present case, the **construction services are provided under a contract for a period exceeding three months with periodic payment obligations**, such services would fall within the ambit of term **"continuous supply of services"** as defined under section 2(33).

As per section 31(5), in case of continuous supply of services, the invoice should be issued either (i) on/ before the due date of payment or (ii) before/at the time when the supplier of service receives the payment, if the due date of payment is not known (iii) on/before the date of completion of the milestone event when the payment is linked to completion of an event [Section 31(5)].

Accordingly, the time of supply with respect to each of the stages of completion is as follows:

Stages of completion	Time of supply
Initial booking	Since invoice is issued within the prescribed time limit, earlier of the date of issue of invoice or date of receipt of payment is the time of supply. However, date of issuance of invoice (02.07.2024) and date of receipt of payment (02.07.2024) are the same. Therefore, time of supply is **02.07.2024.**
50%	Since invoice has not been issued on or before the date of 50% completion, earlier of date of provision of service (15.03.2025) or date of receipt of payment (29.03.2025), i.e. **15.03.2025** is the time of supply.
75%	Since invoice has not been issued on or before the date of 75% completion, earlier of date of provision of service (20.06.2025) or date of receipt of payment (23.07.2025), i.e. **20.06.2025** is the time of supply.
100%	Since invoice is issued within the prescribed time limit, earlier of the date of issue of invoice (30.09.2025) or date of receipt of payment (20.09.2025), i.e. **20.09.2025** is the time of supply.

Question 12

Kothari Ltd., Mumbai, holds 51% of shares of Wilson Inc., a USA based company. Wilson Inc. provides business auxiliary services to Kothari Ltd. From the following details, determine the time of supply of service provided by Wilson Inc:

Agreed consideration	US $1,00,000
Date on which services are provided by Wilson Inc.	16th June
Date on which invoice is issued by Wilson Inc.	19th August
Date of debit in the books of account of Kothari Ltd.	30th September
Date on which payment is made by Kothari Ltd.	23rd December

Answer

Since Kothari Ltd. **holds 51% shares** of Wilson Inc., **Kothari Ltd. and Wilson Inc. are 'associated enterprises'** as per section 92A of the Income-tax Act, 1961. As per second proviso to section 13(3), in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply is the earlier of the following two dates:

Date of entry in the books of account of the recipient of supply [which is Kothari Ltd. in the present case]	30th September
OR	
Date of payment [by Kothari Ltd. in the present case]	23rd December

Thus, **time of supply is 30th September.**

Question 13

Determine the time of supply in the following cases assuming that GST is payable under reverse charge and supplier is responsible for issuance of invoice:

SN	Date of payment by the recipient for supply of services (1)	Date of issue of invoice by the supplier of services (2)
(i)	August 10	June 29
(ii)	August 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29

Answer

SN	Date of payment by the recipient for supply of services (1)	Date of Issue of invoice by the supplier of services (2)	Date immediately following 60 days from the date of invoice (3)	Time of supply of goods [Earlier of (1) & (3)]
(i)	August 10	June 29	August 29	**August 10**
(ii)	August 10	June 1	August 1	**August 1**
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29	August 29	**June 30** for part payment and **August 29** for balance amount
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1	August 1	**June 28** (i.e. when payment is entered in the books of account of the recipient)
(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29	August 29	**June 26** (i.e. when payment is debited in the recipient's bank account)

Question 14

Mint Industries Ltd., a registered supplier, imports business support services from Green Inc. of USA on 13th August. The relevant invoice for $ 1,20,000 is raised by Green Inc on 18th August. Mint Industries Ltd. makes the payment against the said invoice as follows:

Case I	22nd September
Case II	27th December

Determine time of supply in each of the aforesaid cases.

Answer

In case of services supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient, tax is payable under reverse charge by the person located in the taxable territory. [Notification No. 10/2017 IT (R) dated 28.06.2017]. Hence, in the given case, since the business support services are provided by Green Inc (located in non-taxable territory) to Mint Ltd. (person other than non-taxable online recipient and located in taxable territory), **tax is payable under reverse charge by Mint Ltd.**

The time of supply of services taxable under reverse charge is the earlier of the following:

- Date of payment, or
- Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.

In view of the aforesaid provisions, the time of supply in each of the given cases will be as under:

CASE	Time of supply
CASE I	Since Mint Ltd makes the payment within 60 days of the date of issue of invoice, the **time of supply is the date of payment, i.e. 22nd September.**
CASE II	As Mint Ltd. makes the payment after 60 days from date of invoice, **time of supply is** the date immediately following the said period of 60 days, i.e. **61st day which is 18th October.**

Question 15

Mangesh Enterprises, Goa, a registered supplier, has made the following supplies in the month of February 20XX:

(i) Supply of guest house accommodation with facilities of cooling, heating, internet and parking to customers on daily rentals of ₹ 1,500. Mangesh Enterprises has 20 guest suites. During the month, there was 50% occupancy. Catering and food service were supplied separately to those who opted for it at a cost of ₹ 500 per day of occupancy. Total amount collected for catering and food service was ₹ 70,000.

(ii) Supplied monthly air-conditioner maintenance services (intra-State) to a software company under a contract effective 1st February, 20XX for six months. According to the terms of service in the contract, the software company is liable to pay service charges of ₹ 12,000 for the entire period plus cost of spares and replacements at actuals. Taxes are separate and payable in accordance with statute. Mangesh Enterprises is yet to raise an invoice, though service was provided for February, 20XX. During the month, the company has not provided any spares or replacements as part of maintenance service. Further, the concern has not received any amount towards above services.

Assume rates of GST as under:

S.No.	Particulars	Rate of GST (CGST + SGST)
1	Air conditioner maintenance	18%
2	Food catering service	5%
3	Renting of guest house service	18%
4	Parking service	18%

With the help of the above information, examine each of the above supplies made by Mangesh Enterprises for the month of February, 20XX and determine the rate and the amount of GST applicable on the supplies made.

Answer

(i) Determination of rate and amount of GST

Particulars	Rate of GST	GST [CGST + SGST] (₹)
Composite supply of renting of guest house with other facilities [Renting of guest house being principal supply.]	**18%** (Rate of principal supply)	**75,600** [37,800 + 37,800] [₹ 1,500 x 20 suites x 50% x 28 days x 18%]
Separate supply of catering and food services	**5%**	**3,500** [1,750 + 1,750] [₹ 70,000 x 5%]

(ii) Rate of GST applicable in the given case is **18%**, i.e., the rate of GST applicable on air-conditioner maintenance service. Since the **given supply is a continuous supply of service** where in terms of contract, **due date is not ascertainable,** the **time of supply of said services does not fall in February 20XX and thus, no GST is payable for said month.**

Change in Rate of Tax

Question 16

I buy a set of modular furniture from a retail store. Invoice is issued to me and I make the payment. The furniture is to be delivered to me later in the week when a technician is available to assemble and install it. The next day the rate of tax applicable to modular furniture is revised upward, and the store sends me a supplementary invoice with the delivery note accompanying the furniture to collect the differential amount of tax. Is this correct on store's part? Explain.

Answer

No, the store is not correct in issuing supplementary invoice with revised rate of tax. The revised rate of tax is not applicable to the transaction, as the issuance of invoice as well as receipt of payment occurred before the supply. Therefore, in terms of section 14(b)(ii), the time of supply is earlier of the two events namely, issuance of invoice or receipt of payment, both of which are before the change in rate of tax, and thus, the **old rate of tax remains applicable.**

Question 17

An online portal, Best Info, raises invoice for database access on 21st February on Roy & Bansal Ltd. The payment is made by Roy & Bansal Ltd. by a demand draft sent on 25th February, which is received and entered in the accounts of Best Info on 28th February. Best Info encashes the demand draft and thereafter, gives access to the database to Roy & Bansal Ltd from 3rd March. In the meanwhile, the rate of tax is changed from 1st March. Determine the time of supply of the service of database access by Best Info.

Answer

As issuance of invoice and receipt of payment (entry of the payment in Best Info's accounts) occurred before the change in rate of tax, the **time of supply** of service by the online portal is earlier of the date of issuance of invoice (21st February) or date of receipt of payment (28th February) i.e., **21st February.** This would be so even though the service commences after the change in rate of tax [Section 14(b)(ii)].

Question 18

Determine the time of supply in the following cases assuming that rate of GST changes from 18% to 20% w.e.f. June 1:

Sr. No.	Date of supply of services	Date of issue of invoice	Date of receipt of payment
(i)	May 28	June 9	July 25
(ii)		May 28	July 25
(iii)		June 9	May 26
(iv)	June 10	May 28	June 25
(v)		May 28	May 16
(vi)		June 9	May 28

Answer

S. No.	Date of supply of services	Date of issue of invoice	Date of receipt of payment	Time of supply	Applicable rate
(i)	May 28	June 9	July 25	**June 9**	**20%**
(ii)		May 28	July 25	**May 28**	**18%**
(iii)		June 9	May 26	**May 26**	**18%**
(iv)	June 10	May 28	June 25	**June 25**	**20%**
(v)		May 28	May 16	**May 16**	**18%**
(iv)		June 9	May 28	**June 9**	**20%**

Question 19

Basis the following information, determine the time of supply:

S. No.	Event	Date
(1)	Commencement of provision of service	05th June
(2)	Completion of service	10th October
(3)	Invoice issued	20th October
(4)	Payment received by cheque and entered in the books	15th October
(5)	Amount credited in Bank account	18th October
(6)	Rate changed from 12% to 18%	16th October

Note: Assume that all the days covered in the above case are working days.

Answer

The explanation to section 14 lays down that the date of receipt of payment is the date on which payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier. However, date of receipt of payment is the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.

In the given case, the payment has been credited in the bank account within 4 working days from the date of change in the rate of tax. Therefore, the date of receipt of payment is 15th October being the date of entry in the books of account of the supplier which is earlier than the date of credit of the payment in the bank account (18th October).

As per section 14(a)(iii), **in case of change in rate of tax, if the service is supplied before the change in rate of tax and the invoice is issued after the change in rate of tax but the payment is received before such change in rate of tax, the time of supply is the date of receipt of payment.**

Therefore, applying the provisions of section 14(a)(iii) to the given case, **time of supply is 15th October.**

Question 20

Anuja checked-in at the 'Welcome Tourist Lodge' in Madurai on 15th July, 20XX. The room rent for the same was ₹ 900 per day for a single room. She checked-out on 17th of July, 20XX and payment in respect to the same was received by the lodge via cheque at the time of checking-out and entered in the books on the same date. The lodge decided to issue her the invoice on the same date when the amount would get credited in its bank account.

The lodging of hotel rooms which was exempted upto ₹ 1,000 earlier became chargeable to tax from 18th July, 20XX.

Determine the time of supply and taxability of the service of lodging in the hands of 'Welcome Tourist Lodge' if the cheque gets credited into the bank account of 'Welcome Tourist Lodge' on 20th of July, 20XX.

Note: Assume that all the days covered in the above case are working days.

Answer

In the given case, date of receipt of payment is:

(a) Date of entry of payment in books of account [17th July 20XX] or

(b) Date of credit of payment in bank account [20th July 20XX]

whichever is earlier, viz., 17th July 20XX.

Date of issue of invoice is 20th July 20XX (since lodge decided to issue invoice on date of credit of payment in its bank account.)

Since in the given case of change in rate of tax (on 18th July, 20XX):

- services have been supplied and payment has been received, before such change in rate
- but invoice is issued after the change in rate,

time of supply is date of receipt of payment, viz. 17th July, 20XX.

Since the service of lodging upto a value of ₹ 1,000 was exempted at the time of supply, no GST is payable in the given case.

Question 21

Mr. Mahendra Sharma, an interior decorator registered at Ahmedabad (Gujarat), provided service to one of his client XYZ Company Ltd., registered at Pune (Maharashtra). The provision of service was completed on 10.08.20XX and payment received was entered in the books of Mr. Mahendra Sharma on 11.08.20XX.

With effect from 16.08.20XX, applicable GST rate was increased from 5% to 12%. However, payment for the service received was credited in his bank account on 17.08.20XX and invoice for the same was raised on 23.08.20XX. Mr. Mahendra Sharma claimed that he is liable to pay IGST @ 5%. But the department took the view that he is liable to pay IGST @12%.

Examine the correctness of Mr. Mahendra Sharma's contention and determine the time of supply and applicable rate of tax as per the statutory provisions.

Would your answer undergo any change in the above case if the payment was credited to the bank account on 14.08.20XX instead of 17.08.20XX?

Note: You may assume that all days are working days.

Answer

As per section 14 of the CGST Act, 2017, in case of change in rate of tax, date of receipt of payment is earlier of:

(i) date of entering payment in the books of account of the supplier (11.08.20XX)

or

(ii) date on which the payment is credited to his bank account (17.08.20XX).

However, if the payment is credited in the bank account after 4 working days from the date of change in the rate of tax, the date of receipt of payment will be the date of credit in the bank account.

In the given case, since payment has been credited in bank within 4 working days from the date of change in rate of tax, date of receipt of payment will be 11.08.20XX [i.e., earlier of 11.08.20XX or 17.08.20XX].

Section 14 further provides that where goods and/or services have been supplied before the change in rate of tax (10.08.20XX) and the payment has been received before the change in rate of tax (11.08.20XX), but the invoice for the same is issued after the change in rate of tax (23.08.20XX), the time of supply shall be the date of receipt of payment.

Therefore, in the given case, the **time of supply will be 11.08.20XX and the applicable rate of tax will be rate prevalent at the time of supply, i.e. IGST @ 5%.**

Therefore, the **contention of Mahendra Sharma is correct.**

Further, if the date on which the payment is credited to bank account of supplier is 14.08.20XX, the date of receipt of payment will continue to be 11.08.20XX [i.e., earlier of 11.08.20XX or 14.08.20XX] since the payment is credited in the bank account before change in rate of tax. Consequently, with other things remaining the same, the **time of supply and the applicable rate of tax will remain the same.**

Question 22

M/s Housefull Convention Hall is in the business of letting out its halls for functions. It provides you with the following information for determining the amount of refund out of advance received based on time of supply for one of its clients.

S. No.	Particulars	Date	Amount in ₹
(1)	Advance paid at the time of booking the hall for a function from 1st to 3rd Nov., 20XX	16.07.20XX	1,00,000
(2)	Additional deposit paid	18.08.20XX	2,00,000
(3)	Function is held as scheduled	1st Nov. to 3rd Nov. 20XX	
(4)	Invoice is issued (Taxable value)	25.11.20XX	2,50,000
(5)	Consider that there is a change in the rate of tax on 15th October, 20XX from (CGST 2.5% and SGST 2.5%) to (CGST 9% and SGST 9%)		

What would be the amount of refund payable to the client?

Answer

The time of supply of services is the date of issue of invoice if the same is issued within 30 days from the date of supply of service or the date of receipt of payment, whichever is earlier.

In the given case, invoice is issued within 30 days of the supply of service and advances have also been received. Therefore, **tax becomes payable at the time of receipt of advances** on 16.07.20XX and 18.08.20XX as it is not clear at the time of receipt of such advances as to what would be the total value of the supply. However, when **invoice is issued for a lesser value** on 25.11.20XX, **refund would become payable to the client.**

In case of change in rate of tax, where the service is supplied and invoice is issued after the change in rate of tax and payment is received before change in rate of tax, time of supply shall be date of issue of invoice, i.e., 25.11.20XX. Hence, **applicable rate of tax is new rate even though tax has been paid at old rate on advances received.**

Therefore, refund payable to client will be computed as under:

Total advance received (assumed including GST) =	₹ 3,00,000
Less: Actual liability [₹ 2,50,000 + ₹ 2,50,000 x 18% (new rate of tax)] =	₹ 2,95,000
Amount of refund =	**₹ 5,000**

CHAPTER - 4
Value of Supply

Transaction Value (Section 15)

Question 1

Income tax collected at source should be added in value of the supply in terms of section 15(2)(a). Examine the correctness of the statement.

Answer

The statement is **not correct**. CBIC vide Circular No. 76/50/2018 GST dated 31.12.2018 (amended vide corrigendum dated 7.03.2019) has clarified that for the purpose of determination of value of supply under GST, tax collected at source **(TCS) under** the provisions of the **Income Tax Act, 1961 would not be includible** as it is an interim levy not having the character of tax.

Question 2

How should the supply made by a component manufacturer be valued, when he uses moulds and dies owned by the original equipment manufacturer sent free of cost to him? Explain.

Answer

Circular No. 47/21/2018 GST dated 08.06.2018 has clarified that while calculating the value of the supply made by component manufacturer using moulds and dies owned by Original Equipment Manufacturers (OEM) sent free of cost (FOC) to him, the **value of such moulds and dies shall not be added to the value of supply** made by him because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b).

However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the **amortised cost of such moulds/dies shall be added to the value of the components.**

Question 3

Examine whether the following discounts ought to be excluded to determine the value of supply:

(i) Company offering 20% discount for purchases above ₹ 10,000

(ii) Company offering additional discount of 1% on purchase of 10,000 pieces in a year

(iii) After selling a product, the company re-values the product at a lower value and issues credit note to the buyer for the differential amount.

Answer

(i) The given case is a case of staggered discounts where rate of discount increases with increase in purchase volume. Such discounts are shown on the invoice itself. Therefore, the same are **excluded** to determine the value of supply.

(ii) The given case is a case of volume discount which are offered by the suppliers to their stockists,

etc. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. Such type of volume discounts are **excluded** to determine the value of supply provided they satisfy the parameters laid down in section 15(3) including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

(iii) This is a case of secondary discounts. These are the discounts which are not known at the time of supply or are offered after the supply is already over. Therefore, such discounts **shall not be excluded** while determining the value of supply.

Question 4

BW Ltd. manufactures tobacco products. It has provided the following particulars relating to goods sold by it to CF Ltd.

Particulars	₹
Price of the goods (exclusive of all taxes/duties and discounts)	60,000
Excise duty	6,000
Packing charges	2,000
Freight (arranged by BW Ltd.)	1600
Total amount billed to CF Ltd. before any discount	69,600
Discount @ 2% of the price of goods recorded in the invoice	

The final amount charged from CF Ltd. is ₹ 69,600 less discount @ 2%.

Determine the value of taxable supply made by BW Ltd.

Answer

Computation of value of taxable supply

Particulars	₹
Price of the goods (exclusive of taxes and discounts)	60,000
Add: Excise duty [Note 1]	6,000
Packing charges [Note 2]	2,000
Freight [Note 3]	1600
Less: Discount @ 2% on ₹ 60,000 [Note 4]	(1,200)
Value of taxable supply	**68,400**

Notes:

(1) As per section 15(2)(a), any taxes, duties, cesses, fees and charges other than CGST, SGST, UTGST, IGST and GST Compensation Cess, if charged separately by the supplier should be included in the value of supply. Thus, excise duty charged separately has been added in the value.

(2) As per section 15(2)(c), incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply should be included in the value. Thus, packing charges have been added in the value.

(3) Since transport is arranged by the supplier, the contract of supply becomes a composite supply; the principal supply being the supply of goods. Therefore, freight becomes part of the value of the composite supply.

(4) As per section 15(3)(a), the value of the supply does not include any discount which is given before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply. Therefore, since in this case, discount is known at the time of supply and recorded in the supply, it is deductible from the value.

Question 5

SA Ltd. is a manufacturer of biscuits. The price of a 200 gm pack of biscuit sold by SA Ltd. is ₹ 30. It has received subsidy of ₹ 5 per pack of biscuit sold from NM Ltd. as part of NM Ltd.'s CSR activity. SA Ltd. supplied 1000 packs of biscuits @ ₹ 25 per pack to one of its wholesalers namely, MA Pvt. Ltd. during a tax period. Loading charges of ₹ 1200 have also been charged separately from MA Pvt. Ltd. MA Pvt Ltd. delayed the payment of consideration and thus, paid ₹ 5,000 as interest (no separate amount of GST is paid on the interest by MA Ltd.) in the next tax period. Assume the rate of GST to be 18%.

Determine the value of taxable supply made by SA Ltd.

Answer

Computation of value of taxable supply

Particulars	₹
Price of 1,000 packs of biscuits @ ₹ 25	25,000
Add: Subsidy received from NM Ltd. @ ₹ 5 for 1000 packs of biscuits [Note 1]	5,000
Loading charges [Note 2]	1,200
Interest for delay in payment of consideration [Note 3] (rounded off)	4,237
Value of taxable supply	**35,437**

Notes:

(1) As per section 15(2)(e), subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments should be included in the value.

(2) As per section 15(2)(c), incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services should be included in the value.

(3) As per section 15(2)(e), interest or late fee or penalty for delayed payment of any consideration for any supply should be included in the value. However, as per section 12(6), the time of supply to the extent it relates to an addition in the value of supply by way of interest is the date when such interest is received. In the given case, since GST has not been paid separately on the interest, the same is inclusive of GST. Thus, the value has been computed by [{Interest / (100 + Tax Rate)} x 100]. This time of supply in relation to the addition in value by way of such interest will fall in the next tax period on the date when the same is received.

Question 6

Vayu Ltd. provides you the following particulars relating to goods supplied by it to Agni Ltd.:

Particulars	Amount (₹)
List price of the goods (exclusive of taxes/duties and discounts)	76,000
Special packing at the request of customer to be charged to the customer	5,000
Duty levied by local authority on the sale of such goods	4,000
CGST and SGST charged in invoice	14,400
Subsidy received from an NGO in relation to the goods sold (The price of ₹ 76,000 given above is after considering the subsidy)	5,000

Vayu Ltd. offers 3% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supplies made by Vayu Ltd.

Answer

Computation of value of taxable supplies by Vayu Ltd.

Particulars	₹
List price of the goods	76,000
Add: Special packing [Note 1]	5,000
Duty levied by local authority on sale of goods [Note 2]	4,000
CGST and SGST charged [Note 2]	-
Subsidy received from an NGO [Note 3]	5,000
Less: Discount offered = 3% of List price = ₹ 76,000 × 3% [Note-4]	(2,280)
Value of taxable supplies	**87,720**

Notes:

1. Being incidental expenses charged by the supplier to the recipient of supply, packing charges are includible in the value as per section 15(2)(c).
2. Taxes, duties, etc. levied under any law for the time being in force other than CGST, SGST/UTGST, IGST are includible in the value as per section 15(2)(a).
3. Subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15(2)(e).
4. Since discount is known at the time of supply, it is deductible from value in terms of section 15(3)(a).

Question 7

Royal Manufacturers, a registered supplier of machinery, supplied a special purpose machine to Dharam Furnishers for which it charges a price of Rs. 9,00,000. Further, it charged the following additional amounts in relation to said supply:

S.No.	Particulars	₹
(i)	Transit insurance	16,500
(ii)	Packing charges	13,500

(iii)	Extra charges for designing the machine	30,000
(iv)	Freight	18,000

Following additional information is also available -

(a) Cash discount @ 2% on price of machinery has been allowed to Dharam Furnishers at the time of supply and also recorded in invoice.

(b) GST rate – 18%.

Calculate value of supply of the special purpose machine.

Answer

Computation of value of the special purpose machine

Particulars	₹
Price of machinery	9,00,000
Add: Transit insurance [Note 1]	16,500
Packing charges [Note 2]	13,500
Extra design charges [Note 3]	30,000
Freight [Note 1]	18,000
Total	9,78,000
Less: 2% cash discount on price of machinery [₹ 9,00,000 × 2%] [Note 4]	18,000
Value of taxable supply	**9,60,000**

Notes:

(1) The given supply is a composite supply involving supply of goods (special machine) and services (transit insurance and freight) where the principal supply is the supply of goods.

As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

(2) All incidental expenses including packing charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.

(3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017. Thus, extra designing charges are to be included in the value of supply.

(4) Cash discount was given at the time of supply and also recorded in invoice, so the same is not to be included while computing value of supply in terms of section 15(3)(a) of CGST Act, 2017.

Question 8

Surya Agencies has agreed to supply goods to customer's premises. Goods valued ₹ 80,000 are taxable @ 5% IGST as it is an inter-State supply. It also pays freight and transit insurance of ₹ 12,000 and charged the same from customer. GTA is a registered entity and has charged GST (6% CGST and 6% SGST) under forward charge.

(i) Compute the invoice value of supply including IGST.

(ii) What will be the invoice value of supply including IGST, if the supply was under ex-factory basis

instead of door-delivery basis?

Note: All amounts given above are exclusive of GST. Assume buyer pays the freight and transit insurance.

Answer

Computation of invoice value of supply

(i) When supplier agrees to supply the goods at customer's premises, i.e. freight and transit insurance are paid by the supplier, invoice value of supply will be computed as follows:

Particulars	Amount (₹)
Value of goods supplied	80,000
Add: Freight and transit insurance [Since the supplier has agreed to deliver the goods at the customer's premises and to pay for freight and insurance, the contract of supply becomes a composite supply, the principal supply being the supply of goods.]	12,000
Total	**92,000**
Add: IGST @ 5% [Being a composite supply, GST at the rate applicable for principal supply will be charged]	4,600
Invoice value of supply	**96,600**

(ii) When supplier agrees to supply the goods on ex-factory basis, i.e. the buyer pays the freight and transit insurance, invoice value of supply will be computed as follows:

Particulars	Amount (₹)
Value of goods supplied	80,000
Add: IGST @ 5% of ₹ 80,000	4,000
Invoice value of supply	84,000

Question 9

Dushyant rents out a commercial building owned by him to Bharat for the month of December, for which he charges a rent of ₹ 19,50,000. Dushyant pays the maintenance charges of ₹ 1,00,000 (for the December month) as charged by the local society. These charges have been reimbursed to him by Bharat. Also, Dushyant has paid municipal tax of ₹ 2,85,000 which he has not charged from Bharat.

You are required to determine the value of supply and the GST liability of Dushyant for the month of December assuming CGST and SGST rates to be 9% each.

Note: All the amounts given above are exclusive of GST.

Answer

Computation of the value of supply and the GST liability of Dushyant for the month of December

Particulars	Amount (₹)
Rent of the commercial building	19,50,000
Maintenance charges paid to the local society, reimbursed by Bharat [Note 1]	1,00,000

Municipal tax paid by Dushyant [Note 2]	Nil
Value of supply	**20,50,000**
CGST @ 9%	**1,84,500**
SGST @ 9%	**1,84,500**

Notes:

(1) Since such charges are reimbursed by the tenant (Bharat), such charges ultimately form part of the rent paid by Bharat to Dushyant and thus, form part of the value.

(2) Since municipal tax is paid by the supplier (Dushyant) and not charged to the recipient, the same is not includible in the value.

Question 10

Determine the value of supply and the GST liability, to be collected and paid by the owner, with the following particulars:

	₹
Rent of the commercial building	18,00,000
Maintenance charges collected by local society from the owner and reimbursed by the tenant	2,50,000
Owner intends to charge GST on refundable advance, as GST is applicable on advance	6,00,000
Municipal taxes paid by the owner	3,00,000

GST rates applicable on renting of business premises are as follows: CGST 9%, SGST 9%

Note: All the amounts given above are exclusive of GST.

Answer

Computation of Value of Supply and GST liability:

Particulars	Amount (₹)
Rent of the commercial building	18,00,000
Maintenance charges collected by the local society from the owner and reimbursed by the tenant [Being reimbursed by the tenant, such charges ultimately form part of the rent paid by the tenant to the owner and thus, will form part of the value]	2,50,000
Refundable advance [Being refundable, the advance is in the nature of security deposit which does not constitute consideration in terms of section 2(31) of the CGST Act, 2017 and thus, is not includible in the value]	Nil
Municipal taxes paid by the owner [Being an expenditure incurred by supplier, same is not includible in value, assuming that such taxes are not charged to the recipient.]	Nil
Value of supply	**20,50,000**
CGST @ 9%	**1,84,500**
SGST @ 9%	**1,84,500**

Question 11

Kaya Trade Links Pvt. Ltd. is a registered manufacturer of premium ceiling fans. It sells its fans exclusively through distributors appointed across the country. The maximum retail price (MRP) printed on the package of a fan is ₹ 10,000. The company sells the ceiling fans to distributors at ₹ 7,000 per fan (exclusive of applicable taxes). The applicable rate of GST on ceiling fans is 18%.

The stock is dispatched to the distributors on quarterly basis - stock for a quarter being dispatched in the second week of the month preceding the relevant quarter. However, additional stock is dispatched at any point of the year if the company receives a requisition to that effect from any of its distributors. The company charges ₹ 1,000 per fan from distributors towards packing expenses.

The company has a policy to offer a discount of 10% (per fan) on fans supplied to the distributors for a quarter, if the distributors sell 500 fans in the preceding quarter. The discount is offered on the price at which the fans are sold to the distributors (excluding all charges and taxes).

The company appoints Prakash Sales as a distributor on 1stApril and dispatches 750 fans on 8th April as stock for the quarter April-June. Prakash Sales places a purchase order of 1,000 fans with the company for the quarter July-September. The order is dispatched by the company on 10th June and the same is received by the distributor on 18th June. The distributor makes the payment for the fans on 26th June and avails applicable input tax credit. The distributor reports sales of 700 fans for the quarter April-June and 850 fans for the quarter July- September.

Examine the scenario with reference to section 15 of the CGST Act, 2017 and compute the taxable value of fans supplied by Kaya Trade Links Pvt. Ltd. to Prakash Sales during the quarter July-September.

Note: Make suitable assumptions, wherever necessary.

Answer

Section 15(3)(a) of CGST Act allows discounts to be deducted from value of taxable supply if same is given before or at the time of supply and if such discount has been duly recorded in invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b) of the CGST Act if-

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Prakash Sales is entitled for 10% discount on fans supplied by Kaya Trade Links Pvt. Ltd. for the quarter July-September as it has sold more than 500 fans in the preceding quarter April-June. However, since the entire stock for the quarter July-September has already been dispatched by Kaya Trade Links Pvt. Ltd. in the month of June, the discounts on the fans supplied to Prakash Sales for the quarter July-September will be a post- supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to fans supplied to Prakash Sales for the quarter July-September) provided Prakash Sales reverses the input tax credit attributable to the discount on the basis of document issued by Kaya Trade Links Pvt. Ltd.

The value of supply will thus, be computed as under:

Particulars	Amount (₹)
Price at which the fans are supplied to Prakash Sales [Note 1]	7,000
Add: Packing expenses [Note 2]	1,000
Less: Discount [Note 3]	(700)
Value of taxable supply of one unit of fan	**7,300**
Value of taxable supply of fans for the quarter July- September [₹ 7,300 x 1,000]	**73,00,000**

Notes:

(1) The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of section 15(1) of the CGST Act presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply.

(2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c) of the CGST Act.

(3) Since all the conditions specified in section 15(3)(b) of the CGST Act have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply presuming that Prakash Sales has reversed the input tax credit attributable to such discount on the basis of document issued by Kaya Trade Links Pvt. Ltd. The input tax credit to be reversed will work out to be ₹1.26 lakh [1,000 x (7,000 x 10%) x 18%].

Question 12

Binaca Electronics Ltd. (hereinafter referred to as BEL) is engaged in manufacturing televisions. It is registered in the State of Haryana. It has appointed distributors across the country who sell the televisions manufactured by it. The maximum retail price (MRP) printed on the package of a television is ₹ 12,000. The applicable rate of GST on televisions is 18%. BEL dispatches the stock of televisions to its distributors ordered by them on a quarterly basis.

In order to promote its sales, the Sales Head of BEL has formulated a sales promotion scheme. Under this scheme, BEL offers a discount of 10% (per television) on televisions supplied to the distributors if the distributors sell 500 televisions in a quarter. The discount is offered on the price at which the televisions are sold to the distributors (excluding all charges and taxes).

It appoints Shah Electronics (an unrelated party as per GST Law) as its distributor in Haryana on 1st April and dispatches 750 televisions on 8th April as stock for the quarter April-June. BEL has sold the televisions to distributor - Shah Electronics at ₹ 8,400 per television (exclusive of applicable taxes). Shah Electronics has requested BEL for a special packing of the televisions delivered to it for which BEL has charged ₹ 1,200 per television.

Shah Electronics places a purchase order of 1,000 televisions with BEL for the quarter July-September. The distributor reports sales of 700 televisions for the quarter April-June and 850 televisions for the quarter July-September. The discount policy offered by BEL as explained above is also available to Shah Electronics as per the distributorship agreement.

While Shah Electronics reverses the input tax credit availed for the quarter July- September, it has failed to reverse the input tax credit availed for the quarter April-June.

Examine the scenario with reference to section 15 and compute the taxable value of televisions supplied

by BEL to Shah Electronics during the quarters April-June and July-September assuming the rate of tax applicable on the televisions as 18%.

Answer

Section 15(3)(a) allows discounts to be deducted from the value of taxable supply if the same is given before or at the time of supply and if such discount has been duly recorded in the invoice issued in respect of such supply. In other words, pre-supply discounts recorded in invoices are allowed as deduction.

Further, post supply discounts are also allowed as deduction from the value of supply under section 15(3)(b) if-

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

In the given case, Shah Electronics is entitled for 10% discount on televisions supplied by BEL for the quarters April-June as well as July-September as it has sold more than 500 televisions in each of these quarters. However, since the sales targets are achieved after the entire stock for the respective quarters of April-June and July-September has been dispatched, the discounts on the televisions supplied to Shah Electronics for the quarters of April-June and July-September is a post-supply discount.

Such post-supply discount will be allowed as a deduction from the value of supply since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices (invoices pertaining to televisions supplied to Shah Electronics for the quarters of April- June and July-September) provided Shah Electronics reverses the input tax credit attributable to the discount on the basis of document issued by BEL.

The value of supply for the quarters of April-June and July-September will thus, be computed as under:

Computation of value of supply for the quarter - April-June

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	Nil
Value of taxable supply of one unit of television	**9,600**
Value of taxable supply of televisions for the quarter April-June [₹ 9,600 x 750]	**72,00,000**

Notes:

(1) The value of a supply is the transaction value, which is the price actually paid or payable for said supply, in terms of section 15(1) presuming that the supplier and recipient of supply are not related and price is the sole consideration for supply as the supplier and recipient are not related parties.

(2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c).

(3) Since Shah Electronics has not reversed the input tax credit attributable to such discount on the basis of document issued by BEL, the conditions specified in section 15(3)(b) have not been fulfilled. Thus, the post- supply discount will not be allowed as deduction from the value of supply.

Computation of value of supply for quarter - July-September

Particulars	Amount (₹)
Price at which the televisions are supplied to Shah Electronics [Note 1]	8,400
Add: Packing expenses [Note 2]	1,200
Less: Discount [Note 3]	(840)
Value of taxable supply of one unit of television	**8,760**
Value of taxable supply of televisions for quarter July-September [₹ 8,760 x 1,000]	**87,60,000**

Notes:

(1) The value of a supply is the transaction value, which is the price actually paid or payable for said supply, in terms of section 15(1) presuming that the supplier and recipient of supply are not related and price is the sole consideration for supply as the supplier and recipient are not related parties.

(2) The value of supply includes incidental expenses like packing charges in terms of section 15(2)(c).

(3) Since all the conditions specified in section 15(3)(b) have been fulfilled, the post-supply discount will be allowed as deduction from the value of supply. The input tax credit to be reversed will work out to be ₹1,51,200 [1,000 x (8,400 x 10%) x 18%].

Question 13

Laxmi Ltd. of Bhopal (Madhya Pradesh) is a supplier of machinery. Laxmi Ltd. has supplied machinery to PQR Enterprises in Indore (Madhya Pradesh) on 1st October, 20XX. The invoice for supply has been issued on 1st October, 20XX. Thus, the time of supply of machinery is 1st October, 20XX. Laxmi Ltd. and PQR Enterprise are not related. Following information is provided:

Basic price of machinery excluding all taxes but including design and engineering charges of ₹ 10,000 and loading charges of ₹ 20,000 - ₹ 20,00,000.

Laxmi Ltd. provides 2 years free warranty for the machinery. Laxmi Ltd. also provides an extended one year warranty on payment of additional charges of ₹ 1,00,000. The extended warranty is given by the manufacturer at the time of supply of goods to the buyer and that the same is not available separately. PQR Enterprises opted for one year warranty.

Laxmi Ltd. has collected consultancy charges in relation to pre- installation planning of ₹ 10,000 and freight and insurance charges from place of removal to buyer's premises of ₹ 20,000.

Laxmi Ltd. received subsidy of ₹ 50,000 from Central Government for supplying the machinery to backward region since receiver was located in a backward region. Laxmi Ltd. also received ₹ 50,000 from the joint venture partner of PQR Enterprises for making timely supply of machinery to the recipient.

A cash discount of 1% on the basic price of the machinery (including design, engineering charges and loading charges) is offered at the time of supply, if PQR Enterprises agrees to make the payment within 30 days of the receipt of the machinery at his premises. Discount @ 1% was given to PQR Enterprises as it agreed to make the payment within 30 days.

The machinery attracts CGST and SGST @ 18% (9% + 9%) and IGST @18%.

Compute the CGST and SGST or IGST payable, as the case may be, on the machinery.

Answer

Computation of GST payable

Particulars	₹
Price of the machinery [Note 1]	20,00,000
Add: Extended warranty cost [Note 2]	1,00,000
Consultancy charges in relation to pre-installation planning [Note 3]	10,000
Freight and insurance charges [Note 4]	20,000
Subsidy received from Central Government [Note 5]	Nil
Receipts from Joint Venture of PQR Enterprises [Note 5]	50,000
Less: 1% discount on basic price = ₹ 20,00,000 x 1% [Note 6]	(20,000)
Value of supply	**21,60,000**
CGST @ 9% [Note 7]	**1,94,400**
SGST @ 9% [Note 7]	**1,94,400**

Notes:

1. Laxmi Ltd. and PQR Enterprises are not related and price is assumed to be the sole consideration for the supply. Therefore, in terms of section 15(1) of the CGST Act, 2017, the value of the supply is the transaction value i.e., price actually paid or payable for the machinery by PQR Enterprises.

   Design and engineering charges are includible in the value of supply as any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is so includible in terms of section 15(2)(c) of CGST Act, 2017.

   Further, loading charges being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per section 15(2)(c) of the CGST Act, 2017.

2. Supply of machinery (goods) with supply of ancillary services like extended warranty, is a composite supply, the principle supply of which is the supply of machinery. [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.

3. Any amount charged for anything done by the supplier in respect of supply of goods at the time of, or before delivery of goods is includible in value of supply as per section 15(2)(c) of CGST Act, 2017.

4. Supply of machinery (goods) with supply of ancillary services like freight and insurance is a composite supply, the principal supply of which is the supply of machinery [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.

5. Subsidies provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2)(e) of CGST Act, 2017. However, subsidy directly linked to the price received from a non-Government body is includible in value in terms of section 15(2)(e).

6. Cash discount has been given to PQR Enterprises upfront at the time of supply and thus, would have been recorded in the invoice and hence, the same is excluded from the value of supply in terms of section 15(3)(a) of the CGST Act, 2017.

7. In the given case-
   - the location of the supplier is in Bhopal (Madhya Pradesh); and
   - the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., Indore (Madhya Pradesh) vide section 10(1)(a) of IGST Act, 2017.

Therefore, as per section 8(1) of IGST Act, 2017, the given supply is an intra-State supply as the location of the supplier and the place of supply are in the same State. Thus, the supply will be leviable to CGST and SGST.

Question 14

Aviant Ltd., registered in Noida (Uttar Pradesh), is a supplier of machinery used for making bottle caps. The supply of machinery is effected as under:

- The wholesale price of the machinery (excluding all taxes and other expenses) at which it is supplied in the ordinary course of the business to various customers is ₹ 42,00,000. However, the actual price at which the machinery is supplied to an individual customer varies within a range of ± 10% depending upon the terms of contract of supply with the particular customer.
- Apart from price of machinery, Aviant Ltd. charges from customer the following incidental expenses:
  - associated handling and loading charges of ₹ 10,000
  - installation and commissioning charges of ₹ 1,00,000
- The machinery can be dismantled and erected at another site, if required. The above charges are compulsorily levied in every case of supply of machinery.
- Transportation of machinery to the customer's premises is arranged by Aviant Ltd. through a third-party service provider [Goods Transport Agency (GTA)]. The customer enters into a separate service contract with the GTA and pays the freight directly to it.
- A cash discount of 2% on the price of the machinery is offered at the time of supply, if the customer agrees to make the payment within 15 days of the receipt of the machinery at his premises. In the event of failure to make the payment within the stipulated time, the company-
  - recovers the discount (no separate amount of GST is recovered) given; and
  - charges simple interest @ 1% per month or part of the month (no separate amount of GST is recovered) on total amount due from customer (towards the machinery supplied) from the date of making the supply till the date of payment. However, no interest is charged on the tax dues.
- For every machinery supplied, Aviant Ltd. receives a price linked subsidy of ₹ 2,00,000 from its holding company Diligent Ltd.

Aviant Ltd. has supplied a machinery to an unrelated party, Daffodil Pvt. Ltd. on 1st August at a price of ₹ 40,00,000 (excluding all taxes). Invoice was issued on 1st August by Aviant Ltd. The corporate office of Daffodil Ltd., which is at New Delhi, has entered into contract with Aviant Ltd. for supply of machinery. However, the machinery has been installed at Daffodil Pvt. Ltd's registered manufacturing unit located in Gurugram (Haryana). Daffodil Pvt. Ltd. has paid the freight directly to the GTA. Discount @ 2% on the price of machinery excluding taxes was given to Daffodil Pvt. Ltd. as it agreed to make the payment within 15 days. However, Daffodil Pvt. Ltd. paid the consideration on 31st October.

Assume the rates of taxes to be as under:

Bottle cap making machine		
CGST – 6%	SGST – 6%	IGST – 12%
Service of transportation of goods		
CGST – 2.5%	SGST – 2.5%	IGST – 5%

Other services involved in the above supply		
CGST – 9%	SGST – 9%	IGST – 18%

Calculate the GST payable [CGST, SGST or IGST, as the case may be] on the machinery and support your conclusions with legal provisions in the form of explanatory notes.

Answer

Computation of GST liability of Aviant Ltd.

Particulars	(₹)
Price of machine [Note 1]	40,00,000
Add: Handling and loading charges [Note 2]	10,000
Installation and commissioning charges [Note 3]	1,00,000
Transportation cost [Note 4]	Nil
Price linked subsidy from Diligent Ltd. [Note 5]	2,00,000
Total price of the machine	43,10,000
Less: 2% cash discount on price of machinery = ₹ 40,00,000 × 2% [Note 6]	(80,000)
Taxable value of supply	**42,30,000**
Tax liability for the month of August [Note 10]	
IGST @ 12% [Note 8 and Note 7] – **[A]**	5,07,600
Tax liability for the month of October [Note 10]	
Add: Interest collected @ 3% on ₹ 41,10,000 [Note 9]	1,23,300
Cash discount recovered [Note 9]	80,000
Value of interest and cash discount inclusive of tax	2,03,300
IGST = (₹ 2,03,300/112) x 12 - **[B]**	21,782
Total IGST payable on the machinery [A] + [B]	**5,29,382**

Notes:

(1) As per section 15(1), the value of a supply is the transaction value i.e., the price actually paid or payable for the said supply when the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) All incidental expenses charged by the supplier to the recipient of a supply are includible in the value of supply in terms of section 15(2)(c).

(3) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c).

(4) Transportation cost has not been included in the value of supply of the machinery as it is a separate service contract between the customer and the third-party service provider. The customer pays the freight directly to the service provider.

The supplier (Aviant Ltd), in this case, merely arranges for the transport and does not provide the transport service on its own account. Therefore, there will be no impact from valuation point of view on transport expenses incurred for supply of machinery as the supplier is not the party to such supply of services.

(5) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible in the value of supply in terms of section 15(2)(e).

(6) Cash discount was deducted by Aviant Ltd. upfront at the time of supply on 1st August, and hence, the same is excluded from the value of supply as it did not form part of the transaction value.

(7) In the given case-

- the location of the supplier is in Noida (UP); and
- the place of supply of machinery is the place of installation of the machinery i.e., Gurugram (Haryana) in terms of section 10(1)(d) of the IGST Act, 2017.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

(8) The given supply is a composite supply involving supply of goods (machinery) & services (handling and loading and installation and commissioning) where principal supply is the supply of goods.

As per section 8(a), a composite supply is treated as a supply of principal supply involved therein & charged to tax accordingly. Thus, tax rate applicable to goods (machinery) has been considered.

(9) Interest for the delayed payment (which excludes subsidy related amount of Rs 2,00,000 as the same was not recoverable from the recipient) of any consideration for any supply is includible in the value of supply in terms of section 15(2)(d). Further, cash discount recovered will also be includible in the value of supply as now the transaction value i.e., the price actually paid for the machinery is devoid of any discount.

The cash discount not allowed and interest are inclusive of tax. Thus, tax payable thereon has to be computed by making back calculations in terms of rule 35.

(10) Invoice for the supply has been issued on 1st August. Thus, the time of supply of goods is 1st August in terms of section 12(1)(a).

As per section 12(6), the time of supply in case of addition in value by way of interest, late fee, penalty etc. for delayed payment of consideration for goods is the date on which supplier receives such addition in value. Thus, the time of supply of interest received and cash discount recovered on account of delayed payment of consideration is 31st October, the date when the full payment was made. The supplier may issue a debit note for such interest and cash discount recovered.

Question 15

M/s Jonty India Ltd. a manufacturer of heavy machines registered at Jaipur (Rajasthan) supplied one machine to M/s. Dhanuka Ltd. of Udaipur (Rajasthan) on 05.02.20XX under an invoice of the same date. Using the information given below, compute the value of the machine and the GST payable (CGST & SGST or IGST as the case may be) in cash for month of February, 20XX by M/s Jonty India Ltd. with appropriate working notes. Assume Rate of CGST, SGST and IGST on the machine to be 9%, 9% and 18% respectively.

S.N.	Particulars	Amount in ₹
(i)	The Basic price of the machine (exclusive of taxes and discount).	28,50,000
(ii)	Trade discount is allowed at 3% on the basic price and is shown in the invoice.	85,500
(iii)	Secondary packing (in iron sheets) charges for safe transportation of the machine on the request of buyer.	30,000
(iv)	Design and engineering charges of the machine	90,000
(v)	Tax levied by Municipal Authority on the sale of the machine.	25,000

(vi)	Subsidy received by the supplier from the State Government to encourage manufacture of the machine.	80,000
(vii)	Pre-delivery inspection charges paid to an independent agency in terms of the agreement for supply. The amount was paid by M/s. Dhanuka Ltd.	22,000
(viii)	Interest amount paid by M/s. Dhanuka Ltd. for delay in payment for machine.	12,000
	Inward Supplies	
(i)	IGST paid on food items for consumption by employees working in the factory.	8,000
(ii)	SGST and CGST (₹ 15,000 each) paid on Electrical transformer used in the manufacturing process.	30,000

Note:

(i) M/s Jonty India Ltd. has no input tax credit balance at the beginning of February, 20XX. All the other conditions necessary for availing the eligible input tax credit have been fulfilled.

(ii) There are no other transactions of supplies during the month of February, 20XX.

(iii) M/s Jonty India Ltd. and M/s. Dhanuka Ltd. are not related persons.

Answer

Computation of value of machine sold by M/s. Jonty India Ltd.

Particulars	₹
Basic price of machine	28,50,000
Add: Secondary packing [Note 1(i)]	30,000
Design and engineering charges [Note 1(ii)]	90,000
Tax levied by Municipal Authority [Note 1(iii)]	25,000
Pre-delivery inspection charges paid by M/s. Dhanuka Ltd. [Note 1(iv)]	22,000
Interest for delay in payment [₹ 12,000 x 100/118] [Note 1(v)] – (rounded off)	10,169
Less: 3% Trade discount on basic price of machinery = ₹ 28,50,000 × 3% [Note 2]	(85,500)
Taxable value of supply	**29,41,669**

Computation of net GST payable (in cash) by M/s. Jonty India Ltd. for month of February, 20XX

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
Tax on value of ₹ 29,41,669 (rounded off) [Note 4]	2,64,750	2,64,750
Less: Input tax credit [ITC] of tax paid on electrical transformer used in the manufacturing process [Note 3]	15,000	15,000
Net GST payable	**2,49,750**	**2,49,750**

Notes:

(1) As per section 15(2) of the CGST Act, 2017-

(i) All incidental expenses, including packing, charged by the supplier to the recipient of a supply are includible in the value of supply.

(ii) Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply.

(iii) Any taxes levied under any law for time being in force other than CGST/SGST/UTGST/IGST, if charged separately by the supplier are includible in the value of supply.

(iv) Any amount that the supplier is liable to pay in relation to such supply, but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods and/or services is includible in the value of supply.

(v) Interest for the delayed payment of any consideration for any supply is includible in the value of supply. Further, it is assumed that such interest is inclusive of tax and that the same has been received by M/s. Jonty India Ltd. in the month of February itself. Therefore, the time of supply of such interest will be in February, 20XX and the same will be considered while paying the tax liability of that month.

(vi) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments are includible in the value of supply. Since in the given case, subsidy is received from State Government, the same has not been included in the value of supply presuming it to be directly linked to the price.

(2) Trade discount has been shown in the invoice and hence, the same is excluded from the value of supply in terms of section 15(3)(a) of the CGST Act, 2017.

(3) ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply1 [Section 17(5)(b)(i)]. Further, since transformers are used in the course or furtherance of business, ITC thereon is available in terms of section 16(1).

(4) In the given case-

- the location of the supplier is in Jaipur (Rajasthan); and
- the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., Udaipur (Rajasthan) vide section 10(1)(a) of IGST Act, 2017.

Therefore, as per section 8(1) of IGST Act, 2017, given supply is an intra-State supply as the location of supplier and place of supply are in the same State. Thus, supply will be leviable to CGST and SGST

Question 16

X Ltd., a manufacturer of heavy machines registered at Mumbai (Maharashtra), supplied one machine to Y Ltd. in Pune (Maharashtra) on 19.02.20XX under an invoice of the same date. Using the information given below, compute the value of machine and the GST payable (CGST, SGST and IGST as the case may be) in cash for the month of February 20XX by X Ltd. with appropriate working notes.

Assume rate of CGST, SGST and IGST on the machine to be 9%, 9% and 18% respectively.

S.N.	Particulars	Amount (₹)
1	The basic price of the machine (exclusive of taxes and discount)	18,00,000
2	Trade discount is allowed at 10% on the basic price and is shown in the invoice.	1,80,000
3	Secondary packing (in iron sheets) charged for safe transportation of the machine on the request of buyer	30,000
4	Design and engineering charges of the machine paid by Y Ltd. to X Ltd.	90,000

5	Pre-delivery inspection charges paid by Y Ltd. to an independent agency "Inspection India". In terms of the agreement for supply, it was the discretion of the buyer 'Y Ltd.' to appoint, if it so desires, any agency for pre-delivery inspection, and also to itself pay to such agency.	22,000
6	Interest amount paid by Y Ltd. for delay in payment of the machine, said interest was paid by Y Ltd. in April 20XX	12,000
	INWARD SUPPLY: IGST paid on food items for consumption by employees working in the factory. The said food items are provided as per the declared company policy which is duly informed to the employees while they are recruited and forms part of their appointment letter, though there is no such obligation in law.	10,000

X Ltd. has no input tax credit balance at the beginning of February 20XX. All the other conditions necessary for availing the eligible input tax credit have been fulfilled. There is no other transaction of supplies during the month of February 20XX. X Ltd. and Y Ltd. are not related persons.

Answer

Computation of value of machine and GST payable in cash

Particulars		**Amount (₹)**
Price of machine		18,00,000
Add: Secondary packing	Incidental expenses including packing charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of supply of goods at the time of, or before delivery of goods are includible in the value of supply.	30,000
Design and engineering charges		90,000
Pre-delivery inspection charges	The amount incurred by the recipient of the supply is added only if the same was the liability of the supplier.	Nil
Less: Discount @ 10% on basic price [Discount is allowed as the same is given at the time of supply and is shown in invoice]		(1,80,000)
Taxable value of the machine in February, 20XX		**17,40,000**
Tax liability for the month of February		
CGST @ 9%		1,56,600
SGST@ 9%		1,56,600
[Since the movement of goods terminates for delivery to the recipient in the same State, it is an intra-State supply.]		
Less: ITC [ITC on supply of, inter alia, food and beverages is blocked if the employer is not under a statutory obligation to provide the same to its employees]		Nil
GST payable in cash		
CGST @ 9%		**1,56,600**
SGST@ 9%		**1,56,600**

Question 17

Power Engineering Pvt. Ltd., a registered supplier, is engaged in providing expert maintenance and repair services for large power plants that are in the nature of immovable property, situated all over India. The company has its Head Office at Bangalore, Karnataka and branch offices in other States. The work is done in the following manner.

- The company has self-contained mobile workshops, which are container trucks fitted out for carrying out the repairs. The trucks are equipped with items like repair equipments, consumables, tools, parts etc. to handle a wide variety of repair work.
- The truck is sent to the client location for carrying out the repair work. Depending upon the repairs to be done, the equipment, consumables, tools, parts etc. are used from the stock of such items carried in the truck.
- In some cases, a stand-alone machine is also sent to the client's premises in such truck for carrying out the repair work.
- The customer is billed after the completion of the repair work depending upon the nature of the work and the actual quantity of consumables, parts etc. used in the repair work.
- Sometimes the truck is sent to the company's own location in other State(s) from where it is further sent to client locations for repairs.

Work out the GST liability [CGST & SGST or IGST, as the case may be] of Power Engineering Pvt. Ltd., Bangalore on the basis of facts as described, read with following data for the month of November 20XX.

S.N.	Particulars	Amount (₹)
A.	Truck sent to own location in Tamil Nadu (i) Value of items contained in the truck - ₹ 3,00,000 (ii) Value of truck - ₹ 25,00,000	
B.	Truck sent to a client location in Tamil Nadu for carrying out repairs. Stand- alone machine is also sent in the truck to client location for repairs (i) Value of items contained in the truck – ₹ 2,85,000 (ii) Value of stand-alone machine - ₹ 4,00,000 (iii) Value of truck - ₹ 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
C.	Truck sent to a client location in Karnataka for carrying out repairs (i) Value of items contained in the truck - ₹ 1,06,000 (ii) Value of truck - ₹ 20,00,000 (Billing for repairs to be done afterwards depending upon the actual items used)	
D.	Invoices raised for repair work carried out in Tamil Nadu [including the invoice for repair work done in 'B'] -	70,00,000
E.	Invoices raised for repair work carried out in Karnataka [including the invoice for repair work done in 'C']	12,00,000

Also, specify the document(s), if any, which need to be issued by Power Engineering Pvt. Ltd., Bangalore for the above transactions.

All the given amounts are exclusive of GST, wherever applicable. Assume the rates of taxes to be as under:

Items used for repairs

CGST – 6%	SGST – 6%	IGST – 12%
Container truck, Stand-alone machines		
CGST – 2.5%	SGST – 2.5%	IGST – 5%
Works contract for repairs and maintenance of immovable property		
CGST – 9%	SGST – 9%	IGST – 18%

Answer

Computation of GST Liability of Power Engineering Pvt. Ltd., Bangalore for the month of November 20XX

S.N.	Particulars	Amount (₹)
A.	Items sent in container truck to own location in Tamil Nadu - IGST @ 12% [Note 1]	36,000
	Container truck sent to own location in Tamil Nadu [Note 2]	–
B.	Stand-alone machine sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 3]	–
	Container truck sent to client location in Tamil Nadu [Note 3]	–
	Items sent in container truck to client location in Tamil Nadu, for carrying out repairs [Note 4]	–
C.	Container truck sent to client location in Karnataka [Note 3]	–
	Items sent in container truck to client location in Karnataka, for carrying out repairs [Note 4]	–
D.	Invoices raised for repair work carried out in Tamil Nadu: IGST @ 18% [Note 5 and Note 6]	12,60,000
E.	Invoices raised for repair work carried out in Karnataka: CGST 9% + SGST 9% [Note 5 and Note 7]	2,16,000
Total GST liability		**15,12,000**

Notes:

(1) Movement of goods without any consideration to a 'distinct person' as specified in section 25(4) of the CGST Act, 2017 is deemed to be a supply in terms of section 7 read with Schedule I of the said Act. The purchase value is taken as taxable value, being the open market value in terms of rule 28(a) of the CGST Rules 2017. (However, if the regional office is eligible to take full input tax credit, any value may be declared in the tax invoice and that will be taken to be the open market value in terms of the second proviso to the same rule.)

In the given case:

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of items contained in the truck is the location of such goods at the time at which the movement of goods terminates for delivery to the recipient i.e., Tamil Nadu in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the given supply of items is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Since the activity is a supply, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(1)(a) of the CGST Act, 2017 for sending the items to its own location in Tamil Nadu.

(2) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act, 2017 specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, in view of the GST Council's recommendation, it has been clarified that the inter-State movement of various modes of conveyance between 'distinct persons' as specified in section 25(4), not involving further supply of such conveyance, including trucks carrying goods or passengers or both; or for repairs and maintenance, may be treated 'neither as a supply of goods nor supply of service' and therefore, will not be leviable to IGST. Applicable CGST/SGST/IGST, however, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST].

Since the activity is not a supply, tax invoice is not required to be issued by Power Engineering Pvt. Ltd. However, a delivery challan is to be issued by the company in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the truck to its own location in Tamil Nadu.

(3) Supply of goods without consideration is deemed to be a supply inter alia when the goods are supplied to a 'distinct person'. However, in this case, stand-alone machine and container truck are moved to client location and not between 'distinct persons'. Hence, the same will fall outside the scope of definition of supply and will not be leviable to GST.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the stand-alone machines and container truck to client location.

(4) As per section 2(119) of the CGST Act, 2017, 'works contract' means a contract for, inter alia, repair, maintenance of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

In this case, the supplier provides maintenance and repair services for power plants that are in the nature of immovable property and uses consumables and parts, wherever necessary, for the repairs. Hence, the contract is that of a works contract.

Further, as per section 2(30) of the CGST Act, 2017, a works contract is a 'composite supply' as it consists of taxable supplies of both goods and services which are naturally bundled and supplied in conjunction with each other. The composite supply of works contract is treated as supply of service in terms of para 6(a) of Schedule II to the CGST Act, 2017.

The items used in relation to the repair and maintenance work could be consumables or could be identifiable items/parts. In either case, the transfer of property in goods is incidental to a composite supply of works contract service. Thus, the value of the items actually used in the repairs will be included in the invoice raised for the service and will be charged to tax at that point of time.

Here again, a delivery challan is to be issued in terms of rule 55(1)(c) of CGST Rules, 2017 for sending the items for carrying out the repairs.

(5) The activity is a composite supply of works contract, which is treated as supply of service. As per section 8(a) of the CGST Act, 2017, a composite supply is treated as a supply of the principal supply involved therein and charged to tax accordingly.

Since the activity is a supply of service, a tax invoice is to be issued by Power Engineering Pvt. Ltd. in terms of section 31(2) of the CGST Act, 2017.

(6) In the given case-

- the location of the supplier is in Bangalore (Karnataka); and
- the place of supply of works contract services relating to the power plant (immovable property) is the location at which the immovable property is located i.e., Tamil Nadu.

Therefore, the given supply is an inter-State supply as the location of the supplier and the place of supply of services are in two different States [Section 7(3)(a) of IGST Act, 2017]. Thus, the supply will be leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

(7) In the given case, the location of the supplier and the place of supply of works contract services are within the same State. Therefore, the given supply is an intra-State supply in terms of section 8(2) of IGST Act, 2017 and thus, chargeable to CGST and SGST.

Rule 27 to 31

Question 18

Rajesh & Co., a partnership firm, provides financial and management consultancy to a group of companies for an annual retainership fee of ₹ 15 lakh. Further, the firm is provided with a car (along with a driver) for its exclusive use throughout the year. The fuel cost is also borne by the Group. Rajesh & Co. pays GST on the amount of ₹ 15 lakh.

Is the value for the service provided by Rajesh & Co. correct under GST law? If not, please elaborate.

Answer

Rajesh & Co. gets a car along with driver (including the fuel) for the whole year, which is an additional non-monetary consideration for its services. The **monetary value of such additional consideration must be added** to the retainer fee (₹ 15 lakh) in order to arrive at the value of the taxable service provided by Rajesh & Co, as per rule 27 relating to valuation.

Question 19

Dev Enterprises is the supplier of water coolers. Dev Enterprises supplied water coolers to an unrelated party, Vimal Traders for consideration of ₹ 2,95,000 (inclusive of GST @ 18%). Vimal Traders also gave some materials to Dev Enterprises [valuing ₹ 10,000 (exclusive of GST)] as consideration for such supply.

At the same time, Dev Enterprises has supplied the same goods to another unrelated person at price of ₹ 2,97,360 (inclusive of GST@18%).

You are required to:

(1) Determine the value of goods supplied by Dev Enterprises to Vimal Traders.

(2) What would your answer be if price of ₹ 2,97,360 is not available at the time of supply of goods to Vimal Traders? Explain briefly.

Answer

1. In the given case, price is not the sole consideration for supply. Apart from monetary consideration, the buyer has given some material to the supplier as consideration for such supply. Hence, the value of supply cannot be determined on the basis of transaction value in terms of section 15(1).

   Here, the value will be determined with the help of rule 27 which specifies that where the consideration for a supply is not wholly in money, the **value will be the open market value.**

   Open market value of a supply means the full value in money, excluding the applicable GST, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.

   Therefore, in the given case, the open market value of the goods supplied is **₹ 2,52,000** (₹ 2,97,360 x 100/118) and **is therefore, the value of such goods.**

2. Rule 27 further provides that if open market value of the supply is not known, the **value of the supply will be the consideration in money plus the money equivalent to the non-monetary consideration**, if such amount is known at the time of supply.

   Therefore, **value in the given case will be** (₹ 2,95,000 x 100/118) + ₹ 10,000, which is **₹ 2,60,000.**

Question 20

A pharmaceutical company supplies a drug intermediate to its own unit in another State for conversion into formulations. The product is exclusive to this company, and there is no market sale in India of this drug intermediate. Goods of like kind and quality are also not available.

How will the value of the supply of this drug intermediate be determined under GST law?

Answer

Since the supply is made to a distinct person, the same will be valued in accordance with rule 28(1) relating to valuation.

There is no open market value of the drug intermediate as also there are no like goods. Therefore, value of supply of such drug intermediate will be determined in terms of clause (c) of rule 28(1) i.e., by using rule 30. Thus, **value of supply of such drug intermediate will be 110% of its cost of production** or manufacture.

However, **if the recipient unit is eligible for full ITC**, the value declared in the invoice will be deemed to be the open market value of the drug intermediate and thus, the **invoice value will be the value of taxable supply.**

Question 21

Mr. Sharma, director of VEE Ltd., provides personal guarantee on 31.10.20XX to a nationalized bank for sanctioning the cash credit facility of ₹ 100 lakh sanctioned in favour of VEE Ltd. Mr. Sharma was not paid any consideration for the same by VEE Ltd.

Whether the said activity undertaken by Mr. Sharma will be considered as supply? If yes, what will be the value of such services? Explain in brief the relevant provisions of GST law.

Answer

Since **director and company are related persons** in terms of Schedule I of CGST Act, 2017, **activity of providing personal guarantee** by a director to banks/financial institutions for securing credit facilities for their companies is to be **treated as a supply of service, even when made without consideration.**

Thus, activity of providing personal guarantee by Mr. Sharma to nationalized bank will **qualify** as **supply**.

Value of such supply will be the open market value (OMV) in terms of rule 28(1) of CGST Rules, 2017.

However, **as per RBI Guidelines, no consideration** by way of commission, brokerage fees or any other form, **can be paid to the director by the company,** directly or indirectly, **in lieu of providing personal guarantee** to the bank for borrowing credit limits, except in exceptional cases.

Thus, it is clarified that **OMV of said supply may be treated as zero**/Nil and therefore, **no tax is payable** on such supply of service by Mr. Sharma to VEE Ltd.

Question 22

The supplies of commodity 'y' to the market are channelled through a State Marketing Corporation which conducts an auction each day to arrive at the price. Gupta and Co. supplies commodity 'y' through the State Marketing Corporation.

How will supply of 'y' made by Gupta and Co. to State Marketing Corporation be valued for paying tax?

Answer

The State Marketing Corporation is an 'agent' in the meaning of the expression as defined in section 2(5), which includes an auctioneer. Therefore, the value of supply of 'y' will be determined in terms of rule 29 relating to valuation.

There is no open market for the first supply of commodity 'y', as it is compulsorily supplied to the State Marketing Corporation. However, Gupta & Co. has the **option of valuing the supply of 'y' at 90% of price of goods of like kind and quality** sold by State Marketing Corporation to its unrelated customers.

If the value **cannot be determined by this method**, it needs to be determined on the basis of **cost plus 10% mark up** as per rule 30 **or** on the basis of **Best Judgement Method** as per rule 31, in that order.

Question 23

Rustagi & Co. manufactures customized products at its unit situated in Madhya Pradesh. Cost of production for Rustagi & Co. for 1000 products is ₹ 20,00,000. These products require further processing before sale, and for this purpose products are transferred from its Madhya Pradesh unit to its another unit in Himanchal Pradesh. The value declared on the invoice for such transfer is the cost of production of such products.

The Himanchal Pradesh unit, apart from processing its own products, engages in processing of similar products of other persons who supply the products of the same kind and quality. Thereafter, the Himanchal Pradesh unit sells these processed products to wholesalers. There are no other factories in the neighbouring area which are engaged in the same business as that of Himanchal Pradesh unit.

1,000 units of the products of same kind and quality are supplied to Himanchal Pradesh unit, at the time when goods are sent by Madhya Pradesh unit, by another manufacturer located in Himanchal Pradesh. The ex-factory price of such goods is ₹ 19,00,000. The Himanchal Pradesh unit of Rustagi & Co. is eligible for full ITC.

Determine the value of 1000 products supplied by Rustagi & Co. to its Himanchal Pradesh unit.

Answer

As per section 25(4), a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act. Therefore, **units of Rustagi & Co. in Madhya Pradesh and Himanchal Pradesh are distinct persons under GST.**

As per rule 28(1), the value of the supply of goods between distinct persons, other than where the supply is made through an agent, shall –

(a) be the **open market value** of such supply;

(b) if open market value is not available, be the **value of supply of goods of like kind and quality**;

(c) if value cannot be determined under the above methods, be **cost of the supply plus 10% mark-up** or be determined by other reasonable means, in that sequence.

Rule 28(1) also provides that **where the goods are intended for further supply as such by the recipient**, value shall, at the **option** of the supplier, be an **amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by recipient** to his customer not being a related person.

Further, rule 28(1) provides that **where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value** of the goods or services.

In the given case, the **option of valuing the goods @ 90%** of the price charged by the recipient to his unrelated customer is **not available as the goods are not further supplied 'as such'** but only after processing at Himachal Pradesh unit. However, **since the Himanchal Pradesh unit is eligible for full ITC**, the value declared by the Madhya Pradesh unit in the invoice for transfer of such products, i.e. **₹ 20,00,000 shall be deemed to be the open market value of the products.**

Thus, the **value of 1000 products supplied by Rustagi & Co. to its Himanchal Pradesh unit** in terms of rule 28(1) **is the open market value of such products which is ₹ 20,00,000.**

Question 24

Super Lever Limited is engaged in manufacture of taxable electronic goods. Its two manufacturing units are located in Mumbai and Nagpur and both units are registered under GST in the State of Maharashtra. The company has another manufacturing unit in Bangalore, registered under GST in the State of Karnataka and a retail showroom located in Ahmedabad, registered under GST in the State of Gujarat.

Compute the value of supply (most beneficial) made by Bangalore unit as well as the value of supply (most beneficial) made by Ahmedabad Retail Showroom, with respect to transfer of goods by these units to M/s. Equilibrium Sales, M/s. Paridhi Sales and M/s. Dhara Enterprises, if Super Lever Limited furnishes the following additional information for the month of October:

(i) Bangalore unit has appointed M/s. Equilibrium Sales as its sole selling agent. M/s. Equilibrium Sales sells the electronic goods of Bangalore unit under the invoice issued in its own name. The Bangalore unit transferred the goods costing ₹ 7,25,000 to M/s. Equilibrium Sales on 20th October which were sold by M/s. Equilibrium Sales on 31st October at ₹ 7,65,000. On 20th October, another electronic goods' manufacturer supplied the goods of like kind and quality to M/s. Equilibrium Sales as the one supplied by the Bangalore unit at a price of ₹ 7,75,000.

(ii) The Retail Showroom at Ahmedabad transfers goods costing ₹ 85,000 to its agent, M/s. Paridhi Sales on 12th October. M/s. Paridhi Sales sells such goods on 18th October at ₹ 5,00,000 under the invoice issued in the name of Retail Showroom at Ahmedabad. On 17th October, M/s Paridhi Sales has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 4,70,000.

The Retail Showroom at Ahmedabad also transfers goods costing ₹ 95,000 to its agent, M/s. Dhara Enterprises on 15th October. M/s. Dhara Enterprises sells such goods on 20th October at ₹ 1,00,000 under the invoice issued in its own name. On 19th October, M/s Dhara Enterprises has sold goods of like kind and quality as the one supplied by the Retail Showroom at Ahmedabad to an unrelated customer at ₹ 98,000.

Note: M/s. Equilibrium Sales, M/s. Paridhi Sales and M/s. Dhara Enterprises are not eligible for full input tax credit. Further, open market value of the goods is not available in any of the above cases.

Answer

(i) As per clause (c) of explanation to section 15, persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Thus, in the given case, **since M/s. Equilibrium Sales is a sole selling agent of Bangalore unit, both are related persons.**

Further, an activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods between 'related persons' made in the course or furtherance of business qualifies as supply even if made without consideration [Section 7(1)(c) read with Schedule I].

Furthermore, value of supply of goods between related persons (other than through an agent) is determined as per rule 28(1). Accordingly, the value of supply of goods between related persons will be determined as follows:

(a) the **open market value** of such supply;

(b) if open market value is not available, the **value of supply of goods or services of like kind and quality**;

(c) if value cannot be determined under the above methods, it must be worked out based on the **cost of the supply plus 10% mark-up** or by other reasonable means, in that sequence.

However, where the **goods are intended for further supply as such by the recipient**, the value shall, at the option of the supplier, be an **amount equivalent to 90% of the price charged for the supply of goods of like kind and quality** by the recipient to his unrelated customer.

Further, where the **recipient is eligible for full input tax credit**, the **value declared in the invoice** shall be **deemed to be the open market value** of the goods.

Open market value of the goods in not available in the given case. Further, since M/s. Equilibrium Sales is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Since M/s. Equilibrium Sales further supplies the goods, **value of the goods will be lower of:**

(i) value of supply of goods or services of like kind and quality, i.e. ₹ 7,75,000, or

(ii) 90% of the price charged for the supply of goods of like kind and quality by M/s. Equilibrium

Sales to its unrelated customer, i.e. ₹ 6,88,500 [₹ 7,65,000 × 90%].

Thus, the **value of supply, in the given case, will be ₹ 6,88,500.**

(ii) An activity/transaction qualifies as supply under GST only if it is undertaken for a consideration and is in course/furtherance of business. However, supply of goods by a principal to his agent where agent undertakes to supply such goods on behalf of principal is considered as supply even if made without consideration provided the invoice for further supply is issued by the agent in his own name [Section 7(1)(c) read with Schedule I to the CGST Act, 2017]. Where the invoice is issued by agent to customer in the name of principal, such agent is not an agent in terms of Schedule I.

Since M/s. Paridhi Sales sells the goods under the invoice issued in the name of Retail Showroom at Ahmedabad, it is not an agent in terms of Schedule I. Resultantly, transfer of goods by Retail Showroom at Ahmedabad to M/s. Paridhi Sales does not qualify as supply since it is made without consideration.

Further, **since M/s. Dhara Enterprises sells the goods under the invoice issued in its own name, it falls within the purview of an agent in terms of Schedule I.** Resultantly, transfer of goods by Retail Showroom at Ahmedabad to M/s. Dhara Enterprises qualifies as supply even though it is made without consideration.

Value of supply of goods made through an agent is determined as per rule 29. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

In the given case, since open market value is not available, **value of the goods supplied to M/s. Dhara Enterprises will be ₹ 88,200** [90% of ₹ 98,000].

Thus, **value of supply of Bangalore unit is ₹ 6,88,500 and of Retail Showroom at Ahmedabad is ₹ 88,200.**

Question 25

Fortune 365 is an online money gaming platform operating from UAE. It provides its users a platform to play and win money in different games that are available on its portal.

In the month of December, Player A, an unregistered person located in India, deposited an amount of ₹ 10,000 (inclusive of GST) in the master wallet available on the portal of Fortune 365. Subsequently, following transactions were undertaken by Player A in said month:

(i) Player A utilized the amount of ₹ 2,000 from the master wallet towards playing a virtual racing game on the portal. As a winning amount, ₹ 10,000 was credited to master wallet of Player A.

(ii) On another portal operated by Fortune 365 in the name of Bet 180, Player A placed a bet of face value of ₹ 11,000 on an international wrestling match. The amount of such bet was paid by the master wallet of Player A. However, he lost the bet and hence the bet amount of ₹ 11,000 with applicable taxes was transferred from the master wallet to the bank account of Bet 180.

(iii) Player A transferred the balance amount from the master wallet to his bank account after the aforesaid transactions.

Based on the information provided above, answer the following questions, providing brief reasons:

(1) Compute the total GST payable on the aforesaid given transactions.

(2) Determine the net amount transferred by Player A to his bank account after the aforesaid transactions.

(3) Ascertain whether Fortune 365 is required to obtain registration under GST in India. Will your answer be different if Player A is registered under GST in India?

Note:

Assume all the above transactions to be exclusive of GST unless otherwise specified. Rate of GST applicable is 28% (Please ignore the bifurcation of GST amount into CGST, SGST and IGST). Calculate amount of value and tax rounded off to nearest rupee.

Answer

The value of online money gaming related supply shall be determined as per rule 31B. As per said rule, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player.

Further, rule 31A provides the manner of determining the value of supply of actionable claim in the form of chance to win in betting. The value for such supply shall be 100% of the face value of the bet.

In accordance with the above provisions:

(1) Total GST payable on given transactions is as follows:

(i) Value of supply of online money gaming = Total amount deposited with the supplier by the player in terms of rule 31B

= Initial deposit of ₹ 10,000 (inclusive of GST) by Player A with Fortune 365 after excluding GST= **₹ 7,812.50 (₹ 10,000 × 100/128)**

GST payable = ₹ 7,812.50 × 28% = **₹ 2,188 – [A]**

(ii) Value of supply of online bet = 100% of the face value of the bet in terms of rule 31A = **11,000**

GST payable = ₹ 11,000 × 28% = **₹ 3,080 – [B]**

Total amount of GST that would be collected by the Government on the given transactions = **[A] + [B] = ₹ 5,268 (rounded off)**

(2) Total amount transferred by Player A to his bank account from master wallet is as follows:

Particulars	**Amount (₹)**
Initial Deposit	10,000
Less – GST on deposit	2,188
Less – Payment for virtual racing game	2,000
Add – Winning from virtual racing game	10,000
Less – Payment for bet placed on Bet 180	11,000
Less – GST on the bet place on Bet 180	3,080
Net balance available for transfer	**1,732**

(3) As per section 24(xia), every person supplying online money gaming from a place outside India to a person in India shall be required to **obtain registration on a mandatory basis** in India. Accordingly, Fortune 365 being a supplier of online money gaming operating from UAE and

supplying services in India shall be liable to obtain registration compulsorily in India. The **answer will not change** irrespective of the fact that Player A is registered under GST in India or not

Question 26

Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the following supplies in the month of January, 20XX:

(i) Supply of a laptop bag along with laptop to a customer of Mumbai for ₹ 55,000 (exclusive of GST).

(ii) Supply of 10,000 kits (at ₹ 50 each) amounting to ₹ 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil, 1 beauty soap and 1 hair comb.

(iii) 100 kits are given as free gift to Jaipur customers on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is ₹ 35, but the open market value of such kit of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the goods contained in the kit.

(iv) Event management services provided free of cost to her brother (not dependent on her) for his son's marriage function in Indore (Madhya Pradesh). Cost of providing said services is ₹ 80,000, but the open market value of such services and of services of like kind and quality is not available.

(v) 1,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) for ₹ 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers from Mrs. Kajal's godown at Jaipur to the Function Garden, Ajmer.

(vi) Mrs. Kajal has paid the cost of transportation of chairs and coolers to an unregistered Goods Transport Agency (GTA) [located in the State of Rajasthan] @ ₹ 20 (exclusive of GST) for each chair and each cooler and in turn, has charged ₹ 20 only for each chair and each cooler from Function Garden for transportation of the same.

Interest of ₹ 6,400 (inclusive of GST) was collected by Mrs. Kajal in January from Ram Fancy Store, Kota for the payment received with a delay of 30 days.

Assume rates of GST to be as under:

S.N.	Particulars	Rate of CGST (%)	Rate of SGST (%)	Rate of IGST (%)
1.	Laptop	9	9	18
2.	Laptop bag	14	14	28
3.	Hair oil	9	9	18
4.	Beauty soap	14	14	28
5.	Hair comb	6	6	12
6.	Event management service	2.5	2.5	5
7.	Service of renting of chairs and coolers	6	6	12
8.	Transportation service	2.5	2.5	5

From the above information, compute the Gross GST liability (CGST and SGST and/ or IGST, as the case may be) (ignoring ITC provisions) of Mrs. Kajal for the month of January, 20XX.

Answer

Computation of GST liability of Mrs. Kajal for the month of January, 20XX

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Supply of laptop bag along with laptop to Mumbai customer [Being naturally bundled, supply of laptop bag along with the laptop is a composite supply which is treated as the supply of the principal supply [viz. laptop] in terms of section 8(a) of the CGST Act, 2017 and is an inter-State supply. Accordingly, IGST @ 18% will be charged]	55,000			9,900
(ii)	Supply of kits to Ram Fancy Store [It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate [viz. beauty soap] in terms of section 8(b) of the CGST Act, 2017. Also, it's an intra-State supply. Accordingly, CGST and SGST @ 14% each will be charged.] Further, interest of ₹ 6,400 charged for delayed payment as collected from Ram Fancy Store will be included in the value of supply in terms of section 15(2) of the CGST Act, 2017. Therefore, total value of supply = ₹ 5,05,000 [₹ 5,00,000 + (₹ 6,400 × 100/128)]	5,05,000	70,700	70,700	
(iii)	Free gifts to customers [Cannot be considered as supply under section 7 read with Schedule I of CGST Act as gifts are given to unrelated customers without consideration]		Nil	Nil	Nil
(iv)	Event management services provided free of cost to brother (not dependent on her) for his son's marriage [Cannot be considered as supply u/s 7 read with Schedule I of the CGST Act as service is provided to unrelated person without consideration.] [Note 1]		Nil	Nil	Nil
(v)	Chairs and coolers hired out to Function Garden [Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt [Notification No. 12/2017 CT(R) dated 28.06.2017]. However, since chairs and coolers are hired out along with their transportation, it is a case of composite supply wherein the principal supply is hiring out of chairs and coolers. Also, it's an intra-State supply. Accordingly, transportation service will also be taxed at the rate applicable for renting of chairs and coolers, viz. CGST and SGST @ 6% each.] [Note-2]	3,30,000	19,800	19,800	

(vi)	Transportation of chairs and coolers by GTA [GST on GTA services availed is payable under reverse charge mechanism since GTA is unregistered. Being an intra-State supply, CGST and SGST will be chargeable @ 2.5% each.]	30,000 (₹ 20 x 1,500)	750	750	
	Gross GST liability		**91,250**	**91,250**	**9,900**

Note: As per section 2(30) of the CGST Act, 2017, composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies. Since in point (v), service of hiring out of chairs & coolers is taxable while transportation service is exempt (being provided by a person other than a GTA), it is possible to take a view that this is not a case of composite supply. In that case, the two services will be treated as independent services and taxed accordingly.

Question 27

M/s Diva Fashions (Proprietor Ms. Diva), a registered supplier in Ludhiana (Punjab) under GST law, has made the following supplies in the month of February 2025:

(i) Supply of designer silk dresses packed in designer boxes to a boutique in Mumbai, (Maharashtra) as per contract entered with the boutique amounting to ₹ 25,00,000.

(ii) Supply of 600 kits (at ₹ 1,000 each kit) amounting to ₹ 6,00,000 to Mrs. Arora in Amritsar (Punjab). Each kit consisted of 1 silk dupatta, 1 sari brooch and 1 lipstick.

(iii) M/s Diva Fashions organizes a fashion show in Chandigarh. Zion Exports Ltd, a registered entity in Jaipur (Rajasthan) has sponsored show for which M/s Diva Fashions received ₹ 7,50,000 from it.

(iv) 200 kits are given as free gifts to customers on the occasion of 5th anniversary of M/s Diva Fashions. Each kit consists of 1 silk dupatta and 1 sari brooch. Cost of each kit is ₹ 350. The open market value of such kit of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the goods contained in the kit.

(v) Professional services provided free of cost by Ms. Diva to her independent married sister to set up her own boutique in Delhi. Cost of providing such services is ₹ 1,00,000, but the open market value of such services and of services of like kind and quality is not available.

(vi) M/s Diva Fashions enters into a contract on 1st February, 2023 for 3 years with Miss Shikha, a local model to act as a brand ambassador for their products for ₹ 1 lakh (exclusive of GST - 18% IGST, 9% CGST and SGST each) per annum. Miss Shikha terminated the contract on 2nd February 2025. As per the contract, M/s Diva Fashions received 25% of the total contract fees paid to Miss Shikha as the contract is terminated before 3 years, on 15th February, 2025. Miss Shikha had received the contract fee for 2 years at the time of termination of the contract.

Other information is given below:

(a) All above amounts are exclusive of GST.

(b) Mrs. Arora paid interest of ₹ 8,850 (inclusive of GST) for delay in making payment to M/s Diva Fashions.

(c) Assume rates of GST as under:

S.N.	Particulars	Rate of IGST	Rate of CGST	Rate of SGST

1	Silk Dresses	18%	9%	9%
2	Designer Boxes	28%	14%	14%
3	Silk Dupatta	12%	6%	6%
4	Sari Brooch	18%	9%	9%
5	Lipstick	5%	2.5%	2.5%
6	Sponsorship received from Zion Exports Ltd.	28%	14%	14%
7	Professional services	18%	9%	9%

From the above information, compute the total GST liability of M/s Diva Fashions for the month of February 2025. Working notes should form part of your answer.

Answer

Computation of total GST liability of M/s Diva Fashions

Particulars	**Amount (₹)**	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
Supply of silk dresses in designer boxes [Since supply of silk dresses in designer boxes is naturally bundled, it is a composite supply which is treated as the supply of the principal supply (viz. silk dresses). Accordingly, rate of principal supply, i.e. silk dresses will be charged.]	25,00,000			4,50,000 [25,00,000 x 18%]
Supply of kits of silk dupatta, sari brooch and lipstick [Since supplies are not naturally bundled and a single price is being charged, it is a mixed supply. It is treated as supply of that particular supply which attracts highest tax rate (i.e., sari brooch).]	6,00,000	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Since sponsorship services are provided to a body corporate – Zion Exports Ltd., tax is payable under reverse charge by recipient.	7,50,000			Nil
Free gifts to customers [Not a supply as it is made without consideration and is also not covered in Schedule I because customers are not related persons.]	Nil			
Professional services provided free of cost [Not a supply as it is made without consideration and is also not covered in Schedule I because sister being independent is not a related person.]	Nil			
Fee received for termination of contract [Being 'liquidated damages', they are merely compensation for loss due to breach of the contract and not the consideration for tolerating non-performance of contract.]	Nil			
Interest received for delay payment (excluding GST)	7,500	675	675	

[Includible in value of original supply. Further, since it is received in February itself, time of supply is when it is received i.e. February.]	[8,850 x 100/118]	[7,500 x 9%]	[7,500 x 9%]	
GST liability		**54,675**	**54,675**	**4,50,000**

Question 28

Jaskaran, a registered supplier of Delhi, has made the following supplies in the month of January, 20XX:

S.N.	Particulars	Amount* (₹)
(i)	Supply of 20,000 packages at ₹ 30 each to Sukhija Gift Shop in Punjab [Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons]	6,00,000
(ii)	10 generators hired out to Morarji Banquet Halls, Chandigarh [including cost of transporting the generators (₹ 1,000 for each generator) from Jaskaran's warehouse to the Morarji Banquet Halls]	2,50,000
(iii)	500 packages each consisting of 1 chocolate and 1 fruit juice bottle given as free gift to Delhi customers on the occasion of Diwali [Cost of each package is ₹ 12, but the open market value of such package of goods and of goods of like kind and quality is not available. Input tax credit has not been taken on the items contained in the package]	
(iv)	Catering services provided free of cost for elder brother's (wholly dependent on Jaskaran) business inaugural function in Delhi [Cost of providing said services is ₹ 55,000, but the open market value of such services and of services of like kind and quality is not available.]	

*excluding GST

You are required to determine the GST liability [CGST & SGST and/or IGST, as the case may be] (ignoring ITC provisions) of Jaskaran for the month of January, 20XX with the help of the following additional information furnished by him for the said period:

1. Penalty of ₹ 10,000 was collected from Sukhija Gift Shop for the payment received with a delay of 10 days.
2. The transportation of the generators from Jaskaran's warehouse to the customer's premises is arranged by Jaskaran through a Registered Goods Transport Agency (GTA) who opts to pay GST @ 12% under forward charge.
3. Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Chocolates	9%	9%	18%
Fruit juice bottles	6%	6%	12%
Toy balloons	2.5%	2.5%	5%
Service of renting of generators	9%	9%	18%
Catering service	9%	9%	18%

Answer

Computation of GST liability of Jaskaran for the month of January, 20XX

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of 20,000 packages to Sukhija Gift Shop, Punjab [Note-1]			1,09,526 [6,08,475 x 18%]
Renting of 10 generators to Morarji Banquet Halls, Chandigarh [Note-2]			45,000 [2,50,000 x 18%]
500 packages given as free gift to the customers [Note-3]	Nil	Nil	Nil
Catering services provided free of cost for elder brother's business inaugural function in Delhi [Note-3]	5,445 [60,500 x 9%]	5,445 [60,500 x 9%]	
Total GST liability (rounded off)	**5,445**	**5,445**	**1,54,526**

Notes:

1. As per section 2(74) of the 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.

   Supply of a package containing chocolates, fruit juice bottles and a packet of toy balloons is a mixed supply as each of these items can be supplied separately and is not dependent on any other. Further, as per section 8(b) of the CGST Act, 2017, the mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax. Thus, in the given case, supply of packages is treated as supply of chocolates [since it attracts the highest rate of tax]. Consequently, being an inter-State supply of goods, supply of packages to Sukhija Gift Shop of Punjab is subject to IGST @ 18% each.

   Further, value of supply includes interest or late fee or penalty charged for delayed payment of any consideration for any supply in terms of section 15(2)(d) of the CGST Act, 2017. Thus, penalty of ₹ 10,000 [considered as inclusive of GST] collected from Sukhija Gift Shop for the delayed payment will be included in the value of supply. The total value of supply is ₹ 6,08,475 [₹ 6,00,000 + (₹ 10,000 × 100/118)]

2. Services by way of transportation of goods by road except the services of a Goods Transportation Agency (GTA) are exempt vide Notification No. 9/2017 IT (R) dated 28.06.2017. Since Jaskaran is not a GTA, transportation services provided by him are exempt from GST. However, since the generators are invariably hired out along with their transportation till customer's premises, it is a case of composite supply under section 2(30) of the CGST Act, 2017 wherein the principal supply is the renting of generator.

   As per section 8(a) of the CGST Act, 2017, the composite supply is treated as the supply of the principal supply. Therefore, the service of transportation of generators will also be taxed at the rate applicable for renting of the generator (principal supply).

   Consequently, being an inter-State supply of service, service of hiring out the generators to Morarji Banquet Halls of Chandigarh is subject to IGST @ 18% each.

3. As per section 7(1)(c) of the CGST Act, 2017, an activity made without consideration can be treated as supply only when it is specified in Schedule I of the CGST Act, 2017. Para 2. of Schedule I provides

that supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, are to be treated as supply even if made without consideration.

However, since the question does not provide that customers are related to Jaskaran, free gifts given to the customers cannot be considered as a supply under section 7. Consequently, no tax is leviable on the same.

Further, the catering services provided by Jaskaran to his elder brother without consideration will be treated as supply as Jaskaran and his elder brother (wholly dependent on Jaskaran), being members of same family, are related persons in terms of explanation (a)(viii) to section 15 of the CGST Act, 2017 and said services have been provided in course/furtherance of business. Value of supply of services between related persons, other than through an agent is determined as per rule 28(1) of the CGST Rules, 2017. Accordingly, the value of supply is the open market value of such supply; if open market value is not available, the value of supply of goods or services of like kind and quality. However, if value cannot be determined under said methods, it must be worked out based on the cost of the supply plus 10% mark-up. Thus, in the given case, value of catering services provided to the elder brother of Jaskaran is ₹ 60,500 [₹ 55,000 × 110%]. Further, being an intra-State supply of services, catering services are subject to CGST and SGST @ 9% each.

4. In the given case, Jaskaran has received services from a registered GTA who has paid GST @ 12%, reverse charge provisions will not be applicable.

Question 29

Allfit Laboratories Ltd. is a registered supplier of bulk drugs in Delhi paying tax under regular scheme. It manufactures bulk drugs and supplies the same in the domestic and overseas market. The bulk drugs are supplied within Delhi and in the overseas market directly from the company's warehouse located in South Delhi. For supplies in other States of India, the company has appointed consignment agents in each such State. However, supplies in Gurgaon (Haryana) and Noida (U.P.) are effected directly from South Delhi warehouse. The drugs are supplied to the consignment agents from the South Delhi warehouse.

Allfit Laboratories Ltd. also provides drug development services to drug manufacturers located in India, including testing of their new drugs in its laboratory located in Delhi.

The company has furnished the following information for the month of January, 20XX:

Particulars	₹
Advance received towards drug development services to be provided to Orochem Ltd., a drug manufacturer, located in Delhi [Drug development services have been provided in February, 20XX and invoice is issued on 28.02.20XX]	5,00,000
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Invoice for the goods is issued at the time of delivery of the drugs in March, 20XX]	6,00,000
Supply of bulk drugs to wholesale dealers of drugs in Delhi	60,00,000
Bulk drugs supplied to Anchor Pharmaceuticals Inc., USA under LUT [Consideration received in convertible foreign exchange]	90,00,000
Drug development services provided to Unipharma Ltd., a drug manufacturer, located in Delhi	6,00,000

You are required to determine the GST liability [CGST & SGST or IGST, as the case may be] of Allfit Laboratories Ltd. for the month of January, 20XX with the help of the following additional information furnished by it for the said period:

1. Consignments of bulk drugs were sent to Cardinal Pharma Pvt. Ltd. and Rochester Medicos – agents of Allfit Laboratories Ltd. in Punjab and Haryana respectively. Cardinal Pharma Pvt. Ltd. and Rochester Medicos supplied these drugs under their invoices to the Medical Stores located in their respective States for ₹ 60,00,000 and ₹ 50,00,000 respectively.
2. Bulk drugs have been supplied to Ronn Medicos - a wholesale dealer of bulk drugs in Gurgaon, Haryana for consideration of ₹ 15,00,000. Allfit Laboratories Ltd. owns 72% shares of Ronn Medicos Pvt. Ltd. Open market value of the bulk drugs supplied to Ronn Medicos Pvt. Ltd. is ₹ 30,00,000. Further, Ronn Medicos Pvt. Ltd. is not eligible for full input tax credit.

Note:

(i) All the given amounts are exclusive of GST, wherever applicable.

(ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Bulk drugs	2.5%	2.5%	5%
Drug development services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

Answer

Computation of GST Liability of Allfit Laboratories Ltd. for the month of January, 20XX

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Advance received for drug development services supplied to Orochem Ltd., a drug manufacturer, located in Delhi [Note - 1]	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
Advance received for bulk drugs to be supplied to Novick Pharmaceuticals, a wholesale dealer of drugs in Gurgaon, Haryana [Note - 2]			Nil
Supply of bulk drugs to wholesale dealers of drugs in Delhi [Note - 3]	1,50,000 [60,00,000 × 2.5%]	1,50,000 [60,00,000 × 2.5%]	
Bulk drugs supplied to Anchor Pharmaceutical Inc., USA under LUT [Note - 4]			Nil
Supply of drug development services to Uni pharma Ltd., a drug manufacturer, located in Delhi [Note - 5]	54,000 [6,00,000 × 9%]	54,000 [6,00,000× 9%]	
Supply of bulk drugs to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos of Punjab and Haryana [Note - 6]			4,95,000 [99,00,000 × 5%]

Supply of bulk drugs to Ronn Medicos of Gurgaon, Haryana [Note - 7]			1,50,000 [30,00,000 × 5%]
Total GST liability	**2,49,000**	**2,49,000**	**6,45,000**

Notes:

1. Being an intra-State supply of services, supply of drug development services to Orochem Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January, 20XX.

2. Being an inter-State supply of goods, supply of bulk drugs to Novick Pharmaceuticals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.

   However, Notification No. 66/2017 CT dated 15.11.2017 specifies that time of supply of goods for the purpose of payment of tax is the date of issue of invoice/last date of issue of invoice.

   Thus, GST is not payable at the time of receipt of advance against supply of goods. The time of supply of the advance received for bulk drugs to be supplied to Novick Pharmaceuticals is the time of issue of invoice, which is in March, 20XX. Thus, said advance will be taxed in March, 20XX and not in January, 20XX.

3. Being an intra-State supply of goods, supply of bulk drugs to wholesale dealers of drugs in Delhi is subject to CGST and SGST @ 2.5 % each.

4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the bulk drugs to Anchor Pharmaceuticals Inc. of USA under LUT is export of goods.

   Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of IGST Act].

5. Being an intra-State supply of services, supply of drug development services to Unipharma Ltd. of Delhi is subject to CGST and SGST @ 9% each.

6. Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

7. In the given case, since open market value is not available, value of bulk drugs supplied to consignment agents - Cardinal Pharma Pvt. Ltd. and Rochester Medicos – will be 99,00,000 [90% of (60,00,000 + 50,00,000)]. Further, being an inter-State supply of goods, supply of bulk drugs to the consignment agents is subject to IGST @ 5%.

8. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Allfit Laboratories Ltd. owns 72% shares of Ronn Medicos, both are related persons.

9. Value of supply of goods between related persons (other than through an agent) is determined as

per rule 28(1) of the CGST Rules. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Medicos is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods. Thus, open market value of the bulk drugs supplied to Ronn Medicos, i.e. 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of bulk drugs to Ronn Medicos is subject to IGST @ 5%.

Question 30

Kaushal Manufacturers Ltd., registered in Delhi, is a manufacturer and supplier of electronic home appliances. It is paying tax under regular scheme. It supplies the electronic home appliances in the domestic as well as overseas market. For supplies in other States of India, the company has appointed consignment agents in each such State, except Gurgaon, Haryana and Noida, Uttar Pradesh, where the goods are supplied directly from its Delhi warehouse.

In the month of January, consignments of electronic home appliances were sent to Cardinal Electricals Pvt. Ltd. and Rochester Technos – agents of Kaushal Manufacturers Ltd. in Punjab and Madhya Pradesh respectively. Cardinal Electricals Pvt. Ltd. and Rochester Technos supplied these electronic home appliances under their invoices to the stores located in their respective States for ₹ 40,00,000 and ₹ 70,00,000 respectively. Open market value of such appliances is not available.

Further, in January, electronic home appliances have been supplied to Ronn Technomart – a wholesale dealer of electronic home appliances in Noida, Uttar Pradesh for consideration of ₹ 23,00,000, from its Delhi warehouse. Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart. Open market value of the electronic home appliances supplied to Ronn Technomart is ₹ 30,00,000. Further, Ronn Technomart is not eligible for full input tax credit.

Kaushal Manufacturers Ltd. also provides repair and maintenance services to electronic appliance manufacturers located in India.

The company has also furnished the following information for the month of January:

Particulars	₹
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi	84,00,000
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Consideration received in convertible foreign exchange]	1,26,00,000
Repair and maintenance services provided to Unitech Ltd., an electronic appliance manufacturer, located in Delhi	8,40,000
Advance received towards repair and maintenance services to be provided to Orelec Ltd., an electronic appliance manufacturer, located in Delhi [Repair and maintenance services have been provided in February and invoice is issued on 28th February]	7,00,000
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of such appliances in Gurgaon, Haryana [Invoice for goods is issued at the time of delivery of the electronic appliances in March]	8,40,000

You are required to determine the gross GST liability [CGST & SGST and/or IGST] of Kaushal Manufacturers Ltd. for the month of January.

Note:

(i) All the given amounts are exclusive of GST, wherever applicable.

(ii) Assume the rates of GST to be as under:

Goods/services supplied	CGST	SGST	IGST
Electronic home appliances	2.5%	2.5%	5%
Repair and maintenance services	9%	9%	18%

You are required to make suitable assumptions, wherever necessary.

Answer

Computation of gross GST Liability of Kaushal Manufacturers Ltd. for the month of January

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Supply of electronic home appliances to consignment agents - Cardinal Electricals Pvt. Ltd. and Rochester Technos of Punjab and Madhya Pradesh [Note 1]			4,95,000 [99,00,000 × 5%]
Supply of electronic home appliances to Ronn Technomart of Noida, Uttar Pradesh [Note 2]			1,50,000 [30,00,000 × 5%]
Supply of electronic home appliances to wholesale dealers of such appliances in Delhi [Note 3]	2,10,000 [84,00,000 × 2.5%]	2,10,000 [84,00,000 × 2.5%]	
Electronic home appliances supplied to Anchor Electricals Inc., USA under LUT [Note 4]			Nil
Supply of repair and maintenance services to Unitech Ltd., an electronic appliance manufacturer, located in Delhi [Note 5]	75,600 [8,40,000 × 9%]	75,600 [8,40,000 × 9%]	
Advance received for repair and maintenance services supplied to Orelec Ltd., a electronic appliances manufacturer, located in Delhi [Note 6]	63,000 [7,00,000 × 9%]	63,000 [7,00,000 × 9%]	
Advance received for electronic home appliances to be supplied to Novick Electricals, a wholesale dealer of electronic appliances in Gurgaon, Haryana [Note 7]			Nil
Total GST liability	**3,48,600**	**3,48,600**	**6,45,000**

Notes:

1. Value of supply of goods made through an agent is determined as per rule 29 of the CGST Rules, 2017. Accordingly, the value of supply of goods between the principal and his agent is the open market value of the goods being supplied, or at the option of the supplier, is 90% of the price charged for the supply of goods of like kind and quality by the recipient to his unrelated customer, where the goods are intended for further supply by the said recipient.

   In the given case, since open market value is not available, value of electronic home appliances

supplied to consignment agents - Cardinal Electricals Pvt. Ltd. and Rochester Technos – will be ₹ 99,00,000 [90% of (40,00,000 + 70,00,000)]. Further, being an inter-State supply of goods, supply of electronic home appliances to the consignment agents is subject to IGST @ 5%.

2. If any person directly or indirectly controls another person, such persons are deemed as related persons. [Clause (a)(v) of explanation to section 15 of the CGST Act]. In the given case, since Kaushal Manufacturers Ltd. owns 75% shares of Ronn Technomart, both are related persons.

   Value of supply of goods between related persons (other than through an agent) is determined as per rule 28(1) of the CGST Rules, 2017. Accordingly, the value of supply of goods between related persons is the open market value of such goods and not the invoice value. Furthermore, since Ronn Technomart is not eligible for full input tax credit, value declared in the invoice cannot be deemed to be the open market value of the goods.

   Thus, open market value of the electronic home appliances supplied to Ronn Technomart, i.e. ₹ 30,00,000 is the value of supply of such goods. Further, being an inter-State supply of goods, supply of electronic home appliances to Ronn Technomart is subject to IGST @ 5%.

3. Being an intra-State supply of goods, supply of electronic home appliances to wholesale dealers of said appliances in Delhi is subject to CGST and SGST @ 2.5 % each.

4. Section 2(5) of the IGST Act defines export of goods as taking goods out of India to a place outside India. In view of the said definition, supply of the electronic home appliances to Anchor Electricals Inc. of USA under LUT is export of goods.

   Export of goods is a zero-rated supply [Section 16(1) of the IGST Act]. A zero-rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of IGST Act].

5. Being an intra-State supply of services, supply of repair and maintenance services to Unitech Ltd. of Delhi is subject to CGST and SGST @ 9% each.

6. Being an intra-State supply of services, supply of repair and maintenance services to Orelec Ltd. of Delhi is subject to CGST and SGST @ 9% each. Further, in terms of section 13(2) of the CGST Act, the time of supply of services is the earlier of the date of invoice or date of receipt of payment, if the invoice is issued within 30 days of the supply of service. In the given case, invoice is issued within 30 days of the supply of service. Therefore, time of supply of services will be date of receipt of advance and hence, GST is payable on the advance received in January.

7. Being an inter-State supply of goods, supply of electronic home appliances to Novick Electricals of Gurgaon, Haryana is subject to IGST @ 5%. Further, in terms of section 12(2) of the CGST Act, the time of supply of goods is the earlier of the date of issue of invoice/last date on which the invoice is required to be issued or date of receipt of payment.

   However, time of supply of goods for the purpose of payment of tax is the date of issue of invoice/last date when the invoice ought to have been issued under section 31.

   Thus, GST is not payable at the time of receipt of advance against supply of goods. The time of supply of advance received for electronic home appliances to be supplied to Novick Electricals is the time of issue of invoice, which is in March. Thus, said advance will be taxed in March and not in January.

Question 31

Jupiter Chemicals Ltd. (JC) is a manufacturer of industrial chemicals. It has its factory at Haridwar, Uttarakhand and is registered under GST. It has its subsidiary company, Angel Traders Pvt. Ltd. (AT),

with holding of 75% of its share capital. AT is engaged in trading of chemicals manufactured by JC in North India and is registered under GST in Delhi at warehouse address. JC has also appointed a consignment agent – Popular Distributors (PD) in Chennai which is catering the Southern India market. JC has also setup a state of art research and development centre along with laboratory near the Haridwar factory and undertakes testing and development services for chemicals from outside customers across the country. Following information is available for the month of April 20XX of JC Haridwar:

S.N.	Particulars	Amount (₹)
(i)	JC supplies the chemicals to PD Chennai during the month. (PD sold the above said goods to the unrelated wholesalers in the States of Tamil Nadu and Andhra Pradesh for ₹ 60,00,000 during same month). Open market value is ₹ 55,00,000	45,00,000
(ii)	JC supplied chemicals to AT during the month. (AT further sold the said chemicals to unrelated retailers in Delhi for ₹ 42,00,000 and AT is not eligible for full input tax credit). Open Market value is ₹ 38,00,000	30,00,000
(iii)	JC exports chemicals to South Africa with payment of IGST and consideration for the same was received in convertible foreign exchange.	28,00,000
(iv)	JC provided inter-State supply of testing services to various customers during the month	8,50,000
(v)	Supply of chemical to one of its customers in Mumbai who required the chemical to be tested before dispatch and subject to test report coming according to his parameters. Testing was successful and testing charges of ₹ 50,000 were charged extra.	6,50,000 (excluding testing charges)
(vi)	Supply of chemical at subsidized rate for research and development activity not related to the business of JC to an unrelated charitable association in Haridwar, Uttarakhand. Open market value of the chemical is ₹ 6,50,000.	5,00,000

Assume that the rates of GST on chemicals are IGST – 12%, CGST – 6% and SGST – 6%, and on testing and development services are IGST – 18% and SGST – 9%.

You are required to determine the taxable value (most beneficial) and GST liability (IGST, CGST and SGST separately) of Jupiter Chemicals (JC) Haridwar for the month of April 20XX.

Answer

Determination of taxable value and GST liability of Jupiter Chemicals (JC) Haridwar for April 20XX

S.N.	Particulars	Taxable value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Inter-State supply of chemicals to consignment agent – PD, Chennai [Value, at the option of supplier, is: (i) Open market value (OMV) [55,00,000] or (ii) 90% of price charged for goods of like kind and quality to unrelated customers who	54,00,000 [Note 1]			6,48,000 [54,00,000 × 12%]

	further supply such goods (90% of ₹ 60,00,000)] [Note 2]				
(ii)	Inter-State supply of chemicals to related person – AT [Value of supply of goods to a related person who further supplies such goods as such, at option of supplier: (i) OMV, if OMV is available [₹ 38,00,000] or (ii) 90% of price charged for goods of like kind and quality to unrelated customers (90% of ₹ 42,00,000)] [Note 3]	37,80,000 [Note 1]			4,53,600 [37,80,000 × 12%]
(iii)	Export of chemicals to South Africa	28,00,000			3,36,000 [28,00,000 × 12%]
(iv)	Inter-State supply of testing services	8,50,000			1,53,000 [8,50,000 × 18%]
(v)	Inter-State supply of chemical to customer in Mumbai [Any amount charged for anything done by supplier in respect of supply of goods at the time of/before delivery of goods is includible in the value of supply.]	7,00,000			84,000 [7,00,000 × 12%]
(vi)	Intra-State supply of chemical to an unrelated charitable association in Haridwar [In case of supply made to unrelated recipient where price is sole consideration for supply, value of supply is transaction value which is price actually paid for the supply.]	5,00,000	30,000 [5,00,000 × 6%]	30,000 [5,00,000 × 6%]	
	Total	**1,40,30,000**	**30,000**	**30,000**	**16,74,600**

Note:

1. Since the question requires to compute the most beneficial taxable value of supply, lower of the two values has been taken as value of supply.
2. It is assumed that expression "above said goods" in question means goods of like kind and quality.
3. It is assumed that expression "said chemicals" in question means goods of like kind and quality.

Rule 32

Question 32

X Pvt. Ltd., a money changer, has exchanged US $ 10,000 to Indian rupees @ ₹ 74 per US $. X Pvt. Ltd. wants to value the supply in accordance with rule 32(2)(b) of CGST Rules.

Determine the value of supply made by X Pvt. Ltd.

Answer

As per rule 32(2)(b) of CGST Rules, the value in relation to the supply of foreign currency, including money changing, is deemed to be-

(i) 1% of the gross amount of currency exchanged for an amount up to ₹ 1,00,000, subject to a minimum amount of ₹ 250;

(ii) ₹ 1,000 and 0.5% of the gross amount of currency exchanged for an amount exceeding ₹ 1,00,000 and up to ₹ 10,00,000.

Therefore, value of supply, made by X Pvt. Ltd., under rule 32(2)(b) of CGST Rules is computed as under:

Particulars	₹	₹
Value of currency exchanged in Indian rupees [₹ 74 x US $ 10,000]	7,40,000	
Upto ₹ 1,00,000		1,000
For ₹ 6,40,000 [0.50% x ₹ 6,40,000]		3,200
Value of supply		**4200**

Question 33

Prada Forex Private Limited, registered in Delhi, is a money changer. It has undertaken the following purchase and sale of foreign currency:

(i) 1,000 US$ are purchased from Nandi Enterprises at the rate of ₹ 74 per US$. RBI reference rate for US$ on that day is ₹ 74.60.

(ii) 2,000 US$ are sold to Menavati at the rate of ₹ 74.50 per US$. RBI reference rate for US$ for that day is not available.

Determine the value of supply in each of the above cases in terms of rule 32(2)(a) and rule 32(2)(b).

Answer

Rule 32(2) prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

Determination of value under rule 32(2)(a)

(i) Value of supply of services for a currency, when exchanged from, or to, Indian Rupees, shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency. Thus, value of supply is:

= (RBI reference for US$ – Buying rate of US$) × Total number of units of US$ bought

= (74.6 – 74) × 1,000

= **₹ 600**

(ii) When the RBI reference rate for a currency is not available, value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money. Thus, value of supply is:

= 1% of the gross amount of Indian Rupees received

= 1% of (74.50 × 2,000)

= **₹ 1,490**

Determination of value under rule 32(2)(b)

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

S.N.	Currency exchanged	Value of supply
1.	Upto ₹ 1,00,000	**1%** of gross amount of currency exchanged OR ₹ 250 whichever is higher
2.	Exceeding ₹ 1,00,000 and upto ₹ 10,00,000	**₹ 1,000 + 0.50%** of the (gross amount of currency exchanged - 1,00,000)
3.	Exceeding ₹ 10,00,000	**₹ 5,500 + 0.1%** of the (gross amount of currency exchanged - 10,00,000) **OR ₹ 60,000** whichever is lower

Thus, the value of supply in the given cases would be computed as under:

(i) Gross amount of currency exchanged = ₹ 74 × 1,000 = **₹ 74,000.**

Since the gross amount of currency exchanged is less than ₹ 1,00,000, value of supply is 1% of the gross amount of currency exchanged i.e. 1% of ₹ 74,000 or ₹ 250, whichever is higher, i.e. = **₹ 740**

(ii) Gross amount of currency exchanged = ₹ 74.50 × 2,000 = **₹ 1,49,000.**

Since the gross amount of currency exchanged exceeds ₹ 1,00,000 but is less than ₹ 10,00,000, value of supply is ₹ 1,000 + 0.50% of (₹ 1,49,000 – ₹ 1,00,000), i.e. = **₹ 1,245**

Question 34

M/s Global Travels is providing money changer and air travel agent services to various clients. From the information provided below, you are required to calculate value of taxable supply for the month of March:

(i) It had converted US$ 6,000 into Singapore dollar 9,000. RBI reference rate at that time was ₹ 72 per US$ and for Singapore dollar, it was ₹ 52.

(ii) It had booked domestic ticket value of ₹ 7,00,000 and international ticket value of ₹ 15,00,000.

Additional information:

The concern has not opted to value the money change under rule 32(2)(b) of the CGST Rules, 2017. Basic air fare component under both domestic and international ticket value is 70% and 60% respectively.

Answer

(i) Since in the given case, neither of the currencies exchanged is Indian Rupees, value of taxable supply, in terms of rule 32(2)(a) of the CGST Rules, 2017, is 1% of lower of the following:

(A) US dollar converted into Indian rupees at RBI reference rate

= US$ 6,000 x ₹ 72 = **₹ 4,32,000**

(B) Singapore dollar converted into Indian rupees at RBI reference rate

= Singapore dollar 9,000 x ₹ 52 = **₹ 4,68,000**

Value of taxable service for the month of March = 1% of ₹ 4,32,000 = **₹ 4,320**

(ii) Computation of value of taxable supply

Particulars	₹	₹
Basic fare in case of domestic bookings [₹ 7,00,000 x 70%]	4,90,000	
Value of taxable supply @ 5% [A] [Rule 32(3) of the CGST Rules, 2017]		24,500
Basic fare in case of international bookings [₹ 15,00,000 x 60%]	9,00,000	
Value of taxable supply @ 10% [B]		90,000
[Rule 32(3) of the CGST Rules, 2017]		
Value of taxable supply [A] + [B]		**1,14,500**

Question 35

UB & Sons is an air travel agent. Compute the value of supply of service made by the firm during a month with the help of following particulars furnished by it:

Particulars	Basic fare (₹)	Other charges and fee (₹)	Taxes (₹)	Total value of tickets (₹)
Domestic Bookings	1,00,900	9,510	4,990	1,15,400
International Bookings	3,16,880	20,930	15,670	3,53,480

Answer

Computation of value of supply of services made by UB & Sons in a month

Particulars	₹	₹
Basic fare in case of domestic bookings	1,00,900	
Value of supply @ 5% **[A]** Refer Note below		5,045
Basic fare in case of international bookings	3,16,880	
Value of supply @ 10% **[B]** Refer Note below		31,688
Value of supply [A] + [B] (rounded off)		**36,733**

Note:

As per rule 32(3) of CGST Rules, the value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent is 5% of the basic fare in the case of domestic bookings, and 10% of the basic fare in the case of international bookings.

Question 36

Chirayu Life Insurance Company Limited (CLICL) has collected premium from policy subscribers. It does not intimate the amount allocated for investment to subscribers of the policy at the time of collection of premium. The company has provided the following details in relation to its receipts:

S.N.	Particulars	Amount
1.	Premium for only risk cover	25,00,000
2.	Premium from new policy subscribers	40,00,000
3.	Renewal premium	80,00,000
4.	Single premium on annuity policy	1,00,00,000

All amounts are exclusive of tax. You are required to compute the value of supply by CLICL in terms of rule 32(4).

Answer

As per rule 32(4), the value of supply of services in relation to life insurance business, when the amount allocated for investment/ savings on behalf of the policy holder is not intimated to the policy holder at the time of supply of service, is-

(i) in case of single premium annuity policies,10% of single premium charged from the policy holder;

(ii) in all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years;

(iii) in case the entire premium paid by the policy holder is only towards the risk cover in life insurance, the premium so paid.

Therefore, in the given case, the value of the services provided by CLICL will be computed as under:

Computation of value of supply for CLICL

Particulars	Amount (₹)
Premium for only risk cover	25,00,000
Premium from new policy subscribers (25% of ₹ 40,00,000)	10,00,000
Renewal premium (12.5% of ₹ 80,00,000)	10,00,000
Single premium on annuity policy (10% of ₹ 1,00,00,000)	10,00,000
Total value of supply	**55,00,000**

Question 37

Arihant Life Insurance Company Ltd. (ALICL) has charged gross premium of ₹ 180 lakh from policy holders with respect to life insurance policies in the 2024-25; out of which ₹ 100 lakh have been allocated for investment on behalf of the policy holders.

Compute the value of supply of life insurance services provided by ALICL:

(i) if the amount allocated for investment has been intimated by ALICL to policy holders at the time of supply of service.

(ii) if the amount allocated for investment has not been intimated by ALICL to policy holders at the time of providing of service.

(iii) if the gross premium charged by ALICL from policy holders is only towards risk cover.

Note: ALICL has started its operations in the year 2024-25. Thus, the entire gross premium of ₹ 180 lakh is the premium for the first year of all policies. ALICL has not issued any single premium annuity policy.

Answer

As per rule 32(4), of the CGST Rules, value of supply of services in relation to life insurance services is

a) the gross premium reduced by the amount allocated for investment on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;

b) in all other cases, 25% of premium in the 1st year and 12.5% of the premium in subsequent years

However, where the entire premium paid by the policy holder is only towards risk cover, such gross premium is the value of supply of life insurance services.

In the light of the aforesaid provisions, value of supply of life insurance services provided by ALICL in financial year 2024-25 will be computed as follows:

(i) Amount allocated for investment intimated to policy holder at the time of supply of service

Value of service = ₹ (180-100) lakh = **₹ 80,00,000**

(ii) Amount allocated for investment not intimated to policyholders at the time of supply of service

Value of service = 25% of ₹ 180 lakh = **₹ 45,00,000**

(iii) Gross premium received is only towards risk cover Value of service = **₹ 180 lakh**

Question 38

Easy Coupons Ltd. sells coupons that are redeemable against specified luxury food products at retail outlets. Each coupon is sold for value of ₹ 900 but is redeemable for supplies worth ₹ 1000.

What is the value of supply of such coupon under GST law?

Answer

In terms of rule 32(6) relating to valuation, the **value of a coupon is the money value of the goods redeemable against it.** Therefore, though the coupon is sold for ₹ 900, its **value is ₹ 1000.**

Rule 33

Question 39

Rolly Polly Manufacturers Ltd., registered in Mumbai (Maharashtra), is a manufacturer of footwear. It imports a footwear making machine from USA. Rolly Polly Manufacturers Ltd. enters into a contract with Rudra Logistics, a licensed customs broker with its office at Ahmedabad (Gujarat), to meet all the legal formalities in getting the said machine cleared from the customs station.

Apart from this, Rolly Polly Manufacturers Ltd. authorises Rudra Logistics to incur, on its behalf, the expenses in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd. which shall be reimbursed by Rolly Polly Manufacturers Ltd. to Rudra Logistics on the actual basis in addition to agency charges.

Rudra Logistics provided following details:

S.N.	Particulars	Amount (₹)
(i)	Agency charges	5,00,000

(ii)	Unloading of machine at Kandla port, Gujarat	50,000
(iii)	Charges for transport of machine from Kandla port, Gujarat to its Rudra Logistics' godown in Ahmedabad, Gujarat	25,000
(iv)	Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	28,000
(v)	Prepared and submitted of Bill of Entry and paid customs duty	5,00,000
(vi)	Dock dues paid	50,000
(vii)	Port charges paid	50,000
(viii)	Hotel expenses	45,000
(ix)	Travelling expenses	50,000
(x)	Telephone expenses	2,000

Compute the value of supply made by Rudra Logistics with the help of given information.

Would your answer be different if Rudra Logistics has charged ₹ 13,00,000 as a lump sum consideration for getting the imported machine cleared from the customs station and bringing the same to the warehouse of Rolly Polly Manufacturers Ltd.?

Answer

As per explanation to rule 33, a "pure agent" means a person who-

(a) enters into a **contractual agreement** with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;

(b) neither intends to hold **nor holds any title** to the goods or services or both so procured or supplied as pure agent of the recipient of supply;

(c) does **not use for his own interest** such goods or services so procured; and

(d) **receives only the actual amount incurred** to procure such goods or services in addition to the amount received for supply he provides on his own account.

The supplier needs to fulfil all the above conditions in order to qualify as a pure agent.

In the given case, Rudra Logistics has entered into a contractual agreement with recipient of supply, Rolly Polly Manufacturers Ltd., to incur, on behalf of such recipient, the expenses mentioned in S. No. (ii) to (vii) incurred in relation to clearance of the imported machine from the customs station and bringing the same to the warehouse of the recipient. Further, Rudra Logistics does not hold any title to said services and does not them use for his own interest.

Lastly, Rudra Logistics receives only the actual amount incurred to procure such services in addition to agency charges. **Thus, Rudra Logistics qualifies as a pure agent.**

Further, rule 33 stipulates that notwithstanding anything contained in the provisions of Chapter IV – Determination of Value of supply, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely:

(I) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;

(II) the payment made by the pure agent on behalf of the recipient of supply has been **separately indicated in the invoice** issued by the pure agent to the recipient of service; and

(III) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Since conditions (I) to (III) mentioned above are satisfied in the given case, **expenses (ii) to (vii) incurred by Rudra Logistics as a pure agent of Rolly Polly Manufacturers Ltd. shall be excluded from the value of supply.**

Accordingly, value of supply made by Rudra Logistics is as follows:

Particulars	Amount (₹)
Agency charges	5,00,000
Add: Unloading of machine at Kandla port, Gujarat	Nil
Charges for transport of machine from Kandla port, Gujarat to its godown in Ahmedabad, Gujarat	Nil
Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	Nil
Customs duty	Nil
Dock charges	Nil
Port charges	Nil
Hotel expenses	45,000
Travelling expenses	50,000
Telephone expenses	2,000
Value of supply	**5,97,000**

Yes, the answer would be different. **If lump sum amount of ₹ 13,00,000 is paid then the value of supply shall be ₹ 13,00,000** and tax shall be charged on value of supply since individual cost are not given.

CHAPTER - 5
Exemptions from GST

Charitable and Religious

Question 1

Sarva Sugam Charitable Trust, a trust registered under section 12AB of the Income-tax Act, 1961, provides the following information relating to supply of its services for the month of August:

	Amount (₹)
Renting of residential dwelling for use as a residence to an unregistered person	18,00,000
Renting of rooms for devotees (Charges per day ₹ 750)	6,00,000
Renting of kalyanamandapam (Charges per day ₹ 15,000)	12,00,000
Renting of halls and open space (Charges per day ₹ 7,500)	10,75,000
Renting of shops for business (Charges per month ₹ 9,500)	4,75,000
Renting of shops for business (Charges per month ₹ 12,000)	7,50,000

Compute the GST liability of Sarva Sugam Charitable Trust for the month of August assuming that the above amounts are exclusive of GST and rate of GST, wherever applicable, is 18%.

Note: The rooms/Kalyanamandapam/halls/open space/shops owned by the trust are located within the precincts of a religious place, meant for general public, owned by the trust.

Answer

Renting of precincts of a religious place meant for general public, owned/managed by, inter alia, an entity registered as a charitable trust under section 12AB of the Income-tax Act are exempt from GST vide exemption notification. However, said exemption is not available if:

(i) charges for rented rooms are ₹ 1,000 per day or more;

(ii) charges for rented community halls, Kalyan mandapam, open area are₹ 10,000 per day or more;

(iii) charges for rented shops are ₹ 10,000 per month or more.

Further, services by way of renting of residential dwelling for use as residence to an unregistered person are also exempt vide exemption notification.

Computation of GST liability of Sarva Sugam Charitable Trust for August

Particulars	Value (₹)	GST @ 18% (₹)
Renting of residential dwelling for use as residence to an unregistered person [**Exempt** vide exemption notification]	18,00,000	Nil
Renting of rooms for devotees [**Exempt** since charges per day are below ₹1,000]	6,00,000	Nil
Renting of Kalyanamandapam [**Taxable** since charges per day exceed ₹10,000]	12,00,000	2,16,000
Renting of halls and open spaces [**Exempt** since charges per day are below ₹ 10,000]	10,75,000	Nil
Renting of shops for business	4,75,000	Nil

[**Exempt** since charges per month are below ₹10,000]		
Renting of shops for business [**Taxable** since charges per month exceed ₹ 10,000]	7,50,000	1,35,000
Total		**3,51,000**

Agriculture

Question 2

Rahul Agri Millers Ltd., located in Haryana, is engaged in customs milling of paddy into rice. It does not pay GST on the same as it is of the view that the process of milling of paddy into rice is exempt under GST since is an intermediate production process in relation to cultivation of plants. However, Department demands tax on said activity contending that it is not eligible for said exemption. You are required to determine the veracity of the Department's contention.

Answer

Yes, the contention of the **Department is correct**. As per exemption notification, **carrying out an intermediate production process as job work in relation to cultivation of plants** and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce **is exempt** under GST.

Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators, but by rice millers. Milling of paddy into rice also changes its essential characteristics.

Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce. In view of the above, it is clarified by CBIC that **milling of paddy into rice is not eligible for exemption** under said notification. Thus, GST is payable on the said activity.

Education

Question 3

Indian Institutes of Management (IIM), Indore organizes a placement drive for the students studying in the campus. Many multinational companies register for the placement program and pay the registration fee of ₹ 1,00,000. IIM, Indore is of the view that such consideration received from multinational companies for participating in the placement program is exempt from GST. Explain whether the view taken by IIM, Indore is correct.

Answer

Indian Institutes of Management Act, 2017 (IIM Act, 2017) empowers IIMs to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. Resultantly, **all the IIMs fall under** purview of **"educational institutions"** as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.

Further, the **services provided by an educational institution to its students, faculty and staff are exempt** from GST vide exemption notification.

However, in the given case, services have been **provided by the educational institution (viz. IIM, Indore), to the multinational companies**. Therefore, the same is **not exempt** from GST.

Question 4

Briefly explain applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions.

Answer

Educational services **supplied by educational institutions to its students are exempt** from GST vide exemption notification. As per said notification, services provided:

(a) by an educational institution **to its students, faculty and staff**;

(aa) by an educational institution **by way of conduct of entrance examination** against consideration in the form of entrance fee

are **exempt** from GST.

Therefore, it can be seen that all services supplied by an 'educational institution' to its students are exempt from GST. Further, consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt.

It has been clarified by CBIC that the **exemption** is wide enough to **cover the amount or fee charged for admission or entrance,** or amount charged for **application fee for entrance, or the fee charged** from prospective students **for issuance of eligibility certificate** to them in the process of their entrance/admission to the educational institution. Services supplied by an educational institution **by way of issuance of migration certificate** to leaving or ex-students are also covered by the exemption.

In view of same, **GST is not payable** on application fee charged for entrance or fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions.

Question 5

Determine whether GST is payable in respect of each of the following independent services provided by the registered persons:

(1) Fees charged from office staff for in-house personality development course conducted by Mungerilal College providing education as part of a curriculum for obtaining a qualification recognised by Indian law -₹ 10,000.

(2) Bus fees collected from students by Rosemary College providing education as part of a curriculum for obtaining a qualification recognised by Indian law - ₹ 2,500 per month.

(3) Housekeeping service provided by M/s. Clean Well to Himavarsha Montessori school, a play school, for cleaning its playground and classrooms - ₹ 25,000 per month.

(4) Info link supplied 'Tracing Alphabets', an online educational journal, to students of UKG class of Sydney Montessori School - ₹ 2,000.

Answer

(1) **Services provided by an educational institution to its students, faculty and staff are exempt** from GST vide exemption notification. Educational Institution has been defined to mean, inter alia, an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force.

Since Mungerilal College provides education as part of a curriculum for obtaining a qualification recognised by Indian law, the services provided by it to its staff by way of conducting personality development course would be **exempt** from GST.

(2) Since Rosemary College provides education as a part of a curriculum for obtaining a qualification recognised by Indian law, the **transport services provided by Rosemary College to its students are exempt** from GST.

(3) Services provided to an educational institution, by way of, inter alia, **house-keeping services performed are exempt** from GST vide exemption notification where such services are performed in such educational institution. However, such exemption is available only when the said services are **provided to a pre-school education and a higher secondary school** or equivalent.

In view of above, house-keeping services provided to Himavarsha Montessori Play School are **exempt** from GST since housekeeping services have been performed in such play school itself.

(4) **Services provided to an educational institution by way of supply of online educational journals or periodicals is exempt** from GST vide exemption notification. However, such exemption is **available only** when the said services are provided to an educational institution **providing education as a part of a curriculum for obtaining a qualification recognised by any law** for the time being in force.

Therefore, supply of online journal to students of UKG class of Sydney Montessori School is **not exempt** from GST.

Question 6

A2X Services Limited, registered under GST, is engaged in providing various services to various educational institutions. The company provides the following information in respect of services provided during the month of April 20XX:

S.N.	Description of services provided
(i)	Transportation of students & staff of 'Love All', a deemed University
(ii)	Catering services provided to 'Rank CBSE School'
(iii)	Security services provided to 'Win CBSE School', for its annual sports day held at SAI Sports Complex owned by Government of India
(iv)	Supply of online periodical science journal to 'Merit CBSE School' for higher secondary students
(v)	Services, in relation to placement of students, to 'SKILL', a Government recognized vocational training college

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

Answer

S.N.	Particulars	Taxability
(i)	Transportation of students and staff of deemed University [Taxable since transportation services provided to an educational institution are exempt only if such institution provides pre-school education or education up to higher secondary school or equivalent.]	**Taxable**
(ii)	Catering services provided to "Rank CBSE School" [Catering services provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt.]	**Exempt**
(iii)	Security services to "Win CBSE School" for its annual sports day held at SAI Sports complex [Security services provided to an educational institution providing pre-school education or education up to higher secondary school are exempt provided such services are performed in the premises of such institution. However, in this case, security services are being provided outside the school campus, and hence the same are taxable.]	**Taxable**
(iv)	Supply of online periodical science journal to school for its higher secondary students [Taxable since educational institutions providing service by way of pre-school education and education upto higher secondary school or equivalent are not eligible for exemption in respect of supply of online educational journals.]	**Taxable**
(v)	Services in relation to placement of students, to Government recognized vocational training college [Taxable since only services related to admission and conducting exams are exempt for vocational educational institutions.]	**Taxable**

Question 7

BODMAS Ltd., providing educational services, furnishes you with the following information for the various services provided by it for the month of March, 20XX:

Particulars	₹
Receipts from running a Boarding School (including receipts for providing residential dwelling service of ₹ 14,00,000)	30,00,000
Receipts of 'Gyan Uday' - an Industrial Training Institute (ITI) affiliated to the National Council for Vocational Education and Training (NCVET)	2,00,000
Receipts of 'Lakshya', an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council for Vocational Education and Training (NCVET)	1,00,000
Receipts of 'Wizard", a Commercial Coaching Institute providing commercial coaching in the field of arts and science (no certificate was issued on completion of the training)	80,000

Fees from prospective employers for campus interview	4,00,000
Receipts of 'Concepts', a Commercial coaching institute providing coaching in the field of commerce (a certificate was awarded to each trainee after completion of the training)	1,40,000
Receipts of Gurukul School providing education upto higher secondary	5,00,000
Renting of furnished flats for temporary stay to different persons	5,00,000

Compute the value of taxable supply assuming that all the above receipts are exclusive of GST.

Answer

Services provided by an educational institution to its students, faculty and staff are exempt vide exemption notification. Further, an educational institution means, inter alia, an institution providing services by way of-

(i) education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course.

In view of the aforesaid provisions, value of taxable supply of BODMAS Ltd. for the month of March, 20XX has been computed as follows:

Particulars	Amount (₹)
Receipts from Boarding School including receipts for residential dwelling service [Educational institution providing education up to higher secondary school or equivalent]	Exempt
Receipts of Gyan Uday [Educational institution running approved vocational education course (assuming that such courses are run in designated trades)]	Exempt
Receipts of Lakshya running Modular Employable Skill Course [Educational institution running approved vocational education course]	Exempt
Receipts of Wizard - a coaching institute [Taxable since coaching institute is not an educational institution]	80,000
Fees from prospective employers for campus interview [Taxable since such services are not specifically exempt]	4,00,000
Receipts of Concepts – a coaching institute [Taxable since coaching institute is not an educational institution]	1,40,000
Receipts of Gurukul School providing education upto higher secondary	Exempt
Renting of furnished flats for temporary stay to different persons [Taxable]	5,00,000
Value of taxable supply	**11,20,000**

Question 8

"Chanakya Academy" is registered under GST in the State of Uttar Pradesh. The Academy runs the following educational institutions:

(i) 'Keshav Institute of Technology' (KIT), a private engineering college in Ghaziabad. KIT also runs distance learning post graduate engineering programmes. Exams for such programmes are conducted in select cities at centres appointed by the KIT. All the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)].

(ii) 'Little Millennium', a pre-school in Lucknow.

(iii) 'Bright Minds', a coaching institute in Kanpur. The Institute provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam.

(iv) 'Spring Model' a higher secondary school affiliated to CBSE Board.

The Academy provides the following details relating to the expenses incurred by the various institutions run by it during the period April 20XX to September 20XX:

Table 1

S.N.	Particulars	KIT (₹)	Little Millennium (₹)	Bright Minds (₹)	Spring Model (₹)
(i)	Printing services for printing the question papers (paper and content are provided by the Institutions)	2,50,000		1,50,000	2,00,000
(ii)	Paper procured for printing the question papers	4,30,000		2,58,000	3,44,000
(iii)	Honorarium to paper setters and examiners (not on the rolls of Institution)	5,00,000			
(iv)	Rent for exam centers taken on rent like schools etc., for conducting examination	8,00,000		1,00,000	
(v)	Subscription for online educational journals [Little Millennium has taken the subscription for online periodicals on child development and experiential learning]	4,00,000	80,000	2,20,000	2,40,000
(vi)	Hire charges for buses used to transport students and faculty from their residence to the institutions and back	4,80,000	5,50,000	1,30,000	7,50,000
(vii)	Catering services for running a canteen in the campus for students (Catering services for KIT include a sum of ₹ 60,000 for catering at a student event organised in banquet hall outside campus)	3,20,000	2,60,000	1,80,000	5,00,000
(viii)	Security and housekeeping services for the institution(s) (Security and housekeeping services for Spring Model include a sum of ₹ 80,000 payable for security and housekeeping at student event organised in a banquet hall outside the campus)	6,00,000	4,00,000	3,75,000	4,65,000

The academy further provides the following details relating to the receipts of the various institutions run by it during the period April 20XX to September 20XX:

Table 2

S.N.	Particulars	KIT (₹)	Little Millennium (₹)	Bright Minds (₹)	Spring Model (₹)
(i)	Tuition fee	35,00,000	15,00,000	20,00,000	25,00,000
(ii)	Transport fee charged from students	5,00,000	6,00,000	1,30,000	8,50,000

With the help of the above details –

(i) Determine the amount of GST payable, if any, on goods and services received during April 20XX to September 20XX by the various educational institutions run by the 'Chanakya Academy';

(ii) Compute net GST liability of the 'Chanakya Academy' payable from the Electronic Cash Ledger, for the period April 20XX to September 20XX.

All the amounts given above are exclusive of taxes, wherever applicable.

Notes:

(a) Rate of GST on goods is 12%, catering service is 5% and on other services is 18%.

(b) Wherever relevant, all the conditions necessary for availing the ITC have been complied with.

Answer

(i) Notification No. 12/2017 CT(R) dated 28.06.2017 (hereinafter referred to as exemption notification) which exempts various services from GST leviable thereon exempts select services provided to an educational institution.

Here, the "educational institution" means an institution providing services by way of,-

(i) pre-school education and education up to higher secondary school or equivalent;

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course;

The select services which are exempt when provided to an educational institution are-

(i) **transportation** of students, faculty and staff;

(ii) **catering,** including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;

(iii) **security or cleaning or house-keeping** services performed in such educational institution;

(iv) services relating to **admission** to, or conduct of examination by, such institution;

(v) **supply of online educational journals** or periodicals

However, the services mentioned in points (i), (ii) and (iii) are exempt only when the same are provided to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

Supply of online educational journals or periodicals is not exempt from GST when provided to:

(i) pre-school education and education up to higher secondary school or equivalent; or

(ii) education as a part of an approved vocational education course.

Further, services by way of giving on hire motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent is exempt.

In the given case, all the engineering courses including the distance learning post graduate engineering programme run by KIT are recognised by the law [The All India Council for Technical Education (AICTE)]. Therefore, **since KIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the same is an educational institution** in terms of the exemption notification.

Similarly, Little Millennium and Spring Model, being a pre-school and a higher secondary school respectively are also educational institutions in terms of the exemption notification.

However, Bright Minds, being a coaching centre, training candidates to secure a banking job, is not an educational institution in terms of the exemption notification. Hence, none of the select services (mentioned above) will be exempt when provided to Bright Minds.

In the light of the foregoing provisions, the amount of GST payable on goods and services received by these educational institutions during April 20XX to September 20XX is computed as under:

Particulars	KIT (₹)	Little Millennium (₹)	Bright Minds (₹)	Spring Model (₹)
Printing services for printing the question papers (paper & content are provided by the Institutions)	Exempt [Services provided to educational institution in relation to conduct of examination]		27,000 [1,50,000 x 18%]	Exempt
Paper procured for printing question papers – [Supply of select services to educational institutions is exempt and not supply of goods to such educational institutions]	51,600 [4,30,000 x 12%]		30,960 [2,58,000 x 12%]	41,280 [3,44,000 x 12%]
Honorarium to paper setters and examiners (not on the rolls of the educational institution)	Exempt [Services provided to educational institution in relation to conduct of examination]			
Rent for exam centres taken on rent like schools etc. for conducting examination	Exempt [Services provided to educational institution in relation to conduct of examination]		18,000 [1,00,000 x 18%]	

Subscription for online educational journals [Little Millennium has taken the subscription for online periodical on child development and experiential learning]	Exempt	14,400 [80,000 x 18%]	39,600 [2,20,000 x 18%]	43,200 [2,40,000 x 18%]
Hire charges for buses used to transport students and faculty from their residence to the institutions and back	86,400 [4,80,000 x 18%]	Exempt	23,400 [1,30,000 x 18%]	Exempt
Catering services for running a canteen in campus for students [Catering service provided to pre-school and the higher secondary school is exempt irrespective of whether the same is provided within or outside premises of pre-school and higher secondary school]	16,000 [3,20,000 x 5%]	Exempt	9,000 [1,80,000 x 5%]	Exempt
Security & housekeeping services for institution(s) [Security & housekeeping service provided to pre-school and the higher secondary school for the student event organised in a banquet hall will be taxable as only the security & housekeeping service provided within the premises of pre-school and the higher secondary school are exempt.]	1,08,000 [6,00,000 x 18%]	Exempt	67,500 [3,75,000 x 18%]	14,400 [80,000 x 18%]
Total payable GST on the goods and Services received by educational institutions	**2,62,000**	**14,400**	**2,15,460**	**98,880**

(ii) (1) Sl. No. 66 of Notification No. 12/2017 CT(R) dated 28.06.2017 also exempts services provided by an educational institution to its students, faculty and staff. All the educational institutions run by the Chanakya Academy except Bright Minds are educational institutions in terms of the exemption notification (as explained under point (i) above). Therefore, the education services and the transport services provided by KIT, Little Millennium, and Spring Model to its students will be exempt from GST vide exemption notification. Thus, only the educational services provided by Bright Minds will be liable to GST @ 18%.

(2) No input tax credit (ITC) will be availed on inputs and input services used in providing exempt education services, i.e. education services by KIT, Little Millennium, and Spring Model. **Only Bright Minds will be entitled to avail ITC on inputs and input services used in providing**

taxable education services. However, **ITC on outdoor catering services will be blocked** in terms of section 17(5)(b)(i) of the CGST Act, 2017.

(3) Since there are **no common inputs and input services** being used for providing taxable and exempt services, **need for reversal of ITC attributable to exempt supplies will not arise.**

In the light of the foregoing provisions, the net GST liability of Chanakya Academy, which will comprise of only the tax liability of Bright Minds, is computed as under:

Particulars	Bright Minds (₹)
Tuition fee	20,00,000
Transport fee charged from students	1,30,000
Value of output supply taxable @ 18%	21,30,000
GST liability @ 18%	3,83,400
Less: ITC [Total tax payable by Bright Minds on the service received by it as computed in point (i) above less the tax payable on catering charges (2,15,460 - 9,000)]	2,06,460
Net GST payable from Electronic Cash Ledger	**1,76,940**

Healthcare

Question 9

Swasthya Nursing Home, a clinical establishment, offers the following services:

(i) Rooms provided to the in-patients where the room charges per day are ₹ 6,500.

(ii) Plastic surgery conducted to repair cleft lip of a new born baby.

(iii) Air ambulance services to transport critically ill patients from distant locations to Swasthya Nursing Home.

(iv) Supply of food to the in-patients as per the advice of the doctor/nutritionist from its restaurant – Annapurna Bhawan - located in the basement of Swasthya Nursing Home. The food is prepared by its employees and nothing is outsourced to any third-party vendors.

(v) Homeopathic medical treatment.

Swasthya Nursing Home also operates a cord blood bank which provides services in relation to preservation of stem cells.

Determine whether GST is payable in respect of each of the above services provided by Swasthya Nursing Home.

Answer

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST vide exemption notification. In light of the same, eligibility to exemption in respect of each service offered by Swasthya Nursing Home is examined below:

(i) Not Exempt. Exemption available to health care services provided by a clinical establishment shall not apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal

Intensive Care Unit (NICU)] having room charges exceeding ₹ 5000 per day to a person receiving health care services.

(ii) **Exempt.** Health care service does not include, inter alia, cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Therefore, plastic surgeries will not be entitled to the said exemption, but the plastic surgery conducted to repair a cleft lip will be eligible for exemption as it reconstructs anatomy or functions of body affected due to congenital defects (cleft lip).

(iii) **Exempt.** Health care service includes services by way of transportation of the patient to and from a clinical establishment. Thus, air ambulance service to transport critically ill patients to Swasthya Nursing Home would be eligible for exemption under the said notification.

(iv) **Exempt.** Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that food supplied by the hospital canteen to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care services and is not separately taxable. Thus, it is exempt from GST.

(v) **Exempt.** Since Homeopathy is a recognized system of medicine in terms of section 2(h) of Clinical Establishments Act, 2010, the same would be eligible for exemption under the said notification.

Further, exemption available to **services provided by cord blood banks** by way of preservation of stem cells or any other service in relation to such preservation has been withdrawn and thus, said services are no longer exempt from GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Swasthya Nursing Home **will be liable to GST.**

Question 10

Shiva Medical Centre, a Multi-speciality hospital, is a registered supplier in Mumbai. It hires senior doctors and consultants independently, without entering into any employer-employee agreement with them. These doctors and consultants provide consultancy to the in-patients - patients who are admitted to the hospital for treatment – without there being any contract with such patients. In return, they are paid the consultancy charges by Shiva Medical Centre.

However, money actually charged by Shiva Medical Centre from in-patients is higher than consultancy charges paid to the hired doctors and consultants. The difference amount retained by the hospital, i.e. retention money, includes charges for providing ancillary services like nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc.

The Department took a stand that senior doctors and consultants are providing services to Shiva Medical Centre and not to patients. Hence, their services are not health care services and must be subject to GST.

Further, GST is applicable on the retention money kept by Shiva Medical Centre.

You are required to examine whether the stand taken by the Department is correct.

Answer

No, the stand taken by the **Department is not correct.**

Services by way of **health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt** from GST vide exemption notification.

Health care services have been defined to mean any service by way of diagnosis or treatment or care for

illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that the entire amount charged by the hospitals from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt from GST. In view of the same, **GST is not applicable on the retention money kept by Shiva Medical Centre.**

The circular also clarifies that **services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are also healthcare services exempt** from GST. Hence, services provided by the senior doctors and consultants hired by Shiva Medical Centre, being healthcare services, are also exempt from GST.

Question 11

Vedanta Hospital, Gurgaon has its own restaurant – Annapurna Bhawan - in the basement which supplies food to its in-patients (patients admitted in the hospital) as per the advice of the doctor/nutritionist. Annapurna Bhawan also supplies food to other patients (who are not admitted) or their attendants or visitors. The food is prepared by the employees of the hospital and nothing is outsourced to any third-party vendors. Vedanta Hospital is of the view that all services provided by a clinical establishment are exempt from GST and thus, it is not liable to pay any tax. You are required to test the correctness of the view taken by Vedanta Hospital.

Answer

Services by way of **health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt** from GST vide exemption notification. Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that **food supplied by the hospital canteen to the in-patients** as advised by the doctor/nutritionists is a **part of composite supply of healthcare services** and is not separately taxable. Thus, it is **exempt** from GST. However, other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

In view of the same, **GST is not applicable on the food supplied by Annapurna Bhawan to in-patients** as advised by doctors/nutritionists while **other supplies of food by it to patients (not admitted) or their attendants/visitors are taxable.**

Government

Question 12

India Corporations Ltd., a Public Sector Undertaking (PSU), has taken loan from a banking company - Wellness Bank. The loan was guaranteed by the Central Government. India Corporations Ltd. defaulted in the repayment of such loan. Examine whether the services of guaranteeing of loan by the Central Government, in the given case, is liable to GST.

Answer

Services supplied by Central **Government**, State Government, Union territory **to their undertakings** or Public Sector Undertakings (PSUs) **by way of guaranteeing loans** taken by such undertakings or PSUs from banking companies and financial institutions are **exempt** from GST vide exemption notification.

In the present case, Central Government has guaranteed the loan taken by India Corporations Ltd. [a PSU], from Wellness Bank, [a banking company]. Consequently, services provided by the Central Government, in the form of guarantee of loan, are **exempt** from tax.

Legal, Banking and Financial

Question 13

Examine whether the following independent intra-State services are exempt from GST:

(a) Legal services provided by BMC & Partners, Delhi, a partnership firm of advocates, to Vastukaar Enterprises, registered in Delhi, providing architect services (with preceding financial year's aggregate turnover as ₹ 21 lakh).

(b) Minimum balance charges collected by Dhanvarsha Bank from current account and saving account holders.

Answer

(a) Services provided by a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of **legal services to a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption** from registration under the CGST Act, 2017, **are exempt** from GST vide exemption notification.

Since in the given case, services are being provided by the partnership firm of advocates - BMC & Partners to a business entity – Vastukaar Enterprises whose **aggregate turnover in the preceding FY exceeded ₹ 20 lakh** i.e. the threshold limit for registration applicable to a service provider in Delhi, **said services are not exempt from GST.**

(b) Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of **interest or discount** (other than interest involved in credit card services) are **exempt** from GST vide exemption notification.

However, service charges/fees, documentation fees, broking charges, administrative charges, entry charges or such like fees or charges **collected over and above interest** on loan, advance or a deposit are **not exempt and liable to GST.**

In view of the above, **minimum balance charges** collected by Dhanvarsha Bank from current account and saving account holders are **not exempt and are liable to GST**.

Question 14

In the case of transactions at (i) and (ii) below, determine whether the amounts received are liable to GST. Briefly explain the applicable statutory provisions in support of your conclusions.

(i) ABC Ltd., registered bank, recovered cheque discounting charges of ₹ 5,250 from customer, C & Co.

(ii) T Ltd., a dealer in air-conditioners, supplies each unit at a list price of ₹ 30,000 per unit. He also has

an EMI scheme where the customer can take delivery of air conditioner on a monthly EMI of ₹ 10,500 payable in three installments. T Ltd. charges ₹ 600 extra for any delay in payment of monthly installments and this amount was recovered from customer Venkat for delay in payment of his 2nd installment.

Answer

(i) Cheque **discounting is exempt** from GST only to the extent consideration is represented by way of discount. Any charges other than discount is not exempt from GST. Thus, **charges recovered on cheque discounting** by ABC Ltd. are **liable to GST.**

Note: In the above answer, it has been assumed that the cheque discounting charges are the service charges collected over and above discount. However, it is also possible to assume that the said charges represent the discount amount. In that case, said charges will be exempt from GST.

(ii) Service of extending deposits, loans or advances in so far as the consideration is represented by way of **interest is exempt. Extra charges recovered for delay in payment** of 2nd monthly instalment **is taxable** and is includible in the value of supply of the air conditioner.

Miscellaneous

Question 15

British High Commission, chief diplomatic mission of the United Kingdom in India, is providing advisory services to the students willing to travel to UK for further studies. The mission has organized a seminar for such students and a registration fee of ₹ 5,000 per student has been charged from the students for the same. You are required to determine whether the advisory services provided by British High Commission are liable to GST.

Answer

Services by a foreign diplomatic mission located in India are **exempt from GST** vide exemption notification. **Hence**, in the given case, advisory services by British High Commission located in Delhi to the students are **exempt** from GST.

Question 16

Explain in brief whether the below mentioned independent cases of supply of services provided are exempt or taxable under GST law, providing very brief reasoning:

(i) Himalayan Wanderers Campsite, a registered entity under GST, has fixed up various tents in Shimla, for lodging purposes being offered to tourists and trekkers. The details of tents rented by Himalayan Wanderers Campsite on 8th December is as under:

No. of tents rented	Amount of rent charged per tent per day	Nature of occupancy
10	600	Single
15	1000	Double

(ii) Fables Infotech LLP, a limited liability partnership firm having registered place of business in Hyderabad under GST, entered into a contract with Neeta Services for providing air-conditioned

mini vans for 1 year for transportation of its female employees working in night shifts to be picked up from designated spots every day at 9.00 p.m. except weekends and dropped to the office. The same female employees were again picked up from office at 6.30 a.m. every morning except weekends and dropped back at the same spots from where they were picked up.

(iii) HumTum Services Limited, registered under GST, provided catering services to Baljatan Anganwadi, an educational institute providing pre- school education amounting to 2,50,000 in the month of February.

(iv) 50 women from different cities pursuing diploma in management courses, participated in the 'Leadership Program' designed especially for women for a duration of 9 months by IIM, Bangalore (a participation certificate was awarded to each one of them after completion of the programme).

(v) Mr. Ashok rented his residential flat to his friend Dr. Kishore, who is not registered under GST for use as his medical clinic at a monthly rent of 15000.

Answer

(i) **Taxable**: Since there is **no specific exemption** with respect to services provided by a campsite for lodging purposes, services provided by Himalayan Wanderers Campsite are liable to GST.

(ii) **Taxable**: Service of transport of passengers provided by Neeta Services are liable to GST since such services are being provided in a **contract carriage which is air-conditioned**.

(iii) **Exempt**: Since catering services provided to an educational institution providing **pre-school education** are exempt from GST, HumTum Services Limited is not liable to pay GST.

(iv) **Taxable**: Since **short duration programs** provided by IIMs are not any qualification recognized by law, GST is payable in the given case.

(v) **Taxable**: Since **residential dwelling** is rented for **other than residence**, GST is payable on same.

Question 17

Mr. Dev, a registered person under GST in the State of Maharashtra, is engaged in making various supplies. It provides the following information for the month of April, 20XX:

S.N.	Particulars	Amount Charged (₹)
(i)	Services by way of storage/warehousing of raw vegetable fibre such as cotton flex, jute etc.	4,00,000
(ii)	Supply of online mathematics journal to 'Model CBSE' school for its secondary and higher secondary students.	2,00,000
(iii)	Made a composite supply of goods and services to M/s. Maharashtra State Development Corporation, a Government Entity, by way of activity in relation to function entrusted to a Panchayat under article 243G of the constitution. Value of supply of goods constituted 23% of value of said composite supply.	1,40,000
(iv)	Sitting fees received for attending a committee meeting as an independent director from M/s. ABC Ltd.	1,00,000
(v)	Insurance commission received as an insurance agent from XYZ Insurance Company Ltd., registered under GST.	1,25,000

(vi)	Services provided to the State Government of Maharashtra for conducting fitness training program for its employees. 71% of the total expenditure incurred for the program was borne by the State Government.	1,50,000
(vii)	Honorarium received by Mr. Dev to appear as a guest anchor on a TV channel.	25,000
(viii)	Amount received for services provided to a recognized sports body as a commentator.	6,00,000

From the above information, compute the total GST liability of Mr. Dev (on which tax to be paid by Mr. Dev) for the month of April, 20XX.

All the supplies are intra-State supplies and the rate of taxes are CGST and SGST @ 9% each. All the figures given are exclusive of GST, wherever applicable.

Reason for the treatment of each item needs to be given.

Answer

Computation of total GST payable by Mr. Dev

	Particulars	Amount (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)
(i)	Storage/warehousing of raw vegetable fibres [Services by way of storage/warehousing of raw vegetable fibre is not exempt.]	4,00,000	36,000	36,000
(ii)	Supply of online journal to school [Not exempt, since such services are exempt only when they are provided to an educational institution providing education as a part of a curriculum for obtaining a recognised qualification. Thus, exemption from GST is not available when such services are provided to a secondary and higher secondary school.]	2,00,000	18,000	18,000
(iii)	Composite supply of goods and services to State Development Corporation [Not exempt since exemption in respect of composite supply of goods and services by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution is not available when such supply is made to a government entity.]	1,40,000	12,600	12,600
(iv)	Sitting fees for attending meeting as an independent director [Services provided by an independent director to company are not in course/relation of employment are thus outside the scope of Schedule III of CGST Act, 2017. So, they qualify as supply. Further, tax on such services is payable by company under reverse charge.]	-	-	-

(v)	Insurance Commission received as an insurance agent [Tax on services provided by insurance agent to insurance company is payable by such company under reverse charge.]	-	-	-
(vi)	Services provided to State Government for fitness training program [Not exempt, since services provided to the State Government under any training programme are exempt only when 75% or more of the total expenditure for the same is borne by the State Government.]	1,50,000	13,500	13,500
(vii)	Honorarium received to appear as guest anchor [Liable to GST, since it is not specifically exempt and is not declared as 'neither a supply of goods nor a supply of service' under Schedule III of the CGST Act, 2017.]	25,000	2,250	2,250
(viii)	Services provided to a recognized sports body as a commentator [Services by an individual as a commentator to a recognized sports body are not exempt.]	6,00,000	54,000	54,000
	Total GST payable by Mr. Dev		**1,36,350**	**1,36,350**

Question 18

Mr. Nagarjun, a registered supplier of Chennai, has received the following amounts in respect of the activities undertaken by him during the month of September:

S.N.	Particulars	Amount (₹)
(i)	Amount charged for service provided to recognized sports body as selector of national team.	50,000
(ii)	Commission received as an insurance agent from insurance company.	65,000
(iii)	Amount charged as business correspondent for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts.	15,000
(iv)	Service to foreign diplomatic mission located in India.	28,000
(v)	Funeral services.	30,000

He received the services from unregistered goods transport agency for his business activities and paid freight of ₹ 45,000 (his aggregate turnover of previous year was ₹ 9,90,000).

Note: All the transactions stated above are intra-State transactions and also are exclusive of GST.

You are required to calculate gross GST liability (ignoring ITC provisions) of Mr. Nagarjun for the month of September assuming that the rate of GST, wherever applicable, is 18% except the GTA services where the rate of GST is 5%. Working notes should form part of your answer.

Answer

Computation of gross GST liability of Mr. Nagarjun

Particulars	Value (₹)	GST (₹)
Supplies on which Mr. Nagarjun is liable to pay GST under forward charge		
Amount charged for service provided to recognized sports body as selector of national team [Note 1]	50,000	9,000
Commission received as an insurance agent from insurance company [Note 2]	Nil	Nil
Amount charged as business correspondent for services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 3]	15,000	2,700
Services provided to foreign diplomatic mission located in India [Note 4]	28,000	5,040
Funeral services [Note 5]	Nil	Nil
Supplies on which Mr. Nagarjun is liable to pay GST under reverse charge		
Services received from GTA [Note 6]	45,000	2,250
GST payable		**18,990**

Notes:

(1) Services provided to a recognized sports body by an individual only as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST vide exemption notification. Thus, service provided as selector of team is **liable to GST**.

(2) Commission for providing insurance agent's services is liable to GST. However, the tax payable thereon is to be paid by the recipient of service i.e., insurance company, under reverse charge. Thus, **Mr. Nagarjun will not be liable to pay GST on such commission**.

(3) Services provided by business correspondent to a banking company with respect to accounts in its rural area branch are exempt from GST vide exemption notification. Thus, such services provided in respect of urban area branch will be **taxable.**

(4) While services provided by a foreign diplomatic mission located in India are exempt from GST vide exemption notification, services provided to such mission are **taxable.**

(5) Funeral services being covered in Schedule III of CGST Act are **not a supply** and thus, are outside the ambit of GST.

(6) GST on services provided by a GTA (unregistered) to a registered person is payable by the recipient of service i.e., the registered person, under **reverse charge**. The turnover of previous year is irrelevant in this case.

Question 19

Vividh Pvt. Ltd. is a supplier of goods and services at Bangalore, registered in the State of Karnataka, having turnover of ₹ 200 lakh in the last financial year. It has furnished the following information for the month of June.

Particulars	Amount (₹) excluding GST
Services provided by way of a labour contract for repairing a single residential unit otherwise than as a part of residential complex	13,00,000

Fee received from students of a competitive exam training academy run by Vividh Pvt. Ltd.	5,40,000
4 buses each with a seating capacity of 72 passengers given on hire to State Transport Undertaking	6,00,000
Rent paid to Local Municipal Corporation for premises taken on rent for competitive exam training academy	2,50,000
Goods transport services received from GTA, tax is payable on such services @ 12% as opted by GTA	1,80,000

Compute gross GST liability (ignoring ITC provisions) of Vividh Pvt. Ltd. for the month of June assuming that the above amounts are exclusive of GST and rate of GST, wherever applicable, is 18% unless otherwise mentioned

Answer

Computation of gross GST liability of Vividh Pvt. Ltd.

Particulars	Value of supply (₹)	GST @ 18% (₹)
Services provided by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex [Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a residential complex are exempt vide exemption notification. Labour contracts for repairing, are thus, **taxable.**]	13,00,000	2,34,000
Fee received from students of competitive exam training academy [Fee received from students of competitive exam training academy is **taxable** as it is not an educational institution since competitive exam training does not lead to grant of a recognized qualification]	5,40,000	97,200
Buses each with seating capacity of 72 passengers given on hire to State Transport Undertaking [Services by way of giving on hire to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers, are **exempt** from GST vide exemption notification.]	6,00,000	Nil
Services on which tax is payable under reverse charge:		
Rent paid to Local Municipal Corporation [GST is payable under **reverse charge** in case of renting of immovable property services supplied by a local authority to a registered person.]	2,50,000	45,000
GTA services availed [Since GTA is paying tax @ 12%, tax is payable under **forward charge by GTA only** and not by Vividh Pvt. Ltd.]	1,80,000	Nil
Gross GST payable		**3,76,200**

Question 20

Vividh Pvt. Ltd. is engaged in supplying various services in Bangalore. It is registered in the State of Karnataka. It has furnished the following information for the month of June:

S.N.	Particulars	Amount (₹)
(i)	Services provided by way of fumigation in a warehouse of agricultural produce.	13,00,000
(ii)	Service of transportation of passengers by metered cabs provided through Webcastle Ltd., an electronic commerce operator (ECO)	5,40,000
(iii)	4 buses each with a seating capacity of 72 passengers given on hire to State Transport Undertaking (STU). Such buses run on a route and timing as decided by STU.	6,00,000
(iv)	Goods transport services received from GTA for transporting the goods to be used in respect of the buses given on hire to STU. Tax on such services is payable @ 12% as opted by GTA.	1,80,000

Compute net GST payable in cash by Vividh Pvt. Ltd. for the month of June assuming that the above amounts are exclusive of GST and rate of GST, wherever applicable, is 18% unless otherwise mentioned.

Answer

Computation of gross GST liability of Vividh Pvt. Ltd.

Particulars	GST (₹)
Services by way of fumigation in a warehouse of agricultural produce. [**Taxable** since the exemption earlier available with respect to the services provided by way of fumigation in a warehouse of agricultural produce has been withdrawn.]	2,34,000 [13,00,000 ×18%]
Service of transportation of passengers by metered cabs through Webcastle Ltd., an ECO [Taxable since services of transport of passengers by metered cabs supplied through ECO are not exempt from GST. However, tax on such services shall be **paid by ECO.** Therefore, **Vividh Pvt. Ltd. is not liable to pay GST on the same.**]	Nil
Buses with seating capacity of 72 passengers each given on hire to STU [Services by way of giving on hire to a state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers, are **exempt** from GST irrespective of whether such vehicles are run on routes and timings as decided by State Transport Undertakings.]	Nil
Total GST payable	2,34,000
Less: Goods transport services availed [Since GST is payable @ 12% on goods transport services, GST is **payable by the GTA** under forward charge mechanism **and not by Vividh Pvt. Ltd.**] Further, **ITC** of the same is **not available as such services are exclusively used for supplying the exempt services** of giving on hire the buses to STU.]	Nil
Net GST payable in cash	**2,34,000**

Question 21

Parikshit Ltd., engaged in providing a bouquet of services, is registered under GST law. It furnishes the following information for the month of March in relation to various services provided by it:

Particulars	₹
Fees from prospective employers for campus interview in its college	5,20,000
Five buses each with seating capacity of 40 passengers given on hire to State Transport Undertaking	6,50,000
Receipts of 'Shiny', a commercial coaching institute providing coaching in the field of commerce (a certificate was awarded to each trainee after completion of the training)	1,82,000
Interest received on fixed deposits of the company with Dhanvarsha Bank	6,50,000
Receipts from running a Boarding School (including receipts for providing residential dwelling service of ₹ 18,20,000)	39,00,000
Receipts of 'Sikshit Samudai' - an Industrial Training Institute (ITI) affiliated to the National Council for Vocational Education and Training (NCVET). Courses run by said ITI are in designated trades	2,60,000
Receipts of 'Pratibha Institute', an institute registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESC) approved by the National Council for Vocational Education and Training (NCVET)	1,30,000
Professional services provided to foreign diplomatic mission located in India	1,04,000

Compute the GST payable by Parikshit Ltd. assuming that all the above receipts are exclusive of GST wherever applicable and the rate of GST applicable on all the supplies is 18%.

Answer

Computation of GST payable by Parikshit Ltd. for the month of March

Particulars	Value (₹)	GST @ 18% (₹)
Fees from prospective employers for campus interview in its college [**Taxable** since such services are not specifically exempt]	5,20,000	93,600
Five buses each with seating capacity of 40 passengers given on hire to State Transport Undertaking [Services by way of giving on hire to a State transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers, are **exempt** vide exemption notification.]	Nil	Nil
Receipts of Shiny– a coaching institute [Services provided by an educational institution to its students, faculty and staff are exempt vide exemption notification. However, **coaching institute is not an educational institution.**]	1,82,000	32,760
Interest received on fixed deposits of the company with Dhanvarsha Bank [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are **exempt** vide exemption notification.]	Nil	Nil
Receipts from Boarding School including receipts for residential dwelling service	Nil	Nil

[Services provided by an educational institution to its students, faculty and staff are **exempt** vide exemption notification. Boarding School providing education up to higher secondary school or equivalent is an educational institution since it provides composite supply of education service coupled with other services like providing dwelling units for residence and food wherein the principal supply is supply of education service.]		
Receipts of Sikshit Samudai [Services provided by an educational institution to its students, faculty and staff are **exempt** vide exemption notification. Sikshit Samudai is an educational institution running approved vocational education course.]	Nil	Nil
Receipts of 'Pratibha Institute' running Modular Employable Skill Course [Services provided by an educational institution to its students, faculty and staff are **exempt** vide exemption notification. Pratibha Institute is an educational institution running approved vocational education course.]	Nil	Nil
Professional services provided to foreign diplomatic mission located in India [While services provided by a foreign diplomatic mission located in India are exempt from GST vide exemption notification, **no such exemption is available to the services provided to such mission.**]	1,04,000	18,720
GST payable	**8,06,000**	**1,45,080**

Question 22

Pethalal has obtained registration in the current financial year in Uttar Pradesh. His turnover in the preceding financial year was ₹ 19,90,000. He has received the following amounts in respect of the activities undertaken by him in the month of September:

S.N.	Particulars	Amount (₹)
(i)	Funeral services	8,80,000
(ii)	Services of warehousing of jaggery	50,000
(iii)	Electrically operated buses given on hire to Municipal Corporation	5,00,000
(iv)	Service provided to recognized sports body as commentator	2,00,000
(v)	Commission received as an insurance agent from insurance company	65,000
(vi)	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	15,000
(vii)	Security services (supply of security personnel) provided to Damodar Engineering College (DEC)* [registered under GST] for security of college premises *All the engineering courses run by DEC are recognised by the law [The All India Council for Technical Education (AICTE)]	28,000

Further, he has received following services in the month of September:

S.N.	Particulars	Amount (₹)
(a)	Freight paid to unregistered goods transport agency for his business activities relating to serial number (i) above	1,00,000

(b)	Legal advice received from M/s Kanoon Associates, a partnership firm, seeking advice in relation to a tax dispute of the business	50,000

All the transactions stated above are intra-State transactions and amounts given are exclusive of GST, wherever applicable.

You are required to calculate net GST payable by Pethalal for September. There was no opening balance of input tax credit. Rate of CGST and SGST is 9% each for all the outward supplies made by Pethalal.

Answer

Computation of net GST payable by Pethalal

Particulars	Amount (₹)	CGST (₹)	SGST (₹)
Supplies on which Pethalal is liable to pay GST under forward charge			
Funeral services [Note 1]	8,80,000		
Services of warehousing of jaggery taxable @ 9% CGST & 9% SGST [Note 2]	50,000	4,500	4,500
Services by way of giving on hire electrically operated buses to Municipality [Note 3]	5,00,000		
Service provided to recognized sports body as commentator taxable @ 9% CGST & 9% SGST [Note 4]	2,00,000	18,000	18,000
Commission received as an insurance agent from insurance company [Note 5]	65,000		
Commission received as business facilitator for the services provided to the urban branch of a nationalised bank with respect to savings bank accounts [Note 6]	15,000		
Security services (supply of security personnel) provided to DEC for the security of the college premises [Note 7]	28,000		
Value of taxable supply	**2,50,000**		
Total tax liability on outward supplies **(A)**		**22,500**	**22,500**
Supplies on which Pethalal is liable to pay GST under reverse charge			
Services received from GTA taxable at 2.5% CGST & 2.5% SGST [Note 8]	1,00,000	2,500	2,500
Legal services received [Note 9]	50,000		
Value of taxable supply	**1,00,000**		
Total tax liability on inward supplies under reverse charge **(B)** – payable in cash [Note 10]		**2,500**	**2,500**
ITC available on input services [Note 8]		**Nil**	**Nil**
Net GST payable (A) + (B)		**25,000**	**25,000**

Notes:

(1) Funeral services being covered in entry 4 of Schedule III to the CGST Act, 2017 are **not a supply** and thus, are outside the ambit of GST.

(2) The exemption in respect of services by way of storage/warehousing of, inter alia, jaggery is withdrawn. Thus, services of **warehousing of jaggery are taxable**.

(3) Services by way of giving on hire to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers are exempt vide exemption notification. Buses are EOVs meant to carry more than 12 passengers. Hence, services of giving electrically operated buses on hire to Municipal Corporation are **exempt** from GST.

(4) Services provided to a recognized sports body by an individual only as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from GST vide exemption notification. Thus, service provided as commentator is **liable to GST**.

(5) Though commission for providing insurance agent's services to any person carrying on insurance business is liable to GST, the tax payable thereon is to be paid by the recipient of service i.e., insurance company, under reverse charge. Thus, **Pethalal will not be liable to pay GST on such commission**.

(6) Services provided by a business facilitator to a banking company with respect to accounts in its rural area branch are exempt from GST vide exemption notification. Thus, services provided by him in respect of urban area branch of the bank will be taxable. However, the tax payable thereon is to be paid by the recipient of service i.e., banking company, under reverse charge in terms of reverse charge notification. Hence, **Pethalal will not liable to pay GST on commission received for said services**.

(7) Services provided to an educational institution, by way of security services performed in such educational institution are exempt from GST only when said services are provided to an institution providing services by way of pre-school education and education up to higher secondary school or equivalent, vide exemption notification. Thus, in the given case, security services provided to DEC are not exempt. Further, the tax on security services (supply of security personnel) provided by any person other than a body corporate to a registered person is payable by the recipient of service under reverse charge in terms of reverse charge notification. Hence, **Pethalal will not be liable to pay GST in the given case**.

(8) GST on services provided by a GTA (unregistered) to, inter alia, a registered person is payable by the recipient of service i.e., the registered person, under reverse charge in terms of reverse charge notification. Since in the given case, GTA is unregistered, **Pethalal is liable to pay tax under reverse charge** @ 5% (CGST @ 2.5% and SGST @ 2.5%). Further, **since said input services are being exclusively used for effecting non-taxable supplies [funeral services], input tax credit of the GST paid on the same will not be available.**

(9) Legal services provided by a partnership firm of advocates to a business entity (with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017) are exempt from GST vide exemption notification. Since the aggregate turnover of Pethalal did not exceed ₹ 20 lakh [the applicable threshold limit for registration for Pethalal being a supplier of services] in the preceding FY, **legal services received by him are exempt** from GST.

(10) As per section 49(4) of the CGST Act, 2017, amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of the CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.

(11) Since all the transactions given hereunder are intra-State, CGST and SGST are payable in terms of section 9(1) of the CGST Act, 2017.

Question 23

M/s A2Z, a proprietary firm registered under GST, is engaged in providing various services under one roof. The firm provides the following information pertaining to supplies made/input services availed (exclusive of GST) by it during the month of March, 20XX:

S.N.	Particulars	Amount (₹)
1.	Amount collected for loading, unloading, packing and warehousing of potato chips	15,000
2.	Fees paid for yoga camp conducted by a charitable trust registered under section 12AB of the Income-tax Act, 1961 for employees of the firm	20,000
3.	Interest received on fixed deposits with APNA Bank by the firm	30,000
4.	Professional services provided to foreign diplomatic mission located in India	50,000
5.	Recovery agent services provided to ABC Finance Ltd. - an NBFC located in Delhi	1,00,000
6.	Security services provided to XYZ Ltd. - a registered person under GST	80,000
7.	Receipts from running an educational institution (including receipts for providing residential dwelling service of ₹ 18,20,000 by the institution to the students)	35,00,000
8.	Supply value including cost of fuel for provision of renting of motor vehicle service to NPS Ltd.	88,000

Determine the GST liability (inclusive of liability for the supplies received also) of M/s A2Z for the month of March 2022 with necessary explanation for treatment of each item. Rate of tax for both inward and outward supply is CGST and SGST @ 9% each except for the service of renting a vehicle for which CGST and SGST @ 2.5% each is applicable. All the supplies are intra-State only.

Answer

Computation of GST liability of M/s A2Z for the month of March 20XX

S.N.	Particulars	CGST (₹)	SGST (₹)
1.	Loading, unloading, packing and warehousing of potato chips [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, **potato chips is not an agricultural produce**.]	1,350 [15,000 × 9%]	1,350 [15,000 × 9%]
2.	Fees paid for yoga camp [Services provided by a charitable trust registered under section 12AB of the Income- tax Act by way of advancement of yoga are **exempt**.]	--	--
3.	Interest received on fixed deposits [Services of extending fixed deposits in so far as the consideration is represented by way of interest are **exempt**.]	--	--
4.	Professional services provided to foreign diplomatic mission located in India [**Not exempt**.]	4,500 [50,000 × 9%]	4,500 [50,000 × 9%]

5.	Recovery agent services provided to ABC Finance Ltd., an NBFC [Since such services are being provided to an NBFC, tax on the same is payable by recipient - ABC Finance Ltd. - under **reverse charge** [RCM].]	--	--
6.	Security services provided to XYZ Ltd., a registered person [Since such services are being provided by a non-body corporate to a registered person, tax on the same is payable by recipient - XYZ Ltd. - under **reverse charge** [RCM].]	--	--
7.	Receipts from running an educational institution (including receipts for residential dwelling service) [Services provided by an educational institution and services by way of renting of residential dwelling for use as residence are **exempt**.]	--	--
8.	**Alternative -I: It is assumed that motor vehicle is designed to carry passengers** Renting of motor vehicle service [Since services of renting of motor vehicle including cost of fuel with tax payable @ 2.5% CGST/SGST is being provided by a non-body corporate to a body corporate, tax on the same is payable by recipient – NPS Ltd. - under **reverse charge** [RCM].]	--	--
	OR		
	Alternative -II: It is assumed that motor vehicle is designed to carry goods Renting of motor vehicle service [**Not exempt**.]	2,200 [88,000 × 2.5%]	2,200 [88,000 × 2.5%]
	Alternative -I: It is assumed that motor vehicle is designed to carry passengers **Total GST liability**	**5,850**	**5,850**
	OR		
	Alternative -II: It is assumed that motor vehicle is designed to carry goods **Total GST liability**	**8,050**	**8,050**

Question 24

Gupta and Gupta Brothers is a partnership concern registered under GST in the State of Gujarat. It provides the following information pertaining to supplies made/received by it during the month of May:

	Particulars	**₹**
(i)	Loading, unloading, packing and warehousing of tomato ketchup bottles	4,00,000
(ii)	Provided security services (services provided by way of supply of security personnel) to Sudarshan Ltd., a registered person under GST	3,35,000
(iii)	Provided security services (services provided by way of supply of security personnel) to Divyajyoti Trust, an unregistered person under GST	1,00,000

(iv)	Provided renting of motor vehicle service for carrying passengers to Bharat Travels Ltd. and supply value included cost of fuel	2,35,000
(v)	Provided renting of motor vehicle service for carrying passengers to Suvidha & Co., a partnership firm and supply value included cost of fuel	40,000
(vi)	Recovery agent services provided to Manimani Finance Ltd., an NBFC	4,20,000
(vii)	Received legal consultancy service from Dhruv and Co., a law firm, for business purposes	70,000
(viii)	Services provided to Gujarat Government administration under a Health Training programme (90% of the total expenditure for said programme is borne by Gujarat Government.)	80,000

Determine the GST liability (inclusive of GST liability for the supplies received, if any) of Gupta and Gupta Brothers for the month of May by giving necessary explanations for treatment of various items. Rate of tax for both inward and outward supply is CGST @ 9% and SGST @ 9% except services of renting a motor vehicle for transportation of passengers, on which CGST @ 2.5% and SGST @ 2.5% is applicable. Gupta and Gupta Brothers commenced its business from April in the current financial year. All the above supplies are intra-State supplies.

Answer

GST liability of Gupta & Gupta Brothers

	Particulars	Value [₹]	CGST [₹]	SGST [₹]
A.	**GST liability on outward supply**			
(i)	Loading, unloading, packing and warehousing of tomato ketchup [Loading, unloading, packing and warehousing of agricultural produce is exempt. However, **tomato ketchup is not an agricultural produce**.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]
(ii)	Security services to Sudarshan Ltd., a registered person [Tax is payable under **reverse charge** by the recipient since security services are being provided by a non-body corporate to a registered person.]	-		
(iii)	Security services to Divyajyoti Trust, an unregistered person [Tax is payable under **forward charge** since security services are being provided by a non-body corporate to an unregistered person.]	1,00,000	9,000 [1,00,000 x 9%]	9,000 [1,00,000 x 9%]
(iv)	Renting of motor vehicle for carrying passengers to Bharat Travels Ltd. where value included cost of fuel [Tax is payable under **reverse charge** by recipient since such services are provided by a non-body corporate to a body corporate and GST is payable @ 5%.]	-		

(v)	Renting of motor vehicle for carrying passengers to Suvidha & Co., a partnership firm, where supply value included cost of fuel [Tax is payable under **forward charge** since such services are provided by a non-body corporate to a non-body corporate.]	40,000	1,000 [40,000 x 2.5%]	1,000 [40,000 x 2.5%]
(vi)	Recovery agent services provided to Manimani Finance Ltd., an NBFC [Since such services are being provided to an NBFC, tax on the same is payable by recipient - Manimani Finance Ltd. - under **reverse charge** [RCM].]	--	--	--
(viii)	Services provided to Gujarat Government administration under a Health Training programme [**Exempt** since the total expenditure borne by the Gujarat Government is more than 75%.]	--	--	--
Total GST liability on outward supplies			**46,000**	**46,000**
B.	**GST liability on inward supplies under reverse charge**			
(vii)	Availed legal consultancy service from Dhruv and Co., a law firm, for business purposes [Legal services provided by a partnership firm of advocates/individual advocate other than a senior advocate to a business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration, are **exempt** from GST. Since Gupta and Gupta Brothers started its business in April in the current financial year, its turnover in the preceding financial year is nil making it eligible for exemption from registration in the preceding financial year and hence, the legal services provided to it are exempt from GST.]	-	-	-
GST liability on inward supplies under reverse charge			-	-

CHAPTER - 6
Place of Supply

Section 10

Question 1

Priyank Sales of Pune, Maharashtra enters into an agreement to sell goods to Bisht Enterprises of Bareilly, Uttar Pradesh. While the goods were being packed in Pune godown of Priyank Sales, Bisht got an order from Sahil Pvt. Ltd. of Shimoga, Karnataka for the said goods. Bisht Enterprises agreed to supply the said goods to Sahil Pvt. Ltd. and asked Priyank Sales to deliver the goods to Sahil Pvt. Ltd. at Shimoga.
You are required to determine the place of supply(ies) in the above situation.

Answer

The supply between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) is a **bill to ship to supply** where the goods are delivered by the supplier [Priyank Sales] to a recipient [Sahil Pvt. Ltd. (Shimoga)] or any other person on the direction of a third person [Bisht Enterprises]. The place of supply in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b).

As per section 10(1)(b), where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be **deemed that** the said **third person has received the goods and the place of supply** of such goods **shall be** the **principal place of business of such person.**

Thus, in the given case, it is deemed that the Bisht Enterprises has received the goods and the place of supply of such goods is the principal place of business of Bisht Enterprises. Accordingly, the **place of supply** between Priyank Sales (Pune) and Bisht Enterprises (Bareilly) will be **Bareilly, Uttar Pradesh.**

This situation **involves another supply between Bisht** Enterprises (Bareilly) **and Sahil** Pvt. Ltd. (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a).

Section 10(1)(a) stipulates that where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

Thus, the **place of supply in second case is the location** of the goods at the time **when the movement of goods terminates** for delivery to the recipient (Sahil Pvt. Ltd.), **i.e. Shimoga, Karnataka.**

Question 2

Asha Enterprises, supplier of sewing machines, is located in Kota (Rajasthan) and registered for purpose of GST in the said State. It receives an order from Deep Traders, located in Jalandhar (Punjab) and registered for the purpose of GST in the said State. The order is for the supply of 100 sewing machines with an instruction to ship the sewing machines to Jyoti Sons, located in Patiala (Punjab) and registered in the said State for purpose of GST. Jyoti Sons is a customer of Deep Traders. Sewing machines are being shipped in a lorry by Asha Enterprises.

Briefly explain the following:

(a) the place of supply;

(b) the nature of supply: - whether inter-State or intra-State and

(c) whether CGST/SGST or IGST would be applicable in this case.

Answer

The **supply between Asha** Enterprises (Kota, Rajasthan) **and Deep** Traders (Jalandhar, Punjab) **is** a **bill to ship to supply where** the **goods** are **delivered** by the supplier [Asha Enterprises] to a recipient [Jyoti Sons (Patiala, Punjab)] **on the direction of a third person** [Deep Traders].

In case of such supply, it is **deemed that** the said **third person has received the goods and the place of supply** of such goods **is principal place of business of such person** [Section 10(1)(b)]. **Thus, place of supply** between Asha Enterprises (Rajasthan) and Deep Traders (Punjab) **will be Jalandhar, Punjab.**

Since the location of supplier and the place of supply are in two different States, the supply is an inter-State supply in terms of section 7, liable to IGST.

This situation **involves another supply between Deep** Traders (Jalandhar, Punjab) **and Jyoti** Sons (Patiala, Punjab). In this case, since the supply involves movement of goods, **place of supply will be** the **location** of the goods at the time **at which the movement of goods terminates** for delivery to the recipient, **i.e. Patiala, Punjab** [Section 10(1)(a)].

Since the location of supplier and the place of supply are in the same State, the supply is an intra-State supply in terms of section 8, liable to CGST and SGST.

Question 3

Raman Row, a registered supplier under GST in Mumbai, Maharashtra is directed by Nero Enterprises, Kolkata, West Bengal to deliver goods valued at ₹ 12,00,000 to Fabricana of Aurangabad in Maharashtra. Raman Row makes out an invoice at 9% tax rate under CGST and SGST respectively (scheduled rate) and delivers it locally in Maharashtra.

Discuss and comment on above levy of tax and determine tax liability of goods in above circumstances.

Answer

The **supply between Raman** Row (Mumbai, Maharashtra) **and Nero** Enterprises (Kolkata, West Bengal) **is a bill to ship to supply where** goods are **delivered** by supplier [Raman Row] to a recipient [Fabricana (Aurangabad, Maharashtra)] or any other person **on the direction of a third person** [Nero Enterprises]. In such a case, it is **deemed that** the said **third person has received the goods and** the **place of supply** of such goods **is the principal place of business of such person** [Section 10(1)(b) of IGST Act, 2017].

Accordingly, the **place of supply** between Raman Row (Mumbai, Maharashtra) and Nero Enterprises (Kolkata, West Bengal) **will be Kolkata** and thus, it will be an inter-State supply **liable to IGST**. Hence, Raman Row should charge 18% IGST on ₹ 12,00,000, which comes out to ₹ 2,16,000.

This situation **involves another supply between Nero** Enterprises (Kolkata, West Bengal) **and Fabricana** (Aurangabad, Maharashtra). The **place of supply** in this case **will be the location** of the goods at the time **when the movement of goods terminates** for delivery to the recipient **i.e., Aurangabad, Maharashtra** in terms of section 10(1)(a) of IGST Act, 2017. Thus, being an inter-State supply, the same will also be chargeable to IGST.

Section 12

Question 4

Whether services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ unit/developer by a supplier located in the same State as that of the SEZ unit/developer should be treated as an inter-State supply under section 7(5)(b) or an intra-State supply in terms of section 8(2) read with section 12(3)(c)? Examine.

Answer

As per section 7(5)(b), the **supply** of goods and/or services **to a SEZ unit/developer is treated as** a supply of goods and/or services in the course of **inter-State** trade or commerce. Whereas, as per section 12(3)(c), the **place of supply** of services by way of **accommodation in any immovable property** for organising any functions shall be the **location at which the immovable property is located.** Thus, in such cases, if the location of the supplier and the place of supply are in the same State/Union territory, it would be **treated as an intra-State supply.**

It is an established principle of interpretation of statutes that in case of an **apparent conflict between two provisions, the specific provision shall prevail** over the general provision. In the instant case, section 7(5)(b) is a specific provision relating to **supplies** of goods and/or services **made to a SEZ unit/developer**, which states that such supplies shall be **treated as inter-State supplies.**

Further, proviso to section 8(2) also lays down that **intra-State supply do not include supply of services to a SEZ unit/developer.** It is, therefore, clarified that services of short-term accommodation, conferencing, banqueting etc., provided to a SEZ unit/developer shall be treated as an inter-State supply.

Question 5

Dobriyal Technocrats Ltd., registered in Gurgaon, Haryana, is engaged in manufacturing heavy steel machinery. It enters into an agreement with Mindsharp Associates, registered in Delhi, for imparting motivational training to the top management of Dobriyal Technocrats Ltd. in a 5-day residential motivational training programme at an agreed consideration of ₹ 20,00,000.

Mindsharp Associates books the conference hall alongwith the rooms of Hotel Chumchum, Neemrana (registered in Rajasthan) for the training programme, for a lump sum consideration of ₹ 12,00,000.

You are required to determine the place of supply in respect of supply(ies) involved in the given scenario.

Answer

In the given situation, two supplies are involved:

(i) Services provided by Mindsharp Associates to Dobriyal Technocrats Ltd. by way of providing motivational training to its top management.

(ii) Services provided by Hotel Chumchum to Mindsharp Associates by way of accommodation in said hotel for organizing the training programme.

The place of supply in respect of each of the above supplies is determined as under:

(i) As per the provisions of section 12(5)(a) of the IGST Act, 2017, the **place of supply of** services provided in relation to **training and performance** appraisal **to a registered person**, shall be the **location of such person.**

Therefore, the place of supply of services supplied by Mindsharp Associates to the registered recipient - Dobriyal Technocrats Ltd. by way of providing motivational training to its top management is the location of Dobriyal Technocrats Ltd., **i.e. Gurgaon, Haryana**.

(ii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the **place of supply of** services, by way of **accommodation in any immovable property** for organizing, inter alia, any official/ business function including services provided in relation to such function at such property, shall be the **location at which the immovable property is located.**

Therefore, the place of supply of services supplied by Hotel Chumchum to Mindsharp Associates by way of accommodation of conference hall alongwith the rooms of Hotel Chumchum for the training programme shall be the location of the **Hotel Chumchum, i.e. Neemrana, Rajasthan**.

Question 6

Answer the following questions in the light of place of supply provisions contained in the IGST Act, 2017:

(i) Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its new product at Bangalore. Damani Industries is registered in Mumbai. Determine place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries. Will your answer be different if product launch party is organised at Dubai?

(ii) Supra Events, an event management company at New Delhi, organizes an award function for Chirag Diamond Merchants of Varanasi (registered in U.P.), at Mumbai. Determine place of supply of the service supplied by Supra Events. Will your answer be different, if the award function is organised at Mauritius instead of Mumbai?

Answer

(i) Section 12(7)(a)(i) stipulates that when service by way of **organization of an event** is provided **to** a **registered person**, place of supply is the **location of recipient**. Since, in the given case, the product launch **party at Bangalore** is organized for Damani Industries (registered in Mumbai), **place of supply** is the location of Damani Industries, i.e. **Mumbai, Maharashtra**.

In case the product launch **party** is organised **at Dubai**, the answer will remain the same, i.e. the **place of supply** is the location of recipient (Damani Industries)- **Mumbai, Maharashtra**.

(ii) Section 12(7) of the IGST Act stipulates that the place of supply of services provided by way of **organisation of** a cultural, artistic, sporting, scientific, educational or entertainment **event** including supply of services in relation to a conference, fair, exhibition, celebration or similar events is the **location of recipient** in a case where such service is provided **to a registered person.** In the given case, since the recipient (Chirag Diamond Merchants) is a registered person, the **place of supply** is the location of the recipient, i.e., **Varanasi, U.P.**

Further, the place of supply will not change even if the **award function** is organised **at Mauritius** instead of Mumbai as the location of recipient remains unchanged. Thus, in that case also, the **place of supply** is the location of the recipient, i.e., **Varanasi, U.P.**

Question 7

Determine the place of supply for the following independent cases:

(i) Grand Gala Events, an event management company at Kolkata, organises two award functions for Narayan Jewellers of Chennai (Registered in Chennai, Tamil Nadu) at New Delhi and at Singapore.

(ii) Perfect Planners (Bengaluru, Karnataka) is hired by Dr. Kelvin (unregistered person based in Kochi, Kerala) to plan and organise his son's wedding at Mumbai, Maharashtra. Will your answer be different if the wedding is to take place in Malaysia?

Answer

(i) When service by way of **organization of an event** is provided **to a registered person**, place of supply is the **location of recipient** in terms of section 12(7)(a)(i).

Since, in the given case, the award functions at New Delhi and Singapore are organized for Narayan Jewellers (registered in Chennai), place of supply in both the cases is the location of Narayan Jewellers, **i.e. Chennai, Tamil Nadu.**

(ii) As per section 12(7)(a)(ii), when service by way of **organization of an event** is provided **to** an **unregistered person**, the place of supply is the **location where the event is actually held** and **if** the event is **held outside India**, the place of supply is the **location of recipient.**

Since, in the given case, the service recipient [Dr. Kelvin] is unregistered and event is held **in India**, place of supply is the location where the event is actually held, **i.e. Mumbai, Maharashtra.**

However, if the wedding is to take place **outside India** [**Malaysia**], the **place of supply is** the **location of recipient, i.e. Kochi, Kerala.**

Question 8

Mr. Murthy, an unregistered person and a resident of Pune, Maharashtra hires the services of Sun Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru, Karnataka.

(i) Determine the place of supply of services provided by Sun Ltd.

(ii) What would be your answer if the product launch takes place in Bangkok?

(iii) What would be your answer if Mr. Murthy is registered person and product launch takes place in-

(a) Bengaluru

(b) Bangkok?

Answer

(i) As per section 12(7)(a)(ii), when service by way of **organization of an event** is provided **to** an **unregistered person**, the **place** of supply is the location **where the event is actually held** and **if** the event is **held outside India**, the place of supply is the **location of recipient.**

Since, in the given case, the service **recipient** [Mr. Murthy] is **unregistered** and event is held in India, place of supply is the **location where the event is actually held, i.e. Bengaluru, Karnataka**. The location of the supplier and the location of the recipient is irrelevant in this case.

(ii) However, **if** product **launch** takes place **outside India** [Bangkok], the place of supply will be the **location of recipient, i.e. Pune, Maharashtra**

(iii) When service by way of **organization of an event** is provided **to a registered person**, place of supply is the **location of recipient** vide section 12(7)(a)(i).

Therefore, if Mr. Murthy is a registered person, then in both the cases, i.e. either when product launch takes place in Bengaluru or Bangkok, the place of supply will be the **location of recipient, i.e. Pune, Maharashtra.**

Question 9

Musicera Pvt. Ltd. owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana). Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising the said music concert at an agreed consideration of ₹ 10,00,000. Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered in Haryana) for holding the music concert, for a lump sum consideration of ₹ 4,00,000. Musicera Pvt. Ltd. fixes the entry fee to the music concert at ₹ 5,000. 400 tickets for 'Nitish Daani Music Concert' are sold.

You are required to determine the CGST and SGST or IGST liability, as the case may be, in respect of the supply(ies) involved in the given scenario.

Will your answer be different if the price per ticket is fixed at ₹ 450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%. All amounts given above are exclusive of taxes.

Answer

In the given situation, three supplies are involved:

(i) Services provided by Musicera Pvt. Ltd. to audiences by way of admission to music concert.

(ii) Services provided by Supriya (P) Ltd. to Musicera Pvt. Ltd. by way of organising the music concert.

(iii) Services provided by Hotel Dumdum to Supriya (P) Ltd. by way of accommodation in the Hotel lawns for organising the music concert.

The CGST and SGST or IGST liability in respect of each of the above supplies is determined as under:

(i) As per the provisions of section 12(6), the place of supply of services provided by way of **admission to**, inter alia, a cultural **event** shall be the **place where the event** is actually **held**.

So, place of supply of services supplied by Musicera Pvt. Ltd. (Ludhiana, Punjab) to audiences by way of admission to the music concert is the **location of Hotel Dumdum**, i.e. **Gurugram, Haryana.**

Since the location of **supplier** (Ludhiana, Punjab) **and the place of supply** (Gurugram, Haryana) are **in different States**, **IGST** will be **leviable.** Therefore, IGST leviable will be computed as follows:

Consideration for supply (400 tickets @ ₹ 5,000 per ticket) = ₹ 20,00,000

IGST @ 18% on value of supply = ₹ 20,00,000 x 18% = **₹ 3,60,000**.

(ii) Section 12(7)(a)(i) stipulates that the place of supply of services provided by way of **organization of**, inter alia, a **cultural event to a registered person is** the **location of such person.**

So, place of supply of services supplied by Supriya (P) Ltd. (Delhi) to Musicera Pvt. Ltd. (Ludhiana, Punjab) by way of organising the music concert is **location of recipient, i.e. Ludhiana (Punjab).**

Since the location of the supplier (Delhi) and the place of supply (Ludhiana, Punjab) are in different States, **IGST** will be **leviable**. Therefore, IGST leviable will be computed as follows:

Consideration for supply = ₹ 10,00,000

IGST @ 18% on value of supply = ₹ 10,00,000 x 18% = **₹ 1,80,000**

(iii) As per the provisions of section 12(3)(c) of the IGST Act, 2017, the place of supply of services, by way of **accommodation in any immovable property** for organizing, inter alia, any cultural function shall be the **location at which the immovable property is located.**

Therefore, the place of supply of services supplied by Hotel Dumdum (Gurugram, Haryana) to Supriya (P) Ltd. (Delhi) by way of accommodation in Hotel lawns for organising the music concert shall be the location of the **Hotel Dumdum, i.e. Gurugram, Haryana**.

Since the location of the supplier (Gurugram, Haryana) and the place of supply (Gurugram, Haryana) are in the same State, **CGST and SGST** will be **leviable.** Therefore, CGST and SGST leviable will be computed as follows:

Consideration for supply = ₹ 4,00,000

CGST @ 9% on value of supply = ₹ 4,00,000 x 9% = **₹ 36,000**

SGST @ 9% on value of supply = ₹ 4,00,000 x 9% = **₹ 36,000**

If the price for the entry **ticket is fixed at ₹ 450**, answer will change in respect of supply of service provided by way of admission to music concert, as mentioned in point (i) above. There will be no IGST liability if the consideration for the ticket is ₹ 450 as the inter-State services by way of right to **admission to**, inter alia, **musical performance are exempt from IGST** vide Notification No. 9/2017 IT (R) dated 28.06.2017, if the **consideration** for right to admission to the event **is not more than ₹ 500 per person**. However, there will be no change in answer in respect of supplies mentioned in point (ii) and (iii) above.

Question 10

'PQ', a statutory body, deals with the all the advertisement and publicity of the Government. It has issued a release order to 'Moon Plus' channel (registered in State 'A') for telecasting an advertisement relating to one of the schemes of the Government in the month of September 20XX. 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 'Moon Plus' and 'PQ' 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 'Moon Plus' 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 'Moon Plus' channel in the last week of June 20XX 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%

Answer

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

As per rule 3(f) of IGST Rules, 2017, in case of advertisement on television channels, 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 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 'Moon Plus' channel as provided by the Broadcast Audience Research Council in the last week of June 20XX	Viewership ratio of 'Moon Plus' 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, **'Moon Plus'** 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 'Moon Plus' channel will, therefore, be worked out as under:

Computation of GST liability of 'Moon Plus'

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].

Section 13

Question 11

M/s Joinder Drills of Australia exports rough rock cutting diamonds to M/s Ankit Enterprises of India, a registered supplier in the State of Haryana. M/s Ankit Enterprises is expected to process them into tools and export the same to the supplier in Australia. The process does not involve any sophisticated process other than cutting, polishing and finishing. M/s Ankit Enterprises requests M/s Joinder Drills for use of such tools for his business in India for 3 months, which is agreed to by the supplier. It then exports it to Australian supplier, invoicing it for ₹ 12,00,000 (inclusive of GST) for processing it into the required tool.

M/s Ankit Enterprises is of the assumption that it is an export transaction and therefore, it is entitled to treat it as a zero-rated supply and decides that no tax is payable under LUT although the rate applicable to such services for domestic supplies is CGST - 9%, SGST - 9% and IGST - 18%.

State the provisions relating to above supply of service and explain whether the stand taken by M/s Ankit Enterprises is correct and also determine the tax, if applicable, as goods are now moving out of Haryana.

Answer

One of the conditions for a supply of service to qualify as export of service is that the place of supply of said service must be outside India.

The **place of supply of services** supplied in respect of the goods which are **temporarily imported into India** for any other treatment/process **and are exported after** such **treatment/process without being** put to any **use in India**, other than that which is required for such treatment/process, **is** the **location of recipient** of such service [Second proviso to section 13(3)(a) of the IGST Act, 2017].

In view of the above, in the given case, the **place of supply** of the services provided by M/s Ankit Enterprises **is the place where the services are actually performed, i.e., in India** as the tools to be exported have been used in India for 3 months before their export. Resultantly, the supply of services by M/s Ankit Enterprises **do not qualify as export of service.**

Since the recipient is outside India, the place of supply is governed by section 13 and hence, the **supply is not an intra-State supply** in terms of section 8(2) of the IGST Act, 20178. Therefore, since the place of supply is in India and the supply is not an intra-State supply, the **same is an inter-State supply** [in terms of section 7(5)(c) of the IGST Act, 2017] of services and not of goods.

Thus, the same is **liable to IGST of ₹ 1,83,051** (₹ 12,00,000/118 x 18).

Question 12

Mr. Mahendra Goyal, an interior decorator provides professional services to Mr. Harish Jain in relation to two of his immovable properties. Determine the place of supply in the transactions below as per provisions of GST law in the following independent situations:

Case	Location of Mr. Mahendra Goyal	Location of Mr. Harish Jain	Property situated at
I	Delhi	Maharashtra	New York (USA)
II	Delhi	New York	Paris (France)

Explain the relevant provisions of law to support your conclusions.

Answer

Case I

As per section 12(3), **where** both the **service provider and** the service **recipient** are located **in India**, the **place of supply** of services directly **in relation to** an **immovable property**, including services provided by interior decorators is the **location of the immovable property. However, if** the immovable property is **located outside India**, the **place of supply is the location of the recipient.**

Since in the given case, both the service provider (Mr. Mahendra Goyal) and the service recipient (Mr. Harish Jain) are located in India and the **immovable property is located outside India** (New York), the place of supply will be the **location of recipient, i.e. Maharashtra.**

Case II

As per section 13(4), **where** either the **service provider or** the service **recipient** is located **outside India**, the place of supply of services directly **in relation to an immovable property** including services of interior decorators is the **location of the immovable property**.

Since in the given case, service provider (Mr. Mahendra Goyal) is located in India and service recipient (Mr. Harish Jain) is located outside India (New York), the place of supply will be the location of immovable property, **i.e. Paris (France).**

Question 13

Determine the place of supply for the following independent cases:

(i) Dhirubhai Pvt. Ltd. (New Delhi) imports a machine from Japan for being installed in its factory at New Delhi. To install such machine, Dhirubhai Pvt. Ltd. takes the service of an engineer who comes to India from Japan for this specific installation.

(ii) Mr. Jigar, an unregistered person based in New Delhi hires a yacht from a company based in London, UK for 20 days.

(iii) Mr. Chakmak, an architect (New Delhi), enters into a contract with Mr. Zeeshaan of New York to provide professional services in respect of immovable properties of Mr. Zeeshaan located in Pune and New York.

Answer

(i) As per section 13 of the IGST Act, 2017, place of supply of **services requiring physical presence of goods** on which the services are to be performed is the **location where the service is actually performed.** Thus, in given case, place of supply of installation service, which requires the physical presence of machinery, is the location where the service is actually performed, **i.e. New Delhi.**

(ii) As per section 13 of the IGST Act, 2017, place of **supply of services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of 1 month** is the location of the supplier of services. Thus, in given case, the place of supply is the location of the supplier of services, **i.e. London.**

(iii) As per section 13(4) read with section 13(6) of IGST Act, 2017, **where** services supplied directly in relation to an **immovable property** are supplied **at more than one location, including** a location **in taxable territory**, the **place of supply is** the **location in taxable territory.** Since in the given case, the immovable properties are located in more than one location including a location in the taxable territory, place of supply of architect service is the location in taxable territory, **i.e. Pune**.

Question 14

XYZ Ltd. has obtained a loan from a foreign bank. The company does not have an account with the foreign bank from whom it has taken the loan. Whether RCM liability under GST laws should be discharged in this regard for import of services received in relation to the loan? Provide relevant legal provisions in support of your answer.

Answer

Yes. RCM liability needs to be discharged on such services.

The **place of supply of services** supplied **by a banking company** in case **where** either **supplier or recipient is located outside India is location of supplier provided** said services are supplied to an **account holder, otherwise** the place of supply is the **location of the recipient.**

Accordingly, in the given case, the place of supply is the **location of recipient – XYZ Ltd., i.e., India.**

Since the **supplier is outside India and recipient and place of supply** are **in India,** said service **qualifies as import of services** which in turn, is **considered as inter-State supply.**

Question 15

Alpha is a manufacturer and supplier of a machine in India. Gamma of USA helps Alpha in selling the machine by identifying client in USA, viz., Beta who wants to purchase this machine and helps in finalizing the contract of supply of machine by Alpha to Beta. Gamma charges Alpha for his services of locating Beta and helping in finalizing the sale of machine between Alpha and Beta, for which Gamma invoices Alpha and is paid by Alpha for the same. Determine the place of supply of services provided by Gamma to Alpha.

Answer

As per section 13(8)(b) of the IGST Act, 2017, the place of supply of the intermediary services shall be the location of the supplier of services. 'Intermediary' has been defined in of section 2(13) of the IGST Act, as a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

Further, the concept of intermediary services has been clarified vide Circular No. 159/15/2021 GST dated 21.09.2021 as follows:

(i) **Minimum of three parties and two distinct supplies:** There must be minimum of three parties, two principals transacting in the supply of goods or services or securities (the main supply) and one intermediary arranging or facilitating (the ancillary supply) the said main supply.

(ii) **Intermediary service provider to have the character of an agent, broker or any other similar person:** Intermediary only arranges or facilitates the main supply and does not himself provide the main supply. Thus, the role of intermediary is only supportive.

(iii) **Does not include a person who supplies such goods or services or both or securities on his own account:** It implies that in cases wherein person supplies main supply, either fully or partly, on principal-to-principal basis, said supply cannot be covered under scope of "intermediary".

(iv) **Sub-contracting for a service is not an intermediary service:** Sub-contractor provides the main supply, either fully or a part thereof, and does not merely arrange or facilitate the main supply between the principal supplier and his customers, and therefore, clearly is not an intermediary.

As per above discussion, while Alpha and Beta are two principals involved in main supply of machinery, Gamma, is facilitating the supply of machine between Alpha and Beta. In this arrangement, Gamma is providing the ancillary supply of arranging or facilitating the 'main supply' of machine between Alpha and Beta and therefore, **Gamma is an intermediary and is providing intermediary service to Alpha.**

Resultantly, in terms of section 13(8)(b) of the IGST Act, 2017, the **place of supply of the intermediary services provided by Gamma shall be the location of supplier of services, viz. outside India (USA).**

Question 16

ABC Pvt. Ltd., New Delhi, provides support services to foreign customers in relation to procuring goods from India. The company identifies the prospective vendor, reviews product quality and pricing and then shares the vendor details with the foreign customer.

The foreign customer then directly places purchase order on the Indian vendor for purchase of specified goods. ABC Pvt. Ltd. charges its foreign customer cost plus 10% mark up for services provided by it.

The company has charged US $ 1,00,000 (exclusive of GST) to its foreign customer for services provided by it. With reference to provisions of GST, examine whether said supply will amount to export of service?

Answer

Section 2(13) **defines "intermediary" to mean a broker, an agent** or any other person, by whatever name called, **who arranges or facilitates** the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

In this case, **since ABC Pvt. Ltd. is arranging or facilitating** supply of goods between the foreign customer and the Indian vendor, the said services can be **classified as intermediary services.**

If the location of the supplier of services or the location of the recipient of service is outside India, place of supply is determined in terms of section 13. **Since**, in the given case, the **recipient** of supply is located **outside India**, provisions of supply of intermediary services will be determined in terms of **section 13.**

As per section 13(8)(b), the **place of supply** in case of intermediary services **is the location of** the **supplier, i.e.** the location of ABC Pvt. Ltd. which is **New Delhi.**

As per section 2(6) of the IGST Act, 2017, **export of services means** the supply of any service when:

(a) the **supplier** of service is located **in India**;

(b) the **recipient** of service is located **outside India**;

(c) the **place of supply** of service is **outside India**;

(d) the **payment** for such service has been received by the supplier of service **in convertible foreign exchange** or in Indian rupees wherever permitted by the Reserve Bank of India; and

(e) the supplier of service and the recipient of service are **not merely establishments of a distinct person** in accordance with Explanation 1 in section 8.

Since, in given case, place of supply is in India, this transaction does **not** tantamount to **export** of service.

Question 17

RST Inc., a corn chips manufacturing company based in USA, intends to launch its products in India. However, the company wishes to know the taste and sensibilities of Indians before launching its products in India. For this purpose, RST Inc. has approached ABC Consultants, Mumbai, (Maharashtra) to carry out a survey in India to enable it to make changes, if any, in its products to suit Indian taste.

The survey is to be solely based on the oral replies of the surveyees; they will not be provided any sample by RST Inc. to taste. ABC Consultants will be paid in convertible foreign exchange for the assignment.

With reference to the provisions of GST law, determine the place of supply of the service. Also, explain whether the said supply will amount to export of service?

Answer

As per section 13(2), in case **where the location of the supplier** of services **or** the location of the **recipient** of services **is outside India**, the **place** of supply of services except the services specified in sub-sections (3) to (13) shall be the **location of the recipient** of services. Sub-sections (3) to (13) provide the mechanism to determine the place of supply in certain specific situations.

The given case does not fall under any of such specific situations and thus, the place of supply in this case will be determined under sub-section (2) of section 13. Thus, the place of supply of services in this case is the location of recipient of services, i.e. USA.

As per section 2(6), **export of services means** the supply of any service when:

(a) the **supplier** of service is located **in India**;

(b) the **recipient** of service is located **outside India**;

(c) the **place of supply** of service is **outside India;**

(d) the **payment** for such service has been received by the supplier of service **in convertible foreign exchange** or in Indian rupees wherever permitted by the Reserve Bank of India; and

(e) the supplier of service and the recipient of service are **not** merely **establishments of a distinct person** in accordance with Explanation 1 in section 8.

Since all above five conditions are fulfilled in given case, same will be **considered as an export** of service.

Question 18

XY Ltd. (registered in Rajasthan) received legal services from an attorney in UK (unrelated person) in relation to registration of a trademark in UK. A consideration of £ 8,000 was paid by the company to the attorney in UK.

Determine the place of supply for the service and suggest if XY Ltd. is required to pay tax under reverse charge on this transaction.

Answer

In the given case, the **service provider is outside India**, and the service **recipient is in India**. Thus, the place of supply will be determined on the basis of the provisions of **section 13. Since** the given service does **not** get **covered under** any of the **specific provisions of section 13**, the place of supply thereof will be **governed by the general rule, i.e.** place of supply of services will be the **location of the recipient** of service, which in this case is **Rajasthan (India)**.

Further, the given case is import of service in terms of section 2(11) as the supplier of service is located outside India, the recipient of service is located in India and the place of supply of service is in India. Since the services are imported for a consideration from an unrelated person, the same tantamounts to supply in terms of section 7(1)(b) of CGST Act and are liable to GST.

As per reverse charge Notification No. 10/2017 IT(R) dated 28.06.2017, if a service is supplied by a person located in a non-taxable territory to a person located in the taxable territory, other than non-taxable online recipient, the **tax is payable by the recipient of service under reverse charge.**

Therefore, XY Ltd. will pay GST under reverse charge on £ 8000 paid by it to the attorney in UK.

Miscellaneous

Question 19

Determine the place of supply in the following independent cases:

(i) Mr. Sahukaar (New Delhi) boards the New Delhi-Kota train at New Delhi. Mr. Sahukaar sells the goods taken on board by him (at New Delhi), in the train, at Jaipur during the journey.

(ii) Vidhyut Pvt. Ltd. imports electric food processors from China for its Kitchen Store in Noida, Uttar Pradesh. Vidhyut Pvt. Ltd. is registered in Uttar Pradesh.

(iii) Mr. Aatmaram, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Aatmaram's family is stationed in Kanpur, Uttar Pradesh. He hires Gokul Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal.

(iv) Bholunath, a resident of New Delhi, opens his saving account in New Delhi branch of Best Bank after undergoing the KYC process. He goes to Amritsar for some official work and withdraws money from Best Bank's ATM in Amritsar thereby crossing his limit of free ATM withdrawals.

(v) Rhea is a person registered under GST in Mysore, Karnataka. She transports certain goods by air to Mrs. Iyer who resides in Florida, USA. The air cargo operator by which goods are transported is registered in Bengaluru, Karnataka. Determine place of supply of such transport/courier service.

Answer

(i) Section 10(1)(e) of the IGST Act, 2017 lays down that **place of supply** of goods supplied on board a conveyance like aircraft, train, vessel, or a motor vehicle, **is the location where such goods have been taken on board.** Thus, in the given case, the place of supply of the goods sold by Mr. Sahukaar is the location at which the goods are taken on board, **i.e. New Delhi** and not Jaipur where they have been sold.

(ii) As per section 11(a) of the IGST Act 2017, if the goods have been **imported in India**, the place of supply of goods is the **place where the importer is located**. Thus, in the present case, the place of supply of the goods imported by Vidhyut Pvt. Ltd. is **Noida, Uttar Pradesh**.

(iii) As per section 12(8) of the IGST Act, 2017, the place of supply of services by way of **transportation of goods**, including by mail or courier provided **to an unregistered person**, is the **location at which such goods are handed over** for their transportation.

Since in the given case, the recipient – Aatmaram – is an unregistered person, the place of supply is the location where goods are handed to Gokul Carriers over for their transportation, **i.e. Kanpur**.

(iv) As per section 12(12) of the IGST Act, 2017, the **place of supply of banking and other financial services, including stock broking** services to any person **is the location of the recipient** of services **in the records of the supplier** of services. Thus, in the given case, the place of supply is the location of the recipient of services in the records of the supplier bank, **i.e. New Delhi**.

(v) As per section 12(8) of IGST Act,2017, the place of supply of services by way of transportation of goods, including by courier provided **to registered person is registered place of such recipient**.

Hence in the given case, place of supply of such service would be location of recipient **i.e., Mysore (Karnataka)**.

Question 20

Determine the place of supply in respect of the following independent instances:

(i) Miss Poorva, an interior design consultant, having office at Chennai (Tamil Nadu), provided professional services to Mr. Nihil who resides in Dubai, for his two immovable properties under single contract, one property is outside India at Singapore and another at Surat (Gujarat).

(ii) United Traders, having a registered place of business at Bengaluru (Karnataka), imported instruments used in COVID treatment from London (UK) through Vizag (Andhra Pradesh) Port.

(iii) M/s Aerospace Airlines, having registered place of business in Mumbai under GST, issued a ticket from London to Delhi to Mr. Ajit Khanna, a resident of Agra, UP, who is not registered under GST.

Answer

(i) In a case **where** location of **supplier or recipient** of service is **outside India**, the **place** of supply of services of interior decorators provided directly **in relation to** an **immovable property is** the **location of immovable property.** Further, **where** such services are supplied at **more than one location, including a location in the taxable territory**, the **place of supply** of said services **is** the location of immovable property **in the taxable territory**.

In view of the above, place of supply of Miss. Poorva's (interior design consultant located in India) services provided to Mr. Nihil (recipient located outside India in Dubai) for immovable properties, located in Surat (Gujarat) and in Singapore, is the location in taxable territory, i.e. **Surat (Gujarat).**

(ii) The **place of supply of goods imported into India is the location of the importer.** Thus, in the given case, place of supply of instruments imported by United Traders is **Bengaluru (Karnataka).**

(iii) The **place of supply of passenger transportation service to** Mr. Ajit Khanna –an **unregistered person – is London**, i.e. place **where** he **embarked on the conveyance for a continuous journey.**

Question 21

Determine place of supply along with reasons in the following cases:

(i) Mr. X, an architect (Kolkata), provides interior decorator services to Mr. Y of New York (USA) in relation to his immovable property located in New Delhi.

(ii) Mr. A (a Chartered Accountant registered in Kolkata) supplies services to his client in Bhubaneswar (registered in Bhubaneswar, Odisha).

(iii) ABC Ltd. of Patna imported certain goods from XYZ Inc. of USA. The goods were imported through vessel and delivery of goods was taken at Kolkata, whereafter the movement terminates and the goods are stored.

(iv) Mr. X, registered in Guwahati, has availed land-line services from BSNL. The telephone is installed in residential premises in Kolkata and the billing address is office of Mr. X in Guwahati.

(v) Mr. X, residing in Chennai, is travelling with an Indian Airline aircraft and is provided with movie-on-demand service for ₹100 as on-board entertainment during Delhi-Chennai leg of a Bangkok-Delhi-Chennai flight.

(vi) Mr. X of Kolkata purchased online tickets for Aquatica water park in Mumbai.

(vii) Mr. Z, an unregistered person of Kolkata, sends a courier from New Delhi to his friend in Chennai, Tamil Nadu while he was on trip to New Delhi.

(viii) Mr. X, a registered person in Ranchi, Jharkhand, buys shares from a broker in Patna on NSE, Mumbai. Determine the place of supply of brokerage service.

(ix) XYZ Ltd., New Delhi entered into contract with an Indian airline for the supply of biscuit packets for further supply by airline to the passengers in Kolkata-Guwahati route. The biscuits were loaded on board in Lucknow.

Answer

(i) **New Delhi.** In a case where location of the supplier or location of recipient of service is outside India, the place of supply of services supplied directly in relation to an immovable property including that of interior decorators is the **place where the immovable property is located.**

(ii) **Bhubaneshwar, Odisha.** The place of supply of services, except the specified services made to a registered person, is the **location of such person.**

(iii) **Patna.** The place of supply of goods imported into India is the **location of the importer.**

(iv) **Kolkata.** The place of supply of services by way of fixed telecommunication line is the **location where the telecommunication line is installed** for receipt of services.

(v) **Bangkok.** The place of supply of services on board an aircraft is the location of the **first scheduled point of departure** of that aircraft or flight for the journey

(vi) **Mumbai.** The place of supply of services provided by way of admission to an amusement park is the **place where the park is located.**

(vii) **New Delhi.** The place of supply of services by way of transportation of goods by courier to a person other than a registered person is the **location at which such goods are handed over** for their transportation.

(viii) **Ranchi, (Jharkhand).** The place of supply of stock broking services to any person shall be the **location of the recipient** of services **on the records of the supplier** of services. [It has been assumed that the location of recipient of service is available in the records of supplier of service.]

(ix) Where **supply involves movement of goods**, place of supply of such goods is the **location** of the goods at the time **at which movement of goods terminates** for delivery to recipient. **Therefore,** the **place of supply** of biscuit packets sold by XYZ Ltd. to Indian Airlines is **Lucknow**. [It has been assumed that in the given case, the movement of goods (biscuit packets) terminates at Lucknow.]

Further, **where** the goods are supplied on **board an aircraft**, the place of supply shall be the **location at which such goods are taken on board.** Thus, the place of supply of biscuit packets sold by Indian Airlines to the passengers in Kolkata-Guwahati route is **Lucknow.**

Question 22

XYZ Consultancy, registered in Bangalore, supplies technical consultancy services to its clients. It has been providing technical services to BA Ltd., Mumbai since past two years. Consideration is settled by BA Ltd. assignment wise. BA Ltd. paid ₹ 37 lakh to XYZ Consultancy on 10th January, 20XX for XYZ Consultancy agreeing not to provide similar technical services to any other business entity in India or abroad for a period of 8 years. XYZ Consultancy is of the view that ₹ 37 lakh is not chargeable to GST.

You are required to examine whether the view taken by XYZ Consultancy is valid in law. Calculate GST liability of XYZ Consultancy, in case you feel that GST is chargeable. Round off the tax amount if due in

accordance with law. The technical services provided by XYZ Consultancy is otherwise chargeable to IGST at 18% and XYZ have been discharging GST liability on consultancy charges. It may be noted that BA Ltd. is not ready to pay any further amount to XYZ Consultancy in addition to amount already agreed.

Answer

In the given case, XYZ Consultancy is providing the service of agreeing to the obligation to refrain from an act to BA Ltd. against a consideration of ₹ 37 lakh. Therefore, the same is liable to tax. **Thus, view taken by XYZ Consultancy is incorrect.**

Since the **place of supply** of said services is the **location of the recipient, viz. Mumbai and supplier is located in Bangalore, said services are inter-State supplies** liable to tax @ 18%.

GST liability (IGST) of XYZ Consultancy is:

= ₹ 37,00,000 × 18/118

= **₹ 5,64,407** (rounded off)

Note: Since GST has not been separately collected, consideration has been assumed to be inclusive of tax.

Question 23

Zebrex, registered in Delhi, enters into a contract with Shine Ltd., an advertising company, located and registered in Gurugram, Haryana, to arrange the display of an advertisement of Zebrex's newly launched product on a hoarding placed in Marine Drive-Mumbai, Maharashtra for initial 3 months of the launch of the product. Shine Ltd., in turn, enters into a contract with the owner of Seaside Hotel located and registered in Marine Drive-Mumbai, Maharashtra for display of the advertisement on a hoarding placed in the lawn of the hotel. What will be the place of supply of service(s) provided in the given case?

Answer

In the given case, two supplies are involved:

(i) Services provided by Shine Ltd. to Zebrex by way of arranging the display of the advertisement of its newly launched product, and

(ii) Services provided by Seaside Hotel to Shine Ltd. by way of placing a hoarding in lawn of the hotel.

The place of supply in each of the above supplies is as follows:

(i) As per section 12(2)(a) of the IGST Act, 2017, the place of supply of services, except the services specified in sub-sections (3) to (14) of section 12 of the IGST Act, 2017, made to a registered person is the location of the person receiving the services. **Advertisement services** provided by Shine Ltd. to Zebrex is **not covered in any of the sub-sections** of section 12 of the IGST Act, 2017. Therefore, the **place of supply shall be determined by the default provision** under section 12(2)(a) of the IGST Act, 2017, viz. the **location of the recipient.**

Thus, the place of supply, in the given case, is the location of Zebrex, i.e. **Delhi**.

(ii) In case where there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/structure, the hoarding/structure erected on the land should be **considered as immovable structure or fixture** as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an

immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act. Therefore, the place of supply of service provided by way of grant of rights to use the hoarding/structure for advertising in this case would be the **location where such hoarding/structure is located.**

Thus, the place of supply, in the given case, is location of hotel where the hoarding is located, viz. **Marine Drive-Mumbai, Maharashtra**

Question 24

Determine the 'place of supply' along with justification for the following independent cases:

I. Crystal Clear Water Ltd. (CCWL) is a manufacturer of mineral water and registered under GST in Mumbai, Maharashtra. CCWL enters into a contract with Global Advertising Agency (GAA) registered under GST in Ahmedabad, Gujarat for displaying its advertisement on hoardings at an awards event organized at Convention Centre Gandhinagar, Gujarat on 31.10.20XX. the structure on which the hoardings are to be displayed is taken on rent by GAA from Mr. Kapoor (unregistered person based in Delhi.). Determine the 'place of supply' for tax invoice to be raised by GAA to CCWL.

II. Mr. Sunil (unregistered person under GST) is a resident of Delhi and currently posted in Dehradun, Uttarakhand. He went on an official visit to Arunachal Pradesh. He purchased a leather bag on 15.10.20XX from Arunachal Pradesh and shop keeper M/s ABC issued a tax invoice in the name of Mr. Sunil only. Mr. Sunil returned back to Dehradun along with leather bag. Determine the 'place of supply' for tax invoice issued by M/s. ABC to Mr. Sunil.

III. Mr. Pintu (unregistered person under GST), resident of Karnal, Haryana went to visit Shimla, Himachal Pradesh along with his family during holidays in the month of October 20XX. Due to some medical emergency, he purchased some medicines on 20.10.20XX from a medical store at Mall Road, Shimla and tax invoice was issued in the name of Mr. Pintu mentioning the address as Karnal, Haryana only. The medicines purchased were consumed in Shimla during the period of stay.

Determine the 'place of supply' for tax invoice issued by medical store to Mr. Pintu.

Answer

(I) In the given case, services provided by GAA to CCWL are **advertisement services.**

The **place of supply** of such services made to a registered person is **location of such person.**

Thus, place of supply for tax invoice to be raised by GAA to CCWL is location of CCWL, **i.e. Mumbai, Maharashtra.**

(II) In case of **supply of goods to an unregistered person** over the counter (OTC), where **address of such person is not recorded** in the invoice, the **place of supply is location of the supplier.**

Since in the given case, the address of Mr. Sunil is not recorded in the invoice, place of supply is location of M/s ABC **i.e. Arunachal Pradesh.**

(III) In case of **supply of goods to an unregistered person** over the counter (OTC), **where address of such person is recorded in the invoice** (i.e. name of State of said person is recorded in invoice), the **place of supply is location as per said address.**

Thus, in the given case, since the address of Mr. Pintu is recorded in the invoice, place of supply is **Karnal/Haryana.**

CHAPTER - 7
Import and Export under GST

Import under GST

Question 1

Explain how imports are taxed under GST.

Answer

All imports are **deemed as inter-State supplies** for the purposes of levy of GST (IGST). The incidence of tax follows the **destination principle** and the **tax revenue accrues to the State where** the imported goods and services are **consumed. IGST paid** on import of goods and services is **available as ITC** for set off against the output tax liability. **IGST** on import of goods is **levied under the IGST Act but** the machinery of the **customs law is used to levy and collect** the same.

Question 2

GER Ltd. of Germany supplies luxurious car worth ₹ 1 crore to IND Ltd. of India. Before the car reached Indian port but after crossing of the territorial waters of India, IND Ltd. sells it to T1 Ltd. by way of transfer of documents of title.

T1 Ltd. clears the said car for warehousing and stores said goods in customs bonded warehouse.

T1 Ltd. sells the said car from warehouse to T2 Ltd., and T2 Ltd. clears the said car from the customs bonded warehouse.

Answer the following with brief reasons:

(i) Is GST leviable on import of goods from GER Ltd. by IND Ltd.?

(ii) Is GST leviable on supply of goods by IND Ltd. to T1 Ltd.?

(iii) Is GST leviable on supply of goods by T1 Ltd. to T2 Ltd.?

(iv) Is GST leviable on clearance of goods by T2 Ltd. from the customs bonded warehouse?

Answer

(i) **GST on import of goods is levied at the time when customs duty is levied** on the said goods under the Customs Act, 1962, i.e., on importation. Importation gets completed when the goods become part of the mass of goods within the country.

Thus, **GST is not leviable** on import of goods from GER Ltd. by IND Ltd. **since the import of goods is not complete.**

(ii) **GST is not leviable** on supply of goods by IND Ltd. to T1 Ltd. as **supply** of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but **before clearance for home consumption is treated neither as a supply of goods nor a supply of services.**

(iii) **GST is not leviable** on supply of goods by T1 Ltd. to T2 Ltd. since **supply of warehoused goods to any person before clearance for home consumption is treated neither as a supply of goods nor a supply of services.**

(iv) Yes, **GST is leviable** on clearance of goods by T2 Ltd. from the customs bonded warehouse **as customs duty is levied on warehoused goods at the time of clearance** thereof from the warehouse and as mentioned in point (i), GST on import of goods is levied at the time when customs duty is levied thereon.

OIDAR Service

Question 3

Mr. Amar Kant, a Chartered Accountant, being a partner in GST registered firm orders a gaming software for his son from a company located in USA. He makes the payment for the same from his personal bank account.

Examine whether the transaction will be liable to GST. If yes, in whose hands the tax liability will arise?

Answer

The supply of gaming software is in the nature of **OIDAR service** in terms of section 2(17).

The transaction is for personal consumption of Mr. Amar Kant and the payment has also been made from the personal bank account of Mr. Amar Kant and not from the bank account of his GST registered firm. Therefore, **being an unregistered person receiving OIDAR service for personal consumption, Mr. Amar Kant is a non-taxable online recipient** in terms of section 2(16).

Services received from a provider of service located in a non-taxable territory by an unregistered person in relation to any purpose other than commerce, industry or any other business or profession is exempt from IGST. However, such **exemption is not available in case of OIDAR services** [Notification No. 9/2017 IT (R) dated 28.06.2017].

Therefore, being an OIDAR service provided by a supplier located outside India and received by a non-taxable recipient, the same is **liable to GST**.

Tax on service supplied by any person located in a non-taxable territory **to any person other than non-taxable online recipient is payable** by the recipient of such service **under reverse charge. Therefore**, tax on **OIDAR services provided by the company** located in USA **to** Mr. Amar Kant, a **non-taxable online recipient,** will be **payable by such company under forward charge.**

Export under GST

Question 4

Briefly discuss how exports are treated under the GST Law.

Answer

Under the GST Law, export of goods or services has been treated as:

- **Inter-State supply** and covered under the IGST Act.
- **'Zero rated supply'**, i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage.

Question 5

Describe how exports are taxed under GST.

Answer

Exports of goods and services are **zero rated**. The exporter has the option **either to export under bond/LUT without payment of IGST and claim refund of ITC or pay IGST** at the time of export **and claim refund** thereof.

Question 6

Elaborate the difference between zero rated supplies and exempt supplies.

Answer

The difference between zero rated supplies and exempted supplies is as follows:

Exempted Supplies	**Zero rated supplies**
Exempt supply means supply of any goods or services or both which **attracts nil rate of tax or wholly exempt from tax and includes non-taxable supply.**	Zero-rated supply means (i) **export of goods and/or services or** (ii) **supply of goods** and/or **services to SEZ unit**/SEZ developer.
No tax is payable on the outward exempted supplies, however, the **input supplies** used for making exempt supplies are to be **taxed**	**No tax is payable on the outward supplies; Input supplies are also** to be **tax free (by way of refund of ITC)**
Credit of input tax needs to be reversed, if taken.	**Credit of input tax may be availed** for making zero-rated supplies, even if such supply is an exempt supply.
No ITC is allowed on the exempted supplies.	**ITC is allowed on zero rated** supplies.
Value of exempt supplies, for apportionment of ITC, shall include supplies on which recipient is liable to pay tax on reverse charge, transactions in securities, sale of land, subject to clause (b) of paragraph 5 of Schedule II, sale of building and activities specified in clause (a) of paragraph 8 of Schedule III.	Value of zero rated supplies shall be added along with the taxable supplies for apportionment of ITC.
Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST or IGST Act **shall not be liable to registration.**	A person exclusively making zero rated supplies **needs to register** as refund of unutilized ITC or IGST paid shall have to be claimed.
A registered person supplying exempted goods and/or services shall issue, instead of a tax invoice, a **bill of supply**.	**Normal tax invoice** shall be issued.

Question 7

A Ltd. enters into an agreement for sale of goods with B Ltd., a company based in UAE. B Ltd. requires the goods to be delivered by A Ltd. to C Ltd., a company based in Karnataka.

Whether the transaction will qualify as export of goods under GST? Analyze the scenario and offer your comments.

Answer

As per the definition of export of goods provided under section 2(5), export of goods **means taking goods out of India to a place outside India.**

Since in the given case, the **goods remain in India**, i.e. with C Ltd. located in Karnataka, the transaction between A Ltd. and B Ltd. **cannot be treated as export** of goods under GST.

Question 8

A Ltd. is making zero rated supplies which are also specifically exempt from GST. The company has paid input tax of ₹ 2,00,000 on inputs and input services which have been used exclusively in effecting such zero rated supplies.

Examine if A Ltd. can avail ITC of input tax of ₹ 2,00,000 paid on inputs and input services used exclusively in effecting such zero rated supplies.

Answer

As per section 16(2), **ITC may be availed for making zero rated supplies**, notwithstanding that such supplies are exempt supplies. However, the same is subject to provisions u/s 17(5) of the CGST Act, i.e. blocked credit.

Hence, A Ltd. **can take credit of ₹ 2,00,000 even if the outward zero rated supply is exempt** from GST. However, the credit would not be available in respect of the inputs and input services, the credit on which is blocked under section 17(5) of the CGST Act.

Question 9

Is it necessary to execute a bond for effecting zero rated supplies? Elucidate.

Answer

No. The facility to **export under LUT** has been extended to all zero rated suppliers (barring a few exceptions such as those who have been prosecuted for an offence involving tax of ₹ 2.5 crore) vide Notification No. 37/2017 CT dated 4.10.2017. The other conditions for executing LUT have been specified in Circular No. 8/8/2017 GST dated 4.10.2017 as amended.

Question 10

'Separate LUT is to be furnished for every export supply.'

With reference to the provisions of the GST law, examine the veracity or otherwise of the statement.

Answer

No, the statement is **not correct**.

The **LUT remains valid for the whole financial year** and there is no need to furnish separate LUT for

each export supply.

However, **in case goods are not exported** within the time limit specified in rule 96A(1) of the CGST Rules **and** the registered person **fails to pay the amount mentioned** in the said sub rule, the **facility of export under LUT will be deemed to have been withdrawn. However, if** the amount mentioned in the said sub- rule is **paid subsequently**, the facility of export under **LUT shall be restored**. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable IGST or under bond with bank guarantee.

Rule 96A(1) provides inter alia that an **exporter** of goods **has to execute the bond or LUT prior to export**, binding himself **to pay the tax** due along **with interest @ 18% within 15 days after the expiry of 3 months**, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, **if the goods are not exported out of India.**

Deemed Export

Question 11

Discuss supplies which have been notified as deemed exports under section 147 of CGST Act, 2017.

Answer

The following supplies have been notified as deemed exports under section 147 of the CGST Act, 2017:

1. Supply of goods by a registered person against **Advance Authorisation.**
2. Supply of capital goods by a registered person **against Export Promotion Capital Goods Authorisation.**
3. Supply of goods by a registered person **to Export Oriented Unit.**
4. Supply of **gold by a notified bank/Public Sector Undertaking against Advance Authorisation.**

CHAPTER - 8
Input Tax Credit

Conditions for availing ITC and Blocked Credit

Question 1

A registered supplier of taxable goods supplied goods valued at 2,24,000 (inclusive of CGST ₹ 12,000 and SGST ₹ 12,000) to Mohan Ltd. under forward charge on 15th August for which tax invoice was also issued on the same date. The inputs were received by Mohan Ltd. on 15th August. Mohan Ltd. availed credit of ₹ 24,000 on 20th September by filing Form GSTR-3B for August month. However, Mohan Ltd. did not make any payment towards such supply along with tax thereon to the supplier. Is Mohan Ltd. eligible to avail ITC on such supply?

Discuss ITC provisions if Mohan Ltd. Makes the payment of 2,24,000 to the supplier on 18th March of next calendar year.

Answer

As per section 16, Mohan Ltd. is eligible to avail ITC of the tax paid on inputs received by it on the basis of the invoice issued by the supplier provided other conditions for availing ITC are fulfilled.

Payment of value of the goods along with the tax to the supplier is **not a pre-requisite at the time of availing credit, but** Mohan Ltd. **has to pay** the said amount **within 180 days from the date of issue of invoice**. If Mohan Ltd, **fails** to do so the ITC of ₹ 24,000 will be **paid by him along with interest**. Such **interest will be paid @ 18% p.a.** from the date of utilising credit till the date when the amount added to the output tax liability is paid [Second proviso to section 16(2) read with rule 37].

If Mohan Ltd. makes the payment of ₹ 2,24,000 (Value + tax) to the supplier on 18th March of next calendar year, i.e. after the expiry of 180 days from date of issue of invoice, Mohan Ltd. can avail the credit of ₹ 24,000 while filing form GSTR-3B for the month of March.

Question 2

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 20XX from the following particulars:

S.N.	Inward Supplies	GST (₹)	Remarks
(i)	Input 'A'	1,00,000	One invoice on which GST payable was ₹ 10,000 is missing
(ii)	Input 'B'	50,000	Inputs are to be received in two installments. First installment has been received in October, 20XX.
(iii)	Capital goods	1,20,000	XYZ Ltd. has capitalized the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(iv)	Input Services	2,25,000	One invoice dated 20.01.20XX on which GST payable was ₹ 50,000 has been received in October, 20XX.

Note:

i. All the conditions necessary for availing the ITC have been fulfilled.

ii. The annual return for the financial year ending 31st March 20XX was filed on 15th September, 20XX.

Answer

Computation of ITC available with XYZ Ltd. for the month of October, 20XX

S.N.	Inward supplies	ITC (₹)
(i)	Input 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000
(ii)	Input 'B' [When inputs are received in installments, ITC can be availed only on receipt of last installment-First proviso to section 16(2)]	Nil
(iii)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
(iv)	Input services [As per section 16(4), ITC on an invoice cannot be availed after 30th November following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the FY ending 31st March, 20XX has been filed on 15th September, 20XX (prior to 30th November, 20XX), ITC on the invoice pertaining to FY ending 31st March, 20XX cannot be availed after 15th September, 20XX.]	1,75,000
	Total	**2,65,000**

Question 3

Flamingo Ltd. is an airline providing passenger transportation services by air. The company offers meals of premium quality to passengers on board the aircraft. The value of such meals is compulsorily included in the price of the air ticket. The company avails outdoor catering services of Dhaniaram Pvt. Ltd. for providing such meals to its customers.

Examine whether Flamingo Ltd. can avail ITC on such outdoor catering service availed by it.

Answer

As per section 17(5)(i)(b), **ITC on supply of** inter alia **food and beverages and outdoor catering is blocked. However**, ITC in respect of such goods or services or both shall be **available where an inward supply** of such goods or services or both **is used** by a registered person **for making an outward taxable supply of the same category of goods or services** or both **or as an element of a taxable composite or mixed supply.**

In the given case, Flamingo Ltd. is availing outdoor catering service to provide outdoor catering (meals) to the passengers on board the aircraft. Since ITC in respect of outdoor catering is available if the same is used for making an outward taxable supply as an element of a taxable composite or mixed supply, Flamingo Ltd. **can avail ITC on outdoor catering service procured** by it.

Question 4

With reference to the provisions of section 17, examine availability of ITC in following independent cases:

(i) MBF Ltd., an automobile company, has availed works contract service for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently.

(ii) Shah & Constructions procured cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients.

(iii) ABC Ltd. availed maintenance & repair services from "Jaggi Motors" for a truck used for transporting its finished goods.

Answer

(i) Section 17(5)(c) **blocks input tax credit** in respect of **works contract services** when supplied **for construction of an immovable property** (other than plant and machinery) except where it is an input service for further supply of works contract service.

Further, the term **"plant and machinery" means apparatus, equipment and machinery fixed to earth** by foundation or structural support that are used for making outward supply of goods and/or services and **includes such foundation or structural support** but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside factory premises.

Thus, in view of the above, **ITC is available** in respect of works contract service availed by MBF Ltd. **as the same is used for construction of plant and machinery which is not blocked under section 17(5)(c)**. It is assumed that the expenditure incurred towards works contract service is capitalised in the books of MBF Ltd. and no depreciation has been claimed on the tax component.

(ii) Section 17(5)(d) blocks ITC on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even though such goods and/or services are used in the course or furtherance of business. Thus, **ITC on goods and/or services used in the construction of an immovable property is blocked only** in those cases **where** the taxable person **constructs** the immovable property **for his own use** even if the immovable property being constructed is used in the course or furtherance of his business.

In the given case, Shah & Constructions has used the goods and services for **construction of immovable property for some other person and not on its own account. Hence, ITC** in this case will be **allowed.**

(iii) On a conjoint reading of section 17(5)(a) and 17(5)(ab), it can be concluded that **ITC is allowed on repair and maintenance services relating to motor vehicles, which are eligible for input tax credit.** Further, as per section 17(5)(a) ITC is allowed on motor vehicles which are used for transportation of goods.

Thus, **ITC on maintenance & repair services** availed from "Jaggi Motors" for a truck **used for transporting its finished goods is allowed to ABC Ltd.**

Question 5

Krishna Motors is a car dealer selling cars of an international car company. It also provides maintenance and repair services of the cars sold by it as also of other cars. It seeks your advice on availability of ITC in respect of the following expenses incurred by it during the course of its business operations:

(i) Cars purchased from the manufacturer for making further supply of such cars. Two of such cars are destroyed in accidents while being used for test drive by potential customers.

(ii) Works contract services availed for constructing a car parking shed in its premises.

Answer

As per section 16(1), every registered person can take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in course or furtherance of his business. However section 17(5) specifies certain goods and services on which the input tax credit is not available.

In the light of the foregoing provisions, the availability of ITC in respect of the various expenses incurred by Krishna Motors is discussed below:

(i) Section 17(5)(a) specifically **blocks ITC on motor vehicles for transportation of passengers having approved seating capacity of not more than thirteen persons. However,** the same is **allowed** when the motor vehicles are used, inter alia, **for further supply of such vehicles.** Thus, ITC on cars purchased from manufacturer for making further supply of such cars will be allowed.

However, **ITC on the cars destroyed in accident will not be allowed** as the ITC on goods destroyed for whichever reason is specifically blocked under section 17(5)(h).

(ii) Section 17(5)(c) specifically **blocks ITC on works contract services** when supplied **for construction of an immovable property (other than plant and machinery) except** where it is an input service for **further supply of works contract service.** Since, in this case the car parking shed is not a plant and machinery and the works contract service is not used for further supply of works contract service, **ITC thereon will not be allowed.**

Question 6

Jumbo Sales Pvt. Ltd., a supplier of readymade garments, announced 'Buy One get Two free' offer on Men's T-Shirts on Diwali to boost its sales.

You are required to advise the company on the availability of ITC in respect of inward supplies used in relation to such supply.

Answer

It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration.

As per clause (a) of section 7(1) read with clause (c) thereof, goods or services which are supplied free of cost (without any consideration) shall not be treated as supply except in case of activities mentioned in Schedule I.

Circular No. 92/11/2019 GST dated 28.03.2019 has clarified the entitlement of ITC in the hands of supplier in respect of **sales promotional scheme like 'buy one get one free'**. Such promotional offers are **not individual supplies of free goods, but a case of two or more individual supplies where a single price is being charged** for the entire supply. It can at best be **treated as supplying two goods for the price of one.**

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8.

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

Therefore, the given case is not the case of individual supplies of free goods, but a case of **three individual supplies where a single price is being charged for the entire supply.** Thus, Jumbo Sales Pvt. Ltd. will be **entitled to avail ITC on inputs, input services and capital goods** used in relation to supply of T- Shirts as part of such offer.

Question 7

ABC Co. Ltd., registered under GST, is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S.N.	Items	GST Paid (₹)
(i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company	25,000

Determine amount of ITC available with ABC Co. Ltd., for month of July by giving necessary explanations for treatment of various items. Assume all conditions necessary for availing the ITC have been fulfilled.

Answer

Computation of ITC available with ABC Co. Ltd. for the month of July

S.N.	Items	ITC (₹)
(i)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(ii)	Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)]	1,00,000
(iii)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(iv)	Confectionery items for consumption of customers at customers meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	**8,20,000**

Question 8

ABC Ltd., a registered supplier, is engaged in the manufacture of dyeing machines. The company provides the following information pertaining to GST paid on the purchases made/input services availed by it during the month of September:

	Particulars	GST Paid ₹
(i)	Purchase of 100 apple i-pads which were given as gift to employees	1,85,000

(ii)	Payment for club membership availed by employees as per terms of employment	90,000
(iii)	Purchase of maxi cab for transport of its employees to and from home to office	70,000
(iv)	Purchase of calendars and diaries for distribution as new year compliments to customers and distributors	25,000
(v)	Works contract services availed for erection and installation of RO treatment plant in factory	35,000

Determine the amount of ITC available to ABC Ltd. for the month of September by giving necessary explanations for treatment of various items. None of expenses incurred for staff was under statutory obligation and seating capacity of the maxi cab was 13 excluding driver. Subject to information given above, all the conditions necessary for availing the ITC have been fulfilled.

Answer

Computation of ITC available with ABC Ltd. for the month of September

Particulars	GST paid (₹)
Apple i-pads given as gifts to the employees [ITC in respect of goods that are disposed of by way of gifts is blocked.]	Nil
Club membership availed by employees [ITC on membership of a club is blocked as ABC Ltd. is not under any statutory obligation to provide the same to its employees.]	Nil
Maxi cab for transport of employees [ITC on motor vehicles for transportation of persons with seating capacity of more than (or exceeding) 13 persons (including the driver) used for any purpose, is allowed.]	70,000
Calendars and diaries for distribution as compliments to customers and distributors [ITC in respect of goods that are disposed of by way of gifts is blocked.]	Nil
Works contract services for erection and installation of RO treatment plant in factory [ITC on works contract service used for construction of a plant and machinery fixed to earth by foundation or structural support is allowed.]	35,000
Total ITC available	**1,05,000**

Question 9

Paridhi Ltd. is a registered manufacturer engaged in taxable supply of goods. Paridhi Ltd. purchased the following goods during the month of January and provided the following information:

S.N.	Particulars	GST paid (₹)
1.	Capital goods purchased on which depreciation has been taken on full value including input tax thereon	15,000
2.	Goods purchased from Rupesh Enterprises (Rupesh Enterprises sent the invoice in January, but goods received in April)	20,000
3.	Car purchased for making further supply of such car. Such car is destroyed in accident while being used for test drive by potential customers	30,000
4.	Goods used for setting up telecommunication towers being immovable property	50,000

5.	Goods purchased from Sumo Ltd. (Full payment has been made by Paridhi Ltd. to Sumo Ltd., and tax has been deposited by Sumo Ltd. against such supply)	10,000
6.	Truck purchased for delivery of output goods	80,000

Determine the amount of input tax credit (ITC) available to Paridhi Ltd. while filing GSTR-3B for the month of January by giving necessary explanations for treatment of various items as per the provisions of the CGST Act, 2017. You may assume that all the necessary conditions for availing the ITC have been complied with by Paridhi Ltd.

Answer

Computation of ITC available with Paridhi Ltd. in January

S.N.	Particulars	Amount (₹)
1.	Capital goods [Since depreciation has been claimed on tax component of the value of the capital goods, ITC of such tax cannot be availed as per section 16 of the CGST Act, 2017.]	Nil
2.	Goods purchased from Rupesh Enterprises [ITC in respect of goods not received cannot be availed (Section 16 of the CGST Act, 2017). Since the goods have been received in the month of April, ITC thereon can be availed in April and not January even though the invoice for the same has been received in January.]	Nil
3.	Cars purchased for making further supply [Though ITC on motor vehicles used for further supply of such vehicles is not blocked, ITC on goods destroyed for whichever reason is blocked (Section 17(5) of the CGST Act, 2017).]	Nil
4.	Goods used for setting telecommunication towers [ITC on goods used by a taxable person for construction of immovable property on his own account is blocked even when such goods are used in the course or furtherance of business (Section 17 of the CGST Act, 2017).]	Nil
5.	Goods purchased from Sumo Ltd. [ITC can be claimed since all the conditions necessary for availing the same have been complied with (Section 16 of the CGST Act, 2017).]	10,000
6.	Trucks purchased for delivery of output goods [ITC on motor vehicles used for transportation of goods is not blocked (Section 17(5) of the CGST Act, 2017).]	80,000
	Total ITC available with Paridhi Ltd.	**90,000**

Question 10

RAM Company Ltd., a registered supplier of Prayagraj (Uttar Pradesh), is a manufacturer of goods. The company provides the following information pertaining to GST paid on inward supplies during the month of April (current financial year):

S.N.	Items	GST paid (₹)

(i)	Life insurance premium paid by the company for the life insurance cover of factory employees as per the policy of the company. There is no legal obligation to provide insurance cover for employees.	1,50,000
(ii)	In the month of September of previous financial year, RAM Company Ltd. availed ITC of ₹ 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25th September (previous financial year). The said raw material has not been received back from the job worker upto 30th April (current financial year).	
(iii)	Raw materials purchased which are used for exempted goods supplied as zero-rated supply.	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.	30,000
(v)	Company purchased the capital goods for ₹ 4,00,000 and claimed depreciation of ₹ 44,800 (@ 10%).	48,000
(vi)	Raw materials purchased from Neha Traders (Invoice of Neha Traders is received in the month of April but goods received in month of June)	20,000
(vii)	Car purchased for making further supply of such car. Such car is destroyed in accident while being used for test drive by potential customers.	30,000
(viii)	Goods used for setting up telecommunication towers	50,000

Other information:

All the above inward supplies except at S.N. (iii) above have been used in manufacture of taxable goods.

Compute the amount of net ITC available to RAM Company Ltd. for the month of April with necessary explanations for treatment of all items in the table as per provisions of CGST Act. Subject to information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Answer

Computation of ITC available to RAM Company Ltd. for the month of April

S.N.	Particulars	ITC (₹)
(i)	Life insurance premium paid by the company for factory employees [ITC is blocked under section 17(5) since it is not obligatory for the employer to provide life insurance service to its employees under any law.]	Nil
(ii)	Raw material sent to job worker [ITC taken in the month of September last year is valid since. Further, since 1 year period from of the date of receipt of inputs by the job worker has yet not lapsed in April, there will be no tax liability on such inputs.]	Nil
(iii)	Raw materials used for zero rated supply [ITC can be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply]	50,000
(iv)	Work contractor's service [ITC on works contract services supplied for construction of an immovable property is blocked. Repairs of building debited to P & L Account does not amount to 'construction' and it is not blocked under section 17(5), hence ITC is available]	30,000

(v)	Capital goods purchased on which depreciation is claimed on tax component [ITC is not available when depreciation has been claimed on the tax component of the cost of capital goods under the Income-tax Act.]	Nil
(vi)	Goods purchased from Neha Traders [ITC in respect of goods not received cannot be availed as per Section 16. Since the goods have been received in the month of June, ITC thereon can be availed in June and not April even though the invoice for same has been received in April.]	Nil
(vii)	Cars purchased for making further supply [Though ITC on motor vehicles used for further supply of such vehicles is not blocked, ITC on goods destroyed is blocked under section 17(5)]	Nil
(viii)	Goods used for setting telecommunication towers [ITC on goods used by a taxable person for construction of immovable property (other than plant and machinery) on his own account is blocked. Since plant & machinery excludes telecommunication tower, ITC is blocked under section 17(5). Further, such goods are not used in course or furtherance of business.]	Nil
	Total ITC available	**80,000**

Question 11

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/services) involving GST of ₹ 10 lakh, from various suppliers during the month of October.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for month of October to be filed by 20th November in following independent cases assuming that GST of ₹ 10 lakh is otherwise eligible for ITC:

Case I: Out of 100 invoices, 80 invoices involving GST of ₹ 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II: Out of 100 invoices, 95 invoices involving GST of ₹ 9.8 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer

Section 16(2) of the CGST Act, 2017 provides certain conditions for availing ITC wherein one of the conditions is that **taxpayer must be in possession of the tax invoice or other tax paying document** in respect of which he is claiming the ITC. Rule 36 of the CGST Rules, 2017 lays down the documents and other conditions basis which the registered person can claim ITC. Sub-rule (4) of rule 36 of the CGST Rules, 2017 stipulates that **No input tax credit shall be availed by a registered person in respect of invoices or debit notes** the details of which are required to be furnished under section 37(1) **unless-**

(a) the **details of such invoices** or debit notes have been **furnished by the supplier** in the statement of outward supplies **in Form GSTR-1 or using the invoice furnishing facility (IFF); and**

(b) the **details** of such invoices or debit notes have been **communicated to the registered person in Form GSTR-2B** under rule 60(7).

Thus, **ITC can now be taken only for those invoices whose details are reflected in GSTR-2B** i.e. the respective suppliers (vendors) have filed the details of such invoices their GSTR-1.

In accordance with the aforesaid provisions, given two cases have been analysed as under:

Case I

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 80 invoices uploaded in GSTR-1	6 lakh	6 lakh
In respect of 20 invoices not uploaded in GSTR-1	4 lakh	Nil
Total	**10 lakh**	**6 lakh**

Case II

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 95 invoices uploaded in GSTR-1	9.8 lakh	9.8 lakh
In respect of 5 invoices not uploaded in GSTR-1	0.2 lakh	Nil
Total	**10 lakh**	**9.8 lakh**

Question 12

Sunshine Pvt. Ltd. manufactures taxable goods. The company is registered under GST in the State of West Bengal. The company has provided following information in relation to inward supplies received by it in the month of October:

S.No.	Invoices received for inward supplies	IGST (₹)
1.	Raw material - X	2,00,000
2.	Rent of the factory building	1,50,000
3.	Raw material - Y	1,30,000
4.	Car purchased for the use of the director	1,20,000
5.	Consumables	80,000
6.	Machinery for being used in the manufacturing process	1,50,000
7.	Raw material - Z	1,10,000
8.	Technical consultancy for improvement in the manufacturing process	60,000
9.	Raw material – W (imported from China)	50,000
Total		**10,50,000**

S.No.	Particulars	IGST (₹)
(i)	Balance in Form GSTR-2A on 28th October (Invoices at S. Nos. 1, 2 and 3 uploaded by the respective suppliers in their Form GSTR-1s)	4,80,000
(ii)	Balance in Form GSTR-2A on 11th November (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their Form GSTR-1s)	6,00,000

(iii)	Balance in Form GSTR-2A on 25th November (Invoices at S. Nos. 1, 2, 3, 4 and 5 uploaded by the respective suppliers in their Form GSTR-1s)	6,80,000

Compute the ITC that can be claimed by Sunshine Pvt. Ltd. in its Form GSTR-3B for the month of October to be filed by 20th November.

Note: The due date of filing of Form GSTR-1 and Form GSTR-3B for the month of October are 11th November and 20th November respectively. Subject to the information given above, all the other conditions for availing ITC have been complied with.

Answer

ITC to be claimed by Sunshine Pvt. Ltd. in its GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of input tax involved in the invoices (₹)	Amount of ITC that can be availed (₹)
Balance in GSTR-2A on 11th November [Note 1] (Invoices at S. Nos. 1, 2, 3 and 4 uploaded by the respective suppliers in their GSTR-1s)	6,00,000	4,80,000 [Note 1 & 2]
Invoices at S. Nos. 5, 6, 7 and 8 not uploaded in GSTR-1	4,00,000	Nil [Note 1]
Invoice at S. No. 9	50,000	50,000 [Note 3]
Total	**10,50,000**	**5,30,000**

Notes:

(1) In terms of Rule 36(4) of CGST Rules, No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under section 37(1) unless-

(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in Form GSTR-1 or using the invoice furnishing facility (IFF); and

(b) the details of such invoices or debit notes have been communicated to the registered person in Form GSTR-2B under rule 60(7).

Thus, ITC can now be taken only for those invoices whose details are reflected in GSTR-2B i.e. the respective suppliers (vendors) have filed the details of such invoices their GSTR-1.

(2) 100% ITC can be availed on invoices uploaded by the suppliers in their Form GSTR-1. However, section 17(5) of the CGST Act, 2017 blocks ITC on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons if they are not used for making the following taxable supplies, namely:

(A) further supply of such motor vehicles; or

(B) transportation of passengers; or

(C) imparting training on driving such motor vehicles

Since Sunshine Pvt. Ltd. is not using the car for any of the aforesaid mentioned purpose, ITC thereon will not be available.

Thus, 100% ITC will be available in respect of invoices at S. Nos. 1, 2 & 3.

(3) The restriction of availment of ITC is imposed only in respect of those invoices, details of which are required to be uploaded by the suppliers under section 37(1) of the CGST Act, 2017 and which have not been uploaded. Therefore, full ITC can be availed in respect of IGST paid on imports which are outside the ambit of section 37(1) [Circular No. 123/42/2019 GST dated 11.11.2019].

Rule 42, Rule 43 and Special Cases

Question 13

A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ without payment of GST as these supplies are not taxable. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

Answer

Under section 16(2) of the IGST Act, **credit of input tax is allowed** to be taken **for inward supplies used to make zero rated supplies.** Under section 17 of the CGST Act also, **ITC is disallowed** only to the extent it pertains to supplies used **for non-business purposes or supplies other than taxable and zero-rated supplies.** Supplies to SEZ units are zero rated supplies in terms of section 16(1) of IGST Act. **Thus, full ITC is allowed** on inward supplies of BMT Ltd used for effecting supplies to the unit in SEZ.

Question 14

Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for any ITC?

Answer

Mr. A is **eligible for ITC on inputs held in stock and inputs** contained **in semi-finished or finished** goods held in stock and capital goods as on 30th July. **ITC on capital goods will be reduced by 5% per quarter or part thereof** from the date of invoice [Section 18(1)(c)].

Question 15

Super Lever Limited is engaged in manufacture of taxable electronic goods. Its two manufacturing units are located in Mumbai and Nagpur and both the units are registered under GST in State of Maharashtra. The company has another manufacturing unit in Bangalore, registered under GST in the State of Karnataka and a retail showroom located in Ahmedabad, registered under GST in the State of Gujarat.

The company has provided the following details of the activities/transactions undertaken in a tax period:

S.N.	Particulars	Mumbai unit (₹)	Nagpur unit (₹)

(i)	Sale of taxable goods	12,50,000	13,50,000
(ii)	Interest received on fixed deposits with a nationalised bank		1,08,000
(iii)	Sale of securities [Such securities were purchased for ₹ 2,75,000]	4,50,000	
(iv)	Sale of agricultural land in vicinity of the manufacturing plant [Stamp duty was paid on ₹ 1,85,00,000]		1,85,00,000
(v)	Sale of old factory building which was not used any more [Stamp duty was paid on ₹ 75,00,000]	90,00,000	
(vi)	Transfer of actionable claims (other than specified actionable claims)		2,00,000

With the help of above information, you are required to determine the value of exempt supply under GST law as provided by Nagpur unit and Mumbai unit. Will your answer be different if the value of exempt supply provided by Nagpur unit and Mumbai unit is to be determined, for the purpose of apportionment of ITC under section 17(3)?

Answer

As per section 2(47), exempt supply means supply of any goods or services or both which attracts nil rate of GST or which may be wholly exempt from GST and includes non-taxable supply. An activity or transaction which is not a supply per se is not an exempt supply.

In view of same, value of exempt supply by Nagpur unit and Mumbai unit has been computed as under:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	--	1,08,000
Sale of securities [Securities are neither goods nor services in terms of sections 2(52) and 2(102). Hence, sale of securities is neither supply of goods nor supply of service. Thus, same is not an exempt supply]	--	--
Sale of agricultural land [Sale of land is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act. Hence, the same is not an exempt supply.]	--	--
Sale of old factory building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to CGST Act, provided entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not an exempt supply.]	--	--
Transfer of actionable claims (other than specified actionable claims) [Transfer of actionable claims (other than specified actionable claims) is neither a supply of goods nor a supply of services in	--	--

terms of para 6 of Schedule III to the CGST Act. Hence, the same is not an exempt supply.]		
Total value of exempt supply	**Nil**	**1,08,000**

However, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment of ITC under section 17(3) is not same and is determined as follows:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except sale of land, subject to clause (b) of paragraph 5 of Schedule II, sale of building and activities specified in clause (a) of paragraph 8 of Schedule III. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred in section 17(3), the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation 1 to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

In view of the aforesaid provisions, value of exempt supply by Nagpur unit and Mumbai unit for the purpose of apportionment under section 17(3) is as follows:

Particulars	Mumbai unit (₹)	Nagpur unit (₹)
Sale of taxable goods	--	--
Interest received on fixed deposits [Excluded from value of exempt supply by virtue of explanation 1 to rule 43]	--	--
Sale of securities [1% of ₹ 4,50,000] [Includible as per section 17(3). Value of exempt supply in respect for security is 1% of the sale value of such security.]	4,500	--
Sale of agricultural land [Includible as per section 17(3). Value of exempt supply in respect of land is the value adopted for paying stamp duty.]	--	1,85,00,000
Sale of old factory building [Includible as per section 17(3). Value of exempt supply in respect of building is the value adopted for paying stamp duty.]	75,00,000	--
Transfer of actionable claims (other than specified actionable claims) [Excluded from value of exempt supply by virtue of explanation to section 17(3).]	--	--
Total value of exempt supply	**75,04,500**	**1,85,00,000**

Question 16

X, a manufacturer of roofing sheets, has total ITC of ₹ 1,60,000 available with him on 1st June. He provides the following information pertaining to the goods and services procured during the month of June:

(1) Input tax on raw materials is ₹ 40,000. Raw material is used for both taxable and exempt activity.

(2) Input tax on catering services procured from 'Harvest Caterers' in connection with his housewarming ceremony is ₹ 10,000.

(3) Input tax on raw materials used in manufacture of exempt supplies of ₹ 2 lakh is ₹ 20,000.

(4) Input tax on cosmetic and plastic surgery of manager of the factory is ₹ 30,000.

Total taxable turnover for the month of June is ₹ 60 lakh exclusive of tax.

Compute the ITC available for the month of June and net GST payable from Electronic Cash Ledger by X for the month of June. Rate of GST is 18% (Ignore CGST, SGST or IGST for the sake of simplicity).

Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. All the purchases are made from registered suppliers.

Answer

Computation of ITC available and net GST payable from Electronic Cash Ledger for the month of June

Particulars		Amount (₹)
GST on taxable turnover for the month of June [₹ 60,00,000 × 18%]		10,80,000
Less: ITC available as on 30th June in terms of rule 42		
ITC available in the Electronic Credit Ledger on 1st June	₹ 1,60,000	
Add: Total ITC credited to the Electronic Credit Ledger in the month of June [Refer working note below]	₹ 40,000	
Less: ITC out of common credit attributable to exempt supply [Refer working note below]	(₹ 1,290)	1,98,710
Net GST payable from Electronic Cash Ledger		**8,81,290**

Working Note

Computation of ITC (out of common credit) attributable to exempt supplies

Particulars	Amount (₹)
Input tax on raw materials [Note1]	40,000
Input tax on catering for housewarming [Note 2]	Nil
Input tax on inputs contained in exempt supplies [Note 3]	Nil
Input tax on cosmetic and plastic surgery of CEO of company [Note 4]	Nil
Total ITC credited to Electronic Credit Ledger in terms of rule 42 in the month of June	40,000
Common credit [Note 5]	40,000
ITC attributable towards exempt supplies [Note 6]	**1,290**

Notes:

(1) Being used in the course or furtherance of business, input tax on raw materials is available as ITC and is credited to the Electronic Credit Ledger [Section 16(1)]

(2) ITC on outdoor catering is blocked in terms of section 17(5) if the same is not used for making an outward supply of outdoor catering or as an element of a taxable composite/mixed supply. Hence, the same is not credited to the Electronic Credit Ledger [Rule 42].

(3) Input tax on inputs used for making exempt supplies is not available as ITC and thus, not credited to the Electronic Credit Ledger in terms of rule 42.

(4) ITC on cosmetic and plastic surgery is blocked in terms of section 17(5) if the same are not used for making the same category of outward supply or as an element of a taxable composite/ mixed supply. Hence, the same is not credited to the Electronic Credit Ledger [Rule 42].

(5) Since there are no inputs and input services which are used exclusively for effecting taxable supplies, the entire ITC credited to Electronic Credit Ledger, i.e. ₹ 40,000 will be the common credit [Rule 42].

(6) ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/Total turnover during the tax period)

= ₹ 40,000 × ₹ 2,00,000/₹ 62,00,000 - (rounded off)

= ₹ 1,290

Question 17

With the help of information given below in respect of a manufacturer for the month of September, compute the ITC credited to the Electronic Credit Ledger, for the month. Also, compute the amount of ITC to be added to the output tax liability for the month of September. Ignore interest, if any

Particulars	Amount (₹)
Outward supply of taxable goods (exclusive of taxes)	70,000
Outward supply of exempt goods	40,000
Total turnover	1,10,000
Inward supplies	**GST paid (₹)**
Capital goods used exclusively for taxable outward supply	2,000
Capital goods used exclusively for exempt outward supply	1,800
Capital goods used for both taxable and exempt outward supply	4,200

Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Answer

Computation of ITC credited to Electronic Credit Ledger and amount of ITC to be added to the output tax liability for the month of September

Particulars	ITC (₹)
Capital goods used exclusively for taxable supply [Since used exclusively for taxable supply, full ITC is available under rule 43(1)(b)]	2,000
Capital goods used exclusively for exempt supply [Since used exclusively for exempt supply, ITC is not available under rule 43(1)(a)]	Nil
Capital goods used for both taxable and exempt supply – Common credit (Tc) [Commonly used for taxable and exempt supplies – Rule 43(1)(c)]	4200

Total ITC credited to Electronic Credit Ledger for the month of September	**6,200**
Common credit for the month of September (Tm) = Tc ÷ 60 = 4,200 ÷ 60 [Rule 43(1)(e)]	70
Common credit attributable to exempt supplies in a month (Te) = (E ÷ F) x Tm where, 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover in the State of registered person during tax period [Rule 43(1)(g)] = (40,000/1,10,000) × ₹ 70 (rounded off)	25.45
Amount to be added to the output tax liability for the month of September [Rule 43(1)(h)]	**25.45**

Question 18

A banking company M/s. YVPAY Bank Ltd. is registered under GST laws and provided the following services during the month of October, 20XX.

S.N.	Particulars	Amount (₹)
(i)	Discount earned on bills discounted	6,00,000
(ii)	Interest earned on reverse repo transaction	2,00,000
(iii)	Penal interest recovered from the borrower for the delay in payment of loan EMIs/Dues	5,00,000
(iv)	Services to merchants accepting credit /debit card payments using Point of Sale (POS) machine of bank. (In 50% cases, the amount per transaction was up to ₹ 1,500 while in the other cases, the amount was between ₹ 1,500 to ₹ 2,000)	6,50,000
(v)	Commission received for debt collection service	12,00,000
(vi)	Interest charges for last payment of credit card dues	4,00,000

M/s. YVPAY Bank Ltd. had opted for optional method, under section 17(4) of the CGST Act, 2017, for claiming input tax credit in respect of its operations. For the month of October, 20XX, the relevant details for input tax credit are as follows:

(i) Amount of GST paid on eligible input services - ₹ 8,00,000

(ii) Amount of GST paid on eligible capital goods - ₹ 6,00,000

(iii) Amount of GST paid on items whose credit is blocked u/s 17(5) of the CGST Act, 2017 -₹ 3,00,000

(iv) Applicable rate of GST is 18% on services provided.

Based on the information given above, calculate the net GST payable by the bank for the month of October 20XX. Ignore bifurcation of CGST and SGST or IGST.

Answer

Computation of net GST payable by YVPAY Bank Ltd.

	Particulars	GST 18% (₹)
(i)	Discount earned on bills discounted [Exempt since consideration is represented by way of discount.]	-

(ii)	Interest on reverse repo transaction [Exempt since consideration is represented by way of interest paid to bank.]	-
(iii)	Penal interest on delayed payment of EMIs [Penal interest paid to bank is exempt]	-
(iv)	Services to merchants accepting credit/debit card payments [Exempt since such services are provided to merchants in relation to settlement of an amount upto ₹ 2,000 per transaction through credit/debit card.]	-
(v)	Commission for debt collection services [Not exempt, since it is not a service of extending deposits, loans or advances.]	2,16,000
(vi)	Interest charges for late payment of credit card dues [Not exempt, since specifically excluded.]	72,000
	Output tax payable	2,88,000
	Less: 50% of eligible ITC on input services and capital goods availed in October [(₹ 8,00,000 + ₹ 6,00,000) × 50%] [Blocked credit cannot be availed.]	(7,00,000)
	Net GST payable	**Nil**

Question 19

Soren Enterprises is in possession of certain capital goods and purchases more of them as per the following particulars:

Particulars	Input tax on capital goods (₹)	Status of its use
Capital Goods A	12,000	Exclusively used for non-business purpose.
Capital Goods B	24,000	Exclusively used for zero-rated supplies.
Capital Goods C	60,000	Used both for taxable and exempt supplies.
Capital goods D (has been exclusively used for 2 years for exempted supplies)	1,20,000	Now there is change in use, both for taxable and exempt supplies.
Capital goods E (has been exclusively used for 3 years for taxable supplies).	1,80,000	Now there is change in use, both for taxable and exempt supplies.

Useful life of all the above capital goods is considered as 5 years.

Compute the input tax credit to be reversed for each tax period (monthly) on account of common credit attributable to exempted use of such machines, while being informed that aggregate value of exempt supplies during tax period being ₹ 6,00,000 and total turnover during tax period being ₹ 12,00,000.

Answer

Apportionment of common credit pertaining to capital goods:

Particulars	ITC (₹)
Capital goods 'A' [Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017]	Nil

Capital goods 'B' [For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC of ₹ 24,000 is available]	-
Capital goods 'C' [Commonly used for taxable and exempt supplies]	60,000
Capital goods 'D' [Owing to change in use from exclusively exempt to both taxable and exempt, full amount of credit to be added to common ITC during the month as per proviso to rule 43(1)(c) of CGST Rules, 2017] Further, 5% per quarter or part thereof of credit relating to Capital goods D shall be added to the output tax liability for the month in terms of first proviso to rule 43(1)(c) of CGST Rules, 2017] = ₹ 48,000 (₹ 1,20,000 × 5% × 8 quarters)	1,20,000
Capital goods 'E' [Owing to change in use from exclusively taxable to both taxable and exempt, full amount of credit to be added to common ITC as per proviso to rule 43(1)(d) of CGST Rules, 2017]	1,80,000
Total common credit	**3,60,000**
Common credit for the tax period under rule 43(1)(e) of CGST Rules, 2017 = 3,60,000 ÷ 60	**6,000**
Common credit attributable to exempt supplies in a tax period in terms of rule 43(1)(g) of CGST Rules, 2017 = (Turnover of exempt supplies/Total turnover) x Common credit = (6,00,000/12,00,000) x ₹ 6,000	**3,000**

Question 20

XYZ Pvt. Ltd. is a manufacturing company registered under GST in the State of Uttar Pradesh. It manufactures two taxable products 'Alpha' and 'Beta' and one exempt product 'Gama'. On 1st October, while product 'Beta' got exempted through an exemption notification, exemption available on 'Gama' got withdrawn on the same date. The turnover (exclusive of taxes) of 'Alpha', 'Beta' and 'Gama' in the month of October was ₹ 9,00,000, ₹ 10,00,000 and 6,00,000. XYZ Pvt. Ltd. has furnished the following details:

S.N.	Particulars	Price (₹)	GST (₹)
(a)	Machinery 'U' purchased on 1st October for being used in manufacturing all the three products	2,00,000	36,000
(b)	Machinery 'V' purchased on 1st October for being used in manufacturing product 'Alpha' and 'Gama'	1,00,000	18,000
(c)	Machinery 'W' purchased on 1st October for being exclusively used in manufacturing product 'Beta'	3,00,000	54,000
(d)	Machinery 'Y' purchased on 1st October four years ago for being exclusively used in manufacturing product 'Beta'. From 1st October, such machinery will also be used for manufacturing product 'Gama'	4,00,000	72,000
(e)	Machinery 'Z' purchased on 1st October two years ago for being used in manufacturing all the three products	3,00,000	54,000

(f)	Raw Material used for manufacturing 'Alpha' purchased on 5th October	1,50,000	27,000
(g)	Raw Material used for manufacturing 'Beta' purchased on 10th October	2,00,000	36,000
(h)	Raw Material used for manufacturing 'Gama' purchased on 15th October	1,00,000	18,000

Compute the following

(i) Amount of ITC credited to Electronic Credit Ledger, for the month of October

(ii) Amount of aggregate value of common credit (Tc)

(iii) Common credit attributable to exempt supplies, for the month of October

(iv) GST liability of the company payable through Electronic Cash Ledger, for the month of October

Note: Assume that all the procurements made by the company are from States other than Uttar Pradesh. Similarly, the company sells all its products in States other than Uttar Pradesh. Rate of IGST is 18%. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Ignore interest, if any and make suitable assumptions wherever required.

Answer

S.N.	Particulars	ITC (₹)
(i)	**Amount of ITC credited to Electronic Credit Ledger, for the month of October**	
	Machinery 'U' - 'A' [Note 1]	36,000
	Machinery 'V' [Note 2]	18,000
	Machinery 'W' [Note 3]	-
	Machinery 'Y' [Note 4]	-
	Machinery 'Z' [Note 5]	-
	Raw Material used for manufacturing 'Alpha' [Note 6]	27,000
	Raw Material used for manufacturing 'Beta' [Note 6]	-
	Raw Material used for manufacturing 'Gama' [Note 6]	18,000
	Amount of ITC credited to Electronic Credit Ledger, for the month of October	**99,000**
(ii)	**Aggregate value of common credit (Tc) – Note 7**	
	Value of 'A' for Machinery 'U' purchased on 1st October	36,000
	Value of 'A' for Machinery 'Z' purchased on 1st October 2 years ago for effecting both taxable and exempt supplies	54,000
	Input tax claimed on Machinery 'Y' purchased on 1st October 4 years ago for effecting taxable supplies but used for effecting both taxable and exempt supplies from 1st October in the current year [Note 8]	72,000
	Aggregate value of common credit (Tc)	**1,62,000**
(iii)	**Common credit attributable to exempt supplies, for the month of October**	
	Common credit for the month of October (Tm) [Note 9]	2,700
	Common credit attributable to exempt supplies, for the month of October (Te) – Note 10	**1,080**
(iv)	**Computation of GST liability of the company for**	
	October payable through Electronic Cash Ledger	

	IGST payable on 'Alpha' [₹ 9,00,000 x 18%]	1,62,000
	IGST payable on 'Beta' [Exempt]	Nil
	IGST payable on 'Gama' [₹ 6,00,000 x 18%]	1,08,000
	Total IGST payable on outward supply	2,70,000
	Common credit attributable to exempt supplies for the month of October [Note 11]	1,080
	Total output tax liability of October	2,71,080
	Less: ITC available in the Electronic Credit Ledger	99,000
	IGST payable from Electronic Cash Ledger	**1,72,080**

Notes:

(1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c)].

(2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b)].

(3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a)].

(4) Machinery 'Y' is being used for effecting both taxable and exempt supplies from 1st October. Prior to that it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.

(5) Machinery 'Z' is being used for effecting both taxable and exempt supplies from 1st October two years ago. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.

(6) ITC in respect of inputs used for effecting taxable supplies will be credited in Electronic Credit Ledger. ITC in respect of inputs used for effecting exempt supplies will not be credited in the electronic credit ledger [Rule 42].

(7) The aggregate of the amounts of 'A' credited to the electronic credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'Tc', shall be the common credit in respect of such capital goods [Rule 43(1)(d)]

(8) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the ITC claimed in respect of such capital goods shall be added to arrive at aggregate value of common credit 'Tc' [Proviso to rule 43(1)(d)].

(9) ITC attributable to a month on common capital goods during their useful life (Tm) shall be computed in accordance with rule 43(1)(e) as under:

= Tc ÷ 60

= ₹ 1,62,000 ÷ 60

= ₹ 2,700

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods

(10) The amount of common credit attributable towards exempted supplies, be denoted as 'Te', and shall be calculated as:

Te = (E÷ F) x Tm where,

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period [Rule 43(1)(g)].

$$= Tr \times \frac{\text{Turnover of exempt supplies during the month of October}}{\text{Total turnover of XYZ Pvt. Ltd. during the month of October}}$$

$$= ₹\ 2,700 \times \frac{₹\ 10,00,000}{₹\ 25,00,000} = ₹\ 1,080$$

(11) Common credit attributable to the exempt supplies (Te) along with the applicable interest (which is to be ignored in this case) shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit [Rule 43(1)(h)].

Question 21

KPI Ltd., registered in the State of Himachal Pradesh (HP), has a manufacturing unit at Baddi (HP). The company manufactures two products: 'Xt' and 'St'. While 'Xt' is taxable, 'St' is exempt from GST. KPI Ltd. has furnished the following details:

S.N.	Particulars	IGST (₹)
(a)	Machinery 1 purchased on 1st July for being used in manufacturing Xt and St	72,000
(b)	Machinery 2 purchased on 1st July for being exclusively used in manufacturing product Xt	36,000
(c)	Machinery 3 purchased on 1st July for being exclusively used in manufacturing product St	1,08,000
(d)	Machinery 4 purchased on 1st October last year for being exclusively used in manufacturing product St. From 1st July, such machinery will also be used for manufacturing product Xt.	1,44,000
(e)	Machinery 5 purchased on 1st January for being exclusively used in manufacturing product Xt. From 1st July, such machinery will also be used for manufacturing product St.	18,000
(f)	Machinery 6 purchased on 1st July two years ago for being used in manufacturing Xt and St	1,08,000

Compute the following:

(i) Amount of input tax credit (ITC) credited to Electronic Credit Ledger for the month of July

(ii) Amount of ineligible credit (Tie) for the month of July

(iii) Amount of aggregate value of common credit (Tc)

(iv) Common credit for the month of July (Tm)

Note: All the conditions necessary for availing the ITC have been complied with. Make suitable assumptions wherever required.

Answer

S.N.	Particulars	ITC (₹)
(i)	**Amount of ITC credited to Electronic Credit Ledger, for the month of July**	
	Machinery 1 – 'A' [Note 1]	72,000
	Machinery 2 [Note 2]	36,000
	Machinery 3 [Note 3]	–
	Machinery 4 – 'A' [Note 4]	1,44,000
	Machinery 5 [Note 5]	–
	Machinery 6 – 'A' [Note 6]	–
	ITC credited to Electronic Credit Ledger, for the month of July	**2,52,000**
(ii)	**Amount of ineligible credit (Tie) for the month of July [Note 7]**	**21,600**
(iii)	**Aggregate value of common credit (Tc) [Note 8]**	
	Value of 'A' for Machinery 1 purchased on 1st July and used for effecting both taxable and exempt supplies	72,000
	Value of 'A' for Machinery 4 purchased on 1st October last year for being used for effecting exclusively exempt supplies and used for effecting both taxable and exempt supplies from 1st July	1,44,000
	Value of 'A' for Machinery 6 purchased on 1st July two years ago and used for effecting both taxable and exempt supplies	1,08,000
	Input tax claimed on Machinery 5 purchased on 1st January for being used for effecting exclusively taxable supplies and used for effecting both taxable and exempt supplies from 1st July [Note 9]	18,000
	Aggregate value of common credit (Tc) for the month of July – Tc [Note 9]	**3,42,000**
(iv)	**Common credit for the month of July (Tm) [Note 10]**	**5,700**

Notes:

(1) ITC in respect of capital goods used commonly for effecting taxable supplies and exempt supplies denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c) of CGST Rules, 2017].

(2) ITC in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be credited to the electronic credit ledger [Rule 43(1)(b) of the CGST Rules, 2017].

(3) ITC in respect of capital goods used or intended to be used exclusively for effecting exempt supplies shall not be credited to electronic credit ledger [Rule 43(1)(a) of the CGST Rules, 2017].

(4) When capital goods which were initially used exclusively for exempt supplies are subsequently used commonly for exempt supplies as well as taxable supplies, input tax in respect of the same denoted as 'A' shall be credited to the electronic credit ledger [Rule 43(1)(c) of CGST Rules, 2017].

(5) Machinery 5 is used for effecting both taxable and exempt supplies since 1st July. Prior to that, it was exclusively used for effecting taxable supplies. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.

(6) Machinery 6 is being used for effecting both taxable and exempt supplies from 1st July two years ago. Therefore, ITC in respect of such machinery would have already been credited to the electronic credit ledger.

(7) When capital goods which were used exclusively for exempt supplies are subsequently used

commonly for exempt supplies as well as taxable supplies, input tax in respect of the same is credited in the electronic credit ledger. The ineligible credit 'Tie' attributable to the period during which such capital goods were used for making exempt supplies is computed @ 5% per quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed [Rule 43(1)(c) of the CGST Rules, 2017].

Thus, 'Tie' shall be computed as under-

= ₹ 1,44,000 × 5% × 3 quarters

= ₹ 21,600

(8) The aggregate of the amounts of 'A' credited to the electronic credit ledger in respect of common capital goods whose useful life remains during the tax period, to be denoted as 'Tc', shall be the common credit in respect of such capital goods [Rule 43(1)(d) of the CGST Rules, 2017].

(9) Where any capital goods which were used exclusively for effecting taxable supplies are subsequently also used for effecting exempt supplies, the input tax credit claimed in respect of such capital goods shall be added to arrive at the aggregate value of common credit 'Tc'.

(10) ITC attributable to a month on common capital goods during their useful life (Tm) shall be computed in accordance with rule 43(1)(e) of CGST Rules, 2017 as under:

= Tc ÷ 60

= ₹ 3,42,000 ÷ 60

= ₹ 5,700

The useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.

Question 22

Oberoi Industries is a manufacturing company registered under GST. It manufactures two taxable products 'X' and 'Y' and one exempt product 'Z'. The turnover of 'X', 'Y' and 'Z' in the month of April, 20XX was ₹ 2,00,000, ₹ 10,00,000 and ₹ 12,00,000. Oberoi Industries is in possession of certain machines and purchases more of them. Useful life of all the machines is considered as 5 years.

From the following particulars furnished by it, compute the amount to be credited to the electronic credit ledger of Oberoi Industries and amount of common credit attributable towards exempted supplies, if any, for the month of April, 20XX.

Particulars	GST paid (₹)
Machine 'A' purchased on 01.04.20XX for being exclusively used for non-business purposes	19,200
Machine 'B' purchased on 01.04.20XX for being exclusively used in manufacturing zero-rated supplies	38,400
Machine 'C' purchased on 01.04.20XX for being used in manufacturing all the three products – X, Y and Z	96,000
Machine 'D' purchased on April 1, 2 years before 01.04.20XX for being exclusively used in manufacturing product Z. From 01.04.20XX, such machine will also be used for manufacturing products X and Y.	1,92,000

Machine 'E' purchased on April 1, 3 years before 01.04.20XX for being exclusively used in manufacturing products X and Y. From 01.04.20XX, such machine will also be used for manufacturing product Z.	2,88,000

Answer

Particulars	Common credit (₹)	Ineligible credit (₹)	Amount to be credited to ECrL (₹)
Machine 'A' [Since exclusively used for non-business purposes, ITC is not available under rule 43(1)(a) of CGST Rules, 2017]		19,200	
Machine 'B' [For ITC purposes, taxable supplies include zero-rated supplies under rule 43(1)(b) of CGST Rules, 2017. Hence, full ITC is available]			38,400
Machine 'C' [Commonly used for taxable and exempt supplies – Rule 43(1)(c) of the CGST Rules, 2017]	96,000		96,000
Machine 'D' [Owing to change in use from exclusively exempt to both taxable and exempt, full amount of credit to be added to common ITC during the month as per proviso to rule 43(1)(c) of CGST Rules, 2017] Further, 5% per quarter or part thereof of credit relating to Machine D shall be added to output tax liability for the month in terms of first proviso to rule 43(1)(c) of CGST Rules, 2017] = ₹ 76,800 (₹ 1,92,000 × 5% × 8 quarters)	1,92,000	76,800	1,92,000
Machine 'E' [Owing to change in use from exclusively taxable to both taxable and exempt, full amount of credit to be added to common ITC as per proviso to rule 43(1)(d) of CGST Rules, 2017] Further, the credit relating to Machine E would have been credited to electronic credit ledger three years back when machine was used exclusively for taxable supplies. Therefore, no amount will be credited to the electronic credit ledger again on change of in use of machine.	2,88,000		
Total common credit	**5,76,000**		
Common credit for tax period (in the given case, a month) under rule 43(1)(e) of CGST Rules, 2017 = ₹ 5,76,000÷ 60	**9,600**		
Common credit attributable to exempt supplies in April, 20XX under rule 43(1)(g) of CGST Rules, 2017		**4,800**	

= (Turnover of exempt supplies/Total turnover) x Common credit = (12,00,000/24,00,000) x ₹ 9,600 [Such credit, along with the applicable interest, shall be added to output tax liability of Oberoi Industries]			
Amount to be credited to electronic credit ledger of Oberoi Industries for the month of April, 20XX			**3,26,400**

Question 23

B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of taxable product 'P' and product 'Q' exempted by way of a notification. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

B & D Company has furnished the following details with respect to its turnover (exclusive of taxes) and stock (exclusive of taxes)

Particulars	Turnover for the quarter ended 30th June (₹)	Turnover for the quarter ended 30th September (₹)
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

Particulars	Stock as on 30th June (₹)	Stock as on 30th September (₹)	Stock as on 31st October (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30th September is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the April month of the preceding financial year. The said stock could not be sold during the month of October. In the current financial year, in the month of October, no purchases were made, and the products were sold with a profit margin of 20% on sales [exclusive of taxes]

The extract of the only bill book maintained by the firm showed the following details

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	1st October	2,00,000	3,000	2,03,000
2307	1st October	1,33,000	5,250	1,38,250
2308	2nd October	67000	39,250	1,06,250
2309	3rd October	58,750	33,750	92,500
2310	5th October	1,00,000	-	1,00,000
2311	6th October	94,000	6,000	1,00,000
2312	6th October	-	17,000	17,000

2313	8th October	50,000	6,000	56,000
2314	9th October	60,000	9,000	69,000
2315	.....	.....	.....	.....
.....	.....	.....	.....	.....

Compute the ITC credited to the Electronic Credit Ledger of the B & D Company, when it exits composition scheme and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c). Assume CGST and SGST rates to be 9% each.

Note: All the above amounts are exclusive of taxes, wherever applicable. Stock is valued at cost price.

Answer

As per section 10(3) read with Notification No.14/2019 CT dated 07.03.2019 as amended, the option availed of by a registered person to pay tax under composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds 1.5 crore [₹ 75 lakh in case of Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir]

As per section 2(6), aggregate turnover means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes CGST, SGST/UTGST, IGST and GST Compensation Cess.

In the given case, firm is registered under composition scheme in the State of Maharashtra. The aggregate turnover of the firm exceeds 1.5 crore on 3rd October [aggregate of both taxable and exempt turnover from 1st April to 3rd October, i.e. 1,50,05,000 (1,44,65,000 + 2,03,000 + 1,38,250 + 1,06,250 + 92,500)].

Thus, the firm will pay tax under regular scheme (Section 9) from 3rd October.

As per section 18(1)(c) read with rule 40, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9.

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2)].

In the light of the above-mentioned provisions, the ITC credited to the Electronic Credit Ledger of the B & D Company on inputs held in on 2nd October will be computed as under:

Particulars	Amount (₹)
Stock of taxable inputs as on 30th September [Since no tax is paid on exempt purchases, there does not arise any question of availing ITC on the same. Hence, stock of only taxable inputs is considered]	10,00,000
Add: Purchases [No purchases are made in October]	Nil
Less: Cost of taxable goods sold from 1st October to 2nd October [(2,00,000 + 1,33,000 + 67,000) x 80%]	3,20,000
Stock of taxable inputs as on 2nd October [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]	6,80,000
Less: More than one year old stock	3,00,000

Stock of inputs on which ITC can be claimed		**3,80,000**
ITC of CGST @ 9%	[Since all purchases are intra-State and from suppliers registered under regular scheme]	**34,200**
ITC of SGST @ 9%		**34,200**

Question 24

On 25th August, M/s Agarwal & Agarwal, a registered supplier of taxable goods located in Bengaluru (Karnataka), purchased one machine for 12,39,000 (including IGST) from one supplier of Maharashtra who issued the invoice on the same date. M/s Agarwal & Agarwal put the machinery to use on the same day and availed ITC for the eligible amount.

M/s Agarwal & Agarwal used the machine in the process of manufacture of taxable goods. However, M/s Agarwal & Agarwal sold this machine to Mr. Suresh Kumar of Andhra Pradesh on 20th August of next year for 7,50,000 (excluding IGST).

With reference to section 18(6), determine the amount payable, if any, by M/s Agarwal & Agarwal at the time of sale of the machine.

Note: The applicable rate of IGST is 18%.

Answer

As per section 18(6), if capital goods/plant and machinery on which ITC has been taken are supplied (outward) by a registered person, he must pay an amount that is higher of the following

(a) ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods or

(b) tax on transaction value of such outward supply determined under section 15.

Accordingly, the amount payable on supply of machinery by M/s Agarwal & Agarwal shall be computed as follows

Particulars	**₹**
ITC taken on the machinery (₹ 12,39,000 × 18/118)	1,89,000
Less: Input tax credit to be reversed @ 5% per quarter for the period of use of machine	
For the previous year = (₹ 1,89,000 × 5%) × 3 quarters	28,350
For the current year = (₹ 1,89,000 × 5%) × 2 quarters	18,900
Amount required to be paid **(A)**	**1,41,750**
Duty leviable on transaction value (₹ 7,50,000 × 18%) **(B)**	**1,35,000**
Amount payable towards disposal of machine is **higher of (A) and (B)**	**1,41,750**
Thus, M/s Agarwal & Agarwal is required to pay an amount of ₹ 1,41,750 at the time of sale of machinery.	

Input Service Distributor (ISD)

Question 25

State the conditions that need to be followed by an input service distributor for distribution of credit.

Answer

The following conditions need to be followed by input service distributor (ISD) for distribution of credit:

(i) The ISD is required to **obtain a separate registration** for distribution of credit.

(ii) The credit can be **distributed** to the recipients of credit **against an ISD invoice** containing prescribed details.

(iii) The amount of the **credit distributed shall not exceed the amount of credit available** for distribution.

(iv) The credit related to an input service must be distributed **only to the particular recipient to whom that input service is attributable.**

(v) If the input service is attributable to more than one recipient, the relevant ITC is **distributed** pro rata to such recipients **in the ratio of turnover** of the recipient in a State/ Union Territory to the aggregate turnover of all the recipients to whom the input service is attributable and which are operational during the current year.

(vi) ITC pertaining to input services which are **common for all units, is distributed to all the recipients in the ratio of turnover** in the prescribed manner.

(vii) ITC available for **distribution in a month** shall be **distributed in the same month** and the details thereof shall be furnished in the prescribed form.

(viii) **Both ineligible and eligible ITC** are to be **distributed separately.**

(ix) ITC of CGST, SGST/UTGST and IGST are to be distributed separately.

(x) ITC of **CGST, SGST/UTGST** in respect of **recipient located in the same State/Union Territory is distributed as CGST and SGST/UTGST respectively.**

(xi) ITC of **CGST and SGST/UTGST,** in respect of a recipient **located in a different State/Union territory, is distributed as IGST** (total of ITC of CGST and SGST/UTGST which were to be distributed to such recipient).

(xii) ITC on account of **IGST is distributed as IGST.**

Question 26

Ceramity Ltd. has following units:

A: Factory in Tumkur, Karnataka; turnover of 27 crores in 2024-25;

B: Service centre in Hyderabad, Telangana; turnover of 1 crore in 2024-25;

C: Service centre in Chennai, Tamil Nadu; turnover of 2 crores in 2024-25;

Ceramity Ltd.'s corporate office functions as ISD. It has to distribute ITC of 9 lakh for May, 2025. Of this, an invoice involving tax of 3 lakh pertains to technical consultancy for Tumkur unit.

Explain in brief how should the ITC be distributed?

Answer

As per rule 39(d) relating to ITC, -

- **₹ 3 lakh is attributable to Tumkur unit,** and will be **transferred to Tumkur unit only.**
- **₹ 6 lakh have to be distributed** among Tumkur unit and the service centres in Hyderabad and

Chennai **in proportion of their turnover** in the previous FY, that is, in 2024-25.

- Tumkur unit will get (27 crore/30 crore) x 6 lakh = **₹ 5.4 lakh;**
- Hyderabad service centre will get (1 crore/30 crore) x 6 lakh = **20,000**; and
- Chennai service centre will get (2 crore/30 crore) x 6 Lakh = **40,000**.

Ceramity Ltd. should issue ISD invoices (from GSTN obtained separately for ISD) for distributing ITC (as calculated above) to its units. It should be clearly indicated in the invoices that the same are issued only for distribution of ITC.

Question 27

XYZ Ltd, having its head Office at Mumbai, is registered as ISD. It has three units in different cities situated in different States namely 'Mumbai', 'Jabalpur' and 'Delhi' which are operational in the current year.

M/s XYZ Ltd furnishes the following information for the month of July:

(i) CGST paid on services used only for Mumbai Unit: ₹ 3,00,000.

(ii) IGST, CGST & SGST paid on services used for all units: ₹ 12,00,000. Total turnover of the units for the previous financial year are as follows: -

Unit	Turnover (₹)
Total Turnover of three units	₹ 10,00,00,000
Turnover of Mumbai unit	₹ 5,00,00,000
Turnover of Jabalpur unit	₹ 3,00,00,000

Determine the credit to be distributed by XYZ Ltd. to each of its three units.

Answer

Particulars	Credit distributed to all units (₹)			
	Total credit available	Mumbai	Jabalpur	Delhi
CGST paid on services used only for Mumbai Unit	3,00,000	3,00,000	0	0
IGST, CGST & SGST paid on services used for all units Distribution on pro rata basis to all the units which are operational in the current year	12,00,000	6,00,000	3,60,000	2,40,000
Total	**15,00,000**	**9,00,000**	**3,60,000**	**2,40,000**

Note 1: Credit distributed pro rata on the basis of the turnover of all the units is as under: -

(a) Unit Mumbai: (₹ 5,00,00,000/₹ 10,00,00,000) x ₹ 12,00,000 = ₹ 6,00,000

(b) Unit Jabalpur: (₹ 3,00,00,000/₹ 10,00,00,000) x ₹ 12,00,000 = ₹ 3,60,000

(c) Unit Delhi: (₹ 2,00,00,000/₹ 10,00,00,000) x ₹ 12,00,000 = ₹ 2,40,000

Question 28

Sarani Weavers, at Pune, Maharashtra is a registered input service distributor and intends to distribute ITC for the month of March. The following are the details available for such distribution

Branch	Turnover of the last quarter (₹)	ITC specifically applicable to the branch (₹)
Ganganagar Branch (Rajasthan)	10,00,000	IGST – ₹ 12,000 CGST – ₹ 3,000 SGST – ₹ 3,000
Madhugiri Branch (Karnataka)	5,00,000	Nil
Kosala Branch (UP)	15,00,000	Nil
Mumbai Branch (Maharashtra)	20,00,000	IGST – ₹ 1,50,000 CGST – ₹ 15,000 SGST – ₹ 15,000

ITC available on input services used commonly by all branches is as under:

CGST – ₹ 60,000

SGST – ₹ 60,000

IGST – ₹ 1,20,000

ITC (IGST) of 10,000 pertaining to March (last year) was inadvertently not distributed. Whether the same can be considered for distribution in March this year?

Madhugiri, Karnataka branch uses input services to manufacture exempted products. Turnover excludes duties & taxes payable to Central and State Government.

Determine the manner of input tax distribution

Answer

As per section 20 read with rule 39:

(i) Total GST credit (CGST+ SGST + IGST) of ₹ 18,000 **specifically attributable to Ganganagar Branch**, Rajasthan will be distributed as IGST credit of ₹ 18,000 only to Ganganagar Branch, Rajasthan [Since recipient and ISD are located in different states].

(ii) IGST credit of ₹ 1,50,000, CGST credit of ₹ 15,000 and SGST credit of 15,000 **specifically attributable to Mumbai Branch**, Maharashtra will be distributed as IGST credit of ₹ 1,50,000, CGST credit of 15,000 and SGST credit of ₹ 15,000 respectively, only to Mumbai Branch, Maharashtra [Since recipient is located in the same State in which ISD is located].

(iii) CGST credit of ₹ 60,000, SGST credit of ₹ 60,000 and IGST credit of 1,20,000 have to be distributed among the three branches and Mumbai Branch, Maharashtra **in proportion of their turnover** of the last quarter.

- Ganganagar Branch, Rajasthan will get:

  ₹ 48,000 [₹ 2,40,000 x (10,00,000/50,00,000)] as IGST credit.

- Madhugiri Branch, Karnataka will get:

  ₹ 24,000 [₹ 2,40,000 x (5,00,000/50,00,000)] as IGST credit.

- Credit attributable to a recipient is distributed even if such recipient is making exempt supplies.

- Kosala Branch, UP will get:

  ₹ 72,000 [₹ 2,40,000 x {15,00,000/50,00,000)] as IGST credit.

- Mumbai Branch, Maharashtra will get:

  24,000 [60,000 x (20,00,000/50,00,000)] as CGST credit,

  24,000 [60,000 x (20,00,000/50,00,000)] as SGST credit and

  48,000 [1,20,000 x (20,00,000/50,00,000)] as IGST credit.

(iv) **ITC of ₹ 10,000 of March (last year) cannot be distributed in March this year** as ITC available for distribution in a month is to be distributed in the same month.

Question 29

Arise India Pvt. Ltd., a company engaged in manufacturing of various goods, has its corporate office at Mumbai and manufacturing units in Pune and Chennai and service centres in Kolkata and Bengaluru. The manufacturing units at Pune and Chennai and service centres at Kolkata and Bengaluru are registered in Maharashtra, Tamil Nadu, West Bengal and Karnataka respectively. The corporate office is registered as an input service distributor. All the units and centres of Arise India Pvt. Ltd. are operational in the current year. The corporate office intends to distribute input tax credit (ITC) for the month of October 20XX. The following details are available for such distribution:

Table 1

Unit/centre	Turnover for the quarter ending September 20XX* (₹)	Eligible ITC on input services attributable to a specific unit/centre, for month of October 20XX (₹)
Pune	20,00,000	IGST – ₹ 3,00,000; CGST – ₹ 30,000; SGST– ₹ 30,000
Chennai	30,00,000	IGST – ₹ 24,000; CGST – ₹ 6,000; SGST – ₹ 6,000
Kolkata	10,00,000	Nil
Bengaluru	40,00,000	Nil

*Note: Turnover excludes all taxes and duties

Table 2

S.N.	Particulars		CGST	SGST	IGST
(i)	Input services used by all units and centres				
	(a)	Eligible ITC under the provisions of the GST law	1,20,000	1,20,000	2,40,000
	(b)	Ineligible ITC in terms of section 17(5) of the CGST Act, 2017	40,000	40,000	80,000
(ii)	Inputs used by Pune unit and Kolkata centre		60,000	60,000	
(iii)	Input services used by Chennai unit and Bengaluru centre (ITC pertaining to such invoices is eligible ITC under the provisions of the GST law)		30,000	30,000	10,000

Chennai unit manufactures exempted products.

Compute the amount of ITC to be distributed to each of the units and centres.

Answer

Computation of ITC to be distributed by ISD

S.N.	Particulars	Pune unit (₹)	Chennai unit (₹)	Kolkata centre (₹)	Bengaluru centre (₹)
(i)	IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 & SGST credit of ₹ 30,000 specifically attributable to Pune unit [Note 1]	3,00,000 (IGST) 30,000 (CGST) 30,000 (SGST)			
(ii)	IGST credit of ₹ 24,000, CGST credit of ₹ 6,000 and SGST credit of ₹ 6,000 specifically attributable to Chennai unit [Note 2]		36,000 (IGST)		
(iii)	Eligible ITC pertaining to input services used by all units and centres [Note 3]	24,000 (CGST) 24,000 (SGST) 48,000 (IGST)	1,44,000 (IGST)	48,000 (IGST)	1,92,000 (IGST)
(iv)	Ineligible ITC pertaining to input services used by all units and centres [Note 4]	8,000 (CGST) 8,000 (SGST) 16,000 (IGST)	48,000 (IGST)	16,000 (IGST)	64,000 (IGST)
(v)	Inputs used by Pune unit and Kolkata centre [Note 5]	Nil	Nil	Nil	Nil
(vi)	Input services used by Chennai unit and Bengaluru centre [Note 6]		30,000 (IGST)		40,000 (IGST)

Notes:

(1) IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 specifically attributable to Pune unit will be distributed as IGST credit of ₹ 3,00,000, CGST credit of ₹ 30,000 and SGST credit of ₹ 30,000 respectively, only to Pune unit, since recipient is located in the same State in which ISD is located.

(2) Total GST credit (CGST+ SGST + IGST) of ₹ 36,000 specifically attributable to Chennai unit will be distributed as IGST credit of ₹ 36,000, only to Chennai unit, since recipient and ISD are located in different States.

(3) Eligible ITC of CGST [₹ 1,20,000], SGST [₹ 1,20,000] and IGST [₹ 2,40,000] will be distributed among the units and centres in the ratio of their turnover of the last quarter.

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh : 30 lakh : 10 lakh : 40 lakh

= 2: 3: 1: 4

Therefore,

Pune unit will get = ₹ 24,000 [1,20,000 x (2/10)] as CGST credit, ₹ 24,000 [1,20,000 x (2/10)] as SGST credit and ₹ 48,000 [2,40,000 x (2/10)] as eligible IGST credit.

Chennai unit will get = ₹ 1,44,000 [₹ 4,80,0001 x (3/10)] as IGST credit. The credit attributable to a recipient is distributed even if such recipient is making exempt supplies.

Kolkata centre will get = ₹ 48,000 [₹ 4,80,000 x (1/10)] as IGST credit.

Bengaluru will get = ₹ 1,92,000 [₹ 4,80,000 x (4/10)] as IGST credit.

(4) Ineligible ITC of CGST [₹ 40,000], SGST [₹ 40,000] and IGST [₹ 80,000] will also be distributed among the units and centres in the ratio of their turnover of the last quarter.

Ratio of the turnover of the units and centres in last quarter, previous to the month during which ITC is to be distributed:

= 20 lakh : 30 lakh : 10 lakh : 40 lakh

= 2: 3: 1: 4

Therefore,

Pune unit will get = ₹ 8,000 [40,000 x (2/10)] as CGST credit, ₹ 8,000 [40,000 x (2/10)] as SGST credit and ₹ 16,000 [80,000 x (2/10)] as eligible IGST credit.

Chennai unit will get = ₹ 48,000 [₹ 1,60,000 x (3/10)] as IGST credit.

Kolkata centre will get = ₹ 16,000 [₹ 1,60,000 x (1/10)] as IGST credit.

Bengaluru will get = ₹ 64,000 [₹ 1,60,000 x (4/10)] as IGST credit.

(5) ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods).

(6) Eligible ITC of CGST [₹ 30,000], SGST [₹ 30,000] and IGST [₹ 10,000] will be distributed among the Chennai unit and Bengaluru centre in the ratio of their turnover of the last quarter.

Ratio of the turnover of the Chennai unit and Bengaluru centre in last quarter, previous to the month during which ITC is to be distributed:

= 30 lakh : 40 lakh

= 3 : 4

Therefore,

Chennai unit will get = ₹ 30,000 [₹ 70,000 x (3/7)] as IGST credit.

Bengaluru unit will get = ₹ 40,000 [₹ 70,000 x (4/7)] as IGST credit.

Question 30

Input Service Distributor (ISD) of a company is registered separately in the State of Kerala and is distributing Input Tax Credit (ITC) to other units in the company. Following details are furnished for a particular month, and you are required to help the ISD department in distributing the ITC to other units that are carrying on manufacturing, supplying goods and services to customers.

S.N.	Particulars	Amount in lakh (₹)
	Turnover in the relevant month of each of the units:	
(1)	Mumbai (Maharashtra)	12.00
(2)	Bangalore (Karnataka)	60.00

(3)	Hyderabad (Telangana)	36.00
(4)	Trivandrum (Kerala)	72.00
(5)	Total ITC available during the month with the ISD (includes CGST/SGST & IGST) on account of supplies received during the month	48.00
(6)	From the above, ITC exclusive to Bangalore unit, available as IGST credit	12.00
(7)	From the above, ITC exclusive to Trivandrum and Hyderabad units (CGST and SGST of ₹ 3.00 lakh each)	6.00
(8)	Rest of the credit available is allocable as common credit to all the units and is received from local suppliers in Kerala.	
(9)	Basic value (exclusive of taxes) of a debit note received, during the month, in respect of a previous supply, with rate of tax @ 12% IGST (pertains to all units) being charged and shown separately	50.00
(10)	Total value (inclusive of taxes) in the credit note received, during the month, applicable exclusively to Kerala unit, taxed at the rate of 9% CGST and 9% SGST, which is charged and indicated separately	118.00

Also make your comments regarding the amount of ITC in credit notes, if exceeds the ITC from invoices and debit notes in a particular month for all or any of the units.

Answer

Computation of the amount of credit distributed by the ISD to various units of the company

(It has been logically assumed that credit to be distributed by ISD is credit of input services.)

Particulars	Mumbai Unit			Bangalore Unit			Hyderabad Unit			Trivandrum Unit		
	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)
ITC exclusive to Bangalore unit available as IGST [ITC of IGST is distributed as IGST only.]						12						
ITC exclusive to Trivandrum and Hyderabad units [ITC of CGST & SGST is distributed as CGST & SGST to unit located in Kerala (Trivandrum unit) and as IGST to unit located in a different State (Hyderabad unit) in ratio of 2:1.]									2	2	2	

Common credit for all units [Balance credit of CGST and SGST (since supplies are received locally) of ₹ 15 lakh each (₹ 48 lakh – ₹ 12 lakh – ₹ 6 lakh) to be distributed among all four units in proportion of their turnover of the relevant month, i.e., 1:5:3:6. Further, ITC will be distributed to Mumbai, Bangalore and Hyderabad unit as IGST and to Trivandrum unit as CGST and SGST.]			2			10			6	6	6	
Additional ITC [₹ 6 lakh (₹ 50 lakh × 12%)] due to debit note received from supplier to be distributed among all four units in proportion of their turnover of relevant month, i.e., 1:5:3:6. [ITC of IGST is distributed as IGST only.]			0.4			2			1.2			2.4
ITC to be reduced on account of credit note received from supplier, exclusive to Kerala unit 9% of (₹ 118 lakh x 100/118)										9	9	
Total ITC apportioned to each unit	0	0	2.4	0	0	24	0	0	9.2	-1	-1	2.4
Negative amount apportioned to										1	1	

Trivandrum unit shall be added to its output tax liability since ITC distributed to it by ISD is less than amount reduced on account of credit note												

ITC Utilisation

Question 31

Determine the amount of tax payable through electronic credit ledger/electronic cash ledger from the given information:

Taxable turnover of ABC Ltd in the month of February = ₹ 1,25,00,000 (excluding zero-rated and exempt supply)

Total amount of input tax credit (as per books) for the month of February – ₹ 25,00,000

Total amount of input tax credit (as per GSTR-2B) for February – ₹ 22,00,000

Applicable tax rate: 18%

Answer

In the given case, ABC Ltd. would be liable to pay tax of ₹ 22,50,000 (i.e. ₹ 1,25,00,000 x 18%).

In terms of Rule 36(4) of CGST Rules, **No input tax credit** shall be availed by a registered person **in respect of invoices or debit notes** the details of which are **required to be furnished under section 37(1) unless-**

(a) the **details** of such invoices or debit notes have been **furnished by the supplier** in the statement of outward supplies **in Form GSTR-1 or using the invoice furnishing facility (IFF)**; and

(b) the details of such invoices or debit notes have been **communicated to the registered person in Form GSTR-2B** under rule 60(7).

Thus, **ITC** can now be taken **only for those invoices whose details are reflected in GSTR-2B** i.e. the respective suppliers (vendors) have filed the details of such invoices their GSTR-1.

Hence, **ABC Ltd would be entitled to avail the input tax credit of ₹ 22,00,000** (matched ITC)

It is pertinent to note that taxable turnover of ABC Ltd. for February is more than ₹ 50 lakh, hence, rule 86B would be applicable and accordingly, **ABC Ltd. cannot use input tax credit in excess of 99% of the output tax liability** in the instant scenario.

Therefore, liability of ₹ 22,50,000 would be paid in the following manner:

i) **₹ 22,00,000** [Lower of ₹ 22,27,500 (99% of output liability) or ₹ 22,00,000 (matched ITC)] to be paid via **electronic credit ledger**; and

ii) **₹ 50,000** to be paid via **electronic cash ledger**.

Question 32

Mr. X, a supplier of goods, pays GST under regular scheme. He has made the following outward taxable supplies in a tax period:

Particulars	(₹)
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	(₹)
Intra-State purchases of goods	2,00,000
Inter-State purchases of goods	50,000

Mr. X has following ITCs with him at the beginning of the tax period:

Particulars	(₹)
CGST	57,000
SGST	Nil
IGST	70,000

Note:

i. Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

ii. Both inward and outward supplies are exclusive of taxes, wherever applicable.

iii. All the conditions necessary for availing the ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Mr. X during the tax period. Make suitable assumptions.

Answer

Computation of minimum GST payable in cash by Mr. X on outward supplies

Particulars	(₹)	GST (₹)
Intra-State supply of goods		
CGST @ 9% on Rs. 8,00,000	72,000	
SGST @ 9% on Rs. 8,00,000	72,000	1,44,000
Inter-State supply of goods		
IGST @ 18% on Rs. 3,00,000		54,000
Total GST payable		**1,98,000**

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing ₹ 2,00,000	18,000	18,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 50,000	Nil	Nil	9,000
Total ITC	**75,000**	**18,000**	**79,000**

Computation of minimum GST payable in cash

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
GST Payable	72,000	72,000	54,000
Less: ITC	(Nil)-IGST	(25,000)-IGST	(54,000)-IGST
	(72,000)-CGST	(18,000)-SGST	
Minimum GST payable in cash	**Nil**	**29,000**	**Nil**

Note: Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.

Question 33

Mr. NY, a supplier of goods pays GST under regular scheme. Mr. NY is not eligible for any threshold exemption. He has made the following outward taxable supplies during September 20XX:

Particulars	Rate of Tax			Amount (₹)
	CGST	SGST	IGST	
Intra State Supply of goods				
Product A	6%	6%	-	8,00,000
Product B	9%	9%	-	2,00,000
Inter State Supply of goods				
Product A	-	-	12%	3,00,000
Product B	-	-	18%	1,50,000

He has also furnished the following information in respect of supplies received by him during September 20XX:

Particulars	Rate of Tax			Amount (₹)
	CGST	SGST	IGST	
Intra State Supply of goods				
Product A	6%	6%	-	2,00,000
Product B	9%	9%	-	1,00,000
Inter State Supply of goods				
Product A	-	-	12%	1,50,000
Product B	-	-	18%	80,000

Mr. NY has following ITCs with him at the beginning of September 20XX:

Particulars	₹
CGST	40,000
SGST	28,000
IGST	44,600

Note:

(i) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(ii) All the conditions necessary for availing the ITC have been fulfilled.

Compute net GST payable by Mr. NY for the month of September 201XX.

Make suitable assumptions wherever required.

Answer

Computation of GST payable by Mr. NY for the month of September, 20XX:

S. No.	Particulars	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Intra-State supply of goods			
	Product A	48,000	48,000	
	Product B	18,000	18,000	
(ii)	Inter-State supply of goods			
	Product A			36,000
	Product B			27,000
	Total	**66,000**	**66,000**	**63,000**

Computation of total ITC available

S. No.	Particulars	CGST (₹)	SGST (₹)	IGST (₹)
(i)	**Opening balance**	40,000	28,000	44,600
(ii)	**Inter-State supply of goods**			
	Product A	12,000	12,000	
	Product B	9,000	9,000	
(iii)	**Inter-State supply of goods**			
	Product A			18,000
	Product B			14,400
	Total	**61,000**	**49,000**	**77,000**

Computation of net GST payable (from cash ledger)

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST payable	66,000	66,000	63,000
Less: ITC	(61,000)-CGST	(14,000)-IGST	(63,000)-IGST
		(49,000)-SGST	
Net GST payable	**5,000**	**3,000**	**Nil**

Note 1. ITC of IGST shall be first utilize fully to pay IGST, CGST and SGST in that order.

Note 2. IGST credit after setting it against IGST liability of Rs. 63,000 i.e. Rs. 14,000 to be adjusted first with SGST liability since CGST credit is almost sufficient to set off CGST liability.

Question 34

George Pvt. Ltd., a registered supplier of goods at Kerala who pays GST under regular scheme, has made the following transactions (exclusive of tax) during a tax period:

Purchases (₹)	Sales (₹)	Tax Rate
5,00,000 [Purchases made from registered person in New Delhi]	10,00,000 [Sale made to registered person in New Delhi]	IGST – 18% CGST – 9% SGST – 9%
2,50,000 [Purchases made from Registered person in Trivandrum, Kerala]	8,00,000 [Sales made to registered person in Trivandrum]	

The company has complied with all the conditions for availing the ITC. The following further information regarding various balances available with it on the first day of the tax period, is provided by the company:

Source	Taxes (₹)	Interest (₹)	Penalty (₹)
CGST	50,000	1500	500
SGST	30,000	1500	500
IGST	1,00,000	2000	500

Compute the minimum net CGST, SGST and IGST payable from the Electronic Cash Ledger by George Pvt. Ltd. for the tax period as also ITC to be carried forward to next tax period, if any

Answer

Computation of minimum net CGST, SGST and IGST payable from the electronic cash ledger by George Pvt. Ltd. for the tax period

Particulars	Amount (₹)	CGST @9% (₹)	SGST @9% (₹)	IGST @18% (₹)
Sales made outside Kerala (New Delhi) – [Being inter-State sale, the same is liable to IGST]	10,00,000			1,80,000
Sales made in Trivandrum [Being intra-State sale, the same is liable to CGST & SGST]	8,00,000	72,000	72,000	
Less: ITC available during the tax period for set off [Refer Working Note Below]		(72,000) CGST	(10,000) IGST (52,500) SGST	(1,80,000)
Net tax liability payable in cash		**Nil**	**9,500**	**Nil**
ITC to be carried forward to next tax period		500 (72,500 – 70,000)	Nil (52,500 – 52,500)	Nil (1,90,000 – 1,90,000
Working Note: **ITC available during the tax period is computed as under:**				
Opening balance of ITC		50,000	30,000	1,00,000
Purchases from New Delhi [Being inter-State purchase, IGST would have been paid on it.]	5,00,000			90,000

Purchases from Trivandrum	2,50,000	22,500	22,500	
Total input tax credit		**72,500**	**52,500**	**1,90,000**

Note: Since sufficient balance of ITC of CGST is available for paying CGST liability and cross-utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow. Interest and penalty paid are not available as credit for payment of output tax liability under GST. It can be used only against corresponding interest/penalty under the GST law.

Question 35

Examine taxes to be paid for the month of July on basis of below information furnished by M/s Zinc & Co.:

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	14,75,000	28,34,000	28,34,000
Tax payable under reverse charge	36,000	1,44,000	1,44,000
Balance in Electronic Credit Ledger	26,52,000	18,32,000	18,32,000

Output tax reported under IGST column pertains to the month of February, which was not paid for the said period. Also, note that input tax credit available in Electronic Credit Ledger pertains to input tax on purchases made during the month of July and no opening balance exists from previous tax period.

Answer

Payment of taxes is governed as per the provisions laid in section 49 read with section 49A and 49B of CGST Act, 2017 along with rule 88A of CGST Rules, 2017

Also, section 49(8) of CGST Act, stipulates that every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to the return of the current tax period;

(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;"

As per the above provisions, self-assessed tax of previous tax period i.e. February shall be paid first and later self-assessed tax of current tax period i.e. July shall be paid.

Payment of taxes under forward charge

Particulars	IGST	CGST	SGST
Balance in electronic credit ledger for utilization	26,52,000	18,32,000	18,32,000
Output tax payable for July	14,75,000	28,34,000	28,34,000
Less: Utilization of input tax credit:			
a. IGST **[Refer Note 1]**	14,75,000	5,88,500	5,88,500
b. CGST	0	18,32,000	0
c. SGST	0	0	18,32,000
Amount payable through electronic cash ledger	Nil	4,13,500	4,13,500

Total amount payable through electronic cash ledger

Particulars	IGST	CGST	SGST
Amount payable through Electronic cash ledger under forward charge	Nil	4,13,500	4,13,500
Amount payable through electronic cash ledger under reverse charge [Refer Note-2]	36,000	1,44,000	1,44,000
Total amount payable through electronic cash ledger	36,000	5,57,500	557,500

Notes:

1 After utilization of IGST credit towards output IGST liability, balance has been utilized equally amongst CGST & SGST

2 Input tax credit cannot be utilized for discharging tax liability under reverse charge basis, thus payable vide electronic cash ledger.

Since, M/s Zinc & Co., have defaulted in payment of taxes for the month of February and the same has been paid during July, interest is payable as per the provisions of section 50 of the CGST Act, 2017

Question 36

BCD Ltd. decided to sell its own branded groceries at 20% of the cost to any organisation who is providing free food and groceries to the poor and needy as its contribution to the nation. The details of the transaction from April, 20XX to March, 20X1 during which it had done this are given below:

S.N.	Particulars	Amount in rupees
i	Total turnover (excluding GST) of branded groceries and food grains during the period as per the invoices issued and accounted for GST purposes (Actual value of the goods is ₹ 20 crores)	4 crore
ii	Tax paid on the security and maintenance services during the period	CGST – 1.35 lakh SGST – 1.35 lakh
iii	Tax paid on the rent paid on the warehouse for storage of goods and for undertaking packing etc.	CGST – 4.50 lakh SGST – 4.50 lakh
iv	Tax paid on packing materials and printing charges on packing materials	CGST – 11.15 lakh SGST – 11.15 lakh

What is the value to be adopted for the purpose of payment of GST?

Compute the admissible input tax credit and output tax liability and indicate whether any tax has to be paid in cash. Assume the rate of CGST and SGST as 2.50% each on the branded groceries and food grains and all sales are intra-State only.

Answer

Particulars		Amount (₹)
Value of supply adopted for payment of GST [Transaction value, which is the price actually paid or payable for the supply, is adopted for purpose of payment of GST.]		4,00,00,000
Output tax liability	CGST @ 2.5% (₹)	SGST@ 2.5% (₹)

Output tax liability on ₹ 4 crores [A]	10,00,000	10,00,000
Input tax credit	CGST (₹)	SGST (₹)
Security and maintenance	1,35,000	1,35,000
Warehousing rent	4,50,000	4,50,000
Packing and printing	11,15,000	11,15,000
Total input tax credit available [B]	17,00,000	17,00,000
Net tax payable in cash [A] – [B]	Nil	Nil

Question 37

M/s Fly-by-Night, tour operators, availed input tax credit in respect of certain transactions where no such supplier was existent or from a person not doing any business from the registered place of business. Jurisdictional Deputy Commissioner of GST wants to restrict the utilization of the credit by M/s Fly-by-Night. You have been approached by M/s Fly-by-Night to give your advice on the following questions raised by it:

(i) Is it possible for the Department to restrict the utilization of credit which is already availed?

(ii) If yes, under what circumstances this can be done by the Department?

Answer

(i) **Yes**, it is possible for the Department to restrict the utilization of credit which is already availed if there are reasons to believe that such ITC has been **fraudulently availed** or is ineligible.

(ii) The restrictions can be imposed under the **following circumstances**:

(a) ITC has been availed on the basis of tax invoices/valid documents -

- **issued by a non-existent supplier** or by a person not conducting any business from the registered place of business; or
- **without receipt of goods or services** or both; or
- the tax in relation to which has not been paid to the Government

(b) Registered **person availing ITC** has been **found non-existent** or not to be conducting any business from the registered place of business; or

(c) Registered person availing ITC is **not in possession of tax invoice**.

Job Work

Question 38

What happens when the inputs or capital goods are not received back or supplied from the place of business of job worker within prescribed time period?

Answer

If the inputs or capital goods are not received back by the principal or are not supplied from the place of business of job worker within the prescribed time limit, it would be **deemed that such inputs or capital**

goods had been supplied by the principal to the job worker on the day when the said inputs or capital **goods were sent out by the principal (or** on the **date of receipt by the job worker where** the inputs or capital **goods were sent directly to the place of business of job worker). Thus,** the **principal** would be **liable to pay tax accordingly.**

Question 39

Who is responsible for the maintenance of proper accounts related to job work?

Answer

It is completely the **responsibility of the principal** to maintain proper accounts of job work related inputs and capital goods.

Question 40

Under what circumstances, can the principal directly supply goods from the premises of job worker without declaring the premises of job worker as his additional place of business?

Answer

The goods can be supplied directly from the place of business of job worker without declaring it as additional place of business in two circumstances namely **where the job worker is a registered taxable person or where principal is engaged in supply of such goods as may be notified by Commissioner**.

Question 41

Nandeeshwar Manufacturers sends certain category of yarn for processing to the job worker. The job worker undertakes the processing work on yarn as per the requirement of Nandeeshwar Manufacturers. During the process, the job worker uses his own material also. The processed yarn is sold by Nandeeshwar Manufacturers directly from the job worker premises. Balance quantity of yarn and waste material is sent back by the job worker to Nandeeshwar Manufacturers. The job worker is of the opinion that he is using his own material also in the processing and hence supply to Nandeeshwar Manufacturers is in the nature of supply of goods as well as services. Do you agree with the opinion of job worker?

Answer

No, the opinion of the job worker is **not fully correct.** Section 7(1A) provides that when certain activities or transactions constitute a supply in accordance with the provisions of section 7(1), they shall be treated either as a supply of goods or supply of services as referred to in **Schedule II** of the CGST Act. Any **processing activity carried on any other person's goods is treated as supply of service** in terms of Schedule II. The job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work. These goods are not supply per se, but being used in the processing activity carried out by it.

Thus, activity undertaken by job worker, in the given case, squarely falls within the purview of Schedule II and shall be **considered as supply of service by job worker** to Nandeeshwar Manufacturers.

Question 42

Bedi Manufacturers, a registered person, instructs its supplier to send the capital goods directly to Rajesh Enterprises, who is a job worker, outside its factory premises for carrying out certain operations on the goods. The goods were sent by the supplier on 10th April and were received by the job worker on 15th April. Rajesh Enterprises carried out the job work, but did not return the capital goods to their principal - Bedi Manufacturers. Discuss whether Bedi Manufacturers are eligible to retain input tax credit availed by them on capital goods. What action under GST Act is required to be taken by Bedi Manufacturers?

What would be your answer if in place of capital goods, jigs and fixtures are supplied to the job worker and the same has not been returned to the principal?

Answer

As per section 19(5), the principal is **entitled to take input tax credit** of capital goods sent for job work even if the said goods are directly sent to job worker.

Further, section 19(6) stipulates that **where** the **capital goods sent directly to a job worker** are **not received back by the principal within a period of 3 years** of the date of receipt of capital goods by the job worker, it shall be **deemed that** such capital goods had been **supplied by the principal** to the job worker on the day when the said capital goods were received by the job worker.

In view of aforementioned provisions, Bedi Manufacturers are **eligible to retain the input tax credit** availed by them on the capital goods.

However, **if the capital goods are not returned by Rajesh Enterprises within 3 years** from 15th April (date of receipt of capital goods by job worker), it shall be **deemed that such capital goods had been supplied** by Bedi Manufacturers to Rajesh Enterprises on 15th April and Bedi Manufacturers shall be **liable to pay the tax along with applicable interest**.

However, there is **no time limit for return of moulds and dies, jigs and fixtures** or tools sent out to a job worker for job work [Section 19(7)].

However, if Rajesh Enterprises does not return the jigs and fixtures to Bedi Manufacturers, **it shall not be considered as a supply** of jigs and fixtures to Rajesh Enterprises by Bedi Manufacturers. In this case also, Bedi Manufacturers will be **eligible to retain the input tax credit** availed by them.

Question 43

Genie Engineers had a mould delivered directly to a job worker from the supplier for making certain precision parts for use in the factory of Genie Engineers. As per agreement, the mould was to remain with the job worker as long as work was being sent to him.

After four years a departmental audit team that visited the job worker noticed the mould and traced it to Genie Engineers. GST was demanded from Genie Engineers for taking ITC without receiving the mould and furthermore for not bringing the mould back after three years of delivery to the job worker.

How should they respond to this?

Answer

Genie Engineers should reply on the following lines:

Under section 19(6), the **principal may take ITC on capital goods** sent to a job worker for job work

without being first brought to his place of business.

The **capital goods** sent for job work should **either be returned to the principal or must be supplied** from the job worker's premises **within 3 years** [extendible by another 2 years] from sending them to the job worker or direct receipt by the job worker from the supplier. **If the above time-lines are not met,** it is **deemed that the capital goods were supplied** by the principal to the job worker (in other words, **tax will be payable** on them) on the day they were sent out to the job worker [Section 19(6)].

However, sub-section (7) of section 19 provides that the time-limit of three years in sub-section (6) for bringing back the capital goods from the job worker does not apply to moulds.

Hence, Genie Engineers have **correctly taken the ITC on moulds.**

Question 44

Sudama Industries Ltd., registered in the State of Jammu & Kashmir, manufactures plastic pipes for other suppliers on job-work basis.

On 10th January, Plasto Manufacturers (registered in the State of Himachal Pradesh) sent plastic worth ₹ 4 lakh and moulds worth ₹ 50,000, free of cost, to Sudama Industries Ltd. to make plastic pipes. Sudama Industries Ltd. also used its own material - a special type of lamination material for coating the pipes - worth ₹ 1 lakh in the manufacture of pipes. It raised an invoice of ₹ 2 lakh as job charges for making pipes and returned the manufactured pipes through delivery challan to Plasto Manufacturers on 20th October in the same financial year.

The same quality and quantity of plastic pipes, as was made for Plasto Manufacturers, were made by Sudama Industries Ltd. from its own raw material and sold to Solid Pipes (registered in Jammu and Kashmir) for ₹ 7.5 lakh on 20th October.

Examine the scenario and offer your views on the following issues with reference to the provisions relating to job work under the GST laws:

(i) Is there any difference between the manufacture of plastic pipes by Sudama Industries Ltd. for Plasto Manufacturers and for Solid Pipes?

(ii) Whether Sudama Industries can use its own material even when it is manufacturing the plastic pipes on job-work basis?

(iii) Whether sending the plastic and moulds to Sudama Industries Ltd. by Plasto Manufacturers is a supply and a taxable invoice needs to be issued for the same?

(iv) Whether Sudama Industries should include the value of free of cost plastic and moulds supplied by Plasto Manufacturers in its job charges?

Answer

(i) As per section 2(68), **job work means any treatment or process undertaken by a person on goods belonging to another** registered person and the expression "job worker" shall be construed accordingly. The registered **person on whose goods** (inputs or capital goods) **job work is performed is called the principal**. Thus, the job worker is expected to work on the goods sent by the principal.

Therefore, when the goods are manufactured by Sudama Industries Ltd. for Plasto Manufacturers, it is job work as the process is undertaken on inputs (plastic and moulds) supplied by the principal

(Plasto Manufacturers) and **when goods are manufactured for Solid Pipes, it is manufacture on own account** as the pipes are manufactured from company's own raw material. **Further, processing** or treatment **on job work basis is a supply of service** in terms of para 3 of Schedule II to the CGST Act, 2017 **and manufacture of pipes on own account is a supply of goods**.

(ii) It has been clarified vide Circular No. 38/12/2018 GST dated 26.03.2018 that the job worker, **in addition to the goods received** from the principal, **can use his own goods** for providing the services of job work.

(iii) Section 143 provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work. Subsequently, on completion of the job work, the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools). Thus, the **provision relating to return of goods is not applicable in case of moulds, dies, jigs, fixtures and tools.**

If the time frame of one year/ three years for bringing back or further supplying the inputs/capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs/ capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business/premises of the job worker within one/three years of being sent out.

Therefore, **sending of plastic and moulds** by Plasto Manufacturers to Sudama Industries Ltd. (job worker) **is not supply as** the manufactured pipes are received back within the stipulated time and the **provisions relating to return of goods are not applicable in case of moulds.**

Rule 45 provides that the **inputs, semi-finished goods or capital goods** being sent for job work shall be **sent under the cover of a delivery challan** issued by the principal.

Therefore, Plasto Manufacturers **need not issue a taxable invoice** for sending the inputs to Sudama Industries Ltd. but should send the inputs under the cover of a challan.

(iv) As per section 15(2)(b), **any amount** that the supplier is liable to pay in relation to such supply but which has been **incurred by the recipient** of the supply and **not included in the price** actually paid or payable for the goods or services or both, **is includible in the value of supply. However,** Sudama Industries Ltd. **should not include the value of free of cost plastic and moulds** supplied by Plasto Manufacturers in its job charges as Sudama Industries Ltd. is manufacturing the plastic pipes on job work basis. The **scope of supply of the Sudama Industries Ltd. is to manufacture plastic pipes from the raw material supplied by the Plasto Manufacturers. Thus, at no point of time** was **Sudama** Industries Ltd. (supplier of job work service**) liable to pay for the raw material** and therefore, the **value thereof should not be included in its job charges even** though the **same has been incurred by Plasto Manufacturers** (recipient of job work service).

Question 45

Alok Pvt. Ltd., a registered manufacturer, sent steel cabinets worth ₹ 50 lakh under a delivery challan to M/s Prem Tools, a registered job worker, for job work on 28th January. The scope of job work included mounting the steel cabinets on a metal frame and sending the mounted panels back to Alok Pvt. Ltd. The

metal frame is to be supplied by M/s Prem Tools. M/s Prem Tools has agreed to a consideration of ₹ 5 lakh for the entire mounting activity including the supply of metal frame. During the course of mounting activity, metal waste is generated which is sold by M/s. Prem Tools for ₹ 45,000. M/s Prem Tools sent the steel cabinets mounted on metal frame to Alok Pvt. Ltd. on 3rd December in the same financial year.

Assuming GST rate for metal frame as 28%, for metal waste as 12% and standard rate for services as 18%, you are required to compute the GST liability of M/s Prem Tools. Also, give reason(s) for inclusion or exclusion of the value of cabinets in job charges for the purpose of payment of GST by M/s Prem Tools.

Answer

As per para 3 of Schedule II to the CGST Act, any treatment or process which is applied to another person's goods is a supply of services and accordingly is subject to GST rate applicable for services.

In the given case, M/s Prem Tools (job worker) undertakes the process of mounting the steel cabinets of Alok Pvt. Ltd. (principal) on metal frames.

In view of para 3 of Schedule II to the CGST Act cited above, the mounting activity classifies as service even though metal frames are also supplied as a part of the mounting activity. Accordingly, the job charges will be chargeable to rate of 18%, which is the applicable rate for services.

Further, the value of steel cabinets will not be included in the value of taxable supply made by M/s Prem Tools as the supply of cabinets does not fall within the scope of supply to be made by M/s Prem Tools. M/s Prem Tools is only required to mount the steel cabinets, which are to be supplied by Alok Pvt. Ltd., on metal frames, which are to be supplied by it.

As regards sale of waste generated during the job work, since M/s Prem Tools is registered, the tax leviable on the supply will have to be paid by it in terms of section 143(5). Such supply will be treated as supply of goods and subject to GST rate applicable for metal waste.

Accordingly, the GST liability of M/s Prem Tools will be computed as under:

Particulars	Amount (₹)
Job charges	5,00,000
GST @ 18% (A)	90,000
Sale of metal waste	45,000
GST @ 12% (B)	5,400
Total GST payable (A) + (B)	**95,400**

Computation of GST Liability

Question 46

M/s XYZ, a registered supplier, supplies the following goods and services for construction of buildings and complexes -

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil-testing and seismic evaluation at a per sample rate.

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

M/s XYZ receives the following services:

- Maintenance services for excavators;
- Health insurance for operators of the excavators;
- Scientific and technical consultancy for soil testing and seismic evaluation.

For a given month, the receipts (exclusive of GST) of M/s XYZ are as follows:

- Hire charges for excavators - ₹ 18,00,000
- Service charges for supply of manpower for operation of the excavator - 20,000
- Service charges for soil testing and seismic evaluation at three sites - 2,50,000

The GST paid during the said month on services received by M/s XYZ is as follows:

- Maintenance for excavators - ₹ 1,00,000
- Health insurance (not obligatory) for excavator operators - ₹ 11,000
- Scientific and technical consultancy for soil testing and seismic evaluation - ₹ 1,00,000

Compute the net GST payable by M/s XYZ from Electronic Cash Ledger for the given month.

Assume the rates of GST to be as under:

Hiring out of excavators – 12%

Supply of manpower services and soil-testing and seismic evaluation services – 18%

(Ignore CGST, SGST or IGST for the sake of simplicity).

Note: - Opening balance of ITC of GST is nil.

Answer

Computation of net GST payable by M/s XYZ

Particulars	GST payable (₹)
Gross GST liability [Refer Working Note 1 below]	2,63,400
Less: ITC [Refer Working Note 2 below]	2,00,000
Net GST payable from Electronic Cash Ledger	**63,400**

Working Notes

(1) Computation of gross GST liability

Particulars	Value received (₹)	Rate of GST	GST Payable (₹)

Hiring charges for excavators	18,00,000	12%	2,16,000
Service charges for supply of manpower for operation of excavators [Refer Note (i)]	20,000	12%	2,400
Service charges for soil testing and seismic evaluation [Refer Note (ii)]	2,50,000	18%	45,000
Gross GST liability			**2,63,400**

Notes:

(i) Since the excavators are invariably hired out along with operators and excavator operators are supplied only when the excavator is hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavator.

As per section 8(a), the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators will also be taxed at the rate applicable for hiring out of the excavator (principal supply), which is 12%.

(ii) Soil testing and seismic evaluation services being independent of the hiring out of excavator will be taxed at the rate applicable to them, which is 18%.

(2) Computation of ITC available for set off

Particulars	GST paid (₹)	ITC available (₹)
Maintenance services for excavators [Refer Note 1]	1,00,000	1,00,000
Health insurance for excavator operators [Refer Note 2]	11,000	–
Scientific and technical consultancy [Refer Note 1]	1,00,000	1,00,000
Total ITC available		**2,00,000**

Notes:

(i) Section 17(5)(d) blocks credit on goods/services received by taxable person for construction of an immovable property on his own account. Here, though excavators are used for building projects, same are not used by M/s. XYZ on its own account for construction of immovable property instead they are used for outward taxable supply of hiring out of machinery. Further, excavators are special purpose vehicles whose credit is not restricted under section 17(5)(a), therefore, ITC on maintenance service for excavators shall be allowed.

Therefore, the maintenance service for the excavators does not get covered by the bar under section 17 and the credit thereon will be available. The same applies for scientific & technical consultancy for construction projects because in this case also, the service is used for providing the outward taxable supply of soil testing and seismic evaluation service and not for construction of immovable property.

(ii) Section 17(5)(b)(i) allows input tax credit on health insurance only where an inward supply of such services is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply or where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

Question 47

ABC Company Ltd. of Bengaluru is a manufacturer and registered supplier of machineries. It has provided the following details for a tax period:

Inward supplies	GST paid (₹)
Health insurance of factory employees as required by the Factories Act, 1948	20,000
Raw materials for which invoice has been received and GST has also been paid for full amount but only 50% of material has been received, remaining 50% will be received in next month	18,000
Work contractor's service used for installation of plant and machinery	12,000
Purchase of manufacturing machine sent directly to job worker's premises under delivery challan	50,000
Purchase of car used by director exclusively for the purpose of business meetings	25,000
Outdoor catering service availed for business meetings	8,000

ABC Company Ltd. also provides service of hiring of machines along with manpower for operation. As per trade practice, machines are always hired out along with operators and also operators are supplied only when machines are hired out.

Outward supply (exclusive of GST) for the tax period are as follows

Particulars	Value (₹)
Hiring receipts for machine	5,25,000
Service charges for supply of manpower operators	2,35,000

Assume the rates of GST to be as under:

(i) Service of hiring of machine 12%

(ii) Supply of manpower operator service 18%

(Ignore CGST, SGST or IGST for the sake of simplicity)

Compute the amount of ITC available as also the net GST payable from the Electronic Cash Ledger for the tax period by giving necessary explanations for treatment of various items.

Note: Opening balance of ITC is Nil.

Answer

Computation of net GST payable by ABC Company Ltd

Particulars	GST payable (₹)
Gross GST liability [Refer working note (2) below]	91,200
Less: Input tax credit [Refer working note (1) below]	82,000
Net GST payable from Electronic Cash Ledger	**9,200**

Working Notes:

(1) Computation of ITC available with ABC Company Ltd

Particulars	GST (₹)
Health insurance of factory employees [Note – 1]	20,000

Raw material received in factory [Note – 2]	Nil
Work's contractor's service used for installation of plant and machinery [Note – 3]	12,000
Manufacturing machinery directly sent to job worker's premises under challan [Note – 4]	50,000
Purchase of car used by director for business meetings only [Note – 5]	Nil
Outdoor catering service availed for business meetings [Note – 6]	Nil
Total ITC available	**82,000**

Notes:

1. ITC of health insurance is available in the given case in terms of proviso to section 17(5)(b) since it is obligatory for employer to provide health insurance to its employees under the Factories Act, 1948.
2. Where the goods against an invoice are received in lots/instalments, ITC is allowed upon receipt of the last lot/instalment vide first proviso to section 16(2). Therefore, ABC Company Ltd. will be entitled to ITC of raw materials on receipt of second instalment in next month.
3. Section 17(5)(c) provides that ITC on works contract services is blocked when supplied for construction of immovable property (other than plant and machinery) except when the same is used for further supply of works contract service.

   Though in this case, the works contract service is not used for supply of works contract service, ITC thereon will be allowed since such services are being used for installation of plant and machinery.
4. ITC on capital goods directly sent to job worker's premises under challan is allowed in terms of section 19(5) read with rule 45(1).
5. Section 17(5)(a) provides that motor vehicle for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making taxable supply of-

   (i) further supply of such vehicles,

   (ii) transportation of passengers,

   (iii) imparting training on driving, flying, navigating such vehicles

   Since ABC Company Ltd is a supplier of machine and it does not use the car for transportation of passengers or any other use as specified, ITC thereon will not be available.
6. Section 17(5)(b)(i) provides that ITC on outdoor catering is blocked except where the same is used for making further supply of outdoor catering or as an element of a taxable composite or mixed supply.

   Since ABC Company Ltd is a supplier of machine, ITC thereon will not be available.

(2) Computation of gross GST liability

	Value received (₹)	Rate of GST	GST payable (₹)
Hiring receipts for machine	5,25,000	12%	63,000
Service charges for supply of manpower operators	2,35,000	12%	28,200
Gross GST liability			**91,200**

Note:

Since machine is always hired out along with operators and operators are supplied only when the machines are hired out, it is a case of composite supply, wherein the principal supply is the hiring out of machines [Section 2(30) read with section 2(90)]. Therefore, service of supply of manpower operators will also be taxed at the rate applicable for hiring out of machines (principal supply), which is 12%, in terms of section 8(a).

Question 48

Flowchem Palanpur (Gujarat) has entered into a contract with R Refinery, Abu Road (Rajasthan) on 1st July to supply 10 valves on FOR basis. The following information is provided in this regard:

(1) List price per valve is ₹ 1,00,000, exclusive of taxes.

(2) One of the conditions of the contract is that Flowchem should ensure a two stage third party inspection for the valves during the manufacturing process. Cost of inspection of ₹ 15,000 (for 10 valves) is directly paid by R Refinery to testing agency.

(3) R Refinery requires a special packing for valves. Cost of special packing is 10,000 (for 10 valves).

(4) Flowchem arranges for erection and testing of the valves supplied by it at R Refinery's site. Cost of erection etc. is ₹ 15,000 (for 10 valves).

(5) Goods are dispatched with tax invoice on 20th July and they reach the destination at Abu-Road on 21st July. Lorry freight of ₹ 5,000 has been paid by R Refinery directly to the lorry driver.

Assume CGST and SGST rates to be 9% each and IGST rate to be 18%. Opening balance of ITC of IGST is Nil, CGST is 20,000 and SGST is 20,000. All the given amounts are exclusive of GST, wherever applicable

Flowchem has also undertaken following local transactions during the month of July on which it has paid CGST and SGST as under

S.N.	Particulars	Amount paid CGST (₹)	Amount paid SGST (₹)
1.	Availed services of works contractor to erect foundation for fixing the machinery to earth, in the factory.	5,000	5,000
2.	Laid pipelines (from the water source outside the factory) upto the gate of the factory for the purpose of production facility.	10,000	10,000
3.	For the purpose of smooth and convenient mobile communication in its factory, it has installed telecommunication tower of a mobile company (with due permission)	5,000	5,000
4.	It has entered into an agreement with a travel company to provide home travel facility to its employees when they are on leave	2,500	2,500
5.	It has entered into an agreement with a fitness center to provide wellness services to its employees after office hours	2,000	2,000

Work out the net GST [CGST, SGST or IGST, as the case may be] payable from Electronic Cash Ledger of Flowchem, Palanpur (Gujarat) for the month of July after making suitable assumptions, if any.

Answer

Computation of net GST payable by Flowchem for the month of July

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Output tax liability [Working Note 1]			1,88,100
Less: ITC of CGST [Working Note 2]			(25,000)
Less: ITC of SGST has been utilized only after ITC of CGST has been utilized fully in terms of proviso to section 49(5)(c) [Working Note 2]			(25,000)
Net GST payable from Electronic Cash Ledger			**1,38,100**

Working Note 1

Computation of output tax liability of Flowchem for the month of July

Particulars	Amount (₹)
List price of 10 valves (₹ 1,00,000 x 10)	10,00,000
Add: Amount paid by R Refinery to testing agency [Note 1]	15,000
Add: Special packing [Note 2]	10,000
Add: Erection and testing at site [Note 2]	15,000
Add: Freight [Note 3]	5,000
Value of taxable supply	**10,45,000**
IGST @ 18% [Note 4]	**1,88,100**

Notes:

(1) As per section 15(2), any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply.

Since, in the given case, arranging inspection was the liability of the supplier, the same should be included in the value of supply charges for the same, however, have been paid directly to the third party service provider by the recipient. Therefore, the value shall be included in taxable value.

(2) As per section 15(2), any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods shall be included in the value of supply.

(3) As per section 15(2), any amount that the supplier is liable to pay in relation to a supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods shall be included in the value of supply.

Since, in the given case, the supply contract is on FOR basis, payment of freight is the liability of supplier but the same has been paid by the recipient and thus, should be included in value of supply.

(4) As per section 10(1) of the IGST Act, 2017, where the supply involves movement of goods, the place of supply is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient, which in the given case is Abu Road (Rajasthan). Since the location of the supplier (Gujarat) and the place of supply (Rajasthan) are in two different States, the supply is an inter-State supply liable to IGST.

Working Note 2

Computation of ITC available with Flowchem for the month of July

Particulars	CGST (₹)	SGST (₹)
Opening ITC	20,000	20,000
Wok contract services availed for erecting foundation for fixing the machinery to the earth in the factory [Note 1]	5,000	5,000
Laying of pipeline up to the gate of factory from water source located outside the factory [Note 2]	Nil	Nil
Installation of telecommunication towers [Note 2]	Nil	Nil
Services of travel company to provide home travel facility to employees Note 3]	Nil	Nil
Services of fitness center to provide wellness services to employees [Note 3]	Nil	Nil
Total ITC	**25,000**	**25,000**

Notes:

(1) As per section 17(5), ITC on works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service, is blocked. Further, plant and machinery includes foundation and structural supports used to fix the machinery to earth.

(2) As per section 17(5), ITC on goods and/or services received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such and/or services are used in course/furtherance of business, is blocked. However, plant and machinery excludes pipelines laid outside the factory premises and telecommunication towers.

(3) As per section 17(5), ITC on travel benefits extended to employees on home travel concession and membership of health and fitness center is blocked unless it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

Question 49

Quanto Enterprises is not required to register under CGST Act. However, it applied for voluntary registration on 17th September. Registration certificate has been granted to the firm on 25th September. The CGST and SGST liability of the firm for the month of September is ₹ 24,000 each. The firm is not engaged in making inter-State outward taxable supplies.

Particulars	Amount (₹)
Inputs procured on 2nd September lying in stock	
- CGST @ 6%	4,500
- SGST @ 6%	4,500
Input received on 21st July contained in semi-finished goods held in stock:	
- CGST @ 6%	7,500
- SGST @ 6%	7,500
Value of inputs contained in finished goods held in stock – 2,00,000 [Such inputs were procured on 19th September last year. Invoice for goods was also dated the same day]	
- IGST @ 18%	36,000
Inputs valued at 50,000 procured on 13th September lying in stock:	
- IGST @ 18%	9,000

Capital goods procured on 12th September	
- CGST @ 6%	12,000
- SGST @ 6%	12,000

You are required to compute the net GST payable from Electronic Cash Ledger by Quanto Enterprises for the month of September.

Answer

Computation of net GST payable from Electronic Cash Ledger by Quanto Enterprises for the month of September

Particulars	CGST (₹)	SGST (₹)
Output tax liability for the month	24,000	24,000
Less: ITC [Notes 1 & 2]	9,000 (IGST) 12,000 (CGST)	12,000 (SGST)
Net GST payable (from electronic cash ledger)	**3,000**	**12,000**

Notes:

1. Credit of IGST is first utilized towards payment of IGST and thereafter for CGST and SGST in any order and in any proportion. Credit of CGST and SGST can be utilized only after IGST credit has been fully utilized [Rule 88A read with sections 49(5), 49A and 49B].

   Since Quanto Enterprises does not make any inter-State supply, in the above answer, entire credit of IGST has been utilized towards payment of CGST. Credit of IGST can also be utilised against SGST liability or against both CGST and SGST liabilities in any proportion and thus, the final answer will change accordingly.

2. As per section 18(1)(b) a person who takes voluntary registration is entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished/finished goods held in stock on the day immediately preceding the date of grant of registration.

   However, he cannot take ITC in respect of capital goods held on the day immediately preceding the date of grant of registration.

   ITC on inputs needs to be availed within 1 year from the date of issue of the invoice by the supplier [Section 18(2)].

   In this case, since Quanto Enterprises has been granted voluntary registration on 25th September, it will be entitled to ITC on inputs held in stock and inputs contained in semi-finished/finished goods held in stock, on 24th September. In view of the said provisions, eligible ITC for Quanto Enterprises is computed as follows:

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Inputs held in stock since 2nd September	4,500	4,500	
Inputs received on 21st July contained in semi-finished goods held in stock	7,500	7,500	
Inputs contained in finished goods held in stock which were procured on 19th September last year [Procured prior to one year, hence ITC cannot be availed]			Nil

Inputs held 13th September in stock since 13th September			9,000
Capital goods procured on 12th September	Nil	Nil	
Total ITC	**12,000**	**12,000**	**9,000**

Question 50

'All-in-One Store' is a retail chain of departmental store having presence in almost all metro cities across India. Both exempted as well as taxable goods are sold in such Stores. The Stores operate in rented properties. All-in-One Stores pay GST under regular scheme.

In Mumbai, the Store operates in a rented complex, a part of which is used by the owner of the Store for personal residential purpose.

All-in-One Store, Mumbai furnishes following details for a month:

(i) Aggregate value of various items sold in the Store: Taxable items – 42,00,000 Items exempted vide a notification – 12,00,000 Items not leviable to GST – 3,00,000

(ii) Mumbai Store transfers to another All-in-One Store located in Goa certain taxable items for the purpose of distributing the same as free samples. The value declared in the invoice for such items is 5,00,000. Such items are sold in the Mumbai Store at 8,00,000.

(iii) Aggregate value of various items procured for being sold in the Store:

Taxable items – ₹ 55,00,000

Items exempted vide a notification – ₹ 15,00,000

Items not leviable to GST – ₹ 5,00,000

(iv) Freight paid to goods transport agency (GTA) for inward transportation of taxable items – 1,00,000

(v) Freight paid to GTA for inward transportation of exempted items – 80,000

(vi) Freight paid to GTA for inward transportation of non-taxable items – 20,000

(vii) Monthly rent payable for the complex – ₹ 5,50,000 (one third of total space available is used for personal residential purpose).

(viii) Activity of packing the items and putting the label of the Store along with the sale price has been outsourced. Amount paid for packing of all the items – ₹ 2,50,000

(ix) Salary paid to the regular staff at the Store – ₹ 2,00,000

(x) GST paid on inputs used for personal purpose – ₹ 5,000

(xi) GST paid on rent a cab services availed for transportation of employees, which is not obligatory under any law – ₹ 4,000

(xii) GST paid on items given as free samples – ₹ 4,000

Given the above available facts, you are required to compute the following:

A. Input tax credit (ITC) credited to the Electronic Credit Ledger

B. Common Credit

C. ITC attributable towards exempt supplies out of common credit

D. Eligible ITC out of common credit

E. Net GST payable from Electronic Cash Ledger for the month

Note:

(1) GTA has not opted to pay tax under forward charge. Wherever applicable, GST under reverse charge is payable @ 5% by All- in-One Stores. Rate of GST in all other cases is 18% (Ignore CGST, SGST or IGST for the sake of simplicity).

(2) All the purchases are made from registered suppliers.

(3) Wherever applicable, the amounts given are exclusive of taxes.

(4) Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Answer

A. Computation of ITC credited to Electronic Credit Ledger

As per rule 42, ITC in respect of inputs or input services being partly used for purposes of business and partly for other purposes, or partly used for effecting taxable supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies.

ITC credited to the electronic credit ledger of registered person ['C_1'] is calculated as under:

$C_1 = T - (T_1 + T_2 + T_3)$, where

T	=	Total input tax involved on inputs and input services in a tax period.
T_1	=	Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes
T_2	=	Input tax attributable to inputs and input services intended to be used exclusively for effecting exempt supplies
T_3	=	Input tax in respect of inputs and input services on which credit is blocked under section 17(5)

Computation of total input tax involved [T]

Particulars	(₹)
GST paid on taxable items [₹ 55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items – [₹ 1,00,000 x 5%]	5,000
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items – [₹ 80,000 x 5%]	4,000
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items – [₹ 20,000 x 5%]	1,000
GST paid on monthly rent – [₹ 5,50,000 x 18%]	99,000
GST paid on packing charges [₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store [Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the Schedule III and hence, no GST is payable thereon].	Nil

GST paid on inputs used for personal purpose	5,000
GST paid on rent a cab services availed for business purpose	4,000
GST paid on items given as free samples	4,000
Total input tax involved during the month [T]	**11,57,000**

Computation of T_1, T_2, T_3

Particulars	(₹)
GST paid on monthly rent attributable to personal purposes [1/3 of ₹ 99,000]	33,000
GST paid on inputs used for personal purpose	5,000
Input tax exclusively attributable to non-business purposes [T_1]	**38,000**
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items [As per section 2(47), exempt supply means, inter alia, supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies.]	4,000
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items [Exempt supply includes non-taxable supply in terms of section 2(47). Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies.]	1,000
Input tax exclusively attributable to exempt supplies [T_2]	**5,000**
GST paid on rent a cab services availed for business purpose [ITC on rent a cab service is blocked under section 17(5)(b)(i) as the same is not used by All-in-One Store for providing the rent a cab service or as part of a taxable composite or mixed supply.	4,000
GST paid on items given as free samples [ITC on goods inter alia, disposed of by way of free samples is blocked under section 17(5)(h)].	4,000
Input tax for which credit is blocked under section 17(5) [T_3] *	**8,000**

*Since GST paid on inputs used for personal purposes has been considered while computing T_1, the same has not been considered again in computing T_3

ITC credited to the electronic credit ledger

$C_1 = T - (T_1 + T_2 + T_3)$

= ₹ 11,57,000 – (₹ 38,000 + ₹ 5,000 + ₹ 8,000) = ₹ 11,06,000

B. Computation of Common Credit

$C_2 = C_1 - T_4$, where

C_2 = Common Credit

T_4 = Input tax credit attributable to inputs and input services intended to be used exclusively for effecting taxable supplies

Computation of T_4

Particulars	(₹)
GST paid on taxable items	9,90,000
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items	5,000
Input tax exclusively attributable to taxable supplies [T_4]	**9,95,000**

Common Credit

$C_2 = C_1 - T_4$

= ₹ 11,06,000 – ₹ 9,95,000

= ₹ 1,11,000

C. Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies is denoted as 'D_1' and calculated as-

$D_1 = (E \div F) \times C_2$, where

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period

Aggregate value of exempt supplies during the month

= ₹ 15,00,000 (₹ 12,00,000 + ₹3,00,000)

Total turnover in the State during the tax period

= ₹ 65,00,000 (₹ 42,00,000 + ₹ 12,00,000 + ₹ 3,00,000 + ₹ 8,00,000)

Note: Transfer of items to Store located in Goa is inter-State supply in terms of section 7 of the IGST Act, 2017 and hence includible in the total turnover. Such supply is to be valued as per rule 28. However, the value declared in the invoice cannot be adopted as the value since the recipient Store at Goa is not entitled for full credit because the goods are to be distributed as free samples, ITC on which is blocked. Therefore, open market value of such goods, which is the value of such goods sold in Mumbai Store, is taken as the value of items transferred to Goa Store.

$D_1 = (15,00,000 \div 65,00,000) \times 1,11,000$

= ₹ 25,615 (rounded off)

D. Computation of Eligible ITC out of common credit

Eligible ITC attributed for effecting taxable supplies is denoted as 'C_3', where

$C_3 = C_2 - D_1$

= ₹ 1,11,000 - ₹ 25,615

= ₹ 85,385

E. Computation of Net GST liability for the month

Particulars	GST (₹)
GST liability under forward charge	
Taxable items sold in the store [₹ 42,00,000 x 18%]	7,56,000
Taxable items transferred to Goa Store [₹ 8,00,000 x 18%]	1,44,000
Total output tax liability under forward charge	9,00,000

Less: ITC credited to the electronic ledger	**10,80,385**
ITC carried forward to the next month	(1,80,385)
Net GST payable [A]	Nil
GST liability under reverse charge	
Freight paid to GTA for inward transportation of taxable items [₹ 1,00,000 x 5%]	5,000
Freight paid to GTA for inward transportation of exempted items [₹ 80,000 x 5%]	4,000
Freight paid to GTA for inward transportation of non-taxable items [₹ 20,000 x 5%]	1,000
Total tax liability under reverse charge [B]	10,000
Net GST liability to be paid in cash [A] + [B] As per section 49(4), amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, tax payable under reverse charge cannot be set off against ITC and thus, will have to be paid in cash.	**10,000**

Note:

While computing net GST liability, ITC credited to the electronic ledger can alternatively be computed as follows

Particulars	(₹)
GST paid on taxable items [₹ 55,00,000 x 18%]	9,90,000
Items exempted vide a notification [Since exempted, no GST is paid]	Nil
Items not leviable to tax [Since non-taxable, no GST is paid]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of taxable items [₹ 1,00,000 x 5%]	5,000
GST paid under reverse charge on freight paid to GTA for inward transportation of exempted items [₹ 80,000 x 5%] [As per section 2(47), exempt supply means, supply which may be wholly exempt from tax by way of a notification issued under section 11. Hence, input service of inward transportation of exempt items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	Nil
GST paid under reverse charge on freight paid to GTA for inward transportation of non-taxable items [₹ 20,000 x 5%] [Exempt supply includes non-taxable supply in terms of section 2(47). Hence, input service of inward transportation of non-taxable items is exclusively used for effecting exempt supplies. Input tax exclusively attributable to exempt supplies is to be excluded]	Nil
GST paid on monthly rent – for business purposes [(₹ 5,50,000 x 18%) – 1/3 of [(₹ 5,50,000 x 18%)]	66,000
GST paid on packing charges [₹ 2,50,000 x 18%]	45,000
Salary paid to staff at the Store [Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of the Schedule III to CGST Act and hence, no GST is payable thereon]	Nil

GST paid on inputs used for personal purpose [ITC on goods or services or both used for personal consumption is blocked under section 17(5)(g)]	Nil
GST paid on rent a cab services availed for business purpose [ITC on rent a cab services is blocked under section 17(5)(b)(i) as the same is not used by All-in-One Store for providing the rent a cab service of as part of taxable composite or mixed supply.]	Nil
GST paid on items given as free samples [ITC on goods inter alia, disposed of by way of free samples is blocked under section 17(5)(h)]	Nil
Total ITC credited to the electronic ledger	**11,06,000**
Less: ITC reversal [ITC of common credit, attributable to exempt supplies]	**(25,615)**
Net ITC available for credit	**10,80,385**

Question 51

Vansh Shoppe is a registered supplier of both taxable and exempted goods, registered under GST in the State of Rajasthan. Vansh Shoppe has furnished the following details for a month:

		(₹)
(1)	Details of sales	
	Supply of taxable goods	50,00,000
	Supply of goods not leviable to GST	10,00,000
(2)	Details of goods purchased for being sold in the shop:	
	Taxable goods	45,00,000
	Goods not leviable to GST	4,00,000
	Details of expenses:	
(3)	Monthly rent payable for the shop	3,50,000
	Telephone expenses paid (₹ 30,000 for land line phone installed at the shop and ₹ 20,000 towards mobile phone bills of employees – Mobile phones are given to employees for official use)	50,000
	Audit fees paid to a Chartered Accountant (₹ 35,000 for filing of income tax return & the statutory audit of preceding financial year and ₹ 25,000 for filing of GST return)	60,000
	Premium paid on health insurance policies taken for specified employees of the shop as per company policy.	10,000
	Freight paid to goods transport agency (GTA) for inward transportation of goods not leviable to GST	50,000
	Freight paid to goods transport agency (GTA) for inward transportation of taxable goods	1,50,000
	Goods given as free samples (Not included in Taxable goods value of 45,00,000)	5,000

All the above amounts are exclusive of all kind of taxes, wherever applicable.

All the purchases and sales made by Vansh Shoppe are within Rajasthan. All the purchases are made from

registered suppliers. All the other expenses incurred are also within Rajasthan.

Assume, wherever applicable, for purpose of reverse charge payable by Vansh Shoppe, the CGST, SGST and IGST rates as 2.5%, 2.5% and 5% respectively. CGST, SGST and IGST rates to be 6%, 6% and 12% respectively in all other cases. GTA has not opted to pay tax under forward charge.

There is no opening balance in electronic cash ledger or electronic credit ledger. Subject to information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

You are required to compute the following:

(1) Input Tax Credit (ITC) credited to Electronic Credit Ledger

(2) Common credit available for apportionment

(3) ITC attributable towards exempt supplies out of common credit

(4) Net GST payable from Electronic Cash Ledger for the month

Answer

(1) Computation of ITC credited to Electronic Credit Ledger

ITC of input tax attributable to inputs and input services intended to be used for business purposes is credited to the electronic credit ledger. Input tax attributable to inputs and input services intended to be used exclusively for non-business purposes, for effecting exclusively exempt supplies and on which credit is blocked under section 17(5) is not credited to electronic credit ledger [Sections 16 and 17].

In the light of the aforementioned provisions, the ITC credited to electronic credit ledger of Vansh Shoppe is calculated as under

Particulars	Amount (₹)	CGST @ 6% (₹)	SGST @ 6% (₹)
GST paid on taxable goods	45,00,000	2,70,000	2,70,000
Goods not leviable to GST [Since non-taxable, no GST is paid]	4,00,000	Nil	Nil
GST paid on monthly rent for shop	3,50,000	21,000	21,000
GST paid on telephone expenses	50,000	3,000	3,000
GST paid on audit fees	60,000	3,600	3,600
GST paid on premium of health insurance policies as per company policy [ITC on health insurance service is allowed only if it is obligatory for employers to provide such services to its employees under any law for the time being in force-Proviso to section 17(5)(b)].	10,000	Nil	Nil
Goods given as free samples [ITC on goods disposed of by way of free samples is blocked under section 17(5)(h)]	5,000	Nil	Nil
Particulars	**Amount (₹)**	**CGST @ 2.5% (₹)**	**SGST @ 2.5% (₹)**
Freight paid to GTA for inward transportation of	50,000	Nil	Nil

non-taxable goods under reverse charge [Since definition of exempt supply under section 2(47) specifically includes non- taxable supply, the input service of inward transportation of non-taxable goods is being exclusively used for effecting exempt supplies.]			
Freight paid to GTA for inward transportation of taxable goods under reverse charge	1,50,000	3,750	3,750
ITC credited to the electronic ledger		**3,01,350**	**3,01,350**
Less: ITC reversal [ITC out of common credit, attributable to exempt supplies] (Refer point no. 2 & 3 below)		(4,600)	(4,600)
Net ITC available		**2,96,750**	**2,96,750**

(2) Computation of common credit available for apportionment

Common Credit = ITC credited to Electronic Credit Ledger – ITC attributable to inputs and input services intended to be used exclusively for effecting taxable supplies [Section 17 read with rule 42]

Particulars	CGST (₹)	SGST (₹)
ITC credited to Electronic Credit Ledger	3,01,350	3,01,350
Less: ITC on taxable goods	2,70,000	2,70,000
Less: ITC on freight paid to GTA for inward transportation of taxable goods	3,750	3,750
Common credit	**27,600**	**27,600**

(3) Computation of ITC attributable towards exempt supplies out of common credit

ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/Total turnover during the tax period) [Section 17 read with rule 42

Particulars	CGST (₹)	SGST (₹)
ITC attributable towards exempt supplies [₹ 27,600 x (₹ 10,00,000/₹ 60,00,000)]	**4,600**	**4,600**

(4) Computation of net GST liability for the month

Particulars	CGST (₹)	SGST (₹)
GST liability under forward charge		
Supply of taxable goods [₹ 50,00,000 x 6%]	3,00,000	3,00,000
Total output tax liability under forward charge	3,00,000	3,00,000
Less: ITC credited to the electronic credit ledger	2,96,750	2,96,750
Net GST payable **[A]**	**3,250**	**3,250**
GST liability under reverse charge		
Freight paid to GTA for inward transportation of taxable goods [₹ 1,50,000 x 2.5%]	3,750	3,750

Freight paid to GTA for inward transportation of non-taxable goods [₹ 50,000 x 2.5%]	1,250	1,250
Total tax liability under reverse charge **[B]**	**5,000**	**5,000**
Net GST liability [A] + [B]	**8,250**	**8,250**
Note: Amount available in the electronic credit ledger may be used for making payment towards output tax [Section 49]. However, tax payable under reverse charge is not an output tax in terms of definition of output tax provided under section 2(82). Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.		

Question 52

Supermarket is a proprietary firm and a GST registered supplier in Ahmedabad, Gujarat. The details of supplies, purchases and expenses for the month of December 20XX of Supermarket are as given below:

Particulars	**Amount (₹)**
Details of outward supplies:	
(i) Intra-State	45,00,000
(ii) Inter-State	15,00,000
(iii) Exempt supplies under GST	6,00,000
Details of inward supplies:	
(i) Intra-State	40,00,000
(ii) Inter-State	10,00,000
(iii) Exempt supplies under GST	5,00,000
Details of expenses:	
(i) Freight paid to GTA for intra-State transportation of goods [20% of the freight paid was towards transportation of goods not liable to GST.]	60,000
(ii) Telephone expenses [Out of the above, ₹ 18,000 was spent on landline installed in the sales outlet and ₹ 12,000 was spent on phones provided to employees in relation to work of the firm.]	30,000
(iii) Premium paid on insurance taken on car used by proprietor of the firm in relation to the work of the firm (intra-State)	8,500
(iv) Outdoor catering service expenses incurred during Diwali celebrations in the sales outlet	40,000
(v) Monthly rent for the premises of sales outlet	60,000

It is further given that -

All the amounts given are exclusive of all taxes, wherever applicable.

All the inward and outward supplies are made by Supermarket from/to registered place of business in Gujarat. Inward supplies of ₹ 50 lakh were used only for making taxable supplies and exempt inward supplies of ₹ 5 lakh were used only for making exempt outward supplies.

GTA has not opted to pay tax under forward charge. Wherever applicable for the purposes of reverse charge payable by Supermarket, CGST, SGST and IGST rates are 2.5%, 2.5% and 5% respectively. In all other cases, CGST, SGST and IGST rates are 9%, 9% and 18% respectively.

There is no opening balance in the electronic cash ledger or in electronic credit ledger.

Subject to information as given above, all other conditions necessary for availing ITC have been fulfilled.

You are required to compute the following -

(1) Input Tax Credit (ITC) credited to Electronic Credit ledger;

(2) Common ITC available for apportionment;

(3) ITC attributable to exempt supplies out of common ITC;

(4) You are required to examine the applicability of rule 86B of the CGST Rules relating to utilisation of ITC and if applicable, calculate the amount of ITC available for utilisation towards payment of GST. However, there is no need to explain exceptions to rule 86B.

Make suitable assumptions, wherever required and working notes as may be needed. Brief notes are required only to support the calculation and the numerical outputs required in the case of common ITC available for apportionment and applicability of rule 86B of the CGST Rules. Ensure that every transaction in the question is covered in the answer for the purpose of calculation of numerical outputs.

Answer

(1) Computation of ITC credited to Electronic Credit Ledger

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST paid on intra-State inward supplies taxable @ 9%	40,00,000	3,60,000	3,60,000	
GST paid on inter-State inward supplies taxable @ 18%	10,00,000			1,80,000
Inward supplies exempt from GST [Since exempt, no GST is paid.]	5,00,000	--	--	--
Freight paid to GTA for intra-State of taxable goods (Note 1) @ 2.5% [Since rate of GST on GTA services is 2.5%, tax is payable under reverse charge.]	48,000 [60,000 x 80%]	1,200	1,200	--
GST on freight paid to GTA for intra-State of exempt goods (Note 2) @ 2.5% under reverse charge [ITC on input services used exclusively in relation to exempt supplies is not available.]	12,000 [60,000 x 20%]	--	--	
GST on telephone expenses (Note 3) @ 9% [ITC of services used in the course or furtherance of business is available.]	30,000	2,700	2,700	
Premium paid on insurance taken on car used for firm's work [ITC is blocked u/s 17(5) on general insurance services relating to those	8,500	--	--	

motor vehicles which are ineligible for ITC.]				
Outdoor catering services [ITC on outdoor catering is blocked u/s 17(5) if the same is not used for making an outward supply of outdoor catering or as an element of a taxable composite/mixed supply.]	40,000	--	--	
GST on monthly rent for premises of sales outlet @ 9% (Note 4) [ITC of services used in the course or furtherance of business is available.]	60,000	5,400	5,400	
ITC credited to the electronic ledger		**3,69,300**	**3,69,300**	**1,80,000**

(2) Computation of common ITC available for apportionment

Particulars	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
ITC credited to Electronic Credit Ledger	3,69,300	3,69,300	1,80,000
Less: ITC on taxable goods	3,60,000	3,60,000	1,80,000
Less: ITC on freight paid to GTA for transportation of taxable goods	1,200	1,200	
Common credit for apportionment	**8,100**	**8,100**	--

(3) Computation of ITC attributable towards exempt supplies

Particulars	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
ITC attributable towards exempt supplies = Common credit x (Aggregate value of exempt supplies during the tax period/ Total turnover during the tax period			
[₹ 8,100 x (₹ 6,00,000/₹ 66,00,000)] (Note 5)	**736**	**736**	

(4) Computation of ITC available for utilization towards payment of tax in terms of rule 86B

Particulars	**CGST (₹)**	**SGST (₹)**	**IGST (₹)**
Maximum amount of output tax liability that can be discharged from ECrL [99% of Output tax liability]	4,00,950 [45,00,000 x 9% x 99%]	4,00,950 [45,00,000 x 9% x 99%]	2,67,300 [15,00,000 x 18% x 99%]
[Since the value of taxable supply other than exempt supply in December 20XX (₹ 45 lakh + ₹ 15 lakh) exceeds ₹ 50 lakh, amount from electronic credit ledger which it can use to discharge its output tax liability of said month cannot exceed 99% of such tax liability in terms of rule 86B of the CGST Rules, 2017.]			
Amount of ITC available for utilization towards payment of tax	**3,68,564** [3,69,300 –	**3,68,564** [3,69,300 –	**1,80,000**

[Since the ITC available in ECrL after reversal thereof is lower than the aforesaid amount, entire ITC can be utilised towards payment of GST.]	736]	736]	

Notes

1. It has been most logically presumed that remaining 80% of the freight has been paid exclusively on transportation of taxable outward supply of goods and GTA providing said services is registered in the State of Gujarat.
2. It has been most logically presumed that freight has been paid on transportation of outward supply of exempt goods. In case it is assumed that freight has been paid on transportation of inward supply of exempt goods, amount of ITC available with regard to the same will change accordingly.
3. Telephone expenses have been considered to be in the nature of input services. Further, it has been assumed that the supplier is registered in the State of Gujarat.
4. It has been assumed that supplier of services of renting of premises is registered in State of Gujarat.
5. Telephone expenses have been considered to be in the nature of input services.

Question 53

Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures three taxable products 'M', 'N' and 'O'. Tax on 'N' is payable under reverse charge. The firm also provides taxable consultancy services.

The firm has provided the following details for a tax period:

Particulars	(₹)
Turnover of 'M' (excluding export sales)	14,00,000
Turnover of 'N'	6,00,000
Turnover of 'O' (excluding export sales)	10,00,000
Export of 'M' with payment of IGST (not eligible to avail benefit of merchant exports under Notification No. 41/2017)	2,50,000
Export of 'O' under letter of undertaking	10,00,000
Consultancy services provided to unrelated clients located in foreign countries under LUT. In all cases, the consideration has been received in convertible foreign exchange	20,00,000
Sale of building (excluding stamp duty of ₹ 2.50 lakh, being 2% of value) [Entire consideration is received post issuance of completion certificate; building was occupied thereafter]	1,20,00,000
Interest received on investment in fixed deposits with a bank	4,00,000
Sale of shares (Purchase price ₹ 2,40,00,000)	2,50,00,000
Legal services received from an advocate in relation to product 'M'	3,50,000
Common inputs and input services used for supply of goods and services mentioned above [Inputs - ₹ 35,00,000; Input services - ₹ 15,00,000]	50,00,000

With the help of above-mentioned information, compute the net GST liability of Surana & Sons, payable from Electronic Credit Ledger and/or Electronic Cash Ledger, as the case may be, for the tax period.

Note: Assume that rate of GST on goods and services are 12% and 18% respectively (Ignore CGST, SGST or IGST for the sake of simplicity). Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled. Turnover of Surana & Sons was ₹ 85,00,000 in the previous financial year

Answer

Computation of net GST liability of Surana & Sons for the tax period

Particulars	(₹)
GST payable on outward supply [Refer Working Note 1]	3,18,000
Less: Input tax credit (ITC) [Refer Working Note 3]	2,78,180
GST payable from Electronic Cash Ledger **[A]**	39,820
Add: GST payable on legal services under reverse charge [₹ 3,50,000 X 18%] **[B]** [Tax on legal services provided by an advocate to a business entity, is payable under reverse charge by the business entity in terms of Notification No. 13/2017 CT (R) dated 28.06.2017. Further, such services are not eligible for exemption provided under Notification No. 12/2017 CT (R) dated 28.06.2017 as the turnover of the business entity (Surana & Sons) in the preceding financial year exceeds ₹ 20 lakh.]	63,000
Total GST paid from Electronic Cash Ledger [A] + [B] [As per section 49(4) amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, input tax credit cannot be used to pay tax payable under reverse charge and thus, tax payable under reverse charge will have to be paid in cash.]	**1,02,820**

Working Note 1

Computation of GST payable on outward supply

Particulars	Value (₹)	GST (₹)
Turnover of 'M' [liable to GST @ 12%]	14,00,000	1,68,000
Turnover of 'N' [Tax on 'N' is payable under reverse charge by the recipient of such goods]	6,00,000	Nil
Turnover of 'O' [liable to GST @ 12%]	10,00,000	1,20,000
Export of 'M' with payment of IGST @ 12%	2,50,000	30,000
Export of 'O' under letter of undertaking (LUT) [Export of goods 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.]	10,00,000	Nil
Consultancy services provided to independent clients located in foreign countries. [The activity is an export of service in terms of section 2(6) of the IGST Act, 2017 as the supplier of service is located in India; the recipient of service is located outside India; place of supply of service is outside India; payment for the service has been received in convertible foreign exchange or in Indian rupees wherever permitted by the	20,00,000	Nil

Reserve Bank of India; and supplier of service and recipient of service are not merely establishments of distinct person.] [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.]		
Sale of building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not liable to GST]	1,20,00,000	Nil
Interest received on investment in fixed deposits with a bank [Exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	4,00,000	Nil
Sale of shares [Shares are neither goods nor services in terms of section 2(52) and 2(102). Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to any tax.]	2,50,00,000	Nil
Total GST payable on outward supply		**3,18,000**

Working Note 2

Computation of common credit attributable to exempt supplies during the tax period

Particulars	(₹)
Common credit on inputs and input services [Tax on inputs - ₹ 4,20,000 (₹ 35,00,000 x 12%) + Tax on input services – ₹ 2,70,000 (₹ 15,00,000 x 18%)]	6,90,000
Common credit attributable to exempt supplies (rounded off) = Common credit on inputs and input services x (Exempt turnover during the period /Total turnover during the period) = ₹ 6,90,000 x ₹ 1,33,50,000/₹ 1,94,00,000 Exempt turnover = 1,33,50,000 and total turnover = 1,94,00,000 [Refer note below]	4,74,820

Note:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land, subject to clause (b) of paragraph 5 of Schedule II, sale of building and activities specified in clause (a) of paragraph 8 of Schedule III. As per explanation to Chapter V of the CGST Rules, the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation to rule 42, the aggregate value of exempt supplies inter alia excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, value of exempt supply in given case will be the sum of value of output supply on which tax is

payable under reverse charge (₹ 6,00,000), value of sale of building (₹ 2,50,000/2 x 100 = ₹ 1,25,00,000) and value of sale of shares (1% of ₹ 2,50,00,000 = ₹ 2,50,000), which comes out to be ₹ 1,33,50,000.

Total turnover = ₹ 1,94,00,000 (₹ 14,00,000 + ₹ 6,00,000 + ₹ 10,00,000 + ₹ 2,50,000 + ₹ 10,00,000 + ₹ 20,00,000 + ₹ 1,25,00,000 + ₹ 4,00,000 + ₹ 2,50,000)

Working Note 3

Computation of ITC available in the Electronic Credit Ledger of the Surana & Sons for the tax period

Particulars	(₹)
Common credit on inputs and input services	6,90,000
Legal services used in the manufacture of taxable product 'M'	63,000
ITC available in the Electronic Credit Ledger	**7,53,000**
Less: Common credit attributable to exempt supplies during the tax period [Refer Working Note 2]	4,74,820
Net ITC available	**2,78,180**

Question 54

Adityanath Private Limited is registered under GST in the State of Uttar Pradesh. It is engaged in supplying three products – Product Alpha, Product Beta and Product Gamma, from its factory located in Rampur, Uttar Pradesh. Product Alpha and Product Beta are taxable whereas Product Gamma is exempt from GST. Besides, it also supplies cigarettes from its factory located in Kanpur and owns a petrol pump in Lucknow. It is also engaged in supply of certain services.

It has furnished the following information with regard to the supplies made by it in the month of August:

Particulars	₹ (excl. GST)
Supply of Product Alpha	50,00,000
Supply of Product Gamma	1,00,00,000
Supply of management consultancy services	50,00,000
Renting of commercial complex to local traders of electronic goods	50,00,000
Export of Product Beta	1,00,00,000
Export of consultancy services [including exports made to a Nepal based company of ₹ 5 lakh (payment is received in Indian currency in said case)]	20,00,000
Sale of building (excluding stamp duty of ₹ 2.50 lakh being 2% of value adopted for paying stamp duty) [Entire consideration is received post issuance of completion certificate; building was occupied thereafter]	2,50,00,000
Interest received on investment in fixed deposits with Manimani bank	10,50,000
Sale of shares of a public company (Purchase price of such shares is ₹ 2,40,00,000)	2,50,00,000
Supply of cigarettes [GST being levied @ 28%.] (including excise duty of 12,50,000)	1,00,00,000
Supply of petrol and diesel (including VAT of ₹ 5,00,000 and excise duty of ₹ 12,50,000)	80,00,000

Amount received from Durga Das Private Limited of Lucknow, Uttar Pradesh. It has sponsored the business exhibition organized in Delhi by Adityanath Private Limited.	6,00,000

Adityanath Private Limited furnishes the following additional information with regard to payments made by it in the month of August:

Particulars	₹ (excl. GST)
Consideration paid for repair of machinery used for manufacturing Product Alpha by George Inc. of USA [Said machinery was sent to George Inc. in August for carrying out repair work on the same.]	5,20,000
Life insurance premium paid by the company for the life insurance of employees as per the policy of the company. There is no legal obligation for such insurance for employees.	48,50,000
Audit fees paid	6,50,000
Raw material purchased [including raw material of ₹ 1,50,000 imported from China. Basic customs duty of ₹ 15,000, social welfare surcharge of ₹ 1,500 and integrated tax of ₹ 29,970 are separately paid on the imported raw material]	10,00,000
Transportation charges paid for transporting the goods [₹ 4,00,000 is paid to Goods Transport Agency (GTA) registered in Uttar Pradesh and ₹ 1,00,000 is paid for transport of goods by horse pulled carts. GTA has not opted to pay tax under forward charge. GST applicable on the services of GTA is 5%.]	5,00,000
Telephone expenses paid [Such expenses pertain to bills for landline phone installed at the factory and mobile phones given to employees for official use.]	4,25,000
Bank charges paid towards company's current account maintained with Manimani Bank	2,00,000
Legal services received from an advocate during the period only in relation to Product Beta	3,50,000

With the help of the above-mentioned information, compute the gross GST liability of Adityanath Private Limited for the month of August on the outward supplies made by it during said period. Also compute the net GST payable from Electronic Cash Ledger.

Note: Assume that rates of GST on all inward/outward supply of goods and services are 12% and 18% respectively unless otherwise specified (Ignore CGST, SGST or IGST, for the sake of simplicity). Exports made by Adityanath Private Limited, if any, have been made to persons other than distinct/related persons and are made by furnishing LUT without payment of IGST. Subject to the information given above, assume that all other conditions necessary for availing ITC have been fulfilled. Turnover of Adityanath Private Limited was ₹ 40 crores in the preceding financial year. The inputs and input services received during August are commonly used for making all the outward supplies unless otherwise specified. The opening balance of Electronic Credit Ledger for the relevant tax period is Nil.

Answer

Computation of gross GST liability on outward supply of Adityanath Private Limited for the month of August

Particulars	Value (₹)	GST (₹)
Supply of Product Alpha [Liable to GST @ 12%]	50,00,000	6,00,000
Supply of Product Gamma [Exempt from GST]	1,00,00,000	Nil
Supply of management consultancy services [Liable to GST @18%]	50,00,000	9,00,000
Renting of commercial complex to local traders of electronic goods [Services by way of renting of residential dwelling for use as residence to an unregistered person are exempt from GST. Thus, renting of commercial complex is taxable and GST is payable on the same @ 18%.]	50,00,000	9,00,000
Export of Product Beta [Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero-rated supply can be made without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	1,00,00,000	Nil
Export of consultancy services [As per section 2(6) of the IGST Act, 2017, an activity is treated as export of service if, inter alia, payment for the service is received in convertible foreign exchange or in Indian rupees wherever permitted by the RBI. Since in case of exports to Nepal, RBI regulations allow receipt of payment in Indian rupees, exports of service to Nepal are treated as 'normal export'. 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 made without payment of tax under a LUT in terms of section 16(3)(a) of that Act.]	20,00,000	Nil
Sale of building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, 2017, provided the entire consideration has been received after issue of completion certificate by the competent authority or after its occupation, whichever is earlier. Hence, the same is not liable to GST.]	2,50,00,000	Nil
Interest received on investment in fixed deposits with Manimani Bank [Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest are exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	10,50,000	Nil
Sale of shares [Shares are neither goods nor services in terms of section 2(52) and 2(102) of the CGST Act, 2017. Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to GST.]	2,50,00,000	Nil
Supply of cigarettes [Liable to GST @ 28%] [Excise duty is included in value since as per section 15(2)(a) of the CGST Act, 2017, value of supply includes all taxes, duties, cesses other than GST.]	1,00,00,000	28,00,000
Supply of petrol and diesel [Supply of petrol and diesel is not leviable to GST as per section 9 of the CGST Act, 2017.]	80,00,000	Nil
Amount received from Durga Das Private Limited for sponsorship of the business exhibition	6,00,000	Nil

[Tax on services provided by any person by way of sponsorship to any body corporate located in taxable territory is payable by the recipient (Durga Das Private Limited) under reverse charge. Thus, tax on such services is not payable by Adityanath Private Limited.]		
Total GST liability on outward supply		**52,00,000**

Computation of net GST payable by Adityanath Private Limited for the month of August

Particulars	(₹)
Gross GST liability on outward supply [as computed in Answer 9 above]	52,00,000
Less: Input tax credit (ITC) [Refer Working Note 2] [Since the value of taxable supply other than exempt supply and zero-rated supply of Adityanath Private Limited in August exceeds ₹ 50 lakh, amount available in electronic credit ledger which it can use to discharge its output tax liability of said month cannot exceed 99% of such tax liability in terms of rule 86B of the CGST Rules, 2017.]	2,74,417
GST payable from Electronic Cash Ledger **[A]**	49,25,583
Add: GST payable on inward supplies under reverse charge	
Legal services [₹ 3,50,000 × 18%] [Tax on legal services provided by advocate to business entity, is payable under reverse charge by business entity in terms of Notification No. 13/2017 CT (R) dated 28.06.2017]	63,000
Services received from GTA [₹ 4,00,000 × 5%] [Tax on services provided by a GTA (who has not opted to pay tax under forward charge) to a body corporate, is payable under reverse charge by the body corporate]	20,000
Tax payable under reverse charge **[B]**	83,000
Total GST paid from Electronic Cash Ledger [A] + [B] [As per section 49(4) amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, input tax credit cannot be used to pay tax payable under reverse charge and thus, tax payable under reverse charge will have to be paid in cash.]	**50,08,583**

Working Note - 1

Computation of common credit attributable to exempt supplies during August

Particulars	Amount (₹)	ITC (₹)
Repair of machinery by George Inc. of USA [In case where either supplier or recipient is located outside India, the place of supply of services supplied in respect of goods required to be made physically available by recipient to supplier is the location where the services are actually performed in terms of section 13(3)(a) of the IGST Act, 2017. Hence, place of supply of repair services received in the given case is outside India. Since the location of supplier and place of supply are outside India, said repair services are not liable to GST.]	5,20,000	Nil
Life insurance premium paid by company for life insurance of employees	48,50,000	Nil

[ITC on life insurance service is available only when it is obligatory for an employer to provide said services to its employees under any law for time being in force. Since it is not obligatory for employer in instant case and thus, ITC thereon is blocked in terms of second proviso to section 17(5)(b).]		
Audit fees [6,50,000 × 18%] [Credit of tax paid on input services used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017]	6,50,000	1,17,000
Raw material [₹ (10,00,000 – 1,50,000) × 12% + ₹ 29,970] [Credit of tax paid on inputs used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017. Further, IGST charged on raw material imported from China is also available because input tax, inter alia, includes IGST charged on import of goods (Section 2(62) of the CGST Act).]	10,00,000	1,31,970
Transportation charges for transporting the goods [₹ 4,00,000 × 5%] [Services by way of transportation of goods by road are exempt from GST except the services of a GTA. Hence, GST is not payable on transportation charges paid for horse pulled carts.]	4,00,000	20,000
Telephone expenses [₹ 4,25,000 × 18%] [Credit of tax paid on input services used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017.]	4,25,000	76,500
Bank charges paid towards company's current account maintained with bank [₹ 2,00,000 × 18%] [Credit of tax paid on input services used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017.]	2,00,000	36,000
Common credit on inputs and input services		3,81,470
Common credit attributable to exempt supplies (rounded off) = Common credit on inputs and input services x (Exempt turnover during the period/Total turnover in State during the period) = ₹ 3,81,470 x ₹ 29,60,00,000/₹ 66,40,00,000 Exempt turnover = ₹ 29,60,00,000 and total turnover in State = 66,40,00,000 [Refer note below]		**1,70,053**
Legal services received from advocate [₹ 3,50,000 × 18%] [Legal services are not eligible for exemption as the turnover of the business entity (Adityanath Private Limited) in the preceding financial year exceeds ₹ 20 lakh. Further, credit of tax paid on input services used in the course or furtherance of business is available in terms of section 16(1) of the CGST Act, 2017. Full credit is available as these services are exclusively used for effecting taxable supply.]	3,50,000	63,000

Note:

As per section 17(3) of the CGST Act, 2017, value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land, subject to clause (b) of paragraph 5 of Schedule II, sale of building and activities specified in clause (a) of paragraph 8 of Schedule III. As per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, the value of

exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation to rule 42 of the CGST Rules, 2017, the aggregate value of exempt supplies, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances. Aggregate value of exempt supplies and total turnover excludes the central excise duty, State excise duty, central sales tax and VAT.

Therefore, **value of exempt supply** in the given case will be the sum of value of output supply on which tax is payable under reverse charge (₹ 6,00,000), value of sale of building (₹ 2,50,000/2 x 100 = ₹ 1,25,00,000), value of sale of shares (1% of ₹ 2,50,00,000 = ₹ 2,50,000), supply of Product Gamma (₹1,00,00,000) and supply of petrol and diesel (₹ 80,00,000 – ₹ 5,00,000 – ₹ 12,50,000 = ₹ 62,50,000), which comes out to be **₹ 2,96,00,000**.

Total turnover in State = ₹ 6,64,00,000 [₹ 50,00,000 + ₹ 1,00,00,000 + ₹ 50,00,000+ ₹ 50,00,000 + ₹ 1,00,00,000 + ₹ 20,00,000 + (₹ 2,50,000/2 x 100 = ₹ 1,25,00,000) + ₹ 10,50,000 + (1% of ₹ 2,50,00,000 = ₹ 2,50,000) + (₹ 1,00,00,000 – 12,50,000 = ₹ 87,50,000) + (₹ 80,00,000 – ₹ 5,00,000 -₹ 12,50,000= ₹ 62,50,000) + ₹ 6,00,000]

Working Note 2

Computation of ITC available in the Electronic Credit Ledger of Adityanath Private Limited for the month of August

Particulars	(₹)
Common credit on inputs and input services [Refer W.N. 1]	3,81,470
Legal services used in the manufacture of taxable Product 'Beta' [Refer W.N. 1]	63,000
ITC available in the Electronic Credit Ledger	**4,44,470**
Less: Common credit attributable to exempt supplies during August [Refer W.N. 1]	1,70,053
Net ITC available	**2,74,417**

Question 55

Jankinandan Associates, a proprietorship firm in Lucknow registered under GST, manufactures three taxable products 'Zeta', 'Sigma' and 'Omega'. The following information has been provided by Jankinandan Associates for a particular tax period.

(i) 'Omega' and 'Zeta' are sold in the domestic market as well as exported outside India. The domestic turnover (excluding export sales) of 'Zeta' and 'Omega' are ₹ 21 lakh and ₹ 15 lakh respectively. Export turnover of 'Zeta' with payment of IGST (not eligible to avail benefit of merchant exports under Notification No. 41/2017) is ₹ 3.75 lakh. 'Omega' worth ₹ 15 lakh is exported.

(ii) Tax on 'Sigma' is payable under reverse charge. 'Sigma' is being sold only domestically and the domestic turnover of 'Sigma' is ₹ 9 lakh.

(iii) The firm is also engaged in providing taxable consultancy services under LUT. Consultancy services of ₹ 30 lakh have been provided to unrelated clients located in foreign countries. In all cases, consideration has been received in convertible foreign exchange.

(iv) The firm sold shares held by it for ₹ 375 lakh which were earlier purchased at a price of ₹ 360 lakh.

(v) Due to shortage of funds, it sold one of its factory buildings for ₹ 180 lakh (excluding stamp duty of ₹ 3.50 lakh, being 2% of value). The entire consideration is received post issuance of completion certificate; building was occupied thereafter.

(vi) The firm earned an interest of ₹ 6 lakh on the money invested in fixed deposits with Gaba Bank.

The details of the inputs/input services availed by the firm during the said tax period are as under:

(i) The firm received legal services from an advocate in relation to product 'Zeta' for a consideration of ₹ 5.25 lakh.

(ii) Remaining inputs and input services availed during the tax period worth ₹ 52.50 lakh and ₹ 22.50 lakh respectively have been commonly used for supply of goods and services mentioned above.

You are required to compute the net GST liability of Jankinandan Associates, payable from Electronic Credit Ledger and/or Electronic Cash Ledger, as the case may be, for the given tax period using the above-mentioned information.

Note: All the above transactions are exclusive of GST, wherever applicable. Assume that rates of GST on inward and outward supply of goods and services are 12% and 18% respectively (Ignore bifurcation of CGST, SGST or IGST for the sake of simplicity). Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Answer

Computation of GST payable on outward supply

Particulars	Value (₹)	GST (₹)
Turnover of 'Zeta' [liable to GST @ 12%]	21,00,000	2,52,000
Turnover of 'Sigma' [Tax on 'Sigma' is payable under reverse charge by the recipient of such goods]	9,00,000	Nil
Turnover of 'Omega' [liable to GST @ 12%]	15,00,000	1,80,000
Export of 'Zeta' with payment of IGST @ 12%	3,75,000	45,000
Export of 'Omega' [Export of goods 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.]	15,00,000	Nil
Consultancy services provided to independent clients located in foreign countries. [The activity is an export of service in terms of section 2(6) of the IGST Act, 2017 as the supplier of service is located in India; the recipient of service is located outside India; place of supply of service is outside India (in terms of section 13(2) of the IGST Act, 2017); payment for the service has been received in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and supplier of service and recipient of service are not merely establishments of distinct person.] [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.]	30,00,000	Nil
Sale of shares	3,75,00,000	Nil

[Shares are neither goods nor services in terms of section 2(52) and 2(102). Hence, sale of shares is neither a supply of goods nor a supply of services and hence, is not liable to any tax.]		
Sale of building [Sale of building is neither a supply of goods nor a supply of services in terms of para 5 of Schedule III to the CGST Act, provided entire consideration has been received after issue of completion certificate by competent authority or after its occupation, whichever is earlier. Hence, the same is not liable to GST]	1,80,00,000	Nil
Interest received on investment in fixed deposits with a bank [Exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017]	6,00,000	Nil
Total GST payable on outward supply		**4,77,000**

Computation of common credit attributable to exempt supplies during the tax period

Particulars	**(₹)**
Common credit on inputs and input services [Tax on inputs - ₹ 6,30,000 (₹ 52,50,000 x 12%) + Tax on input services – ₹ 4,05,000 (₹ 22,50,000 x 18%)]	10,35,000
Common credit attributable to exempt supplies (rounded off) = Common credit on inputs and input services x (Exempt turnover during the period/ Total turnover during the period) = ₹ 10,35,000 x ₹ 1,87,75,000/₹ 2,78,50,000 Exempt turnover = ₹ 1,87,75,000 and total turnover = ₹ 2,78,50,000 [Refer note below]	**6,97,742**

Note:

As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land, subject to clause (b) of paragraph 5 of Schedule II, sale of building and activities specified in clause (a) of paragraph 8 of Schedule III. As per explanation to Chapter V of the CGST Rules, the value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.

Further, as per explanation to rule 42, the aggregate value of exempt supplies inter alia excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, value of exempt supply in the given case will be sum of value of output supply on which tax is payable under reverse charge (₹ 9,00,000), value of sale of building (₹ 3,50,000/2 x 100 = ₹ 1,75,00,000) and value of sale of shares (1% of ₹ 3,75,00,000 = ₹ 3,75,000), which comes out to be ₹ 1,87,75,000.

Total turnover = ₹ 2,78,50,000 (₹ 21,00,000 + ₹ 9,00,000 + ₹ 15,00,000 + ₹ 3,75,000 + ₹ 15,00,000 + ₹ 30,00,000 + ₹ 1,75,00,000 + ₹ 6,00,000 + ₹ 3,75,000)

Computation of ITC available in the Electronic Credit Ledger of the Jankinandan Associates for the tax period

Particulars	**(₹)**
Common credit on inputs and input services	10,35,000
Add: Legal services used in the manufacture of taxable product 'Zeta'	94,500

ITC available in the Electronic Credit Ledger	**11,29,500**
Less: Common credit attributable to exempt supplies during the tax period [As calculated in above table]	6,97,742
Net ITC available	**4,31,758**

Computation of net GST liability of Jankinandan Associates for the tax period

Particulars	(₹)
GST payable on outward supply [As computed earlier]	4,77,000
Less: Input tax credit (ITC) [As computed earlier]	4,31,758
GST payable from Electronic Cash Ledger **[A]**	45,242
Add: GST payable on legal services under reverse charge [₹ 5,25,000 X 18%] **[B]** [Tax on legal services provided by an advocate to a business entity, is payable under reverse charge by the business entity in terms of Notification No. 13/2017 CT (R) dated 28.06.2017. Further, such services are not eligible for exemption provided under Notification No. 12/2017 CT (R) dated 28.06.2017 as the turnover of the business entity (Jankinandan Associates) in the preceding financial year exceeds ₹ 20 lakh.]	94,500
Total GST paid from Electronic Cash Ledger [A] + [B] [As per section 49(4) amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82). Therefore, input tax credit cannot be used to pay tax payable under reverse charge and thus, tax payable under reverse charge will have to be paid in cash.]	**1,39,742**

Question 56

Sitaram Industries Limited, a registered entity under GST, in the State of Karnataka, is engaged in manufacture and supply of both taxable and exempt goods and services. Following information for the month of October, 20XX is provided by it:

S.N.	Particulars	Amount (₹)
	OUTWARD SUPPLIES:	
A	Sold an old warehouse building in State of Karnataka to a retail giant in same State	30,00,000
B	Supplied 30 laptops over the counter to Mr. Sudhakar, an unregistered buyer, who took it to his residence in Haryana. [Invoice issued to him mentions only his name and State. However, his complete address of Haryana is missing in the invoice.]	12,00,000
	Special boxes for packing of the laptops	1,30,000
C	Provided Direct Selling Agent service to Kumkum Bank, registered in Karnataka	4,00,000
D	Provided pure labour services pertaining to a single residential unit in Mumbai, Maharashtra (otherwise than as a part of residential complex) for erection and installation of renovation works for a client registered in Maharashtra	6,20,000
E	Provided free of cost training in a resort in Puducherry to its agents based in the State of Karnataka on effective use of the products of the company.	

	[Open market value of the said service is 1,00,000. Value of supply of service of like kind and quality is 1,20,000.]	
F	Interest received on fixed deposits from Sulakshan Bank, registered in Karnataka	2,00,000
	INWARD SUPPLIES:	
G	Received a debit note in respect of inward intra-State taxable supplies received 2 years back for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 16th October, 20XX.	4,00,000
H	Telecommunication tower installed in the factory for providing convenient mobile communication in factory (Intra-State)	5,00,000
I	Purchased employee uniforms for 1000 employees (Inter-State) [Uniforms worth 3,00,000 were necessary to ensure the safety of the workers while carrying out the manufacturing activity. Remaining uniforms worth 4,00,000 were sometimes worn by employees outside the factory for personal purposes.]	7,00,000

The company provided the following additional information:

(i) In respect of sale of old warehouse building, stamp duty was paid on ₹ 32 lakh.

(ii) The company provided a corporate guarantee of ₹ 2 crores to Laxmi Logistics Limited, its related company having registered office in the State of Karnataka, for loan availed by the latter from Jandhan Bank Ltd., Karnataka.

The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase related to earlier years for which ITC claim eligibility was over.

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except special packing boxes for which the applicable rates of CGST, SGST and IGST are 6%, 6% and 12% respectively.

(ii) All the amounts given above are exclusive of taxes, wherever applicable

From the information given above, you are required to compute the eligible ITC available for set off and minimum net GST payable in cash (CGST, SGST or IGST, as the case may be) for the month of October, 20XX. Provide brief reasons for the treatment of each item.

Answer

Computation of eligible ITC & net GST payable by M/s Sitaram Industries Ltd., for Oct, 20XX

Particulars	Value	IGST @ 18%	CGST @ 9%	SGST @ 9%
Outward Supply:				
Sale of old warehouse	Nil	-	-	-
Building [Since sale of building is neither supply of goods nor supply of services in terms of para 5 of Schedule III of the CGST Act, 2017, it does not qualify as supply.]				
Supply of laptops [Inter-State supply since place of supply here is the location as per the address of the unregistered	13,30,000 [12,00,000 + 1,30,000]	2,39,400	-	-

recipient (name of the State) recorded in the invoice issued in respect of the supply, viz. Haryana, in terms of section 10(1)(ca) of the IGST Act, 2017. Further, as per section 8(a), supply of laptops with packing is a composite supply, chargeable to tax at the rate applicable to the principal supply (viz. supply of laptops) i.e.,18%.]				
Direct Selling Agent service [Intra-State supply since place of supply here is the location of recipient, viz. Karnataka, in terms of section 12(2)(a) of the IGST Act, 2017. Further, tax will be payable under forward charge since such services are provided by a person other than individual - Notification No. 13/2017 CT(R)]	4,00,000	-	36,000	36,000
Pure labour servicer [Inter-State supply since place of supply here is the location of immoveable property, viz. Maharashtra in terms of section 12(3) of the IGST Act, 2017. Further, services by way of pure labour contracts of erection and installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt vide exemption notification However, such services in relation to renovation work are not exempt.]	6,20,000	1,11,600	-	-
Free training to agents [Services provided by the company to agents without consideration is not deemed as supply in terms of para 3 of Schedule-I since only goods supplied by principal to agent are covered therein. Further, such services are also not covered in para 2 of Schedule I as agents are not related persons.]	1,00,000	-	-	-
Corporate guarantee provided to Laxmi Logistics Limited [Supply of service between related parties even when made without any consideration is deemed supply in terms of Schedule I. Further, value of corporate guarantee, in terms of rule 28(2), will be higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration] (i.e. 1% of 2 crore)	2,00,000	-	18,000	18,000
Interest received on fixed deposits [Services by way of extending deposits, loans or advances as consideration is represented by way of	2,00,000	-	-	-

interest are exempt vide exemption notification]				
Gross GST liability [A]		**3,51,000**	**54,000**	**54,000**
Less: ITC available for set off [Refer Note (iii) below]		24,958	16,639	16,639
Net GST payable in cash		**3,26,042**	**37,361**	**37,361**

Notes:

(i) Computation of ITC admissible to Sitaram Industries Ltd. for the month of October, 20XX

Particulars	Value	IGST	CGST	SGST
Debit note received [ITC on debit notes issued in a financial year can be availed any time till 30th November of the succeeding financial year or the date of filing of the relevant annual return, whichever is earlier, irrespective of the date of original invoice/supply, in terms of section 16(4).]	4,00,000	-	36,000	36,000
Telecommunication tower installed [As per section 17(5), ITC on goods and/or services received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods and/or services are used in course/furtherance of business, is blocked. However, plant and machinery exclude telecommunication towers.]		-	-	-
Uniforms purchased [ITC on the uniforms which are necessary to ensure the safety of the employees while carrying out the business activity, is available. However, uniforms not provided for any safety purpose are construed as being used for personal consumption and thus, ITC thereon is blocked in terms of section 17(5)(d).]	3,00,000	54,000	-	-
Total		**54,000**	**36,000**	**36,000**

(ii) Computation of common credit attributable to exempt supplies in respect of Sitaram Industries Ltd. for the month of October, 20XX

Particulars	IGST	CGST	SGST
Common credit on receipt of debit note [Debit note, although received in respect of taxable inward supply, is being used for all goods manufactured in factory which comprises of both taxable and exempt goods.]	--	36,000	36,000
Common credit on purchase of uniforms [Uniforms are being used commonly for manufacturing of both taxable and exempt goods.]	54,000		

Common credit attributable to exempt supplies (rounded off) = Common credit x (Exempt turnover during the period / Total turnover during the period) = 54,000 x 32,00,000/ 59,50,000 (IGST) = 36,000 x 32,00,000 / 59,50,000 (CGST/SGST) Exempt turnover = 32,00,000 and total turnover = 59,50,000 [Refer note below]	29,042	19,361	19,361

Note: As per explanation to section 17(3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except, inter alia, sale of building subject to clause (b) of paragraph 5 of Schedule II. Further, as per explanation to Chapter V (Input Tax Credit) of the CGST Rules, 2017, for determining the value of an exempt supply as referred to in section 17(3), the value of exempt supply in respect of land and building is the value adopted for the purpose of paying stamp duty.

Further, as per explanation 1 to rule 43, the aggregate value of exempt supplies for the purpose of rules 42 and 43, inter alia, excludes the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances.

Therefore, value of exempt turnover in the given case will be the value of building (32,00,000).

Total turnover will be sum of value of building (32,00,000) + supply of laptop (13,30,000) + supply of Direct Selling Agent service (4,00,000) + supply of pure labour service (6,20,000) + supply of corporate guarantee (2,00,000) + interest received on fixed deposits (2,00,000) = ₹ 59,50,000

(iii) Computation of ITC available for set off of Sitaram Industries Ltd. for the month of Oct, 20XX

Particulars	IGST	CGST	SGST
Common credit on inputs and input services	54,000	36,000	36,000
ITC available in the Electronic Credit Ledger	54,000	36,000	36,000
Less: Common credit attributable to exempt supplies during the tax period [As calculated in Note (ii) above]	29,042	19,361	19,361
ITC available for set off	**24,958**	**16,639**	**16,639**

Question 57

Poorva Impex 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, 20XX:

S.N.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Sold a future derivative contract at NSE (National Stock Exchange) which was due in the month of April. Said contract had no delivery option.	20,00,000
(ii)	Supplied 50 LED TVs at Hyderabad to the State Government of Telangana.	8,00,000
	50 Stands mandatorily required to mount the TV on wall were also supplied along with LED TV.	72,000

(iii)	Provided intra-State service as a Direct Selling Agent (D.S.A.) to Uday Small Finance Bank Limited for their retail loan products	5,00,000
(iv)	Passenger transportation service provided to general public by company owned ferries between two islands in the State of Maharashtra. Purpose was to facilitate daily commutation of local people.	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.	
	INWARD SUPPLY:	
(i)	Availed HR training services for all its employees from "BE HUMBAL", an HR Firm registered under GST in Maharashtra. Training was held at a resort in the State of Himachal Pradesh.	4,00,000
(ii)	Purchased processing machines from David & Co., registered under GST, in the State of Gujarat. Machines were bought in "as is where is condition" at Gujarat to produce taxable items.	1,00,000
(iii)	Purchased 5 two-wheelers with engine capacity of 25cc for usage of its employees both within and outside factory producing taxable products. Supply was made at Mumbai by a GST registered dealer at Tamil Nadu.	2,00,000

The company provided the following additional information:

(i) Company wishes to choose most beneficial option in respect of supply to agent and branch transfer.

(ii) Company 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 ₹ 3.00 lakh. Kerala branch has yet not sold such kind of goods to any of the customer.

(iii) Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services, except TV stand for which the rates are 14%, 14% and 28% respectively.

(iv) All the amounts given above are exclusive of taxes, wherever applicable.

(v) Except specially written, all the inward supplies were used for taxable as well as exempted outward supplies.

(vi) No inward supply is used for non-business purpose.

(vii) 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, 20XX for the Poorva Impex Ltd., Maharashtra.

Reason for the treatment of each item needs to be given.

Answer

Computation of minimum net GST payable in cash for the month of April, 20XX

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Futures derivatives contract [Futures derivative contracts with no delivery option	20,00,000	-	-	-

	qualify as securities. They are neither goods nor services in terms of Schedule III of the CGST Act, 2017. Thus, given transaction is not a supply.]				
(ii)	Supply of 50 LED TVs [It is an inter-State supply since place of supply here is the location where movement of goods terminates, viz. Hyderabad. Further, supply of LED TVs with stands is a composite supply, chargeable to tax at the rate applicable to the principal supply (viz. supply of LED TVs) i.e.,18%.]	8,72,000 [8,00,000 + 72,000]			1,56,960 [8,72,000 × 18%]
(iii)	Intra-State supply as Direct Selling Agent (DSA) [Taxable under forward charge. Reverse Charge Mechanism is not applicable since services are provided by a body corporate and not by an individual DSA.]	5,00,000	45,000 [5,00,000 × 9%]	45,000 [5,00,000 × 9%]	
(iv)	Passenger transportation service [Passenger transportation service provided by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempt.]	1,20,000			
(v)	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 price of goods of like kind and quality charged by recipient to unrelated customer (3,20,000 × 90%), at the option of owner. Since the company wishes to choose most beneficial option, least of the two values has been taken.]	2,88,000			51,840 [2,88,000 × 18%]
(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.]	3,00,000			54,000 [3,00,000 × 18%]
	Total output tax		45,000	45,000	2,62,800
	Less: ITC available for set off [Refer note below]		33,600	33,600	36,000
	Minimum net GST payable in cash		**11,400**	**11,400**	**2,26,800**

Note - Computation of eligible ITC available for set off

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)

	HR training availed [It is intra-State supply as place of supply of training services provided to registered person is location of recipient, i.e. Maharashtra. Further, ITC of services used in course or furtherance of business is available.]	4,00,000	36,000 [4,00,000 × 9%]	36,000 [4,00,000 × 9%]	
	Machine 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. However, ITC of the same will not be available as CGST/SGST of one State cannot be utilized for discharging of CGST/SGST liability of another State.]	1,00,000	-	-	-
	Two wheelers purchased [It is inter-State supply since place of supply is Mumbai. ITC is not blocked as it is eligible on two-wheelers with engine capacity upto 25cc.]	2,00,000			36,000 [2,00,000 × 18%]
	Computation of eligible ITC available for set-off				
	Common credit [ITC availed on HR training is common credit.]		36,000	36,000	
	Less: ITC attributable to exempt supplies [Common credit x (Exempt turnover/Total turnover)] to be reversed [36,000 × 1,40,000/21,00,000] Total Exempt Turnover = Exempt ferry service (120,000) + value of security (20,000) = 1,40,000 Value of exempt supply includes transactions in securities and value of transactions in securities is 1% of sale value of security =1% of 20,00,000 = 20,000		2,400	2,400	
	Eligible ITC out of common credit		33,600	33,600	
	Add: ITC on two-wheelers used exclusively in relation to taxable products				36,000
	Eligible ITC available for set off		**33,600**	**33,600**	**36,000**

Question 58

Cash and Credit Ltd. is registered with GST Department in State of Maharashtra. It has its registered office at Mumbai. It is engaged in the business of production, manufacture and supply of fresh fruits, vegetables, fresh juices and fruit pulp etc. It has made the following intra-State supplies during the month of April:

S. No.	Particular	Amount in lakh (₹)
1.	Fresh fruits	1100
2.	Vegetables	1100
3.	Fresh juices	2000
4.	Carbonated fruit drink	200

GST rate as applicable on above supplies is as follows:

S. No.	Particular	CGST	SGST	IGST
1.	Fresh fruits	Nil	Nil	Nil
2.	Vegetables	Nil	Nil	Nil
3.	Fresh juices	6%	6%	12%
4.	Carbonated fruit drink	14%	14%	28%

Further, for making the supplies of fruit juices, it has used the services of Goods Transport Agency ("GTA") based in Ahmedabad who have charged them ₹ 20 lakh as charges for their services. Such GTA have not charged any tax on their invoices. Rate of tax on GTA under reverse charge is 5%.

In respect of the above supply, the company has received the following inward supplies:

S. No.	Particular	Amount of purchase (₹ in lakh)	Amount of input tax credit thereon (₹ in lakh)		
			CGST	SGST	IGST
1.	Fresh fruits for supply	800	Nil	Nil	Nil
2.	Vegetables for supply	1200	Nil	Nil	Nil
3.	Fruit pulp used for fruit juice and carbonated drink	200	20	20	Nil
4.	Sugar used for fruit juice and carbonated drink	100	6	6	Nil
5.	Preservatives for fruit juice and carbonated drink	100	Nil	Nil	12
6.	Water for fruit juice and carbonated drink	20	Nil	Nil	Nil
7.	Administrative expenses (common)	40	2	2	Nil
8.	Marketing expenses (common)	50	Nil	Nil	10
9.	Purchase of machinery (capital goods) for fruit drink manufacture	40	Nil	Nil	8
10.	Motor vehicle for director official use	100	14	14	Nil

Compute the output GST liability, available ITC and payment to be made from Electronic Cash and Credit Ledger for the month of April (considering that the entire ITC shall be utilized for payment of tax).

Note: All the amounts given are exclusive of taxes wherever applicable.

Answer

Computation of ITC available with Cash and Credit Ltd. for April

Particulars	ITC (₹ in lakh)		
	CGST	SGST	IGST

I. Input tax credit on inputs, input services and capital goods			
Fruit pulp	20	20	
Sugar	6	6	
Preservatives			12
Administrative expenses	2	2	
Marketing expenses			10
Transportation charges for supply of fruit juices [Tax is payable by Cash and Credit Ltd. @ 5% under reverse charge. Further, it is an inter-State supply since supplier is located in Ahmedabad and place of supply is Maharashtra (location of registered recipient)]			1
Machinery [Input tax (CGST & SGST/IGST) paid on inputs, input services and capital goods used in the manufacture of taxable products viz., fresh juices & carbonated fruit drinks is available as input tax credit]			8
Motor vehicle [ITC on motor vehicle for transportation of persons with seating capacity of up to13 persons is blocked for a supplier who is not engaged in further supply of such vehicles, transportation of passengers or imparting training on driving such vehicles.]	-	-	
Total	**28**	**28**	**31**
II. Input tax credit to be reversed on inputs and input services			
Common credit of CGST on administrative expenses being used commonly for taxable and exempt products = ₹ 2 lakh Exempt turnover = ₹ 2200 lakh; Total turnover = ₹ 4400 lakh Common credit attributable to exempt supply ₹ in lakh [2 x 2200/4400] = ₹ 1 lakh Similar reversal for SGST credit	(1)	(1)	
Common credit of IGST on marketing expenses being used commonly for taxable and exempt products = ₹10 lakh; Common credit attributable to exempt supply ₹ in lakh [10 x 2200/4400] = ₹ 5 lakh			(5)
Total ITC available for set off	**27**	**27**	**26**

Computation of net GST payable for the month of April

Particulars	Value* ₹ [in lakh]	CGST ₹ [in lakh]	SGST ₹ [in lakh]	IGST ₹ [in lakh]
Intra-State sale of fresh fruits	1100	Nil	Nil	Nil
Intra-State sale of vegetables	1100	Nil	Nil	Nil
Intra-State sale of fresh juices	2000	120	120	
Intra-State sale of carbonated fruit drinks	200	28	28	
Total output tax liability		148	148	

Less: Payment from Electronic Credit Ledger				
IGST credit being set off against SGST liability as it can be set off against CGST and SGST liability in any order and in any proportion			(26)	
CGST and SGST credit set off against CGST and SGST liability respectively		(27)	(27)	
Net GST payable from Electronic Cash Ledger [A]		121	95	
GST payable on inward supply of GTA services under reverse charge through Electronic Cash Ledger [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				1
Net GST payable through Electronic Cash Ledger [A] + [B]		121	95	1
Total GST payable by cash			**217**	

Note: In the above answer, tax payable from Electronic Cash Ledger has been computed by setting off the IGST credit against SGST liability. However, since IGST credit can be set off against CGST and SGST liability in any order and in any proportion, the same can be set off against CGST and/or SGST liabilities in different ways as well. In all such cases, net CGST and net SGST payable from Electronic Cash Ledger will differ though the total amount of net GST payable (₹ 217 lakh) in cash will remain the same.

Question 59

V-Supply Pvt. Ltd. is a registered manufacturer of auto parts in Kolkata, West Bengal. The company has a manufacturing facility registered under Factories Act, 1948 in Kolkata. It procures its inputs indigenously from both registered and unregistered suppliers located within as well as outside West Bengal as also imports some raw material from China. The company reports the following details for a tax period:

Payments	(₹) (in lakh)	Receipts	(₹) (in lakh)
Raw material	3.5	Sales	15
Consumables	1.25		
Transportation charges for bringing the raw material to factory	0.70		
Salary paid to employees on rolls	5.0		
Premium paid on life insurance policies taken for specified employees	1.60		
Audit fee	0.50		
Telephone expenses	0.30		
Bank charges	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

(i) Raw material amounting to ₹ 0.80 lakh is procured from Bihar and 1.5 lakh is imported from China. Basic customs duty of ₹ 0.15 lakh, social welfare surcharge of ₹ 0.015 lakh and integrated tax of ₹ 0.2997 lakh are paid on the imported raw material.

Remaining raw material is procured from suppliers located in West Bengal. Out of such raw material, raw material worth ₹ 0.30 lakh is procured from unregistered suppliers; the remaining raw material is procured from registered suppliers.

Further, raw material worth ₹ 0.05 lakh purchased from registered supplier located in West Bengal has been destroyed due to seepage problem in the factory and thus, could not be used in the manufacturing process.

(ii) Consumables are procured from registered suppliers located in Kolkata and include diesel worth ₹ 0.25 lakh for running the generator in the factory.

(iii) Transportation charges comprise of 0.60 lakh paid to Goods Transport Agency (GTA) in Kolkata and 0.10 lakh paid to horse pulled carts. GST applicable on the services of GTA is 5%. GTA has not opted to pay tax under forward charge.

(iv) Life insurance policies for specified employees have been taken by the company to fulfill a statutory obligation in this regard. The life insurance service provider is registered in West Bengal.

(v) Audit fee is paid to M/s Goyal & Co., a firm of Chartered Accountants registered in West Bengal, for the statutory audit of the preceding financial year.

(vi) Telephone expenses pertain to bills for landline phone installed at the factory and mobile phones given to employees for official use. The telecom service provider is registered in West Bengal.

(vii) Bank charges are towards company's current account maintained with a Private Sector Bank registered in West Bengal.

(viii) The breakup of sales is as under:

Sales in West Bengal – ₹ 7 lakh

Sales in States other than West Bengal – ₹ 3 lakh

Export under LUT – ₹ 5 lakh

(ix) The opening balance of ITC with the company for the tax period is:

CGST - ₹ 0.15 lakh

SGST - ₹ 0.08 lakh

IGST - ₹ 0.09 lakh

Compute (i) ITC available with V-Supply Pvt. Ltd. for the tax period; and (ii) Net GST payable [CGST, SGST or IGST, as the case may be] from Electronic Cash Ledger by V-Supply Pvt. Ltd. for the tax period.

Note: CGST, SGST & IGST rates to be 9%, 9% and 18% respectively. The necessary conditions for availing ITC have been complied with by V-Supply Pvt. Ltd.

Answer

Computation of ITC available with V-Supply Pvt. Ltd. for the tax period

S.N.	Particulars	ITC

1.	Opening balance of ITC	CGST	GST	IGST	Total
2.	Raw material purchased from Bihar [Refer Note 1(i)]	15,000	000	9,000	32,000
	Raw material imported from China [Refer Note 1(ii)]			14,400	14,400
	Raw material purchased from unregistered suppliers within West Bengal [Refer Note 1(iii)]	Nil		29,970	29,970
	Raw material destroyed due to seepage [Refer Note 1(iv)]	Nil	Nil		Nil
	Remaining raw material Purchased from West Bengal [Refer Note 1(i)] [₹ 3.5 - ₹ 1.5 – ₹ 0.80 – ₹ 0.30 – ₹ 0.05] = ₹ 0.85]	7,650	Nil		Nil
	Total ITC for raw material	7,650	7,650		15,300
3.	Consumables [Refer Note 2]	9,000	9,000	44,370	59,670
4.	Transportation charges for Bringing the raw material to factory [Refer Note 3]	1,500	1,500		18,000
5.	Salary paid to employees on rolls [Refer Note 4]	Nil	Nil	Nil	3,000
6.	Premium paid on life Insurance policies taken for specified employees [Refer Note 5]	14,400	14,400		Nil
7.	Audit fee [Refer Note 6]	4,500	4,500		28,800
8.	Telephone expenses [Refer Note 6]	2,700	2,700		9,000
9.	Bank charges [Refer Note 6]	900	900		5,400
Total ITC available for the tax period		**55,650**	**48,650**	**53,370**	1,800
					1,57,670

Computation of net GST payable

Particulars	CGST ₹	SGST ₹	IGST ₹	Total ₹
On Intra-state sales in West Bengal	63,000	63,000		1,26,000
On Inter-state sales other than West Bengal			54,000	54,000
On exports under LUT [Note 7]	Nil	Nil	Nil	Nil
Total output tax liability	63,000	63,000	54,000	1,80,000
Less: ITC available for being set off [Note 8 & Note 9]	(55,650)	(48,650)	(53,370)	(1,57,670)
Net GST payable from Electronic Cash Ledger [A]	7,350	14,350	630	22,330
GST payable on inward supply of GTA services under reverse charge through Electronic Cash Ledger [Note 3 and 10] **[B]**	1,500	1,500		3,000
Net GST payable through Electronic Cash Ledger [A] + [B]	**8,850**	**15,850**	**630**	**25,330**

Notes:

1 (i) Credit of input tax (CGST & SGST/IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16(1).

(ii) IGST paid on imported goods qualifies as input tax in terms of section 2(62)(a). Therefore, credit

of IGST paid on imd raw materials used in the course or furtherance of business is available in terms of section

(iii) Tax on intra-State curements made by a registered person from an unregistered supplier is levied only on noti categories of goods and services. [Section 9(4)].

(iv) ITC is not available destroyed inputs in terms of section 17(5)(h).

2. Consumables, being its used in the course or furtherance of business, input tax credit is available on the same in terms section 16(1). However, levy of CGST on diesel has been deferred till such date as may be notifie by the Government on recommendations of the GST Council [Section 9(2)]. Hence, there being no levy of GST on diesel, there cannot be any ITC.

3. In respect of intra-state road transportation of goods undertaken by a GTA, who has not opted to pay tax under forward charge, CGST is payable under reverse charge by the recipient of service. The person who pays or is liable to pay freight for the transportation of goods is treated as the person who receives the service. Thus, V-Supply Pvt. Ltd. will pay GST under reverse charge on transportation service received from GTA.

Further, tax payable under section 9(3) of CGST/SGST Act qualifies as input tax in terms of clauses (b) and (d) of section 2(62). Thus, input tax paid under reverse charge on GTA service will be available as ITC in terms of section 16(1) as said service is used in course or furtherance of business.

Furthermore, intra-State services by way of transportation of goods by road except services of a GTA and a courier agency are exempt from CGST vide Notification No. 12/2017 CT (R) dated 28.06.2017. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.

4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with para 1 of Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services

5. ITC on supply of life insurance service is not blocked if it is obligatory for an employer to provide such service to its employees under any law for the time being in force. [Proviso to section 17(5)(b)]. Therefore, GST paid on premium for life insurance policies will be available as ITC in terms of section 16(1) as the said service is used in the course or furtherance of business.

6. Audit fee, telephone expenses and bank charges are all services used in the course or furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1).

7. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].

8. Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].

9. As per section 49(5) read with rule 88A, ITC of-

(i) IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.

(ii) CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.

(iii) SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.

10. Section 49(4) lays down that the amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output

tax in terms of section 2(82). Therefore, tax payable under reverse charge cannot be set off against the ITC and thus, will have to be paid in cash.

11. CGST and SGST are chargeable on intra-State inward and outward supplies and IGST is chargeable on inter-State inward and outward supplies.

Question 60

Motopower Pvt. Ltd., registered under GST, is engaged in the manufacture of 5 seater luxury cars at its factories located in the States of Rajasthan, Uttar Pradesh and Gujarat. The company has obtained registration in each of these States. It also enters into contracts for providing these cars on rent to corporate clients wherein the cost of fuel is included in the value of supply.

The company reports the following details for a tax period pertaining to its factory located in Gujarat:

Payments	(₹) (in lakh)	Receipts	(₹) (in lakh)
Raw material	4.50	Sales	30
Rent paid	1.00	Car rental income	0.50
Consumables	1.50	Income from services provided to Gujarat Government	2.50
Security services	0.70	administration	
General insurance of cars manufactured	2.50		
Works contract services	1.60		
Audit fee	0.50		
Bank charges	0.10		
Membership of Automobile Association	0.10		

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by the company.

Further, following additional details are furnished by the company in respect of the payments and receipts reported by it:

(i) Raw materials worth ₹ 0.50 lakh, purchased from a registered supplier located in Gujarat, were destroyed due to fire in the factory and thus, could not be used in the manufacturing process. Remaining raw material has been procured from various vendors located in Maharashtra.

(ii) Rent has been paid for the factory building located in Gujarat to its owner registered in Gujarat.

(iii) Payment for security services (services provided by way of supply of security personnel) for the tax period has been made to Safe and Secure Solutions Pvt. Limited, a company located in Gujarat and not registered under GST.

(iv) General insurance services availed from Divided Insurance Company Ltd. registered in Gujarat.

(v) Works contract services availed from Chitra Builders, Gujarat, have been used by the company for construction of a foundation on which machinery to be used in the production process is to be mounted permanently.

(vi) Audit fee is paid to a firm of Chartered Accountants - M/s Pandya & Associates (registered in West Bengal with an aggregate turnover of ₹ 30 crores in the preceding financial year) - for conducting the statutory audit of the company in the preceding financial year. The firm raises an e-invoice without IRN (Invoice Reference Number) for said services.

(vii) Bank charges are towards various services availed by the company during a month with regard to its current account maintained with Manimani Bank, registered in Gujarat. The bank issued a consolidated tax invoice for all such services at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the bank and Motopower Pvt. Ltd.

(viii) Automobile Association is registered in the State of Gujarat.

(ix) The breakup of sales is as under: Sales in Gujarat – ₹ 14 lakh

Sales in States other than Gujarat – ₹ 6 lakh

Exports under Letter of Undertaking (LUT) – ₹ 10 lakh

(x) Car rental income pertains to renting of cars to Jamaze Travels Ltd., registered in Gujarat and cost of fuel is included in the value of said supply. Further, consumables, procured from registered suppliers located in Gujarat, include diesel (excise and VAT paid) worth ₹ 0.75 lakh used for running the cars so rented out to Jamaze Travels Ltd. Assume that except diesel, no other input/input services is used in providing car renting service.

(xi) Services provided to Gujarat Government administration are under a Health Training programme. 51% of the total expenditure for said programme is borne by Gujarat Government.

(xii) The opening balance of ITC with the company for the tax period is:

CGST – ₹ 0.50 lakh

SGST – ₹ 0.26 lakh

IGST – ₹ 0.35 lakh

Compute the total ITC available with Motopower Pvt. Ltd. for the given tax period and net GST payable [CGST, SGST or IGST] from Electronic Cash Ledger by Motopower Pvt. Ltd. for the given tax period.

Notes:

(A) CGST, SGST & IGST rates on all inward and outward supplies are 9%, 9% and 18% respectively, except on renting of cars wherein CGST, SGST & IGST rates are 2.5%, 2.5% and 5% respectively.

It is important to note that credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business.

(B) The necessary conditions for availing ITC have been complied with by Motopower Pvt. Ltd.

Answer

Computation of ITC available with Motopower Pvt. Ltd. for the given tax period

S.No.	Particulars	Value of supply ₹	ITC			
			CGST ₹	SGST ₹	IGST ₹	Total ₹
1.	Opening balance of ITC		50,000	26,000	35,000	1,11,000
2.	Raw Materials [Refer Note 1] [₹ 4,50,000 – ₹ 50,000]	4,00,000	--	--	72,000	72,000
3.	Rent paid for the factory building [Refer Note 2]	1,00,000	9,000	9,000	--	18,000

4.	Consumables procured from suppliers in Gujarat [Refer Note 3] [₹ 1,50,000 – ₹ 75,000]	75,000	6,750	6,750	--	13,500
5.	Security services [Refer Note 4]	70,000	Nil	Nil	Nil	Nil
6.	General insurance of cars manufactured [Refer Note 5]	2,50,000	22,500	22,500	--	45,000
7.	Works contract services [Refer Note 6]	1,60,000	14,400	14,400	--	28,800
8.	Audit fee [Refer Note 7]	50,000	Nil	Nil	Nil	Nil
9.	Bank charges [Refer Note 8]	10,000	900	900	--	1,800
10.	Membership of Automobile Association [Refer Note 9]	10,000	900	900	--	1,800
Total ITC available for the tax period			**1,04,450**	**80,450**	**1,07,000**	**2,91,900**

Computation of net GST payable

Particulars	**Value of supply**	**CGST ₹**	**SGST ₹**	**IGST ₹**	**Total ₹**
Intra-State sales in Gujarat	14,00,000	1,26,000	1,26,000	--	2,52,000
Inter-State sales other than Gujarat	6,00,000	--	--	1,08,000	1,08,000
Exports under LUT [Note 10]	10,00,000	Nil	Nil	Nil	Nil
Car rental income (Taxable @2.5% CGST and SGST each) [Note 11]	50,000	1,250	1,250	--	2,500
Income from services provided to Gujarat Government [Note 12]	2,50,000	22,500	22,500	--	45,000
Total output tax liability		**1,49,750**	**1,49,750**	**1,08,000**	**4,07,500**
Less: ITC available for being set off [Note 13, Note 14 and Note 15]		(1,04,450)	(80,450)	(1,07,000)	(2,91,900)
Net GST payable from Electronic Cash Ledger		**45,300**	**69,300**	**1,000**	**1,15,600**

Notes:

1. Credit of input tax paid on raw materials used in the course or furtherance of business is available in terms of section 16(1). However, ITC is not available on destroyed inputs in terms of section 17(5)(h).
2. ITC on rent paid is available as the said service is used in the course or furtherance of business in terms of section 16(1).
3. ITC on consumables, being inputs used in the course or furtherance of business, is available in terms of section 16(1). However, levy of GST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council [Section 9(2)]. Hence, there being no levy of GST on diesel, there cannot be any ITC since VAT & excise paid are not covered in the definition of input tax under section 2(62). Moreover, credit of input tax charged on goods and services used in supplying the service of transport of passengers by any motor vehicle designed to

carry passengers where the cost of fuel is included in the consideration charged from the service recipient, is not available except the credit of the input service in the same line of business. Thus, ITC on diesel will not be available.

4. Tax on security services (services provided by way of supply of security personnel) provided by a non-body corporate to a registered person is payable under reverse charge. Since in the given case, security services have been provided by a body corporate - Safe and Secure Solutions Pvt. Limited to a registered person - Motopower Pvt. Ltd., GST on the same is payable under forward charge. However, since Safe and Secure Solutions Pvt. Limited is not registered under GST, it would not have charged GST on the said services and hence, no ITC is available.

5. ITC on motor vehicles for transportation of persons is allowed in terms of section 17(5)(a) provided such vehicles are further supplied by the supplier. ITC is allowed on general insurance services relating to motor vehicles, ITC on which is allowed [Section 17(5)(ab)].

6. Section 17(5)(c) blocks ITC in respect of works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service. Further, the term "plant and machinery" means, inter alia, machinery fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation/structural support. Thus, in view of the above-mentioned provisions, ITC is available in respect of works contract service availed by Motopower Pvt. Ltd. as same is used for construction of plant and machinery which is not blocked under section 17(5)(c).

7. Audit fee are the services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). M/s Pandya & Associates is required to issue an e-invoice for audit services as e-invoicing is mandatory for the registered persons whose aggregate turnover in any of the preceding financial years exceed ₹ 5 crores. However, an e-invoice without IRN is not treated as an invoice as per rule 48(5) and hence, without a valid document, ITC cannot be claimed on such input services.

8. Bank charges are services used in the course/ furtherance of business and thus, credit of input tax paid on such service will be available in terms of section 16(1). However, ITC can be claimed only on the basis of valid documents. In case of a banking company, as per rule 54(2), a consolidated tax invoice issued for supply of services made during a month at the end of the month containing the details of tax charged, description of services, total value, GSTIN of the supplier and the recipient is deemed to be a tax invoice. Thus, ITC pertaining to the banking services received is allowed.

9. As per section 17(5)(b)(ii), ITC is blocked on membership of a club, health and fitness centre. The membership fee paid by a automobile company to Automobile Association is not covered under said section as it is distinct from membership of a club. Hence, ITC thereon is available.

10. Export of goods is a zero-rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under LUT is made without payment of integrated tax [Section 16(3)(a) of the IGST Act].

11. Tax on services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient is payable under reverse charge only when said service is provided by a non-body corporate to a body corporate and & an invoice charging GST @ 12% is not issued to service recipient. Since in the given case, said services are provided by body corporate - Motopower Pvt. Ltd. to another body corporate – Jamaze Travels Ltd., GST is payable under forward charge by Motopower Pvt. Ltd. on the same.

12. Services provided to the Central Government, State Government, Union territory administration

under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration are exempt from GST. However, in the given case, since the total expenditure borne by the Gujarat Government is less than 75%, services provided to it by Motopower Pvt. Ltd. are liable to GST.

13. Since export of goods is a zero-rated supply, apportionment of ITC is not required and instead, full credit will be available [Section 16 of the IGST Act read with section 17(2) of the CGST Act].

14. As per section 49(5) read with rule 88A, ITC of-

    (i) IGST is utilised towards payment of IGST first and then CGST and SGST in any proportion and in any order.

    (ii) CGST is utilised towards payment of CGST and IGST in that order. ITC of CGST shall be utilized only after ITC of IGST has been utilised fully.

    (iii) SGST is utilised towards payment of SGST and IGST in that order. ITC of SGST shall be utilized only after ITC of IGST has been utilised fully.

15. Since the value of taxable supply other than zero-rated supply in the given tax period (₹ 14 lakh + ₹ 6 lakh + ₹ 0.50 lakh + ₹ 2.50 lakh) does not exceed ₹ 50 lakh, provisions of rule 86B are not applicable and Motopower Ltd. can discharge its entire output tax liability for said period from the electronic credit ledger.

Question 61

Pari Ltd. of Jodhpur (Rajasthan) is a registered manufacturer of cosmetic products. Pari Ltd. has furnished following details for a tax period:

Particulars		(₹)
Details of Outward supplies		
(i)	Supplies in Rajasthan	8,75,000
(ii)	Supplies in States other than Rajasthan	3,75,000
(iii)	Export under LUT	6,25,000
Details of expenses		
(i)	Raw materials purchased from registered suppliers located in Rajasthan	1,06,250
(ii)	Raw materials purchased from unregistered suppliers located in Rajasthan	37,500
(iii)	Raw materials purchased from Punjab from registered supplier	1,00,000
(iv)	Integrated tax paid on raw materials imported from USA	22,732
(v)	Consumables purchased from registered suppliers located in Rajasthan including high speed diesel (Excise and VAT paid) valuing ₹ 31,250 for running the machinery in the factory	1,56,250
(vi)	Monthly rent for the factory building to the owner in Rajasthan	1,00,000
(vii)	Salary paid to employees on rolls	6,25,000
(viii)	Premium paid on life insurance policies taken for specified employees. Life insurance policies for specified employees have been taken by Pari Ltd. to fulfill a statutory obligation in this regard. The life insurance service provider is registered in Rajasthan.	2,00,000

All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by Pari Ltd.
The opening balance of ITC with Pari Ltd. for the given tax period is- CGST 20,000 SGST 15,000 IGST 15,000

Assume CGST, SGST and IGST rates to be 9%, 9% and 18% respectively. Assume that all the other necessary conditions to avail the ITC have been complied with by Pari Ltd.

Compute (i) ITC available with Pari Ltd. for the tax period; and (ii) Net GST payable [CGST, SGST or IGST, as the case may be] from Electronic Cash Ledger by Pari Ltd. for the tax period

Answer

Computation of ITC available with Pari Ltd

S.N.	Particulars	Eligible input tax credit		
		CGST (₹)	SGST (₹)	IGST (₹)
1.	Raw Material			
	Purchased from local registered suppliers [Note 1(i)] (₹ 1,06,250 x 9%)	9,563	9,562	
	Purchased from local unregistered suppliers [Note 1(ii)]	Nil	Nil	
	Purchased from Punjab from registered supplier [Note 1(i)] (₹ 1,00,000 x 18%)			18,000
	Raw material imported from USA [Note 1(iii)]			22,732
2.	Consumables [Note 2] (₹ 1,56,250 – ₹ 31,250) x 9%]	11,250	11,250	
3.	Monthly rent for the factory building to the owner in Rajasthan [Note 3]	9,000	9,000	
4	Salary paid to employees on rolls [Note 4]	Nil	Nil	Nil
5.	Premium paid on life insurance policies taken for specified employees [Note 5] (₹ 2,00,000 x 9%)	18,000	18,000	
Total		47,813	47,812	40,732
Add: Opening balance of ITC		20,000	15,000	15,000
Total ITC [Note 7]		**67,813**	**62,812**	**55,732**

Computation of net GST payable

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Intra-State supply (8,75,000 x 9%)	78,750	78,750	
Inter-State supply (3,75,000 x 18%)			67,500
Exports under LUT [Note 6]	Nil	Nil	Nil
Total output tax liability	**78,750**	**78,750**	**67,500**
Less: ITC	67,813	62,812	55,732
Net GST payable	**10,937**	**15,938**	**11,768**

Notes:

1. (i) Credit of input tax (CGST & SGST/IGST) paid on raw materials used in the course or furtherance of business is available in terms of section 16.

   (ii) Tax on procurements made by a registered person from an unregistered supplier is levied only in case of notified goods and services in terms of section 9(4). Therefore, since no GST is paid on such raw material purchased, there does not arise any question of ITC on such raw material.

   (iii) IGST paid on imported goods qualifies as input tax in terms of section 2(62). Therefore, credit of IGST paid on imported raw materials used in the course or furtherance of business is available in terms of section 16.

2. ITC on consumables, being inputs used in the course or furtherance of business, is available. However, since levy of GST on high speed diesel has been deferred till a date to be notified by Government, there cannot be any ITC of the same.
3. ITC on monthly rent is available as the said service is used in the course or furtherance of business.
4. Services by employees to employer in the course of or in relation to his employment is not a supply in terms of section 7 read with Schedule III to the CGST Act. Therefore, since no GST is paid on such services, there cannot be any ITC on such services.
5. ITC on life insurance service is available if the same is obligatory for an employer to provide to its employees under any law for the time being in force as per proviso to section 17(5)(b).
6. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act. A zero rated supply under bond is made without payment of IGST in terms of section 16(3)(a).
7. Since export of goods is a zero rated supply, there will be no apportionment of ITC and full credit will be available as per section 17(2).

Question 62

B & D Company, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and an exempt product 'Q'. The firm supplies these products only in the eastern part of Maharashtra. All the procurements (both goods and services) of the firm are from the suppliers registered under regular scheme in the State of Maharashtra. The firm pays tax under composition scheme.

B & D Company has furnished following details with respect to its turnover and stock (exclusive of taxes):

Particulars	Turnover for the quarter ended 30.06.20XX (₹)	Turnover for the quarter ended 30.09.20XX (₹)
'P'	60,00,000	50,00,000
'Q'	17,65,000	17,00,000

Particulars	Stock as on 30.06.20XX (₹)	Stock as on 30.09.20XX (₹)	Stock as on 31.10.20XX (₹)
'P'	25,00,000	10,00,000	3,60,000
'Q'	10,00,000	2,00,000	1,20,000

The entire stock of the products 'P' and 'Q' available with the firm as on 30.09.20XX is purchased during the said half year except a consignment of product 'P' valuing ₹ 3,00,000, which was purchased in the

April month of the preceding financial year. In the current financial year, in the month of October, no purchases were made, and products were sold with a profit margin of 20% on sales [exclusive of taxes].

The extract of the only bill book maintained by the firm showed the following details-

Bill No.	Date	Value of products (exclusive of taxes)		
		'P' (₹)	'Q' (₹)	Total (₹)
2306	01.10.20XX	2,00,000	3,000	2,03,000
2307	01.10.20XX	1,33,000	5,250	1,38,250
2308	02.10.20XX	67000	39,250	1,06,250
2309	03.10.20XX	58,750	33,750	92,500
2310	05.10.20XX	1,00,000	–	1,00,000
2311	06.10.20XX	94,000	6,000	1,00,000
2312	06.10.20XX	-	17,000	17,000
2313	08.10.20XX	50,000	6,000	56,000
2314	09.10.20XX	60,000	9,000	69,000
2315	.....	.....	.....	.....
.....	.....	.....	.....	.....

The details of services availed by B & D Company is as follows:

S.N.	Particulars	(₹)
(i)	Freight paid to Goods Transport Agency during the period April 20XX to October 20XX. Assume equal amount of freight is paid each month on the 10th day of each month. Also, assume that the goods for which the freight is paid on 10th day of the month are transported between 11th to 20th day of the month.	1,40,000
(ii)	Special packing charges paid to a Packing Company, having expertise in such specialized packing, during the period January 20XX to October 20XX. The packing charges are paid for the goods which are transported between 11th to 20th day of the month (as mentioned in point (i) above). The goods are packed on 10th day and then transported from 11th day onwards. Assume equal amount of packing charges are paid each month on the 9th day of each month.	3,00,000

All the above amounts are exclusive of taxes, wherever applicable

(i) Compute the ITC credited to the Electronic Credit Ledger of the B & D Company, when it exits composition scheme and becomes liable to pay tax under regular scheme, in accordance with the provisions of section 18(1)(c) of the CGST Act, 2017.

Following additional information is also available:

Particulars relating to capital goods owned by the firm	Date of purchase	Value (₹)	GST (₹)
Computers	01.02.20XX	2,00,000	36,000
Printers	January 1, two years prior to 01.01.20XX	80,000	14,400
Motor cycle used by the staff for collecting payments from the debtors	23.09.20XX	85,000	15,300

Furniture & fixtures	12.06.20XX	4,00,000	72,000
Air conditioner used in the office	15.10.20XX	2,00,000	36,000
Exhaust fan used in the godown	10.03.20XX	50,000	9,000

Note: Make suitable assumptions wherever required. Rate of CGST and SGST on service of transportation of goods by GTA is 2.5% each. Stock is valued at cost price.

Note: The Company has not claimed depreciation on the tax component of any of the capital goods (mentioned above) under the Income-tax Act, 1961. All the conditions necessary for availing the ITC have been complied with. Rate of CGST and SGST is 9% each.

(ii) Compute the GST liability of B & D Company payable from Electronic Credit Ledger and/or Electronic Cash Ledger, as the case may be, for the period covered under regular scheme.

Answer

(i) As per section 18(1)(c) of the CGST Act, 2017 read with rule 40 of CGST Rules, 2017, where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9. However, the credit on input services is not allowed and credit on capital goods shall be reduced by 5% per quarter of a year or part thereof from the date of invoice.

Further, ITC on supplies of inputs and capital goods shall not be available after the expiry of one year from the date of issue of tax invoice [Section 18(2) of the CGST Act, 2017].

In the light of the above-mentioned provisions, the ITC credited to the Electronic Credit Ledger of the B & D Company on inputs held in stock and capital goods on 02.10.20XX will be computed as under:

ITC on inputs

Particulars	Amount (₹)
Stock of taxable inputs as on 30.09.20XX [Since no tax is paid on exempt purchases, there does not arise any question of availing ITC on the same. Hence, stock of only taxable inputs are considered]	10,00,000
Add: Purchases [No purchases are made in October, 20XX]	Nil
Less: Cost of taxable goods sold from 01.10.20XX to 02.10.20XX [(2,00,000 + 1,33,000 + 67,000]) x 80%]	3,20,000
Stock of taxable inputs as on 02.10.20XX [Since the bill numbers are in continuation, it can be concluded that no sales are missing from the extract]	6,80,000
Less: More than one year old stock	3,00,000
Stock of inputs on which ITC can be claimed	3,80,000
ITC of CGST @ 9% [Since all purchases are intra-State and from the suppliers registered under regular scheme]	**34,200**
ITC of SGST @ 9% [Since all purchases are intra-State and from the suppliers registered under regular scheme]	**34,200**

ITC on capital goods

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
Computers [₹ 36,000 – (5% x 4 quarters)] ÷ 2	14,400	14,400
Printers [Being more than one year old, no ITC is available]	–	–
Motor cycle [Section 17(5)(a) of CGST Act, 2017 allows ITC on motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons only when they are used for making the following taxable supplies, namely: (A) further supply of such motor vehicles; or (B) transportation of passengers; or (C) imparting training on driving such motor vehicles] Since B & D Company is a trader and it does not use the motor cycle for transportation of goods, ITC thereon will not be available]	–	–
Furniture and Fixtures [₹ 72,000 – (5% x 3 quarters)] ÷ 2	30,600	30,600
Air conditioner used in the office [Since purchased after 03.10.20XX, full ITC will be available and will be computed separately]	–	–
Exhaust fan used in the godown [₹ 9,000 – (5% x 4 quarters)] ÷ 2	3,600	3,600
ITC to be claimed on capital goods	**48,600**	**48,600**
Total ITC on inputs and capital goods credited to Electronic Credit Ledger on 02.10.20XX	**82,800** **[34,200+48,600]**	**82,800** **[34,200+48,600]**

(ii) Output tax liability of B & D Company under regular scheme

From 03.10.20XX, firm will pay tax under regular scheme on monthly basis in terms of sub-sections (1) and (7) of section 39 of the CGST Act, 2017 and will be eligible to avail ITC on inputs held in stock and capital goods as on 02.10.20XX in terms of section 18 of the CGST Act, 2017 as also on goods and services procured on or after 03.10.20XX and used in the course or furtherance of business in accordance with section 16 of the CGST Act, 2017. However, since common input services and capital goods are used in effecting taxable supplies as well as exempt supplies, ITC attributable to the exempt supplies will need to be added to the output tax liability of the month of October, 20XX in terms of section 17(2) read with rules 42 and 43 of the CGST Rules, 2017 respectively. Further, since all the sales are made within the State (eastern part of Maharashtra), CGST and SGST @ 9% each will be payable on the outward supplies.

The tax liability for the month of October, 20XX under regular scheme will be computed as under:

Particulars	Value (₹)	CGST (₹)	SGST (₹)

Tax on outward supply of 'P' Taxable supplies from 03.10.20XX to 31.10.20XX chargeable to CGST and SGST 9% each [Refer Working Note 4]	4,00,000	36,000	36,000
ITC reversal on capital goods [Refer Working Note 2 below]		129	129
Total Output Tax liability		**36,129**	**36,129**
Less: ITC [Refer Working Note 3 below]		**(36,129)**	**(36,129)**
GST payable in cash		Nil	Nil
Tax on inward supplies attracting reverse charge GTA services availed chargeable to CGST and SGST @ 2.5% each (₹ 1,40,000/7)	20,000	500	500
Total GST payable in cash As per section 49(4) of the CGST Act, 2017 amount available in the electronic credit ledger may be used for making payment towards output tax. However, tax payable under reverse charge is not an output tax in terms of section 2(82) of CGST Act, 2017. Therefore, tax payable under reverse charge cannot be set off against the input tax credit and thus, will have to be paid in cash.		**500**	**500**

Working Note 1

Particulars	Value (₹)	CGST (₹)	SGST (₹)
CGST & SGST @ 2.5% each paid under reverse charge on freight paid to GTA on 10.10.20XX (for the goods transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme	20,000	500	500
CGST & SGST @ 9% each paid to Packing Agency on 09.10.20XX (for specialized packing to be carried out on 10.10.20XX on goods to be transported between 11.10.20XX & 20.10.20XX) will be available as ITC under regular scheme.	30,000	2,700	2,700
Total common credit		**3,200**	**3,200**
Common credit on input services attributable to exempt supplies (rounded off) Common credit on input services availed during the period under regular scheme x (Exempt turnover made during the period under regular scheme/Total turnover during the period under regular scheme) = ₹ 3,200 x 52,500/4,52,500 Turnover of 'Q' (exempt turnover) from 03.10.20XX to 31.10.20XX is ₹ 52,500 [Refer Working Note 4] Total turnover from 03.10.20XX to 31.10.20XX is ₹ 4,52,000 [Refer Working Note 4]		**371**	**371**

Working Note 2

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
ITC claimed on capital goods on 02.10.20XX [Refer (i)]	48,600	48,600
Air conditioner used in the office purchased on 15.10.20XX	18,000	18,000
Common ITC [Since all the capital goods are used for effecting both taxable and exempt supplies, the entire ITC on capital goods is common]	66,600	66,600
Common credit for a tax period [Common credit ÷ 60] (rounded off)	**1,110**	**1,110**
Common credit on capital goods attributable to exempt supplies (rounded off) Common credit on capital goods during the period under regular scheme x (Exempt turnover made during the period under regular scheme/Total turnover during the period under regular scheme) = ₹ 1,110 x 52,500/4,52,500	**129**	**129**

Working Note 3

Particulars	CGST (₹)	SGST (₹)
ITC on inputs and capital goods claimed on 02.10.20XX [Refer (i)]	82,800	82,800
ITC on air conditioner used in the office purchased on 15.10.20XX	18,000	18,000
ITC on freight paid to GTA	500	500
ITC on packing charges	2,700	2,700
Less: ITC reversal on input services [Refer Working Note 1]	(371)	(371)
Total ITC available with the firm	**1,03,629**	**1,03,629**

Working Note 4

Particulars	Total turnover for the month of October, 20XX* (₹)	Turnover in month of October under regular scheme (₹) [03.10.20XX - 31.10.20XX]
'P'	8,00,000 [(10,00,000 – 3,60,000) x 125%]	4,00,000 [8,00,000 – 2,00,000 – 1,33,000 67,000]
'Q'	1,00,000 [(2,00,000 – 1,20,000) x 125%]	52,500 [1,00,000 – 3,000 – 5,250 – 39,250]
Aggregate turnover	**9,00,000**	**4,52,500**

Note - Turnover for October, 20XX will be computed as under:

*Turnover = Cost of goods sold** × 125% (20% margin on sales = 25% margin on cost)

**Cost of goods sold = Stock as on 30.09.20XX less stock as on 31.10.20XX (since no purchases are made after September, 20XX)

Question 63

Sukhdev is a mining engineer. He has crossed the threshold limit for registration under the GST law and is duly registered in the State of Maharashtra. He effects the following transactions in the month of March and wants you to compute the tax payable in cash. He has filed bond/LUT to claim benefits from zero-rated supplies. The following are the particulars furnished by him.

S.N.	Particulars	Value in ₹
(a)	Sukhdev, being an operating member in mining and exploration services at Mumbai High, has provided certain services to the Joint Venture (JV) in which he is also a participant. He believes that the consideration received from the JV is 'Cost Petroleum' and not taxable.	12,00,000
(b)	He has purchased certain machinery from outside the State, to render services to the JV at Mumbai High.	6,00,000
(c)	He has obtained legal opinion from a local firm of advocates to enter into the contract with the JV, for providing services to it.	1,00,000
(d)	He has obtained accommodation from the State Government to locate his office close to the sea shore.	2,00,000
(e)	He gets a portion of the petroleum silt as part of the compensation while exploring the petroleum reserves in the Bombay High- which as per the contract with the Government is part of 'Cost Petroleum'.	6,00,000
(f)	He sells the petroleum silt to a SEZ Developer in Mumbai	6,80,000
(g)	Consideration is received towards transfer of tenancy rights, which according to Sukhdev is not liable to GST as it has suffered stamp duty.	8,00,000
(h)	On violation of the terms in production sharing agreement, Sukhdev has paid liquidated damages to the Government.	3,00,000
(i)	He has been assigned the right to collect royalty on behalf of Maharashtra Government, as 'Excess Royalty Collection Contractor'. He has noticed that the mining lease holders have short paid 2,00,000 as IGST from what had been exempted to him under the assignment.	--
(j)	He has sold self-fabricated machinery through his agent in Mumbai, that has been used for 2 years, the value of which is not available in the open market. The agent sells it immediately to an unrelated customer in Mumbai.	10,00,000
(k)	Opening Balance and brought forward tax credits are as follows:	
	- Electronic Cash Ledger - CGST	12,000
	- Electronic Credit Ledger - CGST	18,000
	- Electronic Credit Ledger - SGST	12,000
	- Electronic Credit Ledger - IGST	60,000
(l)	Value is exclusive of taxes. Supply of services are taxable at CGST 9%, SGST 9% and IGST 18% and supply of goods are taxable at CGST 2.5%, SGST 2.5% and IGST 5%. Assume that aggregate turnover of Sukhdev in preceding financial year exceeds ₹ 20 lakh. Determine tax payable in cash.	

Answer

Computation of tax payable in cash

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A.	**GST liability on outward supply**				
(i)	Consideration for services provided as an operating member to the Joint Venture [The operating member is providing the mining and exploration service to the joint venture, and thus, the consideration received therefore is not cost petroleum and hence, is liable to tax.]	12,00,000	1,08,000	1,08,000	
(ii)	Compensation received in the form of petroleum silt, which, as per the contract with Government, is part of cost petroleum [Cost petroleum is not a consideration for service to the Government and thus, is not taxable.]	6,00,000	Nil	Nil	
(iii)	Sale of petroleum silt to a SEZ developer [Supply to SEZ developer is a zero-rated supply and no tax is payable on the same if made under a bond/LUT.]	6,80,000			Nil
(iv)	Consideration for transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty has been paid on the same.]	8,00,000	72,000	72,000	
(v)	Sale of self-fabricated machinery* [Since open market value of the machine is not available, the value will be 90% of the price charged for the supply of machinery by the agent to his unrelated customer.]** *It has been assumed that the value of ₹ 10 lakh at which the agent sells self-fabricated machinery to unrelated customer is known to Sukhdev at the time he sells the machinery to the agent. **It has been assumed that the supplier has opted to value the goods at 90% of the value charged by the agent to unrelated customer.	9,00,000	22,500	22,500	
Total tax liability on outward supplies			**2,02,500**	**2,02,500**	
B.	**GST liability on inward supplies under reverse charge**				
(i)	Legal services provided by a firm of advocates to Sukhdev, i.e. a business entity.	1,00,000	9,000	9,000	
(ii)	Renting of immovable property provided by State Government to Sukhdev (a registered person)	2,00,000	18,000	18,000	
(iii)	Assignment, by the State Government, of the right to collect royalty from mining lease holders to the extent the exemption is not available				2,00,000

Total tax liability on inward supplies under reverse charge				**27,000**	**27,000**	**2,00,000**
C.	**Input tax credit**					
(i)	Opening balance			18,000	12,000	60,000
(ii)	Inter-State purchase of machinery	Since the goods & services are used for effecting taxable supplies including zero rated supplies, full ITC thereon will be allowed.	6,00,000			30,000
(iii)	Legal services		1,00,000	9,000	9,000	
(iv)	Renting of immovable property		2,00,000	18,000	18,000	
(v)	Assignment of right to collect royalty					2,00,000
Total ITC [ITC may be availed for making zero rated supply even if such a supply is an exempt supply. Sale of petroleum silt, being a non- taxable supply, is an exempt supply but since it is also a zero-rated supply, ITC can be availed for making such supply.]				**45,000**	**39,000**	**2,90,000**
D.	**Computation of tax payable in cash**					
	Total tax liability on outward supplies			2,02,500	2,02,500	
	Less: ITC of IGST			1,26,500	1,63,500	
	Less: ITC of CGST and SGST			45,000 (CGST)	39,000 (SGST)	
	Forward charge liability on outward supplies payable in cash after set off of ITC			31,000		
	Reverse charge liability payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]			27,000	27,000	2,00,000
Total tax liability payable in cash [Since ₹12,000 (CGST) is available in Electronic Cash Ledger as opening balance, additional ₹ 46,000 (CGST) needs to be paid in cash.]				**58,000**	**27,000**	**2,00,000**
Payment of liquidated damages to the Government [Not a supply since liquidated damages payable to Government is not a consideration for tolerating non-performance of a contract.]			3,00,000	Nil	Nil	

Note: In terms of section 49B of the CGST Act, 2017, full (100%) IGST credit of ₹ 2,90,000 must be utilised first before using CGST or SGST credit. However, the said IGST credit can be set off against the CGST and SGST liability in any order and in any proportion. Thus, the final answer in each case would vary.

Question 64

Vasudev is a mining contractor. He has crossed the threshold limit for registration in the preceding financial year and is now duly registered under GST in the State of Gujarat. He has undertaken following transactions during the month of April, 20XX:

S.N.	Particulars	Amount ₹ (exclusive of taxes)
(a)	Vasudev is an operating member in mining and exploration services at Aliabet Oilfield, Bhavnagar, Gujarat. He has provided certain services to the Joint Venture (JV) at same site in which he is also a member. He believes that the consideration received from the JV is 'Cost Recovery' and not taxable.	15,00,000
(b)	He has purchased certain machinery from Mumbai, Maharashtra, to render services to the JV at Aliabet Oilfield.	8,00,000
(c)	He has obtained professional services from a senior advocate of Ahmedabad, Gujarat to represent him in a matter before the Tribunal.	1,50,000
(d)	He was allotted an office on rent by the State Government of Gujarat close to the sea shore of Aliabet Oilfield.	2,50,000
(e)	He got a portion of the petroleum silt (non taxable under GST) as part of compensation while exploring the petroleum reserves at Aliabet Oilfield - which as per the contract with the government is part of 'Cost Petroleum'.	8,00,000
(f)	He sells the petroleum silt (non-taxable under GST) to a SEZ Developer in Bhavnagar, Gujarat. He has already filed LUT under GST.	7,50,000
(g)	Consideration received in nature of recovery of bond amount in case of 3 employees leaving employment before a minimum period of 1 year as per the terms of contract.	75,000
(h)	Consideration received towards transfer of tenancy rights in Gujarat, which according to Vasudev is not liable to GST as it has suffered stamp duty.	7,00,000
(i)	Consideration received from mining lease holders for renting of 5 dumpers including driver given for transport of minerals within the mining area for a period of 2 years.	5,00,000
(j)	He has been assigned the mining right from Government and the amount of IGST involved against royalty payment is ₹ 3,00,000.	

Additional information:

(1) Vasudev has filed bond/LUT to claim benefits under zero rated supplies.

(2) Assume the CGST and SGST rates to be 2.5% each and IGST rate to be 5% on supply of goods.

(3) Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% on supply of services.

(4) There is opening balance of ₹ 34,000 in the Electronic Cash ledger (SGST). And there was brought forward ITC of ₹ 15,000 in Electronic Credit ledger (IGST), ₹ 50,000 in Electronic Credit ledger (CGST), ₹ 9,000 in Electronic Credit ledger (SGST).

From the above details, compute the minimum net GST payable by Vasudev in cash (CGST, SGST or IGST as the case may be) for the month of April, 20XX. Working notes should form part of your answer.

Answer

Computation of net GST payable by Vasudev in cash

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A.	**GST liability on outward supply**				
(i)	Consideration for services provided as an operating member to the Joint Venture [The operating member is providing the mining and exploration service to the joint venture, and thus, the consideration received therefor is not cost petroleum and hence, is liable to tax.]	15,00,000	1,35,000 (15,00,000 x 9%)	1,35,000 (15,00,000 x 9%)	
(ii)	Compensation received in the form of petroleum silt, which, as per the contract with the Government, is part of cost petroleum [Cost petroleum is not a consideration for service to the Government and thus, is not taxable.]	8,00,000	Nil	Nil	Nil
(iii)	Sale of petroleum silt to a SEZ developer [Supply to SEZ developer is a zero- rated supply made under a bond/LUT and no tax is payable on the same.]	7,50,000	Nil	Nil	Nil
(iv)	Bond amount recovered from employees leaving employment before stipulated period [Not a supply since bond amount recovered is not a consideration for tolerating the act of such premature quitting of employment.]	75,000	Nil	Nil	Nil
(v)	Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in form of tenancy premium is taxable even though stamp duty has been paid on the same.]	7,00,000	63,000 (7,00,000 x 9%)	63,000 (7,00,000 x 9%)	
(vi)	Renting of dumpers including driver [Taxable.]	5,00,000	45,000 (5,00,000 x 9%)	45,000 (5,00,000 x 9%)	
Total tax liability on outward supplies			**2,43,000**	**2,43,000**	
B.	**GST liability on inward supplies under reverse charge (RCM)**				
(i)	Professional services provided by senior advocate to Vasudev, i.e. a business entity	1,50,000	13,500 (1,50,000 x 9%)	13,500 1,50,000 x 9%)	
(ii)	Renting of office provided by the State Government to Vasudev (a registered person)	2,50,000	22,500 (2,50,000 x 9%)	22,500 (2,50,000 x 9%)	

(iii)	Assignment of mining right by Government to Vasudev (a registered person)					3,00,000
Total tax liability on inward supplies under reverse charge					36,000	36,000	3,00,000
C.	**Input tax credit**					
(i)	Opening balance				50,000	9,000	15,000
(ii)	Inter-State purchase of machinery	Since the goods and services are used for effecting taxable supplies including zero rated supplies, full ITC thereon will be allowed.	8,00,000			40,000 (8,00,000 x 5%)
(iii)	Professional services from senior advocate		1,50,000	13,500 (1,50,000 x 9%)	13,500 (1,50,000 x 9%)	
(iv)	Renting of office		2,50,000	22,500 (2,50,000 x 9%)	22,500 (2,50,000 x 9%)	
(v)	Assignment of mining right					3,00,000
Total ITC Note: [ITC may be availed for making zero rated supply even if such a supply is an exempt supply. Sale of petroleum silt, being a non-taxable supply, is an exempt supply but since it is also a zero-rated supply, ITC can be availed for making such supply.]					86,000	45,000	3,55,000
D.	**Computation of tax payable in cash**					
	Total tax liability on outward supplies				2,43,000	2,43,000	
	Less: ITC of IGST Note: ITC of IGST to be used first before ITC of CGST and SGST				1,57,000	1,98,000	
	Less: ITC of CGST and SGST				86,000 (CGST)	45,000 (SGST)	
	Add: Reverse charge liability payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				36,000	36,000	3,00,000
Total tax liability payable in cash					**36,000**	**36,000**	**3,00,000**
Less: Balance of Electronic Cash Ledger						**(-)34000**	
Net minimum tax liability payable in cash					**36,000**	**2,000**	**3,00,000**

Question 65

Mr. Rishi, a registered supplier under GST in the State of Maharashtra, provides the following information for the month of January 20XX:

S.N.	Particulars	Amount in ₹
	OUTWARD SUPPLY:	
(i)	Supplied computers (which were purchased from an unregistered supplier) without any consideration to his brother-in-law in Ranchi (market value of supply was ₹ 62,000)	Nil
(ii)	Supplied a consignment of 10 laptops to M/s NK & Co. in the State of Maharashtra at the instruction of third person being M/s ZX Computers of Tamilnadu.	6,00,000
(iii)	Provided stock counting service to M/s XY Impex registered with GST in the State of Gujarat, whereas the place where the stock counting was carried out was at the godown located in Mumbai	80,000
(iv)	Provided renting service of his service apartment in Mumbai at a daily rent of ₹ 1500 for residential purposes	30,000
(v)	Recovery agent services provided to Apex Finance Ltd., an NBFC located in Delhi	2,00,000
(vi)	Advance received during the month for future intra-State supply	9,00,000
	INWARD SUPPLY:	
(i)	Imported computer accessories from Korea and the goods landed in Mumbai Port and reached at his registered premises on 31.01.20XX	5,00,000
(ii)	Availed GTA services from M/s Speed Trans of Kolkata where rate of CGST/SGST @ 2.5% each. IGST @ 5% was applicable. GTA has not opted to pay tax under forward charge	1,00,000
(iii)	Apart from the above, received 15 invoices involving IGST of ₹ 1,00,000 during the current month	-

Mr. Rishi provided the following additional information:

(a) Turnover for the previous financial year was ₹ 21 lakh.

(b) He had availed services in an inter-State transaction with a taxable value of ₹ 4,00,000 and a tax rate of 18%. This transaction was liable to tax under reverse charge. Payment for the same to the supplier was not made till the current month (overdue for 181 days as at 01.01.20XX). However, tax due under the said transaction was paid to Government and credit availed in the month of transaction itself.

(c) Out of the 15 invoices as per above, 12 invoices involving IGST of ₹ 95,000 were uploaded by the suppliers in their GSTR-1 Return. All the invoices are eligible for claiming as ITC.

(d) He had sent goods valued ₹ 1,00,000 to his job worker, in the State of Kerala, who further processed said goods and made direct supply on 31.01.20XX from Kerala to a buyer in State of Maharashtra.

(e) Out of advance received for future supply, ₹ 5,00,000 related to supply of goods and the rest related to service.

(f) Rate of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services. Same rate is also applicable for inward supplies received, except where otherwise provided.

(g) All the amounts given are exclusive of taxes wherever applicable.

From the information given above, you are required to compute the net GST liability payable in cash (CGST and SGST or IGST, as the case may be) for the month of January, 20XX. Assessee wants to make the cash payment of GST under SGST head as far as possible.

Answer

Computation of net GST payable in cash for the month of January 20XX

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
A.	**GST liability on outward supply**				
(i)	Computers supplied without consideration [Not a supply as it is made without consideration and is also not covered in Schedule I because computers have been supplied to an unrelated person and ITC has also not been availed on the same.]	Nil	-	-	-
(ii)	Consignment of laptops supplied at the instruction of third person [Since supply is a bill to ship to supply where goods are delivered on the direction of a third person-ZX Computers, goods are deemed to be received by ZX Computers and thus, the place of supply is Tamil Nadu. Hence, it is an inter-State supply.]	6,00,000			1,08,000 [6,00,000 x 18%]
(iii)	Stock counting service to M/s XY Impex of Gujarat [Intra-State supply as the place of supply is the location of recipient, viz. Mumbai. Godown at Mumbai being a fixed establishment is the location of recipient.]	80,000	7,200 [80,000 x 9%]	7,200 [80,000 x 9%]	NIL
(iv)	Service apartment rented in Mumbai [Taxable. Intra-State supply since place of supply is Maharashtra as property is located in Mumbai.]	30,000	2,700 [30,000 x 9%]	2,700 [30,000 x 9%]	
(v)	Recovery agent services provided to an NBFC [Tax is payable by the NBFC under reverse charge.]	2,00,000	-	-	-
(vi)	Advance received for intra-State supply [Tax on advance received for supply of goods of ₹ 5,00,000 will be payable at the time of issuance of invoice.]	4,00,000	36,000 [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	
(vii)	Finished goods sold from the premises of	1,00,000	9,000	9,000	

	the job worker* [Supply of goods by principal from the job worker's premises is regarded as supply by principal only irrespective of the location of job worker. Therefore, since the place of supply is the location where movement of goods terminates for delivery to recipient, i.e., Maharashtra, it is an intra- State supply.] *It has been assumed that either Mr. Rishi has declared the job worker's place of business / premises as his additional place of business or the job worker is registered. Further, it has been assumed that the goods have been sold from job worker's premises at a price of ₹ 1,00,000 itself.		[1,00,000 x 9%]	[1,00,000 x 9%]	
Total tax liability on outward supplies			**54,900**	**54,900**	**1,08,000**
B.	**GST liability on inward supplies under reverse charge**				
(i)	GTA services availed from M/s Speed Trans [Tax is payable under reverse charge on the GTA services received by a registered person and on which tax is payable @ 5%. Further, it is an inter-State supply since supplier is located in Kolkata and place of supply is Maharashtra (location of registered recipient)]	1,00,000			5,000 [1,00,000 x 5%]
C.	**Input tax credit**				
	Import of computer accessories* [Input tax, inter alia, includes IGST charged on import of goods] *It has been assumed that the value of imported computer accessories is inclusive of basic customs duty and social welfare surcharge and consequently, IGST has been computed on the same.	5,00,000			90,000 [5,00,000 x 18%]
	GTA services availed	1,00,000			5,000
	IGST on invoices received during the month [Full ITC can be claimed on the invoices uploaded by supplier in Form GSTR-1.]				95,000
	Less: Input tax reversed [Outward supply, tax on which is payable under reverse charge is considered as exempt supply for the purpose of reversal of ITC.				(19,895)

	= ₹ 1,90,000 x ₹ 2,00,000/₹ 19,10,000 (₹ 1,90,000 x turnover of exempt supply/ total turnover) [The condition for making the payment for the supply within 180 days so that the ITC availed does not become payable does not apply to reverse charge supplies. Thus, ITC on ₹ 4,00,000 will not be affected.]				
Total ITC available for set off			-	-	1,70,105
D.	**Computation of net GST payable in cash**				
	Total tax liability on outward supplies		54,900	54,900	1,08,000
	Less: ITC of IGST		(54,900)	(7,205)	(1,08,000)
	Forward charge liability on outward supplies payable in cash after set off of ITC				
	Reverse charge liability on inward supplies payable in cash without set off of ITC [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]				5,000
Total net GST liability payable in cash (It has been assumed that IGST has been paid on imported goods before January 20XX. Therefore, the same has not been considered as being paid in cash in the month of January 20XX.)			-	**47,695**	**5,000**

Question 66

MS Ltd. is a GST registered company. During the month of October, 20XX, the company has undertaken the following transactions and wants you to work out the GST output liability, admissible input tax credit and the amount that will have to be paid in cash by the company to the Government before taking you as a Manager in the company. There is no carry forward amount in respect of any of the items to be considered for the purpose of calculations other than what is mentioned specifically below.

Rate of IGST can be taken as 18%, CGST 9% and SGST 9% on all goods and services except GTA service/transportation service and restaurant service for which CGST and SGST rate would be 2.50% each and IGST rate would be 5%. The amounts indicated for all the items are without including the CGST and SGST or IGST element. Whether a supply attracts IGST or CGST/SGST has to be determined on the basis of details given.

The company has indicated to you that the GST liability for October, 20XX for their main product alone is ₹ 54 lakh of CGST and SGST each and ₹ 72 lakh IGST and the eligible credit on the inputs and input services for October, 20XX is ₹ 1.45 crore IGST and ₹ 20 lakh each towards CGST and SGST which can be straightaway taken for calculations.

Company has provided you the other details which is not part of the above as under:

S.N.	Details of the transaction

i.	During the month of October 20XX, the company offered a special discount of 25% on a product, the sale of which it intended to discontinue from 1st December 20XX onwards and issued credit notes to the dealers. This product was lying in stock with the dealers and the discount offered to the customers was borne by the company by issuing the credit note. The amount reimbursed to the dealers for the discounts given to the customers in the month of October 20XX was ₹ 36,00,000 in the course of inter-State.
ii.	The company sold a van used for personal transport by auction. The van had been purchased at ₹ 3,20,000. The depreciated value at the time of sale was ₹ 1,40,000. No GST credit was taken. The van was sold for an amount of ₹ 1,50,000 during month of October 20XX in course of intra-State.
iii.	The company has a policy of raising invoices separately towards transportation cost of their products on their dealers at the time of invoicing for the products sold to them. The company is collecting GST at 5% on all transactions. The transportation cost is collected as a percentage of the value of the goods supplied irrespective of the distance involved. The amount collected during the month of October 20XX towards transportation in intra-State transaction is ₹ 6 lakh and inter-State transactions is ₹ 4 lakh.
iv.	The security establishment of the company caught an employee who had stolen bearings of value ₹ 2.50 lakh during the month of October 20XX. Bearings could not be recovered. But the company successfully recovered the cost from the employee. IGST credit of ₹ 45,000 had been taken by the company on these bearings.
v.	The company supplies food and beverages to the employees and all the items are priced at 10% of the actual cost to the company. During the month of October, 20XX, the company had charged ₹ 50,000 to the employees. Assume that it is intra-State transaction.
vi.	During the month of October, 20XX, the company purchased 10 mobile phones in its name and distributed to the employees to enable them to perform their duties more efficiently for the company. Total price of the phones was ₹ 1,20,000. At the end of the month, company sold these mobiles to employees and company recovered only ₹ 20,000 from the employees. Assume that it is intra-State transaction.
vii.	The company's registered office is located in a building which belongs to the local Municipality. The monthly rent is ₹ 1.50 lakh.
viii.	The whole-time director of the company was paid a salary of ₹ 5 lakh during the month. He was also paid ₹ 20,000 towards sitting fees for his participation in the meeting.

Give a brief note to support your treatment for the items wherever required.

Note: Company wants to pay minimum amount of SGST as far as possible. Ignore provisions of Rule 86B.

Answer

Computation of output GST liability of MS Ltd. for October 20XX

Particulars	CGST (₹ in lakh)	SGST (₹ in lakh)	IGST (₹ in lakh)
GST liability for main product	54	54	72
After-sales discount on a product [In the given case, discount given after effecting the supply is not in terms of an agreement that existed at the time of	Nil	Nil	

supply. Therefore, discount is not allowed as deduction from value of supply.]			
Sale of van used for personal transport by auction (Note 1)	0.135 [1.5 × 9%]	0.135 [1.5 × 9%]	
Transportation cost charged on the product [Supply of goods and transport service is a composite supply as the transportation cost is charged at a flat rate from all customers irrespective of the distance involved. Therefore, rate of principal supply (product) viz. 9% CGST and SGST each is charged on intra-State supply and 18% IGST is charged on inter-State supply.]	0.54 [6 × 9%]	0.54 [6 × 9%]	0.72 [4 × 18%]
Food and beverages supplied to the employees [Goods being provided to the related person (employees), open market value of the same [actual cost (50,000 × 100/10)] has been considered as value. CGST & SGST @ 9% each is payable on food items.]	0.45 [5.0 × 9%]	0.45 [5.0 × 9%]	
Supply of mobile phones to employees (Note 2) [Supply being made to the related person (employees), open market value (Note 3) of the same has been considered as value.]	0.108 [1.20 × 9%]	0.108 [1.20 × 9%]	
Total output tax liability	**55.233**	**55.233**	**72.72**
Less: ITC set off [Refer working note (1) below] [IGST credit is first utilized for payment of IGST liability and then for payment SGST liability followed by CGST liability since the SGST liability is to be kept at minimum.]	(34.972)	(36.858)	(72.72)
After exhausting IGST credit, CGST and SGST credit is to be utilized. ITC of CGST cannot be utilized for payment of SGST and vice versa.	(20.261)	(18.375)	
GST payable in cash [A]	**Nil**	**Nil**	**Nil**
GST under reverse charge payable in cash [Refer working note (2) below] [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]	0.153	0.153	
Total GST payable in cash = [A] + [B]	**0.153**	**0.153**	

Note:

1. The value of supply as well as applicable rate of tax to be paid in case of old and used motor vehicles can also be determined in terms of Notification No 8/2018 CT (R) dated 25.01.2018.
2. It has been assumed that selling of mobile phones to employees at reduced rates does not form part of the employment contract. Further, mobile phones have been considered as inputs. However, it is also possible to consider mobile phones as capital goods. Since in the given case mobile phones (capital goods) are being removed after being used, a specified 'amount' determined in terms of section 18(6) of the CGST Act, 2017 shall be payable.

3. Since mobile phones have been considered as inputs, purchase price of ₹ 1,20,000 for the mobile phones has been considered as its open market value.

Working notes:

(1) Computation of ITC available with MS Ltd. for October 20XX

Particulars	CGST (₹ in lakh)	SGST (₹ in lakh)	IGST (₹ in lakh)
Eligible credit on inputs and input services for the month	20	20	145
Ball bearings stolen [ITC on stolen goods is blocked. Hence, ITC taken on stolen ball bearings needs to be reversed.]			(0.45)
Mobile phones purchased for employees [ITC of goods used in course or furtherance of business is allowed.]	0.108 [1.2 × 9%]	0.108 [1.2 × 9%]	
Rent paid to Municipality	0.135 [1.5 × 9%]	0.135 [1.5 × 9%]	
Sitting fee paid to whole time director	0.018 [0.20 × 9%]	0.018 [0.20 × 9%]	
Total	**20.261**	**20.261**	**144.55**

(2) Tax payable under reverse charge

Particulars	CGST (₹ in lakh)	SGST (₹ in lakh)	IGST (₹ in lakh)
Rent paid to Municipality [Tax on renting of immovable property services supplied by local authority to a registered person is payable under reverse charge.]	0.135 [1.5 × 9%]	0.135 [1.5 × 9%]	
Sitting fee paid to whole time director [Services provided by employee to employer in the course of his employment are not a supply. Hence, salary paid to director is not taxable. However, sitting fee is a consideration for the services provided beyond course of employment and hence, is taxable. Further, tax on sitting fee paid to director is payable under reverse charge.]	0.018 [0.20 × 9%]	0.018 [0.20 × 9%]	
Total tax payable under reverse charge	**0.153**	**0.153**	

Question 67

Priya Infra Ltd., a registered supplier under GST in the State of Kerala, is engaged in the construction business. It provides the following information for the month of April:

S.N.	Particulars	Amount (₹)

	OUTWARD SUPPLY:	
(i)	Transferred one load of tiles to its branch in Cochin, Kerala, from its head office at Trivandrum, Kerala. Both places are under the same GST registration.	7,50,000
(ii)	Provided pure labour services of construction of single commercial unit not forming part of any complex to a customer in Bengaluru (Karnataka).	15,00,000
(iii)	Supplies a consignment of marbles in the territorial waters to Classic Builders LLP. The said territorial waters is located at a distance of 11 nautical miles from the baseline of State of Kerala and 12 nautical miles from the baseline of State of Tamil Nadu.	6,00,000
(iv)	Received an advance for future supplies of goods and services from a customer in Kerala (of which 70% is related to future supplies of services).	7,00,000
(v)	Computer used for business purpose was given free of cost to an unrelated person based in Kerala, computer was purchased 2 years' back at cost of ₹ 88,500 (including GST of ₹ 13,500,) having a W.D.V. of ₹ 71,685 as on the date of sale. Open market value is ₹ 55,000 (excluding GST). No ITC is taken on this computer at the time of purchase.	Nil
	INWARD SUPPLY:	
(i)	Availed services of an arbitral tribunal In Trivandrum, Kerala to settle a case relating to RERA Act.	7,00,000
(ii)	Purchased construction materials from Baahu Steels Ltd., registered in the State of Andhra Pradesh	15,00,000
(iii)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials	12,00,000

The company provided the following additional information:

(i) Paid ₹ 6,00,000 as remuneration to an independent director based at Cochin during the month.

(ii) The company claimed depreciation under the Income-tax Act, 1961 on the new truck purchased including all applicable taxes.

(iii) E-invoice portal shows that Baahu Steels Ltd.'s GST number has been enabled for e-invoicing. However, the supplier did not issue e-invoice/tax invoice with invoice reference number (IRN). The invoice was reflected in GSTR-2B.

(iv) Turnover of Priya Infra Ltd. for the previous financial year was ₹ 180 lakh.

(v) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services.

(vi) All the amounts given above are exclusive of taxes wherever applicable.

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. Reason for treatment needs to be given.

Answer

Computation of minimum net GST payable in cash by Priya Infra Ltd. for April

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST payable under forward charge			

Transfer of tiles to branch within Kerala [Such transfer is not a supply as the branch has the same GSTIN as that of the head office and thus, is not a distinct person]	-	-	-
Inter-State supply of pure labour services for construction of single commercial unit in Bengaluru [Services by way of pure labour contracts of construction of original works pertaining to a single residential unit otherwise than as a part of a residential complex is exempt. Hence, such services in relation to a commercial unit shall be taxable.]			2,70,000 [15,00,000 x 18%]
Supply of consignment in territorial waters [Where the place of supply is in the territorial waters, the place of supply is deemed to be in the coastal State where the nearest point of the appropriate baseline is located. Therefore, place of supply will be in Kerala being nearer to base line and hence, supply will be intra-State supply]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Receipt of advance from customer in Kerala [Tax will be payable only on advance for services. In case of goods, tax is payable at the time of issuance of invoice and not at the time of receipt of advance.]	44,100 [7,00,000 x 70% x 9%]	44,100 [7,00,000 x 70% x 9%]	
Computer given free of cost to unrelated customer [Since ITC has not been taken on computer, permanent transfer of the same without any consideration to an unrelated customer shall not amount to deemed supply in terms of Schedule I to the CGST Act, 2017. Further, since no ITC has been taken, question of reversal of ITC attributable to the remaining useful life of the computer does not arise.]	-	-	
Total output GST	98,100	98,100	2,70,000
Less: Input tax credit [Refer working note below] [CGST credit be first utilized for payment of CGST liability and then for payment of IGST liability in that order. Similarly, SGST credit be first utilized for payment of SGST liability and then for payment of IGST liability in that order. ITC of CGST cannot be utilized for payment of SGST and vice versa.]	98,100 -	98,100 -	18,900 (CGST) 18,900 (SGST)
Net output GST payable in cash [A]	Nil	Nil	2,32,200
GST payable under reverse charge			
Tax on services provided by the arbitral tribunal is payable under reverse charge by the recipient of service.	63,000	63,000	
Tax on remuneration paid to director is payable under reverse charge by the recipient of the service.	54,000	54,000	

GST payable in cash under reverse charge [B] [Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.]	1,17,000	1,17,000	
Minimum net GST payable in cash [A] + [B]	**1,17,000**	**1,17,000**	**2,32,200**

Working Note:

Computation of ITC available with Priya Infra Ltd. for April

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
Services of an arbitral tribunal [Services provided by an arbitral tribunal to a business entity with an aggregate turnover up to threshold limit of registration in the previous financial year are exempt from GST. Thus, services provided by the arbitral tribunal to Priya Infra Ltd., a business entity whose aggregate turnover in the previous financial year exceeds the applicable threshold limit for registration [viz. ₹ 20 lakh, being a supplier of goods and services in the State of Kerala] shall be liable to tax. Further, being services used in course of furtherance of business, ITC shall be available thereon.]	63,000 [7,00,000 x 9%]	63,000 [7,00,000 x 9%]	
Purchase of materials from Baahu Steels Ltd. [An e-invoice without IRN is not treated as invoice and hence, without a valid document, ITC cannot be claimed on such inputs]	-	-	
Purchase of truck [Motor vehicle used for transportation of goods is eligible for credit. However, since depreciation has been claimed on applicable taxes as well, ITC of tax paid on purchase of such truck cannot be claimed.]	-	-	
Payment of remuneration to independent director based at Cochin [Services provided by employee to employer in the course of his employment are not a supply. However, independent director is not an employee of the company and hence, remuneration paid to him is taxable. Further, being services used in the course of furtherance of business, ITC shall be available thereon.]	54,000 [6,00,000 x 9%]	54,000 [6,00,000 x 9%]	
Total ITC	**1,17,000**	**1,17,000**	

Question 68

XYZ Ltd., a registered supplier under GST in the State of Tamil Nadu, is engaged in providing various kinds of supplies of goods and services. It provides the following information for month of October, 20XX:

S.N.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Supplies a consignment of goods in the territorial water to M/s Vikram Industries, registered in Kerala. The said territorial waters is located at a distance of 12 nautical miles from the baseline of State of Kerala and 11 nautical miles from the baseline of State of Tamil Nadu.	5,00,000
(ii)	Provided pure labour services of construction of a single commercial unit located in Delhi not forming part of any residential complex to a customer in Delhi.	12,00,000
(iii)	Supplied 25 televisions over the counter to Mr. Vijay, an unregistered buyer, who took it to his residence in Haryana.	14,00,000
	INWARD SUPPLY:	
(i)	Received a debit note in respect of inward intra-State taxable supplies received 2 years back for the quantity difference as agreed. These inward supplies were used for all goods manufactured in factory. Date of debit note is 17th October, 20XX.	3,00,000
(ii)	Purchased silk yarn (to be used as raw material) from Mr. Ravi, who manufactures silk yarn from raw silk. Mr. Ravi is registered in the State of Rajasthan.	8,00,000
(iii)	Availed services of an arbitral tribunal in Chennai, Tamil Nadu to settle a case relating to the Companies Act.	6,00,000
(iv)	Purchased raw material form ABK Ltd., registered in the State of Andhra Pradesh.	15,00,000
(v)	Purchased a new truck from a dealer in Cochin, Kerala for transport of materials.	14,00,000

Notes:

The company provided the following additional information related to above said transactions or otherwise:

(i) The company claimed depreciation under the Income-tax Act, 1961 on the value of new truck purchased including all applicable taxes.

(ii) The company provided a corporate guarantee of ₹ 2.5 crore to BYH Ltd., its related company, having registered office in the State of Maharashtra, for loan availed by the later form Mangal Bank Ltd., Maharashtra. No consideration has been charged against this corporate guarantee.

(iii) In the month of March, 20XX, company had availed services in an inter-State transaction with a taxable value of ₹ 9,00,000 and a tax rate of 18%. This transaction was liable to tax under reverse charge. Payment for the same to the supplier was not made till the current month (overdue for 181 days during October, 20XX). However, tax due under the said transaction was paid to Government and input tax credit availed in the month of transaction itself.

(iv) The accountant of the company did not claim input tax credit in respect of debit note received for the reason that the original purchase was related to earlier years for which ITC claim eligibility has become time barred.

(v) Invoice issued to Mr. Vijay for televisions mentions only his name and State. However, his complete address of Haryana is missing in the invoice.

(vi) ABK Ltd. is mandatorily required to issue e-invoice. However, it did not issue e-invoice with Invoice Reference Number (IRN) although the invoice was reflected in GSTR-2B.

(vii) Turnover of XYZ Ltd. for the previous financial year was ₹ 190 lakh.

(viii) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services involved.

(ix) All the amounts given above are exclusive of the GST, wherever applicable. There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit have been fulfilled except if mentioned otherwise and also that details of GST paid on inward supplies are available in GSTR 2B.

(x) Assume that all the inward supplies have been used only for taxable outward supply.

(xi) Company is not covered under any of the exception of rule 86B of the CGST Rules, 2017 regarding restriction on use of available input tax credit.

Compute minimum net GST liability of M/s XYZ Ltd, to be paid in cash if any, after utilizing input tax credit if any, for the month of October, 20XX.

Answer

Computation of minimum net GST liability of XYZ Ltd. to be paid in cash for month of October 20XX

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	Output tax payable under forward charge				
(i)	Supply of consignment in territorial waters [Where supply is in territorial waters, place of supply is deemed to be in coastal State where nearest point of the appropriate baseline is located. Therefore, place of supply will be in Tamil Nadu and hence, supply will be intra-State supply]	5,00,000	45,000 [5,00,000 x 9%]	45,000 [5,00,00 0 x 9%]	
(ii)	Pure labour services [Since pure labour services provided for construction of only residential unit are exempt, such services provided for construction of commercial unit are taxable. Further, it is an inter-State supply since place of supply is location of immoveable property, viz. Delhi.]	12,00,000			2,16,000 [12,00,000 x 18%]
(iii)	Supply of 25 Televisions [Inter-State supply since place of supply is location as per the address of the unregistered recipient (name of the State) recorded in the invoice issued in respect of the supply, viz. Haryana.]	14,00,000			2,52,000 [14,00,000 x 18%]
(iv)	Corporate guarantee provided. [Deemed supply under Schedule-I of the CGST Act, 2017 even though made without any consideration. Inter-State	2,50,000			45,000 [2,50,000 x 18%]

	supply since place of supply is Maharashtra (location of recipient). Further, value of supply is higher of: (i) 1% of the amount of such guarantee offered, or (ii) actual consideration [Thus, value of supply is 1% of ₹ 2.5 crores, i.e. ₹ 2,50,000]				
	Total output tax		**45,000**	**45,000**	**5,13,000**
	Less: ITC available for set off [Refer note below.] [IGST credit is utilized for payment of IGST. CGST and SGST credit is first utilized for payment of CGST and SGST liability respectively and thereafter, for payment of IGST liability.]		(45,000) -CGST	(45,000) -SGST	(1,44,000) -IGST (36000) -CGST (36000) -SGST
	Net output tax payable in cash		**Nil**	**Nil**	**2,97,000**
	GST payable under reverse charge				
	Tax on services provided by the arbitral tribunal is payable under reverse charge by recipient of service. [Arbitral tribunal services to XYZ Ltd., a business entity with aggregate turnover exceeding the applicable threshold limit for registration [viz. ₹ 20 lakh] in the previous financial year are liable to tax under reverse charge mechanism.]		54,000	54,000	
	Tax on silk yarn supplied by a person who manufactures it from raw silk to a registered person is payable under reverse charge.				1,44,000
	Minimum net GST payable for set off		**54,000**	**54,000**	**4,41,000**

Working note - Computation of eligible ITC available for set off

S.N.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Debit note received. [ITC on debit notes issued in a financial year (FY) can be availed, any time till 30th November of the succeeding FY or the date of filing of the relevant annual return, whichever is earlier, based on date of issue of debit note, irrespective of the date of original invoice/supply.]	3,00,000	27,000 [3,00,000 × 9%]	27,000 [3,00,000 × 9%]	

(ii)	Silk yarn purchased. [Inter-State supply since place of supply is location where movement of goods terminates, viz. Tamil Nadu. Further, ITC on goods to be used in course or furtherance of business is available.]	8,00,000			1,44,000 [8,00,000 × 18%]
(iii)	Services of Arbitral Tribunal availed. Such services are intra-State supply since place of supply is Tamil Nadu (location of recipient). Further, ITC on services used in course or furtherance of business is available.]	6,00,000	54,000 [6,00,000 × 9%]	54,000 [6,00,000 × 9%]	
(iv)	Raw Material purchased from ABK Ltd. [ITC cannot be claimed on the e-invoices without IRN since an e-invoice without IRN is not treated as valid document for claiming ITC.]	15,00,000			
(v)	Truck purchased. [ITC is not available since depreciation has been claimed on the GST component.]	14,00,000			
(vi)	Condition of payment of value of supply plus tax within 180 days does not apply to supplies on which tax is payable under reverse charge mechanism.				
	Total ITC available		**81,000**	**81,000**	**1,44,000**

Question 69

Skylark Pvt. Ltd., Noida (Uttar Pradesh) is engaged in various kinds of commercial activities. It manufactures taxable goods as also provides certain services. The company has branch office in New Delhi. The Head office at Noida and the branch office in New Delhi are registered under GST. The branch office at New Delhi is eligible for full input tax credit.

The company has reported a total turnover of ₹ 256 crore (exclusive of GST) for the month of August 20XX. The following information is provided by the company in relation to such turnover:

(i) The turnover includes ₹ 45 crore from sale of securities which were purchased for ₹ 30 crore in the month of January last year.

(ii) The company supplied goods worth ₹ 50 crore to ABC Ltd. in UK under a letter of undertaking (LUT). The total export proceeds are received in the month of August 20XX itself; ₹ 30 crore in foreign currency and balance ₹ 20 crore in Indian rupees.

(iii) The company provided consulting services to Sherpa & Sons in Nepal for ₹ 30 crore under a LUT. The entire consideration is received in Indian rupees in the month of August 20XX itself, with the permission of RBI.

(iv) The turnover includes supply of goods worth ₹ 10 crore to Shanghai Jianguo Trading Company Ltd., a company based in China. As per the sale contract, the goods were to be assembled at Shanghai Jianguo Trading Company Ltd.'s office in Gurugram, Haryana. The payment of the goods is received in convertible foreign exchange in the month of August 20XX itself.

(v) Goods worth ₹ 20 crore are supplied under a LUT to DEF Pvt. Ltd. located in a SEZ in the State of Uttar Pradesh.

(vi) Goods worth ₹ 40 lakh were being procured from a vendor in Japan. While the goods were in transit, the company secured an order for the said goods for ₹ 50 lakh from a buyer in Thailand. Thus, the goods were directly sent to Thailand without entering India.

(vii) The company owns three immovable properties in Noida. The first building is let out for running a printing press at ₹ 10 lakh per month. The second building is let out for residential purpose to an unregistered person at ₹ 5 lakh per month. The third building is let out to a Cold Storage operator at ₹ 5 lakh per month. The cold storage operator sub-lets the building as a warehouse to store potatoes.

(viii) The remaining turnover comprised of taxable goods sold within the State and outside the State in the ratio of 3:2.

Total turnover of ₹ 256 crore includes the turnover referred to in points (i) to (vii) above. In addition to above –

(i) the company transferred its stock (taxable goods) from Noida to Delhi branch without any consideration; the value declared in the invoice is ₹ 4.5 crore (exclusive of GST). The cost of production of such goods is ₹ 10 crore. Such stock is sold to independent buyers at ₹ 15 crore (exclusive of GST).

(ii) the company had sent goods worth ₹ 12 crore (exclusive of GST) to M/s Sharma Traders in Haryana on approval basis on 15th January, 20XX, 15th February 20XX & 15th March 20XX (₹ 4 crore each month). Goods sent during all the three months are approved in the month of September 20XX.

Compute the GST liability [CGST & SGST or IGST, as the case may be] of Skylark Pvt. Ltd., Noida for the month of August 20XX. Make suitable assumptions wherever required.

Assume the rates of taxes to be as under:

	CGST	SGST	IGST
Goods	6%	6%	12%
Services	9%	9%	18%

Answer

Computation of GST liability of Skylark Pvt. Ltd. for the month of August 20XX

S.N.	Particulars	Value (₹ in crores)	CGST @ 6% (₹ in crores)	SGST @ 6% (₹ in crores)	IGST@ 12% (₹ in crores)
Goods					
(i)	Export of goods to ABC Ltd. in UK under a letter of undertaking (LUT) [Note 1]	50			Nil

(ii)	Supply of goods to Shanghai Jianguo Trading Company Ltd. [Note 2]	10			1.20
(iii)	Goods supplied to DEF Pvt. Ltd. located in a SEZ [Note 3]	20			Nil
(iv)	Sale within the State [Note 4]	60.18	3.6108	3.6108	-
(v)	Sale outside the State [Note 4]	40.12			4.8144
(vi)	Stock transfer from Noida to Delhi [Note 5]	4.5			0.54
(vii)	Goods sent for sale on approval basis on 15th February, 20XX [Note 6]	4.00			0.48
Total tax liability on goods [A]			3.6108	3.6108	7.0344
Services			**CGST @ 9% (₹ in crores)**	**SGST @ 9% (₹ in crores)**	**IGST@ 18% (₹ in crores)**
(i)	Export of services to Nepal under LUT [Note 7]	30			Nil
(ii)	Receipts from renting of buildings [Note 8]	0.15	0.0135	0.0135	
Total tax liability on services [B]			0.0135	0.0135	
Neither goods nor services					
(i)	Sale of securities [Note 9]	45	Nil	Nil	Nil
(ii)	Goods procured from vendor in Japan and supplied to buyer in Thailand [Note 10]	0.50			Nil
Total tax liability on goods and services [(A) + (B)]			**3.6243**	**3.6243**	**7.0344**

Notes:

(1) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Receipt of consideration in foreign exchange is not a pre-requisite for export of goods. Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

(2) As per section 2(5) of the IGST Act, 2017, export of goods means taking goods out of India to a place outside India. Since, in the given case, the goods are being assembled in India (Gurugram, Haryana), the same are not exported.

Hence, the place of supply thereof will be governed by section 10 of the IGST Act, 2017 which prescribes the provisions for determining the place of supply of goods other than supply of goods imported into or exported from India. As per section 10(1)(d) of the IGST Act, 2017, where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. Therefore, in the given case, the place of supply will be Gurugram, Haryana.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

(3) As per section 7(5)(b) of the IGST Act, 2017, supply of goods and/or services to a special economic zone (SEZ) unit is treated to be a supply of goods and/or services in the course of inter-State trade or commerce. Therefore, supply of goods to a SEZ unit located within the same State shall be liable

to IGST [Section 5(1) of the IGST Act, 2017].

Supply of goods and/or services to a SEZ unit is a zero rated supply in terms of section 16(1)(b) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

(4) Remaining turnover will be calculated as under

₹ 256 crore – (₹ 45 crore + ₹ 50 crore + ₹ 30 crore + ₹ 10 crore + ₹ 20 crore + ₹ 0.50 crore + ₹ 0.10 crore + ₹ 0.05 crore + ₹ 0.05 crore)

= ₹ 100.30 crore

Supply within the State - ₹ 100.30 crore x 3/5 = ₹ 60.18

Supply outside the State - ₹ 100.30 crore x 2/5 = ₹ 40.12

Supply within the State is intra-State supply in terms of section 8(1) of IGST Act, 2017 and thus, chargeable to CGST and SGST. Supply outside the State is inter- State supply chargeable to IGST [Section 7(1) of IGST Act, 2017 read with section 5(1) of the said Act].

(5) As per section 25(4) of the CGST Act, 2017, a person who has obtained more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as 'distinct persons'.

Schedule I to the CGST Act, 2017 specifies situations where activities are to be treated as supply even if made without consideration. Supply of goods and/or services between 'distinct persons' as specified in section 25 of the CGST Act, 2017, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

In the given case-

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of such goods at the time at which the movement thereof terminates for delivery to the recipient i.e., Delhi, in terms of section 10(1)(a) of the IGST Act, 2017.

Therefore, the stock transfer by Noida office to Delhi branch is an inter-State supply as the location of the supplier and the place of supply are in two different States [Section 7(1)(a) of IGST Act, 2017]. Thus, the supply is leviable to IGST in terms of section 5(1) of the IGST Act, 2017.

Rule 28 of the CGST Rules, 2017 prescribes the provisions to determine the value of supply of goods or services or both between distinct or related persons, other than through an agent. Second proviso to the said rule lays down that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services. Therefore, the value of supply in this case will be ₹ 4.5 crore and open market value and cost of production of the goods will be irrelevant.

(6) As per section 31(7) of the CGST Act, 2017, where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

In the given case, the time period of six months for goods sent on 15th February, 20XX expires on 15.08.20XX. Therefore, the invoice for the said goods shall be issued on 15.08.20XX and in terms of section 12(2)(a) of the CGST Act, 2017 read with Notification No. 66/2017 CT dated 15.11.2017, this date would also be the time of supply of such goods. Thus, such goods will be liable to tax in

the month of August 20XX. Goods sent in the month of January would have been taxed in the month of July and goods sent in the month of March would be taxed in the month of September.

Here,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of goods at the time at which movement thereof terminates for delivery to the recipient i.e., Haryana in terms of section 10(1)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Haryana) are in two different States, the same is an inter-State supply liable to IGST [Section 7(1)(a) of the IGST Act, 2017 read with section 5(1) of that Act].

(7) The given case is an export of service as per section 2(6) of the IGST Act, 2017, as-

(i) the supplier of service is located in India (Noida);

(ii) the recipient of service is located outside India (Nepal);

(iii) the place of supply of service is outside India (Place of supply of consulting service will be the location of recipient, i.e. Nepal);

(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India (Receipt of export consideration in Indian rupees is permitted by RBI in the given case); and

(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Export of services is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. A zero rated supply is supplied without payment of tax under a LUT in terms of section 16(3)(a) of that Act.

(8) Letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of service in terms of para 2(b) of the Schedule II to the CGST Act, 2017. Services by way of renting of residential dwelling for use as residence to an unregistered person is exempt from tax. Therefore, rent of ₹ 10 lakh received from letting out of building for printing press will be liable to tax and rent of ₹ 5 lakh received from letting out of building for residential purposes to an unregistered person will be exempt from tax.

Further, services by way of loading, unloading, packing, storage or warehousing of agricultural produce is exempt from tax [Notification No. 12/2017 CT (R) dated 28.06.2017]. However, in the given case, the Cold Storage Operator and not Skylark Pvt. Ltd. is engaged in warehousing of agricultural produce. Therefore, the Cold Storage Operator providing warehousing services for potatoes, being an agricultural produce, will be eligible for such exemption and services provided by Skylark Pvt. Ltd., being services of renting of immovable property (₹ 5 lakh), will be liable to tax.

In case of letting out of first and third buildings,

- the location of the supplier is in Noida (Uttar Pradesh); and
- the place of supply is the location of the immovable property, i.e. Noida in terms of section 12(3)(a) of the IGST Act, 2017.

Since the location of the supplier (Uttar Pradesh) and the place of supply (Noida) are in the same State, 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.

(9) GST is leviable on supply of goods and/or services [Section 9(1) of the CGST Act, 2017]. Securities are specifically excluded from the definition of goods and services as provided under clause (52) and clause (102) respectively of section 2 of the CGST Act, 2017. Therefore, sale of securities will not be liable to GST.

(10) Paragraph 7 of Schedule III to CGST Act, 2017 provides that supply of goods from a place in non-taxable territory to another place in non-taxable territory without such goods entering into India (third country shipments) is treated neither as a supply of goods nor a supply of services. Thus, there is no GST liability on such sales. Further, since such goods do not enter India at any point of time, customs duty and IGST leviable on imported goods will also not be leviable on such goods.

Question 70

The details of transactions of J Ltd., Vadodara (Gujarat), a registered taxable person, during the month of February, 20XX, are as under:

S.N.	Particulars
1.	Purchased goods from a manufacturer in Maharashtra as a merchant exporter (on payment of 0.1% IGST) and exported the same directly to an importer of Spain under LUT. FOB value is ₹ 7,00,000. Invoice for the supply to J Ltd. was received on 5.2.20XX and payment was made on 8.2.20XX.
2.	Imported goods from China with CIF value of ₹ 5,00,000. The goods were sold for ₹ 5,10,000 as high sea sales to an Indian party on 21.2.20XX.
3.	Purchased goods from a party in Taiwan. Sold the goods to a party in Turkey without bringing the goods to India. Purchase value was ₹ 5,00,000 and the sale price was ₹ 7,00,000. J Ltd paid sales commission of ₹ 50,000 to Mrs. T (located in Turkey), their agent in connection with this transaction. The transaction was completed in the third week of February. (The figures in rupees have been given after conversion though transaction was in convertible foreign currency).
4.	J Ltd. has agreed to provide technical services to Mr. K of Ahmedabad who is an unregistered person in connection with the manufacturing operations to be undertaken by him for a consideration of ₹ 5,00,000 and has received an advance of ₹ 1,00,000 for the same on 2.2.20XX.
5.	It has imported raw materials from China. CIF value of the goods for the purpose of Customs included ₹ 1,00,000 as ocean freight paid by J Ltd. The value for the purpose of levy of IGST worked out by Customs was ₹ 6,00,000. Clearance of the goods took place on 4.2.20XX.
6.	Locally purchased taxable raw material stored in the factory got spoiled due to rain water in the factory and became unusable. J Ltd. claimed and received on insurance amount of ₹ 60,000 for the same. Value of the raw material at the time of receipt was ₹ 70,000. Raw material was purchased from a party in Gujarat on 3.2.20XX and payment was made on 7.2.20XX.
7.	Company purchased a three-wheeler having capacity of 2 persons including driver (engine capacity 20CC) at a cost of ₹ 2,50,000 from a dealer in Gujarat which is being used for transportation of staff of company from residence to factory and back. The vehicle was received on 5.2.20XX and payment was made on the same date.
8.	It has paid inward transportation expense of ₹ 30,000 to Mr. Z, a tempo owner who has not issued any consignment notes. He has issued a consolidated bill only on 3.2.20XX and payment was made on 4.2.20XX.

9.	It has supplied goods of value of ₹ 50,00,000 to V Ltd. Padra, Gujarat (includes ₹ 10,00,000 supplied to SEZ unit of V Ltd under LUT).
10.	It has purchased goods from X Impex Ltd. Kadi, Gujarat for use as raw materials in its factory. The value of the goods ₹ 30,00,000. Invoice is dated 2.2.20XX.
11.	It has availed supply of manpower security services from Y Ltd. Vadodara, Gujarat, a registered taxable person. The amount paid is ₹ 1,00,000. The invoice was received on 1.2.20XX and payment was made on the same day.

Assume the CGST and SGST rates to be 9% each and IGST rate to be 18% except the supply received as a merchant exporter. J Ltd. had an opening balance of ITC of CGST of ₹ 20,000 and SGST of ₹ 20,000 as on 1.2.20XX. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in GSTR-2B. All the figures given above are exclusive of GST, wherever applicable.

Work out the admissible ITC and GST liability [CGST, SGST or IGST, as the case may be] payable in cash, by J Ltd, Vadodara (Gujarat), for February, 20XX.

Answer

Computation of admissible ITC for February, 20XX

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance		20,000	20,000	
Goods purchased as merchant exporter [Merchant exporter is eligible to take ITC of IGST paid @ 0.1%.] [In the absence of the value of supply of goods purchased as a merchant exporter, FOB value of export of such goods has been taken as their purchase price for computing the ITC amount.]	7,00,000	--	--	700
Goods imported from China [No ITC since tax is not payable. In case of high sea sales, IGST is paid by the last high sea sales buyer who files the bill of entry for home consumption.]	Nil	--	--	--
Goods purchased from Taiwan [No ITC since tax is not payable as goods do not become part of the landmass of the country.]	Nil	--	--	--
Sales commission paid to agent - Mrs. T [Since service provider - Mrs. T is an intermediary in the given transaction, place of supply is location of Mrs. T, i.e. outside India. Thus, tax is not payable under reverse charge on said services.]	50,000	--	--	--
Imported raw material from China [Input tax, inter alia, includes IGST charged on import of goods.]	6,00,000			1,08,000 [6,00,000 × 18%]

Raw material spoiled [ITC is blocked under section 17(5) on destroyed goods.] [Insurance amount received is an actionable claim. Thus, it is treated neither as supply of goods nor as supply of services.]	--	--	--	--
Three-wheeler purchased [ITC on a three-wheeler with engine capacity of 20cc is allowed as it is not a motor vehicle and is used in course or furtherance of business.] [It has been assumed that the depreciation has not been claimed on GST paid on said capital goods, under the Income-tax Act, 1961.]	2,50,000	22,500 [2,50,000 × 9%]	22,500 [2,50,000 × 9%]	--
Inward transportation from Mr. Z [Services of transportation of goods without issue of consignment note is not covered under services of GTA and hence exempt. Thus, no ITC is available.]	--	--	--	--
Raw material purchased from X Impex Ltd., Gujarat [ITC on goods used in course or furtherance of business is allowed.]	30,00,000	2,70,000 [30,00,000 × 9%]	2,70,000 [30,00,000 × 9%]	
Manpower security services from Y Ltd. [Since security services are provided by a body corporate, tax on the same is not payable under reverse charge.]	1,00,000	9,000 [1,00,000 × 9%]	9,000 [1,00,000 × 9%]	
Total ITC available		3,21,500	3,21,500	1,08,700
Computation of GST liability payable in cash, by J Ltd.				
GST payable on outward supplies				
Export of goods to Spain under LUT [No IGST is payable.]	7,00,000			Nil
High sea sales of goods imported from China [Neither treated as supply for goods nor as supply of services.]	Nil	--	--	--
Goods purchased from Taiwan sold in Turkey without bringing into India [Neither treated as supply for goods nor as supply of services.]	Nil	--	--	--
Advance received for the technical services to be provided to Mr. K [Tax on the services to be provided is payable at the time of receipt of advance.]	1,00,000	9,000 [1,00,000 × 9%]	9,000 [1,00,000 × 9%]	
Goods supplied to SEZ unit of V Ltd. [Supply to SEZ unit is a zero-rated supply.]	10,00,000			Nil

Supply of goods to V Ltd., Gujarat	40,00,000	3,60,000 [40,00,000 × 9%]	3,60,000 [40,00,000 × 9%]	
Total output tax		**3,69,000**	**3,69,000**	**Nil**
Less: ITC* [Credit of IGST can be utilized towards payment of CGST and SGST liability in any order and in any proportion. Credit of CGST and SGST can be utilized only after IGST credit has been fully utilized. Thereafter, credit of CGST and SGST is utilised for payment of CGST and SGST liability respectively. CGST credit cannot be utilized for payment of SGST and vice versa.]		54,350 (IGST)	54,350 (IGST)	
		3,14,650 (CGST)		
			3,14,650 (SGST)	
Net GST payable		Nil	Nil	Nil
Add: GST payable on inward supplies				
Imported raw material from China	6,00,000			1,08,000 [6,00,000 × 18%]
Total net GST payable in cash		**Nil**	**Nil**	**1,08,000**

***Note:** ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order. Therefore, there can be multiple ways of setting off of IGST credit against CGST and SGST. However, total amount of net GST payable in cash will be same in each case.

Question 71

Mr. Dinkar is the owner of Dinkar Associates which is registered in Ahmedabad, Gujarat. He is engaged in supply of various goods and services in the domestic market and exporting the same outside India. During the month of February, he has undertaken the following transactions:

Outward Supplies

(i) Transferred the tenancy rights of a commercial complex (taken on rent) located in Vadodara for a tenancy premium of ₹ 8,00,000 to DB Morgan Ltd. of Ahmedabad, Gujarat. Stamp duty and registration fee have already been paid on the tenancy premium.

(ii) Hired out excavators and dumpers alongwith operators to mining lease holders of Kuchchh, Gujarat for extracting and transporting minerals within the mining area for a period of 5 years. The excavators/dumpers are invariably hired out along with operators. Similarly, operators are supplied only when the excavators/dumpers are hired out. Hire charges for excavators and dumpers are ₹ 10,00,000 and service charges for supply of manpower for operation of the excavators/dumpers - ₹ 2,00,000.

(iii) Supplied goods of value of ₹ 35,00,000 to Choksi Ltd. Jamnagar, Gujarat (including goods worth ₹·10,00,000 supplied to SEZ unit of Choksi Ltd. in Gujarat).

(iv) Agreed to provide consultancy services to Mr. Krishna of Surat, Gujarat who is an unregistered person in connection with his newly commenced business for a consideration of ₹ 6,80,000. An advance of ₹ 1,50,000 has been received for the same on 10th February.

(v) Exported the goods to George Inc. of the USA. FOB value of the goods is ₹ 8,40,000.

(vi) Sold a heavy printing machinery purchased from Japan for ₹ 5,10,000 in high sea to Dhoomketu Printers, Mumbai, Maharashtra on 10th February.

(vii) Supplied goods to Timahi Corporation, China for ₹ 12,00,0000 on 15th February. These goods were purchased for ₹ 10,00,000 from Jamsam Corporation, Japan on 5th February and were supplied in China without bringing them to India.

Inward Supplies

(i) The goods exported to George Inc., USA, were purchased by Mr. Dinkar as a merchant exporter for ₹ 7,00,000 from Shravan Ltd., a manufacturer registered in Bengaluru, Karnataka.

(ii) The heavy printing machinery sold in high sea to Dhoomketu Printers was originally imported by Mr. Dinkar from Japan on 2nd February, with CIF value of ₹ 5,00,000 and FOB value of ₹ 4,50,000.

(iii) Mr. Dinkar paid a sales commission of ₹ 5,00,000 to Mr. Kenzo of Japan, his agent in connection with all the imports from Japan.

(iv) Imported raw materials from Italy under a CIF contract. CIF value of the goods for the purpose of customs included ₹ 2,00,000 as ocean freight paid by the exporter on transport of goods through vessel from port of shipment to port of import. The value for the purpose of levy of IGST worked out by the customs was ₹ 9,00,000.

(v) Purchased raw cotton for manufacture of garments for ₹ 12,00,000 from Mr. Poonawala, an agriculturist of Kuchch, Gujarat.

(vi) Monthly rent of ₹ 35,00,000 payable to Dharam Ltd., Gujarat, for the retail outlet (a commercial property) in Ahmedabad, Gujarat (one third of total space available is used by Mr. Dinkar for personal residential purposes).

Compute the net GST payable in cash [CGST and SGST or IGST], by Mr. Dinkar for February.

Notes:

A. Rates of CGST, SGST and IGST for hiring out of excavators and dumpers are 6%, 6% and 12%. As regards the supply received as a merchant exporter, Mr. Dinkar paid GST at the concessional rates by fulfilling all requisite conditions thereof. Rates of CGST, SGST and IGST for all the other supplies of goods and services including supply of manpower services are 9%, 9% and 18%.

B. Mr. Dinkar had an opening balance of ITC of CGST of ₹ 35,000 and SGST of ₹ 35,000 for the relevant period. In respect of all the inward supplies, suppliers have uploaded their invoices in respective Form GSTR-1 and the supplies are reflected in Form GSTR 2B.

C. All the figures given above are exclusive of GST, wherever applicable. The amounts given in respect of import and export transactions in rupees have been arrived after conversion thereof, though transactions were undertaken in convertible foreign currency.

D. Mr. Dinkar always makes zero-rated supplies under a bond or letter of undertaking (LUT).

Answer

Computation of net GST payable in cash, by Mr. Dinkar

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
GST payable on outward supplies				
Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same (Circular No. 44/2018 CT dated 02.05.2018). It is an intra-State supply since place of supply is location of immovable property being Ahmedabad, Gujarat.]	8,00,000	72,000 (8,00,000 x 9%)	72,000 (8,00,000 x 9%)	
Hiring out excavators and dumpers including operators [Taxable since renting of trucks and other freight vehicles with driver for a period of time is a service of renting of transport vehicles (with operator) and not service of transportation of goods by road. Further, since the excavators and dumpers are invariably hired out along with operators and the operators are supplied only when the excavators/dumpers are hired out, it is a case of composite supply under section 2(30) wherein the principal supply is the hiring out of the excavators and dumpers. As per section 8(a), the composite supply is treated as the supply of the principal supply. Therefore, the supply of manpower for operation of the excavators/ dumpers will also be taxed at the rate applicable for hiring out of the excavator and dumpers (principal supply). Further, it is a taxable intra-State supply since place of supply is location of recipient being Kuchchh, Gujarat.]	12,00,000 [10,00,000 + 2,00,000]	72,000 (12,00,000 x 6%)	72,000 (12,00,000 x 6%)	
Goods supplied to SEZ unit of Choksi Ltd. [Supply to SEZ unit is a zero-rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero- rated supplies under LUT/bond.]	10,00,000			Nil
Supply of goods to Choksi Ltd., Gujarat [It is a taxable intra- State supply since place of supply is location of goods when movement of such goods terminates, viz., Jamnagar, Gujarat.	25,00,000 [35,00,000 - 10,00,000]	2,25,000 [25,00,000 × 9%]	2,25,000 [25,00,000 × 9%]	

Advance received for the consultancy services to be provided to Mr. Krishna [Tax on the services to be provided is payable at the time of receipt of advance. Since the place of supply is location of recipient, i.e. Gujarat, it is an intra- State supply.]	1,50,000	13,500 [1,50,000 × 9%]	13,500 [1,50,000 × 9%]	
Export of goods to USA under LUT/bond [Export of goods outside India is a zero- rated supply in terms of section 16(1)(b) of the IGST Act, 2017. No IGST is payable since Mr. Dinkar makes all zero- rated supplies under LUT/bond.]	8,40,000			Nil
High sea sales of heavy printing machinery imported from Japan [High sea sales is neither treated as supply of goods nor as supply of services in terms of para 8(b) of Schedule III of the CGST Act, 2017.]	Nil	--	--	--
Goods purchased from Japan sold in China without bringing them into India [Third country shipments or triangular trade is neither treated as supply for goods nor as supply of services in terms of para 7 of Schedule III of the CGST Act, 2017.]	Nil	--	--	--
Total output tax		3,82,500	3,82,500	Nil
Less: ITC [Refer working note below]		81,350 (IGST)	81,350 (IGST)	
[IGST credit has been utilized for payment of CGST and SGST liability in equal proportion. Thereafter, CGST credit and SGST credit have been utilized to pay CGST liability and SGST liability respectively.]		3,01,150 (CGST)		
			3,01,150 (SGST)	
Net GST payable		Nil	Nil	Nil
Add: GST payable on inward supplies				
Imported raw material from Italy	9,00,000			1,62,000 [9,00,000 × 18%]
Raw material purchased from Mr. Poonawala, Gujarat [Tax on raw cotton purchased by any registered person from an agriculturist is payable under reverse charge vide Notification 4/2017 IT (R)]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
Total net GST payable in cash (CGST and SGST of ₹ 1,08,000 each will be paid in cash through GSTN portal and IGST of ₹ 1,62,000		**1,08,000**	**1,08,000**	**1,62,000**

will be paid in cash through ICEGATE portal while making customs clearance.)				

Working Note - Computation of admissible ITC for February

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Opening balance		35,000	35,000	
Goods purchased as merchant exporter [It is an inter-State supply since the place of supply is Gujarat, i.e. location where the movement of goods terminates. Shravan Ltd. would have supplied the goods to merchant exporter – Mr. Dinkar - at concessional rate of IGST of 0.1% prescribed under Notification Nos. 41/2017 IT(R) dated 23.10.2017. Further, the merchant exporter is eligible to take ITC of concessional IGST so paid.]	7,00,000	--	--	700
Heavy printing machinery imported from Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same since in case of high sea sales, IGST is paid by the last high sea sales buyer who clears the goods for home consumption by filing the bill of entry.]	Nil	--	--	--
Goods purchased from Jamsam Corporation, Japan [No ITC is available since tax is not payable by Mr. Dinkar on the same as goods do not become part of the landmass of the country.]	Nil	--	--	--
Sales commission paid to agent - Mr. Kenzo [Since service provider - Mr. Kenzo is an intermediary in the given transaction, place of supply is location of supplier - Mr. Kenzo, i.e. outside India (Japan), in terms of section 13(8)(b) of the IGST Act, 2017. Since location of supplier and place of supply are outside India, tax is not payable on said transaction under reverse charge on said services.]	5,00,000	--	--	--
Imported raw material from Italy [Input tax, inter alia, includes IGST charged on import of goods, in terms of section 2(62). No separate levy of IGST will be there on the component of ocean freight paid by the foreign exporter to the foreign shipping line in the CIF contract by virtue of Union of India vs. Mohit Minerals Pvt. Ltd. 2022 (61) G.S.T.L. 257 (SC) since the Indian importer is liable to pay IGST on the	9,00,000			1,62,000 [9,00,000 × 18%]

'composite supply', comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract.				
Raw cotton purchased from Mr. Poonawala, Gujarat [It is an intra-State supply since the place of supply is location where movement of goods terminates, i.e. Gujarat, in terms of section 10(1)(a) of the IGST Act, 2017. ITC on goods used in course or furtherance of business is allowed in terms of section 16.]	12,00,000	1,08,000 [12,00,000 × 9%]	1,08,000 [12,00,000 × 9%]	
GST paid on monthly rent [In case of services used partly for the business purpose and partly for other purposes, ITC is restricted to so much of ITC as is attributable to the purposes of business. Thus, ITC for GST paid on only 2/3rd of monthly rent is available since GST paid on monthly rent attributable to personal purposes (one-third) is not allowed. Further, it is an intra-State supply since the place of supply of services provided in relation to an immovable property is location of immovable property, i.e. Gujarat in terms of section 12(3) of the IGST Act, 2017.]	35,00,000	2,10,000 [35,00,000 × 9%×2/3]	2,10,000 [35,00,000 × 9%×2/3]	--
Total ITC available		**3,53,000**	**3,53,000**	**1,62,700**

Note – Since as per section 49(5) read with rule 88A, ITC of IGST can be utilised towards payment of CGST and SGST in any proportion and in any order, the ITC of IGST of ₹ 1,62,700 can be set off against the CGST and SGST liability in any proportion and in any order. In above answer, ITC of IGST has been set off in equal proportion against the payment of CGST and SGST liability. However, multiple answers are possible to given question owing to multiple ways of utilizing the ITC of IGST for payment of CGST and SGST liability.

CHAPTER - 9
Electronic Commerce Transactions

Electronic Commerce Operator (ECO) Basics

Question 1

Suvidha Technologies is in the business of development of e-commerce platforms for various customers. Chennai Creations obtained the ownership rights of an e-commerce platform developed by Suvidha Technologies by paying a specified amount against ownership rights of said portal. Chennai Creations also entered into an annual maintenance contract with Suvidha Technologies for technical maintenance of the said portal. Chennai Creations supplies its own goods and services through said portal to ultimate customers. Examine who is the e-commerce operator in the given case as per the provisions of GST law.

Answer

As per section 2(44), **electronic commerce means** the **supply** of goods or services or both, including digital products **over digital or electronic network.** Further, as per section 2(45), **electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.**

In the given transaction, the e-commerce platform is developed by Suvidha Technologies. However, the ownership of electronic platform is sold by Suvidha Technologies to Chennai Creations. Thus, **Chennai Creations is the owner of e-commerce platform and is also operating/managing the said platform** for supply of its own goods and services. In view of definition of e-commerce operator, it is Chennai Creations which owns, operates or manages digital or electronic facility or platform for electronic commerce. Suvidha Technologies is merely providing the annual management services for the electronic platform, but the ownership rights lie with Chennai Creations. Thus, **Suvidha Technologies cannot be termed as electronic commerce operator** in given case and Chennai Creations is e-commerce operator.

Question 2

Harishchandra of New Delhi makes a request for a motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Harishchandra pays the cab charges using his debit card, he gets details of the driver - Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by Perry India Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

Perry India Ltd. claims that cab service is provided by Jorawar Singh and hence, he is liable to pay GST. With reference to IGST Act, 2017, determine who is the person liable to pay GST in this case?

Answer

Section 5(5) of the IGST Act, 2017 provides that **tax on** inter-State supplies of **specified services notified by Government shall be paid by** the electronic commerce operator **(ECO)** located in taxable territory if **such services are supplied through it.** Services by way of **transportation of passengers by a motor cab supplied through ECO is one of the notified services.**

Electronic commerce operator (ECO) **means any person who owns, operates or manages digital or**

electronic facility or platform for supply of goods or services or both [Section 2(45)].

Since Perry India Ltd. owns and manages a mobile application in the name of "Super ride", to facilitate supply of passenger transportation service in motor cabs over a digital network, it is an ECO. Thus, **Perry India Ltd., an ECO located in India, is liable to pay GST in the given case.**

Question 3

Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST. With reference to the provisions of IGST Act, 2017, determine who is liable to pay GST in this case?

Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also briefly state the statutory provisions involved.

Answer

Section 5 of IGST Act, 2017 provides that **tax on** inter-State supplies of **specified services notified by Government shall be paid by** the electronic commerce operator **(ECO)** located in taxable territory **if such services are supplied through it.** Services by way of **transportation of passengers by a motor cab supplied through ECO is one of the notified services.**

Electronic commerce operator **means any person who owns, operates or manages digital or electronic facility or platform** for supply of goods or services or both, including digital products over digital or electronic network.

Since DT Ltd. owns and manages a mobile application to facilitate supply of passenger transportation service in motor cabs over a digital network, it is an ECO. Thus, **DT Ltd., an ECO located in India is liable to pay GST in the given case.**

However, where an **ECO does not** have a **physical presence in taxable territory, person representing ECO is liable to pay tax.** Further, where ECO has neither the physical presence **nor any representative** in taxable territory, **person appointed by the ECO for purpose of paying the tax is liable to pay tax.**

Accordingly, if D.T. Ltd. is located in New York (USA), any person representing DT Ltd. for any purpose in India is liable to pay tax.

Further, if D.T. Ltd. also does not have a representative in India, it shall appoint a person in India for the purpose of paying tax and such person shall be liable to pay tax.

Tax Collected at Source (TCS) by ECO

Question 4

Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?

Answer

The **rate of TCS** as notified **under CGST Act** is payable under CGST and the equal rate of TCS is expected under the **SGST Act** also, in effect **aggregating to 0.5%.**

Question 5

Is every e-commerce operator required to collect tax on behalf of actual supplier?

Answer

Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

However, **no TCS** is required to be collected in the following cases:

(i) on **supply of services notified under section 9(5)** of the CGST Act, 2017.

(ii) on **exempt supplies**

(iii) on supplies on which the **recipient is required to pay tax on reverse charge basis.**

Question 6

State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios -

(a) Fitan sells watch on its own through its own website

(b) ABC limited who is dealer of Fitan brand sells watches through Slipkart, an electronic commerce operator

Answer

Answers for both the scenarios is as follows:

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of

(a) the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the **person sells on his own**, provisions pertaining to tax collected at source **(TCS) won't be applicable.**

(b) If ABC limited who is dealer of Fitan brand **sells watches through Slipkart,** then the provision of **TCS will be applicable to Slipkart.**

Question 7

A is an e-commerce operator supplying goods through its electronic portal in capacity of an agent. The goods belong to B and the consideration for such supplies is received by A and remitted to B as per the contractual arrangement. A requires your help in arriving at the rate at which tax shall be collected from the amount which is received by it against the supplies?

Answer

As per Section 52(1) of the CGST Act, 2017, the TCS provisions are **not applicable in cases where the ECO is an agent of the supplier**. In the present case, A being an ECO is supplying goods through the electronic portal **in capacity of an agent** and hence the **liability to collect tax as per Section 52 shall not arise** in this case.

Question 8

X booked a Hotel in Udaipur, Rajasthan through an e-commerce portal for an amount of ₹ 25,000. As per the terms and conditions, the amount was payable at the hotel at the time of check in. Whether TCS provisions shall apply in the present case?

Answer

No, as per the provisions under Section 52 of the CGST Act, 2017 the **TCS provisions shall trigger only when the ECO is receiving the consideration** for supply from the recipient of supply. In the present case the supplier i.e. the **hotel is directly receiving the consideration** from the recipient of the services i.e. X. Hence, the present transactions **shall not trigger the TCS provisions** under Section 52.

Question 9

Sumitra Nandan books a hotel – Hillpoint Residency - via Zitcom Technologies Ltd. – an ECO - who in turn is integrated with another ECO-Techsuper Ltd. who has agreement with Hillpoint Residency. You are required to determine who is required to collected TCS in the given case.

Answer

The given case is a case of **multiple e-commerce model** wherein a customer orders supplies via ECO-1 who in turn is integrated with ECO-2 who has agreement with the supplier. In this case, ECO-1 will not have any GST information of the supplier. **TCS is to be collected by that e-Commerce operator who is making payment to the supplier** for the particular supply happening through it, which will be ECO-2.

Thus, in the given case, TCS is to be collected by **ECO-Techsuper Ltd**. who is making payment to Hillpoint Residency for the supply happening through it

Question 10

Top Fashions, a designer cloth dealer and registered in the State of West Bengal, effected supply through 'QUICK DEAL', an electronic commerce operator. Net value of taxable intra-State supplies effected for the month of October 20XX was ₹ 1,50,000 (exclusive of GST). Determine TCS.

Answer

An electronic commerce operator (ECO) is required to **collect TCS - an amount @ 0.5% (CGST 0.25% and SGST @ 0.25%)** of the net value of taxable supplies made through it by other suppliers.

= ₹ 1,50,000 × 0.25%

= **₹ 375 (CGST) & ₹ 375 (SGST)**

Question 11

Rajwada Operators Limited (ROL) is registered under GST in the State of Karnataka as an Electronic Commerce Operator (ECO). It owns and operates a web portal which supplies various goods and services on behalf of various sellers/service providers to its ultimate customers. Details of supplies undertaken through ROL in the month of October 20XX are as under:

(i) Sale of goods worth ₹ 1,47,500 (including GST) by A Ltd., registered supplier of Rajasthan to B Ltd., Gujarat. Also, goods worth taxable value of ₹ 1,40,000 sold by A Ltd., Rajasthan to B Ltd., Gujarat in the month of September 20XX were returned back in the month of October 20XX.

(ii) Value of services provided from 21.10.XX to 30.10.XX by way of transportation of passengers by motor vehicles by X Ltd., registered under GST in Karnataka to Z Ltd., registered under GST in Karnataka amounting to ₹ 5,50,000 (it includes ₹ 1,50,000 against transportation services provided by omnibus).

(iii) Miss Zara of Mumbai books a room for 3 days and 2 nights in Raj Niwas Palace, Jodhpur, Rajasthan through Maharaja Resorts Ltd. (MRL), also an ECO registered under GST in Karnataka. MRL is integrated with ROL who has an agreement with Raj Niwas Palace. Raj Niwas Palace is registered under GST in Rajasthan and raises an invoice for ₹ 1,50,000 to Miss Zara and receives ₹ 1,45,000 from ROL for the same.

All the figures given above are exclusive of GST except wherever specified separately. Assume rate of CGST and SGST to be 9% each and IGST to be 18% on all inward and outward supplies of goods and services. Compute the amount of TCS to be collected by ROL for the month of October 20XX.

Answer

(i) ROL is liable to collect tax at source under section 52 of the CGST Act, 2017 **@ 0.5% under IGST of the net value of inter-State taxable supplies** of goods (Value of taxable supplies made less value of supplies returned) made through it by the electronic commerce operator (ECO) - A Ltd.

Net value of taxable supplies = ₹ 1,25,000 (₹ 1,47,500× 100/118) – ₹ 1,40,000 = Nil / (**Negative Value) Thus, TCS to be collected is Nil.**

(ii) ROL is **liable to collect TCS**, since the tax on services, **by way of transportation of passengers by an omnibus provided by a company** through ECO, is **not payable by ECO**, under section 9(5) of the CGST Act, 2017.

= ₹ 1,50,000 × 0.25%

=₹ 375 each under CGST and SGST

ROL is **not required to collect TCS on transportation of passenger services by other motor vehicles** supplied through it worth ₹ 4,00,000 as **tax on the same is payable by ROL** itself under section 9(5) of the CGST Act, 2017.

(iii) ROL, being supplier side ECO is liable to collect TCS @ 0.25% under CGST and 0.25% under SGST of the net value of intra-State taxable supplies of accommodation services made through it by Raj Niwas Palace.

= ₹ 1,50,000 × 0.25%

=₹ 375 each under CGST and SGST

Question 12

Starkart Limited owns and operates a web portal in the name of "Starkart" and is registered with the jurisdictional GST authorities in Delhi as an electronic commerce operator and is liable to collect tax at source under section 52. Starkart provides listing service to various sellers for selling the goods to ultimate customers. Besides this, Starkart also sells its own products through the same web portal.

For the listing services provided to sellers, Starkart charges a listing fee at the rate of 10% of turnover of goods sold by the seller in a particular month. Such listing fee is recovered from the seller irrespective of any return of goods sold through Starkart. The customers can choose from wide range of goods listed on the web portal and place an online order for goods.

The payment is made by the customers through the payment gateway in online mode only. At the time of monthly settlement, Starkart makes the payment to the sellers after adjusting the tax collection at source at the applicable rates.

The invoice for goods sold on Starkart is issued by the seller in the name of customers and tax is charged on the basis of location of seller and customer. The goods are shipped directly by the seller to the customer and there is no responsibility of shipping the goods on Starkart for such third-party sellers.

In case of return of goods by the customer, the shipping is arranged by Starkart. It charges a fee equivalent to 20% of the value of goods returned as cancellation charges and refunds the balance amount to the customer. Further, 10% of the value of goods returned is collected from the seller by Starkart as handling charges for return of goods.

In the month of January, Pulkit, a resident of Rajasthan, purchased following goods from Starkart:

(i) Laptop having a value of ₹ 50,000 and a printer having value of ₹ 10,000. Both products are sold by Infocom Limited, a seller listed on Starkart and registered under GST in the State of Uttar Pradesh.

(ii) Mobile phone having a value of ₹ 30,000 sold by Starkart in its own capacity.

(iii) CCTV camera system having a value of ₹ 1,00,000 sold by Secure World, listed on Starkart and registered under GST in the State of Gujarat.

All the amounts given above are exclusive of GST, wherever applicable.

The opening balance of input tax credit for the relevant tax period for Starkart, Infocom Limited and Secure World is nil. Further, there is no other inward or outward supply transaction for Starkart, Infocom Limited and Secure World in January apart from aforementioned transactions. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

GST is applicable on all inward and outward supplies at the following rates unless otherwise specified:

CGST - 9%, SGST - 9%, IGST - 18%

Compute the net tax liability (including amount collected as TCS) of Starkart Limited and net GST payable in cash (after set-off of credits, if any) of Infocom Limited and Secure World, for the month of January

Answer

1. Computation of net tax liability (including amount collected as TCS) of Starkart Limited for January

Particulars	Amount (₹)
TCS to be collected from Infocom Limited on supply of Laptop and a printer to Pulkit [Starkart is an ECO since it owns and operates a web portal through which Infocom	300

Limited supplies goods. Further, IGST is applicable on said inter-State transaction since supplier - Infocom Limited is located in the State of Uttar Pradesh and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of [50,000 + 10,000]	
GST to be paid by Starkart on supply of mobile phone made on its own account @ 18% (IGST) of 30,000. IGST is applicable on said inter-State transaction since supplier - Starkart is located in Delhi and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Since supply has been made by Starkart on its own account, no TCS needs to be collected.	5,400
TCS to be collected from Secure World on supply of CCTV camera system to Pulkit [ECO - Starkart is liable to collect TCS on this transaction. Further, IGST is applicable on said inter-State transaction since supplier - Secure World is located in the State of Gujarat and place of supply is Rajasthan [i.e. where movement of goods terminates in terms of section 10(1)(a) of the IGST Act, 2017]. Thus, Starkart will collect TCS @ 0.5% of 1,00,000]	500
Listing services provided by Starkart to Infocom Limited and Secure Limited @ 10% of turnover for the month of January. Turnover of Infocom Limited and Secure Limited is 60,000 and 1,00,000 respectively. IGST @ 18% on (1,60,000 × 10%) is applicable on said inter- State transaction since supplier – Starkart is located in Delhi and place of supply is Uttar Pradesh and Gujarat respectively [i.e. location of recipient in terms of section 12(2) of the IGST Act, 2017]	2,880
Total GST liability (including TCS) of Starkart for January	**9,080**

2. Computation of net GST payable in cash by Infocom Limited for the month of January

Particulars	**Amount (₹)**
Gross GST liability [18% of turnover for January (50,000 + 10,000)]	10,800
Less: ITC of GST payable on listing services received [(10% of 60,000) ×18%]	(1,080)
Net GST payable from Electronic Cash Ledger	9,720
Less: TCS credited to Electronic Cash Ledger	(300)
Net GST payable in cash	**9,420**

3. Computation of net GST payable in cash by Secure World for the month of January

Particulars	**Amount (₹)**
Gross GST liability [18% of turnover for January 1,00,000]	18,000
Less: ITC of GST payable on listing services received from [(10% of 1,00,000) ×18%]	(1,800)
Net GST payable from Electronic Cash Ledger	16,200
Less: TCS credited to Electronic Cash Ledger	(500)
Net GST payable in cash	**15,700**

Registration Requirement

Question 13

AB Pvt. Ltd., Pune provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is ₹ 18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. Will your advice be any different if AB Pvt. Ltd. sells readymade garments exclusively through the e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd.?

Answer

As per section 22 of the CGST Act every supplier of goods or services or both is **required to obtain registration** in the State/Union territory from where he makes the taxable supply **if his aggregate turnover exceeds threshold limit in a financial year.**

However, section 24 of the said Act enlists certain categories of persons who are **mandatorily required to obtain registration**, irrespective of their turnover **Persons who supply goods or services or both through such electronic commerce operator (ECO),** who is **required to collect tax at source** under section 52, is one such person specified under clause (ix) of section 24. However, where the **ECO is liable to pay tax on behalf of the suppliers of services** under a notification issued under section 9(5), the **suppliers of such services are entitled for threshold exemption** and also as per section 23, **person making supplies of goods through an electronic commerce operator who is required to collect TCS** u/s 52 of CGST is **entitled for threshold exemption subjected to certain conditions.**

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers

In the given case, AB Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source under section 52. However, **house-keeping services provided by AB Pvt. Ltd., which is not liable for registration** under section 22(1) **as its turnover is less than ₹20 lakh, is a service notified under section 9(5).** Thus, AB Pvt. Ltd. will be **entitled for threshold exemption** for registration and **will not be required to obtain registration** even though it supplies services through ECO.

In the second case, AB Pvt. Ltd. **sells readymade garments** through ECO. Person making supplies of goods through an ECO who is required to collect TCS is **entitled for threshold exemption** subjected to certain conditions. Therefore, in second case, assuming that all the conditions are fulfilled, AB Pvt. Ltd. will **be entitled for threshold exemption and** will not be required to obtain registration.

Question 14

Bindusara commences business of supplying taxable goods locally within State of Rajasthan in April. He

is not yet registered under GST. As his aggregate turnover reaches ₹ 8 lakh by the end of the month of June, Bindusara starts exploring the option to sell the goods supplied by him within Rajasthan on a popular electronic commerce platform – E-vastustore by listing the goods on the said platform.

He approaches you for advice on following issues in this regard:

(A) Bindusara wishes to continue his business without registering under GST since it will enhance the compliance burden under GST law. Can he supply the goods through E-vastustore without obtaining GST registration? You are required to advise him.

(B) Discuss the GST implications in case Bindusara supplies goods through electronic commerce platform - E-vastustore.

Answer

(A) **Yes**, Bindusara can supply goods through E-vastustore without obtaining GST registration.

As per section 24(ix), persons who **supply** goods and/or services, other than services notified under section 9(5), **through such electronic commerce operator** (hereinafter referred as ECO) who is required to collect TCS under section 52 is required to **obtain registration mandatorily**.

However, the persons making supplies of goods through an ECO who is required to collect TCS and having an **aggregate turnover** in the preceding financial year and in the current financial year **not exceeding the threshold limit** in accordance with the provisions of section 22(1), are **exempted from obtaining registration**, vide Notification No. 34/2023 CT dated 31.07.2023, subject to the following **conditions, namely**:

(i) such persons shall **not make any inter-State supply** of goods;

(ii) such persons shall **not make supply** of goods through ECO **in more than one State**/UT;

(iii) such persons shall be required to **have a PAN** issued under the Income-tax Act, 1961;

(iv) such persons shall, before making any supply of goods through ECO, **declare on the common portal:**

a. their PAN

b. address of their place of business and

c. State/UT in which such persons seek to make such supply,

which shall be subjected to validation on the common portal;

(v) such persons have been **granted an enrolment number** on the common portal on successful validation of the PAN declared above;

(vi) such persons shall **not be granted more than one enrolment number** in a State/UT;

(vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and

(viii) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

Thus, Bindusara can supply goods through E-vastustore without obtaining GST registration till the time its aggregate turnover does not exceed the threshold limit in accordance with the provisions of section 22(1) thereby complying with the aforesaid conditions.

(B) As Bindusara is not required to obtain registration under GST, there shall be **no GST implications**

on the supplies made by him through electronic commerce platform - E-vastustore.

However, the electronic commerce operator - E-vastustore – is required to **submit the details of supplies** made through it by the unregistered suppliers (including Bindusara) having enrolment number in Form GSTR 8. Further, **no tax at source shall be collected** by the E-vastustore in respect of such supplies

Question 15

Mr. Jignesh of Delhi books accommodation, though an e-commerce operator - Plan My Trip Ltd. (PMTL), registered under GST in Uttarakhand, in a newly established budget hotel – Paras Resorts Ltd. (PRL) located in Nainital, Uttarakhand. The turnover of PRL in the current financial year is ₹ 18 lakh.

PRL raises an invoice for ₹ 1,00,000 to Mr. Jignesh. PMTL collects the payment from Mr. Jignesh and after deducting its fees and other charges from the same, remits the balance amount to PRL.

Advise PRL as to whether it is required to obtain GST registration. Also, whether tax is required to be collected at source by PMTL under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator – PMTL. If yes, determine the amount of tax to be collected at source.

Suppose in the above case, other facts remaining same, if PRL, supplying accommodation services, is also an e-commerce operator (registered in Uttarakhand as TCS collector as well as a regular tax payer since its aggregate turnover exceeds the threshold limit) and PMTL has an agreement with PRL for booking the accommodation at the time when Mr. Jignesh booked the accommodation, ascertain whether tax is required to be collected at source under section 52 on the services provided by PRL to Mr. Jignesh through electronic commerce operator – PMTL. If yes, determine the amount of tax to be collected at source and since two e- commerce operators are involved in the said transaction, who is required to collect the tax at source under section 52?

Note – Amounts given above are exclusive of GST. Assume applicable rate of CGST and SGST to be 9% each and IGST to be 18%.

Answer

As per section 22, every supplier of goods or services or both is required to obtain registration in the State/Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year. However, section 24, inter alia, provides that **persons who supply goods or services or both through an electronic commerce operator** (hereinafter referred as ECO), who is **required to collect tax at source under section 52**, are required to **obtain registration mandatorily.** However, said mandatory registration is **not applicable**, inter alia, to the **suppliers of the services which are notified under section 9(5) or section 5(5)** of the IGST Act, 2017; such suppliers are entitled for threshold exemption.

In case where services are notified under section 5(5) of the IGST Act, 2017, the ECO is liable to pay the entire tax on behalf of the suppliers of services. Notification No. 14/2017 IT (R) dated 28.06.2017 issued under said section **notifies services by way of providing accommodation in hotels, provided the person supplying such service through ECO is not liable for registration** under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, PRL provides services by way of providing accommodation in hotel through an ECO. Services by way of providing accommodation in hotels provided by a supplier - PRL - which is not liable

for registration under section 22(1) as its turnover is less than the threshold limit for registration, [viz. ₹ 20 lakh], is a service notified under section 5(5). Thus, **PRL will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.**

As per section 52, **ECO is not required to collect tax at source (TCS) in cases where the service is notified under section 9(5)** of the CGST Act, 2017/section 5(5) of the IGST Act, 2017. The applicable tax on such services is to be paid by the ECO as if he is the supplier liable to pay tax on the supply of such services.

Thus, in the given case, **no tax is required to be collected** at source under section 52. Further, the supply of accommodation services by PRL to Mr. Jignesh is an intra-State supply liable to CGST and SGST since the place of supply of services by way of lodging accommodation by a hotel is the location at which the immovable property is located in terms of section 12(3) of the IGST Act, 2017. Accordingly, in the given case, **place of supply is Uttarakhand and location of supplier – PRL - is also Uttarakhand.**

As discussed above, **entire tax of ₹ 9,000 (each under CGST and SGST) on ₹ 1,00,000 will be paid by the ECO – PMTL.**

In case where **PRL is registered under GST, service by way of providing accommodation in hotels provided by it through ECO will no longer be a service notified under section 5(5).** The reason for the same is that services by way of providing accommodation in hotels are notified under section 5(5) only where the person supplying such service through ECO is not liable for registration under section 22(1). Consequently, said services shall be **subject to the TCS provisions** under section 52.

Further, in a situation where **multiple ECOs are involved** in a single transaction of supply of goods or services or both through ECO platform and the **supplier-side ECO is himself the supplier** of the said supply, Circular No. 194/06/2023 GST dated 17.07.2023 clarifies that the **buyer- side ECO will be required to collect TCS,** as applicable, pay the same to the Government in accordance with section 52 and also make other compliances under said section.

As discussed above, the supply of accommodation services by PRL to Mr. Jignesh is an **intra-State supply liable to CGST and SGST.**

Accordingly, in the given case, buyer side ECO – PMTL - is required to collect TCS on ₹ 1,00,000 @ 0.25% each under CGST and SGST as follows:

= ₹ 1,00,000 × 0.25%

= ₹ 250 each under CGST and SGST

CHAPTER - 10
Registration

Liability for Registration

Question 1

Determine whether registration has to be obtained under GST in case of the following as per provisions contained under CGST Act, 2017.

(1) Fine oils of Telangana is engaged in the business of machine oil as well as petrol and diesel. The total turnover on supply of machine oil is only ₹ 8 lakhs and in case of petrol and diesel is ₹ 8 crores.

(2) Ramlal, an agriculturist, for supply of produce out of cultivation of land amounting to ₹ 21 lakhs.

Answer

(1) Supply of petrol and diesel is not leviable to GST, but **supply of machine oil is taxable**. In order to determine whether Fine oils is liable for registration, turnover of both the supplies, non taxable as well as taxable would be taken into account for the **threshold of ₹ 20 lakhs**. Here the turnover of machine oil, petrol and diesel **exceeds ₹ 20 lakhs** (₹ 8.08 crores). Thus, **Fine oils is liable for registration.**

(2) As per section 23 of CGST Act, an **agriculturist**, to the extent of supply of produce out of cultivation of land is not liable for registration under GST. In the case of Mr. Ramlal, even though turnover of produce out of cultivation has exceeded ₹ 20 lakhs, he will **not be liable for registration**.

Question 2

Decide whether the registration is required under CGST Act, 2017 in the following independent cases:

(i) A casual taxable person (CTP) has provided inter-State supply of notified products being textiles hand printing amounting to ₹ 19.25 lakh during the month of January, 20XX. Those products were made by craftsmen by both hand and machines equally. CTP had obtained PAN and generated e-way bill for supply.

(ii) Mr. Bantu of Delhi doing trading business across India and his intra-State turnover details are as below:

(1) Taxable supplies made from Delhi – ₹ 18 lakh.

(2) Exempt supplies made from Andhra Pradesh – ₹ 10 lakh.

(3) Both taxable and exempt supplies made from Tamilnadu – ₹ 5,00,000 and ₹ 6,00,000 respectively.

Answer

(i) A **casual taxable person (CTP) is liable to be registered compulsorily** under GST irrespective of the threshold limit.

However, **CTPs making inter-State taxable supplies** of notified products, when made by the **craftsmen predominantly by hand even** though some machinery may also be used in the process, have been **exempted from obtaining registration if** their aggregate **turnover does not exceed ₹ 20 lakh** [₹ 10 lakh for specified special category States].

Since, in the given case, notified **products were made by craftsmen by both hand and machines equally,** they are not eligible for exemption and are required to **obtain registration mandatorily.**

(ii) For a **supplier exclusively engaged in intra-State supply of goods**, the **threshold limit** of turnover to obtain registration in the States of Delhi, Andhra Pradesh and Tamil Nadu is **₹ 40 lakh**. Aggregate **turnover includes value of all taxable and exempt supplies** under same PAN.

Thus, aggregate turnover of Mr. Bantu doing trading business across India (It has been assumed that Mr. Bantu makes only intra-State supplies across India.)

= ₹ (18 lakh +10 lakh + 5 lakh + 6 lakh)

= ₹ 39 lakh.

Therefore, Mr. Bantu is **not liable for registration as** his **turnover does not exceed ₹ 40 lakh.**

Question 3

Comment on the liability to get registered under the GST law in the given independent situations. Your answer should also include relevant provisions of law, notifications or circulars.

(i) Miss Riddhima is exclusively engaged in the export of readymade garments from the State of Rajasthan and her export turnover during the year is ₹ 17 lakh. Apart from export turnover, she has earned interest on bank FDR for ₹ 2 lakh also.

(ii) Ajanta Enterprises is exclusively engaged in the trading of exempt goods under GST in the State of Haryana and has not taken the GST registration. During the year, its turnover from exempt supplies is ₹ 47 lakh and Ajanta Enterprises also sold old generator for ₹ 1.25 lakh during the year.

(iii) Mr. P has presence in two States, one in Haryana and other in Rajasthan. He is registered in the State of Rajasthan even without crossing the threshold limit. His turnover during the year in Rajasthan is ₹ 32 lakh and in Haryana is ₹ 5 lakh. Is he mandatorily required to get registered in the State of Haryana also?

(iv) Mr. John is engaged in the business of buying and selling of shares on his own account from the secondary market and his income from this activity is assessed as business income under the Income-tax Act 1961. During the year his total sales turnover from shares was ₹ 90 lakh.

Answer

(i) **Export of goods is treated as inter-State supply**. Miss Riddhima is liable to obtain **registration compulsorily** irrespective of the quantum of her aggregate turnover since she is engaged in making inter-State supply (exports) of goods.

(ii) Any person engaged **exclusively in making exempt supplies is not liable to registration.** However, Ajanta Enterprises is **liable to get registered as** it has **also made a taxable supply** along with exempt supplies during the year **and its aggregate turnover (₹ 48.25 lakh) exceeds the threshold limit** for registration.

(iii) Since **registration in GST is PAN based,** once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN. Therefore, **Mr. P is liable to get registered in Haryana also**, provided he is not engaged exclusively in making exempt supplies from Haryana.

However, it is also possible to take a view that a person who is voluntarily registered in one State

needs to obtain registration in other States from where he makes a taxable supply only if his aggregate turnover exceeds applicable threshold limit for registration. In that case, Mr P is not liable to obtain registration from Haryana since the aggregate turnover does not exceed the threshold limit for registration.

(iv) A supplier is liable to obtain registration in a State/UT from where he makes a taxable supply of goods and/or services. Shares are excluded from the definition of goods as well as services. Hence, **buying and selling of shares is not a supply of goods and/or services under GST law.** Thus, Mr. John is **not liable to obtain registration** since he is **not engaged in making a taxable supply of goods and/or services.**

Question 4

Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of ready-made garments at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in June. It has furnished the following details relating to supply made at such multiple locations for the month of June:

Particulars	Himachal Pradesh (₹)	Uttarakhand (₹)	Tripura (₹)
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non- taxable goods	-	21,00,000	40,000

All the above amounts are excluding GST.

With the help of the above mentioned information, answer the following questions giving reasons:

(1) Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case assuming that it is not required to pay any tax on inward supplies under reverse charge.

(2) Explain with reasons whether your answer in (1) will change in the following independent cases:

(a) If Mahadev Enterprises is dealing exclusively in taxable supply of goods only from Himachal Pradesh;

(b) If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;

(c) If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter-State supplies of taxable goods (other than notified handicraft goods) amounting to ₹ 4,00,000.

Answer

As per section 22 of the CGST Act, a supplier is **liable to** be **registered** in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The **threshold limit** for a person making exclusive intra-State taxable supplies of goods is as under:

(i) **₹ 10 lakh** for the States of **Mizoram, Tripura, Manipur and Nagaland**.

(ii) **₹ 20 lakh** for the States of States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.**

(iii) **₹ 40 lakh** for **rest of India.**

The threshold limit for a person **making exclusive taxable supply of services or supply of both goods and services is as under:**

(i) **₹ 10 lakh** for the States of **Mizoram, Tripura, Manipur and Nagaland.**

(ii) **₹ 20 lakh** for the **rest of India.**

As per section 2(6), **aggregate turnover** includes the aggregate value of:

(i) **all taxable** supplies,

(ii) all **exempt** supplies,

(iii) **exports** of goods and/or services and

(iv) all **inter-State supplies** of persons having the same PAN.

The above is computed on **all India basis.**

In light of afore-mentioned provisions, aggregate turnover of Mahadev Enterprises is computed as under:

Computation of State-wise aggregate turnover of Mahadev Enterprises

Particulars	Himachal Pradesh (₹)	Uttarakhand (₹)	Tripura (₹)
Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non- taxable goods [As per section 2(47), exempt supply includes non-taxable supply. Thus, intra-State Supply of non-taxable goods in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, included in the aggregate turnover]	-	21,00,000	40,000
Aggregate Turnover	**22,50,000**	**21,00,000**	**13,40,000**

In given case, Mahadev Enterprises is **engaged in exclusive intra-State supply of goods** from Himachal Pradesh, Tripura and Uttarakhand. However, since Mahadev Enterprises **makes taxable supply of goods from** one of the specified Special Category States (i.e. **Tripura**), it will **not be eligible for higher threshold limit of ₹ 40 lakh**; **instead**, threshold limit for registration will be **reduced to ₹ 10 lakh**.

(1) In view of the above-mentioned provisions, Mahadev Enterprises is **liable to be registered** under GST law with the **aggregate turnover amounting to ₹ 56,90,000** (computed on **all India basis**). The **applicable threshold limit** of registration in this case is **₹ 10 lakh**. Further, he is **not liable to be registered in Uttarakhand since** he is **not making any taxable supply from Uttarakhand**.

(2) (a) If Mahadev Enterprises is dealing in supply of goods only from Himachal Pradesh, the applicable **threshold limit** of registration **would be ₹ 40 lakh.** Thus, **Mahadev Enterprises will not be liable for registration as** its **aggregate turnover** would be **₹ 22,50,000.**

(b) If Mahadev Enterprises is **dealing in taxable supply of goods and services** only from Himachal Pradesh then higher threshold limit of ₹ 40 lakh will not be applicable as the same applies only in case of exclusive supply of goods. Therefore, in this case, applicable **threshold limit will be ₹ 20 lakh** and hence, **Mahadev Enterprises will be liable to registration.**

(c) In case of **inter-State supplies** of taxable goods, section 24 **requires compulsory registration** irrespective of aggregate turnover. Thus, **Mahadev Enterprises will be liable to registration.**

Question 5

Rishabh Enterprises, a sole proprietorship firm, started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the following information:

Particulars	February (₹)	March (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand		5,00,000
Supply of packed food items from restaurant in Maharashtra	1,50,000	2,00,000

All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above.

Answer

As per section 22 of the CGST Act, a supplier **is liable to be registered** in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The **threshold limit** for a person making exclusive intra-State taxable supplies of goods is as under:

(i) **₹ 10 lakh** for the States of **Mizoram, Tripura, Manipur and Nagaland.**

(ii) **₹ 20 lakh** for the States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.**

(iii) **₹ 40 lakh** for **rest of India.**

The threshold limit for a person **making exclusive taxable supply of services or supply of both goods and services is as under:**

(i) **₹ 10 lakh** for the States of **Mizoram, Tripura, Manipur and Nagaland.**

(ii) **₹ 20 lakh** for the **rest of India.**

As per section 2(6), **aggregate turnover includes** the aggregate value of:

(i) all **taxable** supplies,

(ii) all **exempt** supplies,

(iii) **exports** of goods and/or services and

(iv) all **inter-State** supplies of persons having the same PAN.

The above is computed on **all India basis**. Further, the **aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess.** Moreover, the **value of inward supplies** on which tax is payable under reverse charge is **not taken into account** for calculation of 'aggregate turnover'.

In the given question, since Rishabh Enterprises is engaged in making taxable supplies of goods and services from Maharashtra and non-taxable supplies from Uttarakhand, the threshold limit for obtaining registration is ₹ 20 lakh.

In the light of the afore-mentioned provisions, the aggregate turnover of Rishabh Enterprises is computed as under:

Computation of aggregate turnover of Rishabh Enterprises

Particulars	Turnover of February (₹)	Cumulative turnover of February & March (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages in restaurant in Maharashtra	5,50,000	12,00,000 [₹ 5,50,000 + ₹ 6,50,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand [As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.]		5,00,000
Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [₹ 1,50,000 + ₹ 2,00,000]
Aggregate Turnover	**7,00,000**	**20,50,000**

Rishabh Enterprises was **not liable to be registered in the month of February since** its **aggregate turnover did not exceed ₹ 20 lakh** in that month. However, **since** its **aggregate turnover exceeds ₹ 20 lakh in the month of March**, it should **apply for registration within 30 days from the date on which it becomes liable to registration**. Further, he is **not liable to be registered in Uttarakhand since** he is **not making any taxable supply from Uttarakhand.**

Question 6

With the help of the following information in the case of M/s Jayant Enterprises, Jaipur (Rajasthan) for the financial year, determine the aggregate turnover for the purpose of registration under the CGST Act. Also, determine whether M/s Jayant Enterprises is liable to be registered under GST law.

S.N.	Particulars	Amount (₹)
(i)	Sale of diesel on which Sale Tax (VAT) is levied by Rajasthan Government.	1,00,000
(ii)	Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal by declaring the place of M/s Jayant Enterprises as its additional place of business.	3,00,000
(iii)	Export of goods to England (U.K.)	5,00,000
(iv)	Supply to Rajasthan. Its own additional place of business in Rajasthan	5,00,000
(v)	Outward supply of services on which GST is to be paid by recipient under reverse charge.	1,00,000

All the above amounts are excluding GST. Provide reasons for treatment of various items given above.

Answer

Computation of aggregate turnover of M/s Jayant Enterprises for the FY

Particulars	₹
Supply of diesel on which Sales Tax (VAT) is levied by Rajasthan Government [Note-1]	1,00,000

Supply of goods, after the completion of job work, from the place of Jayant Enterprises, directly by the principal [Note-2]	Nil
Export supply to England [Note-3]	5,00,000
Supply to its own additional place of business in Rajasthan [Note-4]	Nil
Outward supply on which GST is to be paid by recipient under reverse charge [Note-5]	1,00,000
Aggregate turnover	**7,00,000**

Notes:

1. As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of diesel, being a non-taxable supply, is an exempt supply and exempt supply is specifically includible in aggregate turnover in terms of section 2(6).
2. Supply of goods after completion of job work by a principal by declaring the place of business of job worker its additional place of business shall be treated as the supply of goods by the principal in terms of explanation (ii) to section 22.
3. Export supplies are specifically includible in the aggregate turnover in terms of section 2(6).
4. Supply made without consideration to units within the same State (under same registration) is a not a supply and hence not includible in aggregate turnover.
5. Outward supplies taxable under reverse charge would be part of the "aggregate turnover" of the supplier of such supplies. Such turnover is not included as turnover in the hands of recipient.

As per section 22 of the CGST Act, a supplier is **liable to be registered** in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The **threshold limit** for a person making exclusive intra-State taxable supplies of goods is as under:

(i) **₹ 10 lakh** for the States of **Mizoram, Tripura, Manipur and Nagaland.**

(ii) **₹ 20 lakh** for the States of States of **Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.**

(iii) **₹ 40 lakh** for **rest of India.**

The threshold limit for a person **making exclusive taxable supply of services or supply of both goods and services is as under:**

(i) **₹ 10 lakh** for the States of **Mizoram, Tripura, Manipur and Nagaland.**

(ii) **₹ 20 lakh** for the **rest of India.**

The applicable turnover limit for registration, in the given case, will be ₹ 20 lakh as Rajasthan is not a Special Category State and M/s. Jayant Enterprises is engaged in supply of goods and services. Although, the aggregate turnover of M/s Jayant Enterprises does not exceed ₹ 20 lakh, **it is compulsorily required to register** in terms of section 24(i) **irrespective** of the turnover limit **as it is engaged in making inter-State supply of goods in the form of exports to England.**

Question 7

Rajesh Dynamics, having its head office in Chennai, Tamil Nadu carries on the following activities with respective turnovers in a financial year:

	₹

Supply of petrol at Chennai, Tamil Nadu	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	9,00,000
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration	1,50,000
Value of taxable supplies at Manipur branch	11,50,000

It argues that it does not have taxable turnover crossing threshold limit of ₹ 40,00,000 either at Chennai, Tamil Nadu or Bengaluru, Karnataka and including turnover at Manipur branch. It believes that the determination of aggregate turnover is not required for the purpose of obtaining registration, but is required for determining composition levy.

Decide based on the above facts:

(i) The aggregate turnover of Rajesh Dynamics.

(ii) All conditions that fulfil requirements for registration under CGST Act in the given circumstances.

Answer

Computation of aggregate turnover of Rajesh Dynamics:

Particulars	₹
Supply of petrol at Chennai, Tamil Nadu [Being a non- taxable supply, it is an exempt supply and thus, includible in aggregate turnover vide section 2(6)]	18,00,000
Value of inward supplies on which tax is payable on reverse charge basis	Nil
Supply of transformer oil at Chennai, Tamil Nadu	2,00,000
Value of branch transfer from Chennai, Tamil Nadu to Bengaluru, Karnataka without payment of consideration [Being a taxable supply, it is includible in aggregate turnover]	1,50,000
Value of taxable supplies of Manipur Branch	11,50,000
Aggregate turnover	**33,00,000**

Rajesh Dynamics is not liable to be registered in Chennai, Tamil Nadu, if his aggregate turnover in a financial year does not exceeds ₹ 40 lakh. However, since Rajesh Dynamics also makes **taxable supplies from Manipur**, a specified Special Category State, the **threshold exemption gets reduced to ₹ 10 lakh** in terms of section 22(1).

Rajesh Dynamics' argument that it is not liable to registration since the threshold exemption of ₹ 40 lakh is not being crossed either at Chennai, Tamil Nadu, Bengaluru, Karnataka or Manipur is not correct as firstly, the **aggregate turnover** to be **considered** in its case **is ₹ 10 lakh** and not ₹ 40 lakh and **secondly, the same is computed on all India basis and not State-wise.**

Further, Rajesh Dynamics is also wrong in believing that aggregate turnover is computed only for the purpose of determining the eligibility limit for composition levy since the **aggregate turnover is required for determining the eligibility for both registration and composition levy.**

Further, Rajesh Dynamics is **compulsorily required to register** under section 24 irrespective of the turnover limit **as it is liable to pay tax on inward supplies under reverse charge and it also makes inter-State taxable supply.**

Question 8

In the month of April 20XX, Z started supply of goods in his proprietary firm and also set up a one-man company named Z Ltd. He needs your assistance to work out his aggregate turnover for the purpose of GST registration. The turnover details up to the month of July, 20XX are as under:

S.N.	Particulars of supplies	₹ in lakh (excl. GST)
i.	Supplies of taxable goods of his firm	31.50
ii.	Supplies of taxable goods to a 100% EOU of his firm	1.50
iii	Exports of taxable goods of his firm	2.60
iv.	Exempt supplies of his firm	2.40
v.	Supplies of non-taxable goods of his firm	3.00
vi.	Supplies of taxable goods by the one-man company set up in his name	2.70
vii.	Value of supplies on which Z is liable to pay tax under reverse charge mechanism (RCM)	0.80

Note: All his supplies are intra-State except export.

Answer

Computation of aggregate turnover of proprietary firm of Z	
Particulars	**₹ (in lakh)**
Supplies of taxable goods [Taxable supplies are included in aggregate turnover.]	31.50
Supplies of taxable goods to a 100% EOU [Deemed exports being taxable supplies are included in aggregate turnover.]	1.50
Exports of taxable goods [Included in aggregate turnover.]	2.60
Exempt supplies [Included in aggregate turnover.]	2.40
Supplies of non-taxable goods [Exempt supplies are included in aggregate turnover. Exempt supplies include non-taxable supplies also.]	3.00
Supplies of taxable goods by one-man company set up in Z's name [Not included as one person company is a separate entity with separate PAN.]	–
Value of supplies on which Z is liable to pay tax under RCM [Value of inward supplies on which tax is payable on reverse charge basis are excluded from the aggregate turnover.]	–
Aggregate turnover of proprietorship firm of Z	**41.00**
Computation of aggregate turnover of Z Ltd. – one man company of Z	
Supplies of taxable goods by one-man company set up in Z's name [Taxable supplies are included in aggregate turnover.]	2.70
Aggregate turnover of Z Ltd.	**2.70**

Effective Date of Registration

Question 9

Jugnoo Enterprises, a trader engaged in the buying and selling of medicines within the State of Delhi, is not registered under GST. It exceeded the turnover of ₹ 20 lakh on 15th July 2024 and also exceeded the turnover of ₹ 40 lakh on 14th February 2025. It applied for registration under GST on 24th February and registration certificate was granted on 2nd March 2025. Determine the date on which liability to register arises and the effective date of registration in this case.

Answer

Since Jugnoo Enterprises is **engaged exclusively in intra-State taxable supply** of goods in Delhi, it becomes **liable to register when** its **aggregate turnover exceeds ₹ 40 lakh**, i.e., on 14th February, 2025. Further, since it has **applied for registration within 30 days** from date of becoming liable to register, **effective date of registration** is the date on which it becomes liable to register, i.e., **14th February**, 2025.

Amendment and Cancellation of Registration

Question 10

Discuss the procedure for amendment of registration under CGST Act and rules thereto?

Answer

The procedure for amendment of registration are contained in section 28 read with rule 19 of CGST Rules. The significant aspects of the same are discussed hereunder:

1. **Where there is any change** in the particulars furnished in registration application/UIN application at the time of obtaining the registration or thereafter, registered person shall **submit an application** in prescribed manner, **within 15 days of such change, along with documents** relating to such change at the Common Portal.
2. In case of **amendment of core fields of information,** the **proper officer may,** on the basis of information furnished or as ascertained by him, **approve or reject amendments** in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
3. However, where **change relates to non-core fields** of information, **registration certificate shall stand amended upon submission of the application** for amendment on the Common Portal.
4. Where a change in the constitution of any business results in **change of PAN of a registered person**, the said person shall **apply for fresh registration.** The reason for the same is that **GSTIN is PAN based. Any change in PAN** would **warrant a new registration.**

Question 11

Dharma Dutta has taken voluntary registration and has not opted for the composition scheme of levy. He is aggrieved by the cancellation of his registration under GST, although he is filing Nil returns, as he has not conducted any business for the past 8 months. He wants to know the circumstances under which the proper officer can cancel registration on his own.

Answer

GST registration may be **cancelled suo motu by GST Officer if the registered person:**

(i) **does not conduct any business** from the place of business;

(ii) **violates the anti-profiteering provisions;**

(iii) **issues invoice/bill without supply** of goods/services;

(iv) violates the provisions of rule 10A (Furnishing of bank account details);

(v) **avails input tax credit in violation** of provisions of section 16;

(vi) furnishes the details of outward supplies in Form GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in GSTR-3B;

(vii) violates the provision of **rule 86B** (Restriction on use of ITC);

(viii) has **not furnished returns for a continuous period of 6 months** in case of a registered person required to furnish returns on monthly basis;

(ix) has **not furnished returns for a continuous period of 2 tax periods** in case of a registered person required to furnish returns on quarterly basis;

(x) has **not furnished his return for a financial year beyond three months** from the due date of furnishing the said return if he has opted for composition levy;

(xi) has **not commenced business within 6 months** from date of registration, if he has opted for voluntary registration;

(xii) has **obtained** the **registration by means of fraud, wilful misstatement or suppression** of facts.

Miscellaneous

Question 12

LMN Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'X' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells product 'X' only within Tamil Nadu and is not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the previous year was ₹ 45 lakh. The company expects the sales to grow by 30% in the current year. The company purchased additional machinery for manufacturing 'X' on 1st July. The purchase price of capital goods was ₹ 30 lakh exclusive of GST @ 18%.

However, effective from 1st November, exemption available on 'X' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was ₹ 45 lakh.

(a) Examine the above scenario and advise LMN Pvt Ltd. whether it needs to get registered under GST.

(b) If the answer to the above question is in affirmative, advise LMN Pvt. Ltd. whether it can avail input tax credit on the additional machinery purchased exclusively for manufacturing "X"?

Answer

(a) Section 22(1) of CGST Act provides that every supplier who is **exclusively engaged in intra-State supply of goods is liable to be registered** under GST in the State/UT from where he makes the taxable supply of goods **only when aggregate turnover in a financial year exceeds ₹ 40,00,000.**

However, above provisions are not applicable to few specified States, i.e. Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

Further, a person **exclusively engaged in the business of supplying goods and/or services** that are **not liable to tax or** are **wholly exempt from tax is not liable to registration** in terms of section 23(1)(a).

In the given case, the **turnover of the company** for the half year ended on 30th September **is ₹ 45 lakh which is more than the applicable threshold limit of ₹ 40 lakh.** Therefore, as per above mentioned provisions, the company should be **liable to registration. However, since LMN Pvt. Ltd. supplied exempted goods till 31st October, it was not required to be registered** till that day; though **voluntary registration was allowed** under section 25(3).

However, the position will change **from 1st November** as the supply of **goods become taxable** from that day and the **turnover of company is above ₹ 40 lakh**. It is important to note here that in terms of section 2(6), the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also.

Therefore, turnover of 'X' prior to 1st November will also be considered for determining the limit of ₹ 40 lakh even though the same was exempt from GST. Therefore, the **company needs to register within 30 days from 1st November** (the date on which it becomes liable to registration) in terms of section 25(1).

(b) Section 18(1)(a) provides that a person who has **applied for registration within 30 days** from the date on which he becomes liable to registration and has been granted such registration shall be **entitled to take credit of input tax in** respect of **inputs held in stock and inputs contained in semi-finished or finished goods** held in stock on the **day immediately preceding the date from which he becomes liable to pay tax** under the provisions of this Act.

Thus, LMN Pvt. Ltd. **cannot avail credit for additional machinery** purchased exclusively for manufacturing X **as input tax credit of only inputs is allowed when** a person gets **registered for the first time.**

Question 13

SNP Pvt. Ltd., Coimbatore exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells product 'Z' only within Tamil Nadu and it not registered under GST. Further, all the inward supply of the company are taxable under forward charge. The turnover of the company in the previous year was ₹ 55 lakh. The company expects the sales to grow by 20% in the current year. Owing to the growing demand for the product, the company decided to increase its production capacity and purchased additional machinery for manufacturing 'Z' on 1st July. The purchase price of the capital goods was ₹ 20 lakh exclusive of GST @ 18%.

However, effective from 1st November, exemption available on 'Z' was withdrawn by the Central Government and GST @ 12% was imposed thereon. The turnover of the company for the half year ended on 30th September was ₹ 50 lakh.

(a) The Board of Directors of SNP Pvt. Ltd. wants to know whether they have to register under GST?

(b) In case in the above question, SNP Pvt. Ltd. is already registered with respect to certain taxable supplies being made by it along with manufacture of exempt product 'Z', other facts remaining the same, can it take input tax credit on additional machinery purchased exclusively for manufacturing 'Z'? If yes, then how much credit can be availed?

Advice SNP Pvt. Ltd. on the above issues with reference to the provisions of GST law.

Answer

(a) Section 22(1) of the CGST Act provides that every supplier who is **exclusively engaged in intra-State supply of goods is liable to be registered** under GST in the State/Union territory from where he makes the taxable supply of goods **only when aggregate turnover** in a financial year **exceeds ₹ 40,00,000**.

However, the above provisions are not applicable to few specified States, i.e. States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.

However, a person **exclusively engaged in** the business of **supplying goods and/or services** that are **not liable to tax or** are **wholly exempt** from tax is **not liable to registration** in terms of section 23(1)(a).

In the given case, the **turnover** of the company for the half year ended on 30th September **is ₹ 50 lakh which is more than the applicable threshold limit of ₹ 40 lakh**. Therefore, as per section 22, the company will be **liable to registration**. However, **since SNP Pvt. Ltd. supplied exempted goods till 31st October, it was not required to be registered till that day;** though voluntary registration was allowed under section 25(3).

However, the position will change **from 1st November as the supply of goods become taxable** from that day and the turnover of company is above ₹ 40 lakh. It is important to note here that in terms of section 2(6), the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also.

Therefore, turnover of 'Z' will be considered for determining the threshold limit even though the same was exempt from GST. Therefore, the **company needs to register within 30 days from 1st November** (the date on which it becomes liable to registration) in terms of section 25(1).

Further, the company cannot avail exemption of ₹ 40 lakh from 1st November as the GST law does not provide any threshold exemption from payment of tax but threshold exemption from obtaining registration (which in this case had been crossed).

(b) Rule 43(1)(a) of the CGST Rules, 2017 disallows input tax credit on capital goods used or intended to be used exclusively for effecting exempt supplies.

However, as per section 18(1)(d), **where an exempt supply** of goods and/or services by a registered person **becomes a taxable supply**, such person gets **entitled to take credit of input tax** in respect of **inputs held in stock** and inputs contained in semi-finished or finished goods held in stock **relatable to such exempt supply and** on **capital goods exclusively used for such exempt supply** on the day immediately preceding date from which such supply becomes taxable.

Rule 40(1)(a) of the CGST Rules, 2017 lays down that the **credit on capital goods** can be claimed **after reducing the tax** paid on such capital goods **by 5% per quarter of a year or part thereof from the date of the invoice.**

Therefore, in the given case, SNP Pvt. Ltd. could not claim credit on machinery till the time the supply of product 'Z' for which said machinery was being used was exempt. However, it can claim credit from 31st October - the day immediately preceding the date from which the supply of product 'Z' became taxable (1st November).

The credit will be available for the remaining useful life of the machinery and will be computed as follows:

Date of purchase of machinery	1st July
Date on which credit becomes eligible	31st October
Number of quarters for which credit is to be reduced	2 (including part of quarter)
GST paid on machinery [₹ 20,00,000 x 18%]	₹ 3,60,000
Credit to be reduced [₹ 3,60,000 x 5% x 2]	₹ 36,000
Amount of credit that can be taken [₹ 3,60,000 – ₹ 36,000]	**₹ 3,24,000**

CHAPTER - 11
Tax Invoice, Credit and Debit Notes

Basics of Invoice

Question 1

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S.N.	Recipient of supply	Amount (₹)
1	Raghav Traders - a registered retail dealer	190
2	Dhruv Enterprises – an unregistered trader	358
3	Gaurav – a Painter [unregistered]	500
4	Oberoi Orphanage – an unregistered entity	188
5	Aaradhya – a Student [unregistered]	158

None of the recipients require a tax invoice [Raghav Traders being a composition dealer].

Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

Answer

In the given illustration, Jain & Sons **can issue a Consolidated Tax Invoice** only with respect to supplies **made to Oberoi Orphanage** [worth Rs. 188] **and Aaradhya [worth Rs. 158]** as the value of goods supplied to these recipients **is less than Rs. 200** as also these **recipients are unregistered** and **don't require a tax invoice.**

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than Rs. 200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued.

Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than Rs. 200.

Question 2

Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:

(i) Whether Jai is required to issue a tax invoices in all cases, even if he is selling the goods to the end consumers?

(ii) Jai sells some exempted as well as taxable goods valuing ₹ 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?

(iii) Jai wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers. You are required to advise him.

Answer

(i) **No**, he is **not required to issue tax invoice** in all cases. As per section 31(1), every registered

person supplying taxable goods is required to issue a 'tax invoice'. Section 31(3)(c) stipulates that every registered person **supplying exempted goods** is **required to issue a bill of supply instead of tax invoice.**

Further, rule 46A provides that a registered person **supplying taxable as well as exempted goods** or services or both **to an un-registered person** may **issue a single 'invoice-cum-bill of supply'** for all such supplies.

However, as per section 31(3)(b) read with rule 46, a **registered person may not issue a tax invoice** if:

(i) **value** of the goods supplied **<₹ 200**,

(ii) the **recipient is unregistered**; and

(iii) the **recipient does not require such invoice.**

Instead, such registered person shall **issue a Consolidated Tax Invoice** for such supplies at the close **of each day** in respect of all such supplies.

(ii) As per rule 46A, where a registered person is **supplying taxable as well as exempted goods** or services or both **to an unregistered person**, a single **"invoice-cum-bill of supply"** may be issued for all such supplies. Thus, there is **no need to issue a tax invoice and a bill of supply separately** to the school student in respect of supply of the taxable and exempted goods respectively

(iii) As per section 33, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

As per rule 46(m), a **tax invoice shall contain the various particulars**, interalia, namely, **amount of tax charged in respect of taxable goods or services** (central tax, State tax, integrated tax, Union territory tax or cess);

Hence, Jai **has to show the tax amount separately** in the tax invoices issued to customers.

Question 3

Discuss the provisions relating to issue of an invoice/document in the following circumstances:

(i) Advance payment is received against a supply, but subsequently no supplies are made.

(ii) Goods are sent on approval for sale or return and are removed before the supply takes place.

(iii) Mr. Mohan provides continuous supply of services to his client, where the due date of payment for such services is not ascertainable. No advance has been received in this behalf.

Answer

(i) As per section 31(3)(e), where **advance payment is received** against a supply for which **receipt voucher has been issued**, but subsequently **no supplies are made** and **no tax invoice is issued** in pursuance thereof, **a refund voucher may be issued** to the person who had made the advance payment.

(ii) As per section 31(7), where the **goods are sent on approval for sale or return** and are removed before the supply takes place, the **invoice shall be issued before** or at **the time of supply or 6 months from the date of removal, whichever is earlier.**

(iii) As per section 31(5)(b), in case of **continuous supply of services,** where the **due date of payment** is not ascertainable from the contract, the **invoice shall be issued before or at the time when the supplier of service receives the payment.**

Dynamic QR

Question 4

Enumerate the suppliers to whom the Dynamic Quick Response (QR) code is not applicable when they issue an invoice to an unregistered person.

Answer

Dynamic Quick Response (QR) code is not applicable to following suppliers when they issue an invoice to an unregistered person:

(i) **Insurer or banking company or financial institution** including **NBFC**

(ii) **GTA** (Goods transport agency) supplying services in relation to transportation of goods by road in a goods carriage

(iii) Supplier of **passenger transportation service**

(iv) Person supplying services by way of **admission to exhibition of cinematograph films** in multiplex screens

(v) **Supplier of OIDAR** (online information and database access or retrieval) services

(vi) In case of **exports**

Question 5

Sanmati Industries, registered in the State of Maharashtra, receives a machinery for repair in its workshop located in Mumbai, Maharashtra from Titsubishi Ltd., an automobile manufacturing company based in Japan. The repair work was carried out by Sanmati Industries for which it was to be paid in convertible foreign exchange and goods were returned to Titsubishi Ltd. after being used for some time in India.

While raising the invoice for the said consideration, the accountant of Sanmati Industries approaches you as to whether the Dynamic Quick Response (QR) code is mandatorily required on said invoice? You are required to advise him on the same.

Note - Titsubishi Ltd. is not registered in India. Further, the aggregate turnover of Sanmati Industries was ₹ 550 crores in the preceding financial year.

Answer

The place of supply for the services provided by Sanmati Industries to Titsubishi Ltd. is as follows:

As per section 13(3)(a) of the IGST Act, 2017, in case where the services are **supplied in respect of goods** which are **required to be made physically available** by the recipient of services to the supplier of services, the place of supply of such services **shall be the location where the services are actually performed.** In the given case, for carrying out the repair work, machinery was required to be made physically available by Titsubishi Ltd. to Sanmati Industries. Thus, the **place of supply** of services in this

case is the location **where the services are actually performed i.e., Maharashtra, India.**

Further, sixth proviso to rule 46 read with Notification No. 14/2020 CT dated 21.03.2020 provides that all invoices issued by a **registered person whose aggregate turnover** in any preceding financial year from 2017-18 onwards **exceeds ₹ 500 crores, in respect of B2C supplies** (supply of goods or services or both to an unregistered person) will **mandatorily have a Dynamic QR code**. Thus, the invoices issued by Sanmati Industries to unregistered persons are mandatorily required to have a Dynamic QR Code. Accordingly, since **Titsubishi Ltd. is not registered in India**, invoice to be **raised by Sanmati Industries** to it should **mandatorily have a Dynamic Quick Response (QR)** code.

However, Circular No. 165/21/2021 GST dated 17.11.2021 has clarified that wherever an **invoice is issued to a recipient located outside India**, for supply of services, for which the **place of supply is in India**, as per provisions of IGST Act 2017, and the **payment is received by the supplier in convertible foreign exchange**, such invoice **may be issued without having a Dynamic QR Code**, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

Thus, the **Dynamic Quick Response (QR) code is NOT mandatorily required on the invoice** to be issued by Sanmati Industries to Titsubishi Ltd.

Revised Invoice

Question 6

Avtaar Enterprises, Kanpur started trading exclusively in ayurvedic medicines from July 1. Its turnover exceeded ₹ 40 lakh on October 3. The firm applied for registration on October 31 and was issued registration certificate on November 5.

Examine whether any revised invoice can be issued in the given scenario. If the answer to the first question is in affirmative, determine the period for which the revised invoices can be issued as also the last date up to which the same can be issued.

Answer

As per section 31(3)(a), a registered person may, **within one month from the date of issuance of certificate of registration, issue a revised invoice against the invoice already issued** during the period beginning with the **effective date of registration till the date of issuance of certificate** of registration to him.

Further, rule 10(2) lays down that the **registration shall be effective from the date on which the person becomes liable to registration** where the **application** for registration has been **submitted within a period of 30 days** from such date.

In the given case, Avtaar Enterprises has **applied for registration within 30 days** of becoming liable for registration and the registration has been granted. Thus, the **effective date of registration** is the **date on which Avtaar Enterprises became liable for registration** i.e., October 3. Therefore, since in the given case there is a time lag between the **effective date of registration (October 3)** and the **date of grant of certificate of registration** (November 5), **revised invoices** can be issued. The same **can be issued** for supplies made **during this intervening period i.e., for the period beginning with October 3 till November 5.** Further, the revised invoices can be issued for the said period **till December 5.**

Question 7

Pari & Sons is an unregistered dealer. On 10th August, aggregate turnover of Pari & Sons exceeded ₹ 20,00,000. The firm applied for registration on 27th August and was granted the registration certificate on 1st September. Under CGST Rules, 2017, you are required to advise Pari & Sons as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of revised tax invoices.

Answer

Section 22(1) provides that every supplier is liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, **if his aggregate turnover** in a financial year **exceeds the threshold limit.**

Section 25(1) provides that a supplier whose aggregate turnover in a financial year exceeds the threshold limit in a State/UT is liable to **apply for registration within 30 days** from the date of becoming liable to registration (i.e., the date of crossing the threshold limit).

Where the application is submitted within the said period, the **effective date of registration is the date on which the person becomes liable to registration** vide rule 10(2) of the CGST Rules, 2017; **otherwise** it is the **date of grant of registration** in terms of rule 10(3) of the CGST Rules, 2017.

In given case, since Pari & Sons have applied for registration on 27th August which is within 30 days from date of becoming liable to registration (10th August), its **effective date of registration is 10th August.**

Further, every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, **may issue revised tax invoices in respect of taxable supplies effected during this period within one month from the date of issuance of registration certificate** [Section 31(3)(a) read with rule 53(2) of CGST Rules, 2017]23.

In view of the same, **Pari & Sons may issue revised tax invoices** against the invoices already issued during the period **between effective date of registration (10th August) and the date of issuance of registration certificate (1st September), on or before 1st October.**

Credit/Debit Note

Question 8

Subhashini Ltd. agreed to provide consultancy services to Madhu Enterprises in the month of May for which it received an advance of ₹ 1,00,000 on 20th April from Madhu Enterprises. Subsequently, in the month of May, before supply of service, the said service contract has to be cancelled owing to some inadvertent circumstances. However, Subhashini Ltd. has issued the invoice for the advance received in April itself and has paid the GST thereon.

You are the tax consultant of Subhashini Ltd. Please advise whether it can claim refund of tax paid or is it required to adjust its tax liability in its returns?

Answer

In case GST is paid by the supplier on **advances received for a future event which got cancelled** subsequently and for which invoice is issued before supply of service, the **supplier is required to issue a "credit note"** in terms of section 34 of the CGST Act, 2017. He shall **declare the details** of such credit

notes **in the return for the month** during which such **credit note has been issued**. The **tax liability** shall be **adjusted** in the return subject to conditions of section 34. There is no need to file a separate refund claim.

However, in cases where there is **no output liability** against which a credit note can be adjusted, registered persons may proceed to **file a refund claim** [Circular No. 137/07/2020 GST dated 13.04.2020].

Therefore, in the given case, Subhashini Ltd. is required to issue a credit note, declare its details in the return for the month during which such credit note has been issued and adjust the tax liability. However, if there is no output liability of Subhashini Ltd. against which the said credit note can be adjusted, it may proceed to file a refund claim.

CHAPTER - 12
Accounts & Records and E-Way Bill

Accounts and Records

Question 1

Essel Groups has started making taxable supplies. You are required to advice it about the accounts and records required to be maintained by it as required under section 35(1).

Or

Mr. Bala, a registered person at Chennai wants to maintain proper accounts and records relating to GST. Advise him about the accounts and other records to be maintained under section 35(1) of CGST Act, 2017.

Answer

Section 35(1) stipulates that a **true and correct account** of following is to be maintained:

(a) **production or manufacture** of goods;

(b) **inward and outward supply** of goods or services or both;

(c) **stock** of goods;

(d) **input tax credit** availed;

(e) **output tax payable** and paid

(f) such other particulars as may be prescribed.

The records may be **maintained electronically.** Where **more than one place of business** is specified in the certificate of registration, the accounts relating to each place of business **should be kept at such places of business.**

Question 2

Swad Restaurant has opted for composition scheme in the current financial year. Discuss the records which are not to be maintained by a supplier opting for composition levy as enumerated in rule 56.

Or

The supplier opting for composition levy need not maintain certain records as per rule 56(2) and 56(4) of the CGST Rules, 2017. Explain.

Answer

Following records are not required to be maintained by a supplier who has opted for composition scheme as per rule 56(2) and (4):

(i) **Stock of goods:** Accounts of stock in respect of goods received and supplied by him, and such accounts shall **contain particulars** of the **opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of** by way of gift or free sample **and the balance of stock** including raw materials, finished goods, scrap and wastage thereof.

(ii) **Details of tax:** Account, **containing details of tax payable** (including tax payable under reverse charge), **tax collected** and paid, **input tax, input tax credit** claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Question 3

ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. For the purpose, ABC Manufacturers Ltd. has supplied the goods to Raghav & Sons located in Haryana. Enumerate the accounts required to maintained by Raghav & Sons as per rule 56(11).

Or

List the records required to be maintained by an agent under the CGST Rules, 2017.

Answer

Rule 56(11) provides that every agent shall maintain accounts depicting the:

(a) particulars of **authorisation received by him from each principal** to receive or supply goods or services on behalf of such principal separately;

(b) **particulars** including **description, value and quantity** (wherever applicable) of goods or services **received on behalf of every principal;**

(c) particulars including **description, value and quantity** (wherever applicable) of goods or services **supplied on behalf of every principal**;

(d) **details of accounts** furnished to **every principal**; and

(e) **tax paid on receipts or on supply** of goods or services effected **on behalf of every principal**.

Question 4

Whether the transporters, who are not registered under the GST, are required to maintain any records under the provisions of CGST Act, 2017? Also explain, if any other unregistered persons who are required to maintain records under GST.

Answer

The **transporters**, who are **not registered** under GST, shall **obtain a unique enrollment number** on GST common portal **and maintain records of goods transported, delivered** and goods stored **in transit** by them along with GSTIN of the registered consignor and consignee for each of his branches.

Every owner or operator of warehouse/godown/any other place used for storage of goods, **even** if **unregistered**, is also **required to maintain records** under GST.

Question 5

GoToDress is a chain of stores dealing in readymade garments through five showrooms in Delhi. It has a single GSTIN for all its showrooms in Delhi and has a principal place of business at Karol Bagh, Delhi. One of the consultants has suggested GoToDress to maintain books of accounts of all of its five showrooms at principal place of business at Karol Bagh, Delhi for better administration and control. Give your comment on the above advice according to the provisions of GST law.

Answer

The suggestion of the consultant is **not correct**.

Every registered person is required to keep and maintain, his books of accounts **at his principal place**

of business.

Where **more than one place** of business is specified in the certificate of registration, the **accounts relating to each place of business shall be kept at such places of business.**

Question 6

Mala Services Ltd. is a supplier of management consultancy services. It has approached you to ascertain the period for which the books of accounts or other records need to be maintained?

Or

Explain the provisions relating to period of retention of accounts as provided under CGST Act, 2017?

Answer

Section 36 stipulates that **every registered person** required to **keep and maintain books of account** or other records in accordance with the provisions of sub-section (1) of section 35 shall **retain them until the expiry of 72 months from the due date of furnishing of annual return** for the year pertaining to such accounts and records.

However, a registered person, who is a **party to an appeal or revision** or any other **proceedings** before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, **or is under investigation** for an offence under Chapter XIX, **shall retain the books** of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation **for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or** for the **period specified above, whichever is later**.

Question 7

M/s Cute and Co., a registered person under GST, filed an appeal with respect to denial of Input Tax Credit (ITC) related to the financial year 2022-23. This appeal was disposed of in favour of M/s Cute and Co. on 30.09.2027. Annual return for the financial year 2022-23 was filed by it on 31.03.2025. Due date for the said return was 31.12.2023.

Cute and Co. seeks your advice with reason regarding the time-line upto which they are supposed to retain the books of accounts and other records as per the provisions of the CGST Act, 2017.

Answer

M/s Cute & Co. who is a party to an appeal is required to retain the books of accounts and other records:

(i) **for a period of 1 year after final disposal of such appeal** (i.e. 30.09.2028),

or

(ii) **for 72 months from the due date of furnishing of annual return** for the financial year 2022-23 (31.12.2029),

whichever is later.

Thus, M/s Cute & Co. **needs to maintain books of accounts till 31.12.2029.**

E-Way Bill

Question 8

When is an e-way bill required to be generated?

Answer

As per rule 138 of the CGST Rules, 2017, whenever there is a movement of goods of **consignment value exceeding ₹ 50,000:**

(i) in relation to a **supply**; or

(ii) for reasons **other than supply**; or

(iii) due to **inward supply from an unregistered person**,

e-way bill needs to be **generated prior to the commencement** of transport of goods.

Further, in the following situations, **e-way bill needs** to be issued **even if** the value of the **consignment is less than ₹ 50,000:**

(i) Where **goods are sent by a principal** located in one State/Union territory **to a job worker located in any other State/Union territory,** the e-way bill shall be generated either by the principal or the job worker, if registered, **irrespective of the value of the consignment.**

(ii) Where specified **handicraft goods** are **transported from one State**/Union territory **to another State/Union territory by a person** who has been **exempted from** the requirement of **obtaining registration** under section 24 of the CGST Act, 2017, the e-way bill shall be generated by the said person **irrespective of the value of the consignment**.

Question 9

Decide with reason whether e-way bill is required to be issued under CGST Act, 2017 in the following independent cases:

(a) Square Ltd., registered in Andhra Pradesh, sends goods to its job worker Cube & Co. in Karnataka, which is also registered under GST. Value of the consignment was ₹ 45,000 (including GST).

(b) Mr. Bheeshma of Telangana started doing business in notified handicraft products as a casual taxable person. He got his first order of ₹ 30,000 from Tamil Nadu which he transports. He is not registered under GST since he has a threshold limit of ₹ 20 lakh.

Answer

(a) E-way bill is **mandatorily required** to be issued in case of **inter-State transfer** of goods **by principal to job-worker**, irrespective of the value of the consignment.

In view of the same, e-way is mandatorily required to be issued in the given case.

(b) E-way bill is mandatorily required to be issued in case of **inter-State transfer of handicraft goods by a person exempted from obtaining registration.**

In view of the same, e-way bill is **mandatorily required** to be issued in the present case.

Question 10

Power Electricals Ltd., a registered supplier of air-conditioners, is required to send from Mumbai (Maharashtra), a consignment of parts of air-conditioner to be replaced under warranty at various client locations in Gujarat. The value of consignment declared in delivery challan accompanying the goods is ₹ 70,000. Power Electricals Ltd. claims that since movement of goods to Gujarat is caused due to reasons other than supply, e-way bill is not mandatorily required to be generated in this case.

You are required to examine the technical veracity of the claim made by Power Electricals Ltd.

Answer

The goods to be moved to another State for replacement under warranty is not a 'supply'. However, rule 138(1) of the CGST Act, 2017, inter alia, stipulates that **every registered person who causes movement** of goods **of consignment value exceeding ₹ 50,000**:

(i) in relation to a **supply**; or

(ii) for reasons **other than supply**; or

(iii) **due to inward supply from an unregistered person,**

shall, **generate an electronic way bill** (E-way Bill) **before commencement of such movement.**

CBIC vide FAQs on E-way Bill has also clarified that **even if the movement of goods is caused due to reasons others than supply** [including replacement of goods under warranty], e-**way bill is required to be issued.**

Thus, in the given case, since the **consignment value exceeds ₹ 50,000**, e-way bill is required to be **mandatorily generated**. Therefore, the **claim of Power** Electricals Ltd. **that e-way bill is not mandatorily** required to be generated as movement of goods is caused due to reasons other than supply, **is not correct.**

Question 11

Beauty Cosmetics Ltd. has multiple wholesale outlets of cosmetic products in Mumbai, Maharashtra. It receives an order for cosmetics worth ₹ 1,20,000 (inclusive of GST leviable @ 18%) from Prasannaa, owner of a retail cosmetic store in Delhi. While checking the stock, it is found that order worth ₹ 55,000 can be fulfilled from the company's Dadar (Mumbai) store and remaining goods worth ₹ 65,000 can be sent from its Malad (Mumbai) store. Both the stores are instructed to issue separate invoices for the goods sent to Prasannaa. The goods are transported to Prasannaa in Delhi, in a single conveyance owned by Radhey Transporters.

You are required to advise Beauty Cosmetics Ltd. with regard to issuance of e- way bill(s).

Answer

Beauty Cosmetics Ltd. would be **required to prepare two separate e-way bills since each invoice value exceeds ₹ 50,000** and each invoice is considered as one consignment for the purpose of generating e-way bills.

The FAQs on E-way Bill issued by CBIC clarify that **if multiple invoices are issued** by the supplier to one recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, **multiple e-way bills have to be generated.** In other words, **for each invoice, one e-way bill** has to be

generated, irrespective of the fact whether same or different consignors or consignees are involved. **Multiple invoices cannot be clubbed to generate one e-way bill**. However, after generating all these e-way bills, one consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.

Question 12

Sindhi Toys Manufacturers, registered in Punjab, sold electronic toys to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such toys to the retail seller in Gujarat.

You are required to advise Sindhi Toys Manufacturers on the following issues:

(a) Whether e-way bill is mandatorily required to be generated in respect of such movement of goods?

(b) If yes, who is required to generate the e-way bill?

(c) What will be the consequences for non-issuance of e-way bill?

Answer

(a) Rule 138(1) of the CGST Rules, 2017 provides that **e-way Bill is mandatorily required** to be generated **if the goods are moved,** inter alia, in relation to supply and the **consignment value exceeds ₹ 50,000**. Further, explanation 2 to rule 138(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also **includes CGST, SGST/UTGST, IGST and cess charged**, if any, in the document and **shall exclude the value of exempt supply** of goods **where the invoice is issued in respect of both exempt and taxable** supply of goods.

Accordingly, in the given case, the **consignment value** will be as follows:

= ₹ 48,000 x 118%

= ₹ 56,640

Since the movement of goods is in relation to supply of goods and the **consignment value exceeds ₹ 50,000, e-way bill is mandatorily** required to be issued in the given case.

(b) An **e-way bill contains two parts** namely, **Part A** to be **furnished by** the registered **person who is causing movement of goods** of consignment value exceeding ₹ 50,000 **and part B** (transport details) is to be **furnished by** the **person who is transporting** the goods.

Where the **goods are transported by the registered person as a consignor or the recipient of supply as the consignee,** whether in his **own conveyance or a hired one** or a public conveyance, by road, the **said person shall generate the e-way bill** on the common portal after furnishing information in Part B [Rule 138(2)].

Where the **goods are transported by railways or by air or vessel**, the e- way bill shall be **generated by the registered person, being the supplier or the recipient,** who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B [Rule 138(2A)].

Where the **goods are handed over to a transporter** for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the **e-**

way bill shall be generated by the transporter on the said portal **on the basis of the information** furnished **by the registered person in Part A** [Rule 138(3)].

Where the **consignor or the consignee has not generated the e-way bill** and the aggregate of the **consignment** value of goods carried in the conveyance is **more than ₹ 50,000**, the **transporter**, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, **generate the e-way bill** on the basis of invoice or bill of supply or delivery challan, as the case may be, and may **also generate a consolidated e-way bill on** the **common portal prior to the movement of goods** [Rule 138(7)].

(c) It is mandatory to generate e-way bill in all cases where the value of consignment of goods being transported is more than ₹ 50,000 and it is not otherwise exempted in terms of rule 138(14) of CGST Rules, 2017. **If e-way bills**, wherever required, are **not issued** in accordance with provisions contained in rule 138, same will be considered as contravention of rules. As per section 122(1)(xiv) of CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) **shall be liable to a penalty of ₹ 10,000 or tax sought to be evaded** (wherever applicable) **whichever is greater**. Moreover, as per **section 129(1)** of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the Rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such **goods and conveyance shall be liable to detention or seizure**.

CHAPTER - 13
Payment of Tax and TDS

Electronic Credit Ledger

Question 1

Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Answer

No, as per section 49(4) the amount available in the electronic credit ledger **may be used for making any payment towards 'output tax'.**

As per section 2(82), output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, **input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.**

Question 2

Ms PPC & Co. have availed input tax credit of ₹ 42,500 during September under IGST head, instead of availing ₹ 21,250 under CGST & SGST heads. Mr. X, accountant of the above entity would like to use Form GST PMT-09 for making a transfer from IGST head to respective CGST & SGST heads. Examine the scenario and offer your comments

Answer

As per provisions of section 49(10) read with rule 87(13) of CGST Rules, 2017, "A registered person may, on the common portal, **transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger** under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess **in FORM GST PMT-09".**

It is important to note that only amounts available under Electronic Cash Ledger can be transferred to the respective heads using Form GST PMT-09 and not otherwise.

Accordingly, contention of the Accountant Mr. X of M/s PPC & Co., **is not valid** for transfer of **₹ 42,500 from head IGST to respective CGST & SGST in Electronic Credit Ledger.**

Question 3

M/s Neptune & Co. is registered under GST in the state of Maharashtra. They have made zero-rated supply of goods worth ₹ 84,50,000 on payment of IGST for ₹ 10,14,000 during the month of May. The refund application under section 54 for the above supply has been rejected by the proper officer.

Mr. A, taxation manager of the firm, has sought for recrediting the Electronic Credit Ledger as per the provisions of rule 86 for the above rejection. Examine the scenario and offer your comments

Answer

Rule 86 of CGST Rules provides that where a registered person has **claimed refund of any unutilized amount** (i.e. ITC) from the electronic credit ledger in accordance with the provisions of section 54, the

amount to the extent of the **claim shall be debited in the said ledger.**

If the **refund so filed is rejected**, either fully or partly, the amount so debited to the extent of rejection, shall be **re-credited to the electronic credit ledger** by the proper officer.

In the present case, M/s Neptune & Co., have made zero-rated supply with payment of IGST for ₹ 10,14,000 and the refund for the same has been rejected by the proper officer. Therefore, **contention** of Mr. A **is not sustainable as debit entry in the Electronic Credit Ledger has not been made as per sub-rule** (3) of Rule 86 towards "refund of any unutilized amount".

Supply made during May by M/s Neptune & Co. **is on payment of IGST** and therefore provisions laid out in sub-rule (4) of Rule 86 **shall not be applicable.**

Interest u/s 50

Question 4

M/s ABC Ltd. have belatedly filed GST return (under section 39) for the month of January after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	4,50,000	2,85,000	2,85,000
Tax payable under reverse charge	18,000	32,000	32,000
Input tax available for utilisation	2,50,000	55,000	55,000
Tax paid through Electronic Cash Ledger	2,18,000	2,62,000	2,62,000

Examine the interest payable as per the provisions of GST law.

What would be your answer, if entire tax for the month of January has to be paid through Electronic Credit Ledger except taxes to be paid on reverse charge basis?

Answer

Proviso to section 50 lays down that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.

In the given scenario, M/s ABC Ltd. have filed their return belatedly and as per the above provisions, interest is payable on the tax component paid through Electronic Cash Ledger only. A point relevant to note here is that tax payable on reverse charge basis also carries interest for the period of delay in remittance of tax and input tax credit cannot be used to pay the same (i.e. tax payable under reverse charge has to be paid in cash).

Accordingly, interest under section 50 payable for the tax paid through Electronic Cash Ledger is computed as below:

IGST: 218,000 x 18% x 60/365 = **6,450**

CGST: 262,000 x 18% x 60/365 = **7,752**

SGST: 262,000 x 18% x 60/365 = **7,752**

Further, if entire tax payable for January is paid through Electronic Credit ledger, except for the taxes to be paid under reverse charge basis, then interest u/s 50 is applicable only on the remittance of tax under reverse charge basis and not for tax payable on forward charge basis. **Interest payable** is given as below:

IGST: 18,000 x 18% x 60/365 = **532**

CGST: 32,000 x 18% x 60/365 = **946**

SGST: 32,000 x 18% x 60/365 = **946**

Question 5

Agni Limited filed GST return (under section 39) for the month of January 20XX on 11th April 20XX. Original due date for the said return was 20th February 20XX. Details of tax assessed as payable for the said month are given below:

Particulars	CGST (₹)	SGST (₹)
Output tax payable	1,80,000	1,80,000
Tax payable under reverse charge	40,000	40,000
Input tax credit available for utilization	70,000	70,000

(i) Compute the net tax payable in cash while filing the said return as well as the interest payable for the delayed remittance of tax.

(ii) Assuming that the company has an ITC balance of ₹ 2,50,000 each under CGST and SGST for the said month, compute the interest payable, if entire tax due for the said month was paid through the Electronic Credit Ledger to the extent possible as per the provisions of Act.

Answer

(i) Interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date shall be levied only on tax paid through electronic cash ledger.

In the given case, since return is filed belatedly, net tax payable in cash and interest thereon is computed as follows

Particulars	CGST (₹)	SGST (₹)
Output tax payable	1,80,000	1,80,000
Less: Credit of CGST and SGST be utilized for payment of CGST and SGST respectively	70,000	70,000
Net tax (A)	1,10,000	1,10,000
Tax under reverse charge is payable in cash (B)	40,000	40,000
Total tax payable in cash [(A) + (B)]	1,50,000	1,50,000
Interest payable @ 18% per annum (rounded off)	**3,699** [1,50,000 x 18% x 50/365]	**3,699** [1,50,000 x 18% x 50/365]

(ii) In the above case, if ITC available is ₹ 2,50,000 of CGST and SGST each, output tax payable in cash shall be nil (CGST as well as SGST). However, remaining ITC available cannot be utilised for

payment of tax payable under reverse charge as it is not an output tax. Therefore, interest on delayed payment of tax will be as follows:

Particulars	CGST (₹)	SGST (₹)
Interest payable @ 18% per annum (rounded off)	**986** [40,000 x 18% x 50/365]	**986** [40,000 x 18% x 50/365]

Question 6

Mr. Broker wrongly availed ₹ 1,25,000 as input tax credit (CGST + SGST) at the time of furnishing return under section 39 of the CGST Act, 2017 for the month of October 2024. This ITC was not utilized against the output tax liability for the month of October 2024. Mr. Broker utilised ITC of ₹ 75,000 from the above wrongly availed ITC of ₹ 1,25,000 against output tax liability for the month of November 2024.

Mr. Broker paid the amount of ITC wrongly utilised of ₹ 75,000 on 10th March, 2025 and reversed the unutilized amount of ₹ 50,000 on 20th March 2025. Calculate the total interest payable (CGST + SGST) rounded off to nearest rupee under GST law if Mr. Broker files:

(i) Form GSTR-3B for the month of October on 18th November 2024, and

(ii) Form GSTR-3B for the month of November on 25th December 2024.

Answer

Where ITC has been wrongly availed and utilised, the registered person shall pay interest on the same for the period starting from the date of utilisation of such wrongly availed ITC till the date of reversal of ITC or payment of tax in respect of such amount **@ 18% per annum.**

Since wrongly availed ITC of ₹ 50,000 has been reversed without utilizing the same, interest is not payable on the same.

Interest is payable on wrongly availed and utilised ITC of ₹ 75,000. Date of utilisation of said ITC will be:

(a) Due date of furnishing return for November, 2024 [20th December, 2024] or

(b) Actual date of filing of the return for November [25th December, 2024] whichever is earlier.

Thus, date of utilisation of said ITC will be 20th December, 2024.

Interest (CGST + SGST) will be payable for 80 days [21st December 2024 to 10th March, 2025 (both days inclusive)] as follows:

₹ 75,000 × 80/365 × 18%

= **₹ 2,959 [CGST+SGST]** (rounded off)

TDS

Question 7

List the instances when TDS is not liable to be deducted under the GST law.

Answer

Tax is not liable to be deducted at source under GST law when:

(i) **Location of the supplier and the place of supply** are in a State/Union territory which is **different from the State**/Union territory of registration **of the recipient**.

(ii) Goods and/or services are supplied from a **public sector undertaking (PSU) to another PSU**, whether or not a distinct person

(iii) Supply of goods and/or services takes place between **one person to another person specified** in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act, 2017, except registered person receiving supplies of metal scrap falling under chapter 72-81 in first schedule to Custom Tariff Act, 1975, from other registered person, i.e.

  (a) Department/establishment of Central/State Government

  (b) Local authority

  (c) Governmental agencies

  (d) Notified persons or category of persons

(iv) Total **value of taxable supply ≤ ₹ 2.5 lakh** under a contract

Question 8

(i) A Central Government Department located at Uttar Pradesh is registered with the Commercial Tax Department UP State for deducting GST. It enters into a contract with a Public Sector Undertaking (PSU), registered under GST in the State of Delhi, for supplying goods valued ₹ 3,50,000. The PSU argues that no tax is deductible on this supply by the Central Government Department as it is located outside the State of Uttar Pradesh and therefore not liable to tax under CGST and SGST as it is a local levy and IGST tax deduction is not applicable if it is located in another State, other than the State in which the Department is registered. You are required to comment on this.

(ii) Would there be any difference, if instead of the PSU if it was an entity in the private sector? Applicable tax rate for deduction is 1% CGST, 1% SGST and 2% IGST.

(iii) If the private sector entity undertakes works contract, for the above Department in New Delhi. What would be the position of tax deduction when the contract value is ₹ 5,00,000?

(iv) The disbursing officer has not paid the tax deducted in the month of February 20XX, amounting to ₹ 2,00,000 under CGST and 2,00,000 under SGST to the Government's account on the relevant due date, but has paid it on 14th May, 20XX. Further, return for that month is also filed on that date and the certificate is also issued simultaneously. What are the consequences, on such failures, to the disbursing officer under the GST law?

Answer

(i) Certain specified persons are required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total **value of such supply** [excluding GST] under a contract, **exceeds ₹ 2,50,000**.

However, the tax is not liable to be deducted at source when supply of goods and/or services has taken place between one specified person to another specified person. Since both Central Government Department and PSU are the specified persons, tax is not deductible in case of supply of goods between them.

(ii) **Central Government Department is mandatorily required to deduct IGST @ 2%** since a private entity is not the specified person.

(iii) Since, in the given case, the **location of supplier and place of supply is in the same State,** i.e., Delhi and **location of recipient is in UP, Central Government** Department is **not required to deduct TDS** although the total value of supply under the contract is more than ₹ 2,50,000.

(iv) Failure to deposit TDS with the Government and failure to furnish TDS return within the stipulated time period will result in following consequences:

(A) **Interest @ 18% p.a.** on the amount of tax deducted shall be payable.

(B) **Applicable penalty** will also be levied.

Question 9

BSA Corporation is a Public Sector Undertaking registered in Karnataka. For entertainment events in Bengaluru and at Mumbai, BSA has given contract to Mr. A, a renowned artist, registered person in Maharashtra, to perform on contemporary Bollywood songs. BSA Corporation agreed to pay ₹ 12,39,000 and ₹ 18,29,000, inclusive of GST, for Mumbai and Bengaluru events respectively. BSA Corporation seeks your advice regarding amount of TDS to be deducted assuming GST rate @ 18% (CGST @ 9%, SGST @ 9%, IGST @18%).

Answer

A **Public Sector Undertaking is required to deduct tax @ 2%** (on inter-State supplies) from payment made to the supplier of taxable services where the total value of such supply, excluding tax indicated in the invoice, **under a contract, exceeds ₹ 2,50,000.**

Value of supplies excluding tax are

₹ 10,50,000 (₹ 12,39,000 × 100/118) and

₹ 15,50,000 (₹ 18,39,000 × 100/118)

Further, in the given case, since the location of supplier is Maharashtra and place of supply of services provided by Mr. A to BSA Corporation is the location of recipient, viz. Karnataka, said services provided at both Mumbai and Bengaluru events are inter-State supplies.

Accordingly, in the given case, BSA Corporation is required to deduct tax as follows:

(i) ₹ 10,50,000 × 2% = **₹ 21,000 (IGST)**

(ii) ₹ 15,50,000 × 2% = **₹ 31,000 (IGST)**

Question 10

Manihar Enterprises, registered in Delhi, is engaged in supply of various goods and services exclusively to Government departments, agencies etc. and persons notified under section 51. It has provided the information relating to the supplies made, their contract values and the payment due against each of them in the month of October as under:

S.N.	Particulars	Total contract value (inclusive of GST) (₹)	Payment due in October (₹)

(i)	Supply of stationery to Fisheries Department, Kolkata	2,60,000	15,000
(ii)	Supply of car rental services to Municipal Corporation of Delhi	2,95,000	20,000
(iii)	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand	5,90,000	25,000
(iv)	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860	6,49,000	50,000
(v)	Interior decoration of Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh)	12,39,000	12,39,000
(vi)	Supply of printed books and printed post cards to a West Delhi Post Office [Out of total contract value of ₹ 9,72,000, contract value for supply of books (exempt from GST) is ₹ 7,00,000 and for supply of printed post cards (taxable under GST) is ₹ 2,72,000.]	9,72,000	50,000 for books & 20,000 for printed post cards
(vii)	Maintenance of street lights in Municipal area of East Delhi* [The maintenance contract entered into with the Municipal Corporation of Delhi also involves replacement of defunct lights and other spares. However, the value of supply of goods is not more than 25% of the value of composite supply.] *an activity in relation to any function entrusted to a Municipality under article 243W of the Constitution	3,50,000	3,50,000

You are required to determine amount of tax, if any, to be deducted from each of the receivable given above assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Manihar Enterprises is registered under composition scheme?

Answer

As per section 51 read with section 20 of the IGST Act, 2017, **following persons are required to deduct** CGST @ 1% [Effective tax 2% (1% CGST + 1% SGST/UTGST)] or IGST **@ 2%** from the payment made/credited to the supplier (deductee) of taxable goods or services or both, where the total value of such supply, **under a contract, exceeds ₹ 2,50,000:**

(a) a **department or establishment of** the Central **Government** or State Government; or

(b) **local authority**; or

(c) **Governmental agencies**; or

(d) an **authority** or a board or any other body, -

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

(ii) **established by** any **Government,**

with 51% or more participation by way of equity or control, to carry out any function; or

(e) **Society** established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860, or

(f) **Public sector undertakings.**

(g) Any registered person receiving supplies of **metal scrap** falling under chapter 72-81 in first schedule to Custom Tariff Act, 1975, from other registered person.

Further, for the purpose of deduction of tax, the value of supply shall be taken as the amount excluding CGST, SGST/UTGST, IGST and GST Compensation Cess indicated in the invoice.

Since in the given case, Manihaar Enterprises is supplying goods and services exclusively to Government departments, agencies etc. and persons notified under section 51, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S.N.	Particulars	Total contract value (₹)	Payment due (₹)	Tax to be deducted		
				CGST (₹)	SGST (₹)	IGST (₹)
i	Supply of stationery to Fisheries Department, Kolkata (Note-1)	2,60,000	15,000	–	–	–
ii	Supply of car rental services to Municipal Corporation of Delhi (Note 2)	2,95,000	20,000	–	–	–
iii	Supply of a heavy machinery to Public Sector Undertaking located in Uttarakhand (Note-3)	5,90,000	25,000	–	–	**500**
iv	Supply of taxable goods to Delhi office of National Housing Bank, a society established by Government of India under the Societies Registration Act, 1860 (Note-4)	6,49,000	50,000	**500**	**500**	–
v	Interior decoration of Andhra Bhawan located in Delhi (Note-5)	12,39,000	12,39,000	–	–	–
vi	Supply of printed books and printed post cards to a West Delhi Post Office (Note-6)	9,72,000	–	–	–	–
vii	Maintenance of street lights in Municipal area of East Delhi (Note-7)	3,50,000	3,50,000	–	–	–

Notes:

1. Being an inter-State supply of goods, supply of stationery to Fisheries Department, Kolkata is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under contract is as follows:

   = ₹ 2,60,000 × 100/118 = ₹ 2,20,339 (rounded off)

   Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

2. Being an intra-State supply of services, supply of car rental services to Municipal Corporation of Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

   = ₹ 2,95,000 × 100/118 = ₹ 2,50,000

   Since the total value of supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

3. Being an inter-State supply of goods, supply of heavy machinery to PSU in Uttarakhand is subject to IGST @ 18%. Therefore, total value of taxable supply [excluding IGST] under contract is as follows:

= ₹ 5,90,000 × 100/118 = ₹ 5,00,000

Since the total value of supply under the contract exceeds ₹ 2,50,000, PSU in Uttarakhand is required to deduct tax @ 2% of ₹ 25,000, i.e. ₹ 500.

4. Being an intra-State supply of goods, supply of taxable goods to National Housing Bank, Delhi is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

   = ₹ 6,49,000 × 100/118 = ₹ 5,50,000

   Since the total value of supply under the contract exceeds ₹ 2,50,000, National Housing Bank, Delhi is required to deduct tax @ 2% (1% CGST + 1% SGST) of ₹ 50,000, i.e. ₹ 1,000.

5. Proviso to section 51(1) of the CGST Act, 2017 stipulates that no tax shall be deducted if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

   Section 12(3) of the IGST Act, 2017, inter alia, stipulates that the place of supply of services, directly in relation to an immovable property, including services provided by interior decorators, shall be the location at which the immovable property is located or intended to be located. Accordingly, the place of supply of the interior decoration of Andhra Bhawan shall be Delhi.

   Since the location of the supplier (Manihar Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, no tax is liable to be deducted in the given case.

6. If the contract is made for both taxable supply and exempted supply, tax shall be deducted if the total value of taxable supply in the contract exceeds ₹ 2,50,000. Being an intra-State supply of goods, supply of printed post cards to a West Delhi Post Office is subject to CGST and SGST @ 9% each. Therefore, total value of taxable supply [excluding CGST and SGST] under the contract is as follows:

   = ₹ 2,72,000 × 100/118 = ₹ 2,30,509 (rounded off)

   Since the total value of taxable supply under the contract does not exceed ₹ 2,50,000, tax is not required to be deducted.

7. Composite supply of goods and services in which value of supply of goods constitutes not more than 25% of value of said composite supply provided to, inter alia, local authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of Constitution is exempt from GST. Thus, maintenance of street lights (an activity in relation to a function entrusted to a Municipality) in Municipal area of East Delhi involving replacement of defunct lights and other spares where value of supply of goods is not more than 25% of value of composite supply is a service exempt from GST. Since tax is liable to be deducted from payment made or credited to supplier of taxable goods or services or both, no tax is required to be deducted in given case as supply is exempt.

The answer **will remain unchanged even if Manihar Enterprises is registered under composition scheme.** Tax will be deducted in all cases where it is required to be deducted under section 51 of the CGST Act, 2017 including the scenarios when the supplier is registered under composition scheme.

Question 11

Yash Shoppe, a registered supplier of Jaipur, is engaged in supply of various goods and services exclusively to Government departments, agencies, local authority and persons notified under section 51.

You are required to briefly explain the provisions relating to tax deduction at source under section 51 and also determine the amount of tax, if any, to be deducted from each of the receivables given below (independent cases) assuming that the payments as per the contract values are made on 31st October. The rates of CGST, SGST and IGST may be assumed to be 6%, 6% and 12% respectively.

(1) Supply of computer stationery to Public Sector Undertaking (PSU) located in Mumbai. Total contract value is ₹ 2,72,000 (inclusive of GST)

(2) Supply of air conditioner to GST department located in Delhi. Total contract value is ₹ 2,55,000 (exclusive of GST)

(3) Supply of generator renting service to Municipal Corporation of Jaipur. Total contract value is ₹ 3,50,000 (inclusive of GST)

Answer

As per section 51 of the CGST Act, 2017, Government departments, agencies, local authority and notified persons are **required to deduct tax @ 2%** (1% CGST + 1% SGST/UTGST) or IGST @ 2% from payment made to the supplier of taxable goods and/or services where the total value of such supply [excluding tax and compensation cess indicated in the invoice], **under a contract, exceeds ₹ 2,50,000.**

Since in given case, Yash Shoppe is supplying goods and services exclusively to Government departments, agencies, local authority and persons notified u/s 51 of CGST Act, 2017, applicability of TDS provisions on its various receivables is examined in accordance with the above-mentioned provisions as under:

S.N.	Particulars	Total contract value due to be received [excluding GST] (₹)	Tax to be deducted		
			CGST @1% (₹)	SGST @1% (₹)	IGST @2% (₹)
1	Supply of computer stationery to PSU in Mumbai [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] does not exceed ₹ 2,50,000, tax is not required to be deducted.]	2,42,857 [2,72,000 × 100/112]	–	–	–
2	Supply of air conditioner to GST Department in Delhi [Since the total value of supply under the contract [excluding IGST (being inter-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	2,55,000	–	–	5,100
3	Supply of a generator renting service to Municipal Corporation of Jaipur [Since the total value of supply under the contract [excluding CGST and SGST (being intra-State supply)] exceeds ₹ 2,50,000, tax is required to be deducted.]	3,12,500 [3,50,000× 100/112]	3,125	3,125	–
	Total		**3,125**	**3,125**	**5,100**

Question 12

From the following information of independent cases, your expert advice, with appropriate reasoning, is sought on the applicability of TDS provisions of the CGST Act, 2017. You shall also quantify the amount of TDS, if the same is applicable. All the given amounts are exclusive of GST.

(i) M/s Super Builders, a registered supplier in Tamil Nadu, was awarded a works contract by Government of Tamil Nadu amounting to ₹ 4,30,000. Of this, value of exempt supply was ₹ 1,00,000.

(ii) Tasty Caterers, a registered supplier of Kerala, provided catering services in Kochi, Kerala to Government of Andhra Pradesh for its annual training camp held for its staff. Value of said services was ₹ 4,50,000.

Answer

(i) A State Government is **required to deduct tax** from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] **under a contract exceeds ₹ 2,50,000.** TDS to be deducted in the given intra-State supply (since place of supply and location of supplier is in Tamil Nadu) is as follows:

= ₹ (4,30,000 - 1,00,000) × **1%**

= ₹ 3,300 (CGST)

= ₹ 3,300 (SGST)

(ii) Since, in the given case, the **location of supplier and place of supply are in the same State,** i.e., Kerala and **location of recipient is in Andhra Pradesh,**

Andhra Pradesh Government is **not required to deduct TDS** although the total value of supply under the contract is more than ₹ 2,50,000.

CHAPTER - 14
Returns

GSTR 1 and GSTR 3B

Question 1

Mr. X, a regular tax payer, did not make any taxable supply during the month of July. Is he required to file any goods and service tax return?

Answer

A regular tax payer is required to furnish a return u/s 39 for every month **even if no supplies** have been **effected** during such period. In other words, **filing of Nil return is also mandatory**.

Therefore, Mr. X is required to file monthly return even if he did not make any taxable supply during the month of July.

Question 2

Mr. Anand Kumar, a regular taxpayer, filed GSTR-1 for the month of August before the due date. Later, in the month of February next year, he discovers error in the GSTR-1 of the month of August already filed and wants to revise it. You are required to advise him on the future course of action in this scenario.

Answer

The **mechanism of filing revised return** for any correction of errors/omission **is not available** under GST. The **rectification** of errors/omission is **allowed in the subsequent returns.** Registered person may, after furnishing the details of outward supplies of goods or service or both in FORM GSTR-1 for a tax period but before filing of return in FORM GSTR-3B for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in FORM GSTR-1A for the said tax period.

Therefore, Mr. Anand Kumar who discovered an error in GSTR-1 for the month of August cannot revise it. However, he should rectify said error in the GSTR-1 filed for the month of February and should pay the tax and interest, if any, in case there is short payment, in return to be furnished for February. The error can be rectified by furnishing appropriate particulars in "Amendment Tables" contained in GSTR-1.

However, as per section 37(3) of the CGST Act, **no rectification of details furnished in GSTR-1** shall be **allowed after:**

(i) **30th November following the end of the financial year** to which such details pertain, **or**

(ii) **filing of the relevant annual return**, whichever is **earlier**.

Question 3

Explain the provisions of section 39(9) of the CGST Act, 2017 with reference to rectification of returns.

Answer

As per section 39(9) of the CGST Act, 2017, **if any registered person** after furnishing a return discovers any omission or incorrect particulars therein, he shall **rectify such omission or incorrect particulars**

in the **return to be furnished for the month** during which such omission or incorrect particulars **are noticed,** subject to payment of interest.

However, section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities. Further, **no such rectification of** any **omission or incorrect** particulars shall be allowed **after 30th November following the end of the financial year** to which such details pertain, **or** the **actual date of furnishing of** relevant **annual return**, whichever is **earlier**.

Question 4

Tax authorities have been scrutinizing the returns furnished by A Ltd. During the scrutiny process, A Ltd. has been made aware by authorities about an incorrect disclosure in a return under section 39 filed by it for a particular tax period. A Ltd. seeks your opinion to rectify the incorrect disclosure made in return.

Answer

In terms of section 39(9), any **rectification in the return** (under section 39) furnished by the registered person **is allowed only when** the error or **omission is discovered on** account of **reasons other than scrutiny, audit, inspection, or enforcement activity** by the tax authorities.

In the present case, since the incorrect disclosure has been highlighted to A Ltd. by the tax authorities during process of scrutiny, the rectification of incorrect disclosure cannot be made by A Ltd. on its own.

Question 5

Discuss the cases where a registered person is not allowed to furnish the details of outward supplies under section 37 in Form GSTR-1 or using invoice furnishing facility, as enumerated in rule 59.

Answer

Rule 59(6) provides that:

(i) a registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, **if he has not furnished** the return in Form **GSTR-3B for the preceding month**.

(ii) a registered person, **opting for QRMP scheme**, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using Invoice Furnishing Facility (IFF), if **he has not furnished** the return in **Form GSTR-3B for preceding tax period**.

(iii) a registered person, to whom an **intimation has been issued** on the common portal under the provisions of rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF for a subsequent tax period, **unless he has either deposited the amount specified in the said intimation or has furnished a reply** explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C(2).

(iv) a registered person, to whom an **intimation has been issued** on common portal under provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish Form GSTR-1/IFF for a subsequent tax period, **unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply** explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under provisions of rule 88D(2);

(v) a registered person shall not be allowed to furnish Form GSTR- 1/IFF, if he has **not furnished the details of the bank account** as per the provisions of rule 10A.

Annual Return and Final Return

Question 6

Answer the following questions elaborating the relevant provisions of section 44:

(a) Who is required to furnish the annual return and what is the due date for furnishing the same?

(b) What is the prescribed form for furnishing annual return/statement?

(c) Who is required to furnish a self-certified reconciliation statement?

Answer

(a) **All registered persons are required** to file an annual return. However, **following persons are not required to file annual return:**

(i) **Casual taxable** persons

(ii) **Non-resident taxable** person

(iii) **Input service distributors**

(iv) Persons **authorized to deduct/collect tax at source** under section 51/52.

The Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section. The department of the Central/State Government or a local authority, **whose books of account are subject to audit by the Comptroller and Auditor-General of India** or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, **are exempt** from the requirement of furnishing an annual return including self-certified reconciliation statement.

The annual return for a financial year **needs to be filed by 31st December of next financial year.**

(b) The annual return is to be filed electronically in **Form GSTR-9** through the common portal.

However, a person paying tax under the **composition scheme** is required to file the annual return in **Form GSTR-9A.**

Further, an ECO required to collect tax at source is required to file an annual statement referred to in section 52(5) in Form GSTR-9B (yet to be notified). The statement for a financial year needs to be filed by 31st December of the next financial year.

(c) **All registered persons are required to file furnish a self-certified reconciliation statement** alongwith annual return if their **aggregate turnover** during a financial year **exceeds ₹ 5 crores.** Such registered persons should furnish, electronically, the annual return along with a copy of self-certified reconciliation statement, duly certified, **in Form GSTR-9C.** A Self-certified reconciliation statement will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement.

However, **following persons are not required to file self-certified reconciliation statement:**

(a) **Casual taxable** persons

(b) **Non-resident taxable** person

(c) **Input service distributors**

(d) Persons **authorized to deduct/collect tax at source** under section 51/52, and

Question 7

Is an annual return under section 44 and a final return one and the same? Explain.

Answer

No. Annual return has to be filed **by every registered person** paying tax **as a normal taxpayer**, with certain exceptions. **Final return** has to be filed only by those registered persons **who have applied for cancellation** of registration. The **final return** has **to be filed within three months of** the **date of cancellation or** the date of **cancellation order, whichever is later**.

Question 8

ABC Ltd. has applied for cancellation of GST registration in the month of March. The consultant of ABC Ltd. has suggested to furnish the final return in the month of September. He has advised the company that a final return needs to be furnished before the due date of furnishing the return for the month of September of subsequent financial year or before furnishing of annual return (for the financial year in which cancellation has been sought for), whichever is earlier. However, the jurisdictional authorities have yet not passed the order of cancellation due to reasons not known to ABC Ltd.

Whether the advice given by the consultant of ABC Ltd. is correct? Examine.

Answer

No, the advice of the consultant is **not correct.**

In terms of section 45 read with rule 81, every registered person who is required to furnish GSTR-3B and whose **registration has been cancelled** is **required to file a final return within three months of** the **date of cancellation or** date of **order of cancellation, whichever is later**.

In the given case, the registration of the company **has not been cancelled.** Therefore, requirement of filing final return will arise only when the registration of the company gets cancelled.

Question 9

A Ltd. is registered under GST in Rajasthan, Delhi, Haryana and Punjab. Due to closure of business activities in Rajasthan with effect from May 31, 20XX, A Ltd. filed an application for cancellation of registration before the jurisdictional tax authorities of Rajasthan. The application for cancellation of registration was filed on June 30, 20XX. The registration was suspended with immediate effect from June 30, 20XX, by the jurisdictional tax authorities. The final order of cancellation was dated July 31, 20XX.

You are required to advise A Ltd. regarding the last date for filing the final return by it in Rajasthan.

Further, A Ltd. was also registered as an ISD (Input Service Distributor) in Rajasthan; said registration was cancelled with effect from June 30, 20XX with an order dated July 31, 20XX. Advise whether the final return is required to be filed upon cancellation of ISD registration by A Ltd.? If yes, what is the due date for filing said final return?

Answer

As per section 45 read with rule 81, every registered person who is required to file a return under section 39(1) and whose registration has been cancelled is required to file a final return electronically in Form GSTR-10 through the common portal. The **final return has to be filed within 3 months of the:**

(i) date of cancellation or

(ii) date of order of cancellation **whichever is later.**

Thus, in the given case, final return for Rajasthan registration has to be furnished within three months of the date of order of cancellation of registration (July 31, 20XX). Hence, final return has to be filed by A Ltd. **on or before October 31, 20XX.**

Further, since an **ISD is not required to furnish** return under section 39(1) but under section 39(4), final return is not required to be filed upon cancellation of ISD registration. Therefore, A Ltd. is not required to furnish final return for ISD registration cancelled.

Other Returns

Question 10

Do input service distributors (ISDs) need to file separate statement of outward supplies with their return? Discuss.

Answer

No, the **ISDs need to file only a return in Form GSTR-6** and the return has the details of credit received by them from the service provider and the credit distributed by them to recipient units. Since their return itself covers these aspects, there is **no requirement to file separate statement of outward supplies.**

Question 11

B Ltd. has filed the return for the month of October belatedly. At the time of computing the late fee to be paid for delay in filing return, B Ltd. has taken a view that if the late fee has been paid as per the provisions under the CGST Act, there is no requirement of paying the late fee under the SGST Act for the same default.

Whether B Ltd. has taken a correct view? Examine.

Answer

The understanding of B Ltd. is incorrect. For **arriving at the late fee** payable on account of delayed filing of GST return, the **computation of late fee** is made **separately for CGST and SGST/UTGST.** This is because the provisions of late fee on delayed filing of return are prescribed in both CGST Act and SGST/UTGST Act although a common return is filed for both the laws.

Question 12

XYZ Ltd. has deducted TDS from the consideration payable to A Ltd. for supplies made by it. The deductee, i.e. A Ltd., seeks your advice on taking credit for the TDS deducted by XYZ Ltd. Also, whether the tax

deducted by XYZ Ltd. will be shown in the electronic credit ledger or electronic cash ledger of A Ltd.?

Answer

In terms of section 51(5) read with rule 66(2), the deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in GSTR-7 of the deductor, after validation. Similarly, rule 87(9), inter alia, provides that any **amount deducted under section 51 shall be credited to the electronic cash ledger of the deductee.**

Therefore, in the present case, **A Ltd., can take credit of TDS amount deducted by XYZ Ltd.** in its electronic cash ledger and use the same for payment of tax, interest, penalty, late fee or any other amount.

QRMP Scheme

Question 13

Mr. Mahendra, a registered person, came to know about QRMP (Quarterly Return-Monthly Payment) scheme but was unable to make a decision whether to opt for the same or not. Describe the eligibility criteria and benefits of QRMP Scheme to help Mr. Mahendra make a decision regarding the same.

Answer

Eligibility criteria for QRMP scheme

Registered persons,

- **other than supplier of** online information and database access or retrieval services **(OIDAR)** located in non-taxable territory and providing such services to a non-taxable online recipient and whose **aggregate annual turnover** (PAN based) is **up to ₹ 5 crore in the preceding financial year.**
- who have **opted to furnish quarterly returns** under QRMP scheme
- who have **furnished the last return** due on the date of exercising such option are eligible to opt for QRMP scheme.

Benefits of QRMP scheme

- It is a trade facilitation measure and **eases the process of doing business.**
- It will significantly **reduce the compliance burden** on such taxpayers as now the taxpayers need to file GSTR-3B returns and Form GSTR-1 - on quarterly basis only 4 times a year.

Question 14

Padmavati Traders, registered in Karnataka, is engaged in supply of taxable goods. Its turnover in the preceding financial year was ₹ 230 lakh and was furnishing its GST return on monthly basis.

In the beginning of April month in the current financial year, it sought advice from its tax consultant, Dua Consultants, whether it can furnish its GST returns on quarterly basis from now onwards. Dua Consultants advised Padmavati Traders that it cannot furnish its return on quarterly basis as the GST law does not provide for quarterly return under any circumstances. Discuss the technical veracity of the advice given by Dua Consultants.

Answer

No, the advice given by Dua Consultants **is not valid in law.** With effect from 01.01.2021, a **quarterly return** has been introduced under GST law where the **payment of tax** is to be **made on monthly basis.** The **scheme is known as Quarterly Return Monthly Payment (QRMP) Scheme.**

The scheme has been introduced as a trade facilitation measure and in order to further ease the process of doing business. It is an optional return filing scheme, introduced for small **taxpayers having aggregate annual turnover** (PAN based) **of upto ₹ 5 crore in the current and preceding financial year** to **furnish** their Form GSTR-1 and Form GSTR-3B on a **quarterly basis while paying their tax on a monthly basis** through a simple challan. **Thus,** the taxpayers need to **file only 4 GSTR-3B** returns **instead of 12 GSTR-3B** returns **in a year.** Similarly, they would be **required to file only 4 GSTR-1** returns **since Invoice Filing Facility (IFF) is provided** under this scheme.

Opting of **QRMP scheme is GSTIN wise.** Distinct persons can avail **QRMP scheme option for one or more GSTINs.** It implies that **some GSTINs** for a PAN **can opt for the QRMP** scheme **and remaining GSTINs may not opt** for the said scheme.

Since the **aggregate turnover** of Padmavati Traders **does not exceed ₹ 5 crores** in the preceding financial year, it is **eligible for furnishing the return on quarterly basis** till the time its turnover in the current financial year does not exceed ₹ 5 crore. **In case** its **aggregate turnover crosses ₹ 5 crore** during a quarter in the current financial year, it shall **no longer be eligible for furnishing of return on quarterly basis** from the first month of the succeeding quarter and needs to opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which its aggregate turnover exceeds ₹ 5 crore.

GST Practitioner (GSTP)

Question 15

Is it compulsory for a taxpayer to file return by himself? Explain.

Answer

No. A registered taxpayer **can also get his return filed through a Goods and Services Tax Practitioner.**

Question 16

Whether GSTPs are required to furnish any return for disclosure of activities carried out by them for any of the registered person during a tax period? Elucidate.

Answer

In terms of section 48(2), a registered person may authorise an approved GSTP to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or annual return under section 44 or final return under section 45 and to perform other prescribed functions. Thus, the **GSTP can furnish the specified documents or information on behalf of** the **registered person with prior authority of the registered person.**

However, **there is no specific return** furnishing mechanism **for GSTP to disclose the activities** carried out by it for any of the registered person during a tax period.

CHAPTER - 15
Refunds under GST

Refund of Unutilised ITC – Zero Rated Supply

Question 1

Wye Ltd. provides the following details of September 20XX for computation of refund claim under rule 89(4) of the CGST Rules, 2017. Compute the eligible claim under the said rule assuming that other conditions are fulfilled.

Particulars	Amount (₹)
Opening balance of ITC	5,00,000
ITC availed during the period	20,00,000
Zero rated supply of goods made during the period without payment of tax under bond/LUT	5,00,00,000
Supply of goods other than zero rated supply	3,00,00,000

Answer

As per rule 89(4) of the CGST Rules, 2017, in case of zero-rated supply of goods without payment of tax under bond/LUT, refund of ITC is granted as per the following formula:

$$\text{Refund Amount} = \frac{\text{(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Turnover of zero rated supply of goods = ₹ 5,00,00,000

Net ITC = ₹ 20,00,000 and

Adjusted Total Turnover = ₹ 8,00,00,000 [₹ 5,00,00,000 + ₹ 3,00,00,000]

Thus, maximum refund amount under rule 89(4)

= ₹ 20,00,000 × ₹ 5,00,00,000/₹ 8,00,00,000 = ₹ 12,50,000

Question 2

Bhagwan Manufacturers & Exporters Company (BMEC) is registered under GST in the State of Rajasthan and supplies various goods in domestic as well as in international markets. It is engaged in both manufacturing and trading of goods. It exports goods without payment of tax under bond or letter of undertaking in accordance with the provisions of section 16(3) of the IGST Act, 2017.

BMEC provides the following information in relation to various supplies made by it during October, 20XX tax period:

S.N.	Particulars	(₹)
1.	Taxable value of goods 'Star' supplied within India	14,00,000
2.	Taxable value of goods 'Sun' exported without payment of tax under letter of undertaking. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is ₹ 6,00,000).	10,00,000

3.	Taxable value of goods 'Moon' exported without payment of tax under bond. (However, taxable value of such goods when supplied domestically by BMEC in similar quantities is ₹ 1,50,000)	2,00,000

The input tax credit (ITC) availed for the above tax period is as follows:

S.N.	Particulars	(₹)
1	Input tax credit availed on capital goods	1,00,000
2	Input tax credit availed on inputs	3,00,000
3	Input tax credit availed on inputs services	1,50,000
BMEC also provided following additional information:		
(i)	All the above inputs, input services and capital goods are used in manufacturing process and all the conditions for availing input tax credit have been complied with.	
(ii)	The balance in the electronic credit ledger of BMEC at the time of filing the refund application is ₹ 1,50,000.	
(iii)	The balance in electronic credit ledger of BMEC at the end of the October 20XX tax period for which refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 3,25,000.	

You are required to compute the amount refundable to Bhagwan Manufacturers & Exporters Company against accumulated unutilized input tax credit for October 20XX tax period according to the provisions of GST law by giving necessary explanations for treatment of various items.

Answer

As per rule 89(4) of the CGST Rules, 2017, in the given case, refund of ITC in the case of zero-rated supply of goods without payment of tax under bond/LUT is as follows:

$$\text{Refund Amount} = \frac{\text{Turnover of zero-rated supply of goods}}{\text{Adjusted Total Turnover}} \times \text{Net ITC on inputs and input services}$$

$$= \frac{[9,00,000 + 2,00,000]}{[9,00,000 + 2,00,000 + 14,00,000]} \times [1,50,000 + 3,00,000]$$

$$= ₹\ 1,98,000$$

Turnover of goods 'Sun' = **Lower of (i) ₹ 6,00,000 × 1.5 or (ii) ₹ 10,00,000, i.e. ₹ 9,00,000**

Turnover of goods 'Moon' = **Lower of (i) ₹ 1,50,000 × 1.5 or (ii) ₹ 2,00,000, i.e. ₹ 2,00,000**

Refundable amount is the least of the following:

(a) Refund as per rule 89(4) of the CGST Rules, 2017 [**₹ 1,98,000**]

(b) Balance in ECL at the time of filing refund application, [**₹ 1,50,000**] and

(c) Balance in ECL at the end of October 20XX for which refund is being filed after the return in Form GSTR-3B for the said period has been filed [**₹ 3,25,000**]

Thus, the refundable **amount is ₹ 1,50,000**.

ITC is on capital goods is not eligible for refund.

Question 3

Synotex Pvt. Ltd. manufactures taxable goods, 'Q' and exempt goods 'S'. Product 'S' is sold in international

markets without payment of tax under letter of undertaking. The company is registered under GST in the State of Maharashtra. The company provides the following information in relation to various supplies made by it during a tax period:

(a) Product 'S has been exported to UK for £ 12,000

(b) Product 'Q' has been supplied to Betty Enterprises within India for ₹ 20,00,000

Note: The above amounts are exclusive of taxes, wherever applicable.

The company provides the following information in relation to tax paid on inward supplies received during the said tax period:

(a) GST of ₹ 5,00,000 has been paid on inputs

(b) GST of ₹ 2,40,000 has been paid on capital goods

(c) GST of ₹ 2,00,000 has paid on input services

(d) All the above inputs, input services and capital goods are used in the manufacturing process

Following additional information is also provided:

(i) Value of product 'S' exported to UK in Indian rupees is ₹ 12,00,000. However, value of such product when supplied domestically by the company in similar quantities is ₹ 10,00,000.

(ii) Betty Enterprises is a 100% export-oriented undertaking. It has claimed the ITC on goods supplied to it by Synotex Pvt. Ltd.

(iii) The balance in the electronic credit ledger of Synotex Pvt. Ltd. at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed is ₹ 5,80,000.

(iv) The balance in the electronic credit ledger of Synotex Pvt. Ltd. at the time of filing the refund application is ₹ 3,00,000.

Compute the amount refundable to Synotex Pvt. Ltd. for the tax period.

Answer

Export of product 'S'

Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, 2017, ITC may be availed for making zero-rated supplies even if such supply may be an exempt supply. As per section 54(3)(i) of the CGST Act, 2017, a registered person may claim refund, of any unutilised ITC at the end of any tax period in the case of zero rated supply made without payment of tax.

Therefore, in the given case, Synotex Pvt. Ltd. will be eligible to claim ITC for export of exempt product 'S' in terms of section 16(2) of the IGST Act, 2017 and will thus, be able to claim refund of unutilised ITC in terms of section 54(3)(i) of the CGST Act, 2017.

As per rule 89(4) of the CGST Rules, 2017, refund of unutilized ITC in case of zero rated supply without payment of tax under letter of undertaking is granted in accordance with the following formula:

$$\text{Refund Amount} = \frac{\text{(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Here,

Net ITC = ₹ 7,00,000 [Net ITC includes ITC on inputs and input services but not ITC on capital goods].

Turnover of zero-rated supply of goods (Product 'S') = ₹ 12,00,000 [Lower of the value of zero rated supply of goods (₹ 12,00,000) or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier (₹ 15,00,000)].

Adjusted total turnover = ₹ 32,00,000 [₹ 20,00,000 + ₹ 12,00,000]

Thus, refund amount under **rule 89(4) = ₹ 7,00,000 x ₹ 12,00,000/₹ 32,00,000 = ₹ 2,62,500**

Circular No. 125/44/2019 GST dated 18.11.2019 provides that amount refundable to the applicant is least of the following amounts:

(a) Maximum refund amount as per the formula in rule 89(4) of the CGST Rules [₹ 2,62,500]

(b) Balance in the electronic credit ledger at the end of the tax period for which the refund claim is being filed after GSTR-3B for the said period has been filed [₹ 5,80,000]

(c) Balance in the electronic credit ledger at the time of filing the refund application [₹ 3,00,000]

Thus, **amount refundable to Synotex Pvt. Ltd. of unutilized ITC is ₹ 2,62,500.**

Supply of product 'R' to Betty Enterprises, a 100% EOU

Supplies to EOU is **notified as deemed export** under section 147. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1) of the CGST Rules, 2017]. Therefore, since in the given case, **Betty Enterprises (recipient) is claiming ITC, Synotex Pvt. Ltd. (supplier of deemed exports) cannot claim refund of ITC.**

Therefore, amount refundable to Synotex Pvt. Ltd. is ₹ 2,62,500.

Question 4

The following particulars are furnished by Delight Exporters, Karnataka, which is duly registered under the GST law. The entity has also filed bond/LUT in order to export goods without payment of any taxes. You are required to calculate the refund amount in respect of input tax credit on inputs and input services relating to goods exported in the relevant tax period.

S.N.	Particulars of supply	Value of supply in ₹
1.	Turnover - excluding supply of services, but includes domestic exempt supplies of ₹ 8,00,000. and inward supplies of ₹ 2,00,000	64,00,000
2.	Zero-rated supply of goods under bond/LUT	6,00,000
3.	Export services under bond/LUT	48,00,000
4.	Non zero-rated supply of services	10,00,000
5.	Payments received towards zero-rated supply of services, which includes ₹ 12,00,000 against which services are yet to be supplied.	48,00,000
6.	Advance received in the past, against which zero-rated supplies of services have been made in the current tax period	14,00,000
7.	ITC on inputs and input services during the tax period	9,60,000

Answer

In case of zero-rated supply of goods and services without payment of tax under bond/LUT, refund of

ITC relating to goods and services exported is granted as per the following formula:

$$\text{Refund Amount} = \frac{\text{(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services)}}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

Accordingly, the amount of refund shall be computed as follows:

Particulars	₹
Net ITC (ITC on inputs and input services during the tax period)	9,60,000
Turnover of zero-rated supply of goods	6,00,000
Turnover of zero rated supply of services [Aggregate of payments received during the relevant period and services where supply has been completed for which payment had been received in advance in any prior period reduced by advances received for which the supply of services has not been completed during the relevant period] [₹ 48 lakh + 14 lakh – ₹ 12 lakh]	50,00,000
Adjusted total turnover = Turnover in a State excluding turnover of services + Turnover of zero-rated supply of services determined as above + Non-zero-rated supply of services – Exempt supplies other than zero-rated supplies [₹ 64 lakh – ₹ 2 lakh + ₹ 50 lakh + ₹ 10 lakh – ₹ 8 lakh]	1,14,00,000
Refund of ITC for zero rated supply of goods and zero rated supply of services [₹ 9,60,000 x (₹ 56,00,000/₹ 1,14,00,000)]	**4,71,579 (rounded off)**

Question 5

An international trade exhibition is going to be held in United States of America in January. Aayaat Niryat Export House (ANEH) has participated in it. It intends to send 100 units of taxable goods manufactured by it to USA for display in the said exhibition.

ANEH is of the view that the activity of sending the goods out of India for exhibition is a zero-rated supply. However, its tax advisor does not concur with its view. Examine whether the view of ANEH is correct.

Assuming that ANEH could not sell any goods at the exhibition and brings back entire 100 units to India (i) in February, (ii) in August, Discuss the requirement to issue invoice, if any, in each of the above independent cases.

Would your answer be different if ANEH sells an aggregate of 65 units of taxable goods in USA exhibition on different dates in January and remaining 35 units are brought back on 31st January. The tax advisor of ANEH advises ANEH that export of 65 units qualify as zero-rated supply and it should apply for refund of the unutilized ITC in respect of the same. Examine the technical veracity of the tax advisor's advice.

Answer

No, the view of ANEH that the activity of sending the goods out of India for exhibition is a zero-rated supply, **is not correct**. As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must **satisfy twin tests** namely:

(i) it should be for a **consideration** by a person; and

(ii) it should be in the course or furtherance of **business**.

The exceptions to the above are the activities enumerated in Schedule I of CGST Act which are treated as supply even if made without consideration. Further, section 2(21) of IGST Act defines "supply", wherein it is clearly stated that it shall have the same meaning as assigned to it in section 7 of the CGST Act.

Section 16 of IGST Act defines **"zero rated supply"** as following supplies of goods or services or both:

(a) **export** of goods or services or both; or

(b) **supply** of goods or services or both **to a Special Economic Zone** developer/unit.

Thus, only such "supplies" which are either "export" or are "supply to SEZ unit/developer" would qualify as zero-rated supply.

In view of the above provisions, Circular No. 108/27/2019 GST dated 18.07.2019 clarified that the **activity of sending/taking the goods out of India** for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act, **do not constitute supply** as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. **Since such activity is not a supply, the same cannot be considered as "zero rated supply"** as per the provisions contained in section 16 of the IGST Act.

The said circular further clarified that the activity of sending/taking goods out of India for exhibition is in the **nature of "sale on approval basis"** wherein the goods are sent/taken outside India for the approval of the person located abroad and it is only when the said goods are approved that the actual supply from the exporter located in India to the importer located abroad takes place.

The activity of sending/taking specified goods is covered under the provisions of section 31(7) of the CGST Act, 2017. As per said provisions, in case of the **goods being sent or taken on approval for sale, invoice shall be issued before/at the time of supply or 6 months from date of removal, whichever is earlier.** The goods which are taken for supply on approval basis can be moved from place of business of registered supplier to another place within same State or to a place outside State on a delivery challan.

In view of the said provisions, ANEH is not required to issue invoice at the time of taking the goods out of India since the activity of **merely sending/taking the taxable goods out of India is not a supply.** However, the **goods shall be accompanied with a delivery challan.** Further,

(i) **In case the entire quantity of goods (100 units) sent to USA is not sold but brought back by ANEH in February**, i.e. within the stipulated period of 6 months from the date of removal, **no tax invoice is required to be issued as no supply has taken place** in such a case.

(ii) **In case, the entire quantity of goods (100 units) sent to USA is not sold and brought back by ANEH in August, i.e. after 6 months** from the date of removal, **a tax invoice is required to be issued for entire 100 units** of taxable goods in accordance with the provisions contained in section 12 [determining time of supply of goods] and section 31 [tax invoice] of the CGST Act, 2017 within the time period stipulated under section 31(7) of the CGST Act, 2017.

However, **if an aggregate of 65 units of goods are sold in USA exhibition by ANEH** on different dates in January (i.e. within the stipulated period of 6 months**), a tax invoice would be required to be issued for these units, at time of each of these sales**, in accordance with provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules. **When goods are sold in exhibition**, actual supply from exporter in India to importer located abroad takes place and this supply **qualifies as export. Export of goods is a zero-rated supply** in terms of section 16(1)(a) of IGST Act, 2017.

If remaining 35 units are brought back on 31st January, i.e. within stipulated period of 6 months from date of removal, **no tax invoice is required to be issued** as no supply has taken place in such a case.

Further, **tax advisor's advice is technically correct.** Since the activity of sending/taking specified goods out of India is not a zero-rated supply, execution of a bond/Letter of Undertaking (LUT), as required under section 16 of the IGST Act, is not required.

However, the **sender can prefer refund claim even when the specified goods were sent/taken out of India without execution of a bond/LUT**, if he is otherwise eligible for refund as per the provisions contained in section 54(3) of the CGST Act, 2017 read with rule 89(4) of the CGST Rules, **2017 in respect of zero-rated supply of 65 units.**

Refund of Unutilised ITC – Inverted Duty Structure

Question 6

With reference to section 54(3), mention the cases where refund of unutilised input tax credit is allowed.

Answer

As per section 54(3), a registered person may claim refund of unutilised input tax credit at the end of any tax period in the following cases:

(i) **Zero rated supplies made without payment of tax: Supply** of goods or services or both **to an SEZ developer/unit or export of goods or services** or both qualifies **as zero rated supplies.** However, **refund of unutilized input tax credit** shall **not be allowed if:**

- the **goods exported** out of India are **subjected to export duty;**
- the **supplier** of goods or services or both **avails of drawback** in respect of CGST or claims refund of the IGST paid on such supplies.

(ii) **Accumulated ITC on account of inverted duty structure:** Where the **credit has accumulated** on account of **rate of tax on inputs being higher than the rate of tax on output supplies** (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

Question 7

Super Engineering Works, a registered supplier in Haryana, is engaged in supply of taxable goods within the State. Given below are the details of the turnover and applicable GST rates of the final products manufactured by Super Engineering Works as also the input tax credit (ITC) availed on inputs used in manufacture of each of the final products and GST rates applicable on the same, during a tax period:

Products	Turnover (excluding GST) (₹)	Output GST Rates	ITC availed (₹)	Input GST Rates
A	500,000	5%	54,000 (Goods)	18%
B	350,000	5%	54,000 (Goods)	18%
C	100,000	18%	10,000 (Service)	18%

Determine the maximum amount of refund of the unutilized input tax credit that Super Engineering Works is eligible to claim under section 54(3)(ii) provided that Product B is notified as a product, in respect of which no refund of unutilised input tax credit shall be allowed under said section.

Answer

Section 54(3)(ii) allows refund of unutilized input tax credit (ITC) at end of any tax period to a registered person where credit has accumulated on account of inverted duty structure i.e. rate of tax on inputs being higher than rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by Government on the recommendations of the Council.

In the given case, the rates of tax on inputs used in Products A and B (18% each) are higher than rates of tax on output supplies of Products A and B (5% each). However, Product B is notified as a product, in respect of which no refund of unutilised ITC shall be allowed under section 54(3)(ii). Therefore, only Product A is eligible for refund under section 54(3)(ii).

Further, rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC shall be granted as per the following formula:

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services x Net ITC}}{\text{Adjusted Total Turnover}} - \frac{\text{Tax payable on such inverted rated supply of goods and services x Net ITC}}{\text{ITC availed on inputs and input services}}$$

where:

A. "Net ITC" means input tax credit availed on inputs during the relevant period;

B. Adjusted Total Turnover means the sum total of the value of:

   (a) the turnover in a State or a Union territory, as defined under section 2(112), excluding the turnover of services; and

   (b) the turnover of zero-rated supply of services determined in specified manner and non zero-rated supply of services, excluding the value of exempt supplies other than zero-rated supplies during the relevant period.

C. Relevant period means the period for which the claim has been filed.

In accordance with the aforesaid provisions, the maximum refund amount which Super Engineering Works is eligible to claim shall be computed as follows:

Tax payable on inverted rated supply of Product A = ₹ 5,00,000 × 5% = ₹ 25,000

Net ITC = ₹ 1,08,000 (₹ 54,000 + ₹ 54,000) [Net ITC availed during the relevant period needs to be considered irrespective of whether the ITC pertains to inputs eligible for refund of inverted rated supply of goods or not as clarified vide Circular No. 79/53/2018-GST dated 31.12.2018]

Adjusted Total Turnover = ₹ 9,50,000 (₹ 5,00,000 + ₹ 3,50,000 + ₹ 1,00,000)

Turnover of inverted rated supply of Product A = ₹ 5,00,000

Maximum refund amount for Super Engineering Works is as follows:

= [(₹ 5,00,000 × ₹ 1,08,000)/₹ 9,50,000] – [(₹ 25,000 x ₹ 1,08,000)/₹ 1,18,000] = ₹ 33,961

Question 8

Jai and Co, a registered supplier under GST, is engaged in weaving yarn into fabrics and has provided the following information:

Nature of various intra-State supplies during April 20XX	Value of supply (excluding GST) (₹)

Outward supply of fabrics (Tax rate of CGST and SGST is 2.5% each)	30,00,000
Inward supply of rayon yarn (Tax rate of CGST and SGST is 6% each)	24,00,000
Inward supply of services for processing the yarn (Tax rate of CGST and SGST is 2.5% each)	4,00,000
Inward supply of machineries for weaving the processed yarn into fabrics (Tax rate of CGST and SGST is 9% each)	45,00,000
The concern has not provided any supply other than the outward supply referred above. ITC in respect of all types of inward supplies as given above was claimed in the relevant GSTR 3B as well reflected in GSTR 2B.	
Other applicable conditions for claiming the refund are duly complied with.	

You are required to compute the 'maximum refund amount' eligible under rule 89(5) of CGST Rules, 2017 for inverted duty structure.

Answer

Maximum refund amount under rule 89(5) of the CGST Rules, 2017 on account of inverted duty structure, is computed as follows-

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services x Net ITC}}{\text{Adjusted Total Turnover}} - \frac{\text{Tax payable on such inverted rated supply of goods and services x Net ITC}}{\text{ITC availed on inputs and input services}}$$

where Net ITC means ITC availed only on inputs

=₹ [(24,00,000 x 6%) x 30,00,000/30,00,000] – [(30,00,000 x 2.5%) x ₹ 1,44,000/₹ 1,54,000] (each for CGST and SGST)

= ₹ 1,44,000 – ₹ 70,130 = ₹ 73,870

Thus, maximum **refund amount is ₹ 73,870 each for CGST and SGST.**

Note: Refund of tax paid on input services and capital goods is not a part of refund of accumulated ITC on account of inverted duty structure.

Question 9

EverYoung Manufacturers LLP, a registered supplier under GST is engaged in manufacturing of ayurvedic cosmetic products within the State of Gujarat. It provides the following information for the month of January, 20XX

Particulars	Rate of CGST	Rate of SGST	Value of supply (excluding GST)
Outward supply of skin care products	2.5%	2.5%	50,00,000
Outward supply of skin care products	6%	6%	50,000
Inward supply of Inputs for skin care products	6%	6%	35,00,000
Inward supply of Input services	2.5%	2.5%	5,00,000
Inward supply of capital goods	9%	9%	25,00,000

Other information:

(i) ITC in respect of all types of inward supply as given above was claimed in the relevant GSTR 3B and the same was also reflected in GSTR 2B.

(ii) All other conditions for claiming the refund are duly complied with.

(iii) No refund was claimed for the month of January 20XX.

You are requested to compute the 'Maximum refund amount' eligible for inverted duty structure.

Answer

In case of refund on account of inverted duty structure, refund of ITC is granted as per following formula:

Maximum Refund Amount =	Turnover of inverted rated supply of goods & services x Net ITC / Adjusted Total Turnover	-	Tax payable on such inverted rated supply of goods & services x Net ITC / ITC availed on inputs & input services
(i) Turnover of inverted rated supply of goods and services = **50,00,000** (product having rate less than 6% to be considered)			
(ii) Adjusted Total Turnover = 50,00,000 + 50,000 = **50,50,000**			
(iii) Net ITC: means ITC available only on Inputs= 35,00,000 @ 12% = **4,20,000**, ITC of Input service and Capital Goods not to be considered.			
(iv) Tax payable on such inverted rated supply of goods and services = **2,50,000** (50,00,000 × 5%)			
(v) ITC availed on inputs = (35,00,000 × 12%) = **4,20,000**			
(vi) ITC availed on input services = (5,00,000 × 5%) = **25,000**			
Maximum Refund Amount =	50,00,000 x 4,20,000 / 50,50,000	(-)	2,50,000 x 4,20,000 / 4,45,000
= ₹ **1,79,887** (rounded off) (Total under CGST and SGST), Or ₹ **89,943.50** + ₹ **89,943.50** each under CGST and SGST			

Question 10

Kailash Global (P) Ltd. supplies various goods in domestic and international markets. It is engaged in both manufacturing and trading of goods. The company is registered under GST in the State of Karnataka. The company exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017.

The company has made the following supplies during a tax period:

S.N.	Particulars	(₹)
(i)	Export of product 'A' to UK for $ 10,000 (Assessable value under customs in Indian rupees.) [Export duty is levied on product 'A' at the time of exports. Further, value of like goods domestically supplied by the similarly placed supplier is ₹ 6,00,000]	7,00,000
(ii)	Domestic supplies of taxable product 'B'* during the period [excluding tax @ 5%] [Inputs used in manufacturing of such goods are taxable @18%] *not notified as a product, in respect of which refund of unutilised ITC shall not be allowed under section 54(3)(ii)	10,00,000

(iii)	Supply of goods to Export Oriented Unit [excluding tax @ 18%] [ITC has been claimed by the recipient]	5,00,000
(iv)	Export of exempt supplies of goods (Value of like goods domestically supplied by the similarly placed supplier is ₹ 5,00,000)	6,00,000

The ITC available for the above tax period is as follows:

S.N.	Particulars	(₹)
(i)	On inputs	3,50,000
(ii)	On input services	1,50,000
(iii)	On capital goods	1,20,000

Determine the maximum amount of refund admissible to Kailash Global (P) Ltd. for the given tax period.

Answer

Computation of maximum amount of refund admissible to Kailash Global (p) Ltd.

Particulars	(₹)
Exports of product 'A' to UK [Note (i)]	Nil
Domestic supplies of taxable product 'B' during the period [Note (ii)]	90,000
Supply of goods to Export Oriented Unit [Note (iii)]	Nil
Export of exempt supplies [Note (iv)]	1,07,143
Total refund claim admissible	**1,97,143**

Notes:

(i) Export of goods is a zero rated supply in terms of section 16(1)(a) of the IGST Act, 2017. Further, Kailash Global (P) Ltd. exports goods without payment of tax under letter of undertaking in accordance with the provisions of section 16(3)(a) of the IGST Act, 2017. Therefore, as per clause (i) of first proviso to section 54(3), a registered person may claim refund, of any unutilised ITC in the case of zero rated supply made without payment of tax at the end of any tax period. However, second proviso to section 54(3) lays down that refund of unutilized ITC is not allowed if the goods exported out of India are subjected to export duty.

(ii) Refund of unutilised ITC is allowed in case of inverted duty structure, i.e. where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) except supplies of goods or services or both as may be notified by the Government on the recommendations of the GST Council [Clause (ii) of the first proviso to section 54(3)].

Rule 89(5) stipulates that in the case of refund on account of inverted duty structure, refund of ITC is granted as per the following formula:

$$\text{Maximum Refund Amount} = \frac{\text{Turnover of inverted rated supply of goods and services} \times \text{Net ITC}}{\text{Adjusted Total Turnover}} - \frac{\text{Tax payable on such inverted rated supply of goods and services} \times \text{Net ITC}}{\text{ITC availed on inputs and input services}}$$

where:

"Net ITC" means ITC availed on inputs during the relevant period.

"Adjusted total turnover" means the sum total of the value of:

(a) turnover in a State/Union territory, as defined u/s 2(112), excluding turnover of services; &

(b) turnover of zero-rated supply of services determined in terms of specified manner and non-zero-rated supply of services,

Excluding the value of exempt supplies other than zero-rated supplies during the relevant period.

"Relevant period" means the period for which the claim has been filed.

Tax payable on inverted rated supply of goods = ₹ 10,00,000 × 5% = ₹ 50,000

Here, Net ITC = ₹ 3,50,000, Adjusted Total Turnover = ₹ 28,00,000 [₹ 7,00,000 + ₹ 10,00,000 + ₹ 5,00,000 + ₹ 6,00,000] and Turnover of inverted rated supply of goods = ₹ 10,00,000

Thus, maximum refund amount under rule 89(5) = ₹ 3,50,000 x 10,00,000/₹ 28,00,000 – (₹ 50,000 x ₹ 3,50,000/₹ 5,00,000) = **₹ 1,25,000 – ₹ 35,000 = ₹ 90,000**

(iii) As per section 2(39), deemed exports means such supplies of goods as may be notified under section 147. Supplies to EOU is notified as deemed export under section 147. In respect of supplies regarded as deemed exports, the application of refund can be filed by the supplier of deemed export supplies only in cases where the recipient does not avail of ITC on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund [Third proviso to rule 89(1)]. Therefore, since in the given case, the recipient is claiming ITC, Kailash Global (P) Ltd. (supplier of deemed exports) cannot claim refund of ITC.

(iv) Section 16(2) of the IGST Act, 2017 stipulates that subject to the provisions of section 17(5) of the CGST Act, ITC may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply. Section 54(3) of the CGST Act, 2017 allows refund of ITC in the case of zero rated supply made without payment of tax.

Rule 89(4) stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

where:

"Net ITC" means ITC availed on inputs and input services during the relevant period.

"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT, or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less.

"Adjusted total turnover" means the same as explained in point ii above.

Here, Turnover of zero rated supply of goods = ₹ 6,00,000 (Lower of ₹ 6,00,000 or 1.5 times of ₹ 5,00,000 i.e. 7,50,000 whichever is lower), Net ITC = ₹ 5,00,000 and Adjusted Total Turnover = ₹ 28,00,000 (as computed in point ii above)

Thus, **maximum refund** amount under rule 89(4) = **₹ 5,00,000 x ₹ 6,00,000/₹ 28,00,000**

= ₹ 1,07,143

Other Refunds

Question 11

In case of refund under exports of goods, whether BRC/FIRC is necessary for granting refund?

Answer

In case of refund on account of **export of goods**, the refund rules do **not prescribe BRC/FIRC as a necessary document** for filing of refund claim. However, for **export of services** details of **BRC/FIRC is required to be submitted** along with the application for refund.

Question 12

Discuss the provisions relating to refund of the amount of advance tax deposited by a casual taxable person under section 27(2).

Answer

The amount of advance tax deposited by a casual taxable under section 27(2), shall be **refunded** only when such person has, in respect **of the entire period for which the certificate of registration granted** to him had remained in force, furnished all the returns required under section 39 [Section 54(13)]. Further, **refund of any amount, after adjusting the tax payable** by the applicant **out of the advance tax deposited** by him under section 27 at the time of registration, **shall be claimed only after the last return required to be furnished by him has been so furnished** [Fourth proviso to rule 89(1)].

Question 13

DF Ltd. exported goods valued ₹ 50 lakh and received refund of integrated tax paid amounting to ₹ 9 lakh on 16th August, 20XX. He could realise export proceeds to the extent of ₹ 25 lakh, but did not realise the balance export proceeds within the prescribed time limit of 9 months and has applied for extension of time to RBI. There is no dispute about the supply of the goods as regards quality, time of supply and fulfilment of terms and conditions of sale. He wants you to inform him of the consequences under GST law in case RBI does not give him the extension.

Answer

Where any applicant has **received the refund** of integrated tax paid on export of goods **but could not realise the sale proceeds** of such exported goods within the prescribed time limit (or extended time period), he **shall deposit the amount** so refunded along **with interest of 18% within 30 days of the expiry of the said period** (or extended time period), **to the extent of non-realisation** of sale proceeds.

However, **if the RBI writes off requirement** of such realization on merits, **recovery shall not be made.**

In view of the aforesaid provisions, DF Ltd. has to deposit the refund of integrated tax of ₹ 4.5 lakh (to the extent of non-realisation of export proceeds of ₹ 25 lakh) along with interest @ 18% within 30 days of the expiry of the prescribed time-limit.

In case of failure to do so, the amount will be recovered in accordance with the provisions relating to **recovery of erroneous** refund and also **penalty can be imposed.**

Question 14

Agora Ltd. exported certain goods to its customer located in Germany against which a refund of IGST amounting to ₹ 50 lakh was claimed and received by Agora Ltd. The sale proceeds covering 50% of the value of exports were immediately received by Agora Ltd. However, due to financial constraints, the customer failed to pay the balance amount of sale proceeds within the permissible time limits under regulatory provisions prevailing in India.

In view of the aforesaid scenario:

(a) Determine the amount of refund, if any, which Agora Ltd. is required to deposit back. Also, discuss the time limit which is permissible under law within which the sale proceeds in respect of exported goods should have been realized by Agora Ltd.

(b) Will your answer to sub-part (a) differ if the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits?

(c) Whether Agora Ltd. can claim the refund back in case sale proceeds are realised at a later date?

Answer

(a) As per proviso to section 16(3) of the IGST Act, 2017 read with rule 96B(1) of the CGST Rules, 2017, in the given case, Agora Ltd. shall **deposit the amount of refund proportionate to the sale proceeds not realized i.e. 50%** of the value of exports. The amount of such refund is **₹ 25 lakh alongwith applicable interest** under section 50. Further, such amount is required to be deposited by Agora Ltd. **within 30 days of the expiry of the time period allowed under Foreign Exchange Management Act,** 1999, including any extension of such time period permitted.

(b) As per proviso to rule 96B, where **sale proceeds, or any part thereof, in respect of such export goods are not realised** by the applicant **within the time period** allowed under the Foreign Exchange Management Act, 1999, but the **Reserve Bank of India writes off the requirement of realisation of sale proceeds** on merits, the refund paid to the applicant shall not be recovered. Thus, if the **RBI writes off the requirement of realisation of sale proceeds** by Agora Ltd., the **refund amount** received by Agora Ltd. **is not liable to be recovered.**

(c) As per rule 96B(2), where the **sale proceeds are realised by the applicant,** in full or part, **after the amount of refund has been recovered** from him under rule 96B(1) and the applicant produces evidence about such realisation **within a period of 3 months from the date of realisation of sale proceeds,** the **amount so recovered shall be refunded by the proper officer,** to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

In case the refund amount is deposited by Agora Ltd. alongwith interest as per rule 96B(1) on account of non-realization of sale proceeds from the customer, which is realized on a later date, Agora Ltd. can **claim the refund within 3 months from the date of realization of sale proceeds in proportion of the sale proceeds recovered.** However, in order to claim such refund, the **sale proceeds should have been realized within such extended period** as may be permitted by RBI.

Question 15

Narmada Enterprises, a registered person, pays CGST and SGST on a transaction considered by it to be an intra-State supply. However, subsequently said transaction is held to be an inter-State supply.

Examine the recourse available with Narmada Enterprises.

Answer

Section 77(1) of the CGST Act, 2017 stipulates that a registered person who has **paid the Central tax** and State tax or, as the case may be, the Central tax and the Union territory tax on a **transaction considered by him to be an intra -State supply, but which is subsequently held to be an inter-State supply**, shall be **refunded the amount of taxes so paid**.

Further, section 19(2) of the IGST Act, 2017 provides that a registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, **shall not be required to pay any interest on the amount of integrated tax payable.**

Thus, in the given case, **Narmada Enterprises shall be refunded the amount of taxes so paid and it shall not be required to pay any interest on the amount of IGST payable by it** on the transaction wrongly considered by it earlier as intra-State transaction.

Question 16

A taxable person has mistakenly paid CGST and SGST for an inter-State supply. Subsequently, when he discovers the same, can he adjust the IGST liability against the wrongly paid CGST and SGST?

Answer

Section 77, inter alia, stipulates that a registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, **shall be refunded the amount of taxes so paid** in such manner and subject to such conditions as may be prescribed.

The **IGST liability cannot be adjusted** against the CGST and SGST wrongly paid.

Refund Procedure

Question 17

When is a deficiency memo issued in respect of a refund claim made under section 54?

Answer

Rule 90(3) provides for communication in prescribed form (deficiency memo) where deficiencies are noticed. The said sub-rule also provides that **once the deficiency memo has been issued**, the **claimant** is required to **file a fresh refund application after the rectification of the deficiencies.**

Question 18

Is there any time limit for sanctioning of refund under section 54?

Answer

Yes, refund has to be **sanctioned within 60 days** from the date of receipt of application complete in all respects. **If refund is not sanctioned within** the said period of **60 days, interest @ 6% p.a.** will have to be paid in accordance with section 56.

However, in case where provisional **refund to the extent of 90%** of amount claimed is refundable in respect of **zero-rated** supplies made by certain categories of registered persons in terms of section 54(6), provisional refund has to be given **within 7 days from date of acknowledgement of claim of refund.**

Question 19

Y Ltd. exported service valued at US $ 1,00,000. Supply of service was completed on 15th January. Payment for this service was received on 28th February. Refund claim was filed by Y Ltd. in respect of tax paid on inputs and inputs services for ₹ 6,00,000 on 31st March. The refund claim was sanctioned on 30th June. What is the amount of refund Y Ltd. will get in accordance with law? What is the relevant date and rate of interest as per GST law?

Answer

As per clause (i) of first proviso to section 54(3), refund claim admissible to Y Ltd. on account of export of services being a zero-rated supply, is the unutilized ITC of ₹ 6,00,000.

Where **supply of services** had been **completed prior to the receipt of payment, relevant date is date of receipt of payment** in convertible foreign exchange, i.e. 28th February [Explanation to section 54].

As per section 56, **where any tax** ordered **to be refunded** to any applicant is **not refunded within 60 days** from date of receipt of application, **interest shall be payable @ 6% p.a.** for the period of delay **beyond 60 days from** the date of **receipt of application till the date of refund** of such tax.

Since in the given case, **tax ordered** to be refunded is **not refunded within 60 days from** the date of **receipt of application,** viz., 31st March, **interest @ 6% p.a. is payable.**

Unjust Enrichment

Question 20

State the exceptions to the principle of unjust enrichment as applicable to refund claims.

Or

State few cases where refundable amount shall be paid to the applicant, instead of being credited to Consumer Welfare Fund under CGST Act, 2017.

Answer

Section 54(8) provides that the refundable amount shall be paid to the applicant, instead of being credited to the Consumer Welfare Fund.

The principle of unjust enrichment is applicable in all cases of refund except in the following cases:

(a) **Refund of tax paid on export of goods or services** or both or on inputs or input services used in making such exports.

(b) **Refund of unutilized ITC** in case of **zero-rated supplies** made without payment of tax or accumulated ITC on account of **inverted duty structure.**

(c) **Refund of tax paid** on a supply which is not provided, either wholly or partially, and **for which invoice has not been issued** or where a refund voucher has been issued.

(d) Refund of tax paid on a transaction **treating** it to be an **intra-State supply**, but which is subsequently **held** to be an **inter-State supply or vice-versa**.

(e) If the **incidence of tax or interest paid has not been passed** on to any other person.

(f) Such other class of persons who has borne the incidence of tax as the Government may notify.

CHAPTER - 16
Assessment and Audit

Basics

Question 1

Whether principal of natural justice is must to be followed before passing assessment order against the unregistered person?

Answer

Yes, principal of natural justice is must to be followed before passing assessment order against an unregistered person seeking to impose any financial burden on him.

Provisional Assessment

Question 2

ABC Limited is a supplier of medical equipment to various hospitals. While supplying the equipment ABC Limited is not sure about the rate of IGST applicable on such supplies, i.e. 18% or 28%. You are required to advise ABC Ltd. in this situation. ABC Ltd. does not want to seek advance ruling.

Answer

In such an event, ABC Limited can **move an application for provisional assessment** for seeking permission to discharge the tax liability provisionally @ 18% **upon** the **submission of bond and security** and subject to finalization of the assessment.

Upon finalization of the assessment, **ABC Limited would be liable to pay the differential tax liability** along **with applicable interest if it is found** that the applicable **rate was 28%** whereas ABC Limited paid the tax @ 18% pursuant to the order passed initially on its application for seeking provisional assessment.

Question 3

Kulbhushan & Sons 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 12th 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.

Kulbhushan & Sons complies with the same and supplies the goods on 25th January thereafter paying the tax on provisional basis in respect of said consignment on 19th February.

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

Kulbhushan & Sons pays the tax due on 9th April. Determine the interest payable, if any, by Kulbhushan & Sons in the above case.

Assuming all the other facts remaining the same, if consequent to the final assessment order passed on 21st March, a tax of ₹ 4,20,000 becomes refundable on the consignment, refund of which is applied by Kulbhushan & Sons on 9th April and tax was refunded to it on 05th June, determine the interest receivable, if any, by Kulbhushan & Sons in the given case.

Answer

Section 60(4) of the CGST Act, 2017 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 25th January under provisional assessment is 20th February.

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

= ₹ 1,80,000 × 18% × 48/365

= ₹ 4,261 (rounded off)

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

Section 60(5) of the CGST Act, 2017 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 (05th June) within 60 days** from the date of receipt of application of refund (09th April), **interest is not payable** to Kulbhushan& Sons on tax refunded.

Question 4

Divy Trader obtained permission for provisional assessment and supplied three consignments of furniture on 28th April, 20XX. The tax payment on provisional basis was made in respect of all the three consignments on 20th May, 20XX.

Consequent to the final assessment order passed by the Assistant Commissioner on 21st June, 20XX, a tax of ₹ 1,20,000 and ₹ 1,50,000 became refundable on 1st and 3rd consignments, whereas a tax of ₹ 1,20,000 became due on 2nd consignment. Divy Trader applies for the refund of the tax on 1st and 3rd consignments on 12th July, 20XX and pays the tax due on 2nd consignment on the same day. Tax was actually refunded to it of 1st consignment on 8th September, 20XX, whereas of 3rd consignment on 18th September, 20XX. Customers of Divy Trader who purchased the consignments have not taken Input Tax Credit (ITC).

Determine the interest payable and receivable, if any, under CGST Act, 2017 by Divy Trader.

Answer

Where **tax becomes due consequent to order of final assessment, interest** is payable **@ 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/after the issuance of order for final assessment.

In the given case, due date for payment of tax on goods cleared on 28.04.20XX under provisional assessment is 20.05.20XX.

Thus, interest payable in respect of 2nd consignment

= ₹ 1,20,000 × 18% × 53 [21.05.20XX – 12.07.20XX]/365

= ₹ 3,136 (rounded off)

Further, section 56 of CGST Act, 2017 provides that where **tax becomes refundable** consequent to the order of final assessment, **interest is receivable @ 6% p.a.** from the date immediately **after the expiry of 60 days from the date of receipt of refund application till** the date of **refund of such tax.**

In the given case, since refund of tax of 1st consignment has been paid on 08.09.20XX which is within 60 days from the date of receipt of application of refund (12.07.20XX), interest is not receivable on tax refunded in respect of 1st consignment.

However, interest receivable in respect of 3rd consignment is as follows:

60 days from the date of receiving the refund application expire on 10.09.20XX.

= ₹ 1,50,000 × 6% × 8 [11.09.20XX - 18.09.20XX]/365

= ₹ 197 (rounded off).

Scrutiny Assessment

Question 5

Explain the recourse that may be taken by the officer in case proper explanation is not furnished for the discrepancy detected in the return filed, while conducting scrutiny of returns under section 61 of the CGST Act, 2017.

Answer

If proper explanation is not furnished for the discrepancy detected in return filed, while conducting scrutiny of returns under section 61 of the CGST Act, 2017 of a registered person, **proper officer may**:

(i) **conduct audit** of the registered person; or

(ii) **direct the registered person to get his records** including books of account examined and **audited by a Chartered Accountant or a Cost Accountant** nominated for this purpose by the Commissioner; or.

(iii) exercise the powers of **inspection, search and seizure** with respect to the registered person, or

(iv) **proceed to determine the tax** and other dues of the registered person under Sections 73 or 74 or 74A of the Act.

Assessment of Non-Filers (Best Judgement Assessment)

Question 6

Explain the provisions relating to assessment of unregistered persons by the proper officer under section 63 of the CGST Act, 2017.

Answer

Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A of the CGST Act, 2017, where a taxable person:

- **fails to obtain registration** even though liable to do so; or
- **whose registration has been cancelled** for any of the specified reasons, but who was liable to pay tax, the proper officer may proceed to assess the tax liability of said taxable person to the best of his judgement for the relevant tax periods. Specified reasons for cancelation are as under:

(a) registered person has contravened such provisions of the CGST Act or the rules made there under as may be prescribed; or

(b) a person paying tax under composition levy under section 10 of the CGST Act has not furnished **his return for a financial year beyond three months** from due date of furnishing the said return; or

(c) any registered person who is required to furnish returns on monthly basis, has **not furnished returns for a continuous period of 6 months**; or

(d) any registered person who is required to furnish returns on quarterly basis, has **not furnished returns for a continuous period of 2 tax periods**; or

(e) any person who has taken voluntary registration under sub-section (3) of section 25 of the CGST Act has not commenced business within six months from the date of registration; or

(f) registration has been obtained by means of fraud, willful misstatement or suppression of facts:

The **assessment order shall be issued by proper officer within a period of 5 years from the due date for furnishing the annual return** for the financial year **to which non-payment of tax relates.**

However, no such assessment order shall be passed without giving person an opportunity of being heard.

Summary Assessment

Question 7

Is summary assessment order to be necessarily passed against the registered person?

Answer

No. In certain cases, like when **goods are under transportation or** are **stored in a warehouse**, and the registered person in respect of such goods cannot be ascertained, the **person in charge of such goods** shall be **deemed to be the registered person** and will be assessed to tax.

Question 8

Write a brief note on Summary Assessment in certain special cases as per section 64 of CGST Act, 2017.

Answer

As per section 64 of the CGST Act, 2017, **summary assessments** can be initiated **to protect the interest of revenue with** the **previous permission of Additional/Joint Commissioner when** the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act, and **any delay by him** in passing an assessment order **may adversely affect the interest of revenue**.

Additional/Joint Commissioner **may withdraw summary assessment order on** an **application filed by taxable person within 30 days** from the date of receipt of order or on his own motion, if he finds such order to be erroneous and may **instead follow the procedures** laid down **in section 73 or section 74 or section 74A** to determine the tax liability of such taxable person.

Where the **taxable person to whom the liability pertains is not ascertainable** and such liability pertains to supply of goods, the **person in charge of such goods shall be deemed to be the taxable person liable to be assessed** and liable to pay tax and any other amount due under this section.

Question 9

Explain in what cases, assessment order passed by proper officer may be withdrawn under CGST Act, 2017?

Answer

Assessment order passed by the proper officer may be withdrawn in following cases:

(i) **Assessment of non-filers of returns-** The best judgement order passed by the proper officer under section 62 of the CGST Act shall automatically stand withdrawn **where a registered person files a valid return within 60 days** of the service of the best judgment assessment order [Further 60 days on payment of late fees]. **However, liability for payment of interest** under section 50(1) of CGST Act, 2017 or **for payment of late fee** under section 47 of CGST Act, 2017 **shall continue.**

(ii) **Summary Assessment-** As per section 64(2) of the CGST Act, 2017, a **taxable person** against whom a summary assessment order has been passed **can apply for** its **withdrawal to the jurisdictional Additional/Joint Commissioner within 30 days of** the **date of receipt of** the **order.**

If the said **officer finds** the order **erroneous, he can withdraw it and direct** the proper officer to carry out **determination of tax liability** in terms of **section 73 or 74 or 74A** of the CGST Act. The Additional/ Joint Commissioner can follow a similar course of action on his own motion if he finds the summary assessment order to be erroneous.

Audit

Question 10

Explain the difference between Audit by Tax Authorities under section 65 and Special Audit under section 66 of the CGST Act, 2017.

Answer

Audit by Tax authorities under section 65 of the CGST Act, 2017:-

(i) The **Commissioner or any** officer authorized by him **can undertake audit** of any registered person for such period, at such frequency and in such manner as may be prescribed.

(ii) The audit shall be **completed within a period of 3 months** from the date of commencement of audit. However, the **Commissioner can extend this** period by a **further period upto maximum 6 months.**

Special Audit under section 66 of the CGST Act, 2017:-

(i) The **registered person can be directed to get his records including books** of account examined and **audited by a chartered accountant or a cost accountant** during any stage of scrutiny, inquiry, investigation or any other proceedings; depending upon the complexity of the case. Any **officer not below the rank of Assistant Commissioner may order special audit**, with the prior approval of the Commissioner, if he is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits.

(ii) Audit is to be **completed within 90 days.** However, the Assistant **Commissioner can extend this** period by a **further period of 90 days.**

Question 11

Prithviraj Ltd., registered under GST in Uttar Pradesh, is served a notice for audit by the tax authority under GST law on 10th July. The records and other documents as sought by the tax authority have been made available by Prithviraj Ltd. on 25th July. The tax authority visits the office of Prithviraj Ltd. located in Noida, Uttar Pradesh on 8th August for conducting audit.

Determine the time-limit within which the audit under section 65 of the CGST Act, 2017 is required to be completed assuming that no extension is permitted in the given case.

Answer

As per section 65(4) of the CGST Act, 2017, **audit shall be completed within** a period of **3 months** from the date of commencement of the audit. Further, **commencement of audit means** later of the following:

(a) the **date on which the records** and other documents, called for by the tax authorities, **are made available** by the registered person, or

(b) the **actual institution of audit** at the place of business of the taxpayer.

Accordingly, in the given case, date of commencement of **audit is later of:**

(a) the date on which the records and other documents, are made available by Prithviraj Ltd., i.e. **25th July, or**

(b) the actual institution of audit at the place of business of Prithviraj Ltd., i.e. **8th August.**

Thus, **date of commencement of audit is 8th August.**

Hence, audit **shall be completed within 3 months from** date of **commencement of audit (8th August).**

Question 12

A notice for audit under section 65 is served by the proper officer on the basis of risk assessment to Ghoomghoom Pvt. Ltd. on 02.12.2024 for audit of financial years 2022-23 and 2023-24. The tax authorities visited its place of business on 20.12.2024 and requested for certain records, documents and

books of accounts, from the company. The required records, documents and books of accounts are provided by Ghoomghoom Pvt. Ltd. on 30.12.2024. After in-depth checking of records, documents and books made available by Ghoomghoom Pvt. Ltd. during audit, the audit was completed on 25.03.2025 and audit findings were communicated to the taxpayer in prescribed form by said date. However, the accountant of Ghoomghoom Pvt. Ltd. is of the view that-

(i) the tax authorities have completed the audit of Ghoomghoom Pvt. Ltd. after the lapse of the maximum time-period permitted by the GST law and

(ii) the tax authorities cannot conduct the audit of two financial years at a time.

Ghoomghoom Pvt. Ltd. has approached you to advise you on the said issues. You are required to determine the technical veracity of the above views of the accountant of Ghoomghoom Private Ltd. on the same with reference to the relevant provisions of the GST law.

Answer

As per **section 65, audit** of any registered person may be undertaken **by:**

- the **Commissioner**; or
- any **officer authorized** by him, by way of a general or a specific order.

The audit shall be **completed within a period of 3 months from the date of commencement of the audit.** However, where the **Commissioner** is satisfied that audit in respect of such registered person cannot be completed within 3 months, he **may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.**

For the purposes of this sub-section, the expression **"commencement of audit" shall mean:**

(a) the **date on which the records and other documents**, called for by the tax authorities, are **made available** by the registered person

or

(b) the **actual institution of audit** at the place of business, **whichever is later.**

In the given case, **the date of commencement of audit** shall be determined as follows:

(a) The date on which requisite information is made available by Ghoomghoom Private Ltd., i.e., on **30.12.2024.**

(b) The date of the actual institution of audit at the place of business, i.e., on **20.12.2024**

whichever is later.

Therefore, the **date of commencement of the audit shall be 30.12.2024**

Accordingly, the **audit has to be completed within 3 months from the date of commencement of the audit, i.e., by 30.03.2025.**

Thus, in the given case, the audit was completed by the tax authorities within 3 months from the date of commencement of the audit, i.e., before 30.03.2025. Resultantly, the **view of the accountant** of Ghoomghoom Pvt. Ltd. that the audit by the tax authorities was completed after the maximum time period prescribed by law for the same, **is not correct.**

Further, as per section 65 read with rule 101(1), the period **of audit to be conducted** under said section shall be a **financial year or part thereof or multiples thereof.** Thus, the **view of the accountant that audit cannot be conducted for two financial years is also not correct.**

CHAPTER - 17
Inspection, Search, Seizure and Arrest

Inspection

Question 1

Who can order for carrying out 'inspection' and under what circumstances?

Answer

As per section 67, **inspection can be carried** out **by an officer** of CGST/SGST only **upon** a written **authorization given by an officer of the rank of Joint Commissioner or above.** A Joint Commissioner or an officer higher in rank can give such authorization only **if he has reasons to believe that the person** concerned **has done one of the following:**

i. **suppressed any transaction** of supply;

ii. **suppressed stock of goods** in hand;

iii. **claimed excess input tax** credit;

iv. **contravened any provision** of the CGST Act to evade tax;

v. a **transporter** or an owner/operator of a **warehouse**/godown/any other place has **kept goods** which have **escaped payment of tax** or has **kept his accounts or goods** in a manner that is likely to **cause evasion of tax.**

Search & Seizure

Question 2

Who can order for search and seizure under the provisions of the CGST Act?

Answer

An **officer of the rank of Joint Commissioner or above** can authorize an officer in writing to carry out **search and seize goods, documents, books or things**. Such authorization can be given only where the Joint Commissioner/an officer above his rank has **reasons to believe that** any **goods liable to confiscation or any documents or books or things relevant** for any proceedings are hidden in any place. The Joint Commissioner/an officer above his rank can himself search and seize such goods, documents or books or things.

Question 3

What is search warrant? Who is the competent authority to issue Search Warrant under the CGST Act, 2017? What details should be contained in a Search Warrant?

Answer

A search warrant is a **written authority to conduct a search.**

The competent authority to issue a search warrant is an **officer of the rank of Joint Commissioner or above.**

A search warrant must indicate the existence of a reasonable belief leading to the search. Search warrant should **contain the following details**:

- the **violation** under the GST law,
- the **premise** to be searched,
- the **name and designation of the person authorized** for search,
- the **name of the issuing officer** with **full designation** along with his **round seal**,
- **date and place of issue**,
- **serial number** of the search warrant,
- **period of validity** i.e. a day or 2 days etc.

Question 4

Describe the powers that can be exercised by an officer during a valid search.

Answer

An officer carrying out a search has the **power to search for and seize goods** (which are liable to confiscation) and **documents, books or things** (relevant for any proceedings under the CGST Act) from the premises searched. During search, the officer has the **power to break open the door of the premises** authorized to be searched **if access to the same is denied**. Similarly, while carrying out search within the premises, he can **break open any almirah or box if access to such almirah or box is denied** and in which any goods, account, registers or documents are suspected to be concealed. He **can also seal the premises if access to it denied.**

Question 5

List the safeguards provided in section 67 of the CGST Act, 2017 in respect of the power of search or seizure.

Answer

The **safeguards** provided in section 67 of the CGST Act, 2017 **in respect of the power of search or seizure** are as under:

(i) Seized documents/goods/things should **not be retained beyond the period necessary** for their examination.

(iii) **Photocopies/extracts of the documents can be taken by the person** from whose custody documents are seized.

(iv) In case of seized goods, where a **notice is not issued within 6 months** [extendible for further 6 months] of their seizure, **goods shall be returned** to the person from whose possession they were seized.

(v) An **inventory of seized goods is required** to be made by the seizing officer.

(vi) Certain specified categories of goods such as **perishable, hazardous etc. can be disposed** of immediately after seizure.

(vii) **Searches and seizures** shall be carried out **in accordance with the provisions of Code of Criminal Procedure.** Instead of sending copies of any record made in the course of search to the nearest magistrate, it has to be sent to the Principal Commissioner/Commissioner of CGST

Arrest and Summon

Question 6

Explain the meaning of 'arrest'.

Answer

The term **'arrest'** has not been defined in the CGST Act. However, as per judicial pronouncements, it denotes 'the **taking into custody** of a person **under some lawful command or authority'**. In other words, a person is said to be arrested when he is **taken and restrained of his liberty by power or colour of lawful warrant.**

Question 7

State the circumstances when the proper officer can authorize 'arrest' of any person under the CGST Act.

Answer

The **Commissioner of CGST can authorize** a CGST **officer to arrest a person if** he has **reasons to believe that** the person has **committed an offence** attracting a **punishment** prescribed **under section 132(1) (a), (b), (c), (d) or** section **132(2).** This essentially means that a person **can be arrested only where the tax evasion is more than ₹ 2 crore** and the offences are specified offences namely, making **supply without any invoice; issue of invoice without any supply**; amount **collected as tax but not paid** to the Government **beyond a period of 3 months and taking input tax credit without receiving goods and services. However**, the **monetary limit shall not be applicable if the offences are committed again** (even after being convicted earlier), i.e. **repeat offender** of the specified offences can be arrested **irrespective of the tax amount** involved in the case.

Question 8

Explain the safeguards provided under section 69 to a person who is placed under arrest.

Answer

Section 69 provides following **safeguards to a person** who is placed **under arrest**:

(a) If a person is **arrested for a cognizable offence**, he must be informed of the grounds of arrest and be **produced before a magistrate within 24 hours.**

(b) If a person is **arrested for a non-cognizable offence**, he shall be **admitted to bail** or in default of bail, forwarded to the custody of the Magistrate.

(c) **All arrest must be in accordance with** the provisions of the **Code of Criminal Procedure** relating to arrest in terms of section 69(3).

Question 9

Discuss the responsibilities of the person to whom summons has been issued.

Answer

A **person who is issued summon** is **legally bound to attend** either in person or by an authorized representative and he is bound to **state the truth before the officer** who has issued the summon upon any subject which is the subject matter of examination and to **produce such documents and other things** as may be required.

Question 10

Discuss the precautions to be observed while issuing summons under GST law

Answer

The following precautions should generally be observed when summoning a person under GST law:

(i) A summon should not be issued for appearance **where it is not justified**. The power to summon can be exercised only when there is an inquiry being undertaken and **the attendance of the person is considered necessary.**

(ii) Normally, summons should **not be issued repeatedly**. As far as practicable, the statement of the accused or witness should be recorded in **minimum number of appearances.**

(iii) **Respect the time** of appearance given in the summons. No person should be made to wait for long hours before his statement is recorded except when it has been decided very consciously as a matter of strategy.

(iv) Preferably, statements should **be recorded during office hours**; however, an exception could be made regarding time and place of recording statement having regard to the facts in the case.

Access to Business Premise

Question 11

Explain the situation in which access to business premises is allowed under section 71. Also, list the records which are to be produced during access to business premises.

Answer

During the course of any proceeding under this Act, the duly **empowered officer can have access to** any **business premises**, which may be required for the purpose of such enquiry. **During such access**, the **officers can inspect the books of accounts, documents, computers, computer programs, computer software** and such other things as may be required.

It is the duty of the persons in charge of such premises to furnish the required documents. Similarly, the **persons in charge** of business premises are also **duty bound to furnish such documents** to the audit party deputed by the proper officer or the Chartered Accountant or Cost Accountant, who has been deputed by the Commissioner to carry out special audit. The **following records** are covered by this provision and are to be produced, if called for.

(i) the **records prepared and maintained** by the registered person and declared to the proper officer in the prescribed manner.

(ii) **trial balance** or its equivalent.

(iii) **statements of annual financial accounts**, duly audited.

(iv) **cost audit report**, if any.

(v) the **income-tax audit report**, if any.

(vi) any other relevant record.

Officers to Assist Proper Officer

Question 12

Which officers under section 72 of the CGST Act, 2017 are empowered and are required to assist proper officers in the implementation of the CGST Act?

Answer

Under section 72 of the CGST Act, 2017, the **following officers have been empowered** and are required to assist CGST officers in the execution of CGST Act:

(i) **Police;**

(ii) **Railways**

(iii) **Customs;**

(iv) **Officers** of State/UT/Central Government **engaged in collection of GST;**

(v) **Officers** of State/UT/Central Government **engaged in collection of land revenue;**

(vi) All **village officers;**

(vii) Any other class of officers as may be notified by the Central/State Government.

CHAPTER - 18
Demands and Recovery

Section 73 to 75

Question 1

Discuss briefly the time limit for issue of show cause notice as contained under sections 73 and 74.

Answer

The provisions relating to 'relevant date' as contained in CGST Act, 2017 are as under:

(i) In case of **section 73** (cases other than fraud/suppression of facts/willful misstatement), the **time-limit for issuance of SCN is 2 years and 9 months from the due date of filing Annual Return** for the Financial Year to which the demand pertains or from the date of erroneous refund.

(ii) In case of **section 74** (cases involving fraud/suppression of facts/willful misstatement), the **time-limit for issuance of SCN is 4 years and 6 months from the due date of filing of Annual Return** for the Financial Year to which the demand pertains or from the date of erroneous refund.

Question 2

Is there any time limit prescribed for adjudication of the cases under section 73 and 74 of CGST Act, 2017? If yes, discuss the same.

Answer

The provisions relating to time-limit for adjudication of cases as contained in section 73 and 74 are as under:

(i) In case of **section 73** (cases other than fraud/suppression of facts/willful misstatement), **the time limit for adjudication of cases is 3 years from the due date for filing of annual return** for the financial year to which demand relates to [Section 73(10)].

(ii) In case of **section 74** (cases of fraud/suppression of facts/willful misstatement), the **time limit for adjudication is 5 years from the due date for filing of annual return** for the financial year to which demand relates to [Section 74(10)].

Question 3

Enlist the circumstances for which a show cause notice can be issued by the proper officer under section 73. Specify the time limit for issuance of such show cause notice as also the time period for issuance of order by the proper officer under section 73.

Answer

As per section 73, a show cause notice can be issued by the proper officer if it appears to him that:

- **tax** has **not been paid**; or
- tax has been **short paid**; or
- tax has been **erroneously refunded**; or

- **input tax credit** has been **wrongly availed or utilized**,

for any reason **other than** the reason of **fraud or any wilful misstatement or suppression of facts** to evade tax.

The **notice should be issued at least 3 months prior to the time limit specified for passing the order** determining amount of tax, interest and any penalty payable by defaulter [Sub-section (2) of section 73].

The **order** referred herein has **to be passed within three years from the due date for furnishing the annual return** for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund [Sub-section (10) of section 73].

Thus, the **time-limit for issuance of show cause notice is 2 years and 9 months from the due date of filing annual return for the financial year** to which the demand pertains or from the date of erroneous refund. As per section 44(1), the **due date of filing annual return** for a financial year is **31st day of December following the end of such financial year.**

Question 4

Discuss briefly the procedure for issue of adjudication order under section 74(9) & (11) and the time limit for passing adjudication order under section 74(10) of the CGST Act, 2017.

Answer

The procedure for issue of adjudication order under section 74 of CGST Act, 2017 is as under:

Where a show cause notice/statement is issued to a person chargeable with tax, he may furnish a representation to the proper officer in his defence, if he is of the view that he is not so liable to pay whole/part of the amount mentioned in the show cause notice.

The proper officer after considering the representation, if any, made by the person chargeable with tax, pass an order determining the amount of tax, interest and penalty due from such person [Section 74(9)].

Where any **person served with an adjudication order pays the tax along with interest payable** thereon under section 50 and a **penalty equivalent to 50% of such tax within 30 days of communication of the order**, all proceedings in respect of the said notice shall be deemed to be concluded [Section 74(11)].

As per section 74(10) of CGST Act, 2017, the proper officer shall **issue the adjudication order within 5 years from the due date for furnishing of Annual Return for the financial year** to which the tax not paid/short paid/input tax credit wrongly availed/utilised relates to or within 5 years from the date of erroneous refund.

Question 5

Everest Technologies Private Limited has been issued a show cause notice (SCN) on 31.01.2024 under section 73(1) on account of short payment of tax during the period between 01.07.2020 and 31.12.2020. Everest Technologies Private Limited contends that show cause notice issued to it is time-barred in law.

You are required to examine the technical veracity of contention of Everest Technologies Private Limited.

Answer

The **contention** of Everest Technologies Private Limited is **not valid** in law. The **SCN** under section 73(1) **can be issued at least 3 months prior to the time limit** specified for issuance of order under section 73(10) [Section 73(2)]. The adjudication **order** under section 73(10) **has to be issued within 3 years from the due date for furnishing of annual return** for the financial year to which the short-paid/not paid tax relates to.

The due date for furnishing annual return for a financial year is 31st day of December following the end of such financial year [Section 44]. Thus, **SCN** under section 73(1) **can be issued within 2 years and 9 months from the due date for furnishing of annual return** for the financial year to which the short-paid/not paid tax relates to.

The SCN has been issued for the period between 01.07.2020 to 31.12.2020 which falls in the financial year (FY) 2020-21. Due date for furnishing annual return for the FY 2020-21 is 31.12.2021 and 3 years' period from due date of filing annual return lapses on 31.12.2024. Thus, SCN under section 73(1) ought to have been issued latest by 30.09.2024. Since in the given case, the notice has been issued on 31.01.2024, **notice is not time-barred.**

Question 6

Rajul Associates has been issued a show cause notice (SCN) on 31.12.2023 under section 73(1) on account of short payment of tax during the period between 01.07.2019 and 31.12.2019. It has been given an opportunity of personal hearing on 15.01.2024.

Advice Rajul Associates as to what should be the written submissions in the reply to the show cause notice issued to it.

Answer

The written submissions in reply to SCN issued to Rajul Associates are as follows:

i. The show cause notice (SCN) issued for normal period of limitation under section 73(1) is **not sustainable.**

ii. The **SCN** under section 73(1) **can be issued at least 3 months prior to the time limit** specified **for issuance of order** under section 73(10). The adjudication **order** under section 73(10) has to be issued **within 3 years from the due date for furnishing of annual return** for the financial year to which the short-paid tax relates to.

The due date for furnishing annual return for a financial year is on or before the 31st day of December following the end of such financial year [Section 44]. Thus, SCN under section 73(1) can be issued within 2 years and 9 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

iii. The SCN has been issued for the period between 01.07.2019 to 31.12.2019 which falls in the financial year (FY) **2019-20. Due date for furnishing annual return** for the FY 2019-20 **is 31.12.2020 and 3 years'** period from due date of filing annual return **lapses on 31.12.2023. Thus, SCN** under section 73(1) **ought to have been issued latest by 30.09.2023.**

iv. Since the **notice has been issued after 30.09.2023**, the **entire proceeding is barred by limitation and deemed to be concluded** under section 75(10).

Question 7

A person is chargeable with tax in case of fraud. He decides to pay the amount of demand alongwith interest before issue of notice. Is there any immunity available to such person under section 74?

Answer

Yes. Person chargeable with tax, shall have an **option to pay the amount of tax along with interest and penalty equal to 15% per cent** of the tax involved, as ascertained either on his own or ascertained by the proper officer, and on such payment, no notice shall be issued with respect to the tax so paid [Section 74(6)].

Question 8

Mr. X, registered under GST Act, had made short payment of GST for the month of July 20XX.

He does not want a show cause notice to be served on him by proper officer u/s 73 & 74. Advice Mr. X, if:

(i) Short payment of tax is on account of reasons other than fraud

(ii) Short payment of tax is on account of fraud.

Answer

(i) Short payment of tax is on account of reasons other than fraud

As per section 73 of the CGST Act, 2017, the show cause notice will not be issued by the proper officer, **if Mr. X pays the amount of tax short paid along with interest payable** thereon on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer, **before the service of notice and inform the proper officer in writing of such payment.**

(ii) Short payment of tax is on account of fraud

As per section 74 of the CGST Act, 2017, the show cause notice will not be issued by the proper officer, **if Mr. X pays the amount of tax short paid along with interest** payable thereon and a **penalty equal to 15% of such tax** on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer, **before the service of notice and inform the proper officer in writing of such payment.**

Question 9

Mr. Jagjeevan has filed Form GSTR 3B after the due date prescribed for filing it. The adjudicating authority is of the opinion that penalty has to be levied under section 73(9) & (11) of the CGST Act, 2017 and has decided to pass an order for levying penalty of 10% of the tax or ₹ 10,000, whichever is higher, on the grounds that amount collected as tax has not been paid within a period of 30 days from the due date of payment of tax. Discuss the decision of the adjudication authority as to its correctness or otherwise.

Also, discuss the law of limitation period for issuing the show cause notice and passing the adjudication order under section 73 of the CGST Act, 2017.

Answer

The decision of the adjudicating authority is not correct in law.

The provisions of section 73(11) of the CGST Act, 2017 can be invoked only when the provisions of section 73 are invoked and the **provisions of section 73** are generally **not invoked in case of delayed filing of the return in Form GSTR-3B** because tax along with applicable interest has already been paid.

Thus, penalty under the provisions of section 73(11) is not payable in such cases **although a general penalty may be imposed** since the tax has been paid late in contravention of the provisions of the CGST Act, as clarified vide Circular No. 76/50/2018 GST dated 31.12.2018.

The **time-limit for issuance of SCN is 2 years and 9 months and time-limit for passing the adjudication order is within 3 years from:**

(i) the **due date of filing annual return** for the financial year to which the demand pertains or

(ii) the date of erroneous refund, as the case may be.

Question 10

Anant & Co. self-assessed its tax liability as ₹ 90,000 (CGST) for the month of April, but failed to make the payment.

Subsequently the Department initiated penal proceedings against Anant & Co. for recovery of penalty under section 73 for failure to pay GST and issued show cause notice on 10th August which was received by Anant & Co. on 14th August.

Anant & Co. deposited the tax along with interest on 25th August and informed the department on the same day. Department is contending that he is liable to pay a penalty of ₹ 45,000 (i.e. 50% of ₹ 90000).

Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act. Explain the relevant provisions in brief.

Answer

Due date for payment of tax for the month of April is 20th May.

As per section 73, **where self-assessed tax is not paid within 30 days from due date of payment** of such tax, penalty equivalent to **10% of tax or ₹ 10,000, whichever is higher**, is payable. Thus, **option to pay tax within 30 days of issuance of SCN to avoid penalty, is not available in case of self-assessed tax.**

Since in the given case, Anant & Co. **has not paid the self-assessed tax within 30 days** of due date [i.e. 20th May], **penalty** equivalent to:

(i) **10% of tax**, viz., ₹ 9,000 (10% of ₹ 90,000) or

(ii) **₹ 10,000,**

whichever is higher, is payable by him. Thus, penalty payable is ₹ 10,000.

Hence, the **stand taken by the Department** that penalty will be levied on Anant & Co. is correct, but the amount of penalty of ₹ 45,000 is **not correct.**

Question 11

Checkernot has self-assessed tax liability under CGST Act, 2017, as ₹ 80,000. He fails to pay the tax within 30 days from the due date of payment of such tax.

Determine the interest and penalty payable by him explaining the provisions of law, with the following particulars available from his records:

Date of collection of tax 18th September, 20XX

Date of payment of tax 26th November, 20XX

No Show Cause Notice (SCN) has been issued to him so far, while he intends to discharge his liability, even before it is issued to him, on the assumption that no penalty is leviable on him as payment is made before issue of SCN.

Answer

Due date for payment of tax collected on 18.09.20XX is 20.10.20XX. However, since tax is actually paid on 26.11.20XX, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017. Amount of interest is:

= ₹ 80,000 × 18% × 37/365 = ₹ 1,460 (rounded off)

As per section 73(11) of CGST Act, 2017, **where self-assessed tax**/any amount collected as tax is **not paid within 30 days** from due date of payment of tax, then, inter alia, **option to pay such tax before issuance of SCN to avoid penalty, is not available.**

Consequently, penalty equivalent to

(i) **10% of tax**, viz., ₹ 8,000 or

(ii) **₹ 10,000,**

whichever is **higher,** is payable in terms of section 73(9) of CGST Act, 2017. Therefore, **penalty of ₹ 10,000 will have to be paid** by Checkernot. However, such penalty is payable when the PO issues an order in this behalf.

Question 12

Inoba Bhave is engaged in supply of taxable services. He supplies some services in the month of April and collects CGST of ₹ 15,50,000 on said supply on 18th April. However, he fails to pay the tax so collected within 30 days from the due date of payment of such tax.

No Show Cause Notice (SCN) has been issued to him so far. Inoba Bhave decides to discharge his tax liability, before the SCN is issued to him. He is of the view that no penalty is leviable if the payment of tax is made before issue of SCN. Therefore, he self-assesses his tax liability at ₹ 15,50,000 and pays the same on 26th June. Determine the interest and penalty, if any, payable by Inoba Bhave.

Answer

Due date for payment of tax collected on 18th April is 20th May. However, since tax is actually paid on 26th June, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017. Amount of interest is:

= ₹ 15,50,000 × 18% × 37/365 = ₹ 28,282 (rounded off)

As per section 73(11) of the CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, **penalty** equivalent to

(i) **10% of tax**, viz., ₹ 1,55,000 or

(ii) **₹ 10,000, whichever is higher,**

is payable in terms of section 73(9) of the CGST Act, 2017.

Therefore, penalty of ₹ 1,55,000 will have to be paid by Inoba Bhave.

Question 13

Discuss the amount of tax and penalty to be paid, if any, in the following independent cases where show cause notices are issued under section 74 of the CGST Act, 2017.

S.N.	Date on which credit was taken wrongly	Amount of ITC taken wrongly (₹ in lakh)	Present status
1	31st January, 2022	200	Adjudication order passed on 26th July, 2024 demanding the entire amount of credit with interest and imposing amount equal to the credit as penalty.
2	30th June, 2022	250	Adjudication order passed on 26th August, 2024 demanding the entire amount of credit with interest and imposing amount equal to the credit as penalty.
3	30th October, 2022	120	Show cause notice has been issued on 5th September, 2024 demanding entire amount of credit with interest and proposing penalty equal to 100% of the credit taken.
4	30th January, 2023	50	Statement of the Managing Director has been recorded on 6th September, 2024 wherein he has admitted the non-receipt of the inputs and availing the credit wrongly. Show cause notice has not been issued yet.

Note: In all the cases, assessee wants to pay the amount on 20.09.2024.

Answer

S.N.	Date on which credit was taken wrongly	Amount of ITC taken wrongly (₹ in lakh)	Tax & penalty under section 74
1	31st January 2022	200	Adjudication order is passed on 26th July, 2024 and payment is made on 20.09.2024 i.e., **after 30 days of the communication of the adjudication order** (Refer Note). Therefore, entire amount of **ITC** wrongly availed which is **₹ 200 lakh** and equal amount of **penalty** i.e., **₹ 200 lakh shall be payable.**
2	30th June 2022	250	Adjudication order is passed on 26th August, 2024 and payment is made on 20.09.2024 i.e., **within 30 days of the communication of the adjudication order** (Refer Note). Therefore, entire amount of **ITC** wrongly availed

			which is **₹ 250 lakh** and 50% of the **penalty** imposed i.e., **₹ 125 lakh shall be payable.**
3	30th October 2022	120	Show cause notice is issued on 5th September 2024 and payment is made on 20.09.2024 i.e., **within 30 days of issue of show cause notice.** Therefore, entire amount of **ITC** wrongly availed which is **₹ 120 lakh** and 25% of the **penalty** imposed i.e., **₹ 30 lakh shall be payable.**
4	30th January 2023	50	Payment made on 20.09.2024 is before issuance of show cause notice. Therefore, amount of **ITC** admitted to be taken wrongfully which is **₹ 50 lakh** and **penalty** equal to 15% of such ITC i.e., **₹ 7.5 lakh shall be payable.**

Note: It is assumed that adjudication order is communicated the same day on which it is passed.

Question 14

A taxpayer has suppressed certain facts resulting in short payment of tax. The mistake is pointed out by the Department, but no show cause notice (SCN) has been issued. As per the taxpayer, suppression of tax amounting to ₹ 12,00,000 is accepted and he agrees that the suppression has taken place for supplies made in the month of January, 2023. He clears the dues on 20th April, 2023. However, the Department, on verification, identifies additional suppression of tax of ₹ 2,00,000 in the same month of January, 2023. SCN is issued and the taxpayer represents before the proper officer, which results into an adverse order against the taxpayer. The order is passed on 25.05.2023 and the taxpayer complies with the adverse adjudication order on 27.06.2023.

Determine the tax, interest and penalty payable at each stage.

Answer

As per explanation 2 to section 74 of the CGST Act, 2017, the expression "suppression" means non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

As the suppression activity has taken place in relation to supplies made in January, the same has to be reported in the return/statement/report filed in the month of February (interest would become payable from 21st February in this case).

Tax, interest and penalty payable before the issue of the SCN:

In case of short payment of tax by reason of suppression of facts, if the taxpayer pays such short-paid tax and applicable interest before issuance of show cause notice, penalty equal to 15% of such tax is payable.

Tax payable = ₹ 12,00,000

Interest = ₹ 12,00,000 × 18% × 59/365 = ₹ 34,915 (rounded off) **[From 21st February to 20th April]**

Penalty = ₹ 12,00,000 × 15% = ₹ 1,80,000

Tax, interest and penalty payable after the adjudication order:

In case of short payment of tax by reason of suppression of facts, if the taxpayer pays such short-paid tax and applicable interest after 30 days of communication of the adjudication order penalty equal to 100%

of such tax is payable.

Tax payable = ₹ 2,00,000

Interest = ₹ 2,00,000 × 18% × 127/365 = ₹ 12,526 (rounded off) **[From 21st February to 27th June]**

Penalty = ₹ 2,00,000

Question 15

On 05.07.20XX, a show cause notice for ₹ 5,00,000 was issued to Mr. Vijay Kumar Sharma demanding short payment of GST of ₹ 4,50,000 for the month of January, 20XX and also interest of ₹ 50,000.

Mr. Sharma raised objections and after personal hearing on 30.08.20XX, adjudicating authority passed the final order for ₹ 3,50,000 for GST, without any reference with regard to payment of interest.

Mr. Sharma deposited the tax of ₹ 3,50,000 on 02.09.20XX and informed the department on the same day. Subsequently, on 15.09.20XX, department demanded payment of interest of ₹ 60,000 on GST of ₹ 3,50,000.

Mr. Vijay Kumar Sharma is not ready to pay any interest. His contention is that he is not liable for interest because he deposited all the amount specified in the final adjudication order.

Examine with a brief note the validity of the action taken by the Department with reference to provisions of the CGST Act, 2017.

Answer

As per section 75 of the CGST Act, 2017, the interest on the tax short paid has to be paid whether or not the same is specified in the order determining the tax liability.

Thus, in view of the same, Mr. Vijay Kumar Sharma **will have to pay the interest even though the same is not specified in the final adjudication order.** His contention that he is not liable for interest because he deposited all the amount specified in the final adjudication order is not valid in law.

However, **amount of interest demanded in order cannot be in excess of amount specified in notice.**

Therefore, in the given case, **Department cannot demand the interest in excess of the amount specified** in the notice, **which will be ₹ 50,000.**

Question 16

Discuss the validity of the following independent cases under the provisions of CGST Act, 2017:

(i) CGST officer had issued a notice under section 74(1) against which appeal was preferred by the assessee. Appellate Authority concluded that the notice issued under section 74(1) was not sustainable for the reason that charges of fraud had not been established. Now the officer wishes to determine the tax payable by treating the said notice as if it was issued under section 73(1). Is the action of the officer valid?

(ii) CGST officer issued an adjudication order which did not specify payment of interest on the tax short paid by the registered person. So, the assessee contends that interest cannot be demanded as the said order is silent on the same. Is the contention of the assessee correct?

Answer

(i) **Valid.** As per section 75 of the CGST Act, 2017, if the Appellate Authority concludes that the **notice issued under section 74(1) is not sustainable** for the reason that the **charges of fraud has not been established**, the proper officer can determine the tax payable by deeming as if the notice was issued under section 73(1).

(ii) **Incorrect.** As per section 75 of the CGST Act, 2017, the **interest** on the tax short paid or not paid **shall be payable whether or not the same is specified in the order** determining the tax liability.

Question 17

M/s. Square & Co. received a notice under section 74(1) of the CGST Act, 2017 demanding tax, interest and penalty on the allegation of suppression of facts for the financial year 2020-21. Notice was issued on 24.11.2024. Square & Co. filed an appeal denying any suppression and on which Appellate Authority concluded that the notice is not sustainable under section 74(1), for the reason that the charges have not been established by the Department. Proper officer deemed the said notice to have been issued under section 73(1) and re-determined the demand.

Square & Co. is of the opinion that the action of proper officer is not in line with GST law. Square & Co. filed its annual return for the financial year 2020-21 on 30.11.2021. Assume the due date of such return as 31.12.2021.

Square & Co. seeks your advice with reason on the following issues:

(i) Whether the proper officer can proceed to re-determine the demand under section 73(1), in respect of notice issued under section 74(1)?

(ii) If yes, whether the fresh demand is valid?

(iii) If the above notice issued under section 74(1) is assumed to have been issued on 24.09.2024, what would be your answer for the validity of demand?

Answer

(i) Since the appellate authority concluded that the **notice under section 74(1) is not sustainable** for reason that the charges of fraud etc. have not been established by Department against M/s Square & Co., the **proper officer can re-determine the demand**, deeming as if the notice was issued **under section 73(1)** of the CGST Act, 2017.

(ii) **Fresh demand will not be valid** since show cause notice under section 74(1) of the CGST Act, 2017 was **issued on 24.11.2024, i.e. beyond 2 years and 9 months from the due date of furnishing of annual return for financial year 2020-21, i.e. 30.09.2024.**

(iii) If show cause notice under section 74(1) of the CGST Act, 2017was **issued on 24.09.2024, i.e. within 2 years and 9 months from the due date of furnishing of annual return** for financial year 2020-21, demand would be **valid.**

Tax Collected But Not Deposited (Section 76)

Question 18

Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth ₹ 50,000 in the month of August. It has not deposited the said amount collected as GST with

the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided under section 76.

Answer

It is mandatory to pay amount, collected from other person representing tax under GST law, to the Government. **Every person who has collected** from any other person any **amount as representing the tax** under GST law, and has **not paid the said amount to the Government**, shall forthwith pay the said amount to the Government, irrespective of **whether** the supplies in respect of which such **amount** was **collected are taxable or not.**

For any such **amount not so paid**, proper officer may **issue SCN for recovery of** such **amount and penalty** equivalent to amount specified in notice.

The **proper officer** shall, after considering the representation, if any, made by the person on whom SCN is served, **determine the amount due** from such person and thereupon such **person shall pay the amount** so determined **alongwith interest** at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

Question 19

Subharti Enterprises collected GST on the goods supplied by it from its customers on the belief that said supply is taxable. However, later it discovered that goods supplied by it are exempt from GST. Accountant of Subharti Enterprises advised it that amount mistakenly collected by Subharti Enterprises representing as tax was not required to be deposited with Government. Subharti Enterprises has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions.

Answer

The provisions of **section 76 make it mandatory** on Subharti Enterprises **to pay amount collected** from other person **representing tax** under this Act, **to the Government.**

Section 76 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, **every person who has collected** from any other person any **amount as representing the tax** under this Act, and has not paid the said amount to the Government, shall forthwith **pay the said amount to the Government**, irrespective of **whether** the supplies in respect of which such amount was collected are **taxable or not.**

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the **proper officer may serve on the person** liable to pay such amount a **notice requiring** him to show cause as to why the said **amount** as specified in the notice, **should not be paid** by him to the Government and why a **penalty equivalent** to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing tax, but not deposited same with Government shall **in addition** to paying the said amount determined by the proper officer **shall also be liable to pay**

interest thereon. Interest is payable at the rate **specified under section 50.** Interest is payable **from the date such amount was collected** by him **to the date such amount is paid by him to Government.**

The **proper officer shall issue an order within 1 year** [excluding period of stay order] **from date of issue of notice.** The proper officer, in his order, shall set out relevant facts and the basis of his decision.

Recovery Proceedings

Question 20

Briefly discuss the modes of recovery of tax available to the proper officer.

Answer

The proper officer may recover the dues in following manner:

(a) **Deduction** of dues **from the amount owned** by the tax authorities payable to such person.

(b) Recovery by way of **detaining and selling any goods** belonging to such person;

(c) **Recovery from other person**, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government **(Garnishee Proceedings)**;

(d) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said **property is to be sold** and with the **proceeds of such sale** the amount payable and cost of sale shall be recovered.

(e) **Through the Collector of the district** in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.

(f) By way of an application to the appropriate **Magistrate** who in turn shall proceed to recover the amount as if it were a **fine imposed by him**.

(g) By enforcing bond/instrument executed under this Act or any rules/regulations made thereunder.

(h) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

Question 21

In the month of March 20XX, during the course of Departmental GST audit under section 65 of the CGST Act, 2017 of Always Right Private Limited, audit team observed that input tax credit claimed by the company was blocked under section 17(5) of the CGST Act, 2017. Audit memo was given to the company for submission of reply on the audit observations mentioned in the memo. Company submitted its reply contending that the said credit was not blocked under section 17(5) and had been rightly claimed. Department was not satisfied with the reply submitted by the company. Audit team served a show cause notice under section 74 of the CGST Act, 2017 and transferred the matter to adjudicating officer and also started recovery process under sections 78 and 79 of the CGST Act, 2017 for recovery of the input tax credit wrongly availed.

You are required to comment whether action of the Department to recover the amount is justified with the reference to the legal provisions of the GST law.

Answer

The action of the Department to initiate the recovery proceedings without adjudication order being passed is **not valid.**

Recovery proceedings can be initiated under GST law **if** a taxable **person fails to pay** any amount payable in pursuance of an order passed under this law **within a period of 3 months** (or reduced period by proper officer) **from the date of service of such order.**

However, in the given case, the recovery proceedings have been initiated only after serving the show cause notice and transferring the matter to the adjudicating officer. The adjudication order has not yet been passed in the given case.

Transfer of Property to be Void in Certain Cases

Question 22

Mr. Arihant is engaged in supply of taxable goods and is registered in the State of Orissa. A demand notice under GST law of ₹ 50 lakh is served on him on 5th April. On 10th April, despite having knowledge of said notice, Mr. Arihant transferred his ancestral property located in Punjab in the name of his wife Soma for a consideration of ₹ 2 lakh without taking any permission from the authorities under GST. The value for the purpose of stamp duty valuation was ₹ 80 lakh.

Subsequently, he filed a reply to said demand notice on 15th April stating that he would not be able to pay the amount of tax demanded in the notice due to his distressed financial situation.

Determine the validity of the act of transferring of property by Mr. Arihant to his wife Soma, under the provisions of the GST law.

Answer

Section 81 of the CGST Act, 2017 stipulates that where a person, after any **amount has become due** from him, **creates a charge** on **or parts with the property** belonging to him or in his possession **by way of sale, mortgage, exchange, or any other mode of transfer** whatsoever of any of his properties in favour of any other person **with intention of defrauding the Government** revenue, **such charge or transfer shall be void** as against any claim in respect of any tax or any other sum payable by the said person.

However, **such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings** under this Act or without notice of such tax or other sum payable by the said person, **or with the previous permission of the proper officer.**

In view of the above provisions, in the given case, **transfer of property by Mr. Arihant to his wife Soma is void and the property will still be considered in the hands of Mr. Arihant** under GST law **for the purpose of recovery of dues** under GST from him.

CHAPTER - 19
Offences and Penalties and Ethical Aspects under GST

Penalty for Certain Offences (Section 122)

Question 1

What are the various type of offences which may be committed by a taxable person liable to penalty?

Answer

There are 21 offences which may be committed by a taxable person and may be classified into following categories based upon their nature:

Offences having nexus with invoice

(i) Issue of **invoice or bill without making supply**;

(ii) Issuing invoice or document using GSTIN of another person;

(iii) Making a **supply without invoice** or with false/incorrect invoice;

Offences having nexus with payment of tax

(iv) **Not paying any amount collected as tax** for a period exceeding three months;

(v) Not paying tax collected in contravention of the CGST/SGST Act for a period exceeding 3 months;

(vi) Non deduction or **lower deduction of tax deducted at source** or not depositing tax deducted at source under section 51;

(vii) Non collection or **lower collection of or non-payment of tax collectible at source** under section 52;

(viii) **Availing/utilizing input tax credit without actual receipt of goods** and/or services;

(ix) Availing/distributing ITC by an Input Service Distributor in violation of Section 20;

(x) Fraudulently obtains any refund of tax;

(xi) Suppressing turnover;

Offences having nexus with records and related information

(xii) Falsification/substitution of financial records or furnishing of fake accounts/documents or furnishing false information/return with intent to evade payment of tax;

(xiii) Failure to maintain accounts/documents in the manner specified in the Act or failure to retain accounts/ documents for the period specified in the Act;

(xiv) Failure to furnish information/documents required by an officer in terms of the Act/Rules or furnishing false information/documents during the course of any proceeding;

(xv) Tampering/destroying any material evidence/documents;

(xvi) Obstructing or preventing any official in discharge of his duty;

Offences having nexus with Registration

(xvii) Failure to register despite being liable to pay tax;

(xviii) Furnishing false information regarding registration particulars either at the time of applying for registration or subsequently

Offences having nexus with Supply/Transport of goods

(xix) Transporting goods without prescribed documents;

(xx) Supplying/transporting/storing any goods liable to confiscation;

(xxi) Disposing of/tampering with goods detained/seized/attached under the Act.

Question 2

What is the quantum of penalty for an offence mentioned under section 122(1), 122(1A) and 122(2)?

Answer

Section 122(1) provides that any taxable person **who has committed any of the 21 offences** mentioned thereunder, shall be liable to a penalty which shall be **higher of the following amounts:**

(a) **₹ 10,000; or**

(b) An **amount equivalent** to, any of the following (Applicable as the case may be) –

  (i) **Tax evaded**; or

  (ii) **Tax not deducted** u/s 51 or short deducted or deducted but not paid to the Government; or

  (iii) **Tax not collected** u/s 52 or short collected or collected but not paid to the Government; or

  (iv) **Input tax credit availed** of or passed on or distributed irregularly; or

  (v) **Refund** claimed **fraudulently**

Further, Section 122(1A) provides that any **person who retains the benefit** of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be **liable to a penalty of an amount equivalent to the tax evaded** or input tax credit availed of or passed on.

Moreover, section 122(2) provides that if any registered **person who supplies any goods and/or services** on which any **tax** has **not** been **paid or short paid** or erroneously refunded or where the ITC has been wrongly availed or utilized:

(i) **for any reason other than the reason of fraud or any willful misstatement** or suppression of facts to evade tax, he shall be **liable to a penalty of ₹ 10,000 or 10% of the tax due from such person**, whichever is higher.

(ii) **for reason of fraud, or any willful misstatement** or suppression of facts to evade tax, penalty shall be equal to **₹ 10,000 or the tax due from such person, whichever is higher**.

Question 3

Nirmal Private Limited, registered in Vasai, Maharashtra, is engaged in supply of taxable goods and services. In April, it sold goods worth ₹ 5,00,000 (excluding IGST) to Suraksha Enterprises and collected tax @ 28% on said goods from the buyer. However, the actual rate of tax appliable in given case was 18%.

Nirmal Private Limited deposited the tax @ 18% on these goods to the Government on the due date and retained the remaining tax collected. Determine the amount of penalty, if any, that may be imposed on Nirmal Private Limited in the month of October in the given case ignoring interest payable, if any.

Answer

Section 122(1)(iv) of the CGST Act, 2017 stipulates that a taxable **person who collects** any tax in contravention of the provisions of CGST Act, but **fails to pay the same to Government beyond a period of 3 months** from the date on which such payment becomes due shall be liable to pay a penalty of:

(a) **₹ 10,000 (CGST) / ₹ 20,000 (IGST)**

or

(b) an **amount equivalent to the tax evaded, whichever is higher.**

In the given case, since Nirmal Private Limited has collected tax at a wrong rate (i.e. 28%), but fails to deposit the full tax collected to the Government i.e. it deposits only tax @ 18% thereby retaining the remaining tax collected, amount of penalty that can be imposed on Nirmal Private Limited is as follows:

(a) ₹ 20,000

or

(b) an amount equivalent to the tax evaded [₹ 50,000 (₹ 5,00,000 × 28%) – (₹ 5,00,000 × 18%)], whichever is **higher, i.e. ₹ 50,000.**

Question 4

M/s. Root & Co. filed a refund application under section 54 of the CGST Act, 2017 in respect of export made by them. While declaring the export turnover, their accountant included the exempt turnover also as part of export turnover and claimed excess refund. Amount of refund excess claimed was ₹ 18,000 each under CGST and SGST.

Determine the total amount of penalty (CGST + SGST) leviable under GST law in respect of such erroneous refund if:

(i) such excess refund claim was proved to be inadvertent and not wilful/fraud.

(ii) such excess refund was on account of wilful misstatement/ fraud.

Answer

Amount of penalty (each under CGST and SGST) in respect of the erroneous refund claimed by M/s Root & Co.:

(i) **Where the excess refund claim was proved to be inadvertent and not wilful/fraud**

Penalty payable will be higher of the following:

(a) 10% of tax due, i.e. ₹ 1,800 (18,000 x 10%)

(b) ₹ 10,000

Penalty will be ₹ 10,000 each under CGST and SGST

(ii) **Where the excess refund claim was on account of wilful misstatement/fraud**

Penalty payable will be higher of the following:

(a) Tax due, i.e. ₹ 18,000

(b) ₹ 10,000

Penalty will be ₹ 18,000 each under CGST and SGST

Question 5

Is there any penalty prescribed for a person other than the taxable person under section 122?

Answer

Yes, section 122(3) provides for levy of **penalty extending to ₹ 25,000 (CGST) for any person who-**

- **aids or abets** any of the 21 offences,
- **deals in any way** (whether receiving, supplying, storing or transporting) with goods that are liable to confiscation,
- **receives or deals** with supply of services in contravention of the Act,
- **fails to appear** before an authority who has **issued a summon**,
- **fails to issue any invoice** for a supply or account for any invoice in his books of accounts.

Question 6

M/s Fly-by-Night Traders, a taxable person, issued an invoice on 15th April 20XX involving input tax credit (ITC) of ₹ 25 lakh (CGST) to M/s Runaway Traders who utilised the same. No supply of goods was involved in this transaction between the two traders. M/s Fly-by-Night Traders conducted this transaction at the instance of its tax consultant who was not a qualified professional.

Explain the relevant provision in brief and determine the amount of penalty leviable under CGST Act, 2017, if any, on the persons involved in respect of the above referred transaction.

Answer

Where a taxable person:

(a) **issues any invoice without supply** of goods, or

(b) **takes/utilises ITC without actual receipt** of goods, either fully or partially, in contravention/violation of the provisions of the GST law or the rules made thereunder, such person shall be liable to pay a **penalty of**

(i) **₹ 10,000**

or

(ii) an **amount equivalent to the ITC availed of or passed** on (₹ 25 lakh), whichever is **higher**.

Thus, M/s Fly-by-Night Traders & M/s Runaway Traders, both are **liable to pay penalty of ₹ 25 lakh** each.

Further, any person at whose instance above transactions are conducted, shall be liable to a penalty of an amount equivalent to ITC availed of/passed on. Thus, the **tax consultant will be liable to pay a penalty of ₹ 25 lakh.**

Question 7

Answer the following questions:

(i) Shagun started supply of services in Vasai, Maharashtra from 01.01.20XX. Her turnover exceeded ₹ 20 lakh on 25.01.20XX. However, she didn't apply for registration. Determine the amount of

penalty, if any, that may be imposed on Shagun on 31.03.20XX, if the tax evaded by her, as on said date, on account of failure to obtain registration is ₹ 1,26,000 (CGST).

(ii) Sagar, managing director of Telecom Solutions Ltd., is issued a summon to appear before the central tax officer to produce the books of accounts of Telecom Solutions Ltd. in an inquiry conducted on said company. Determine the amount of penalty, if any, that may be imposed on Sagar, if he fails to appear before the central tax officer.

Answer

(i) Where the **aggregate turnover** of a supplier making supply of services from a State/UT **exceeds ₹ 20 lakh in a financial year, he is liable to be registered** in the said State/UT. The **said supplier must apply for registration within 30 days from the date** on which he **becomes liable to registration**. However, in the given case, although Shagun became liable to registration on 25.01.20XX, **she didn't apply for registration within 30 days** of becoming liable to registration.

Section 122(1)(xi) of CGST Act, 2017 stipulates that a taxable person who is liable to be registered under the CGST Act, 2017 but **fails to obtain registration** shall be **liable to pay a penalty** of:

(a) **₹ 10,000**

or

(b) an **amount** equivalent to the **tax evaded** [₹ 1,26,000 in the given case],

whichever is **higher.**

Thus, the amount of penalty that can be imposed on Shagun is ₹ 1,26,000.

(ii) Section 122(3)(d) of the CGST Act, 2017 stipulates that **any person who fails to appear** before the officer of central tax, **when issued with a summon** for appearance to give evidence or produce a document in an inquiry is liable to a penalty which **may extend to ₹ 25,000**. Therefore, **penalty upto ₹ 25,000 can be imposed under CGST on Sagar**, in the given case.

General Disciplines related to Penalty (Section 126)

Question 8

Mangeshwar, registered under the CGST Act, 2017 has made a breach in payment of tax amounting to ₹ 6,100. Assessing Authority has imposed a penalty as per law applicable to breach. Invoking the provisions of section 126, Mangeshwar argues that it is a minor breach and therefore, no penalty is imposable.

In another instance, Mangeshwar has omitted certain details in documentation that is not easily rectifiable. This has occurred due to the gross negligence of his accountant and he makes a plea that he was unaware of it and therefore, no penalty should be levied.

Mangeshwar voluntarily writes accepting a major procedural lapse from his side and requests the officer to condone the lapse as the loss caused to the revenue was not significant.

Also a lapse on the part of Mangeshwar has no specific penalty provision under the CGST Act, 2017. He is very confident that no penalty should be levied without a specific provision under the Act.

Discuss what action may be taken by the Assessing Authority under law for each of the above breaches.

Answer

As per section 126(1) of the CGST Act, 2017, **no penalty** shall be leviable under the Act **for minor breaches** of tax regulations. In terms of Explanation (a) to section 126(1), a breach shall be considered as **"minor breach", if tax involved is less than ₹ 5,000.** Therefore, breach made by Mangeshwar is not a 'minor breach' since the amount involved is not less than ₹ 5,000. So, penalty is imposable.

Any **omission or mistake in documentation** which is easily rectifiable and **made without fraudulent** intent/gross negligence is **not liable for penalty** in terms of section 126(1) of the CGST Act, 2017.**However, penalty is imposable** in the present case, since the omission in the documentation is not easily rectifiable and has occurred due to gross negligence.

As per section 126(5) of the CGST Act, 2017, where there is a **voluntary disclosure of breach**, prior to its discovery by the officer, the proper officer may **consider** this fact **as a mitigating factor when quantifying the penalty.** Since Mangeshwar has voluntarily disclosed breach of procedural requirement to the officer, the proper officer may consider this fact as a mitigating factor when quantifying the penalty. Therefore, **quantum of penalty will depend on the facts and circumstances** of the case.

As per section 125 of the CGST Act, 2017, when no specific penalty has been specified for contravention of any of the provisions of the Act or any rules made there under, it shall be **liable to a penalty which may extend to ₹ 25,000.** Therefore, **general penalty upto ₹ 25,000 may be imposed** on Mangeshwar.

Question 9

Mr. X, an unregistered person under GST purchases the goods supplied by Mr. Y who is a registered person without receiving a tax invoice from Mr. Y and thus helps in tax evasion by Mr. Y. A disciplinary action is taken against Mr. X and an adhoc penalty of ₹ 20,000 is imposed by passing an order without describing contravention for which penalty is going to be imposed and without mentioning the provisions under which penalty is going to be imposed. Should Mr. X proceed to pay for penalty or challenge the order passed by Department?

Answer

The **levy of penalty** is subject to a certain disciplinary regime which is based on jurisprudence, **principles of natural justice** and principles governing international trade and agreements. Such general discipline is enshrined in section 126 of the Act. **Accordingly:**

- **no penalty is to be imposed without** affording an **opportunity of being heard** to the person proceeded against to rebut the allegations levelled against him,
- the **penalty is** to **depend on** the totality of the **facts and circumstances** of the case, the penalty imposed is to be **commensurate with the degree and severity of breach** of the provisions of the law or the rules alleged,
- the **nature of the breach is to be specified** clearly in the order imposing the penalty,
- the **provisions of the law** under which the penalty has been imposed is to be specified.

Since the order suffers from lack of clarity about nature of breach which has taken place and about applicable law under which penalty has been imposed, such order passed by the department should be challenged.

Detention, Seizure and Release of Goods & Conveyance in Transit (Section 129)

Question 10

Whether action can be taken for transportation of goods without valid documents or if goods are attempted to be removed without proper record in books? If yes, explain the related provisions under the CGST Act, 2017.

Answer

Yes, action can be taken for **transportation of goods without valid documents** or if goods are attempted to be removed without proper record in books. If any person transports any goods or stores any such goods while in transit without the documents prescribed under the Act or supplies or stores any goods that have not been recorded in the books or accounts maintained by him, then such **goods shall be liable for detention** along with any vehicle on which they are being transported [Section 129 of CGST Act].

Where owner comes forward: - Such goods shall be **released on payment of penalty equal to 200% of the tax payable** on such goods **and, in case of exempted goods,** on payment of an amount **equal 2% of the value of goods or ₹ 25,000 (CGST), whichever is less.**

Where owner does not come forward: - Such goods shall be released on payment of **penalty equal to 50% of the value of the goods or 200% of the tax payable** on such goods, whichever is **higher, and in case of exempted goods,** on payment of an amount **equal to 5% of the value of goods or ₹ 25,000 (CGST), whichever is less.**

Question 11

XYZ carries goods from Vadodara, Gujarat to Surat, Gujarat. The value of the goods is ₹ 80,000 which are chargeable to CGST & SGST@ 9% each and in transit, proper officer intercepted the same under section 68 of the CGST Act, and found contravention.

Calculate the penalty payable under section 129 of CGST Act, 2017:

- If XYZ comes forward for payment of such penalty,
- If XYZ does not come forward for payment of such penalty.

Answer

The **penalty payable under section 129** of the CGST Act, 2017 is

(a) **200% of the tax** payable on goods detained or seized where the **owner of the goods comes forward** for payment of such penalty;

(b) **50% of the value of the goods or 200% of the tax payable** on such goods, whichever is **higher** where the **owner of the goods does not come forward** for payment of such penalty.

Therefore, in the given case the penalty payable will be computed as under:

If XYZ comes forward for payment of such penalty (It has been assumed that XYZ is the owner of the goods) –

= ₹ 80,000 × 9% × 200%

= ₹ 14,400

If XYZ does not come forward for payment of such penalty –

(a) ₹ 80,000 × 50% = **₹ 40,000**

or

(b) ₹ 80,000 × 9% × 200% = **₹ 14,400**

whichever is **higher**

Thus, the amount of penalty that can be imposed is **₹ 40,000.**

Question 12

From the following details, calculate the amount to be paid, for release of goods detained or seized under section 129 of the CGST Act, 2017, if owner of the goods does not come forward for payment such penalty.

Particulars	Amount (₹)
Value of goods	30,00,000
Applicable CGST on such goods	5,40,000

Would your answer be different if goods were exempted from GST and value remains the same namely ₹ 30,00,000?

Answer

If owner of the goods does not come forward for payment of such penalty, the amount of penalty to be paid for release of goods detained or seized under section 129 of the CGST Act, 2017 is equal to 50% of the value of the goods or 200% of the tax payable on such goods, whichever is higher.

Therefore, in the given case, the amount payable

(a) ₹ 30,00,000 × 50% = **₹ 15,00,000**

or

(b) ₹ 5,40,000 × 200% = **₹ 10,80,000**

whichever is higher

Thus, the amount of penalty that can be imposed is **₹ 15,00,000.**

However, **in case of exempted goods**, amount to be paid for release of goods detained is equal to 5% of the value of goods or ₹ 25,000, whichever is less.

= 5% of ₹ 30,00,000 or ₹ 25,000, whichever is less

= **₹ 1,50,000 or ₹ 25,000, whichever is less**

= **₹ 25,000**

Question 13

Adinath Private Limited, registered under GST in the State of Uttar Pradesh, instructed Ashok Transporters to deliver certain taxable goods to Mahavir Enterprises in Uttar Pradesh on 10th January 20XX. The value of the goods is ₹ 6,80,000 which are chargeable to CGST & SGST@ 9% each. While the goods were in transit, proper officer intercepted the goods and the truck in which goods were being transported, under section 68. However, the driver of the truck failed to tender any document in relation

to the goods in movement. The proper officer, after conducting the physical verification of the goods and the truck, decided to seize the goods and the truck and issued a notice under section 129(3) specifying the penalty payable by Adinath Private Limited after giving it an opportunity of being heard.

You are required to determine the amount of penalty payable under CGST Act if Adinath Private Limited does not come forward for the payment of penalty. Further, discuss the suitable course of action for Ashok Transporters if it intends to get its truck released.

Answer

As per section 129(1)(b), when **owner of goods does not come forward** for the payment of penalty, detained/seized goods and conveyance (used as a means of transport for carrying said goods) and related documents are released on payment of **penalty equal to higher of the following:**

(i) **50% of value of goods**

or

(ii) **200% of the tax payable** on such goods.

In view of the same, the amount of penalty payable under the CGST Act if Adinath Private Limited does not come forward for the payment of penalty is as follows:

(i) 50% of value of goods [₹ 3,40,000 (50% of ₹ 6,80,000)]

or

(ii) 200% of the tax payable on such goods [₹ 1,22,400 (200% of ₹ 6,80,000 x 9%)]

whichever is higher, i.e. **₹ 3,40,000**

As per first proviso to section 129(6), **conveyance shall be released on payment by the transporter the penalty as mentioned in the order or ₹ 1 lakh, whichever is less.**

In the given case, since the owner - Adinath Private Limited has failed to come forward to make payment of penalty, penalty of ₹ 3,40,000 under CGST Act shall be levied. Further, the **transporter of goods can get its truck released upon payment of the lower of the following** under CGST Act:

(i) **penalty as mentioned in the order [₹ 3,40,000]**

(ii) **₹ 1,00,000**

Hence, Ashok Transporters can get its truck released **upon payment of ₹ 1,00,000.**

Confiscation of Goods or Conveyance (Section 130)

Question 14

Neurological Systems Private Limited has been subject to confiscation of goods on the ground that it has not accounted for the goods that are liable to tax under the CGST Act, 2017. The directors would like to know from you as to how such goods are to be released from the Department. You are required to advise the directors regarding the provisions of law on this matter.

Answer

To get the confiscated goods released from the Department, the directors of Neurological Systems Private Limited are advised as under:

Neurological Systems Private Limited shall get an option to pay redemption fine in lieu of confiscation.

Such fine should be less than or equal to ≤ [Market value of goods confiscated – Tax chargeable thereon]

Aggregate of such fine and penalty leviable shall not be less than the penalty **equal to 100% of the tax payable** on such goods.

Neurological Systems Private Limited can get its confiscated goods released on payment of such redemption fine plus the tax, penalty and charges payable in respect of such goods.

Question 15

From the details given below, determine the maximum amount of fine in lieu of confiscation leviable under section 130 of CGST, Act, 2017 on:

(i) The goods liable for confiscation.

(ii) On the conveyance used for carriage of such goods.

Details are as follows:

Cost of the goods for owner excluding GST	15,00,000
Market Value of Goods	20,00,000
GST on such goods	3,60,000

You are also required to explain relevant legal provisions in brief.

Answer

(i) As per section 130(2) of the CGST Act, 2017, in case of goods liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is the market value of the goods confiscated, less the tax chargeable thereon.

Therefore, the **fine leviable = ₹ 20,00,000 – ₹ 3,60,000 = ₹ 16,40,000**

Aggregate of such fine and penalty leviable shall not be less than the penalty equal to 100% of the tax payable on such goods.

(ii) In case of conveyance used for carriage of such goods and liable for confiscation, the maximum amount of fine leviable in lieu of confiscation is equal to tax payable on the goods being transported thereon [Third proviso to section 130(2) of the CGST Act, 2017].

Therefore, the **fine leviable = ₹ 3,60,000**

Question 16

Answer the following questions:

(a) Radhaswamy owns and supplies certain goods costing ₹ 30,00,000 in a conveyance hired from Manikaran Transporters. Market value of said goods is ₹ 40,00,000 and tax chargeable thereon is ₹ 4,80,000.

The goods supplied by Radhaswamy and the conveyance [owned by Manikaran Transporters] used for carriage of such goods are confiscated since Radhaswamy has supplied said goods in contravention of the provisions of the CGST Act, 2017 with an intent to evade payment of tax.

However, the proper officer intends to give an option to Radhaswamy and Manikaran Transporters to pay in lieu of confiscation, a fine leviable under section 130 of the CGST, Act, 2017.

Determine the maximum amount of the fine in lieu of confiscation on:

(i) the goods liable for confiscation.

(ii) the conveyance used for carriage of such goods.

(b) Raghuraman is a registered supplier in Madhya Pradesh. He failed to pay the GST amounting to ₹ 7,400 for the month of January, 20XX. The proper officer imposed a penalty on Raghuraman for failure to pay tax. Raghuraman believes that it is a minor breach and in accordance with the provisions of section 126 of the CGST Act, 2017, no penalty is imposable for minor breaches of tax regulations. Examine the correctness of Raghuraman's claim.

Answer

(a) (i) In case of **goods liable for confiscation, maximum** amount of **fine leviable** in lieu of confiscation in terms of first proviso to section 130(2) of the CGST Act, 2017 is the **market value of the goods confiscated, less the tax chargeable thereon**. Therefore, in the given case, **maximum fine leviable: = ₹ 40,00,000 – ₹ 4,80,000 = ₹ 35,20,000**

(ii) In case where **conveyance used for carriage** of such goods is liable for confiscation, the **maximum amount of fine** leviable in lieu of confiscation in terms of third proviso to section 130(2) of the CGST Act, 2017 **is equal to tax payable** on the goods being transported thereon.

Therefore, in the given case, **maximum fine leviable = ₹ 4,80,000**

(b) **No**, Raghuraman's claim is **not tenable** in law. Section 126(1) of the CGST Act, 2017 provides that **no officer shall impose any penalty** under CGST Act, 2017, inter alia, **for minor breaches** of tax regulations or procedural requirements. Further, explanation to section 126(1) of the CGST Act, 2017 stipulates that a **breach shall be considered a 'minor breach' if the amount of tax involved is less than ₹ 5,000.**

In the given case, breach made by Raghuraman **is not a 'minor breach' since the amount involved is not less than ₹ 5,000. So, penalty is imposable** under the CGST Act, 2017.

Punishment for Certain Offences (Section 132)

Question 17

Examine the implications as regards the bailability and quantum of punishment on prosecution, in respect of the following cases pertaining to the month of December under CGST Act, 2017:

(i) 'X' collects ₹ 245 lakh as tax from its clients and deposits ₹ 241 lakh with the Central Government. It is found that he has falsified financial records and has not maintained proper records.

(ii) 'Y' collects ₹ 550 lakh as tax from its clients but deposits only ₹ 30 lakh with Central Government.

What will be the implications with regard to punishment on prosecution of 'X' and 'Y' for the offences? What would be the position, if 'X' and 'Y' repeat the offences?

It may be assumed that offences are proved in the Court.

Answer

(i) Failure to pay any amount collected as tax beyond 3 months from due date of payment is a specified offence as per clause (d) of Section 132(1).

In the present case, failure to deposit the tax ₹ 4 lakh (₹ 245 lakh – ₹ 241 lakh). **As the amount of failure does not exceed ₹ 200 lakh** therefore, failure to deposit ₹ 4 lakh collected as tax by 'X' will **not be punishable with imprisonment** as per section 132(1).

Further, **falsification of financial records** by 'X' is a specified offence as per section 132(1)(d) and **punishable with imprisonment upto 6 months** or with fine or both as per clause (iv) of section 132(1) assuming that falsification of records is with an intention to evade payment of tax due under the CGST Act, 2017 and the said **offence is bailable** in terms of section 132(4).

(ii) Failure to pay any **amount collected as tax beyond 3 months** from due date is punishable with **imprisonment upto 5 years and with fine, if** the amount of **tax evaded exceeds ₹ 500 lakh** in terms of section 132(1)(d)(i) of the CGST Act, 2017.

Since the amount of tax evaded by 'Y' exceeds ₹ 500 lakh (₹ 550 lakh - ₹ 30 lakh), 'Y' is liable to imprisonment upto 5 years and with fine. It has been assumed that amount of ₹ 520 lakh collected as tax is not paid to the Government beyond 3 months from the due date of payment of tax. **Further,** the **imprisonment shall be minimum 6 months** in the absence of special and adequate reasons to the contrary to be recorded in the judgment vide section 132(3) of the CGST Act, 2017. **Such offence is non-bailable** in terms of section 132(5) of the CGST Act, 2017.

If 'X 'and 'Y' repeat the offence, they shall be punishable for second and for every subsequent offence with imprisonment upto 5 years and with fine in terms of section 132(2) of the CGST Act, 2017. Such imprisonment shall also be minimum 6 months in the absence of special and adequate reasons to the contrary to be recorded in the judgment.

Question 18

State the prosecution, arrest and bail implications, if any, in respect of the following independent cases pertaining to June:

(i) 'Ashuram' fraudulently avails input tax credit of ₹ 200 lakh without any invoice or bill. However, he is yet to utilize the same.

(ii) 'Bahubali' fraudulently avails the refund of tax of ₹ 550 lakh. The said tax has been recovered from the buyer also.

(iii) 'Chintamani' knowingly supplies false information sought by the CGST Officer. The amount of tax involved is ₹ 250 lakh.

(iv) 'Deendayal' collects ₹ 650 lakh as tax in January from its clients but has deposited only ₹ 50 lakh with the Central Government till date.

Note: Assume that in all above cases, offence, if any, has been committed for the first time.

Answer

Person	Offence	Prosecution	Arrest	Bail
'Ashuram'	Non-cognizable offence [Section 132(1)(c) read with section 132(4)]	No Prosecution	No arrest	Bailable Offence [Section 132(4)]

'Bahubali'	Non-cognizable offence [Section 132(1)(e) read with section 132(4)]	Upto 5 years [Section 132(1)(e)(i)]	No arrest	Bailable Offence [Section 132(4)]
'Chintamani'	Non-cognizable offence [Section 132(1)(f) read with section 132(4)]	Upto 3 years [Section 132(1)(f)(ii)]	No arrest	Bailable Offence [Section 132(4)]
'Deendayal'	Cognizable offence [Section 132(1)(d) read with section 132(5)]	Upto 5 year [Section 132(1)(d)(i)]	Arrest can be ordered by Commissioner without arrest warrant	Non-Bailable [Section 132(5)]

Question 19

Elaborate about cognizable and non-cognizable offences under the CGST Act, 2017. What is the difference between these two while exercising powers by the GST authorities?

Or

What are cognizable and non-cognizable offences under section 132 of CGST Act, 2017?

Answer

All offences specified under section 132 **except** the **offences that are cognizable and non-bailable** (as mentioned below) **are non-cognizable offences** under the CGST Act, 2017.

Cognizable offences under the CGST Act, 2017 are the following offences, where **amount of tax evaded** or input tax credit wrongly availed or utilised or refund wrongly taken **more than ₹ 5 crores,** namely:

(a) **Supply without issuance of invoice** with the intention to evade tax.

(b) **Issuance of any invoice/bill without supply** leading to wrongful availment/utilisation of ITC or refund of tax.

(c) **Availment of ITC** using invoice/bill against which **no supplies have been made** or fraudulent availment of ITC **without any invoice** or bill.

(d) **Failure to pay the amount collected as tax** to the Government beyond a period of 3 months from the due date of payment.

In case of a **cognizable offence**, the officer authorised to **arrest the person** shall inform such person of the grounds of arrest and **produce him before a Magistrate within 24 hours.**

In case of a **non-cognizable offence**, the arrested person shall be **admitted to bail or in default** of bail, forwarded to the custody of the Magistrate.

Offences by Company (Section 137)

Question 20

Where an offence under the GST law is committed by a taxable person being a trust, who are deemed to be guilty of the offence and under what circumstances? When do the relevant provisions become inapplicable in respect of individuals concerned with the trust?

Answer

Section 137 of the CGST Act, 2017 stipulates that **where an offence** under the GST law is **committed by a taxable person being a trust**, the **managing trustee** shall be **deemed to be guilty** of that offence and shall be liable to be proceeded against and punished accordingly.

Further, **where it is proved that the offence** committed by the trust has been **committed:**

- **with the consent or connivance of**, or
- is **attributable to any negligence** on the part of any other individual concerned with the trust,

he shall also be **deemed to be guilty** of that offence and **shall be liable to be proceeded** against **and punished accordingly**.

The relevant **provisions will become inapplicable** in respect of individuals concerned with the trust, **if** they prove that the **offence was committed without their knowledge** or that **they had exercised all due diligence to prevent the commission** of such offence.

Compounding of Offences (Section 138)

Question 21

Department initiated prosecution proceedings against a taxable person for fraudulently obtaining refund of ₹ 4.2 crores. He has approached the Commissioner with a request for compounding the offence. After considering the request, the Commissioner has directed him to pay an amount of ₹ 2.5 crores as compounding amount. Indicate the minimum and maximum limits for compounding amount. Is the amount fixed by the Commissioner in this case within the limits prescribed under the law? What is the consequence of the decision of the commissioner allowing the request for compounding the offence?

Answer

Since taxable person has fraudulently obtained refund of amount exceeding ₹ 2 crores but upto ₹ 5 crores:

the **minimum limit for compounding** amount **is 40% of tax** involved

the **upper limit for compounding** amount **is 60% of tax** involved

In the present case, the minimum limit for compounding is **₹ 1.68 crores**. (40% x ₹ 4.2 crores).

The maximum limit for compounding in this case is **₹ 2.52 crores** (60% x ₹ 4.2 crores).

Thus, the **amount fixed by Commissioner at ₹ 2.5 crores is within the limits** prescribed under law.

If the taxable person **pays the compounding amount** decided by the Commissioner, **no further proceedings** shall be initiated under GST law against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Question 22

GST Department initiated prosecution proceedings against Mr. Sahil, a taxable person under GST. Mr. Sahil collected ₹ 8 crore as GST but failed to pay the same to the Government beyond the period of three months from the date on which such payment became due.

He approached the Commissioner on 15.10.20XX with a request for compounding of offence. Mr. Sahil

made full and true disclosure of facts relating to the case. After considering the request, the Commissioner directed him to pay an amount of ₹ 5.2 crore as compounding amount on 20.10.20XX.

As per the provisions of section 138 of the CGST Act, 2017 read with relevant rule of the CGST Rules, 2017, examine the issue and provide the answers with supporting explanatory note to the following:

(1) Determine the minimum and maximum compounding amount which can be determined by the Commissioner.

(2) Is the amount determined by the Commissioner in this case within the limits prescribed under the GST law?

(3) In what time period will Mr. Sahil have to pay the compounding amount ordered by the Commissioner?

Answer

(1) Since Mr. Sahil has collected amount exceeding ₹ 5 crores as tax but failed to pay the same to the Government beyond a period of 3 months from the date on which such payment became due:

(i) **minimum amount** for compounding **is 50%** of tax evaded, i.e., **₹ 4 crore** (50% of ₹ 8 crore).

(ii) **maximum amount** for compounding **is 75%** of tax evaded i.e., **₹ 6 crore** (75% of ₹ 8 crore).

(2) **Yes,** the amount for compounding **determined by the Commissioner i.e. ₹ 5.2 crore is within the above limits** prescribed under the GST law.

(3) **Mr. Sahil has to pay** the compounding amount ordered by the Commissioner **within 30 days** from the date of the receipt of the order.

Ethical Aspects under GST

Question 23

M/s L and Co., a partnership firm with two partners – Mr. X and Mr. Y, is registered under GST in Kolkata, West Bengal. It is engaged in supplying the materials used for construction related activity. Mr. X and Mr. Y are friends and each of them also have their own separate sole proprietorship firms engaged in supplying construction material; these firms are registered under GST. Mr. A (Mr. A is not a Chartered Accountant) is the tax consultant of the firm - M/s L and Co.

Mr. X gets an offer from a customer - M/s W Pvt. Ltd., (hereinafter referred to as WPL) - to issue some supply related bills to meet the budget allocated to WPL by their management in relation to civil works. Mr. X shall earn a commission of 20% of the value of supply charged in the supply bills accepted by WPL. Mr. X agrees to share 50% of his earnings with Mr. Y for undertaking the above project. M/s L and Co. needs a bank loan for expanding its business operations and the supply bills issued to WPL will inflate the turnover of M/s L and Co. Mr. X and Mr. Y sought advice from their tax consultant Mr. A as to how to execute the above project for the supply bills to be issued to WPL. Based on the guidance provided by Mr. A, it is executed as follows:

- M/s L and Co. shall issue supply related bills for steel, jelly stone and cement for ₹ 280 lakh to Mr. X wherein the delivery site shall be of WPL (Bill to Ship to Model).
- Mr. X shall avail and utilise the input tax credit (ITC) on the bill of ₹ 280 lakh and shall separately enter into a contract with WPL for supply of steel, jelly stone and cement (to be used for construction of foundation of Plant and Machinery) for ₹ 280 lakh. Further, Mr. X, in his individual capacity, shall issue labour work related bills for ₹ 40 lakh for the assembly and erection work relating to construction of foundation of Plant and Machinery undertaken at the site of WPL, without actually providing any service. WPL will avail and utilise the ITC on the bills of ₹ 280 lakh and ₹ 40 lakh used for underlying supply of goods.
- All inventory registers are updated duly by M/s L and Co. without any actual movement/supply of the material and some e-way bills are also generated on behalf of Mr. X for the supplies made to the work site of WPL.

Mr. A assures Mr. X and Mr. Y that:

- Inventory registers are up to date for material movement.
- Compliances pertaining to e-way bill have been taken care of.
- Money shall be duly realised as per the bills issued.

Mr. X approached his friend - Mr. P, a practicing Chartered Accountant, for seeking his help in above arrangement. Examine the GST and Ethical implications that may arise in above arrangements.

Answer

GST and Ethical implications

1. **Issue of invoice by M/s L and Co. to Mr. X**

   Since there has only been an **issuance of tax invoice by** the registered person - **M/s L and Co.** - to registered person 'Mr. X' **without the underlying supply** of steel, jelly stone and cement, therefore, such an activity **does not satisfy the criteria of "supply"**, as defined under section 7. As there is no supply by M/s L and Co. to Mr. X in respect of such tax invoice in terms of the

provisions of section 7, **no tax liability arises** against M/s L and Co. for the said transaction, and accordingly, **no demand and recovery is required** to be made against M/s L and Co. **under the provisions of section 74** in respect of the same. The registered person - **M/s L and Co.** - shall, however, **be liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods.** This offence may also be **punishable with imprisonment** and fine u/s 132(1) **depending on the amount of default** involved and subject to specified conditions.

2. **Issue of invoice by Mr. X to WPL**

The registered person - **Mr. X has availed and utilized fraudulent ITC** based on the tax invoice issued in contravention of the provisions of section 16(2)(b), **without receiving the supply** of steel, jelly stone and cement. **Further, there was no supply** of steel, jelly stone and cement and labour work related services **by Mr. X to WPL**. Thus, in respect of the said transactions, **no tax was required to be paid**. In these specific cases, **no demand and recovery** of either ITC wrongly/ fraudulently availed by Mr. X in such case or tax liability in respect of the said outward transaction by Mr. X to WPL is required to be made from Mr. X **under the provisions of section 74**. However, in such cases, **Mr. X shall be liable for penal action** both under section 122(1)(ii) and section 122(1)(vii), **for issuing invoices without any actual supply** of goods and/or services as **also for taking/ utilizing input tax credit without actual receipt** of goods and/or services. This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

WPL will be liable for the demand and recovery of the ITC availed and utilised by it, along with penal action under section 74 along with applicable interest under provisions of section 50, **for taking/ utilizing ITC without actual receipt** of steel, jelly stone and cement and without receiving the assembly and erection services, used for underlying supply of goods. This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

3. **GST implications on Mr. A**

Mr. A who advised for designing the above business practice shall also be **liable to a penalty in terms of provisions of 122(3)** since in given case, he has **aided or abetted the offences** specified above. This offence is **also punishable with imprisonment** subject to specified conditions.

Mr. P apprised Mr. X that **if any Chartered Accountant advises Mr. X on above arrangement,** then **he will also be punishable** with penalty in terms of the provisions of 122(3) for aiding/abetting the offences specified above and may also be punishable with imprisonment subject to specified conditions. Further, **he may also be held guilty of professional misconduct.**

Question 24

Doodle LLC is an entity registered in Germany and is engaged in providing online services across multiple countries including India. The service offerings include certain services which are covered within the purview of online information and database access or retrieval services i.e. OIDAR services liable to GST in India. Since Doodle LLC does not have any place of business in India, it appointed one of its employee - Mr. X (Mr. X is not a Chartered Accountant) as its authorized representative for all the purposes in India which includes undertaking GST compliances and also as an authorized signatory for any other regulatory compliances in India. Mr. X is a partner in XYZ & Associates LLP. Post appointment of Mr. X, following chain of events unfolded:

1. Mr. X, being an authorized representative of Doodle LLC, made an application for registration as an OIDAR service provider in India and undertook other GST compliances. Subsequently, Mr. X started filing the monthly GST returns and made payment of applicable GST in India on behalf of Doodle LLC. In lieu of such services, Mr. X was being remunerated a fixed sum on monthly basis as professional fee. The appointment of Mr. X was in his personal capacity and not a professional service contract with his partnership firm - XYZ & Associates LLP. However, for recovery of amount of fixed monthly remuneration from Doodle LLC, the invoices as 'export of services' were issued by Mr. X in the name of his partnership firm. The corresponding refund benefit was claimed by the partnership firm of Mr. X for input tax credit against such export of service invoices.
2. Doodle LLC appointed influencers in India to promote its services in India. The tax invoices of such influencers were received by Mr. X in name of XYZ & Associates LLP and input tax credit was availed by the partnership firm for such services. Said ITC was utilised for further supply of services. However, the actual service recipient in such case was Doodle LLC.
3. Subsequently, Doodle LLC was required to submit certain affidavits and accounting records before the office of the Enforcement Directorate. Being an authorized representative/ signatory of Doodle LLC, Mr. X approached Mr. P, a practicing Chartered Accountant, to prepare the affidavits and accounting records which included critical financial information and data of Doodle LLC. He elaborated the entire arrangement among Doodle LLC, Mr. X and XYZ & Associates LLP to Mr. P. He further requested Mr. P to certify and attest such records, which would be prepared and compiled by Mr. P in capacity of a practicing Chartered Accountant for submission before Enforcement Directorate.

Examine the GST and Ethical implications that may arise in above arrangements.

Answer

1. **Incorrect issuance of invoice for export of services and claim of refund of input tax credit on the basis of such export of service related invoices**

   Mr. X was appointed as authorized representative and signatory of Doodle LLC in his personal capacity to undertake the compliances enumerated under the GST law in India. However, the consideration for such services was received at the behest of **invoices issued in the name of his partnership firm**. Further, such invoices were **issued as 'export of service' invoices** and corresponding **refund** of input tax credit was **claimed by the firm of Mr. X**. This act of Mr. X along with his firm is punishable as follows:

   - Since **Mr. X supplied services to Doodle LLC without any invoice**, he shall also be **liable for the demand and recovery** of tax on said supply, along with **penal action under section 74**. Even if the contention is made that invoice was issued for such services by the firm of Mr. X, the same shall be treated as an incorrect invoice or false invoice as both, **Mr. X and XYZ & Associates LLP are separate persons** as per GST Law.
   - Since both, Mr. X and XYZ & Associates LLP are different persons, **the invoice issued by the firm shall be construed as issuance of invoice without supply of services** viz. an offence punishable under section 122(1)(ii).
   - **Incorrect refund was claimed by XYZ & Associates LLP** for input tax credit on the basis of incorrect invoice for export of services to Doodle LLC. This is an offence under section 122(1)(viii).

- **All the above offences** may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

2. **Availment of input tax credit without actual receipt of services**

XYZ & Associates LLP received invoices from the influencers who were actually providing services to Doodle LLC. Further, the input tax credit related to such invoices was availed by XYZ & Associates LLP in contravention of the provisions of section 16. Accordingly, **the input tax credit availed and utilised by XYZ & Associates LLP for further supply of services is incorrect**. Thus, XYZ & Associates LLP will be **liable for the demand and recovery** of the said ITC, along with penal action **under section 74** alongwith interest under section 50 as the actual service recipient was Doodle LLC and not XYZ & Associates LLP.

This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default involved** and subject to specified conditions.

3. **GST implications on Mr. X**

Mr. X was fully involved in wrongdoings in terms of the business transactions of Doodle LLC in India. Further, he was the authorized representative and signatory of Doodle LLC in India. **Mr. X is liable to penalty under section 122(1A) and section 122(3)** since he is involved in aiding and abetting the offences committed hereunder at his instance and has also derived monetary benefits from such practices. This offence may **also be punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

If a **Chartered Accountant** takes **up the assignment offered by Mr. X and also attests/certifies** the Doodle LLC's accounting records that would be prepared by him, for submission before the Enforcement Directorate in India, **he may be held guilty of professional misconduct.**

Question 25

ABC & Associates LLP (ABC), a firm of Chartered Accountants, was empanelled with the Commissioner of GST for appointment as Special Auditor under section 66. X Ltd., a registered person under GST, was selected by the Office of the Commissioner for special audit under section 66 for a financial year on account of irregularities noticed during scrutiny of returns. ABC was nominated by the Office of the Commissioner for special audit of X Ltd. Assume that the following events unfolded in relation to the appointment and audit procedure:

1. The appointment of special auditor was based on the undertaking furnished by the firm that the partners of the firm or any of their relatives are not directly or indirectly related to the auditee. However, while submitting the declaration in relation to such appointment, if ABC fails to disclose the fact that spouse of one of the partners of ABC is working under full time employment as a Head of Tax Department of the auditee i.e. X Ltd., what will be its implications?
2. Material discrepancies in the valuation of stock transfer to related parties by the auditee were noticed by ABC. If ABC fails to disclose these material discrepancies in the audit report submitted to the Office of Commissioner, what will be its implications?
3. The input tax credit claim by X Ltd. i.e. the auditee, under Form GST ITC- 01, was certified by one of the associate firms of ABC in favour of X Ltd. Such certificate was based on incorrect facts and against the eligibility criteria for input tax credit as per section 18. However, if ABC fails to exercise the due diligence and the certificate is taken on record by ABC as an audit procedure and is relied

upon at the time of finalization of audit report and submission of findings, what will be its implications?

4. ABC receives a consideration of ₹ 5 lakh from X Ltd. in the name of special audit conducted, what will be its implications?

Answer

Following implications may arise in the above cases:

1. **False undertaking submitted before the Office of Commissioner GST and the audit engagement undertaken on the basis of such undertaking**

   The **essential terms of the appointment** as special auditor included that the **partners or any of the relatives of the partners are not directly or indirectly linked to X Ltd.** i.e. the auditee. If the spouse of one of the partners of ABC is working as Head of Tax Department of the auditee. **Non-disclosure of said fact** in the undertaking and other engagement documents and accepting such engagement **tantamount to submission of false undertaking by a Chartered Accountant firm to the Government Authorities.** Further, **a question may be raised about the independence** of the audit team considering the fact that spouse of one of the partners of the firm is holding a key position in X Ltd. i.e. the auditee.

2. **Non-reporting of material discrepancies noticed during the audit procedure and reliance upon incorrect certificates and information**

   ABC audit team did not exercise due diligence to ascertain that the input tax credit availed by X Ltd. is not in compliance with the GST provisions. Instead, ABC **relied on the certificate issued by its own associate** firm which justified the incorrect input tax credit claim by X Ltd. **In such a scenario both ABC and the associate firm**, which issued the certificate to justify the input tax credit claim, **were aiding and abetting X Ltd. in wrongful availment of credit**, which is an offence punishable with **penalty under 122(3)**. This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default involved** and subject to specified conditions. Further, ABC as well as its associate firm may be held guilty of professional misconduct.

3. **Receiving consideration for special audit from the auditee**

   The **consideration for special audit** under section 66 is **payable by the Office of Commissioner and cannot be directly recovered from the auditee.** In the present case the **receipt of ₹ 5 lakh from the X Ltd.**, i.e. the auditee by ABC is an **offence under GST provisions**. The same is **liable to penalty under general penalty under section 125** apart from other penal provisions under the GST Law. Further, this will also have an impact on the independence of the auditor – ABC.

Question 26

A Ltd. is engaged in the business of manufacturing cotton yarn, wherein cotton is the principal raw material in the manufacturing process. The price of cotton varies depending upon the market conditions and is dependent on various external factors. Mr. X (Mr. X is not a Chartered Accountant) is tax consultant of A Ltd. Mr. X advises A Ltd. on GST compliances.

In order to meet expansion related expenditure, A Ltd. sought a term loan and working capital loan from banks. As per the bank, the turnover and profitability criteria of A Ltd. were not meeting the benchmarks

of bank for sanction of any loan facility. Accordingly, following actions were undertaken by Mr. X being the tax consultant of A Ltd.:

1. A separate entity i.e. B Ltd. was incorporated and the Directors of A Ltd. were appointed as Directors in B Ltd. This ensured that the control of B Ltd. remains with the Directors of A Ltd. Further, B Ltd. obtained GST registration as a manufacturer of yarn wherein Mr. X assisted B Ltd. in obtaining such GST registration. Mr. X obtained registration providing fake documents for registration.
2. Subsequently, A Ltd. started issuing tax invoices for supply of yarn to B Ltd. However, there was no actual movement of goods by A Ltd. to B Ltd. The tax invoices were issued and the same were reported in the GST returns by A Ltd. Further, B Ltd. availed the input tax credit of all such tax invoices reported by A Ltd. The finished goods related to such tax invoices were sold in the local market by A Ltd. in cash without charging any GST and without issuance of tax invoice.
3. B Ltd. issued tax invoices for provision of certain services to A Ltd. in form of testing of cotton, repairs and maintenance of machinery installed at A Ltd. apart from other services. However, no such services were actually provided by B Ltd. to A Ltd. The input tax credit appearing in the books of B Ltd. (which was availed on the basis of fake yarn invoices) was utilized by B Ltd. at the time of discharging GST liability in relation to the alleged tax invoices issued against provision of services to A Ltd.
4. Further, B Ltd. issued tax invoices for sale of yarn (allegedly purchased from A Ltd.) to other group entities to ensure that the stock of yarn becomes zero in the books of accounts at the year end. The tax invoices were issued at a rate lowered by 90% of the actual tax invoice received from A Ltd. contending that the quality of yarn had deteriorated during the storage.
5. Mr. X was aware of the aforesaid actions of A Ltd. and B Ltd. Further, the GST returns were filed by Mr. X for both the companies.
6. A Ltd. approached Mr. P, a practicing Chartered Accountant to issue relevant certificates to the bank certifying the turnover of A Ltd. and B Ltd. as genuine turnover to ensure that the required loan amount is sanctioned to A Ltd. A Ltd. elaborated the entire arrangement made by it with regard to B Ltd.

Examine the GST and Ethical implications that may arise in above arrangements.

Answer

1. <u>GST registration of B Ltd. sought on the basis of fake documents</u>

As per section 122(1)(xii), **furnishing of false information with regard to registration** particulars is an **offence liable to penalty** under GST Law. Thus, B Ltd is **liable to penalty** under section 122(1)(xii).

2. <u>Issuance of tax invoice without actual supply of goods or services</u>

Following instances happened wherein there was **no actual supply of goods or services**, however, tax invoice was issued:

- Fake issuance of **tax invoice for supply** of yarn by **A Ltd. to B Ltd.** (Para 2)
- Fake issuance of **tax invoice for supply of services** by **B Ltd. to A Ltd.** (Para 3)
- Fake issuance of **tax invoice for supply of goods** by **B Ltd to group entities** (Para 4)

The aforesaid actions are **liable for penal action** under section 122(1)(ii) **for issuing tax invoices**

without actual supply of goods and services. This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default involved** and subject to specified conditions.

3. <u>Fraudulent input tax credit availment</u>

B Ltd. availed fraudulent input tax credit of the goods (yarn) which were **not at all received by B Ltd. and the same was used in discharge of the tax liability** related to invoices issued without any underlying supply of goods or services.

B Ltd. has availed and utilized fraudulent ITC on the basis of the said tax invoice, in contravention of the provisions of section 16(2)(b), without receiving the supply of goods and accordingly. In this case, there was no supply of by B Ltd. to A Ltd. in respect of the **said transaction and also no tax was required to be paid** in respect of the said transaction. Therefore, in these specific cases, **no demand and recovery of either input tax credit** wrongly/ fraudulently availed by B Ltd. in such case or tax liability in respect of the said outward transaction by B Ltd. to A Ltd. **is required to be made from B Ltd. under the provisions of section 74**. However, in such cases, **B Ltd. shall be liable for penal action** both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also **for taking/ utilizing input tax credit without actual receipt** of goods and/or services.

This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

4. <u>Incorrect information in GST returns and falsification of books of accounts</u>

The GST returns filed by A Ltd. and B Ltd. were not backed by correct information in terms of supply of goods and services. Knowing that there was no supply of goods or services and input tax credit is not available, the returns were filed by both the companies. **The books of accounts and financial records were also falsified** in terms of information related to sales and inventory. **This act** of furnishing incorrect information in GST return and falsifying financial records is an offence under section 122(1)(x). This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

5. <u>GST implications on Mr. X</u>

Mr. X, being a consultant of A Ltd., **had adequate knowledge of the fraud and wilful misrepresentation** of the facts in terms of maintaining the financial records and submission of information in GST returns. In fact, Mr. X himself was filing the GST returns and **was aware of the fake invoices and ineligible input tax credit** availment by the companies. **Mr. X shall be liable to a penalty** in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

If a **Chartered Accountant undertakes the assignment of issuing relevant certificates** to the bank thereby certifying the turnover of A Ltd. and B Ltd., he **may be held guilty of professional misconduct.** Further, he shall also be **liable to a penalty** in terms of the provisions of 122(3). This offence may also be **punishable with imprisonment** and fine under section 132(1) **depending on the amount of default** involved and subject to specified conditions.

CHAPTER - 20
Appeals and Revision

Appellate Authority

Question 1

Describe the provisions relating to Departmental appeal to Appellate Authority under section 107.

Answer

Section 107(2) provides that Department can file "review application/appeal" with Appellate Authority.

The Commissioner may, on his own motion, or upon request from the SGST/UTGST Commissioner, examine the record of any proceedings in which an adjudicating authority has passed any decision/order to satisfy himself as to the legality or propriety of the said decision/order. The **Commissioner may**, by order, **direct any officer** subordinate to him to **apply to the Appellate Authority within 6 months from the date of communication of the said decision/order** for the determination of such points arising out of the said decision/order as may be specified him.

The **AA can condone the delay in filing** of appeal **by 1 month** if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

Such application shall be dealt with by the AA as if it were an appeal made against the decision/order of the adjudicating authority [Section 107(3)]. There is **no requirement of making a pre-deposit in case of departmental appeal.**

Question 2

Briefly examine whether the appeal/review application filed in the following independent cases is within the time limit prescribed under the GST law:

(i) The adjudicating authority issued the adjudication order on 23rd April and the same is communicated to the taxpayer "Mr. X" on 28th April. Mr. X, aggrieved by the order of the adjudicating authority filed an appeal to the Appellate Authority on 26th July.

(ii) The adjudicating authority passed the order on 3rd March (communicated same day to the Commissioner). The Commissioner directs his subordinate officer to file a review application with the Appellate Authority. The subordinate officer filed the review application on 23rd September.

Answer

(i) A person **aggrieved by any decision/order of an adjudicating authority can file an appeal to the Appellate Authority within 3 months from the date of communication of such decision**/order. The Appellate Authority can **condone the delay** in filing of appeal **by 1 month** if it is satisfied that there was a sufficient cause for such delay [Section 107 of the CGST Act, 2017].

In view of the aforesaid provisions, in the given case, the relevant date for computing the period of 3 months (for filing the appeal to Appellate Authority) is 28th April (date of communication of order) and not 23rd April. Accordingly, an appeal can be filed by Mr. X to Appellate Authority within 3 months from the date of communication of order (28th April), i.e. 28th July.

Thus, Mr. X has filed the appeal within the time limit prescribed under the GST law.

(ii) The **Commissioner may**, by order, **direct any officer subordinate to him to apply to the Appellate Authority within 6 months** from the date of communication of the decision/order for the determination of such points arising out of the said decision/order as may be specified by him.

The Appellate Authority **can condone the delay** in filing of appeal **by 1 month** if it is satisfied that there was sufficient cause for such delay [Section 107 of the CGST Act, 2017].

In the present case, the Commissioner directs his subordinate officer to file a review application with the Appellate Authority. The subordinate officer should have filed the said application till 3rd September (i.e. within 6 months from the date of communication of order). However, the subordinate officer filed the application on 23rd September, i.e. after the expiry of period of 6 months from the date of communication of order. Thus, in the given case, appeal has not been filed within the time limit prescribed under the GST law.

However, Appellate Authority can condone delay in filing of appeal upto 3rd October (up to 1 month) if it is satisfied that there was sufficient cause for such delay.

Question 3

XY Company received an adjudication order passed by the Assistant Commissioner of Central Tax on 1st November under section 73 wherein it was decided as follows:

CGST + SGST due	₹ 6,00,000
Interest	@ 18% p.a. for number of delayed days
Penalty	₹ 60,000

The taxpayer filed an appeal before the Appellate Authority on 26th November.

Determine the amount of pre-deposit to be made by the company for filing the appeal.

Whether your answer would be different if the taxpayer appeals only against part of the demanded amount say ₹ 4,00,000 and admits the balance liability of tax amounting to ₹ 2,00,000 and proportionate penalty arising from the said order?

Answer

Section 107(6) provides that **no appeal** shall be filed **before Appellate Authority**, unless appellant pays:

(a) **full, tax, interest, fine, fee and penalty** arising from impugned order, as is admitted by him; and

(b) **10% of remaining tax in dispute** arising from the impugned order **subject to a maximum of ₹ 25 crore**, in relation to which the appeal has been filed*.

***Equivalent amount** is required to be deposited **with respect to SGST** liability.

Thus, **in Case I**, XY Company has to **make a pre-deposit of** 10% of ₹ 6,00,000, which is **₹ 60,000** (i.e. CGST ₹ 30,000 and SGST ₹ 30,000) assuming that XY Company disagrees with the entire tax demanded.

However, **when XY Company admits the liability of only ₹ 2,00,000** (CGST + SGST) and disputes the balance tax demanded of ₹ 4,00,000, **it has to make a pre-deposit of:**

(i) **₹ 2,00,000 + ₹ 20,000** [proportionate penalty on tax admitted] + **interest @ 18% p.a.** payable on the tax admitted for the period of delay, **and**

(ii) 10% of ₹ 4,00,000 which is **₹ 40,000.**

Question 4

Pursuant to audit conducted by the tax authorities under section 65, a show cause notice was issued to Home Furnishers, Surat, a registered supplier, alleging that it had wrongly availed the input tax credit without actual receipt of goods for the month of July. In the absence of a satisfactory reply from Home Furnishers, Joint Commissioner of Central Tax passed an adjudication order dated 20th August (received by Home Furnishers on 22nd August) confirming a tax demand of ₹ 50,00,000 (i.e., CGST 25,00,000 and SGST 25,00,000) and imposing a penalty of equal amount under section 122.

Home Furnishers does not agree with the order passed by the Joint Commissioner. It decides to file an appeal with the Appellate Authority against the said adjudication order. It has approached you for seeking advice on the following issues in this regard:

(1) Can Home Furnishers file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax? If yes, till what date can the appeal be filed?

(2) Does Home Furnishers need to approach both the Central and State Appellate Authorities for exercising its right of appeal?

(3) Home Furnishers is of the view that there is no requirement of paying pre-deposit of any kind before filing an appeal with the Appellate Authority. Give your opinion on the issue.

Answer

(1) An **appeal against** a decision/order passed by any **adjudicating authority** under the CGST Act or SGST Act/UTGST Act is **appealable before the Appellate Authority** [Section 107(1)]. Thus, Home Furnishers can file an appeal to Appellate Authority against the adjudication order passed by the Joint Commissioner of Central Tax.

Further, such appeal can be filed **within 3 months from the date of communication of such decision/order** [Section 107(1)]. Thus, Home Furnishers can file appeal to Appellate Authority on or before 22nd November. Further, the **Appellate Authority can also condone the delay** in filing of appeal **by 1 month** if it is satisfied that there was sufficient cause for such delay [Section 107(4)].

(2) GST law makes provisions for **cross empowerment between CGST and SGST/UTGST officers** to ensure that a proper officer under the CGST Act is also treated as the proper officer under the SGST/UTGST Act and vice versa. Thus, a **proper officer can issue orders with respect to both, the CGST as well as the SGST/UTGST laws.**

GST law also provides that where a **proper officer under one Act** (say CGST) **has passed an order**, any **appeal/review/revision/rectification against the said order** will **lie only with the proper officers of that Act (CGST Act).** Accordingly, if any order is passed by the proper officer under a SGST Act, any appeal/review/revision/rectification against the said order will lie only with the proper officer under that SGST Act. Thus, **Home Furnishers is required to file an appeal only with the Central Tax Appellate Authority** [Section 6 of CGST Act].

(3) Home Furnishers' **view is not correct in law.** Section 107(6) provides that **no appeal shall be filed** before the Appellate Authority, **unless** the appellant has paid-

(a) **full amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him; and

(b) a **sum equal to 10% of the remaining amount of tax in dispute** arising from the impugned order **subject to a maximum of ₹ 25 crore***.

*Equivalent amount is required to be deposited with respect to SGST liability.

Since in the given case, Home Furnishers disagrees with the entire tax demanded, it has to make a pre-deposit of 10% of the amount of tax in dispute arising from the impugned order, i.e., 10% of ₹ 50,00,000 which is ₹ 5,00,000 (i.e. ₹ CGST 2,50,000 and SGST ₹ 2,50,000).

Revisional Authority

Question 5

With reference to section 108, elaborate whether a CGST/SGST authority can revise an order passed by his subordinates.

Or

Under what circumstances, the Revisional Authority (RA) cannot exercise the powers of revision under section 108 of the CGST Act, 2017. Is there any exception to the above provision?

Answer

Section 2(99) defines "Revisional Authority" as an authority appointed or authorised under the CGST Act for revision of decision or orders referred to in section 108.

Section 108 of the Act authorizes such **"revisional authority"** to **call for and examine any order passed by his subordinates and in case** he considers the **order** of the lower authority to be **erroneous** in so far as it is **prejudicial to revenue and is illegal or improper or has not taken into account certain material facts**, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, **can revise the order** after giving opportunity of being heard to the person concerned. The **"revisional authority" can also stay the operation of any order passed** by his subordinates pending such revision.

The "revisional authority" **shall not revise** any order if:

(a) the **order has been subject to an appeal** before Appellate Authority (AA) or Tribunal or High Court or Supreme Court.

(b) the **period of 6 months** (from the date of communication of order) has **not yet expired or more than 3 years have expired** after the passing of the decision or order sought to be revised.

(c) the order has **already been taken up for revision** under this section at any earlier stage.

(d) the **order** sought to be revised is itself **is a revisional order.**

The RA may still **pass an order on any point which has not been raised and decided in an appeal** before AA/Tribunal/High Court/Supreme Court, before expiry of a period of 1 year from the date of the order in such appeal or before expiry of a period of 3 years from date of initial order, whichever is later.

Question 6

The original adjudicating authority confirmed a demand of GST of ₹ 42,50,000 with interest and imposed a penalty of ₹ 4,25,000 in its order dated 1st March, 20XX. The assessee filed an appeal before appellate authority challenging the demand as well as penalty. The internal audit party, after an audit of the records of the assessee, submitted a note to the Commissioner that actual amount demanded should have been ₹ 48,50,000. While the issue was pending before the appellate authority, based on the note, the

Commissioner stayed the order of the original authority and issued a show cause notice on 15th September, 20XX, proposing revision of the order of the original authority and revise the demand on the basis of the audit note. Examine the correctness of the action taken by the Commissioner in accordance with the provisions of GST law.

Answer

As per section 108 of CGST Act, 2017, **Revisional Authority cannot revise an order** if, such order has been **subject to an appeal before Appellate Authority or Tribunal or High Court or Supreme Court.**

The Revisional Authority may, **however, pass an order on any point which has not been raised and decided in an appeal before** Appellate Authority/Tribunal/High Court/Supreme Court.

In the given case, Commissioner wants to revise the order on the point which is subject matter in appeal. Therefore, the **Commissioner cannot exercise the power of revision in respect of such order.**

Question 7

Mr. Mahendran is aggrieved by the order of the Revisional Authority (RA) and wants to make an appeal to the First Appellate Authority. While commenting on the decision of Mr. Mahendran, you are also required to state the powers of the Revisional Authority to revise the orders passed by the subordinate officers under section 108 of the CGST Act, 2017.

What is the time period for the Revisional Authority to exercise the power of revision?

Answer

The decision of Mr. Mahendran of making an appeal to the First Appellate Authority against the order of **the RA is not valid in law.** Any person **aggrieved by an order passed against him by RA** under CGST Act may **appeal to the Appellate Tribunal**, the second level of appeal

The powers of the **RA to revise the orders** passed by the subordinate officers under section 108 of the CGST Act, 2017 are **as under:**

(i) The RA may, **on his own motion, or upon information received** by him or on request from the SGST/ UTGST Commissioner, **call for and examine the record** of any proceedings.

(ii) On examination of the case records, if RA is of the view that the decision/order passed by any officer subordinate to him is **erroneous and illegal/improper or has not taken into account material facts, he may stay the operation of such order** for such period as he deems fit.

(iii) The RA, after **giving the person concerned an opportunity of being heard and after making** necessary further **inquiry, pass such order**, as he thinks just and proper, **including enhancing or modifying or annulling the said order.**

The RA **can revise an order after expiry of** a period of **6 months** from date of communication of the said order **but not later than expiry of** a period of **3 years** from the passing of the said decision/order.

In case of an order subject to an appeal before Appellate Authority (AA)/Tribunal/High Court/Supreme Court, the RA **can pass an order on any point which has not been raised and decided in the appeal, before** the **expiry of** a period of **1 year from the date of the order in such appeal or before** the **expiry of** a period of **3 years from the date of initial order, whichever is later.**

Appellate Tribunal (GSTAT)

Question 8

The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement.

Answer

The statement is **partially correct.**

Though the Appellate Tribunal does have the **power to refuse to admit an appeal, it cannot refuse to admit ANY appeal. It can refuse to** admit an appeal where –

- the **tax or input tax credit** involved or
- the **difference in tax** or the difference in input tax credit involved or
- the amount of **fine, fees or penalty** determined by such order, **does not exceed ₹ 50,000.**

Question 9

With reference to sections 107(6) and 112(8), specify the amount of mandatory pre-deposit which should be made along with every appeal made before the Appellate Authority and the Appellate Tribunal. Does making the pre-deposit have any impact on recovery proceedings?

Answer

Section 107(6) provides that **no appeal shall be filed before the Appellate Authority, unless** the appellant has paid:

(a) **full amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is **admitted by him; and**

(b) a **sum equal to 10% of the remaining amount of tax** in dispute arising from the impugned order, **subject to a maximum of ₹ 25 crore.**

Provided that **no appeal** shall be filed to (AA) **against an order under section 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.**

Section 112(8) lays down that **no appeal** can be filed **before the Appellate Tribunal, unless** the appellant **deposits**

(a) **full amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him; and

(b) **20% of the remaining amount** of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, **subject to a maximum of ₹ 50 crore,** in relation to which appeal has been filed.

The **above limits are applicable for the pre-deposits** to be made **under the CGST Act. Equal amount of pre-deposit is payable** under the respective **SGST Act as well.**

Where the appellant has made the pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

Question 10

In an order dated 20th August issued to GH (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of ₹ 280 crore. The company is disputing the entire demand of IGST and wants to know the amount of pre-deposit it has to make under the IGST Act for filing an appeal before the Appellate Authority against the order of the Joint Commissioner.

Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, determine the amount of pre-deposit to be made by the company for filing the said appeal.

Answer

Section 107(6) read with section 20 of the IGST Act provides that **no appeal shall be filed** with the Appellate Authority **unless** the applicant has **paid in full, such part of the amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him **and a sum equal to 10% of the remaining amount of tax** in dispute arising from the said order **subject to a maximum of ₹ 50 crore**. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 50 crore (for tax in dispute) where IGST demand is involved.

In the given case, the amount of **pre-deposit for filing an appeal** with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

(i) **₹ 28 crore** [10% of the amount of tax in dispute, viz. ₹ 280 crore] or

(ii) **₹ 50 crore, whichever is less. = ₹ 28 crore.**

Further, section 112(8) provides that **no appeal** shall be filed **with the Appellate Tribunal unless** the applicant has **paid in full,** such part of the **amount of tax, interest, fine, fee and penalty** arising from the impugned order, as is admitted by him **and a sum equal to 20% of the remaining amount of tax in dispute,** in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 100 crores.

Thus, in the given case, the **amount of pre-deposit** for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

(i) **₹ 56 crores** [20% of the amount of tax in dispute, viz. 280 crores] or

(ii) **₹ 100 crores, whichever is less = ₹ 56 crores.**

Question 11

In an order passed dated 1st April 20XX issued to Sita Ram Pvt. Ltd., the Commissioner of Central Tax, being Revisionary Authority has confirmed IGST demand of ₹ 1400 crore, penalty of ₹ 200 crore and interest of ₹ 20 crore.

Sita Ram Pvt. Ltd. admits the tax liability, penalty and interest to the extent of ₹ 200 crore, ₹ 20 crore and ₹ 10 crore respectively but wishes to litigate the balance amount of demand and thus, Sita Ram Pvt. Ltd. deposits the required amount of pre-deposit on 12th April 20XX and files an appeal with the GSTAT.

GSTAT decides the appeal in favour of Sita Ram Pvt. Ltd. on 12th June 20XX. Sita Ram Pvt. Ltd. submits an application seeking refund of the pre-deposit along with applicable interest on 2nd July 20XX and the department acknowledges the application on the same day. The amount of pre-deposit is refunded to Sita Ram Pvt. Ltd. on 15th October 20XX.

With reference to provisions of the GST law, compute the amount of pre- deposit required to be deposited before filing an appeal to GSTAT and interest payable by the Department on refund of such pre-deposit, if any, along with necessary explanations.

Answer

The amount of pre-deposit to be made by Sita Ram Pvt. Ltd. for filing the appeal to the GSTAT is as under:

(i) **full amount of tax, interest and penalty** as admitted by it, i.e. **₹ 230 (200+20+10) crores** and

(ii) **20% of the remaining tax in dispute,** i.e. ₹ 240 crore (20% of ₹ 1,200 crore) subject to a **maximum of ₹ 100 crores** (in case of IGST).

= ₹ 330 crores

If the pre-deposit made by the appellant before the Tribunal is required to be refunded consequent to any order of the Tribunal, **interest @ 9% p.a. shall be payable from the date of payment of the amount till the date of refund of such amount.**

Period of delay counted from 12th April 20XX is **187 days**.

Interest (rounded off) = ₹ 100 crore × 9% × 187/365 = **₹ 4,61,09,589**

Additional Evidence

Question 12

Rule 112 of the CGST Rules lays down that the appellant shall not be allowed to produce before the Appellate authority (AA) or the Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the AA.

What are the exceptional circumstances specified in the rule where the production of additional evidence will be allowed? Can AA or Tribunal direct production of any document or examination of any witness?

Answer

Exceptional circumstances specified in rule 112 of the CGST Rules, 2017 where the **production of additional evidence will be allowed are as follows:**

(a) where the adjudicating authority/appellate authority (AA) has **refused to admit evidence** which **ought to have been admitted**.

(b) where the appellant was **prevented by sufficient cause from producing the evidence** which he was called upon to produce by the adjudicating authority/AA.

(c) where the appellant was **prevented by sufficient cause from producing** before the adjudicating authority/AA any evidence **which is relevant to any ground** of appeal; or

(d) where adjudicating authority/AA has made the **order appealed against without giving sufficient opportunity to the appellant to adduce evidence** relevant to any ground of appeal.

Yes, the AA or the Tribunal can direct the production of any document or examination of any witness to enable it to dispose of the appeal.

High Court and Supreme Court

Question 13

Mr. A had filed an appeal before the Appellate Tribunal against an order of the Appellate Authority where the issue involved relates to place of supply. The order of Appellate Tribunal is also in favour of the Department. Mr. A now wants to file an appeal against the decision of the Appellate Authority as he feels the stand taken by him is correct.

You are required to advise him suitably with regard to filing of an appeal before the appellate forum higher than the Appellate Tribunal.

Answer

As per section 117(1), an **appeal against orders passed by the State Bench of the Tribunal** would **lie to the High Court** if the High Court is satisfied that such an appeal involves a substantial question of law.

However, appeal against orders passed by the **Principal Bench of the Tribunal** would **lie to the Supreme Court and not High Court.** As per section 109(5) of the Act, only the Principal Bench of the Tribunal can decide appeals where one of the issues involved relates to the place of supply.

Since the issue involved in Mr. A's case relates to place of supply, the appeal in his case would have been **decided by the Principal Bench** of the Tribunal. Thus, **Mr. A will have to file an appeal with the Supreme Court and not with the High Court.**

Question 14

On scrutiny of returns filed by Chandan & Co., the Department found some discrepancy in ITC claimed by the company and consequently a Departmental audit was conducted under section 65 of the CGST Act. On conclusion of the audit in February, the Department issued a Show Cause Notice (SCN) alleging that the company had wrongly and deliberately claimed ITC in the returns without actual receipt of goods for the month of January. The Joint Commissioner of Central Tax, not being satisfied by the reply given by the company to the SCN, passed a written order on 28th April which was received by the company on 1st May. The order confirmed the tax demand of ₹ 30,00,000 (i.e., CGST ₹ 15,00,000 and SGST ₹ 15,00,000) and imposed a penalty of equal amount under section 74.

Aggrieved by the order, Chandan & Co. decides to contest the order of adjudication in its entirety. It seeks advice on the following issues -

(i) To whom should it make an appeal? Can it directly approach the High Court?

(ii) What is the time limit for filing the appeal in the given case?

(iii) Is there any requirement of pre-deposit of any amount and if so, what would be the amount?

Provide your legal and reasoned advice to Chandan & Co.

Answer

(i) An **appeal against the order passed by Joint Commissioner lies before** the **Appellate Authority - Commissioner (Appeals).**

Chandan & Co. **cannot directly approach the High Court**. It needs to first file an appeal to Appellate Authority and then to Appellate Tribunal. **However, a written petition can be filed directly before the High Court** for relief.

(ii) The **time-limit for filing an appeal** in the given case **is 3 months from the date of communication of the order** appealed against, i.e., 3 months from 1st May. Hence, the appeal must be filed on or before 1st August.

(iii) **No appeal can be filed** before the Appellate Authority **unless appellant** – Chandan & Co. has **paid pre-deposit of ₹ 3,00,000**, computed as sum of the following:

(a) **Full amount of tax**, interest and penalty arising from order as admitted by him, viz. nil, and

(b) **10% of the remaining tax in dispute (₹ 30,00,000)** arising from the order, viz. **₹ 3,00,000.**

Question 15

Anirudh Ltd. is registered in Telangana and paid IGST on a transaction considering the same to be inter-State supply on the basis that the customer is situated in Delhi.

However, GST authorities have raised a dispute and have issued a show cause notice that since the services are rendered within Telangana, it is an intra-State supply leviable to CGST and SGST.

Anirudh Ltd. has lost the case before the proper officer and also in first appeal before the Departmental Appellate Authority.

Advise Anirudh Ltd. regarding the following:

(i) Can Anirudh Ltd. file an appeal against the order of the first Appellate Authority? If yes, before which forum can Anirudh Ltd. file the said appeal?

(ii) Once a valid appeal is filed by Anirudh Ltd. before the appropriate forum, can the authorities insist Anirudh Ltd. to deposit the CGST and SGST which the authorities are claiming that Anirudh Ltd. ought to have paid but has not paid.

(iii) If Anirudh Ltd. loses at the 2nd appellate stage as well, is there any other Statutory forum available for Anirudh Ltd. to file another appeal? If yes, before which forum?

(iv) Assuming Anirudh Ltd. loses at all levels, would there be any interest liability on Anirudh Ltd.?

Answer

(i) **Yes, Anirudh Ltd. can file an appeal** against the order of the first Appellate Authority **to the Appellate Tribunal. Principal Bench of the Tribunal will have jurisdiction** to hear the appeal **as place of supply is one of the issues** in dispute.

(ii) **No, Authority can't insist**, because once a valid appeal is filed i.e., **on payment of requisite pre-deposit, the recovery proceedings for the balance amount of the demand in dispute gets stayed** till the disposal of appeal.

(iii) Yes, Anirudh Ltd. **can file another appeal against the decision** of the Principal Bench of the Tribunal, **directly before the Supreme Court.**

(iv) **No, there will be no interest liability** on Anirudh Ltd. if it loses at all levels. A registered person who has paid IGST on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, is not required to pay any interest on the amount of CGST and SGST payable because there is no shortfall of overall tax amount.

Monetary Limit for Appeal by Department and Non-Appealable Orders

Question 16

With reference to the provisions of section 120, list the cases in which appeal is not to be filed and also specify other relevant provisions in this respect.

Answer

(1) The Board may, on the recommendations of the GST Council, issue orders or instructions or directions **fixing monetary limits** for regulating filing of appeal or application by the CGST officer.

(2) Non-filing of appeal/application by a CGST officer on account of such monetary limits fixed by the Board shall **not preclude such officer from filing appeal** or application **in any other case involving the same or similar issues** or questions of law.

(3) **No person,** who is a party in application or appeal **can contend** that CGST **Officer has acquiesced in decision** on disputed issue by not filing an appeal or application (on account of monetary limits).

(4) The Appellate Tribunal or Court hearing such appeal or application shall have regard to circumstances for non-filing of appeal or application by the CGST officer on account of monetary limits fixed by the Board.

Question 17

With reference to the provisions of section 121, specify the orders against which no appeals can be filed.

Answer

As per section 121, no appeal shall lie against any decision taken or order passed by a CGST officer if such decision taken or order passed relates to any one or more of the **following matters**, namely:

(a) an order of the Commissioner or other authority empowered to **direct transfer of proceedings from one officer to another officer; or**

(b) an order pertaining to the **seizure or retention of books of account, register and other documents**; or

(c) an **order sanctioning prosecution** under the CGST Act; or

(d) an **order passed under section 80** (payment of **tax in instalments**).

Question 18

Does CGST law provide for any appeal to a person aggrieved by any order or decision passed against him by an adjudicating authority under the CGST Act? Explain the related provisions under the CGST Act and also specify the orders against which no appeal can be filed.

Answer

Yes, any person **aggrieved by any order or decision passed by an adjudicating authority** under the CGST Act has the right to **appeal to the Appellate Authority** under section 107. The **appeal should be filed within 3 months** from the date of communication of such order or decision. However, the Appellate Authority has the **power to condone the delay of up to 1 month** in filing the appeal if there is sufficient

cause for the delay. The **appeal can be filed only** when the admitted liability and **10% of the disputed tax** amount, subject to a maximum of ₹ 25 crore (₹ 50 crore in case of IGST) is paid **as pre-deposit** by the appellant.

However, no appeal shall be filed to (AA) against an order under section 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.

Further, **no appeal** can be filed **against the following orders** in terms of section 121:

(a) an order of the Commissioner or other authority empowered to **direct transfer of proceedings from one officer to another officer; or**

(b) an order pertaining to the **seizure or retention of books of account, register and other documents**; or

(c) an **order sanctioning prosecution** under the CGST Act; or

(d) an **order passed under section 80** (payment of **tax in instalments**).

CHAPTER - 21
Liability to Pay in Certain Cases

Transfer of Business

Question 1

Avataar Industries, a registered person under GST, has sold whole of its business to Rolex Manufacturers. Determine the person liable to pay GST, interest or any penalty under GST law [determined before sale, but still unpaid] due from Avataar Industries upto the time of such transfer.

Answer

Where a taxable person, liable to pay tax under this Act, **transfers his business** in whole or in part, **by sale, gift, lease, leave and license, hire** or in any other manner whatsoever, the **taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable** wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person **upto the time of such transfer,** whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

Thus, in the given case, **Avataar Industries and Rolex Manufacturers shall, jointly and severally, be liable** wholly or to the extent of such transfer, **to pay GST, interest or any penalty** [determined before sale, but still unpaid] due from Avataar Industries **upto the time of such transfer**.

Principal and Agent

Question 2

ABC Manufacturers Ltd. engages Raghav & Sons as an agent to sell goods on its behalf. Raghav & Sons sells goods to Swami Associates on behalf of ABC Manufacturers Ltd. Determine the liability to pay GST payable on such goods as per the provisions of section 86.

Answer

Where an **agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable** to pay the tax payable on such goods under this Act.

Thus, in the given case, ABC Manufacturers Ltd. and Raghav & Sons shall, jointly and severally, be liable to pay GST payable on such goods.

Company and its Directors

Question 3

Explain the provisions relating to liability for GST in case of company in liquidation (section 88).

Answer

The provisions relating to **liability for GST** in case of company **in liquidation** provided under section 88 are:

- Where any company is being wound up whether under the orders of a court or Tribunal or otherwise, every **person appointed as a liquidator/receiver of assets of a company shall give** the **intimation of his appointment to the Commissioner within 30 days of his appointment.**
- The Commissioner shall **ascertain the amount** which in the opinion of the Commissioner would be **sufficient to provide for any tax, interest or penalty** which is then, or is likely thereafter to become, payable by the company.
- He shall **communicate the details of amount to the liquidator within 3 months of the receipt of intimation of appointment of liquidator.**
- **When** any **private company is wound up and any tax, interest or penalty determined** under the CGST Act on the company for any period, whether **before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time** during the period for which the tax was due **shall, jointly and severally, be liable** for the payment of such tax, interest or penalty.

  However, **director shall not be liable if he proves to the satisfaction of the Commissioner that** the **non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty** on his part in relation to the affairs of the company.

Question 4

Mr. Ajit Basu is the director of Dharma Private Limited of Kolkata for past 5 years. He resigned from the company on 1st April of the current financial year. He receives a notice of demand on 5th July for the recovery of tax dues of Dharma Private Limited pertaining to the preceding financial year as the said dues cannot be recovered from the company owing to its poor financial condition. Mr. Ajit Basu is of the view that the tax dues of Dharma Private Limited cannot be recovered from him as he is no more a director in the company. You are required to advice him on the same taking into count the relevant provisions of the GST law.

Answer

Section 89 of the CGST Act, 2017 stipulates that notwithstanding anything contained in the Companies Act, 2013, **where any tax, interest or penalty due from a private company** in respect of any supply of goods or services or both for any period **cannot be recovered,** then, **every person who was a director** of the private company during such period **shall, jointly and severally, be liable** for the payment of such tax, interest or penalty **unless** he proves that the **non-recovery cannot be attributed to any gross neglect, misfeasance or breach** of duty on his part in relation to the affairs of the company.

Thus, in the given case, since Mr. Ajit Basu was the director of Dharma Private Limited during the preceding financial year for which the demand is raised, he shall, jointly and severally, be liable for the payment of the tax dues unless he proves that the non- recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Question 5

With reference to the provisions of CGST Act, 2017, explain the liability of directors of private company?

Answer

The provisions relating to **liability of directors of private company** are contained in section 89 of the CGST Act. It provides that notwithstanding anything contained in the Companies Act, 2013, **where any tax, interest or penalty due from a private company** in respect of any supply of goods or services or both for any period **cannot be recovered, then, every person who was a director** of the private company during such period **shall, jointly and severally, be liable** for the payment of such tax, interest or penalty **unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty** on his part in relation to the affairs of the company.

Where a **private company is converted into a public company and** the **tax, interest or penalty** in respect of any supply of goods or services or both for any period during which such company was a private company **cannot be recovered before such conversion**, then, above **provisions shall not apply to any person who was a director of such private company** in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company. **However, this exception does not apply to any personal penalty imposed on such director.**

Partnership and its Partners

Question 6

Discuss the liability of the retiring partner of a firm to pay any tax, interest or penalty, if any, leviable on the firm under CGST/lGST/SGST Act.

Answer

Where any partner retires from the firm, he or the firm, shall **intimate the date of retirement** of the said partner to the Commissioner by a notice in that behalf in writing. **Such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement** whether determined or not, on that date.

However, if no such intimation is given within 1 month from the date of retirement, the **liability** of such partner **shall continue until the date on which such intimation is received by the Commissioner** [Section 90].

Question 7

With reference to the provisions of CGST Act, 2017, explain the liability of partners of firm to pay tax?

Or

Discuss the liability of partners of firm to pay tax, interest and penalty under section 90 of the CGST Act, 2017.

Answer

Section 90 explains the liability of partners of firm to pay tax as under:

Partners of the firm jointly and severally liable to pay any tax, interest or penalty of the firm: Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the **firm and each of the partners of the firm shall, jointly and severally, be liable for such payment.**

Retiring partner liable to pay any tax, interest or penalty of the firm due up to the date of his retirement: Where **any partner retires from the firm, he or the firm, shall intimate the date of retirement** of the said partner to the Commissioner by a notice in that behalf in writing and **such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement** whether determined or not, on that date.

However, **if no such intimation is given within 1 month from the date of retirement, the liability** of such partner **shall continue until the date on which such intimation is received by Commissioner.**

Death of Proprietor

Question 8

In case of death of a person liable to pay tax, interest or penalty, who shall be liable to pay said dues? Discuss as per the provisions of section 93(1) of the CGST Act, 2017.

Or

Discuss the liability to pay tax, interest or penalty on death of a person liable to pay tax, interest or penalty as per the provisions of section 93(1).

Or

A person, liable to pay GST, interest and penalty under GST law, dies. Determine the person liable to pay the GST, interest and penalty due from such person under GST law determined after his death if the business carried on by such person is continued after his death by his legal representative. Would your answer be different if the business carried on by the person who has died, is discontinued after his death?

Answer

Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, **where a person, liable to pay** tax, interest or penalty under CGST Act, **dies**, then:

- **business is continued after his death: if a business** carried on by the person **is continued after his death by his legal representative** or any other person, **such legal representative** or other person, **shall be liable to pay** tax, interest or penalty due from such person under this Act.
- **business is discontinued after his death: if the business** carried on by the person is **discontinued**, whether before or after his death, **his legal representative shall be liable to pay, out of the estate of the deceased, to the extent** to which the estate **is capable of meeting the charge**, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been **determined before his death but** has **remained unpaid or is determined after his death.**

Other Liability

Question 9

What happens to the GST liability when the estate of a taxable person is under the control of Court of Wards?

Answer

Where the **estate of a taxable person** owning a business in respect of which any tax, interest or penalty is payable is **under the control of the Court of Wards/Administrator General/Official Trustee/Receiver or Manager appointed** under any order of a Court, the tax, interest or penalty shall be **levied and recoverable from such Court of Wards/Administrator General/Official Trustee/Receiver or Manager to the same extent** as it would be determined and recoverable from a taxable person.

Question 10

Discuss the liability to pay tax in case of an amalgamation/merger, under section 87.

Answer

Section 87 stipulates that when **two or more companies are amalgamated/merged** in pursuance of an order of court or 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/received any goods and/or services** 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 the CGST Act, 2017, 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.**

CHAPTER - 22
Advance Ruling

Basics

Question 1

What is the objective of having a mechanism of Advance Ruling?

Answer

The broad objective for setting up such an authority is to:

(i) provide **certainty in tax liability** in advance in relation to an activity being undertaken or proposed to be undertaken by the applicant;

(ii) helps taxpayer in **financial planning and making new investments**

(iii) attract **Foreign Direct Investment** (FDI);

(iv) **reduce litigation**;

(v) **pronounce ruling expeditiously in transparent and inexpensive** manner.

Question 2

Can Mr. Venkat obtain advance ruling for the issue related to place of supply? Also list all issues for which advance ruling can be sought.

Or

Which are the questions for which advance ruling can be sought?

Or

Discuss briefly provisions of CGST Act, 2017 regarding questions for which advance ruling can be sought.

Answer

Advance Ruling can be sought for the following questions:

(a) **classification** of any goods or services or both;

(b) **applicability of a notification issued** under provisions of the GST Act(s);

(c) determination of **time and value of supply** of goods or services or both;

(d) **admissibility of input tax credit** of tax paid or deemed to have been paid;

(e) **determination of the liability to pay tax** on any goods or services under the Act;

(f) **whether applicant is required to be registered** under the Act;

(g) **whether any particular thing** done by the applicant with respect to any goods or services **amounts to or results in a supply of goods or services**, within the meaning of that term.

Advance Ruling **cannot** be obtained for issue related to **place of supply**.

Applicability

Question 3

What is the time period for applicability of Advance Ruling?

Answer

The law does not provide for a fixed time period for which the ruling shall apply. Instead, in section 103(2), it is provided that advance ruling **shall be binding till the period when the law, facts or circumstances supporting the original advance ruling have changed.** Thus, a ruling shall continue to be in force so long as the transaction continues and so long as there is no change in law, facts or circumstances.

Question 4

To whom will the Advance Ruling be applicable?

Answer

The advance rulings are given in personem and not in rem, that is, not to the whole world and therefore, **rulings cannot apply to other similar cases**. Section 103 provides that an advance ruling pronounced by AAR or AAAR shall be **binding only on the applicant who sought it** in respect of any matter referred to in section 97(2) **and on the jurisdictional tax authority of the applicant**. This clearly means that an advance ruling is not applicable to similarly placed taxable persons in the State. It is **only limited to** the **person who has applied for an advance ruling.**

Question 5

Advance Ruling once issued cannot be held to be void ab-initio under any circumstances. Discuss the correctness of the statement by explaining relevant provisions.

Or

Can an advance ruling given be nullified?

Answer

The said statement is incorrect. Section 104 of the CGST Act, 2017 states the **circumstances under which the advance ruling would be considered as void** and hence would lose its binding value.

If the AAR or AAAR finds that the advance **ruling was obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts**, it may, by order, declare such ruling to be void ab-initio.

In such a situation, all the provisions of the GST Act(s) shall apply to the applicant as if such advance ruling had never been made (but excluding the period when advance ruling was given and up to the period when the order declaring it to be void is issued).

An **order declaring advance ruling to be void can be passed only after hearing the applicant.**

Procedure

Question 6

Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98.

Answer

The procedure to be followed by the Authority for Advance Ruling (AAR) on receipt of the application for advance ruling under section 98 is as under:

1. Upon receipt of an application, the **AAR shall send a copy of application to the officer** in whose jurisdiction the applicant falls and call for all relevant records.
2. The AAR may then **examine the application along with the records** and may also **hear the applicant.** Thereafter he will **pass an order either admitting or rejecting the application.**
3. Application for advance ruling will **not be admitted** in cases where the question raised in the **application is already pending or decided in any proceedings** in the case of an applicant under any of the provisions of this Act.
4. **If the application is rejected**, it should be **by way of a speaking order giving the reasons** for rejection and only after giving an opportunity of being heard to the applicant.
5. **If** the application is **admitted**, the AAR shall **pronounce its ruling on the question** specified in the application. Before giving its ruling, it shall examine the application and any further material furnished by the applicant or by the concerned departmental officer.
6. Before giving the ruling, **AAR must hear the applicant or his authorized representative** as well as the jurisdictional officers of CGST/SGST.
7. If there is a **difference of opinion between the two members of AAR,** they shall **refer the point or points on which they differ to the Appellate Authority** for hearing the issue
8. The Authority shall **pronounce its advance ruling** in writing **within 90 days from the date of receipt of application.**
9. A copy of the advance ruling duly signed by members and certified in prescribed manner shall be sent to the applicant, the concerned officer and the jurisdictional officer.

Appeal against Advance Ruling

Question 7

Briefly explain whether an appeal could be filed before the Appellate Authority against order of Authority for Advance Ruling (AAR), with reference to sections 100 and 101.

Answer

Yes, the concerned officer, jurisdictional officer or applicant aggrieved by any advance ruling **may appeal to the Appellate Authority** for Advance Ruling (AAAR) **within 30 days** [extendible by another 30 days] **from the date on which such ruling is communicated** to him in the prescribed form and manner.

The AAAR must pass an order **confirming or modifying** the ruling appealed against **within a period of 90 days of the filing of an appeal**, after hearing the parties to the appeal.

If members of AAAR differ on any point referred to in appeal, it shall be deemed that no advance ruling can be issued in respect of the question under appeal. A copy of the advance ruling pronounced by the AAAR is sent to applicant, concerned officer, jurisdictional officer and to the Authority.

Miscellaneous

Question 8

Ranjan intends to start selling certain goods in Delhi. However, he is not able to determine (i) the classification of the goods proposed to be supplied by him [as the classification of said goods has been contentious] and (ii) the place of supply if he supplies said goods from Delhi to buyers in U.S.

Ranjan's tax advisor has advised him to apply for the advance ruling in respect of these issues. He told Ranjan that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Ranjan agreed with his view, but has some apprehensions.

In view of the information given above, you are required to advise Ranjan with respect to following:

(i) The tax advisor asks Ranjan to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Ranjan needs to get registered?

(ii) Ranjan is apprehensive that if at all advance ruling is permitted to be sought, he has to seek it every year. Whether Ranjan's apprehension is correct?

(iii) The tax advisor is of the view that the order of Authority for Advance Ruling (AAR) is final and is not appealable. Whether the tax advisor's view is correct?

(iv) Sambhav - Ranjan's friend - is a supplier registered in Delhi. He is engaged in supply of the goods, which Ranjan proposes to supply at the same commercial level that Ranjan proposes to adopt.

He intends to apply the classification of the goods as decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi. Whether Sambhav can do so?

Answer

(i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c)]. Therefore, it is **not mandatory for a person seeking advance ruling to be registered.**

(ii) Section 103(2) stipulates that the advance ruling shall be **binding unless the law, facts or circumstances supporting the original advance ruling have changed.** Therefore, once Ranjan has sought the advance ruling with respect to an eligible matter/question, it will be binding till the time the law, facts and circumstances supporting the original advance ruling remain same.

(iii) No, the tax advisor's view is not correct. As per section 100, if the applicant is aggrieved with the finding of the AAR, he **can file an appeal with Appellate Authority for Advance Ruling** (AAAR). Similarly, if the concerned/ jurisdictional officer of CGST/SGST does not agree with the findings of AAR, he can also file an appeal with AAAR.

Such **appeal must be filed within 30 days from the date on which the ruling sought to be appealed against is communicated.** The Appellate Authority **may allow additional 30 days** for filing the appeal, if it is satisfied that there was a sufficient cause for delay in presenting the appeal.

(iv) Section 103 provides that an advance ruling pronounced by AAR is **binding only on the applicant who had sought it and on** the **concerned officer or the jurisdictional officer** in respect of the applicant. This implies that an advance ruling is not applicable to similarly placed other taxable persons in the State. It is only limited to the person who has applied for an advance ruling.

Thus, Sambhav will not be able to apply the classification of the goods that will be decided in the advance ruling order to be obtained by Ranjan, to the goods supplied by him in Delhi.

Question 9

Chandra is engaged in supplying certain goods in the State of Punjab from his factory located in Jalandhar, Punjab. He is not yet registered under GST. As his turnover is moving towards the applicable threshold limit for registration under GST, he approaches his tax advisor to ascertain the applicability of GST on the supply made by him. His tax advisor is unable to determine whether supply of goods by Chandra amounts to supply of goods under GST law and also, the classification of said goods. He advises Chandra to apply for the advance ruling in respect of said issues. He told Chandra that the advance ruling would bring him certainty and transparency in respect of the said issues and would avoid litigation later. Chandra agrees with his view, but has some apprehensions.

In view of the information given above, you are required to advise Chandra with respect to following:

(i) The tax advisor asks Chandra to get registered under GST law before applying for the advance ruling as only a registered person can apply for the same. Whether Chandra needs to get registered before applying for advance ruling?

(ii) Can Chandra seek advance ruling to determine whether supply of goods by Chandra amounts to supply of goods under GST law and if yes, to determine the classification of said goods?

(iii) Chandra is doubtful whether he can seek advance ruling in relation to an activity/transaction already being undertaken. Whether Chandra's doubt is correct?

(iv) Chandra is apprehensive that Authority for Advance Ruling may take years to pronounce its ruling. Whether his apprehension is correct?

Answer

(i) Advance ruling under GST can be sought by a registered person or a person desirous of obtaining registration under GST law [Section 95(c) of the CGST Act, 2017]. Therefore, **it is not mandatory for a person seeking advance ruling to be registered.**

(ii) Section 97(2) of the CGST Act, 2017 stipulates the questions/matters on which advance ruling can be sought. It provides that advance ruling can be sought for, inter alia, determining whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term as well as the classification of any goods or services or both. Therefore, **Chandra can seek the advance ruling for determining whether supply of goods by him amounts to supply of goods** under GST law as **well as for determining the classification** of said goods.

(iii) As per the definition of advance ruling under section 95(a) of the CGST Act, 2017, **advance ruling** decision **can be provided** by the Authority to an applicant **on matters/questions** specified in section 97(2) of the said Act, in relation to the **supply of goods or services or both being undertaken or proposed to be undertaken** by the applicant. Thus, advance ruling can be sought

not only for activities/transactions proposed to be undertaken but also for activities/transactions already undertaken by the applicant.

Hence, in the given case, Chandra can seek the advance ruling in relation to the supply of goods being already undertaken by him.

(iv) **No, Chandra's view is not correct**. As per section 98(6) of CGST Act, 2017, the Authority for Advance Ruling **shall pronounce its ruling in writing within 90 days from the date of receipt of application**.

CHAPTER - 23
Miscellaneous Provisions

Confidentiality

Question 1

When shall the particulars relating to any proceedings or prosecution be published under GST laws? Discuss the relevant provisions.

Answer

When the **Commissioner/authorised officer** is of opinion that it is **necessary or expedient** in the public interest to publish the **name of any person and any other particulars relating to any proceedings or prosecution** under the CGST Act in respect of such person, it may cause to be **published such name and particulars** [Section 159(1)].

No publication under this section shall be made **in relation to any penalty imposed** under the CGST Act **until the time for presenting an appeal** to the Appellate Authority under section 107 **has expired without an appeal** having been presented or the appeal, **if presented, has been disposed of** [Section 159(2)].

Question 2

Section 158(1) lays down that the information obtained by a public servant from the record of any proceeding under the CGST Act is confidential and cannot be disclosed.

Is there any exception to this rule? Discuss in brief.

Answer

Yes, the **confidential information can be disclosed** by the public servant for certain specific purposes in terms of section 158(3). Such specific purposes are given in brief hereunder:

(i) **For prosecution**

(ii) For **carrying out the objects** of the CGST Act

(iii) For **service of notice** or recovery of demand

(iv) For **furnishing information to Court** in a proceeding where Government is a party

(v) For **audit** of tax receipts or refunds

(vi) For **inquiry** into the conduct of a GST officer

(vii) For **enabling levy, realisation of any tax** or duty

(viii) In **lawful exercise of powers**

(ix) For **enquiry** into a charge of misconduct by any professional

(x) For **data entry** on automated system

(xi) For fulfilling the requirement under any other law and in public interest.

Rectification

Question 3

Explain the provisions relating to rectification of errors apparent on the face of record under section 161.

Answer

Section 161 lays down that **any authority, who has passed or issued any decision or order or notice or certificate** or any other document, **may rectify any error which is apparent on the face of record** in such decision or order or notice or certificate or any other document, **either on its own motion o**r where such error is **brought to its notice by any GST officer or by the affected person within** a period of **three months** from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.

However, **no such rectification** shall be made **after a period of six months from the date of issue of such decision or order** or notice or certificate or any other document. Further, the **said period** of six months **shall not apply** in such cases **where the rectification is purely** in the nature of correction **of a clerical or arithmetical error,** arising from any **accidental slip or omission**.

Principles of natural justice should be followed by the authority carrying out such rectification, if it adversely affects any person.

Question 4

Briefly answer the following questions with reference to the provisions of rectification of mistakes/errors apparent on the face of record by any authority, under section 161?

(a) Which documents are covered under section 161?

(b) Who can rectify the errors apparent on the face of record?

(c) What type of mistakes or errors can be rectified?

(d) What is the time limit for rectification?

Answer

(a) Following **documents** are covered under section 161:

- **Decision**
- **Order**
- **Any notice**
- **Certificate**
- Any other document

(b) Any **authority** who has passed or issued any decision or order or notice or certificate or any other document **may rectify any error** which is **apparent on the face of record** in such documents.

(c) Errors or mistakes which are apparent on the face of record may be rectified. Rectification can only be of error apparent from record. It is a settled law that a **decision on a debatable point of law is not a mistake apparent from the record.**

(d) **No rectification** can be made **after a period of 6 months** from the date of issue of such decision,

order, notice, certificate or any other document.

However, such time limit does not apply in cases **where** the **rectification is purely** in the nature **of** correction of a **clerical or arithmetical error or mistake**, arising from any **accidental slip or omission.**

Question 5

A show cause notice was issued demanding GST of ₹ 1,80,180 for the month of July, 20XX on 1st October, 20XX. However, adjudicating authority after the personal hearing found that there was a typographical error while mentioning the amount of GST and he confirmed the demand for ₹ 10,80,180. Assessee seeks your advice.

What would be your advice if: (a) assessee comes to you after issue of order or (b) a corrigendum revising the amount to ₹ 10,80,180 on 15th November, 20XX, is issued.

Answer

(i) Advice after issue of order:

As per section 75(7) of the CGST Act, 2017, inter alia, the **amount of tax**, interest and penalty demanded in the order **cannot exceed the amount specified in the notice**.

Since, in the given case, the amount of tax demanded in the order exceeds the amount of tax demanded in the show cause notice, the assessee can file an appeal against the adjudication order within the prescribed time limit.

(ii) Advice after issue of corrigendum:

Any authority, who has issued, inter alia, any notice, **may rectify any error which is apparent on the face of record in such notice**, inter alia, **on its own motion within a period of 6 months** from the date of issue of such notice **except where the rectification is purely in the nature of correction of a clerical or arithmetical error**, arising from any **accidental slip or omission** [Section 161 of the CGST Act, 2017].

In the given case, since the corrigendum has been issued to rectify a typographical error in the show cause notice, which is an **error apparent on the face of the record**, the **rectification is correct in law**. Further, being **rectification of a clerical error, the time limit of 6 months will not apply.**

Therefore, the assessee should **reply to the show cause notice considering the revised amount of demand.**

Anti-Profiteering Measure

Question 6

Write a short note on Anti-profiteering measure.

Answer

As per section 171, any **reduction in rate of tax** on any supply of goods or services or the **benefit of input tax credit shall be passed on to the recipient** by way of commensurate reduction in prices. National Anti-profiteering Authority may examine whether input tax credits availed by any registered

person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Question 7

Director General of Anti-Profiteering Authority, determines that a registered person, has not passed on the benefits of reduction of GST tax rates. List the different possible orders that may be passed by the said authority for the above finding.

Answer

Where the Authority determines that a registered person has not passed on the benefit, it may order-

(a) **reduction in prices**;

(b) **return to the recipient,** an **amount** equivalent to the amount **not passed on by way of commensurate reduction** in prices along with interest @ 18% or recovery of the amount including interest not returned, as the case may be

(c) the **deposit of an amount** equivalent to 50% of the amount determined under the above clause along with interest @ 18% and the remaining 50% of the amount **in the Consumer Welfare Fund of the concerned State**, where the eligible person does not claim return of the amount or is not identifiable

(d) **imposition of** prescribed **penalty**; and

(e) **cancellation of registration** under GST.

Question 8

Elaborate the duties of Anti-profiteering Authority.

Answer

The duties of the Anti-profiteering Authority are:

(i) **to determine whether reduction in tax rate or the benefit of input tax credit has been passed on by seller to the buyer** (hereinafter collectively referred to as 'benefit') by reducing the prices

(ii) **to identify the taxpayer who has not passed on the benefit**

(iii) to order

(a) **reduction in prices**

(b) **return to the recipient,** an **amount** equivalent to the amount **not passed on** by way of commensurate reduction in prices along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be.

If the eligible person does not claim return of the amount or is not identifiable, the amount must be deposited in the Consumer Welfare Fund;

(c) **imposition of penalty**

(d) **cancellation of registration**

(iv) **to furnish a performance report** to the GST Council by the 10th of the month succeeding each quarter [Rule 127 of the CGST Rules, 2017]

Other Miscellaneous Provisions

Question 9

Briefly explain how the GST compliance rating score is determined.

Answer

As per section 149(2), the GST **compliance rating** is determined **on a scale of ten** on the basis of prescribed parameters.

Question 10

When shall the power to call for information be exercised under GST laws? Explain.

Answer

As per section 151, the **Commissioner or an officer authorised** by him may, **by an order, direct any person to furnish information relating to any matter dealt** with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein.

Question 11

State the various modes of service of a notice, decision, order, summons, or any other communication under the CGST Act, on the taxable person or any other person to whom it is intended.

Answer

Section 169(1) provides that any decision, order, summons, notice or other communication under the CGST Act and the rules made thereunder **can be served by any one of the following methods**:

(a) **Giving/tendering directly** including by a courier **to the addressee or authorised representative or to any adult member of family** residing with the taxable person; or

(b) By **Registered post/speed post/courier** with acknowledgement due at the last known place of business or residence; or

(c) By **Email to the e-mail address** provided at the time of registration or as amended from time to time; or

(d) By **making** the same **available at common portal**; or

(e) **Publication in newspaper** circulating in the locality in which the addressee is last known to have resided, carried on business or personally worked for gain; or

(f) If none of the above modes is practicable then by **Affixing at last known place of business** or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority concerned.

Question 12

Explain the scope of circulars and instructions issued by the Board.

Answer

Section 168 empowers the Board (CBIC) to issue orders, instructions or directions to the CGST officers for the purpose of uniformity in the implementation of the CGST Act. All officers and all other persons employed in the implementation of the Act observe and follow such orders, instructions or directions.

The binding nature of such orders, instructions and directions has been a matter of debate and scrutiny. The general understanding that prevails now is that a **circular is binding on the officers, but not on the assessee.** However, in case such **circular states something contrary to the law, the law shall prevail over the circular.**

Question 13

'The time limits provided under the CGST Act cannot be extended.'

Do you agree with the statement? Give your views with reference to section 168A.

Answer

The statement is **not correct.**

The Government has power to extend the time limits provided under the CGST Act. However, such powers are not unbridled powers. Section 168A **empowers the Government to extend the time limits** only when the actions cannot be completed or complied with **due to force majeure**. Here, force majeure means war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the implementations of provisions of the CGST Act. This power can also be exercised retrospectively.

PART - II

Customs & FTP

(20 Marks)

PART II

STATE BOARD

(CONTINUED)

CHAPTER - 1
Levy and Types of Customs Duty

Basics

Question 1

Elaborate the meaning and historical background of "customs". Also elucidate the constitutional entries/provisions which provide the power to make laws relating to customs duty, and who possesses the power to make such laws.

Answer

The term 'customs' derives its colour and essence from the **term 'custom', which means a habitual practice or course of action** that characteristically is repeated in like circumstances.

Duties on import and export of goods were levied through legislations during the British period before which, during monarchical governance, said duty was collected at the city gates at the time of goods coming in and going out. The legislations of the British period were replaced by the enactment and promulgation of the Customs Act, 1962 and the Customs Tariff Act, 1975.

The power to make laws is conferred on the Parliament and the legislature of a State by Article 245 of the **Constitution of India**.

Further, **entry 83 of the List I [Union List]** of the Seventh Schedule to Article 246 of the Constitution of India **grants the power to frame laws relating to customs duty.**

The power to make laws relating to customs duty vests exclusively with the Parliament.

Question 2

Briefly explain the following with reference to the provisions of the Customs Act, 1962:

(i) Indian customs waters

(ii) India

Answer

(i) Indian customs waters [Section 2(28)]

Indian customs waters means the waters **extending into the sea up to the limit of Exclusive Economic Zone** under section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and includes any bay, gulf, harbour, creek or tidal river.

If a person has committed any offence punishable under customs law within the Indian customs waters, he may be arrested. Also, **goods may be confiscated and vessel be stopped** in the Indian customs waters if the same is found to be used in the smuggling. Further, prohibited goods can also be confiscated if brought within the Indian customs waters.

(ii) India [Section 2(27)]

India **includes the territorial waters of India**.

Meaning and significance of territorial waters of India

As per Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones

Act, 1976, **territorial waters of India extend to 12 nautical miles** into sea from the appropriate base line.

Goods are deemed to have been imported if the vessel enters the imaginary line on the sea at the 12th nautical mile i.e. if the vessel enters the territorial waters of India. Therefore, a vessel not bound to India should not enter these waters.

India includes not only the surface of sea in the territorial waters, but also the air space above and the ground at the bottom of the sea.

Question 3

Examine the validity of the following statements:

(a) Customs area does not include a warehouse.

(b) Customs station includes international courier terminal.

Answer

(a) The statement is not valid.

The definition of customs area includes within its ambit a warehouse too.

Customs area means the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by customs authorities.

(b) The statement is valid.

As per section 2(13), a customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station.

Levy of Basic Customs Duty

Question 4

AXT Ltd. entered into a high sea sale transaction with BYU Ltd. for certain goods. AXT Ltd. is of the view that GST on such sale transaction is payable at the time of such sale and basic customs duty is payable at the time of filing the bill of entry for import of goods.

Examine whether the view taken by AXT Ltd. is correct.

Answer

AXT Ltd.'s view is **partially correct**.

Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption (high sea sale) is neither treated as supply of goods nor supply of services in terms of paragraph 8(b) of **Schedule III to the CGST Act.**

Thus, **GST is not leviable on high sea sales.** Therefore, **AXT Ltd.'s view that GST is payable on a high-sea sale transaction at the time of sale, is not correct.**

As per section 14 of the Customs Act, 1962, the value for the purpose of charging customs duty on imported goods is the value at the time of importation, i.e. at the time of filing of the bill of entry. Further,

IGST on imported goods is also levied at the time of filing of bill of entry. Therefore, in case of high sea sales, the assessable value of imported goods for levying customs duty and IGST is determined on the basis of the price paid by the last high sea sales buyer who files the bill of entry for home consumption.

Therefore, **AXT Ltd.'s view that basic customs duty is payable at the time of filing the bill of entry for import of goods is correct.**

Question 5

What are the conditions required to be fulfilled by the importer to make the imported goods eligible for preferential rate of duty prescribed by the Central Government by notification under section 25 of the Customs Act, 1962?

Answer

The Government may by notification under section 25 of the Customs Act, 1962 prescribe preferential rate of duty in respect of imports from certain preferential areas. The importer will have to **fulfill the following conditions** to make the imported goods eligible for preferential rate of duty:

(i) At the time of importation, he should **make a specific claim for the preferential rate.**

(ii) He should also claim that the goods are produced or **manufactured in such preferential area.**

(iii) The **area should be notified** u/s 4(3) of the Customs Tariff Act, 1975 to be a preferential area.

(iv) The origin of the goods shall be determined in accordance with the rules made under section 4(2) of the Customs Tariff Act, 1975.

Determination of Origin' is important to allow concessional rate of customs duty. Generally, as per the rules (a) if the goods are un-manufactured, it should be grown or produced in that area (b) If it is fully manufactured in that country, it should be manufactured from material produced or with un-manufactured materials from that country. (c) if it is partially manufactured in that country, final process should be completed in that country and at least specified percentage of expenditure on material or labour should be in that country.

Question 6

Explain, with reference to decided case law, whether clearances from Domestic Tariff Area (DTA) to Special Economic Zone is chargeable to export duty under the SEZ Act, 2005 or the Customs Act, 1962.

Or

KIP Chemical, Ahmedabad, Gujarat supplies goods to ACCP, Bharuch, situated in Dahez SEZ (Gujarat). Examine with reference to decided case law, whether such supply is chargeable to export duty under the provisions of Customs Act, 1962.

Answer

Supply made by KIP Chemical, Gujarat, to ACCP situated in Dahez SEZ, Gujarat is **not chargeable to export duty.**

In a judicial pronouncement*, it is held that the **clearances of goods from DTA to SEZ are not chargeable to export duty** on the basis of the following observations:

- The charging section under Customs Act needs to be construed strictly.
- If a person is not expressly brought within the scope of the charging section, he cannot be taxed at all.

Customs duty can be levied only on goods imported into or exported beyond the territorial waters of India. Since both the **SEZ unit and the DTA unit are located within the territorial waters of India, supplies from DTA to SEZ would not attract charging section for customs duty.** Since there is no charging provision in the SEZ Act providing for levy and collection of export duty on goods supplied by a DTA unit to a Unit in a SEZ, export duty cannot be levied on the DTA supplier.

Note

*vide Tirupati Udyog Ltd. v. UOI 2011 (272) E.L.T. 209 (A.P.).

Safeguard Duty

Question 7

When shall the safeguard measures under section 8B of the Customs Tariff Act, 1975 be not imposed? Discuss briefly.

Answer

The safeguard measures under section 8B of the Customs Tariff Act, 1975 is **not imposed on** the import of the following types of articles:

(i) Articles originating **from a developing country**, so long as the **share of imports** of that article **from that country does not exceed 3% of the total imports** of that article into India;

(ii) Articles originating **from more than one developing country**, so long as the **aggregate of imports from developing countries** each with less than 3% import share taken together does **not exceed 9% of the total imports** of that article into India;

(iii) Articles **imported by a 100% EOU or** units in a **Special Economic Zone unless it is specifically made applicable** on them **or the article imported is either cleared as such into DTA or used in the manufacture of any goods that are cleared into DTA.** In such cases, safeguard measures shall be applied on that portion of the article so cleared or so used as was leviable when it was imported into India.

Question 8

During the year 20XX, the customs authorities have noticed that there is an increased quantity of Product XYZ being imported into the country. Determine whether the Central Government should consider levying safeguard duty or anti-dumping duty with appropriate reasons. Also enumerate any exemptions/reliefs available from such duty.

Answer

In the given case, **since Product XYZ is being imported into the country in increased quantity, Central Government should consider levying safeguard Duty and not anti-dumping duty**.

Anti-dumping duty is imposed when any article is exported from any country to India at less than its normal value, which is not the case here.

However, **safeguard duty can be imposed only** when Central Government is satisfied that such **increased importation is causing/threatening to cause serious injury to the domestic industry**.

Exemptions/reliefs:

(a) Safeguard duty shall **not be imposed** on articles originating **from developing country** if the share of **imports of that article from that country ≤ 3% of the total imports** of that article into India.

(b) Safeguard duty shall **not be imposed** on articles originating from more than one developing country if the **aggregate of imports from developing countries** each with less than 3% import share taken together **≤ 9% of the total imports of that article** into India.

(c) Safeguard duty **shall not be applicable on** articles imported by a **100% EOU/SEZ unit** unless specifically made applicable;

(d) Safeguard duty shall not be applicable on articles imported by a 100% EOU/SEZ unit **unless article imported is either cleared/used in the manufacture of any goods that are cleared, into DTA.**

(e) Central Government may exempt notified quantity of any article, when imported from any country into India, from whole/part of the safeguard duty.

Countervailing Duty and Anti-Dumping Duty

Question 9

With reference to the Customs Tariff Act, 1975, discuss the validity of the imposition of customs duties in the following cases:

(a) Both countervailing duty and anti-dumping duty have been imposed on an article to compensate for the same situation of dumping.

(b) Countervailing duty has been levied on an article for the reason that the same is exempt from duty borne by a like article when meant for consumption in the country of origin.

(c) Definitive anti-dumping duty has been levied on articles imported from a member country of World Trade Organization as a determination has been made in the prescribed manner that import of such article into India threatens material injury to the indigenous industry.

Answer

(a) **Not valid.** As per section 9B of the Customs Tariff Act, 1975, no article shall be subjected to both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization.

(b) **Not valid.** As per section 9B of the Customs Tariff Act, 1975, countervailing or anti-dumping duties shall not be levied by reasons of exemption of such articles from duties or taxes borne by the like articles when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes.

(c) **Valid.** As per section 9B of the Customs Tariff Act, 1975, no definitive countervailing duty or anti-dumping duty shall be levied on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favored nation agreement, unless a determination has been made in the prescribed manner that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India.

Question 10

'Mezo Blanca', a firm registered in India, imported certain items of machine equipment from China. These items were bestowed with subsidy by the Chinese Government for production as well as export to other countries. Considering the impact of subsidized articles being imported into India, Indian Government imposed countervailing duty under section 9 of the Customs Tariff Act, 1975 on the import of said items. Mezo Blanca managed to import the same product by altering the name of the product. But proper officer imposed countervailing duty on the said import.

Mezo Blanca seeks your advice on the correctness of the action of the Proper Officer and also want to know the different ways of circumvention which are prohibited.

Answer

Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of countervailing duty has taken place by any of the following ways, it may extend the countervailing duty to such other article also from such date, as the Central Government may, by notification in the Official Gazette, specify:

(i) by **altering description or name or composition** of article on which such duty has been imposed

(ii) by **import** of such article **in an unassembled or disassembled form**

(iii) by **changing the country of its origin** or export or

(iv) in **any other manner**, whereby the countervailing duty so imposed is **rendered ineffective**.

In accordance with the above provisions, the **action of the proper officer is correct**.

Question 11

With reference to section 9A(1A) of the Customs Tariff Act, 1975, mention the ways that constitute circumvention of antidumping duty imposed on an article which may warrant action by the Central Government.

Answer

As per section 9A(1A) of the Customs Tariff Act, 1975, following are the ways that would constitute circumvention (avoiding levy of duty by unscrupulous means) of antidumping duty imposed on an article that may warrant action by the Central Government:

(i) **altering the description or name or composition** of article subject to such anti-dumping duty,

(ii) **import** of such article **in an unassembled or disassembled form**,

(iii) **changing the country of its origin** or export, or

(iv) **any other manner**, whereby the anti-dumping duty so imposed is **rendered ineffective.**

In such cases, investigation can be carried out by Central Government and then anti-dumping can be imposed on such articles.

Question 12

With reference to the Customs Act, 1962, decide the validity of the following independent cases with proper legal provisions:

(i) Apex Rubber Limited is a 100% EOU located in a Special Economic Zone. It imported certain items from China for its production process. Customs officer proposed to impose anti-dumping duty on such imports. The importer contends that no anti-dumping duty can be imposed on imports by a 100% EOU under any circumstances.

(ii) Customs Department proposed to impose anti-dumping duty retrospectively in respect of certain items. Importer's association claimed that anti-dumping duty cannot be levied with retrospective effect under any circumstances.

Answer

(i) The **contention of the importer is partially correct.**

Anti-dumping duty cannot be imposed on imports made by 100% EOU. However, following circumstances are **exception** to the same:

(i) where it is **specifically made applicable** in such notifications or such impositions, as the case may be; or

(ii) where such **article imported is either cleared** as such **into the DTA or used in the manufacture of any goods that are cleared into the DTA**, and in such cases anti-dumping duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.

(ii) The **claim of the importer's association is not correct. Anti-dumping duty can be levied with retrospective effect not beyond 90 days** from the date of such notification, if Central Government is of the opinion that:

(a) there is a **history of dumping** which caused injury or that the importer was, or should have been, aware that the exporter practices dumping and that such dumping would cause injury, and

(b) the injury is caused by **massive dumping** of an article imported in a relatively short time which is likely to seriously undermine the remedial effect of anti- dumping duty liable to be levied owing to timing and volume of imported article dumped and other circumstances.

Question 13

KTU Limited has imported certain goods for sale in India from Country Z, which are liable for anti-dumping duty. Country Z sell the like goods in its domestic market in the ordinary course of trade at USD 300 per piece. The imported goods are sold in domestic Indian industry @ USD 275 per piece. KTU Limited has imported the goods at USD 180 per piece. Landed value of the imported goods is USD 190 per piece.

Compute the anti-dumping duty payable by KTU Limited for 800 pieces of these goods it has imported during the year assuming conversion rate @ ₹ 72 per USD.

Answer

The **quantum of anti-dumping duty is:**

(i) **margin of dumping or**

(ii) **injury margin whichever is lower.**

Margin of dumping is the difference between export price and normal value of the imported article.

Injury margin is the difference between the fair selling price [non-injurious price (NIP)] due to the domestic industry and the landed value of the dumped imports.

Export price in relation to an article, means the price of an article exported from the exporting country or territory. KTU Limited has imported the goods at USD 180 per piece. Thus, export price is USD 180 per piece.

Normal value in relation to an article, **means comparable price**, in the ordinary course of trade, for the like article when destined for consumption **in the exporting country** or territory as determined in accordance with the rules. Since Country Z sell the like goods in its domestic market in the ordinary course of trade at USD 300 per piece, thus **normal value in the given case is USD 300 per piece.**

Fair Selling Price (FSP) [Non-Injurious Price] is that **level of price**, which the industry is, **expected to have charged under normal circumstances** in the Indian market during the period defined. Since the imported goods are sold in domestic Indian Industry @ USD 275 per piece, thus **Fair selling price in the present case is USD 275 per piece**.

Landed Value is taken as the assessable value under the Customs Act and the applicable basic customs duties except CVD, SAD and special duties. **Landed value in the given case is USD 190 per piece.**

In the given case, anti-dumping duty per piece is:

(i) Margin of dumping is USD 120 [USD 300- USD 180] or

(ii) Injury margin is USD 85 [USD 275 – USD 190] whichever is lower i.e. USD 85

Anti-dumping duty for 800 pieces (in rupees) = USD 85 x 800 pieces x ₹ 72 = ₹ 48,96,000

Question 14

PCB Limited has imported printed circuit boards for sale in India from Country X, which are liable for anti-dumping duty. You are provided with the following details.

(i) Country X does not sell these goods in its domestic market.
However, it exports the same printed circuit boards at USD 200 per piece to another third country.

(ii) The printed circuit board is sold in domestic industry @ USD 175 per piece.

(iii) PCB Limited has imported the printed circuit boards at USD 100 per piece.

(iv) Landed value of the printed circuit boards is USD 125 per piece.

Compute the anti-dumping duty payable by PCB Limited for 1,000 pieces of printed circuit boards it has imported during the year assuming conversion rate @ ₹ 75 per USD.

Answer

The **quantum of anti-dumping duty is:**

(i) margin of dumping or (ii) injury margin, whichever is lower.

Margin of dumping is the difference between export price and normal value of the imported article and injury margin is the difference between the fair selling price [non-injurious price (NIP)] due to the domestic industry and the landed value of the dumped imports.

In the given case, anti-dumping duty per piece is:

(i) Margin of dumping is USD 100 [USD 200* – USD 100**]

or

(ii) Injury margin is USD 50 [USD 175*** – USD 125****]

whichever is lower i.e. **USD 50**

Anti-dumping duty for 1,000 pieces (in rupees) = USD 50 × 1,000 pieces x ₹ 75 = **₹ 37,50,000**

*When there are no sales of the like article in the domestic market of the exporting country, normal value is taken as the comparable representative price of the like article when exported from the exporting country to an appropriate third country.

**Export price is price of the article exported from the exporting country.

***Fair Selling Price/Non-Injurious Price is that level of price, which the industry is, expected to have charged under normal circumstances in the Indian market. It has been most logically assumed that the "domestic industry" referred to in point (ii) of the question refers to the domestic Indian market.

****Landed value

Calculation of Total Duty Payable on Import

Question 15

Determine the customs duty payable under the Customs Tariff Act, 1975 including the safeguard duty of 30% under section 8B of the said Act with the following details available on hand:

Assessable value of Sodium Nitrite imported from a developing country from 26th October, 2021 to 25th October, 2022 (both days inclusive)	₹ 30,00,000
Share of imports of Sodium Nitrite from the developing country against total imports of Sodium Nitrite to India	4%
Basic custom duty	10%
Integrated tax	12%
Social welfare surcharge	10%

Note: Ignore GST Compensation Cess.

Answer

Computation of customs duty and integrated tax payable thereon

Particulars	Amount (₹)
Assessable value of sodium nitrite imported	30,00,000
Add: Basic custom duty @ 10% on ₹ 30,00,000	3,00,000
Safeguard duty @ 30% on ₹ 30,00,000 [Safeguard duty is imposable in the given case since share of imports of sodium nitrite from the developing country is more than 3% of the total imports of sodium nitrite into India]	9,00,000
Social welfare surcharge @ 10% x ₹ 3,00,000	30,000
Total	**42,30,000**

Integrated tax (₹ 42,30,000 × 12%) [Note]	5,07,600
Total customs duty payable (₹ 3,00,000 + ₹ 9,00,000 + ₹ 30,000 + ₹ 5,07,600)	**17,37,600**

Note: It has been clarified by DGFT vide Guidance note that value for calculation of integrated tax shall also include safeguard duty amount.

Question 16

Determine the total duties payable under Customs Act if Mr. Rao imported rubber from Malaysia at landed price (exclusive of duties) of ₹ 25 lakh. It has been notified by the Central Government that share of imports of rubber from the developing country against total imports to India exceeds 5%. Safeguard duty notified on this product is 30%, IGST u/s 3(7) is 12% and BCD is 10%.

Note: Ignore Compensation Cess.

Answer

Computation of total duties payable under the Customs Act

S.N.	Particulars	(₹)
1	Landed price	25,00,000
2	Add: Basic customs duty @ 10%	2,50,000
3	Add: Safeguard duty @ 30% on ₹ 25,00,000	7,50,000
4	Add: Social welfare surcharge (SWS) @ 10 % on ₹ 2,50,000 [While calculating SWS, safeguard duty is excluded]	25,000
5	Add: Integrated tax @ 12% of ₹ 35,25,000 (₹ 25,00,000 + ₹ 2,50,000 + ₹ 7,50,000 + ₹ 25,000) [Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable SWS]	4,23,000
6	**Total customs duties and tax payable [₹ 2,50,000 + ₹ 7,50,000 + ₹ 25,000 + ₹ 4,23,000]**	**14,48,000**

CHAPTER - 2
Exemptions from Customs Duty, Stores and Baggage

Exemptions and Concessions

Question 1

Referring to section 25 of the Customs Act, 1962, discuss the following:

(i) Special exemption

(ii) General exemption

Answer

(i) Special Exemption:

As per section 25(2) of the Customs Act, 1962, if the **Central Government** is satisfied that it is **necessary in the public interest** so to do, it may, **by special order** in each case, **exempt from payment of duty**, any goods on which duty is leviable only under circumstances of an exceptional nature to be stated in such order. Further, **no duty** shall be collected **if the amount of duty leviable is equal to, or less than, ₹ 100.** This type of exemption is called as ad hoc exemption. Order under section 25(2) is **not required to be published in the Official Gazette.**

(ii) General Exemption:

As per section 25(1) of the Customs Act, 1962, if the **Central Government** is satisfied that it is **necessary in the public interest** so to do, it may, **by notification** in the Official Gazette, **exempt generally** either absolutely or subject to such conditions (to be fulfilled before or after clearance) as may be specified in the notification, goods of any specified description **from the whole or any part of duty** of customs leviable thereon.

However, where any exemption is granted subject to any condition, such exemption shall, unless otherwise specified or varied or rescinded, be valid up to 31st day of March falling immediately after two years from the date of such grant or variation.

Further, this exemption applies to all importers while exemption under section 25(2) is for specific importer and specific goods under import.

Question 2

Goods manufactured or produced in India, which were earlier exported and thereafter imported into India will be treated at par with other goods imported into India. Is the proposition correct or any concession is provided on such import? Discuss briefly.

Answer

The given proposition is correct i.e., goods produced in India, which were earlier exported and thereafter imported into India will be **treated at par** with other goods imported into India [Section 20 of the Customs Act, 1962]. However, the **following concessions are being provided** in this regard:

(i) Maximum import duty will be **restricted to duty drawback or refund availed** or integrated tax not paid at the time of export.

(ii) Where the goods were originally exported for repairs, the duty on re-importation is **restricted to**

the fair cost of repairs including cost of materials used in repairs whether such costs are actually incurred or not, insurance and freight charges, both ways done abroad.

The above two concessions are given subject to the **condition** that:

(a) the **re-importation** is done **within 5 years or 7 years** if time is extended.

(b) the exported goods and re-imported **goods must be the same.**

In case of point (ii) above, the **ownership** of the goods should also **not have changed.**

However, these concessions would not be applicable if-

- re-imported goods had been exported by EOU or a unit in FTP
- re-imported goods had been exported from a public/private warehouse
- re-imported goods which fall under Fourth schedule to the Central Excise Act, 1944.

(iii) When **exported goods come back for repairs and re-export**, the re- imported goods other than specified goods **can avail exemption** from paying of import duty subject to following **conditions:**

(i) the **re-importation is for repairs** only

(ii) the **time limit is 3 years.** In case of **Nepal**, such **time-limit is 10 years.**

(iii) the goods must be **re-exported** after repairs

(iv) the **time limit for export is 6 months** (extendable to one year).

Question 3

BCG Ltd. imports goods from Japan and intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 with regard to said goods. However, since it does not have a manufacturing facility at all, it needs to send the goods so imported for job work to a job worker. Its accountant advised it that as per Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, BCG Ltd. is not permitted to send such goods for job work. You are required to advise BCG Ltd. on the said issue elaborating the relevant legal provisions under the customs law.

Answer

As per rule 7 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, the **importer is permitted to send the imported goods for job work**. The said rule stipulates that the importer shall **maintain a record** of the goods sent for job work during the month **and mention the same in the prescribed monthly statement**. The **importer shall send the goods** to the premises of the job worker under an invoice or wherever applicable **through an e-way bill**, mentioning the description and quantity of the goods. The **maximum period** for which the goods can be sent to the job worker shall be **6 months** from the date of the invoice/e-way bill.

In case importer is not able to establish that goods sent for job work have been used as per the particulars mentioned under rule 4, Jurisdictional Custom Officer shall take necessary action against the importer.

The **job worker shall** -

(i) **maintain an account of receipt** of goods, manufacturing process undertaken thereon **and the waste generated,** if any, during such process;

(ii) **produce the account details before** the Jurisdictional Custom **Officer** as and when required by the said officer; and

(iii) **after completion of the job work, send** the processed **goods to the importer** or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or an e-way bill.

Question 4

Mr. X, a chemical manufacturer, imports a machine from Germany on 12th January, 2022 for ₹ 20 lakh. Mr. X is eligible for concessional rate of customs duty on capital goods imported by him subject to the condition that he follows Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Machinery was put to use on 1st February, 2022. On 5th April, 2025, Mr. X wants to clear the machine for home consumption after having used the machine for the specified purpose for which it was imported. Mr. X requires your help in calculating the customs duty he will be liable to pay for such clearance as per rule 7 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. Concessional rate of basic customs duty is 5%. Normal rate of basic customs duty is 20%. Calculate the basic customs duty payable by Mr. X on clearance of such capital goods for home consumption on 5th April, 2025. Ignore interest.

Answer

Computation of basic customs duty payable by Mr. X

An importer who has imported the capital goods availing benefit of an exemption notification, may clear such goods after using them for specified purpose, on payment of duty equal to difference between the duty leviable on such goods without exemption and duty already paid at the time of importation, along with interest, on the depreciated value allowed in straight line method, as below:

(i) for every quarter in the first year @ 4%;

(ii) for every quarter in the second year @3%;

(iii) for every quarter in the third year @ 3%;

(iv) for every quarter in the fourth and fifth year @ 2.5%;

(v) and thereafter for every quarter @ 2%.

Thus, depreciation % will be computed as follows:

2022: 4 quarter x 4= 16%

2023: 4 quarter x 3= 12%

2024: 4 quarter x 3= 12%

2025: 2 quarter x 2.5= 5%

Total depreciation % will be 45%

Depreciation amount will be: 45% of ₹ 20 Lakh = **₹ 9 lakh**

Depreciated value of the machine is ₹ 20 Lakh – ₹ 9 lakh = **₹ 11 lakh**

Accordingly, **basic customs duty payable by Mr. X will be computed as follows**:

= [₹ 11 lakh × 20%] - [₹ 20 lakh × 5%]

= ₹ [2.20-1.00] lakh

= **₹ 1.20 lakh**

Remission and Abatement (Section 13, 22, 23)

Question 5

Supreme Car Decors imported car music systems and GPS devices from Germany. The importer submits the following issues for your consideration:

(i) 7 music systems were pilfered before unloading and before the proper officer has made an order for clearance for home consumption.

(ii) 10 GPS devices were pilfered after unloading and before the proper officer has made an order for clearance for home consumption.

(iii) 30 music systems were damaged after unloading and examination for assessment by the customs authorities but before actual home clearance.

Supreme Car Decors seeks your expert advice with reason regarding the impact on customs duty on the said goods.

Answer

(i) **Duty is payable** on the music systems **pilfered before unloading** since an importer is not liable to pay duty leviable on pilfered imported goods only if such goods are pilfered after unloading and before proper officer makes order for clearance for home consumption.

(ii) Supreme Car Decors is **not liable to pay duty** leviable **on GPS devices pilfered** since an importer is not liable to pay duty leviable on any imported goods pilfered **after unloading and before** proper officer makes **order for clearance for home consumption.**

(iii) **Abatement of duty** on damaged imported goods **is available if** such imported goods are **damaged accidentally after unloading but before examination** for assessment by customs authorities.

In the given case, since imported music systems (It has been assumed that that the imported music systems have not been warehoused) are **damaged after examination** for assessment by the customs authorities, **abatement of duty on such goods is not available**.

Question 6

Mr. Chandrakant imported a car from Britain (UK). After the car arrived in the port and was unloaded, he went and saw the car and found that it was damaged and it was possible to get the car repaired and use it. The examination by Customs for the purpose for assessment is not over. He has come to you seeking advice as to what are the options available to him under the Customs Act, 1961?

Answer

Where any imported goods, other than warehoused goods, had been damaged at any time after unloading but before their examination by customs authorities, on account of any accident not due to any willful act, negligence or default of the importer, abated duty shall be charged on said goods.

In the given case, the imported **goods have been damaged after unloading but before examination** and such damage is **not due to negligence of the importer**. Therefore, **benefit of abated duty will be available to Mr. Chandrakant**.

He can either get the damaged car valued by the proper officer or it may be sold by the proper officer by public auction or by tender, or with the consent of Mr. Chandrakant in any other manner, and the gross

sale proceeds shall be deemed to be the value of such car.

The duty charged on damaged car will be computed as under:

= Duty on car before damage × (Value of damaged car/Value of car before damage)

Question 7

In January, 20XX, Rock & Rock India Ltd. imported a consignment from U.S.A (by sea). The value of consignment was ₹ 7,50,000 and total duty payable was ₹ 1,50,000.

Company filed bill of entry for home consumption but before inspection and clearance for home consumption it found that the goods were damaged.

On filing a representation to the Customs Department, proper officer refused the claim for abatement because goods were already unloaded. The proper officer is in agreement with the claim that the value of goods has come down to only ₹ 1,50,000.

Examine the issue with reference to the relevant statutory provisions and calculate the amount of total duty payable:

Would your answer be different in the above case if the goods get deteriorated after unloading and examination but before clearance for home consumption, and value comes down to ₹ 7,00,000?

Answer

The abatement of duty is allowed where it is shown to the satisfaction of the Assistant/Deputy Commissioner of Customs that, inter alia, any imported goods, other than warehoused goods, had been damaged at any time after the unloading thereof in India but before their examination, on account of any accident not due to any wilful act, negligence or default of the importer.

Thus, in view of the above-mentioned provisions, the stand taken by the proper officer of **refusing the claim for abatement is not valid** in law.

The **duty to be charged on the damaged goods** shall be reduced in proportion to the reduction in the value of goods on account of damage.

Thus, in the given case, the amount of **total duty payable**

= [₹ 1,50,000/₹ 7,50,000] x ₹ 1,50,000 = ₹ 30,000

The abatement of duty is allowed in case of deterioration only if such deterioration occurs before or during the unloading of goods. **Since in this case, imported goods have deteriorated before clearance for home consumption but after unloading, abatement of duty will not be allowed and full duty will have to be paid.**

Question 8

Distinguish between Pilfered goods and Lost/destroyed goods

Answer

	Pilfered goods	Lost/Destroyed goods
1.	Covered by section 13	Covered by section 23(1)

2.	No duty payable on such goods	Duty paid on such goods to be remitted
3.	Department gets compensation from the custodian [Section 45(3)]	No such compensation
4.	Petty theft by human being	Loss/Destruction by fire, flood etc (Act of God)
5.	Restoration possible	Restoration is not possible
6.	Occurrence is after unloading and before Customs clearance order for home consumption or warehousing	Occurrence may be at any time before clearance for home consumption
7.	Occurrence in warehouse not recognized	Occurrence in warehouse is recognized
8.	Duty need not be calculated	Duty should be calculated for determining the remission amount
9.	No need to prove pilferage. It is quite obvious	Should be proved and remission sought for

Question 9

Peerless Scraps, imported during August, by sea, a consignment of metal scrap weighing 6,000 M.T. (metric tons) from U.S.A. They filed a bill of entry for home consumption. The Assistant Commissioner passed an order for clearance of goods and applicable duty was paid by them. Peerless Scraps thereafter found, on taking delivery from the Port Trust Authorities (i.e., before the clearance for home consumption), that only 5,500 M.T. of scrap were available at the docks although they had paid duty for the entire 6,000 M.T., since there was no short-landing of cargo. The short-delivery of 500 M.T. was also substantiated by the Port-Trust Authorities, who gave a "weighment certificate" to Peerless Scraps.

On filing a representation to the Customs Department, Peerless Scraps has been directed in writing to justify as to which provision of the Customs Act, 1962 governs their claim for remission of duty on the 500 M.T. not delivered by the Port-Trust.

You are approached by Peerless Scraps as "Counsel" for an opinion/advice. Examine the issues and tender your opinion as per law, giving reasons.

Answer

As per provisions of section 23, where it is shown to the satisfaction of Assistant or Deputy Commissioner that any imported **goods have been lost or destroyed, otherwise than as a result of pilferage** at any time before clearance for home consumption, the Assistant or Deputy Commissioner shall remit the duty on such goods. Therefore, **duty shall be remitted only if loss has occurred before clearance for home consumption.**

In the given case, it is apparent from the facts that quantity of scrap received in India was 6000 metric tonnes and **500 metric tonnes thereof was lost when it was in custody of Port Authorities i.e. before clearance for home consumption was made.** Also, the **loss of 500 MT of scrap cannot be construed to be pilferage,** as loss of such huge quantity **cannot be treated as "Petty Theft".**

Hence, **Peerless Scraps may take shelter under section 23** justifying his claim for remission of duty.

Stores

Question 10

A fishing trawler is operating 10 nautical miles from the baseline. Is it entitled to duty-free stores?

Answer

No, it is not entitled to duty-free stores.

Foreign going vessel or aircraft means any vessel or aircraft for the time being **engaged in the carriage** of goods or passengers **between any port or airport in India and any port or airport outside India,** whether touching any intermediate port or airport in India or not includes-

- any naval vessel of any foreign Government taking part in any naval exercise;
- any vessel engaged in fishing or any other operations outside the territorial waters of India;
- any vessel or aircraft proceeding to a place outside India for any purpose whatsoever.

India includes the territorial waters of India.

The definition of India includes not only the land mass of India but also the territorial waters of India. **The territorial waters extend to 12 nautical miles into the sea from the appropriate base line.**

Baggage

Question 11

What is the relevant date for determination of rate of duty under the Customs Act, 1962 in the case of clearance of baggage?

Answer

As per section 78 of the Customs Act, 1962, the **relevant date** for determination of rate of duty in case of clearance of baggage **is the date on which a declaration is made in respect of such baggage** u/s 77.

Question 12

After visiting USA for a month, Mrs. and Mr. Iyer (Indian residents aged 35 and 40 years respectively) brought to India a laptop computer valued at ₹ 70,000, used personal effects valued ₹ 1,40,000 and a personal computer for ₹ 58,000. Calculate the custom duty payable by Mrs. & Mr. Iyer, if any.

Answer

(1) As per the Baggage Rules, 2016, an Indian resident arriving from a country other than Nepal, Bhutan, or Myanmar, is allowed duty free clearance of-

(i) **Used personal effects and travel souvenirs** without any value limit.

(ii) **Articles** [other than certain specified articles] **up to a value of ₹ 50,000** carried as accompanied baggage [General duty free baggage allowance].

(iii) Further, such general duty free baggage allowance of a passenger **cannot be pooled with the general duty free baggage allowance of any other passenger.**

(2) **One laptop computer** when imported into India **by a passenger** of the **age of 18 years or above** (other than member of crew) is exempt from whole of the customs duty.

(3) (i) Accordingly, there will be **no customs duty on used personal effects** (worth ₹ 1,40,000) of Mrs. and Mr. Iyer and laptop computer brought by them will be exempt from duty.

(ii) **Duty payable on personal computer** after exhausting the duty free baggage allowance will be **₹ 58,000 – ₹ 50,000 = ₹ 8,000**

(iii) Effective rate of duty for baggage = **38.50%**

(iv) Therefore, total customs duty = **₹ 3,080**

Question 13

Mr. Sujoy, an Indian entrepreneur, went to London to explore new business opportunities on 01.04.2022. His wife also joined him in London after three months. The following details are submitted by them with the Customs authorities on their return to India on 15.04.2023:

(a) used personal effects worth ₹ 80,000,

(b) 2 music systems each worth ₹ 50,000,

(c) the jewellery brought by Mr. Sujoy worth ₹ 48,000 [20 grams] and the jewellery brought by his wife worth ₹ 96,000 [40 grams].

With reference to Baggage Rules, 2016, determine whether Mr. and Mrs. Sujoy will be required to pay any customs duty?

Answer

As per rule 3 of the Baggage Rules, 2016, an Indian resident arriving from any country other than Nepal, Bhutan or Myanmar, shall be **allowed clearance free of duty articles** in his bona fide baggage, that is to say, used personal effects and travel souvenirs; and articles [other than certain specified articles], **upto the value of ₹ 50,000** if these are carried on the person or in the accompanied baggage of the passenger.

Thus, there is **no customs duty on used personal effects and travel souvenirs** and general duty free baggage allowance is ₹ 50,000 per passenger. Thus, **duty liability of Mr. Sujoy and his wife is nil** for the used personal effects worth ₹ 80,000 and 2 music systems each worth ₹ 50,000.

As per rule 5 of the Baggage Rules, 2016, the jewellery allowance is as follows:

Jewellery brought by	Duty free allowance
Gentleman Passenger	Jewellery upto a weight of 20 grams with a value cap of ₹ 50,000
Lady Passenger	Jewellery upto a weight of 40 grams with a value cap of ₹ 1,00,000

However, jewellery **allowance is applicable** only to a passenger **residing abroad** for **more than 1 year**.

Consequently, there is **no duty liability on jewellery brought by Mr. Sujoy** as he had stayed abroad for period exceeding 1 year and weight of jewellery brought by him is 20 grams with value less than ₹ 50,000.

However, **his wife is not eligible for this additional jewellery allowance** as she had stayed abroad for a period of less than a year. Thus, **she has to pay customs duty on the entire amount of jewellery brought by her as she has already exhausted the general duty free baggage allowance of ₹ 50,000** allowed under rule 3.

Question 14

Mrs. X, an Indian resident aged 30 years who was on a visit to China, returned after months. She was carrying with her the following items:

(i)	Personal effects	₹ 75,000
(ii)	Laptop computer	₹ 60,000
(iii)	Jewellery - 25 grams (purchased in China)	₹ 75,000
(iv)	Music system	₹ 50,000

Compute the customs duty payable by Mrs. X with reference to the Baggage Rules, 2016

Answer

Computation of customs duty payable by Mrs. X

Particulars	₹
Personal effects [Duty free clearance is allowed]	Nil
Laptop computer [One laptop computer is exempt when imported into India by a passenger ≥ 18 years of age]	Nil
Jewellery [Duty free jewellery allowance is not available to Mrs. X since she did not reside abroad for more than 1 year]	75,000
Music system	50,000
Total value	1,25,000
Less: General duty free baggage allowance of ₹ 50,000	50,000
Value of baggage liable to customs duty	75,000
Rate of Duty	38.50%
Customs duty @ 38.50%	**28,875**

Question 15

Gregory Peg of foreign origin has come on travel visa, to tour in India. He carries with him, as part of baggage, the following:

Particulars	Value in ₹
Travel Souvenir	85,000
Other articles carried on in person	1,50,000
120 sticks of cigarettes of ₹ 100 each	12,000
Fire arm with 100 cartridges (value includes the value of cartridges at @ ₹ 500 per cartridge).	1,00,000

Determine customs duty payable, if the effective rate of customs duty is 38.50% inclusive of social welfare surcharge, with short explanations where required.

Answer

As per rule 3 of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

(i) travel souvenirs; and

(ii) Articles up to the value of ₹ 15,000 (excluding inter alia fire arms, cartridges of fire arms exceeding 50 and cigarettes exceeding 100 sticks), if carried on in person.

Computation of customs duty payable	**₹**
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	10,000
Fire arms cartridge (50 cartridges can be accommodated in GFA)	25,000
Baggage than can be accommodated in GFA	1,85,000
Less: GFA	15,000
Baggage on which duty is payable	**1,70,000**
Duty payable @ 38.50%	**65,450**

Note: Fire arms, cartridges of firearms exceeding 50 and cigarettes exceeding 100 sticks are not chargeable to rate applicable to baggage. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Question 16

Mr. Samuel, a US resident aged 35 years, has come to India on a tourist visa for a month-long vacation. He carries with him, as part of baggage, the following:

Particulars	**Value in ₹**
Travel souvenirs	85,000
Other articles carried on in person	1,50,000
80 sticks of cigarettes of ₹ 100 each	8,000
30 cartridges of fire arms valuing ₹ 500 each	15,000
One litre wine	15,000

With reference to the Baggage Rules, 2016, determine whether Mr. Samuel will be required to pay any customs duty?

Answer

As per rule 3 of Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of

(i) travel souvenirs; and

(ii) Articles up to value of ₹ 15,000 (excluding, inter alia, cigarettes exceeding 100 sticks, cartridges of fire arms exceeding 50 and alcoholic liquor or wines in excess of two litres), if carried on in person.

Further, any article the value of which exceeds the duty free allowance admissible to such passenger or member under the Baggage Rules, 2016, is chargeable to customs duty @ 35%. The effective rate of duty

becomes 38.5% after including social welfare surcharge @ 10% on customs duty.

Accordingly, the customs duty payable by Mr. Samuel will be calculated as under:

Computation of customs duty payable	₹
Travel souvenir	Nil
Articles carried on in person	1,50,000
Cigarettes [Since the number of cigarettes does not exceed 100, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for general free allowance (GFA) or concessional rate of duty applicable to baggage, as the case may be.	8,000
Fire arms cartridge [Since the number of fire arms cartridge does not exceed 50, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage, as the case may be.]	15,000
One litre of wine [Since the quantity of wine does not exceed 2 litres, the same will be covered within the scope of rule 3 of Baggage Rules, 2016 and thus, be eligible for GFA or concessional rate of duty applicable to baggage, as the case may be.]	15,000
Baggage within the scope of rule 3 of Baggage Rules, 2016	1,88,000
Less: GFA	15,000
Baggage on which duty is payable	**1,73,000**
Customs duty payable @ 38.5%	**66,605**

Question 17

Mr. X, an Indian resident aged 30 years, returns to India on 10.04.2022 after visiting France for 3 months. On his return to India, he brings with him following articles:

(i) Used personal effects like clothes etc. valued at ₹ 1,75,000

(ii) Music system valued at 1,20,000

(iii) Jewellery valued at ₹ 1,30,000 measuring 20 grams brought by Mr. 'X'

(iv) Laptop worth ₹ 1,20,000

(v) Wine 1 litre worth ₹ 6,000

(vi) Mobile phone worth ₹ 50,000

You are required to determine the taxable value of baggage with reference to the Baggage Rules, 2016.

Answer

Computation of taxable value of baggage

Used personal effects	Nil
[Duty free clearance is allowed.]	
Music system	1,20,000
Jewellery	1,30,000
[Duty free jewellery allowance is not available to Mr. X since he did not reside abroad for more than 1 year.]	
Laptop	Nil

[One laptop computer is exempt when imported into India by a passenger ≥ 18 years of age]	
1 litre wine	6,000
[Can be accommodated in general free allowance]	
Mobile phone	50,000
Total value	3,06,000
Less: General duty free baggage allowance of ₹ 50,000	50,000
Taxable value of baggage	**2,56,000**

Question 18

John Biden, aged 32, is a tourist of US origin. He has come to India on a travel visa and carries with him the following articles as part of baggage:

Particulars	**Value in ₹**
Used personal effects	50,000
Travel souvenirs	50,000
Laptop	1,20,000
200 gms tobacco [Valued @ ₹ 5 per gram]	1,000
50 cigars [Valued @ ₹ 100 each]	5,000
Fire-arms	80,000
80 cartridges of fire-arms [Valued @ ₹ 500 per cartridge]	40,000
1.5 litres wine	5,000
Mobile phone	80,000

With reference to the Baggage Rules, 2016, determine customs duty payable. Ignore agriculture infrastructure and development cess.

Answer

As per rule 3 of the Baggage Rules, 2016, tourist of foreign origin, excluding infant, is allowed duty free clearance of:

(i) used personal effects and travel souvenirs; and

(ii) Articles up to the value of ₹ 15,000 (excluding, inter alia, fire-arms, cartridges of fire arms exceeding 50, wine in excess of 2 litres, tobacco exceeding 125 gms and cigars exceeding 25), if carried on in person or in the accompanied baggage of the passenger.

In view of the said provisions, customs duty shall be computed as follows

Particulars	**₹**
Used personal effects	Nil
Travel souvenirs	Nil
Laptop [One laptop computer is exempt when imported into India by a passenger ≥ 18 years of age]	Nil

Tobacco [₹ 5 x 125 gm] [125 gms tobacco can be accommodated in General Free Allowance (GFA)]	625
Cigars [₹ 100 x 25] [25 cigars can be accommodated in GFA]	2,500
Fire-arms' cartridges [₹ 500 x 50] [50 fire-arms' cartridges can be accommodated in GFA]	25,000
1.5 litres wine [Wine upto 2 litres can be accommodated in GFA]	5,000
Mobile phone [Can be accommodated in GFA]	80,000
Total value	**1,13,125**
Less: GFA	15,000
Baggage on which duty is payable	**98,125**
Duty payable on baggage @ 38.50% [rounded off]	**37,778**

Note: Firearms, cartridges of firearms exceeding 50, cigars exceeding 25 and tobacco exceeding 125 gms are not chargeable to rate applicable to baggage. These items are charged @ 100% applicable to baggage under Heading 9803 of the Customs Tariff.

Question 19

Mr. Noddy, aged 40 years and a citizen of Australia, is on a solo trip to India for 1 month to meet his Indian friend residing in Mumbai. He carries with him following articles as part of baggage:

Particulars	**Value in ₹**
Used personal effects	80,000
Other articles carried on in person	1,00,000
65 cartridges of fire arms @ ₹ 1,000 per cartridge	65,000
150 gms of tobacco @ ₹ 10 per gram	1,500
Mobile phone	50,000
50 cigars of ₹ 100 each	5,000
Used personal effects of his infant child for donation	10,000

With reference to the Baggage rules 2016, indicate the taxability and taxable value in respect of each item in the table under baggage rules or otherwise. Also calculate customs duty payable on baggage rounded off to nearest rupee in accordance with law. Ignore agriculture infrastructure and development cess.

Answer

	Value in ₹
Used personal effects [Allowed duty free]	NIL
Other articles carried on in person	1,00,000
50 cartridges of fire arms (50 x ₹ 1,000)	50,000
125 gms of tobacco (125 gm x ₹ 10)	1,250

Mobile phone	50,000
25 cigars of ₹ 100 each (25 cigars x ₹ 100)	2,500
Used personal effects of his infant child	10,000
Total	**2,13,750**
Less: General Free Allowance	15,000
Baggage on which duty is payable	**1,98,750**
Duty payable on baggage @ 38.50% (rounded off)	76,519

Question 20

Kiara of Indian origin, came to India on tour from Australia with her baby of 1 year. She brought following goods:

1.	Personal effects	50,000
2.	Used personal effects of infant	10,000
3.	New camera	45,000
4.	Mobile phone	12,500
5.	Cigarette sticks 70	1,000
6.	Wine - 2 litres	18,000
7.	Travel souvenirs	5,000
8.	Laptop	90,000

Indicate the taxability or taxable value in respect of each item in the table and calculate customs duty payable rounded off to the nearest rupee in accordance with law. There is no need for any notes to support the conclusions regarding taxability or taxable amount.

Answer

Particulars	**₹**
Personal effects	Nil
Used personal effects of infant	Nil
New camera	45,000
Mobile phone	12,500
Cigarette sticks 70	1,000
Wine - 2 litres	18,000
Travel souvenirs	Nil
Laptop	Nil
Total	76,500
Less: General Free Allowance	50,000
Baggage on which duty is payable	**26,500**
Duty payable on baggage @ 38.50% [rounded off]	**10,203**

Question 21

Varun Goyal, an IT professional and a person of Indian origin, is residing in USA for the last 14 months. He wishes to bring a used microwave oven (costing approximately ₹ 1,85,500 and weighing 15 kg) with him during his permanent return to India. He purchased the oven in USA 6 months before and he has been using that oven for his personal use in his kitchen. He is not aware of Indian customs rules.

Analyze and summarize the related legal provision of the Baggage Rules, 2016 and provide him with some advice in this regard. Relevant legal provisions should form part of your answer.

Answer

A person, who is engaged in a profession abroad shall, on return after a **minimum stay of 1 year during the preceding 2 years, be allowed** clearance free of duty, inter alia, **personal and household articles**, including specified articles **upto an aggregate value of ₹ 2,00,000.**

One of such specified articles is Microwave oven. However, the Indian passenger should not have availed this concession in the preceding 3 years.

Thus, Varun Goyal can bring Microwave oven duty free provided he had not availed this concession in the preceding 3 years.

Question 22

Mr. Cliff Paul, a resident and citizen of USA, visits India on a business tour. He made declaration to the proper officer about his baggage under section 77 of the Customs Act, 1962 for the purpose of clearance. During the scrutiny of the declaration, proper officer found that some of the articles declared in baggage brought with him were prohibited to be entered in India and were detained by the officer.

Although Mr. Paul did not insist to clear those articles, value of those articles was very high and it was a difficult situation for him. You are required to advise any procedure prescribed under customs law to overcome the situation. Give your advice on the basis of relevant statutory provisions.

Answer

Where the **baggage of a passenger contains any prohibited article** which has been **declared by him** under section 77, the proper **officer may, at the request of the passenger, detain such article for** the purpose of **being returned to him on his leaving India.**

In the given case, proper officer has detained the prohibited article declared and brought by Mr. Cliff Paul. Such articles shall be returned to him on his leaving India.

Further, if for any reason, he is not able to collect it at the time of his leaving India, the said article may be returned to him through any other passenger authorized by him and leaving India or as cargo consigned in his name.

CHAPTER - 3
Valuation under the Customs Act, 1962

Relevant Date for Rate of Duty/Tariff Valuation/Exchange Rate

Question 1

Briefly discuss the provisions relating to date for determining the rate of duty and tariff valuation of imported goods.

Answer

Section 15 of the Customs Act, 1962 specifies the relevant date for determining the rate of duty and tariff valuation of imported goods. They are different for different situations as given below:

(a) **Goods are entered for home consumption under section 46** – The relevant date for the three modes of transport as laid down by section 15(1)(a) read with proviso would be as follows:

(i) For goods imported by vehicle at land customs station – the relevant date is the **date of filing B/E** under section 46 **or date of arrival of vehicle, whichever is later.**

(ii) For goods imported by a vessel at a customs port – the relevant date is the **date of filing B/E** under section 46 **or date of entry inwards to vessel** under section 31, **whichever is later.**

(iii) For goods imported by aircraft at a customs airport – the relevant date is the **date of filing B/E** under section 46 **or date of arrival of aircraft, whichever is later.**

(b) **Goods cleared from a warehouse under section 68** – the relevant date is the **date on which a bill of entry for home consumption** in respect of such goods is presented.

(c) **In the case of any other goods –** the relevant date is the **date of payment of duty.**

These provisions relating to determination of relevant date **do not apply to baggage and imports by post,** in which sections 78 and 83 apply respectively.

Question 2

'Queen Marry', is a vessel containing the goods imported by XML Ltd. The events relating to its entry into India and the discharge and onward movement and storage of the goods are as follows.

24.05.20XX	Vessel entered the Indian territorial waters.
25.05.20XX	Import manifest was delivered to the customs authorities
27.05.20XX	XML Ltd filed bill of entry for the goods
29.05.20XX	Entry inwards granted to the vessel

The rate of customs duty on the goods was increased from 8% to 10% on 28.05.20XX.

At what rate should XML Ltd. pay the customs duty on the goods imported by it?

Answer

Rate of duty will be 10%, because the bill of entry is deemed to have been filed on the date of entry inward though it was actually filed before the rate of duty increased.

Question 3

M/s Impex imported some consignment of goods on 01.06.20XX. A bill of entry for warehousing of goods was presented on 05.06.20XX and the materials were duly warehoused. The goods were subject to duty @ 50% ad valorem. In the meanwhile, on 01.07.20XX, an exemption notification was issued reducing the effecting customs duty @ 30%, ad valorem. M/s Impex filed their bill of entry for home consumption on 01.08.20XX claiming duty @ 30% ad valorem. However, Customs Department charged duty @ 50% ad valorem being the rate on the date of clearance into the warehouse.

Explain with reference to the provisions of the Customs Act, 1962:

(i) the rate of duty applicable for clearance for home consumption in this case.

(ii) whether the rate of exchange on 01.08.20XX could be adopted for purpose of conversion of foreign currency into local currency?

Answer

(i) Section 15(1)(b) of the Customs Act, 1962 provides that in the case of **goods cleared from a warehouse, rate of duty applicable is** the rate of duty in force on the **date on which a bill of entry for home consumption** in respect of such goods **is presented.**

In the given case, since M/s Impex has filed the bill of entry for home consumption on 01.08.20XX, rate of duty is the rate prevalent on the said date viz. **30%.**

(ii) Third proviso to section 14 of the Customs Act, 1962 provides that the rate of exchange notified by the CBIC as prevalent on the date of presentation of bill of entry for warehousing is the applicable rate of exchange for conversion of foreign currency into local currency.

Therefore, in the given case, **rate of exchange that would be prevalent on date of presentation of bill of entry** for warehousing **i.e. 05.06.20XX** and not the one prevalent on date of presentation of bill of entry for home consumption i.e., 01.08.20XX, **would be adopted.**

Transaction Value Basics

Question 4

Mother Mary Hospital and Research Centre imported a machine from Delta Scientific Equipments, Chicago for in house research. The price of the machine was settled at US$ 5,000. The machine was shipped on 10.04.20XX. Meanwhile, the Hospital Authorities negotiated for a reduction in the price. As a result, Delta Scientific Equipments agreed to reduce the price by $ 850 and sent the revised price of $ 4,150 under a telex dated 15.04.20XX. The machine arrived in India on 18.04.20XX. The Commissioner of Customs has decided to take the original price as the transaction value of the goods on the ground that the price is reduced only after the goods have been shipped.

Do you agree to the stand taken by the Commissioner? Give reasons in support of your answer.

Answer

No, the Commissioner's approach is not correct in law.

As per section 14 of the Customs Act, the **transaction value** of the goods **is the price actually paid or payable** for the goods **at the time and place of importation.** Further, the Supreme Court in the case Garden Silk Mills v. UOI has held that importation gets complete only when the goods become part of

mass of goods within the country. Therefore, since **in the instant case the price of the goods was reduced while they were in transit, it could not be contended that the price was revised after importation** took place. Hence, the **goods should be valued as per the reduced price**, which was the price actually paid at the time of importation.

Question 5

M/s. Lotus Auto Weaves imported 10 automated looms from Germany for a price of US $ 70,000. The price was settled and machines were shipped on 20th March, 20XX. Meanwhile, the importer made further negotiations with the exporter for reduction of price of looms based on the leads given by them so far and also in future. Due to this negotiation, the exporter further reduced the price of 10 automated looms to US $ 60,000 and confirmed the same by email dated 30th March, 20XX. However, consignment arrived in India on 29th March, 20XX. Proper officer of customs ignored the revised price confirmed by email and assessed the value based on original price of US $ 70,000. This was contested by the importer as unfair action by the Department. Importer seeks your advice on the correctness of action of the proper officer. Give reason in support of your answer.

Answer

As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which **means the price actually paid or payable** for the goods **at the time and place of importation**.

Further, the Supreme Court in case of Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 has held that **importation gets complete only when the goods become part of mass of goods within the country.**

Since in the instant case, the **price of the goods was reduced after the goods arrived in India,** the price would be considered to be revised after the importation took place.

Hence, the **goods should be valued as per the original price of US $ 70,000,** which was the price payable at the time of importation. **The action taken by the proper officer is valid.**

Question 6

An importer entered into a contract for supply of crude sunflower seed oil @ U.S. $ 435 C.I.F./Metric ton. Under the contract, the consignment was to be shipped in the month of July. The period was extended by mutual agreement and goods were shipped on 5th August at old prices.

In the meanwhile, the international prices had gone up due to volatility in market and other imports during the month of August were at higher prices. Department sought to increase the assessable value on the basis of the higher prices of contemporaneous imports.

Decide whether the contention of the Department is correct, with reference to a decided case law, if any.

Answer

No, the contention of the Department is not correct.

The facts of the given case are similar to the case of CCus., Vishakhapatnam v. Aggarwal Industries Ltd. 2011 (272) E.L.T. 641 (SC). The Supreme Court, in the instant case, observed that since the contract entered into for supply of crude sunflower seed oil @ US $ 435 CIF/metric ton could not be performed on time, the extension of time for shipment was agreed upon by the contracting parties.

The Supreme Court pointed out that the commodity involved had volatile fluctuations in its price in the international market, but having delayed the shipment; the **supplier did not increase the price of the commodity even after the increase in its price in the international market.**

Further, there was **no allegation regarding supplier and importer being in collusion.** Thus, appeal was allowed in the favour of assessee and the **contract price was accepted as the 'transaction value'.**

Question 7

M/s IES Ltd. (assessee) imported certain goods at US $ 20 per unit from an exporter who was holding 30% equity in the share capital of the importer company. Subsequently, the assessee entered into an agreement with the same exporter to import the said goods in bulk at US$ 14 per unit. When imports at the reduced price were effected pursuant to this agreement, the Department rejected the transaction value stating that the price was influenced by the relationship and completed the assessment on the basis of transaction value of the earlier imports i.e., at US$ 20 per unit under rule 4 of the Customs Valuation (Determination of Value of Imported Goods) Rules 2007.

State briefly, whether the Department's action is sustainable in law?

Answer

No, the Department's action is not sustainable in law. Rule 2(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, inter alia, provides that persons shall be **deemed to be "related" if one of them directly or indirectly controls the other.** The word "control" has not been defined under the said rules. As per common parlance, **control is established when one enterprise holds at least 51% of the equity shareholding** of the other company. However, **in the instant case, the exporter company held only 30%** of shareholding of the assessee. Thus, exporter company did not exercise control over the assessee. So, the **two parties cannot be said to be related.**

The fact that assessee had made bulk imports could be a reason for reduction of import price. The burden to prove under-valuation lies on the Revenue and **in absence of any evidence** from the Department to prove under-valuation, the **price declared by the assessee is acceptable.**

In the light of foregoing discussion, it can be inferred that Department's action is not sustainable in law.

Compulsory and Optional Addition (Rule 10)

Question 8

Raghu Limited imported a machine from Japan. The payment includes ₹ 2,00,000 for post importation charges for installation and testing at the site of Raghu Limited in India. These charges are payable as a condition for sale of the imported machine. The department contends that this amount is includible in the assessable value. Examine the correctness of the stand taken by the Department.

Answer

Payment made for installation and testing at the site of the importer is **includible in the assessable value** of imported goods **since said payment is made as a condition of sale** of such goods by the buyer to the seller, even though imported goods are subjected to said process after their importation.

The stand of **Department is correct.**

Question 9

Examine the validity of following statements with reference to Customs Act, 1962 giving brief reasons:

(i) Service charges paid to canalizing agent are not includible in the assessable value of imports. Such agent imports the goods from foreign sellers and enters into an agreement to sell such goods with buyers in India in high seas.

(ii) Charges for "vendor inspection" on the second hand goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods.

Answer

(i) The **statement is not valid**. Since the canalizing agent is not the agent of the importer nor does he represent the importer abroad, purchases in bulk by canalizing agency from foreign seller and subsequent sale by it to Indian importer on high seas sale basis are independent of each other. Hence, the commission or service charges paid to the canalizing agent are includible in the assessable value as these cannot be termed as buying commission.

(ii) The **statement is valid**. As per rule 10(1)(e) of the Customs (Determination of Value of Imported Goods) Rules, 2007, only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value.

Thus, charges of vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods.

Question 10

Importer Mr. M is engaged in importing and distributing of sports goods. He imports sports product from Mr. Q of Malaysia and sells it under brand name "TrueSpeed". To publicize the product, Mr. M spent on AMP (Advertisement, Marketing and Promotion) of the product.

The department contended that AMP expenses incurred by M were required to be added in the value of imported goods. Whether the contention of department is correct

Answer

The contention of the department that AMP expenses incurred by M were required to be added to the value of imported goods was not correct. As per a judicial pronouncement, it was decided that AMP expenses incurred by importer for promotion of brand are **not includible in assessable value** of imported goods on the following grounds:

Agreement did **not specify** that a fixed amount/percentage of the invoice value of the imported goods, was obliged to be spent by the assessee towards AMP, **as a condition of sale**/import.

It was a **post import activity** incurred by the assessee **on its own account** and not for discharge for any obligation of the seller under the terms of sale.

The assessee **importer was not obliged to give any account of expenditure** incurred by it to exporter, unless such expenditure was incurred at the instance of the exporter under stipulation of reimbursement.

Question 11

Determine the assessable value of imported goods in the following cases:

Case I

Particulars	US$
FOB value	1,000
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known
Insurance charges	10

Case II

Particulars	US$
FOB value plus insurance charges	1,010
Freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	Not known

Case III

Particulars	US$
FOB value	1,000
Sea freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	60
Insurance charges	Not known

Case IV

Particulars	US$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Insurance charges	Not known

Case V

Particulars	US$
FOB value	1,000
Air freight, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	250
Insurance charges	10

Answer

Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007 (CVR) has been substituted by a new sub-rule. The new sub-rule provides that for the purposes of sub-section (1) of section 14 of the Customs Act, 1962 and these rules, the value of the imported goods shall be the value of such goods, and shall include -

(a) the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;

(b) the cost of insurance to the place of importation:

Provided that where the cost referred to in clause (a) is not ascertainable, such cost shall be 20% of the free on board value of the goods.

Provided further that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (b) is ascertainable, the cost referred to in clause (a) shall be 20% of such sum:

Provided also that where the cost referred to in clause (b) is not ascertainable, such cost shall be 1.125% of free on board value of the goods.

Provided also that where the free on board value of the goods is not ascertainable but the sum of free on board value of the goods and the cost referred to in clause (a) is ascertainable, the cost referred to in clause (b) shall be 1.125% of such sum.

Provided also that in the case of goods imported by air, where the cost referred to in clause (a) is ascertainable, such cost shall not exceed 20% of free on board value of the goods.

Provided also that in the case of goods imported by sea or air and transshipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.

Explanation-

The cost of transport of the imported goods referred to in clause (a) includes the ship demurrage charges on charted vessels, lighterage or barge charges.

In the backdrop of the above provisions, the assessable value in the various cases will be computed as under:

Computation of assessable value

Case I

Particulars	US$
FOB value	1,000
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of FOB value in terms of first proviso to rule 10(2) of CVR]	200
Cost of insurance [Includible in terms of rule 10(2)(b) of CVR]	10
Assessable value [CIF value]	**1,210**

Case II

Particulars	US$
FOB value plus insurance charges	1,010
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of sum of FOB value of the goods and the cost of insurance in terms of second proviso to rule 10(2) of CVR]	202
Assessable value [CIF value]	**1,212**

Case III

Particulars	US$
FOB value	1,000
Add: Cost of sea transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [Includible in terms of rule 10(2)(a) of CVR]	60
Insurance [1.125% of sum of FOB value of the goods in terms of third proviso to rule 10(2) of CVR]	11.25
Assessable value [CIF value]	1,071.25
Assessable value rounded off	**1,071**

Case IV

Particulars	US$
FOB value plus sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation	1,060
Add: Insurance [1.125% of sum of FOB value of the goods and sea freight and loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation in terms of fourth proviso to rule 10(2) of CVR]	11.925
Assessable value CIF value	1071.925
Assessable value rounded off	**1,072**

Case V

Particulars	US$
FOB value	1,000
Add: Cost of air transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation is restricted to 20% of FOB value when transportation of goods is through air [Fifth proviso to rule 10(2) of CVR]	200
Cost of insurance	10
Assessable value [CIF value]	**1,210**

Computation of Assessable Value and Duty Payable on Import

Question 12

Assessable value of an item imported is ₹ 1,00,000. Basic customs duty is 10%, integrated tax is 12%, and social welfare surcharge is 10% on duty. Compute the amount of total customs duty and integrated tax payable. Ignore GST Compensation Cess.

Answer

Computation of total customs duty and integrated tax payable

	Particulars	₹
A.	Assessable Value	1,00,000
B.	Basic customs duty @ 10%	10,000
C.	Add: Social Welfare surcharge @ 10% on ₹ 10,000	1000
D.	Sub-total	1,11,000
E.	Integrated tax @ 12% of ₹ 1,11,000	13,320
F.	**Total customs duty and integrated tax payable [(B) + (C) + (E)]**	**24,320**

Question 13

Jagat Corporation Limited imported some goods from US. The details of the transaction are as follows:

Authority	Rate of exchange
CBIC	1 US$ = ₹ 70
RBI	1 US$ = ₹ 71

CIF value of the goods is $ 1,50,000

Rate of basic custom duty is 10%

Rate of social welfare surcharge is 10%

Integrated tax is 18%. Ignore GST Compensation Cess.

Calculate total customs duty and integrated tax payable thereon.

Answer

Computation of total custom duty and integrated tax payable

Particulars		Amount
CIF Value		$ 1,50,000
Assessable value (in ₹) = $ 1,50,000 x ₹ 70 (Note -1)		₹ 1,05,00,000
Add: Basic custom duty @ 10% (₹ 1,05,00,000 x 10%)	(A)	₹ 10,50,000
Add: Social Welfare surcharge [₹ 10,50,000 x 10%]	(B)	₹ 1,05,000
Sub-total		1,16,55,000
Add: Integrated tax (₹ 1,16,55,000 x 18%) (Note-2)	(C)	₹ 20,97,900
Total custom duty and integrated tax payable [(A) + (B) + (C)]		**₹ 32,52,900**

Notes:

(1) The applicable exchange rate is the rate notified by CBIC [Explanation to section 14(1) of the customs Act, 1962].

(2) Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 14

Compute the total duty and integrated tax payable under the Customs Law on an imported equipment based on the following information:

(i) Assessable value of the imported equipment US $ 10,100

(ii) Date of bill of entry is 25.04.20XX. Basic customs duty on this date is 10% and exchange rate notified by the Central Board of Indirect taxes and Customs is US$ 1 = ₹ 65.

(iii) Date of entry inwards is 21.04.20XX. Basic customs duty on this date is 20% and exchange rate notified by the Central Board of Indirect taxes and Customs is US$ 1 = ₹ 70.

(iv) Integrated tax: 12%

(v) Social Welfare surcharge 10%

Make suitable assumptions where required and show the relevant workings and round off your answer to the nearest rupee. Ignore GST Compensation Cess.

Answer

Computation of total customs duty and integrated tax payable

Particulars	₹
Assessable value ($ 10,100 x 65) [Note-1]	6,56,500
Add: Basic custom duty @ 10% [Note-2]	65,650
Add: Social Welfare Surcharge @ 10% on ₹ 65,650	6,565
Sub-total	7,28,715
Add: Integrated tax @ 12% [Note-3] (rounded off)	87,446
Total Customs duty and integrated tax payable	**1,59,661**

Notes:

1. Rate of exchange notified by CBIC as prevalent on the date of filing of bill of entry would be the applicable rate [Proviso to section 14(1) of Customs Act,1962].
2. Rate of duty would be the rate as prevalent on the date of filing of bill of entry or entry inwards whichever is later. [Proviso to section 15 of the Customs Act, 1962].
3. Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 15

From the following particulars, calculate total customs duty and integrated tax payable:

(i) Date of presentation of bill of entry: 20.06.20XX [Rate of BCD 20%; Inter-bank exchange rate: ₹ 61.60 and rate notified by CBIC ₹ 70].

(ii) Date of arrival of aircraft in India: 30.06.20XX [Rate of BCD 10%; Inter-bank exchange rate: ₹ 61.80 and rate notified by CBIC ₹ 73].

(iii) Rate of Integrated tax: 12%. Ignore GST Compensation Cess.

(iv) CIF value 2,000 USD; Air freight 500 USD, Insurance cost 100 USD.

(v) Social Welfare Surcharge 10%

Answer

Computation of total customs duty and integrated tax payable

Particulars			Amount
CIF value			2,000 USD
Less: Freight		500	
Insurance		100	600 USD
FOB Value			1,400 USD
Add: Air Freight [Note1]		280	
Insurance (actual amount)		100	380 USD
CIF Value for customs purposes			1,780 USD
			₹
Assessable Value @ ₹ 70 [Note 2]			1,24,600
Basic Custom Duty @ 10% [Note 3]	**(a)**		12,460
Add: Social Welfare Surcharge @ 10% on 12,460	**(b)**		1,246
Sub-total			1,38,306
Integrated tax (12% on ₹ 1,38,306) [Note 4] (rounded off)	**(c)**		16,597
Total duty and integrated tax (a +b + c)			**30,303**

Notes:

(1) If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].

(2) Rate of exchange notified by CBIC on the date of presentation of bill of entry would be the applicate rate. [Proviso to Section 14(1) of the Customs Act, 1962].

(3) Rate of duty would be the rate as prevalent on the date of filing of bill of entry or arrival of aircraft, whichever is later [proviso to section 15 of the Customs Act, 1962].

(4) Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 16

ABC Industries Ltd. imports an equipment by air. CIF price of the equipment is 6,000 US$, freight paid is 1,200 US$ and insurance cost is 1,800 US$. The banker realizes the payment from importer at the exchange rate of ₹ 61 per US$. Central Board of Indirect taxes and Customs notifies the exchange rate as

₹ 70 per US$ while rate of exchange notified by RBI is ₹ 72 per US$. ABC Industries Ltd. expends ₹ 56,000 in India for certain development activities with respect to the imported equipment.

Basic customs duty is 10%, Integrated tax is leviable @ 12% and social welfare surcharge is 10% on duty. Ignore GST Compensation Cess.

You are required to compute the amount of total duty and integrated tax payable by ABC Industries Ltd.

Answer

Computation of customs duty and integrated tax payable by ABC Industries Ltd.

Particulars	Amount
CIF value	6,000 US$
Less: Freight	1,200 US$
Less: Insurance	1,800 US$
FOB value	3,000 US$
Add: Development activities expenses in India [Note 1]	Nil
FOB value	3,000 US$
Add: Freight (20% of FOB value) [Note 2]	600 US$
Add: Insurance (actual)	1,800 US$
CIF for customs purposes	5,400 US$
Exchange rate as per CBIC [Note 3]	₹ 70 per US$
Assessable value = ₹ 70 x 5,400 US$	₹ 3,78,000
Add: Basic customs duty @ 10%	₹ 37,800
Add: Social Welfare Surcharge @ 10%	₹ 3,780
Sub-total	₹ 4,19,580
Integrated tax @ 12% of ₹ 4,19,580[Note 4] (rounded off)	₹ 50,350
Total customs duty and integrated tax payable [₹ 37,800 + ₹ 3,780 + ₹ 50,350]	**₹ 91,930**

Notes:

1. Rule 10(1)(b)(iv) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 inter alia provides that value of development work undertaken elsewhere than in India is includible in the value of the imported goods. Thus, development charges of ₹ 56,000 paid for work done in India have not been included for the purposes of arriving at the assessable value.
2. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
3. Rate of exchange determined by CBIC is considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].
4. Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 17

Mr. Backpack imported second-hand goods from a UK supplier by air, which was contracted on CIF basis.

However, there were changes in prices in international market between the date of contract and actual importation. As a result of several negotiations, parties agreed for a negotiated price payable as follows:

Particulars	Contract Price (£)	Changed Price (£)	Negotiated Price (£)
CIF Value	5,000	5,800	5,500
Air Freight	300	600	500
Insurance	500	650	600

Other details for computing assessable value and duty payable are tabled below:

Particulars		Amount
Vendor inspection charges (inspection carried out by foreign supplier on his own, not required under contract or for making the goods ready for shipment)		£ 600
Commission payable to local agent @ 1% of FOB in local currency		
Date of bill of entry	**Basic customs duty**	**Exchange rate in ₹ notified by CBIC**
18.02.20XX	10%	102
Date of arrival of aircraft	**Basic custom duty**	**Exchange rate in ₹ notified by CBIC**
15.02.20XX	15%	98

Inter-bank rate 1 UK Pound = ₹ 106

Compute the assessable value and calculate customs duty payable by Mr. Backpack.

Answer

Computation of custom duty payable

Particulars	Amount (£)
CIF value (negotiated price) [Note-1]	5,500
Less: Air freight	500
Less: Insurance	600
FOB value	4,400
Add: Vendor inspection charges [Note-2]	Nil
FOB value	4,400
Exchange rate is ₹ 102 per £ [Note-5]	₹
FOB value in ₹	4,48,800
Add: Commission payable to local agent [1% of FOB value] [Note-6] = (US$ 4,400 x ₹ 102) × 1%	4,488
FOB value as per Customs	4,53,288
Freight (Actual) [Note-3] [£ 500 x ₹ 102]	51,000
Insurance [Note-4] [£ 600 x ₹ 102]	61,200
CIF for customs purposes (Assessable value)	5,65,488
Add: Basic custom duty @ 10% [Note-7] – rounded off	56,549
Social Welfare Surcharge (10% of ₹ 56,549) [rounded off]	5,655
Customs duty payable	**62,204**

Notes:

1. As per Section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods. In this case, since the contract was re-negotiated and the importer paid the re-negotiated price, the transaction value would be such re-negotiated price and not the contract price.
2. Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value under rule 10(1)(e) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Charges of vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods [Bombay Dyeing & Mfg. v. CC 1997 (90) ELT 276 (SC)].
3. Actual amount incurred towards freight will be considered since freight is not more than 20% of FOB value [Fifth proviso to rule 10(2) of Customs Valuation Rules].
4. Actual insurance charges paid are includible in the assessable value as per rule 10(2)(b) of the Customs Valuation Rules.
5. Rate of exchange notified by CBIC on the date of filing of bill of entry will be considered as per third proviso to section 14 of the Customs Act, 1962.
6. Commission paid to local agent (since it is not buying commission) is includible in the assessable value on the presumption that local agent has been appointed by the exporter [Rule 10(1)(a)(i) of the Customs Valuation Rules].
7. As per proviso to section 15 of the Customs Act, 1962, rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.

Question 18

PPR Engineering, a manufacturer of tools and spares of Punjab, imports a CNC machine from USA. Contracted CIF price for import was US $ 15,500. Due to fluctuation of price of machine in international market, price of the machine was re-negotiated after placing the order and finally the machine was agreed to be imported at US$ 14,000 CIF. Actual freight paid was US$ 3,000 and insurance cost was US$ 1,800. Other information is given below:

(i) Cost of inspection carried out by foreign supplier on his own account was US$ 300, and the same was neither required under the terms of contract nor for making the goods ready for shipment.

(ii) Commission payable to local agent of the exporter was US$ 184. (It is not a buying commission).

(iii) Date of bill of entry presentation is 25th February, 20XX. On this date, rate of BCD is 10%, rate of exchange notified by CBIC for 1 US$ is ₹ 73, RBI rate is ₹ 71.

(iv) Date of arrival of aircraft at customs station is 5th March, 20XX. On this date, rate of BCD is 15%, rate of exchange notified by CBIC for 1 US$ is ₹ 74, RBI rate is ₹ 72.

You are required to compute the assessable value and calculate basic customs duty payable by PPR Engineering.

Answer

Computation of assessable value and basic customs duty payable

Particulars	Amount ($)
CIF value	14,000
[Transaction value is re-negotiated price since it is the price actually paid/payable.]	
Less: Air freight	3,000
Less: Insurance	1,800
FOB value	9,200
Add: Vendor inspection charges	Nil
[Not includible since it is not a payment made as a condition of sale of the imported goods by the buyer to the seller]	
Add: Commission payable to local agent of the exporter [Includible since it is not a buying commission (Refer Note)]	184
FOB value as per customs	9,384
Add: Freight	1,876.80
[Restricted to 20% of FOB value since goods are imported by air.]	
Add: Actual insurance charges	1,800
Assessable value in $	13,060.80
Assessable value in ₹ [$ 13,060.80 × ₹ 73] (rounded off)	**9,53,438**
Exchange rate is ₹ 73 per $ [Rate of exchange notified by CBIC on the date of filing of bill of entry]	
Basic custom duty @ 15% (rounded off)	**1,43,016**
[Rate of BCD is the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.]	

Question 19

Niketan Industries Ltd., New Delhi has imported certain machine (by sea) from Japan. From the following particulars furnished by it, work out the assessable value of the machine and customs duty and tax payable by Niketan Industries Ltd. with appropriate working notes:

S.N.	Particulars	Amount (₹)
(i)	CIF value of the machine	4,23,379
(ii)	Freight incurred from port of entry to Inland Container depot	25,000
(iii)	Unloading and handling charges paid at the place of importation	40,000
(iv)	Designing charges paid to Consultancy firm in Mumbai	10,000

Other Information:

1.	Basic Customs Duty leviable @10% advalorem
2.	Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is 18%.
3.	Note: Ignore GST Compensation Cess.

Answer

Computation of assessable value and customs duty payable

Particulars	₹
CIF value of machine	4,23,379
Unloading and handling charges at the place of importation [Note-1]	Nil
Freight from port of entry to ICD [Note-2]	Nil
Designing charges paid to consultancy firm in Mumbai [Note-3]	Nil
Assessable Value	**4,23,379**
Add: Basic customs duty (BCD) @10% (rounded off)	42,338
Add: SWS @10% of BCD (rounded off)	4,234
Value for computing IGST	4,69,951
IGST @ 18% (rounded off)	84,591
Total duty and tax payable [₹ 42,338 + ₹ 4,234 + ₹ 84,591]	**1,31,163**

Notes:

1. Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value vide rule 10(2)(a) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The loading, unloading and handling charges associated with the delivery of the imported goods "at" the place of importation are not to be added to the CIF value of the goods.
2. In case of goods imported by sea and transshipped to another custom station in India, the cost of transport associated with such transshipment is excluded in terms of sixth proviso to rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
3. Rule 10(1)(b)(iv) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provides that only the design and engineering work undertaken elsewhere than in India is includible in the assessable value.

Question 20

From the particulars given below, find out the assessable value of the imported goods under the Customs Act, 1962:

		US$
I.	Cost of the machine at the factory of the exporter	10,000
II.	Transport charges from the factory of exporter to the port for shipment	500
III.	Handling charges paid for loading the machine in the ship	50
IV.	Buying commission paid by the importer	50
V.	Freight charges from exporting country to India	1,000
VI.	Exchange rate to be considered: 1$ = ₹ 70	
VII.	Actual insurance charges paid are not ascertainable	

Answer

Computation of assessable value of the imported goods

		US$
I.	Cost of the machine at the factory	10,000

II.	Transport charges up to port	500
III.	Handling charges at the port	50.00
	FOB	10,550
IV.	Freight charges up to India (Actual)	1,000
V.	Insurance charges @ 1.125% of FOB [Note 1]	118.69
	CIF	11,668.69
	CIF in Indian rupees @ ₹ 70 per $ (Assessable Value)	₹ 8,16,808.30
	Assessable Value (rounded off)	**8,16,808**

Notes:

(1) Insurance charges have been included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

(2) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

Question 21

An importer imported a machine from Germany. The vessel carried the machine up to Chennai port and from the Chennai port the machine was transhipped to Kandla port. Determine the assessable value under Customs Act, 1962. Conversion to Indian rupees has already been done wherever required.

S.N.	Particulars	Amount (₹)
i	Basic cost of the machine at the factory in Germany	2,00,000
ii	Transport charges of the machine from the factory in Germany to the load port for transportation to India	10,000
iii	Loading and handling charges at the load port in Germany for loading the machine on the ship	2,000
iv	Freight charges payable to the shipping company for transport to India	10,000
v	Insurance charges paid but not ascertainable	–
vi	Transhipment charges from Chennai to Kandla port	5,000
vii	Unloading and handling charges paid at Kandla port	2,000

Provide brief note to support your conclusion wherever required.

Answer

Computation of assessable value

Particulars	Amount (₹)
Cost of machine	2,00,000
Add: Transport charges from factory in exporting country to load port	10,000
Add: Loading and handling charges at load port	2,000
FOB value	2,12,000
Freight charges for transport to India	10,000

Insurance charges [Insurance charges have been included @ 1.125% of FOB value of goods]	2,385
Assessable value	**2,24,385**

Note: Cost of transport, unloading and handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value.

Question 22

An importer from Cochin imports goods from an exporter in US. The vessel carrying the goods reaches Mumbai port first and from there goods are transshipped to Cochin port.

Determine the assessable value of the imported goods under the Customs Act, 1962 from the following particulars:

S.N.	Particulars	Amount
1.	Cost of the machine at the factory of the exporter	US$ 20,000
2.	Transport charges from the factory of exporter to the port for shipment	US$ 1,000
3.	Handling charges paid for loading the machine in the ship	US$ 100
4.	Buying commission paid by the importer	US$ 100
5.	Freight charges from exporting country to India	US$ 2,000
6.	Actual insurance charges paid are not ascertainable	–
7.	Charges for design and engineering work undertaken for the machine in US	US$ 5,000
8.	Unloading and handling charges paid at the place of importation	₹ 1,500
9.	Transport charges from Mumbai to Cochin port	₹ 25,000
10.	Exchange rate to be considered: 1$ = ₹ 70	

Answer

Computation of assessable value of imported goods

Particulars	Amount (US$)
Price of the machine at the factory of the exporter	20,000
Add: Transport charges up to the port in the country of the exporter [Note 1]	1,000
Handling charges at the port in the country of the exporter [Note 1]	100
Charges for design and engineering work undertaken for the machine in US [Note 2]	5,000
Buying commission [Note 3]	Nil
FOB value	26,100
Add: Freight charges up to India	2,000
Insurance charges @ 1.125% of FOB [Note 4]	293.63
Transport charges from Mumbai to Cochin port [Note 5]	Nil
CIF value	28,393.63
Add: Unloading and handling charges paid at the place of importation [Note 6]	Nil
Assessable value	28,393.63

Assessable value in Indian rupees @ ₹ 70 per $	₹ 19,87,554.10
Assessable value (rounded off)	**₹ 19,87,554**

Notes:

(1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].

(2) 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 CVR].

(3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].

(4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].

(5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Sixth proviso to rule 10(2) of the CVR].

(6) As per rule 10(2) of the CVR, only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value.

The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods.

Question 23

Rudraksh Manufacturers, Kolkata, is engaged in manufacturing the textile articles. It has decided to enhance its production capacity in the current year. Therefore, it imports a machine through vessel from George Inc., USA at a price of $ 31,650 (including transport charges from the factory of George Inc. upto US port of $ 2,500 and handling charges at US port of $ 1,750). Rudraksh Manufacturers has provided the following additional information in respect of machine imported:

S.N.	Particulars	Amount
(i)	Charges for design and engineering work undertaken for the machine in US	US$ 1,750
(ii)	Buying commission paid by Rudraksh Manufacturers	US$ 150
(iii)	Freight charges from USA to India	US$ 3,000
(iv)	Unloading and handling charges paid at the place of importation	₹ 2,250
(v)	Exchange rate to be considered: 1$ = ₹ 60	

The actual insurance charges paid are not ascertainable. You are required to determine the assessable value of the imported machine under the Customs Act, 1962 from the given particulars.

Answer

Computation of assessable value of imported goods

Particulars	Amount (US$)
Price of the machine (including transport charges from the factory of George Inc. upto US port and handling charges at US port) [Note-1]	31,650

Add: Charges for design and engineering work undertaken in USA [Note 2]	1,750
Buying commission [Note 3]	Nil
FOB value	33,400
Add: Freight charges up to India (Actual) [Note-1]	3,000
Insurance charges @ 1.125% of FOB [Note 4]	375.75
CIF value	36,775.75
Add: Unloading and handling charges paid at the place of importation [Note 5]	Nil
Assessable value	36,775.75
Assessable value in Indian rupees @ ₹ 60 per $	**₹ 22,06,545**

Notes:

(1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value [Rule 10(2)(a) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].

(2) 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 CVR].

(3) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of the CVR].

(4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Third proviso to rule 10(2) of the CVR].

(5) By virtue of rule 10(2) of the CVR, only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value. The loading, unloading and handling charges associated with the delivery of the imported goods at the place of importation are not to be added to the CIF value of the goods. [Circular No. 39/2017 Cus. dated 26.09.2017].

Question 24

Foreign Trade International Ltd. has imported one machine from England. It has given the following particulars:

(i)	Price of machine	8,000 UK Pounds
(ii)	Freight paid (air)	2,500 UK Pounds
(iii)	Design and development charges paid in UK	500 UK Pounds
(iv)	Commission payable to local agent of exporter @ 2% of price of machine, in Indian Rupees	
(v)	Date of bill of entry	24.10.20XX (Rate BCD 10%; Exchange rate as notified by CBIC ₹ 100 per UK Pound)
(vi)	Date of arrival of aircraft	20.10.20XX (Rate of BCD 20%; Exchange rate as notified by CBIC ₹ 98 per UK Pound)
(vii)	Integrated tax is 12%	
(viii)	Insurance charges have been actually paid but details are not available.	

Compute the total customs duty and integrated tax payable by Foreign Trade International Ltd.

Note: Ignore GST Compensation Cess.

Answer

Computation of total duty and integrated tax payable

Particular	Amount
Price of machine	8,000 UK pounds
Add: Design and development charges [Note 1]	500 UK pounds
Total	8,500 UK pounds
	(₹)
Total in rupees @ ₹ 100 per pound [Note 2]	₹ 8,50,000
Add: Local agency commission [Note 1] (2% of 8000 UK pounds) = 160 UK pounds x ₹ 100	₹ 16,000
FOB value as per Customs	8,66,000
Add: Air freight (8,66,000 x 20%) (restricted to 20% of FOB) [Note 3]	1,73,200
Add: Insurance @ 1.125% of customs FOB [Note 4]	9,742.50
CIF Value	10,48,942.50
Assessable value (rounded off)	10,48,942
Add: Basic custom duty @ 10% [Note 5] (rounded off)	1,04,894
Add: Social Welfare Surcharge @ 10% on ₹ 1,04,894 (rounded off)	10,489
Total	11,64,325
Add: Integrated tax @ 12% [Note 7] (rounded off)	1,39,719
Total duty and integrated tax payable (₹ 1,04,894 + ₹ 10,489 + ₹ 1,39,719)	**2,55,102**

Notes:

1. Design and development charges paid in UK and commission paid to local agent (since it is not buying commission) are includible in the assessable value [Rule 10 of the Customs (Determination of Value of Imported Goods) Rules, 2007]
2. 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].
3. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
4. Where the insurance charges are not ascertainable, such cost is taken as 1.125% of FOB value of the goods [Third proviso to Rule 10(2) of the Customs (Determination of value of Imported Goods) Rules, 2007].
5. Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or rate in force on the date of arrival of aircraft, whichever is later.
6. Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 25

F. Ltd. imported a machine from UK in May, 20XX. The details in this regard are as under:

(i) FOB value of the machine: 10,000 UK Pound

(ii) Freight (Air): 3,000 UK Pound

(iii) Licence fee, the buyer was required to pay in UK: 400 UK Pound

(iv) Buying commission paid in India ₹ 20,000

(v) Date of bill of entry was 20.05.20XX and the rate of exchange notified by CBIC on this date was ₹ 99.00 per one pound. Rate of BCD was 7.5%.

(vi) Date of arrival of aircraft was 25.05.20XX and the rate of exchange notified by CBIC on this date was ₹ 98.50 per pound and rate of BCD was 10%.

(vii) Integrated tax was 12% and ignore GST Compensation Cess.

(viii) Insurance premium details were not available.

You are required to compute the total customs duty and integrated tax payable on the importation of machine. You may make suitable assumptions wherever required.

Answer

Computation of assessable value and total customs duty and integrated tax payable by F Ltd.

Particular		Amount (£)
FOB value		10,000
Add: License fee required to be paid in UK [Note – 1]		400
Buying commission is not includible in the assessable value [Note – 2]		Nil
Customs FOB value		10,400
Exchange rate is ₹ 99 per £ [Note – 3]		
		₹
Value in rupees		10,29,600
Add: Air freight [Restricted to 20% of ₹ 10,29,600 (customs FOB value)] [Note – 4]		2,05,920
Insurance @ 1.125% of ₹ 10,29,600 [Note – 5]		11,583
CIF Value		12,47,103
Assessable value		12,47,103
Add: Basic custom duty @ 10% (₹ 12,47,103 × 10%) [Note – 6] [rounded off]	(A)	1,24,710
Add: Social Welfare Surcharge (10% of ₹ 1,24,710) [rounded off]	(B)	12,471
Value for integrated tax		13,84,284
Add: Integrated tax @ 12% [rounded off] [Note – 7]	(C)	1,66,114
Total customs duty and integrated tax payable [(A) + (B) + (C)]		**3,03,295**

Note:

1. Engineering and design charges paid in UK, licence fee relating to imported goods payable by the buyer as a condition of sale, materials and components supplied by the buyer free of cost and actual insurance charges paid are all includible in the assessable value - Rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

2. Buying commission is not included in the assessable value [Clause (a)(i) of sub-rule (1) of rule 10 of the Customs Valuation Rules].
3. Rate of exchange notified by CBIC on the date of filing of bill of entry has to be considered [Third proviso to section 14 of the Customs Act, 1962].
4. In case of goods imported by air, freight cannot exceed 20% of FOB value [Fifth proviso to rule 10(2) of the Customs Valuation Rules].
5. Insurance charges, when not ascertainable, have to be included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation Rules].
6. Rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later [Proviso to section 15 of the Customs Act, 1962].
7. Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

Question 26

BSA & Company Ltd. has imported a machine from U.K. From the following particulars furnished by it, arrive at the assessable value for the purpose of customs duty payable.

	Particulars	Amount
1.	Price of the machine	10,000 U.K. Pounds
2.	Freight (air)	3,000 U.K. Pounds
3.	Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
4.	License fee relating to imported goods payable by the buyer as a condition of sale	20% of Price of machine
6.	Materials and components supplied in UK by the buyer free of cost valued at ₹ 20,000	
7.	Insurance paid to the insurer in India	₹ 6,000
8.	Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds

Other particulars:

(i) Inter-bank exchange rate: ₹ 98 per U.K. Pound.

(ii) CBIC had notified exchange rate of ₹ 100 per U.K. Pound.

(iii) Importer paid ₹ 5,000 towards demurrage charges for delay in clearing the machine from Airport.

(Make suitable assumptions wherever required and show workings with explanations)

Answer

Computation of assessable value of machine imported by BSA & Co.

Particulars	Amount (£)
Price of the machine	10,000
Add: Engineering and design charges paid in UK [Note 1]	500
Licence fee relating to imported goods payable by the buyer as a condition of sale (20% of Price of machine) [Note 1]	2,000

Total	12,500
	Amount (₹)
Value in Indian currency [£ 12,500 x ₹ 100] [Note 2]	12,50,000
Add: Materials and components supplied by the buyer free of cost [Note 1]	20,000
FOB	12,70,000
Add: Freight [₹ 12,70,000 x 20%] [Note 3]	2,54,000
Insurance paid to the insurer in India [Note 1]	6,000
CIF value	15,30,000
Assessable value	15,30,000

Notes:

1. Engineering and design charges paid in UK, licence fee relating to imported goods payable by the buyer as a condition of sale, materials and components supplied by the buyer free of cost and actual insurance charges paid are all includible in the assessable value [Rule 10 of the Customs (Determination of Value of Imported Goods) Rules, 2007].
2. As per Explanation to section 14(1) of the Customs Act, 1962, assessable value should be calculated with reference to the rate of exchange notified by the CBIC.
3. If the goods are imported by air, the freight cannot exceed 20% of FOB price [Fifth proviso to rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
4. Buying commission is not included in the assessable value [Rule 10(1)(a) of the Customs (Determination of Value of Imported Goods) Rules, 2007].
5. Only ship demurrage charges on chartered vessels are included in the cost of transport of the imported goods. Thus, demurrage charges for delay in clearing the machine from the Airport will not be includible in the assessable value [Explanation to Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007].

Question 27

Product 'Z' was imported by Mr. X by air. The details of the import transaction are as follows:

Particulars	US$
Price of 'Z' at exporter's factory	8,500
Freight from factory of the exporter to load airport (airport in the country of exporter)	250
Loading and handling charges at the load airport	250
Freight from load airport to the airport of importation in India	4,500
Insurance charges	2,000

Though the aircraft arrived on 22.08.20XX, the bill of entry for home consumption was presented by Mr. X on 20.08.20XX. The other details furnished by Mr. X are:

	20.08.20XX	22.08.20XX
Rate of basic customs duty	20%	10%
Exchange rate notified by CBIC	₹ 70 per US$	₹ 72 per US$

Exchange rate prescribed by RBI	₹ 71 per US$	₹ 72 per US$
Integrated tax leviable under section 3(7) of Customs Tariff Act, 1975	18%	12%

Compute value of product 'Z' for the purpose of levying customs duty and customs duty and tax payable.

Answer

Computation of assessable value of product 'Z'

Particulars		Amount
Ex-factory price of the goods		8,500 US$
Freight from factory of the exporter to load airport (airport in the country of exporter)	250 US $	
Loading and handling charges at the load airport	250 US $	
Freight from load airport to the airport of importation in India	4,500 US $	
Total cost of transport, loading and handling charges associated with the delivery of the imported goods to the place of importation	5,000 US $	
Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation (restricted to 20% of FOB value) [Note 1]		1,800 US$
Insurance (actual)		2,000 US$
CIF for customs purpose		12,300 US$
Value for customs purpose		12,300 US$
Exchange rate as per CBIC [Note 2]		₹ 70 per US$
		Amount (₹)
Assessable value (₹ 70 x 12,300 US $)		**8,61,000**
Add: Basic customs duty @ 10% [Note 3]		86,100
Add: SWS @ 10%		8,610
Value for the purpose of levying integrated tax [Note 4]		9,55,710
Add: Integrated tax @ 12% (rounded off)		1,14,685
Total duty & tax payable (86,100 + 8,610 + 1,14,685)		**2,09,395**

Notes:

(1) In the case of goods imported by air, the cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation shall not exceed 20% of the FOB value of the goods. [Fifth proviso to rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)].

FOB value in this case is the ex-factory price of the goods (8,500 US $) plus the cost of transport from factory to load airport (250 US $) plus loading and handling charges at the load airport (250 US $) which is 9,000 US $.

(2) Rate of exchange determined by CBIC is to be considered [Clause (a) of the explanation to section 14 of the Customs Act, 1962].

(3) Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or rate in force on the date of arrival of aircraft, whichever is later.

(4) Integrated tax is levied on the sum total of the assessable value of the imported goods and customs duties [Section 3(8) of the Customs Tariff Act, 1962].

Question 28

Calculate the assessable value (rounded off to nearest one rupee) under the Customs Act, 1962 with appropriate working notes form the following particulars related to import of a machine (by sea) by Daksh Industries from USA in the month of October 20XX:

S.N.	Particulars	Amount
(i)	Cost of machine at the port of exportation	US $ 8,200
(ii)	Freight from port of export to port of import	US $1,800
(iii)	Daksh Industries had paid to seller the cost for packing (not as condition of sale but included in cost of machine at point (i) above)	US $ 400
(iv)	Actual selling commission paid by Daksh Industries to local agent of exporter.	₹ 20,000
(v)	Actual insurance charges paid are also not ascertainable.	-
(vi)	Ship demurrage charge paid by Daksh Industries at port of importation.	₹ 15,000
(vii)	Engineering charges paid by Daksh Industries to consultancy firm in Mumbai as a condition of sale.	₹ 1,25,000

Note:

Rate of exchange to be considered ₹ 80 for one US $

Answer

Computation of assessable value

Particulars	Amount in $	Amount in ₹
Cost of machine at port of importation	8,200	6,56,000
Add: Local agent commission [Includible as not a buying commission]	250 (₹ 20,000/₹ 80)	20,000
FOB as per customs	**8,450**	**6,76,000**
Add: Freight [Freight charges till port of importation are includible in assessable value]	1,800	1,44,000
Add: Insurance charges @ 1.125% of FOB	95.0625	7,605
Add: Ship demurrage (₹ 15,000/₹ 80) [Includible in cost of transport]	187.50	15,000
Assessable Value	**10,532.5625**	**8,42,605**

Notes:

(i) Packing charges incurred by the buyer are includible in assessable value even though they are not paid as a condition of sale.

(ii) Engineering charges are not included in the assessable value as engineering work is undertaken in India.

Question 29

Compute the total customs duty and integrated tax payable under Customs law on an imported machine, based on the following information:

		US$
(i)	Cost of the machine at the factory of the exporter	20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	800
(iii)	Handling charges paid for loading the machine in the ship	50
(iv)	Freight charges from exporting country to India	5,000
(v)	Buying commission paid by the importer	100
		(₹)
(vi)	Lighterage charges paid by the importer at port of importation	12,000
(vii)	Freight incurred from port of entry to Inland Container depot	60,000
(viii)	Ship demurrage charges paid at port of importation	24,000
Date of bill of entry	20.01.20XX (Rate BCD 20%; Exchange rate as notified by CBIC ₹ 70 per US $)	
Date of entry inward	25.03.20XX (Rate of BCD 10%; Exchange rate as notified by CBIC ₹ 75 per US $)	
Integrated tax	12%	

Note: Ignore GST Compensation Cess.

Answer

Computation of customs duty and integrated tax payable on the imported goods

Particulars		US$
Cost of the machine at the factory		20,000
Transport charges up to port		800
Handling charges at the port		50
FOB		20,850
FOB value in Indian rupees @ ₹ 70 per $ [Note 1]		14,59,500
Freight charges up to India [US$ 5,000 x ₹ 70]		3,50,000
Lighterage charges paid by the importer [Note 2]		12,000
Ship demurrage charges on chartered vessels [Note 2]		24,000
Insurance charges [₹ 14,59,500 x 1.125%] [Note 3]		16,419.38
CIF		18,61,919.38
Assessable Value (rounded off)		18,61,919
Add: Basic customs duty @ 10% [Note 4] (rounded off)	[a]	1,86,192
Add: Social Welfare surcharge @ 10% (rounded off)	[b]	18,619
Total		20,66,731
Add: Integrated tax @ 12% of ₹ 20,66,731 [Note 5] (rounded off)	[c]	2,48,008
Total custom duty and integrated tax payable [(a) + (b) + (c)]		**4,52,819**

Notes:

(1) Rate of exchange notified by CBIC on the date of presentation of bill of entry is considered [Explanation to section 14 of the Customs Act, 1962].

(2) Cost of transport of the imported goods includes ship demurrage charges and lighterage charges [Explanation to Rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

(3) Insurance charges is included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

(4) Rate of duty is the rate prevalent on the date of presentation of bill of entry or the rate prevalent on the date of entry inwards, whichever is later [Section 15 of the Customs Act, 1962].

(5) Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable Social welfare surcharge.

(6) Buying commission is not included in the assessable value [Rule 10(1)(a)(i) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

(7) Freight incurred from port of entry to Inland Container depot is not includible in assessable value [Rule 10(2)(a) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

Question 30

Paramjit Ltd. imported a machine from Oliver Equipments, UK. The FOB price of the machine was settled at 6,000 UK Pound. The machine was shipped on 01.10.20XX. Meanwhile, Paramjit Ltd. re-negotiated the price of the machine with Oliver Equipments which agrees on the reduced price of 5000 UK pound on 10.10.20XX. The machine arrived in India on 18.10.20XX. Other details pertaining to machine are as under:

(i) License fee that the buyer was required to pay in UK as a condition of sale was 500 UK Pound

(ii) Buying commission paid in India was ₹ 20,000

(iii) Cost of transport from UK port to Indian port is ₹ 40,000. Apart from this, due to deep draught at the port, machine was not taken to the jetty in the port but was unloaded at the outer anchorage. The additional charges incurred for such unloading and transport of machine from outer anchorage to the jetty in barges (small boats) were ₹ 10,000.

(iv) Date of presentation of bill of entry was 15.10.20XX and the rate of exchange notified by CBIC on this date was ₹ 100 per pound. Rate of basic customs duty was 10%.

(v) Date of entry inwards was 18.10.20XX and the rate of exchange notified by CBIC on this date was ₹ 105 per pound. Rate of basic customs duty was 15%.

(vi) Insurance premium details were not ascertainable.

Compute the assessable value and basic customs duty payable (rounded off to nearest one rupee) by Paramjit Ltd.

Answer

As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods at the time and place of importation. Further, the Supreme Court in case of Garden Silk Mills v. UOI 1999 (113) E.L.T. 358 held that importation gets complete only when the goods become part of mass of goods within the country.

Since in the instant case, the price of the goods was reduced when the goods were in transit, i.e. before the goods arrived in India, the goods should be valued as per the revised reduced price of 5,000 UK pound, which was the price payable at the time of importation.

Computation of assessable value and basic customs duty payable by Paramjit Ltd

Particulars	Amount (UK Pound)
FOB value of machine	5,000
Add: License fee required to pay in UK (Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value)	500
Add: Buying commission (Buying commission is not included in the assessable value)	Nil
Customs FOB	5,500
	Amount (₹)
Value in rupees (5500 x ₹ 100) Rate of exchange as notified by CBIC on the date on which bill of entry is presented under section 46 of the Customs Act, 1962 is to be considered [Explanation to section 14 of the Customs Act, 1962].	5,50,000
Add: Cost of transport including barge charges (In case where the big mother vessels cannot enter the harbour for any reason and goods are brought to the docks by smaller vessels like barges, small boats, etc., the cost incurred by the importer for bringing the goods to the landmass, such as lighterage charges, barge charges will be included in the cost of transportation. In other words, the cost of transport of the imported goods includes ship demurrage charges on chartered vessels, lighterage charges or barge charges.)	50,000
Add: Insurance (If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods.)	6187.50
CIF value/Assessable value	**6,06,187.50**
Basic customs duty @ 15% (₹ 6,06,187.50 x 15%) (Rounded off) (Section 15 of the Customs Act, 1962 provides that rate of duty shall be the rate in force on the date of presentation of bill of entry or on the date of entry inwards, whichever is later.)	**90,928**

Question 31

A non-resident Indian from USA donated food processing machinery to Om Charitable Trust (OCT). OCT, however, paid commission to local agent in India.

Assistant Commissioner of Customs determined the FOB value of machine at US $ 17,500 including design and development charges. The trust accepted the value determined. Actual air freight paid was US $ 4,000 and insurance cost was US $ 1,500. Other details available are given below:

(i) Commission paid to local agent of the exporter is US$ 2,100 (paid in ₹ 1,57,500).

(ii) Date of Bill of Entry presentation is 25th March, 20XX. On this date, rate of BCD is 10%. Rate of exchange notified by CBIC is ₹ 75 per US $; Reserve Bank Rate is ₹ 76 per US $.

(iii) Date of arrival of aircraft at customs station is 5th April, 20XX.

On this date, rate of BCD is 15%, rate of exchange notified by CBIC is ₹ 74 per US $; Reserve Bank Rate is ₹ 75 per US $.

(iv) Social welfare surcharge is leviable @ 10% and applicable IGST rate is 18%

Compute the assessable value under the Customs Act and also calculate basic customs duty payable, social welfare surcharge and IGST on import of machine. Assume that no exemption is available on this transaction and make suitable assumptions, if required.

Answer

Computation of assessable value, basic customs duty, social welfare surcharge and IGST

Particulars	Amount ($)
FOB value computed by Customs Officer (including design and development charges)	17,500
Add: Commission paid to local agent in India [Includible since it is not a buying commission]	2,100
FOB value as per customs	19,600
Add: Air freight ($ 19,600× 20%) [Restricted to 20% of FOB value since goods are imported by air.]	3,920
Add: Actual insurance charges	1,500
Assessable value in $	25,020
Assessable value in rupees [$ 25,020 × ₹ 75] [Rate of exchange notified by CBIC on the date of filing of bill of entry is considered.]	**₹ 18,76,500**
Add: Basic custom duty @ 15% on ₹ 18,76,500 [Rate of BCD is the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later]	**2,81,475**
Add: Social Welfare surcharge @ 10% on ₹ 2,81,475 (rounded off)	**28,148**
Total	**21,86,123**
Integrated tax @ 18% on ₹ 21,86,123 [rounded off]	**3,93,502**

Question 32

ABC Trade International Limited has imported one machine from USA. It has given following particulars:

(i)	Price of the machine	10,000 USD
(ii)	Freight paid (Air)	2,500 USD
(iii)	Design and development charges paid to supplier in USA	500 USD
(iv)	Commission payable to local agent of exporter, paid by ABC Trade International Limited	14,000
(v)	Date of bill of entry	24.10.20XX
	- Rate of Basic Customs Duty (BCD) 10%	

	- Exchange rate as notified by CBIC: ₹ 70 per USD	
	- Inter-bank exchange rate on the date of bill of entry: ₹ 72 per USD	
(vi)	Date of arrival of aircraft	20.10.20XX
	- Rate of Basic customs duty (BCD) 20%	
	- Exchange rate as notified by CBIC ₹ 68 per USD	
	- Inter-bank exchange rate on the date of arrival of aircraft: ₹71 per USD	
(vii)	IGST rate: 12%	
(viii)	Insurance charges have been actually paid but details are not available.	

Compute the total customs duty and IGST payable by ABC Trade International Limited.

Note: Ignore GST compensation cess and social welfare surcharge.

Answer

Computation of customs duty and integrated tax

Particulars	**Amount**
Price of machine	USD 10,000
Add: Design and development charges paid to supplier in USA [since undertaken elsewhere than in India]	USD 500
Total	USD 10,500
	(₹)
Total in rupees @ ₹ 70 per USD [Rate of exchange notified by the CBIC on the date of presentation of bill of entry]	7,35,000
Add: Commission payable to local agent of exporter	14,000
FOB value as per customs	7,49,000
Add: Air freight @ 20% of FOB value [Air freight restricted to 20% of FOB]	1,49,800
Add: Insurance @ 1.125% of FOB value [since actual not available]	8426.25
CIF value (rounded off)	9,07,226
Add: Basic custom duty @10% (rounded off) [Rate in force on the date of presentation of bill of entry or on the date of arrival of aircraft, whichever is later.]	90,723
Total	9,97,949
Integrated tax @ 12% (rounded off)	1,19,754
Total customs duty and IGST payable	**2,10,477**

Question 33

Determine the Assessable value under customs law of an imported machine based on following information:

(1) Cost of machine

[Contract price = ₹ 1,00,000, Revised price = ₹ 2,00,000, Negotiated & Agreed price = ₹ 1,50,000]

(2) Freight from the factory of the exporter to the port for shipment = ₹ 20,000

(3) Freight incurred from port of entry to inland container depot = ₹ 60,000

(4) Handling charges paid for loading the machine in the ship = ₹ 5,000

(5) Demurrage charge paid at port of importation = ₹ 30,000

(6) Buying commission paid by importer = ₹ 5,000

(7) Commission paid to local agent appointed by exporter = ₹ 1,000

(8) Vendor inspection charges (not required under contract) = ₹ 8,000

Answer

Computation of assessable value of the imported machine under customs law

Particulars	(₹)
Cost of machine [Note-1]	1,50,000
Add: Commission paid to local agent appointed by exporter [Note-4]	1,000
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation - 20% of FOB [Note-2 & 5]	35,200
Add: Insurance @ 1.125 % of FOB [Note-3 & 5]	1,980
Assessable value	**1,88,180**

Notes:

1. As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, i.e. the price actually paid or payable for the goods, which in this case is negotiated and agreed price.
2. The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value. Further, where such cost is not ascertainable, it shall be 20% of the free on board (FOB) value of the goods [Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
3. Where insurance cost is not ascertainable, it shall be 1.125% of the free on board (FOB) value of the goods [Rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
4. Buying commission is not includible in the assessable value. However, commission paid to local agent appointed by exporter is includible since it's not a buying commission [Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
5. FOB value will be sum total of cost of machine, freight from factory of exporter to port for shipment, handling charges paid for loading the machine in the ship and commission paid to local agent appointed by exporter, which will be ₹ 1,76,000 [(₹ 1,50,000 + ₹ 20,000 + ₹ 5000 + ₹ 1,000)].
6. Freight incurred from port of entry to Inland Container depot is not includible in assessable value [Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].
7. Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value. Vendor inspection charges not required under contract are thus, not includible in the assessable value [Rule 10(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

Question 34

Milly Ltd. imported a machinery from USA. The machine reaches Delhi Airport first and then from there, it is transshipped to Dehradun Airport.

From the following details furnished, compute the assessable value (up to nearest rupee) for the purpose of customs duty payment:

S.N.	Particulars	Amount
(i)	Price of the machine	US $ 15,000
(ii)	Air freight	US $ 4,000
(iii)	License fee relating to imported goods payable by the buyer as a condition of sale	15% of price of machine
(iv)	Drawing charges paid to an architect in India	₹ 25,000
(v)	Commission (not buying commission) paid by the buyer to agent of exporter in USA	US $ 250

Other details for computing the assessable value are as under:

(i) Insurance charges paid in India-Not ascertainable.

(ii) Material supplied in USA by the buyer free of cost valued at ₹ 75,000.

(iii) Importer paid transshipment charges from Delhi Airport to Dehradun Airport ₹ 1,00,000.

(iv) Importer paid ₹ 20,000 towards demurrage charges for delay in transport of the machine from Delhi airport.

(v) Exchange rate to be considered is ₹ 70 per US$.

Note: Price of the machine (US $ 15,000) given at serial number (i) of table above is excluding of any of the amounts given thereafter.

Working notes should form part of your answer.

Answer

Computation of assessable value

Particulars	Amount ($)
Price of the machine	15,000
Add: License fee [Licence fee relating to imported goods is includible since it is payable by the buyer as a condition of sale.]	2,250
Add: Drawing charges [Not includible since undertaken in India.]	-
Add: Commission paid by buyer to agent of exporter [Includible since it is not buying commission]	250
Total	17,500
	Amount (₹)
Value in Indian currency [$ 17,500 x ₹ 70]	12,25,000
Add: Material supplied by the buyer free of cost [Includible in the assessable value]	75,000

FOB value	13,00,000
Add: Air Freight [Restricted to 20% of FOB value since goods are imported by air.]	2,60,000
Add: Demurrage charges [Only ship demurrage charges on chartered vessels are includible in the cost of transport of the imported goods.]	-
Add: Insurance Charges [1.125% of FOB value since insurance charges are not ascertainable]	14,625
Add: Transshipment charges from Delhi Airport to Dehradun Airport [Since these charges are incurred within India, they are not includible in the assessable value]	-
Assessable value	**15,74,625**

Question 35

ABC Industries Ltd. of Mumbai imported one machine through vessel from Japan, in the month of November, 20XX.

The following particulars are made available:

S.N.	Particulars	Amount (¥)
(i)	Cost upto port of exportation incurred by exporter	6,00,000
(ii)	Loading charges at port of exportation	25,000
(iii)	Freight charges from port of export to port of import in India.	1,00,000

Following additional amounts paid by ABC Industries Ltd:

S.N.	Particulars	Amount (₹)
(i)	Designing charges, necessary for such machine, paid to consultancy firm in New Delhi	8,00,000
(ii)	Commission paid (not the buying commission) to local agent of exporter.	1,25,000
(iii)	Actual landing charges paid at the place of importation.	15,000
(iv)	Actual insurance charges paid to the place of importation are not ascertainable.	-
(v)	Lighterage charges paid at the port of importation	20,000

Other Information:

(i)	Rate of basic customs duty is 10%
(ii)	Rate of social welfare surcharge is 10%
(iii)	Integrated tax leviable under section 3(7) of Customs Tariff Act, 1975 is 12%.
(iv)	Ignore GST compensation cess.
(v)	Rate of exchange to be taken is 1 Japanese Yen (¥) = ₹ 0.71

Arrive at the total customs duty, including integrated tax payable under section 3(7) of the Customs Tariff Act, 1975 with appropriate working notes.

Answer

Computation of assessable value of the imported goods

		Japanese Yen
Cost upto port of exportation		6,00,000
Add: Loading charges at the port of exportation [Note-1]		25,000
Total in Japanese Yen		6,25,000
		₹
Total in Indian rupees @ ₹ 0.71 per Japanese Yen		4,43,750
Add: Commission paid to local agent of exporter [Note-3]		1,25,000
FOB value as per customs		5,68,750
Add: Freight charges from port of export to port of import in India [Note-1] [1,00,000 Japanese Yen x 0.71 = ₹ 71,000]		71,000
Add: Lighterage charges paid by the importer at port of importation [Note-1]		20,000
Add: Insurance charges @ 1.125% of FOB [₹ 5,68,750 x 1.125%] [Note-4]		6,398.43
CIF value		6,66,148.43
Assessable Value (rounded off)		6,66,148
Add: Basic customs duty @ 10% of ₹ 6,66,148 (rounded off)	(A)	66,615
Add: Social welfare surcharge @ 10% of ₹ 66,615 rounded off)	(B)	6,662
Total		7,39,425
Add: Integrated tax @ 12% of ₹ 7,39,425 (rounded off)	(C)	88,731
Total custom duty and integrated tax payable [(A) + (B) + (C)]		**1,62,008**

Notes:

(1) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to place of importation are includible in assessable value [Rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR)]. Further, explanation to rule 10(2), inter alia, clarifies that cost of transport of imported goods includes lighterage charges.

(2) Design and engineering work is includible in assessable value only when the same is undertaken elsewhere than in India and necessary for production of imported goods [Rule 10(1) of the CVR].

(3) Buying commission is not included in the assessable value [Rule 10(1) of the CVR]. Commission paid to local agent of exporter is includible in assessable value since it is not buying commission.

(4) If insurance cost is not ascertainable, the same shall be added @ 1.125% of FOB value of the goods [Rule 10(2) of the CVR].

(5) Cost of insurance, transport, loading, unloading, handling charges associated with transshipment of imported goods to another customs station in India is not included in the assessable value [Rule 10(2) of the CVR].

Question 36

Jolly overseas Ltd. of Hyderabad has imported a machine from U.K (England) through the sea route by a vessel. The details of the import transaction are as follows:

S.N.	Particulars	Amount (UK £)

(i)	Cost of the machine at the factory of the exporter	20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	600
(iii)	Handling charges paid for loading the machine on ship at port of exportation	500
(iv)	License fee relating to the imported goods payable by the importer as a condition of sale	900
(v)	Actual Freight charges from the port of export to the port of import are not ascertainable	--
(vi)	Actual insurance charges paid	200
(vii)	Landing charges paid at the place of importation are not ascertainable	--
(viii)	Handling charges associated with the delivery of the imported goods at the place of importation	₹ 15,000

1	**Bill of entry:**	**Dated 21.01.2XX** Exchange rate on that day: (a) Notified by CBIC 1 UK £ = ₹ 101 (b) prescribed by RBI 1 UK £ = ₹ 100
2	**Entry inward:**	**Dated 26.01.20XX** Exchange rate on that day: (a) Notified by CBIC 1 UK £ = ₹ 102 (b) prescribed by RBI 1 UK £ = ₹ 103

Compute the assessable value of the machine (in rupees) for the purpose of levy of Customs Duty.

Answer

Computation of assessable value of machine

Particulars	Amount (UK £)
Cost of the machine at the factory of the exporter	20,000
Add: Licence fee relating to the imported goods payable by the importer as a condition of sale [Note 1(i)]	900
Add: Cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation [20% of £ 22,000] [Note 1(ii)]	4,400
Insurance charges [Taken at actuals]	200
CIF value	25,500
Add: Landing charges paid at place of importation and handling charges associated with the delivery of the imported goods at the place of importation [Note 1(iii)]	Nil
Assessable value	25,500
Assessable value in Indian rupees @ ₹101 per £ [Note 2]	**25,75,500**

Notes:

(1) As per rule 10 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007-

(i) Licence fees related to the imported goods payable as a condition of the sale of the goods being valued is includible in the assessable value

(ii) The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation are includible in the assessable value.

Where such cost is not ascertainable, it shall be 20% of free on board (FOB) value of goods.

FOB value will be sum total of cost of machine, transport charges from factory to port of exportation, handling charges at the port of exportation and licence fee paid as a condition of sale of imported goods, which will be £ 22,000 [£ 20,000 + £ 600 + £ 500+ £ 900]

(iii) Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value. The loading, unloading and handling charges associated with the delivery of imported goods at the place of importation are not to be added to the CIF value of goods.

(2) As per section 14 of Customs Act, rate of exchange notified by CBIC on date of presentation of bill of entry is to be considered for purpose of conversion of assessable value into Indian currency.

Question 37

Detox Limited wants to import customized machine to be used in its business. Detox Ltd. provides the following further details:

S.N.	Particulars	Amount
(1)	Cost of the machine	USD 15,000
(2)	Charges paid to canalising agent in India	₹ 25,000
(3)	Freight charges (Air)	USD 1,500
(4)	Insurance charges	USD 250
(5)	Basic customs duty	10% on 12.06.20XX and 15% on 15.06.20XX
(6)	Social welfare surcharge	10%
(7)	Integrated GST	12%
(8)	Date of Bill of Entry - 12.06.20XX, Rate notified by CBIC - ₹ 75 per USD, Rate notified by RBI - ₹ 76 per USD	
(9)	Date of arrival of aircraft - 15.06.20XX, Rate notified by CBIC - ₹ 77 per USD, Rate notified by RBI - ₹ 78 per USD	

You are required to compute the customs duty and integrated tax payable by Detox Ltd. on above import.

Answer

Computation of customs duty and integrated tax

Particulars	Amount
Cost of machine	USD 15,000
	(₹)
Cost of machine in rupees @ ₹ 75 per USD [Rate of exchange notified by the CBIC on the date of presentation of bill of entry]	11,25,000
Add: Charges paid to canalising agent in India [Includible in assessable value as it's not a buying commission]	25,000

FOB value as per customs	11,50,000
Add: Air freight (USD 1,500 x ₹ 75) [Actual freight is added since it does not exceed 20% of FOB value]	1,12,500
Add: Insurance (USD 250 x ₹ 75)	18,750
Assessable value	12,81,250
Add: Basic custom duty @15% (rounded off) [Rate in force on the date of presentation of bill of entry or on the date of arrival of aircraft, whichever is later.]	1,92,188
Add: Social Welfare Surcharge @ 10% of ₹ 1,92,188 (rounded off)	19,219
Total	14,92,657
Integrated tax @ 12% (rounded off)	1,79,119
Total customs duties and tax payable [₹ 1,92,188 + ₹ 19,219 + ₹ 1,79,119]	**3,90,526**

Duty Payable on Re-Importation of Goods which had been Exported for Repairs

Question 38

A machine was originally imported from Japan at ₹ 250 lakh in July on payment of all duties of customs. The said machine was exported (sent-back) to supplier for repairs in December and re-imported without any re-manufacturing or re- processing in October next year after repairs. Since the machine was under warranty period, the repairs were carried out free of cost.

However, the fair cost of repairs carried out (including cost of material ₹ 6 lakh) would have been ₹ 9 lakh. Actual insurance and freight charges (to and from) were ₹ 3 lakh. The rate of basic customs duty is 10% and integrated tax is 12%. Ignore GST compensation cess.

Compute the amount of customs duty payable (if any) on re-import of the machine after repairs. The ownership of the machine has not been changed during the period.

Note: The importer intends to avail exemption, if any, with regard to re-importation of goods which had been exported for repairs abroad.

Answer

As per Notification No. 45/2017 Cus. dated 30.06.2017, duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

(a) goods must be re-imported within 5 years, extendable by further 2 years, after their exportation;

(b) exported goods and the re-imported goods must be the same;

(c) ownership of the goods should not change.

Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars	₹

Value of goods re-imported after exports [₹ 9 lakh (including material cost) + ₹ 3 lakh]		12,00,000
Add: Basic customs duty @ 10%	**(A)**	1,20,000
Add: Social Welfare Surcharge @ 10% on ₹ 1,20,000	**(B)**	12,000
Value for computing integrated tax		13,32,000
Integrated tax @ 12% on ₹ 13,32,000	**(C)**	1,59,840
Customs duty and integrated tax payable [(A) + (B) + (C)]		**2,91,840**

Question 39

Maxiline Corp, not being an EOU, had imported technical instruments from USA for ₹ 180 lakh on payment of duty. It had to subsequently send back the same to the supplier for repair. The supplier has agreed to provide discount of 50% of fair cost of repairs, resulting in Maxiline Corp paying USD 15,000.

Following further particulars are available:

Particulars	Date	Rate of Duty	Inter Bank Exchange rate	Rate notified by CBIC
Bill of Entry	21-02-2022	20%	60	62
Aircraft arrival	26-02-2022	15%	62	61

IGST u/s 3(7) of Customs Tariff Act, 1975 -12%.

	Outwards (Amt. in ₹)	Inwards (Amt. in ₹)
Insurance	20,000	30,000
Air Freight	80,000	1,20,000

Other details available on records:

(a) Goods are reimported within 5 years of despatch for repair.

(b) Both the exported and imported goods are the same.

(c) There is no change in the ownership of technical instruments.

(d) The export is not from a public/private warehouse and repairs does not amount to manufacture.

Determine total duty payable with appropriate notes for your computation.

Answer

In case of re-importation of goods exported for repairs, duty is payable on fair cost of repairs carried out, insurance and freight charges, both ways, subject to fulfillment of specified conditions.

Following conditions are to be satisfied in this regard:

(a) The time limit for re-importation is 5 years

(b) The exported goods and the re-imported goods must be the same.

(c) The ownership of the goods should not have changed.

Since all specified conditions are fulfilled in the given case, total duty payable will be computed as under:

Computation of total duty payable by Maxiline Corp.

Particulars	

Fair cost of repairs (in dollars) = $ 15,000/50%	$ 30,000
	₹
Fair cost of repairs (in rupees) = $ 30,000 x ₹ 62 [Note-1]	18,60,000
Add: Inward and outward insurance [₹ 20,000 + ₹ 30,000]	50,000
Add: Inward and outward air freight [₹ 80,000 + ₹ 1,20,000]	2,00,000
Assessable Value	21,10,000
Add: Basic customs duty (BCD) @15% [Note-2]	3,16,500
Add: SWS @ 10% of BCD	31,650
Value for computing IGST	24,58,150
IGST @ 12%	2,94,978
Total duty and tax payable [3,16,500 + 31,650 + 2,94,978]	**6,43,128**

Notes:

1. Rate of exchange notified by the CBIC on date of presentation of bill of entry would be the applicable rate in terms of third proviso to section 14(1) of the Customs Act, 1962.
2. Rate of duty is the rate in force on date of presentation of bill of entry or arrival of aircraft, whichever is later in terms of proviso to section 15(1) of the Customs Act, 1962.

Question 40

Dhruvtaara Enterprises imported a machine from Japan in January for ₹ 48.75 lakh. However, the machine was exported back in June for repairs. The supplier had agreed to carry out the repairs as the machine was still in warranty period. The fair cost of the repairs would cost ₹ 8.90 lakh. Since repair process was expected to take a time of 6 months, Dhruvtaara Enterprises requested the supplier to provide it another machine so that it could carry out its operations without hindrance in the meantime.

Acceding to the request, the supplier provided it with another machine which was imported in a vessel during October. The value of the new machine (FOB value) was ₹ 49.50 lakh. Freight charges incurred from load port to port of importation were ₹ 1.80 lakh. You are required to compute the assessable value and total duty payable on the replaced machine received by Dhruvtaara Enterprises.

Note – Rates of customs duty is 10% and IGST is 12%. Social Welfare Surcharge to be taken at 10%. Ignore GST compensation cess and agriculture infrastructure and development cess.

Answer

As per Notification No. 45/2017 Cus. dated 30.06.2017, duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of materials used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

(a) goods must be re-imported within 5 years, extendable by further 2 years, after their exportation;

(b) exported goods and the re-imported goods must be the same;

(c) ownership of the goods should not change.

However, above special provisions relating to payment of concessional duty in case of re-importation of

goods exported for repairs are not applicable in the given case as the goods exported for repairs and the re-imported goods are not the same. Therefore, full customs duty will be payable on the machine received as replacement.

Computation of assessable value and total duty payable

Particulars		Amount (₹)
Value of new machine (FOB)		49,50,000
Add: Freight charges		1,80,000
Insurance charges @ 1.125% of FOB [₹ 49,50,000 × 1.125%] [Insurance charges have been included @ 1.125% of FOB value since actual charges are not ascertainable]		55,687.50
Assessable Value (rounded off)		**51,85,688**
Add: Basic customs duty @ 10% of ₹ 51,85,688 (rounded off)	**(A)**	5,18,569
Social welfare surcharge @ 10% of ₹ 5,18,569 (rounded off)	**(B)**	51,857
Total		57,56,114
Add: Integrated tax @ 12% of ₹ 57,56,114 (rounded off)	**(C)**	6,90,734
Total duty payable [(A) + (B) + (C)]		**12,61,160**

Question 41

Great Year Ltd. imported a offset printing machine from Germany for ₹ 5.00 crores and the bill of entry or home consumption was cleared in January, 20XX on payment of duty. However, due to certain technical glitches, the said machine could not be started functioning and the said machine was sent-back to the supplier for repairs in February, 20XX. The manufacturer of machinery in Germany had made necessary repairs and had sent back the machine again to Great Year Ltd.

Accordingly, Great Year Ltd. re-imported the machine without any re-manufacturing or reprocessing in October 20XX. Since the machine was having manufacturing defect, the repairs were carried out by the machine manufacturer without charging any amount for the repairs. However, the fair cost of repairs carried out including cost of material consumed during repairs for ₹ 70 lakh, would have been ₹ 90 lakh.

Actual insurance and freight charges incurred were ₹ 7.5 lakh each side from India to Germany and from Germany to India. Assume the rate of basic customs duty is 10%, social welfare surcharge is 10% and integrated tax is 18%.

You are required to compute the amount of customs duty payable (if any) on re-importation of the machine. Make the necessary assumptions, if required. Also, provide the exemption, if any, with regard to re-importation of goods which had been exported for repairs abroad.

Answer

Duty payable on re-importation of goods which had been exported for repairs abroad is the duty of customs which would be leviable if the value of re-imported goods after repairs were made up of the fair cost of repairs carried out including cost of material s used in repairs (whether such costs are actually incurred or not), insurance and freight charges, both ways. However, following conditions need to be satisfied for availing this concession:

(a) goods must be re-imported within 5 years, extendable by further 2 years, after their exportation;

(b) exported goods and the re-imported goods must be the same;

(c) Ownership of the goods should not change.

Since all the conditions specified above are fulfilled in the given case, the customs duty payable on re-imported goods will be computed as under:

Particulars		₹ in lakh
Value of goods re-imported after exports [₹ 90 lakh (including cost of materials) + (insurance and freight charges, both ways ₹ 7.5 x 2) lakh]		105
Add: Basic customs duty @ 10%	(A)	10.5
Add: Social welfare surcharge @ 10% on ₹ 10.5	(B)	1.05
Value for computing integrated tax		116.55
Integrated tax @ 18% (₹ 116.55 lakh x 18%)	(C)	20.979
Customs duty and integrated tax payable [(A) +(B)+ (C)]		**32.529**

Identical Goods/Similar Goods

Question 42

A Malaysian company donated 1,000 metric tons of palm oil to a charitable trust in India for free distribution to the poor and the needy citizens. The trust in India had to meet the expenditure towards freight and insurance only which came to US $ 20 per metric ton. The Custom Department found that at or about the same time of importation of this consignment, there were following imports of palm oil of Malaysian origin into India.

S.N.	Quantity imported in metric tons	Unit price in US Dollars (CIF)
1.	500	400
2.	900	350
3.	780	300

The rate of exchange on the relevant date was 1 US $ = ₹ 65 and the rate of customs duty was 20% ad valorem. Calculate amount of customs duty payable on consignment under the Customs Act, 1962 with appropriate assumptions and explanations.

Answer

In the given case, there is no transaction value for the subject goods. Therefore, value has to be determined based on the transaction value of contemporaneous imports of identical/similar goods in accordance with rule 4 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued.

In the three imports given during the relevant time, the goods are identical in description and of the same country of origin.

Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued.

The consignment of 500 tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 2 consignments will only be relevant.

If more than one transaction value of identical goods is found, the lowest of such value shall be used to determine the value of imported goods.

Accordingly, the unit price of the consignment under valuation would be US $ 300 per metric tonne.

Computation of amount of duty payable

Particulars	Amount
CIF value of 1000 metric tonnes [1,000 x $ 300]	US$ 3,00,000
CIF Value (in Rupees) at the exchange rate of $ 1 = ₹ 65	₹ 1,95,00,000
Assessable value	₹ 1,95,00,000
BCD @ 20%	₹ 39,00,000
Add: SWS @ 10% of BCD	₹ 3,90,000
Total custom duty payable	**₹ 42,90,000**

Question 43

A consignment of 800 metric tonnes of edible oil of Malaysian origin was imported by a charitable organization in India for free distribution to below poverty line citizens in a backward area under the scheme designed by the Food and Agricultural Organization. This being a special transaction, a nominal price of US$ 10 per metric tonne was charged for the consignment to cover the freight and insurance charges. The Customs House found out that at or about the time of importation of this gift consignment there were following imports of edible oil of Malaysian origin:

S.N.	Quantity imported in metric tonnes	Unit price in US$ (CIF)
1.	20	260
2.	100	220
3.	500	200
4.	900	175
5.	400	180
6.	780	160

The rate of exchange on relevant date was 1 US$ = ₹ 70.00 and the rate of basic customs duty was 10% ad valorem. Ignore Integrated tax and GST Compensation Cess. Calculate the amount of duty leviable on consignment under Custom Act, 1962 with appropriate assumptions and explanations, where required.

Answer

In the instant case, while determining transaction value of goods, following factors need consideration:

1. In the given case, US$ 10 per metric tonne has been paid only towards freight and insurance charges and no amount has been paid or payable towards the cost of goods. Thus, there is no transaction value for the subject goods. Consequently, we have to look for transaction value of identical goods under rule 4 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [Customs Valuation (DVIG) Rules, 2007].

2. Rule 4(1)(a) of the aforementioned rules provides that subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued. In the six imports given during the relevant time, the goods are identical in description and of the same country of origin.

3. Further, clause (b) of rule 4(1) of the said rules requires that the comparable import should be at the same commercial level and in substantially same quantity as the goods being valued. Since, nothing is known about the level of the transactions of the comparable consignments, it is assumed to be at the same commercial level.

4. As far as the quantities are concerned, the consignments of 20 and 100 metric tonnes cannot be considered to be of substantially the same quantity. Hence, remaining 4 consignments are left for our consideration.

5. However, unit prices in these 4 consignments are different. Rule 4(3) of Customs Valuation (DVIG) Rules, 2007 stipulates that in applying rule 4 of said rules, if more than one transaction value of identical goods is found, lowest of such value shall be used to determine value of imported goods. Accordingly, the unit price of the consignment under valuation would be US $ 160 per metric tonne.

Computation of amount of duty payable

Particulars	Amount
CIF value of 800 metric tonnes = 800 x $ 160	US$ 1,28,000
CIF Value (in Rupees) at the exchange rate of $ 1 = ₹ 70	₹ 89,60,000
Assessable Value	₹ 89,60,000
10% of Ad Valorem duty on ₹ 89,60,000	₹ 8,96,000
Add: Social Welfare Surcharge @ 10%	₹ 89,600
Total custom duty payable	**₹ 9,85,600**

Deductive and Computed Value

Question 44

Mr. X imported certain goods from a related person Mr. Q of US and transaction value has been rejected. Rules 4 and 5 of the Import Valuation Rules are found inapplicable as no similar/ identical goods are imported in India. Mr. X furnishes cost related data of imports and requests customs authorities to determine value accordingly as per rule 8. The relevant data are

1. Cost of materials incurred by Mr. Q $ 2000
2. Fabrication charges incurred by Mr. Q $ 1000
3. Other chargeable expenses incurred by Mr. Q $ 400
4. Other indirect costs incurred by Mr. Q $ 250
5. Freight from Mr. Q 's factory to US port $ 250
6. Loading charges at US port $ 100
7. Normal net profit margin of Mr. Q is 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 ₹ 70 per $

The customs authorities are of the opinion that since value as per rule 7 can be determined at ₹ 4,00,000, there is no need to apply rule 8.

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

Answer

The value of the imported goods is determined under rule 8 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (hereinafter referred to as Import Valuation Rules) 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. X 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. X 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	250
Cost of the goods at Mr. Q'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	50
Assessable value	5,700
Assessable value in Indian Rupees (Exchange rate – ₹ 70 per $)	**3,99,000**

Export Duty

Question 45

Sphinx Merchandise Ltd. has exported some goods to USA by air. The FOB price of goods exported is US$ 1,00,000.

Compute the export duty payable by Sphinx Merchandise Ltd. with the help of following details provided.

Particulars	Date	Rate of duty	Rate of exchange notified by CBIC	Rate of exchange prescribed by RBI
Presentation of shipping bill	17.06.20XX	12%	1 US$ = 65	1 US$ = 64
Let export order	19.07.20XX	10%	1 US$ = 64	1 US$ = 65

Answer

Computation of export duty

Particulars	Amount (US$)
Assessable value [Note 1]	1,00,000
	Amount (₹)
Assessable value = US$ 1,00,000 x ₹ 65 [Note 2]	65,00,000
Export duty @ 10% [Note 3]	**6,50,000**

Notes:

1. The transaction value, i.e. FOB price of export goods, is considered as assessable value in terms of section 14(1) of the Customs Act, 1962.
2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to rate of exchange notified by CBIC on date of presentation of shipping bill of export.
3. The rate of duty prevalent on the date of let export order is considered for computing export duty in terms of section 16(1)(a) of the Customs Act, 1962.

Question 46

Compute export duty from the following data:

(i) FOB price of goods: US $ 1,00,000.

(ii) Shipping bill presented electronically on 26.04.20XX.

(iii) Proper officer passed order permitting clearance and loading of goods for export (Let Export Order) on 04.05.20XX.

(iv) Rate of exchange and rate of export duty are as under:

	Rate of Exchange	Rate of Export Duty
On 26th April	1 US$ = ₹ 70	10%
On 4th May	1 US$ = ₹ 72	8%

(v) Rate of exchange is notified for export by Central Board of Indirect taxes and Customs.

(Make suitable assumptions wherever required and show the workings.)

Answer

Computation of export duty

Particulars	Amount (US $)
FOB price of goods [Note 1]	1,00,000
	Amount (₹)
Value in Indian currency (US $ 1,00,000 x ₹ 70) [Note 2]	70,00,000
Export duty @ 8% [Note 3]	**5,60,000**

Notes:

1. As per section 14(1) of the Customs Act, 1962, assessable value of the export goods is the transaction value of such goods which is the price actually paid or payable for the goods when sold for export from India for delivery at the time and place of exportation.
2. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange notified by the CBIC on the date of presentation of shipping bill of export.
3. As per section 16(1)(a) of the Customs Act, 1962, in case of goods entered for export, the rate of duty prevalent on the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation, is considered.

CHAPTER - 4
Importation and Exportation of Goods

Import and Export Procedure

Question 1

Explain the obligation cast on person-in-charge on arrival of vessels or aircrafts in India under section 29 of the Customs Act, 1962.

Answer

Vessel/aircraft must call or land only at a notified customs port or airport, unless otherwise permitted, and except in an emergency.

The **person-in-charge of the vessel has the following obligation** cast on him:

1. He will **have to report the arrival** of the vessel or the landing of the aircraft **to the nearest customs officer or officer in charge of police station** and produce the log book if demanded.
2. He should **not allow any unloading of goods without permission and should not allow any passengers or crews to leave** the immediate vicinity of the vessel or aircraft. However, the goods can be removed, or the passengers and crews can be allowed to depart if the same is necessary for reason of health, safety or preservation of life or property.
3. He should **comply with all the directions** given by such officers with respect to any such goods.

Question 2

State in brief the provisions of the Customs Act, 1962 relating to filing of "Arrival manifest or import manifest/Report".

Answer

Arrival manifest or import manifest or import report **is a detailed information** to customs **about goods in the vessels/aircrafts** which have been **brought in at any port/airport** for unloading at that particular port/international airport as also that which would be carried further for other **ports/airports**. Declarations of such cargo has to be made in a prescribed form (which is **termed 'Import General Manifest' or IGM)** and in prescribed manner. Imports via **land route** require filing of declaration (**called 'Import Report'**).

Goods involved in an export may also be carried in the import conveyance (vessel or other), without such goods being delivered in India. The IM/IR must also contain details of goods meant for export and carried by the conveyance. Similar provision for including details of 'imported goods' is required by section 41 in **export manifest to be filed by person-in-charge of a conveyance carrying export goods before departure of conveyance**.

The person-in-charge of a vessel, or an aircraft, or a vehicle, carrying imported goods or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, **deliver to the proper officer an arrival manifest or import manifest by presenting electronically prior to the arrival** of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an **import report within twelve hours after its arrival in the customs station**, in the prescribed form.

Particulars	Import Document	Time limit for presentation of IM/IR	Mode of presentation
Where the imported goods are brought in a vessel	Arrival manifest or import manifest	Any time prior to the arrival of the vessel	Electronic filing
Where the imported goods are brought in an aircraft	Arrival manifest or import manifest	Any time prior to the arrival of the aircraft	Electronic filing
Where the imported goods are brought in a vehicle	Import Report	Within twelve hours after its arrival in the customs station	Manual filing

Question 3

Explain the procedure prescribed in Customs Act, 1962 in case of goods not cleared, warehoused or transhipped within 30 days after unloading.

Answer

If there are any goods imported from a place outside India, which are **not cleared either for home consumption or for warehouse within 30 days** or within such further time as proper officer may allow **or if title to any imported goods is relinquished** (Section 23), **custodian of the goods is permitted,** with the approval of customs department and after giving notice to importer**, to sell goods by auction**.

CBIC has clarified vide Circular No. 49/2018-Cus dated 03.12.2018 that after the successful bidder has been informed about the result of the auction, a consolidated bill of entry, buyer-wise will be filed with the Customs in prescribed format by concerned custodian for clearance of the goods as per section 46 of customs Act, 1962 read with Un-Cleared Goods (Bill of Entry) Regulations, 1972 (Regulation 2 & 3).

(a) The **proper officer of Customs shall assess the goods to duty** in accordance with the extant law **within 15 days of filing of Bill of Entry** and after assessment inform the amount of duty payable to the concerned custodian.

(b) The **auctioned goods shall be handed over to the successful bidder** after assessment and out-of-charge orders given by the proper officer, on payment of dues.

In the case of **sensitive goods like animals, foodstuffs and hazardous goods etc.** the custodian with the approval of the proper officer **can sell the goods even before the expiry of the 30 days** limit. Similarly, in the case of arms or ammunition, which cannot be sold in public auction, the disposal is regulated by the rules made in this regard.

Question 4

Mr. Pandya imported certain raw material from Japan. However, Mr. Pandya was not able to furnish certain supporting documents related to the said raw material imported along with the Bill of Entry for home consumption. Mr. Pandya requested the customs officials to deposit the said imported goods in a public bonded warehouse for a period of 20 days so that he obtains the required documents. The Customs officer initially denied for allowing warehousing and afterwards insisted Mr. Pandya to execute an indemnity bond for the goods to be deposited in the warehouse.

Examine the correctness of the stand taken by the Customs Officer.

Answer

Where Assistant/Deputy Commissioner of Customs is satisfied on an application of the importer that the imported goods, entered for home consumption/warehousing cannot be cleared within a reasonable time, such goods may, pending clearance/removal, be **permitted to be stored in a public warehouse for a period not exceeding 30 days.**

Such goods shall **not be deemed to be warehoused goods** for the purpose of the Customs Act, 1962 and accordingly **warehousing provisions shall not apply to such goods.** This is popularly **known as warehousing without warehousing.**

Thus, goods imported by Mr. Pandya **can be stored in the public warehouse for a period of 30 days.**

However, the **stand taken by the Customs officer to insist him to execute an indemnity bond** for goods to be deposited in warehousing **is not valid in law since warehousing provisions are not applicable to such goods.**

Bill of Entry, Payment and Deferred Payment

Question 5

An importer filed a bill of entry after 60 days of filing Import General Manifest. The Deputy Commissioner of Customs imposed a penalty of ₹ 10,000 for late filing of the bill of entry. Since, importer wanted to clear the goods urgently, he paid the penalty. Can penalty be imposed for late filing of the bill of entry? Can bill of entry be filed in advance? Examine the issue regarding period available for filing bill of entry in the light of relevant statutory provisions?

Answer

Yes, charges are payable for late filing of bill of entry if an importer fails to present the bill of entry before the end of the day (including holidays) **preceding the day on which the aircraft/vessel/vehicle carrying the goods arrives** at a customs station at which such goods are to be cleared for home consumption or warehousing, and the proper officer is satisfied that there was no sufficient cause for such delay [Section 46(3) of the Customs Act, 1962]. However, the Board may, in such cases as it may deem fit, prescribe different time limits for presentation of the bill of entry, which shall not be later than the end of the day of such arrival.

Yes, a bill of entry can be filed in advance. It can be presented **within 30 days of the expected arrival of the aircraft/vessel/vehicle** by which the goods have been shipped for importation into India vide proviso to section 46(3) of the Customs Act, 1962.

In the given case also, the time period as described above will be available - with reference to the date of arrival of vessel/aircraft - for filing the bill of entry.

Question 6

Which class of importers is required to pay customs duty electronically? Name the dedicated payment gateway set up by the Board (CBIC) to use e-payment facility easily by an importer.

Answer

Authorised economic operators and those importers who are paying ₹ 10,000 or more per bill of entry. They will pay through ICEGATE.

The Central Government has notified the **following classes of importers** who **have to pay customs duty electronically**, namely:

(i) Importers registered under **Authorized Economic Operator**;

(ii) Importers paying customs duty of **₹ 10,000 or more per bill of entry**.

The Board has set up a **dedicated payment gateway called, 'ICEGATE'** through which payments are to be made. Importer need not produce any proof of payment for clearance of goods in case of e-payment.

Question 7

State the salient features of "Deferred duty payment facility" with reference to Customs Act, 1962 and rules thereunder.

Or

With reference to the facility, 'Clear first-Pay later' extended to importers under the customs law, answer the following questions:

(i) What is the objective of the facility?

(ii) Who is eligible to avail this scheme?

(iii) What are the due dates for payment of duty under this facility?

(iv) What are the circumstances when the deferred payment facility will not be available?

Answer

(i) 'Clear first-Pay later' i.e., deferred duty payment is a mechanism for delinking duty payment and customs clearance. The aim is to have a **seamless wharf to warehouse transit** in order to facilitate just-in-time manufacturing.

(ii) Central Government has permitted importers certified under **Authorized Economic Operator programme as AEO (Tier-Two) and AEO (Tier-Three) and Authorised Public Undertaking** to make deferred payment of import duty **(eligible importers)**.

As a part of the ease of doing business focus of the Government of India, the CBIC has rolled out the AEO (Authorized Economic Operator) programme.

It is a trade facilitation move wherein benefits are extended to the entities who have demonstrated strong internal control systems and willingness to comply with the laws administered by the CBIC.

(iii) The **due dates for payment of deferred duty** are –

S.N.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty
1.	1st day to 15th day of any month	16th day of that month
2.	16th day till the last day of any month other than March	1st day of the following month
3.	16th day till the 31st day of March	31st March

The eligible importer **shall pay the duty electronically** except where Assistant/Deputy Commissioner of Customs allow payment by any other mode for reasons to be recorded in writing.

(iv) If there is default in payment of duty by due date more than once in three consecutive months, the facility of deferred payment will not be allowed unless the duty with interest has been paid in full. The **benefit** of deferred payment of duty **will not be available in respect of the goods which have not been assessed** or not declared by the importer in the bill of entry.

Assessment and Audit

Question 8

What are the circumstances under which assessment is done provisionally under section 18?

Answer

Provisional assessment can be resorted to in the following circumstances:

(a) where the importer or exporter is **unable to make self-assessment** under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment; or

(b) where the **proper officer deems it necessary to** subject any imported goods or export goods to **any chemical or other test**; or

(c) where the **importer or exporter has produced all the necessary documents** and furnished full information, **but the proper officer deems it necessary to make further enquiry**; or

(d) where **necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry.**

Question 9

Mr. Krishna Bhansali, has imported some garments from Paris. He is unable to make self-assessment under section 17(1) of the Customs Act, 1962 because of differential rates for different kinds of material and hence has made a request in writing to the proper officer for provisional assessment pending technical testing. Is he eligible to apply for provisional assessment? Discuss.

Answer

Yes, Mr. Krishna Bhansali can apply for provisional assessment under section 18 of the Customs Act, 1962. Section 18(1) provides that provisional assessment can be resorted to, inter alia, where importer or exporter is **unable to make self-assessment** under sub-section (1) of section 17 and makes a request in writing to the proper officer for assessment. While 'unable' is not about willingness but deficiency of information to make an accurate determination of the liability, **in this case Mr. Bhansali satisfies the criterion because he lacks information necessary to classify the goods pending technical testing.**

Question 10

Mr. X has imported some items from abroad. Since he was unable to make a self-assessment, he has sought for provisional assessment pending technical testing on 29.04.20XX. The technical report was received on 05.05.20XX. Discuss about the time limit available to the officer for finalizing the provisional assessment as per law and guide Mr. X as to when his provisional assessment will be finalized.

Answer

The proper officer **can finalize the provisional assessment within 2 months** of receipt of a chemical or other test report, where the provisional assessment is ordered for that reason.

The **Commissioner of Customs may allow a further time period of 3 months** in case the proper officer is not able to finalize the provisional assessment within the period of 2 months.

Thus, in the given case, **provisional assessment will be finalized by 05.07.20XX** [within 2 months of receipt of test report (05.05.20XX)]. However, if the proper officer is not able to finalize the provisional assessment by 05.07.20XX, the **Commissioner may allow a further period of 3 months, i.e., till 05.10.20XX** to the proper officer to finalize the provisional assessment.

Question 11

Joginder & Co. imported goods valued at ₹ 12,00,000 vide a bill of entry presented before the proper officer on 15th July 20XX, on which date the rate of customs duty was 20%. The proper officer decided that the goods should be subject to chemical test and therefore, the same were provisionally assessed at a value of ₹ 12,00,000 and Joginder & Co. paid provisional duty of ₹ 2,40,000 on the same date after fulfilling the requirements for provisional assessment.

What are the conditions which are to be complied before payment is made for the purpose of provisional assessment?

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 assuming that the payment of the final duty is assessed on 31st August 20XX at ₹ 3,80,000 and the balance duty is paid on the same day.

Answer

Before, the provisional assessment of duty, the importer shall execute a bond for the purpose of undertaking to pay on demand the deficiency between the duty as may finally assessed and the duty provisionally assessed and shall furnish prescribed amount of security for the payment of the duty deficiency.

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**

= ₹ 1,40,000 x 15% x 62/365

= ₹ 3,567 (rounded off)

Question 12

Laxmi Company imported goods valued at ₹ 10,00,000 vide a Bill of Entry presented before the proper officer on 15th July, 20XX, 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 Laxmi company paid provisional duty of ₹ 2,00,000 on the same date. Laxmi Company wants to voluntarily pay duty of ₹ 1,50,000 on 20th August, 20XX.

(1) Can Laxmi Company provisionally pay the duty and what are the conditions which are to be complied before such payment is made?

(2) Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 assuming that the payment of ₹ 1,50,000 as stated above is made on 20th August, 20XX and that the final duty is assessed on 31st August, 20XX at ₹ 4,00,000 and the balance duty is paid on the same day.

Answer

1. **Provisional assessment of duty is permitted** in case where the **proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test** [Section 18 of the Customs Act, 1962]. Thus, Laxmi Company can pay the duty on provisional basis.

   Before, the provisional assessment of duty, the **importer must furnish such security** as the proper officer deems fit for the payment of the deficiency, if any, between the duty finally assessed/re-assessed and the duty provisionally assessed.

2. 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**

   = [₹ 1,50,000 x 15% x 51/365] + [₹ 50,000 x 15% x 62/365]

   = ₹ 3,144 + ₹ 1,274

   = ₹ 4,418

Question 13

Aayaat Enterprises imported goods vide a bill of entry presented before the proper officer on 15th April. The proper officer decided that the goods should be subject to a chemical test and therefore, the same were to be provisionally assessed. You are required to advise Aayaat Enterprises regarding the conditions which are to be complied with before payment of duty is made for the purpose of provisional assessment.

Subsequently, the goods imported by Aayaat Enterprises were provisionally assessed at a value of ₹ 24,00,000 on 16th April and Aayaat Enterprises paid the provisional duty of ₹ 2,40,000 on the same date after fulfilling the requirements for provisional assessment. Further, the chemical test report was received on 5th May. Advise Aayaat Enterprises regarding the maximum time limit upto which its provisional assessment should be finalized.

Determine the amount of interest payable, if any, under section 18 of the Customs Act, 1962 (considering a year of 365 days) assuming that the provisional assessment was finalized on 30th June finally assessing the customs duty at ₹ 2,80,000 and the differential duty was paid on the same day.

Answer

As per section 18 of Customs Act, 1962 wherever, duty is to be assessed provisionally, the importer shall:

(a) execute a bond in the prescribed form, for purposes of undertaking to pay on demand deficiency, if any, between the duty as may be finally assessed and the duty provisionally assessed; and

(b) furnish prescribed amount of security for the payment of the duty deficiency. The security to be obtained shall be in the form of a bank guarantee or a cash deposit, as convenient to the importer.

As per the Customs (Finalisation of Provisional Assessment) Regulations, 2018, the proper officer has to finalise the provisional assessment within 2 months of receipt of a chemical or other test report, where the provisional assessment was ordered for that reason.

The proper officer can finalize the provisional assessment within 2 months of receipt of a chemical or other test report, where the provisional assessment is ordered for that reason. The Commissioner of Customs may allow a further time period of 3 months in case the proper officer is not able to finalize the provisional assessment within the period of 2 months.

Thus, in the given case, provisional assessment will be finalized by 5th July [within 2 months of receipt of test report (5th May)]. However, if the proper officer is not able to finalize the provisional assessment by 5th July, the Commissioner may allow a further period of 3 months, i.e., till 5th October to the proper officer to finalize the provisional assessment.

Had provisional assessment been finalized on 30th June and differential duty been paid on same day, as per section 18(3) of the Customs Act, 1962, the importer would have been 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:

= ₹ 40,000 x 15% x 91/365

= ₹ 1,496 (rounded off)

Question 14

Moris Lal has imported goods from Germany and is finally re-assessed u/s 18(2) of the Customs Act, 1962 for two such consignments. Particulars are as follows:

Date of provisional assessment	12th December, 2024
Date of final re-assessment	2nd February, 2025
Duty demand for 1st consignment	₹ 1,80,000
Refund for the 2nd consignment	₹ 4,20,000
Date of refund made by the department	28th April, 2025
Date of payment of duty demanded	5th February, 2025

Determine the interest payable and receivable, if any, by Moris Lal on the final re-assessment of the two consignments, with suitable notes thereon.

Answer

As per section 18(3) of the Customs Act, 1962, an importer is liable to pay interest at the rate of 15% p.a., on any amount payable consequent to the re-assessment order from the first day of the month in which the duty is provisionally assessed till the date of payment.

Therefore, in the given case, **Moris Lal is liable to pay following interest** in respect of 1st consignment:

= ₹ 1,80,000 x 15% x 67/365

= ₹ 4,956 (rounded off)

If any amount refundable consequent to the re-assessment order is **not refunded within 3 months** from date of re-assessment of duty, **interest is payable to importer** on unrefunded amount at the specified rate till the date of refund of such amount in terms of section 18(4) of the Customs Act, 1962.

Since **in given case, refund has been made (28.04.2025) within 3 months** from date of re-assessment of duty (02.02.2025), interest is **not payable** to Moris Lal on duty refunded in respect of 2nd consignment.

Postal

Question 15

What is the relevant date for determining the rate of duty and tariff valuation in respect of goods imported/exported by post?

Answer

(1) The **rate of duty and tariff value** applicable to any goods imported by post or courier shall be the rate and valuation in force on **date on which postal authorities or authorized courier present to proper officer** a list containing particulars of such goods for purposes of assessing duty thereon.

However, **where the postal goods arrive on a vessel, and the list** containing the particulars is available and **is filed by the Post Master, before the arrival** of the vessel, the **list shall be deemed to have been filed on the date of arrival of the vessel.**

The effect of this proviso is that the relevant date for imports by post is the date of submission of the list by the Post Master or the date of arrival of the vessel, whichever is later.

(2) The rate of duty and tariff value applicable to any **goods exported by post or courier** shall be the rate and valuation in force on the **date on which the exporter delivers such goods to the postal authorities or the authorized courier for exportation.**

Transit and Transhipment

Question 16

State the difference between transit and transshipment of goods under the provisions of Customs Act.

Answer

Transit	Transshipment
Section 53 of the Customs Act, 1962 provides for transit of goods.	**Section 54** of the Customs Act, 1962 provides for transshipment of goods.
In case of transit of goods, goods are allowed to **remain on the same conveyance.**	In case of transshipment of goods, **conveyance changes** i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
In case of transit of goods, there is **continuity of records.**	In transshipment of goods, **continuity in the records is not maintained** as the goods are transferred to another conveyance.

CHAPTER - 5
Warehousing

Warehousing Period and Interest Applicable

Question 1

'X', an importer, (other than 100% EOU, STP unit, EHTP unit) imported some goods and deposited them in the warehouse on 12th April. These goods were re-exported without payment of duty on 15th August. With reference to the Customs Act, 1962, discuss whether any interest under section 61 of the Customs Act, 1962 is payable by 'X'?

Answer

As per section 61(2) of the Customs Act, 1962, **if goods (belonging to importer other than 100% EOU, STP unit, EHTP unit) remain in a warehouse beyond** a period of **90 days from** the date on which the **order** under section 60(1) is **made, interest is payable @ 15%** on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

In Pratibha Processors v. UOI 1996 (88) ELT 12 (SC), the Apex Court has held that **when goods** at the time of removal from warehouse are **wholly exempted from payment of duty**, the liability to pay **interest cannot be saddled** on a non-existing duty. Liability to pay **interest** under section 61(2) of the Customs Act is solely **dependant upon the** eligibility or **actual liability to pay duty.** In case the liability to pay duty is nil, then, the interest will also be nil.

Therefore, since in this case the **goods** have been re-**exported without payment of duty, no interest is payable by 'X'.**

Question 2

Comment on the validity of the following statements:

(a) Goods, other than capital goods, intended for use in any hundred per cent export- oriented undertaking, can be warehoused only till the expiry of five years.

(b) Interest free period of ninety (90) days under section 61(2) in respect of warehoused goods (not intended for being used in 100% EOU) commences from the date on which an into-bond bill of entry in respect of such goods is presented.

Answer

(a) **Invalid.** Goods, other than capital goods, **intended to be used in a 100% EOU/STP unit/EHTP unit can be warehoused till the consumption or clearance of such goods from the warehouse.** Further, capital goods intended to be used in a 100% EOU can also be warehoused till the clearance of such goods from the warehouse.

(b) **Invalid.** As per section 61, if goods (not intended for being used in 100% EOU, STP unit, EHTP unit) **remain in a warehouse beyond** a period of **90 days** from the date on which the order permitting deposit of goods in a warehouse under section 60(1) is made, **interest is payable @ 15% on the amount of duty payable** at the time of clearance of the goods, for the period **from** the **expiry of the said 90 days till** the date of **payment of duty** on the warehoused goods.

In other words, the relevant date for determining the commencement of the period of 90 days is the date of order made under section 60 permitting removal of goods from the customs station for deposit in a warehouse, and not the date on which into-bond bill of entry in respect of such goods is presented.

Question 3

Radheysham is engaged in manufacture of goods in Rajasthan. It imported certain goods for using in the manufacture of the finished goods in the month of May. However, it did not clear the goods from the port for home consumption. Instead, it presented an 'into bond' bill of entry on 14th May. Assessable value on that date was US$ 2,35,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May. Radheysham deposited the goods in warehouse on the same day, but did not clear the imported goods even after the warehousing period got over on 21st September.

A notice was issued under section 72 of the Custom Act, 1962, demanding duty and interest. Radheysham cleared the goods on 14th October. Customs duty paid on removal of the goods is ₹ 8,28,000.

You are required to compute interest payable on such removal, explaining the provisions of Customs Act, 1962 assuming that imported goods are not meant for being used in an 100% EOU, STP unit, EHTP unit.

Answer

As per section 61(2) of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) **remain in a warehouse beyond a period of 90 days** from the date on which the order permitting deposit in a warehouse is made, **interest is payable @ 15% p.a.**, on the amount of duty payable at the time of clearance of the goods, for the period **from** the **expiry of** the said **90 days till** the date of **payment of duty** on the warehoused goods.

Therefore, in the given case, interest payable will be computed as under:

(i) Period of 90 days commencing from the date of order permitting deposit in a warehouse expires on – **19th August.**

(ii) No. of days for which interest shall be payable= **56 days** [12 days of August + 30 days of September + 14 days of October]

(iii) Interest payable = ₹ 8,28,000 × 15/100 × 56/365 = **₹ 19,055** (rounded off)

Question 4

Vipul imported certain goods in May. An 'into bond' bill of entry was presented on 14th May and goods were cleared from the port for warehousing. Assessable value on that date was US$ 1,00,000. The order permitting the deposit of goods in warehouse for 4 months was issued on 21st May. Vipul deposited the goods in warehouse on the same day but did not clear the imported goods even after the warehousing period got over on 21st September.

A notice was issued under section 72 of the Customs Act, 1962, demanding duty and interest. Vipul cleared the goods on 14th October. Compute the amount of duty and interest payable by Vipul while removing the goods on the basis of the following information:

Particulars	14th May	21st September	14th October

Rate of exchange per US$ (as notified by Central Board of Indirect taxes & Customs)	₹ 65.20	₹ 65.40	₹ 65.50
Basic customs duty	15%	10%	12%

Integrated Tax leviable under section 3(7) of the Customs Tariff Act is exempt. Ignore agriculture and infrastructure development cess.

Answer

Computation of import duty payable by Vipul

Assessable value (US $)	1,00,000
	Amount (₹)
Value in Indian currency (US $ 1,00,000 x ₹ 65.20) [Note 1]	65,20,000
Customs duty @ 10% [Note 2]	6,52,000
Add: Social welfare surcharge @ 10% on ₹ 6,52,000	65,200
Total customs duty payable	**7,17,200**

Notes:

1. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.

2. Goods which are **not removed within the permissible period** are **deemed to be improperly removed** in terms of section 72 of the Customs Act, 1962 **on the day they should have been removed.** The applicable **rate of duty** in such a case is the rate of duty **prevalent on the last date on which** the **goods should have been removed**.

   As per section 61 of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) **remain in a warehouse beyond a period of 90 days** from the date on which the order permitting deposit of goods in warehouse under section 60 is made, **interest is payable @ 15% p.a.**], on the amount of duty payable at the time of clearance of the goods, for the period **from the expiry of** the said **90 days till** the date of **payment of duty** on the warehoused goods.

   Therefore, **interest payable** will be computed as under:

Period of 90 days commencing from the date of order made under 60 expires on	19th August
No. of days for which interest shall be payable [12 days of August + 30 days of September + 14 days of October]	56 days
Interest payable = ₹ 7,17,200 x 15/100 x 56/365 **(rounded off)**	**₹ 16,505**

Question 5

Niryaat Exporters imported some goods on 1st January. The goods were not meant for being used in an 100% EOU, STP unit, EHTP unit. The goods were cleared from the Mumbai port for warehousing on 8th January by presenting an 'into Bond' Bill of Entry. The assessable value of the goods was US$ 10,000. On 8th January, the exchange rate was ₹ 66 per US$ and the rate of basic customs duty was 15%. The order permitting the deposit of goods in warehouse for 4 months was issued under section 60 of the Customs Act, 1962 on 15th January. The goods were thereafter deposited in a warehouse at Pune and were cleared

from Pune warehouse on 31st May. The rate of basic customs duty was 15% and exchange rate was ₹ 68.75 per 1 US$ on 31st May. IGST @ 10% is applicable on said goods. Further, the rate of basic customs duty was 12% and exchange rate was ₹ 67 per 1 US$ on 15th May. Ignore IGST and agriculture and infrastructure development cess.

You are required to compute: (a) total customs duty payable and (b) interest, if any, payable.

Answer

Computation of import duty payable by Niryaat Exporters

Assessable value (US $)	10,000
	Amount (₹)
Value in Indian currency (US $ 10,000 x ₹ 66) [Note 1]	6,60,000
Customs duty @ 12% [Note 2]	79,200
Add: Social welfare surcharge @ 10% on ₹ 79,200	7,920
Total customs duty payable	**87,120**

Notes:

1. As per third proviso to section 14(1) of the Customs Act, 1962, assessable value has to be calculated with reference to the rate of exchange prevalent on the date on which the into bond bill of entry is presented for warehousing under section 46 of the Customs Act, 1962.
2. Goods which are not removed from warehouse within the permissible period are deemed to be improperly removed in terms of section 72 of the Customs Act, 1962 on the day they should have been removed. The **applicable rate of duty** in such a case **is the rate** of duty **prevalent on the last date on which the goods should have been removed**.

Computation of interest payable by Niryaat Exporters

As per section 61 of the Customs Act, 1962, if goods (not meant for being used in an 100% EOU, STP unit, EHTP unit) **remain in a warehouse beyond a period of 90 days** from the date on which the order permitting deposit of goods in warehouse under section 60 of the Customs Act, 1962 is made, **interest is payable [@ 15% p.a.]**, on the amount of duty payable at the time of clearance of the goods, for the period **from the expiry of** said **90 days till** the date of **payment of duty** on the warehoused goods.

Therefore, interest payable will be computed as under:

Period of 90 days commencing from the date of order made under section 60 expires on	15th April
No. of days for which interest shall be payable [15 days of April + 31 days of May]	46 days
Interest payable = ₹ 87,120 x 15/100 x 46/365 (rounded off)	**₹ 1,647**

Owner's Right to Deal with Warehoused Goods

Question 6

Elaborate the provisions relating to the owner's right to deal with warehoused goods under section 64 of the Customs Act, 1962.

Answer

When the imported goods are warehoused, the **temporary possession and the custody** of the goods are **passed on to warehouse keeper**. However, remaining titular rights of the goods vest with owner.

Thus, the **owner has every access to the goods.**

In the course of his dealings with the goods, **he may:**

(a) **inspect** the goods;

(b) **ensure** that the goods do **not deteriorate or get damaged** during storage in the warehouse;

(c) **sort** the goods; or

(d) **show the goods for sale.**

Improper Removal of Goods from Warehouse

Question 7

Enumerate the circumstances under which goods are considered to have been removed improperly from a warehouse under the Customs Act.

Answer

Section 72 provides that in any of the following circumstances the goods shall be considered to have been **removed improperly from a warehouse**:

(a) where any warehoused goods are **removed** from a warehouse **in contravention** of section 71 of the Customs Act;

(b) **where** any **warehoused goods have not been removed** from a warehouse **at the expiration of the period** during which such goods are **permitted** under section 61 to remain in a warehouse;

(c) **where** any **goods** in respect of which a bond has been executed under section **59 and** which have **not been cleared for home consumption or export are not duly accounted** for to the satisfaction of the proper officer.

Manufacturing Operations Carried Out on Goods in Warehouse

Question 8

"If manufacturing operations are carried out on warehoused goods and finished products are cleared for home consumption, then appropriate duty of customs should be levied on the quantity of the warehoused goods contained in the waste or refuse arising out of such manufacturing process."

Examine the validity of the said statement in the context of section 65 of the Customs Act, 1962 dealing with manufacture and other operations in relation to warehoused goods.

Answer

The said statement is valid.

Section 65 lays down that if the finished products arising as a result of operations carried out in the warehouse are cleared for home consumption, **import duty** would be **charged on the quantity of the warehoused goods contained in the waste** or refuse arising from such operations.

CHAPTER - 6
Refund under Customs

Basics of Refund under Customs

Question 1

What is the minimum monetary limit prescribed in the Customs law below which no refund shall be granted?

Answer

As per third proviso to section 27(1) of the Customs Act, 1962, the **minimum monetary limit** below which refund cannot be granted **is ₹ 100.**

Question 2

Explain the provisions of Customs Act, 1962 relating to computation of limitation for submission of refund application.

Answer

According to section 27(1) of the Customs Act, 1962, a **refund** claim **should be lodged before the expiry of one year from the date of payment of such duty** or interest. The period of **limitation of one year** should be **computed in the following manner**:

(a) **If** the refund claim is **lodged by the importer**, the **time limit** should be calculated **from the date of payment of duty.**

(b) **If** the refund claim is lodged **by the buyer** of imported goods, the time limit should be calculated **from the date of purchase of goods.**

(c) **In case** of goods which are **exempt** from payment of duty by an ad- hoc exemption, the limitation of one year should be computed **from the date of issue of such exemption order**.

(d) **Where** any **duty is paid provisionally**, the time limit should be computed **from the date of** adjustment of duty after the **final assessment** thereof or in case of re-assessment, from the date of such re-assessment.

(e) **Where** the refund arises **as a result of** any **judgement/decree/order/direction** of the Appellate Authority/Appellate Tribunal/Court, the time limit should be calculated **from the date of such judgement/decree/order/direction.**

The **time limit of one year is not applicable if duty is paid under protest**. Finally, it is worth mentioning that above provisions regarding time limit are mandatory and customs authorities cannot grant a refund which is filed beyond the maximum permissible period.

Question 3

Would the period of limitation for claiming refund applicable to refund of amount paid on account of duty paid twice under mistake? Briefly discuss with reference to legal provisions and case law.

Answer

The High Court, in Parimal Ray v. CCus. 2015 (318) ELT 379 (Cal.), has ruled that the **law of limitation** under Customs Act **is applicable to duty or interest paid** under that Act.

However, any **sum paid to the exchequer by mistake is not the duty or excess duty but is simply money paid to the** account of **Government.**

Hence, **limitation of one year** applicable to refunds of customs duty will **not apply to refunds of amount paid to the Government by mistake**. In view of the same, the limitation period of one year will not apply to the duty paid twice by mistake.

Refund of Duty if Goods found Defective or not as per Specification

Question 4

Explain the relevant dates as provided in section 26A(2) of the Customs Act, 1962 for purpose of refund of duty under specified circumstances, namely:

(i) goods exported out of India

(ii) relinquishment of title to goods

(iii) goods destroyed or rendered valueless.

Answer

The **relevant dates** provided under Explanation to section 26A(2) of the Customs Act, 1962 for purpose of refund of duty under specified circumstances are as follows:

	Case	Relevant date
(i)	Goods exported out of India	**Date on which** proper officer **makes an order permitting clearance** and loading of goods for exportation
(ii)	Relinquishment of title to the goods	Date of **such relinquishment**
(iii)	Goods being destroyed or rendered valueless	Date of **such destruction or rendering** of goods commercially valueless

Question 5

Explain whether refund of import duty is allowed in case of perishable goods?

Answer

Refund is **not allowed in case of perishable goods** and goods which have exceeded their shelf life or their recommended storage-before-use period in terms of section 26A(3) of the Customs Act, 1962.

However, the Board may, by notification in the Official Gazette, specify any other condition subject to which the refund may be allowed under section 26A(4) of the Customs Act, 1962

Question 6

Section 26A of Customs Act, 1962 provides for refund of import duty paid if goods are found defective or not as per specifications. Discuss the conditions governing such refund in brief.

Answer

Often, goods imported are found to be defective or not according to specifications. In such cases, earlier, the refund of customs duty paid at the time of import could be obtained only if the imported goods were physically returned to foreign supplier. Generally, cost of return of the rejected goods is heavy and it is economical to dispose of the goods in India itself. Realising this practical difficulty, section 26A of Customs Act makes provision for refund of import duty paid if goods are found defective or not as per specifications. The **refund is admissible if goods are re-exported or relinquished and abandoned to the customs authorities or destroyed. Thus, refund is possible** even if goods are destroyed or relinquished in India without re-exporting the same.

The section stipulates the following **conditions for the refund**:

(i) the goods are **found to be defective or** otherwise **not in conformity with the specification** agreed upon between the importer and the supplier of goods;

(ii) the goods have **not been worked, repaired or used** after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;

(iii) the goods are **identified** to the satisfaction of Assistant/Deputy Commissioner of Customs **as the goods which were imported;**

(iv) the importer does **not claim drawback** under any other provision of this Act; and

(v) the goods are **exported or importer relinquishes his title and abandons them to customs or** such goods are **destroyed/rendered commercially valueless** in presence of proper officer in prescribed manner **within 30 days** from date on which order of clearance of imported goods for home consumption is made by proper officer. This 30 days period can be extended upto 3 months.

(vi) An **application for refund** of duty shall be made **before the expiry of 6 months from the relevant date** in prescribed form and manner.

(vii) Imported goods should **not** be such regarding which an **offence appears to have been committed** under this Act or any other law.

(viii) Imported goods should **not be perishable goods and** goods which have **exceeded their shelf life** or their recommended storage before use period.

Unjust Enrichment

Question 7

Under what situations the amount of duty and interest refundable under the Customs Act, 1962 shall be paid to the importer/exporter instead of being credited to the Consumer Welfare Fund?

Or

What are the exceptions provided under sub-section (2) of section 27 of the Customs Act, 1962 in which refund of duty and interest may be paid to the applicant?

Answer

The refund of duty and interest thereon is subject to the principle of unjust enrichment. It shall be paid to the importer or the exporter, as the case may be, only in following situations:

(a) if the **importer or the exporter**, as the case may be, **has not passed on the incidence** of such

duty and interest to any other person.

(b) if imports were made by an individual for his **personal use.**

(c) if the duty or interest was borne by a **notified class of applicants.**

(d) if the **buyer has not passed on the incidence** of such duty and interest to any other person.

(e) the **export duty** as specified in section 26;

(f) **drawback** of duty payable under sections 74 and 75.

In all other cases, the amount of such refund and interest shall be credited to the Consumer Welfare Fund.

Question 8

State briefly with reference to the provisions of section 27 of the Customs Act, 1962 whether the principle of "unjust enrichment" will apply in case of refund of excess duty paid on car imported for personal use?

Answer

The bar of unjust enrichment applies in case of refund of customs duty under section 27(2) of the Customs Act, 1962.

The principle of unjust enrichment will **not apply to refund of duty on car imported for personal use,** as clause (b) of the proviso to sub-section (2) of section 27 of the Customs Act, 1962 stipulates that in case of imports made by an individual for his personal use, the **refund should not be credited to consumer welfare fund, but shall be paid to the applicant.**

Question 9

M/s. HIL imports copper concentrate from different suppliers. At the time of import, the seller issues a provisional invoice and the goods are provisionally assessed under section 18 of the Customs Act, 1962 based on the invoice. When the final invoice is raised, based on the price prevalent in the London Metal Exchange on a predetermined date as agreed in the contract between the buyer and seller, the assessments are finalized on the basis of the price in such invoices.

M/s HIL has filed a refund claim arising out of the finalization of the bill of entry by the authorities. The Department, however, has rejected the refund claim on the grounds of unjust enrichment. Discuss whether the action of the department is correct in law?

Answer

Section 18 (dealing with provisional assessment) incorporates the principle of unjust enrichment in case of refund arising out of finalization of provisional assessment. Sub-section (5) of section 18 of Customs Act, 1962 provides that **if any amount is found to be refundable after finalisation of provisional assessment,** such **refund will be subject to doctrine of unjust enrichment.**

Further, section 28D places the **onus on the person who has paid duty to prove that he has not passed on the incidence of such duty.** In the absence of any proof from such person, section 28D deems that the burden of duty has been passed on to the buyer.

Therefore, in the given case, the **Department's action will be correct if M/s HIL does not produce any evidence** of bearing the burden of duty.

Question 10

Rishabh Traders is engaged in trading of cast iron moulds. It imported a total of 600 units of cast iron moulds in two consignments of 200 and 400 units which has been valued at ₹ 1,500 per unit. The customs duty on the imported moulds has been assessed at ₹ 250 per unit. Rishabh Traders sells the moulds for ₹ 2,030 per unit after adding its profit margin of ₹ 280 per unit.

After one month of selling entire consignment of cast iron moulds, Rishabh Traders found that there had been an error in payment of amount of duty, in which duty for consignment of 200 units was paid as if it was 400 units, resulting in excess payment of duty. Rishabh Traders files an application for refund for ₹ 50,000 (200 x 250). You are required to determine whether unjust enrichment is attracted in given case?

Answer

As per section 27 of Customs Act, 1962, importer or his agent, or buyer who has been charged the duty by importer, **has to establish that he has not passed the burden of duty to another person**, in order to be given refund of duty. **Otherwise,** the **refund** amount **is credited to the Consumer Welfare Fund.**

First proviso to section 27(2) of the Customs Act, 1962, inter alia, provides that the amount of refund shall be paid to the applicant instead of being credited to the fund in case where such amount is relatable to the duty paid by the importer/exporter, if he had not passed on the incidence of such duty and interest to any other person and in case where such amount is relatable to the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where such excess payment of duty is evident from the bill of entry in the case of self-assessed bill of entry.

Rishabh Traders' invoices establish that it collected ₹ 250 per unit (duty amount) on 600 moulds from the buyer(s). However, it paid the extra import duty on 200 moulds. This payment, in the normal course, was made before the order permitting the clearance of the goods and **excess payment of duty on 200 units would be evident from the bill of entry. Thus**, Rishabh Traders' case **falls within the exceptions to unjust enrichment** as discussed above. Hence, it will be able to refute the charge of unjust enrichment.

Question 11

XYZ Ltd imported capital goods and used them in its factory to produce goods for sale. Upon discovery of an error by which excess import duty had been paid on the said capital goods, it filed a claim for refund. As regards unjust enrichment, it contended -

- that the capital goods were not sold and hence the principle of unjust enrichment will not apply to the refund of import duty paid on capital goods; and
- that in any case the price of the finished goods manufactured in the factory remained the same before and after the import and installation of the capital goods, which is sufficient proof to establish that duty burden has not been passed on.

Examine the merits of these contentions, with the support of case law, if any.

Answer

The incidence of duty can be passed directly or indirectly. Where the **capital goods are used for manufacture, the duty paid on their import will go into the costing of the goods manufactured** and sold, and can thus be **passed on to the buyers.** The Large Bench of the Tribunal in the case of SRF Ltd. v. CCus. Chennai 2006 (193) ELT 186 (Tri. - LB) has held that the **doctrine of unjust enrichment**

would be applicable in case of imported **capital goods** used captively for manufacture of excisable goods. As regards relevance of the fact that price remained the same before and after the capital goods were imported, Larger Bench also clarified that **uniformity in price before and after assessment does not lead to inevitable conclusion that duty burden has not been passed,** as such uniformity may be due to various reasons. In view of this, the **contentions of XYZ Ltd are liable to be rejected.**

Question 12

Acme Sales' imports were being provisionally assessed pending a verification that the department was carrying out. Upon completion of the verification, the assessments were finalized, and Acme Sales was asked to pay ₹ 12 lakhs, which it paid. Acme Sales did not contest this order and allowed the appeal period of sixty days to lapse. After six months, upon detailed scrutiny of the verification report and taking legal opinion on it, Acme Sales filed a claim for refund of ₹ 8 lakhs on the ground that the differential amount should be ₹ 4 lakhs only and that there were factual errors in the verification report. Was this the correct mode of redressal for Acme Sales? What will be likely outcome of the claim? Discuss on the basis of case law on the subject.

Answer

Acme Sales received an order finalizing provisional assessment on the basis of a verification report, and requiring payment of ₹ 12 lakhs. They **did not contest this order, but made the payment, and allowed the appeal period of sixty days to lapse. After appeal became time-barred they filed a claim for refund in which they challenged the order. This was a backdoor method** of seeking relief against the order; it also asked an officer of the same rank to review the order passed; and it sought to bypass the time limitation for appeal by presenting the appeal as a claim for refund. The Supreme Court has held, in the case of Priya Blue Industries Limited, 2004 (172) ELT 145 (SC), that **such a refund claim is not permissible for all these reasons.** A person who is aggrieved with an assessment order cannot seek refund without filing an appeal against the assessment order.

Interest on Refund

Question 13

Briefly explain whether interest is paid to the applicant in case of delayed refund by Customs Authorities? If yes, also explain the period for computation of interest?

Answer

Yes, interest is to be paid to the applicant **in case any duty** ordered to be refunded to an applicant is **not refunded within 3 months** from the date of receipt of application for refund. The government is permitted to fix such interest between 5% and 30%.

Currently, the **rate of interest is 6%** vide Notification No. 75/2003-Cus (NT) dated 12.09.2003.

The interest is to be paid for the **period beginning from the date immediately after the expiry of 3 months from** the date of **receipt of such application, till** the date of **refund of such duty**. For the purpose of payment of interest, the application is deemed to have been received on the date on which a complete application, as acknowledged by the proper officer of Customs, has been made.

CHAPTER - 7
Classification of Imported and Export Goods

Classification Rules

Question 1

Write a brief note on rule 1 of the Rules of Interpretation of the First Schedule to Customs Tariff Act, 1975.

Answer

Rule 1 of the general rules for interpretation states that the **titles of sections, chapters and sub-chapters** in the First Schedule to the Customs Tariff Act, 1975 are **provided for ease of reference only**. For legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and provided such headings or chapter notes do not otherwise require, according to the rule 2 to 6.

Thus, the tiles of sections, chapters and sub-chapters **cannot be used to determine classification** of a product.

Question 2

Briefly explain the provisions of rule 2(a) of Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975 on classification of incomplete/unfinished articles.

Answer

The provisions of rule 2(a) of Rules of Interpretation of the First Schedule to the Customs Tariff Act, 1975 on **classification of incomplete/unfinished articles** are as under:

If any particular **heading refers to a finished/complete article, the incomplete/unfinished form of that article shall also be classified under the same heading** provided the incomplete/unfinished goods have the essential characteristics of the finished goods.

Reference to an article will also include the article complete or finished (or failing to be classified as complete or finished) presented un-assembled or dis-assembled.

Question 3

Explain rule 3 of the rules for Interpretation of the Customs Tariff.

Answer

The application of this rule arises when the **goods consists of more than one material or substance.**

When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

Rule 3(a) - Specific over general:

(i) The heading which provides the most specific description shall be preferred to headings providing a more general description.

(ii) However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

Rule 3(b) – Essential character principle: Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified with reference to (a), shall be classified as if they consisted of material which gives them their essential character, in so far as this criterion is applicable.

Rule 3(c) – Latter the better: When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

Question 4

What is the purpose of including General Rules of Interpretation of First Schedule in Customs Tariff? Do they form part of the Tariff Schedule? Explain the Akin Rule of interpretation.

Answer

The Customs Tariff has a set of six General Rules for Interpretation of the First Schedule and three General Explanatory Notes. The six General Rules of Interpretation and three General Explanatory Notes are integral part of the Tariff Schedule. The purpose of their inclusion in Customs Tariff is to standardize the manner in which the nomenclature in schedule is to be interpreted so as to reduce classification disputes.

Rule 4 of the Rules of Interpretation **is called as akin rule**. This rule lays down that **goods which cannot be classified** in accordance **with rules 1, 2 and 3** of the Rules of Interpretation **shall be classified under the heading** appropriate to the goods **to which they are most akin**. In other words, **akin rule' is a residual rule** which is to be applied when classification is not possible by applying any of the earlier rules. It is a rule of last resort.

Question 5

"The laptop supplied along with software loaded on hard disk drive has to be classified as laptop and valuation has to be made as one unit. The classification also has to be determined accordingly." Examine this statement with reference to classification and valuation of laptop under Customs Act, 1962 read with relevant rules and relevant judicial pronouncement, if any.

Answer

Operating Software preloaded in the laptop forms an integral part of the laptop.

In a judicial pronouncement by Supreme Court, the question as to whether the laptop supplied alongwith the software loaded on hard disk drive is to be **classified as laptop** has been answered in affirmative.

The Court observed that a **laptop cannot work without operating system** like windows. Therefore, the laptop along with software has to be classified as laptop and for valuation also, the **laptop along with software has to be classified as one unit/laptop.**

Hence, the **statement is correct**.

Question 6

Precise Finishing Ltd. imported consignment of graphic design system and one electronic flat knitting machine. The graphic design system is a computer system required to design the artwork which shall be knitted by the flat knitting machine. Graphic design system is not an integral part of electronic flat knitting machine.

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, an exemption had been granted in respect of electronic flat knitting machine and falling within Chapter 85 of the First Schedule to the Customs Tariff Act, 1975. The exemption does not include any specific mention of accessories to the machine. Precise Finishing Ltd. has claimed exemption of the said notification in respect of Graphic Design System also as accessory of Flat Knitting Machine.

The Customs Department rejected the importer's claim for exemption on Graphic Design System. Examine whether the Department's action is sustainable in law.

Answer

The **graphic design system is not an integral part of the electronic flat knitting machine.** It is an accessory to the machine.

Hence, electronic flat knitting machine and graphic design system cannot be treated as one single unit and should be classified and assessed separately.

In the given case, the exemption had been granted under the customs law specifically in respect of the electronic flat knitting machine falling under Chapter 85 of the First Schedule to the Customs Tariff Act, 1975 and not to its accessory – the graphic design system.

Therefore, benefit of the **exemption** notification available in respect **of electronic flat knitting machine will not be available to graphic design system**. The Department's action is sustainable in law.

Question 7

Your client manufactures Almond Milk which is an almond based drink. The manufacturing process of almond milk is as follows:

- Selection of high quality California almonds;
- Blanching of almonds, roasting, and grinding into a paste
- Almond paste is blended with other ingredients like RO water, salt, vitamins and minerals.
- Sterlization of mixture by ultra-high temperature processing
- Homogenization
- Packaging in a septic package

As per the Rate Notification for goods issued under GST, following entries are relevant:

Rate: 12%

Entry 41 – 2009 – Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter

Entry 48 – 2202 9920 – Fruit pulp or fruit juice based drinks

Entry 50 – 2202 9930 – Beverages containing milk

Rate: 18%

Entry 24A – 2202 9100 or 2202 99 90 - Other non-alcoholic beverages other than tender coconut water

Your client is confused with the correct classification of Almond Milk under GST. He has approached you for your opinion so as to enable him to discharge the tax correctly.

Following additional information may be relevant:

As per First Schedule to Customs Tariff Act, 1975, following entries of Chapter 20, 22 and 8 are relevant:

Chapter 20 - Preparations of vegetables, fruit, nuts or other parts of plants

Tariff Item	Description of goods
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter Juice of any other single fruit or vegetable:
2009 8100	Cranberry (Vaccinium macrocarpon, Vaccinium, Oxycoccos, Vaccinium vitis-idaea) juice
2009 89	Other
2009 89 10	Mango
2009 89 90	Other
2009 90 00	Mixtures of juices

Chapter 22 - Beverages, spirits and vinegar

Tariff Item	Description of goods
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, section-iv 172 chapter-22 and other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009
2202 10 10	Aerated Waters
2202 10 20	Lemonade
2202 10 90	Other
	Other
2202 91 00	Other Non-alcoholic Beer
2202 99	Other
2202 99 10	Soya milk drinks, whether or not sweetened or flavored
2202 99 20	Fruit pulp or fruit juice based drink
2202 99 30	Beverages containing milk
2202 99 90	Other

Chapter 8 - Edible fruit and nuts; peel of citrus fruit or melons

Tariff Item	Description of goods
0802	Other nuts, fresh or dried, whether or not shelled or peeled
	Almonds:
0802 11 00	In Shell
0802 12 00	Shelled

Further, explanatory notes to Chapter 20 specify that:

The fruit and vegetable juices of this heading are generally obtained by pressing fresh, healthy and ripe fruit or vegetables. This may be done (as in the case of citrus fruits) by means of "mechanical extractors" operating on the same principle as the household lemon-squeezer, or by pressing which may or may not be preceded either by crushing or grinding (for apples in particular) or by treatment with cold or hot water or with steam (e.g., tomatoes, black currants and certain vegetables such as carrots and celery).

Answer

The first step in the classification of Almond Milk is to determine if the same would fall under Chapter 20 or 22 of the First Schedule of Customs Tariff Act, 1975. On a plain reading of Heading of Chapter 20 along with Explanatory Notes, it emerges that Chapter 20 is applicable to juices of ripe fruits and vegetables. Therefore, it is important to determine if the "almond" qualifies to be a fruit or not.

While in common parlance, we refer **'almonds' as dry fruits**, however if we analyze Chapter 8 of the First Schedule of Customs Tariff Act, 1975, it appears that **'almonds' are referred to as 'nuts' under sub-heading** 0802.

Therefore, the **'almonds' do not classify as 'fruit' for the purpose of classification under HSN system.**

Accordingly, the classification under Chapter 20 is completely ruled out. Now, the 3 entries relevant under Chapter 22 are:

(a) 2202 99 20 – Fruit pulp or fruit juice based drink – As stated above, since almond is not a fruit but a nut for the purpose of classification, this entry is ruled out.

(b) 2202 99 30 – Beverages containing milk – Admittedly, as per the process specified above, the Almond Milk does not contain any milk. Therefore, this entry is also ruled out.

(c) 2202 9100 or 2202 99 90 - Other non-alcoholic beverages other than tender coconut water – The Almond milk will be classifiable under 2202 99 90 as Others.

Therefore, the Almond Milk will be chargeable to 18% GST.

This view is also supported by CBIC's Circular No. 113/32/2019 GST dated 11.10.2019 which states that:

"Almond Milk is made by pulverizing almonds in a blender with water and is then strained. As such almond milk neither constitutes any fruit pulp or fruit juice. Therefore, it is not classifiable under tariff item 2202 99 20.

Almond milk is classified under the residual entry in the tariff item 2202 99 90 and attract GST rate of 18%"

Project Imports

Question 8

Write a note on "Project Imports" under the Customs Tariff Act, 1975.

Answer

Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for substantial expansion of an existing unit.

Heavy customs duty on imported machinery for projects make the initial project cost very high and project may become unviable. Hence, concept of 'project import' is introduced to bring machinery etc. required for initial setup or substantial exemption at concessional customs duty.

In a project several different items are required, each of which is importable at different rates of customs duties. Thus, this simple method is adopted, as otherwise, classifying each machinery and its parts in different heads and valuing them would have been cumbersome and would have delayed clearances, which would cause demurrages. Further, individual exemption notification will apply even for items grouped under the said heading of the customs tariff liable to duty at the project rate as per recent Supreme Court judgement.

The items eligible for project import are specified in Heading 9801 of the Customs Tariff Act, 1975. These are: all items of machinery including prime movers, instruments, apparatus and appliances, control gear and transmission equipment, auxiliary equipment (including those for research and development, testing and quality control); as well as components or raw materials for manufacture of these items and their components; required for initial setting up of a unit or substantial expansion of a specified (1) industrial project (2) Irrigation project (3) Power projects (4) Mining project (5) Project for exploration of oils or other minerals and (6) Other projects as may be notified by Central Government.

The spare parts, raw material and consumables stores upto 10% of the value of goods can be imported.

Few of the eligible projects are:

(i) **Industrial plant**

(ii) **Irrigation project**

(iii) **Power project**

(iv) **Mining project**

(v) **Oil & mineral exploration project**

(vi) **Other projects as notified by the Central Government**

CHAPTER - 8
Foreign Trade Policy

Introduction to FTP

Question 1

What do you understand by the term 'Foreign Trade Policy' (FTP)? Which is the governing legislation for FTP? Which Government authorities administer FTP in India?

Answer

Foreign Trade Policy is a set of guidelines or instructions issued by the Central Government in matters related to import and export of goods in India viz., foreign trade. The FTP, in general, **aims at developing export potential, improving export performance, encouraging foreign trade and creating favorable balance of payments** position.

In India, Ministry of Commerce and Industry governs the affairs relating to the promotion and regulation of foreign trade. The **main legislation** concerning foreign trade **is the Foreign Trade (Development and Regulation) Act, 1992 FT (D&R) Act.**

In exercise of the powers conferred by the FT (D&R) Act, the Union Ministry of Commerce and Industry, Government of India announces the integrated Foreign Trade Policy (FTP) with certain underlined objectives. This policy is generally updated every year, in addition to changes that are made throughout the year.

FTP is formulated, **controlled and supervised by office of Director General of Foreign Trade** (DGFT), an attached office of Ministry of Commerce & Industry, Government of India. DGFT has several offices in various parts of the country which work on the basis of the policy formed by the **headquarters at Delhi.**

Though the FTP is formulated by DGFT, it is administered in **close coordination with other agencies.** Other important authorities dealing with FTP are:

(i) Central Board of Indirect Taxes and Customs **(CBIC)**

(ii) Reserve Bank of India **(RBI)**

(iii) State **VAT Departments**

Question 2

Briefly explain as to how FTP is linked with customs laws.

Answer

The Foreign Trade Policy is closely knit with the Customs laws of India. However, the **policy provisions per-se do not override tax laws.** The **exemptions extended by FTP are given** effect to **by issue of notifications** under respective tax laws (e.g., IGST Act, CGST Act, SGST/UTGST Act, Customs Tariff Act, 1975, Central Excise Act, 1944, Customs Act, 1962 etc.). Thus, **actual benefit of the exemption depends on the language of exemption notifications** issued by the CBIC.

In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance/Tax Authorities cannot question the decision of authorities under the Ministry of Commerce (so far as the issue of authorization etc. is concerned).

Decision of Director General of Foreign Trade (DGFT) is final and binding in respect of (a) **Interpretation of any provision of foreign trade policy** or provision of Handbook of Procedures, Appendices, Aayat Niryat Forms (b) Classification of any item in ITC(HS).

Question 3

Enumerate the various matters in respect of which policies and regulations are framed under FTP.

Answer

Following issues are covered under FTP 2023 -

- **General provisions** regarding import and export of goods – Chapter 2 of FTP 2023.
- Developing **Districts as Export Hubs** – Chapter 3 of FTP 2023.
- **Duty Exemption and Remission Schemes** [**Advance Authorisation, DFIA and Duty Drawback** Scheme and duty remissions schemes under GST law] to enable exporters to import inputs without payment of customs duty – Chapter 4 of FTP 2023.
- **Export Promotion Capital Goods (EPCG)** scheme [to obtain capital goods without payment of customs duty] – Chapter 5 of FTP 2023.
- **EOU/EHTP/STP and BTP** schemes – Chapter 6 of FTP 2023.
- **Deemed Exports** – Chapter 7 of FTP 2023.
- **Quality Complaints and Trade Disputes** – Chapter 8 of FTP 2023.
- Promoting **Cross Border Trade in Digital Economy** – Chapter 9 of FTP 2023.
- **SCOMET**: Special Chemicals, Organisms, Materials, Equipment and Technologies – Chapter 10 of FTP 2023.

Policy in respect of Special Economic Zones [SEZ] is contained in SEZ Act, 2005 and Rules.

Question 4

With reference to the provisions of FTP 2023, discuss giving reasons whether the following statements are true or false:

(i) If any doubt arises in respect of interpretation of any provision of FTP, the said doubt should be forwarded to CBIC, whose decision thereon would be final and binding.

(ii) Authorization once claimed by an importer cannot be refused by DGFT.

(iii) IEC is a unique 12 digit PAN based alphanumeric code allotted to a person for undertaking any export/import activities.

(iv) Waste generated during manufacture in an SEZ Unit can be freely disposed in DTA on payment of applicable customs duty, without any authorization.

Answer

(i) **False.** If any question or doubt arises in respect of interpretation of any provision of the FTP, said **question or doubt ought to be referred to DGFT whose decision** thereon would be **final and binding.**

(ii) **False. No person may claim an Authorization as a right and DGFT shall have power to refuse** to grant or renew the same as per provisions of FT(D&R) Act, rules made thereunder and FTP.

(iii) **False. IEC is a unique 10-digit alphanumeric number** allotted to a person for undertaking export/import activities.

(iv) **True. Any waste or scrap** or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/Developer/Co-developer are **allowed to be disposed in DTA freely, without any authorization, subject to payment of** applicable **customs duty.**

Status Holders

Question 5

Two exporters namely, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. have achieved the status of Status Holders (One Star Export House) in the current financial year. Both the exporters have been regularly exporting goods (other than Gems and Jewellery) every year. What would have been the minimum export performance of the two exporters to achieve such status?

Both the exporters want to establish export warehouses in accordance with the applicable guidelines. What should be their export turnover to enable them to establish export warehouses?

Answer

Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. **All exporters** of goods, services and technology **having an import-export code (IEC) number shall be eligible for recognition as a status holder.** Status recognition **depends upon export performance.**

In order to be categorized as **One Star Export House**, an exporter needs to achieve the **export performance of 3 million US $ million [FOB/FOR (as converted)] during current and all the three preceding financial years.** Thus, export performance of Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. would have been at least 3 million US $ million [FOB/FOR (as converted)] during current and all the three preceding financial years.

Further, Two Star Export Houses and above are permitted to establish export warehouses. Therefore, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. **can establish export warehouses in India only if** they achieve status of **Two Star Export House and above.** In order to achieve said status, export performance of exporters during current and all three preceding financial years should be as indicated below:

Status Category	Export Performance [FOB/FOR (As converted value on US$ million)]
One Star Export House	3
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

Question 6

Discuss the benefits granted under FTP to Status Holders.

Answer

Status holders are granted certain **benefits like:**

(a) **Authorisation and custom clearances** for both imports and exports **on self- declaration basis.**

(b) **Fixation** of Input Output Norms **(SION) on priority i.e. within 60 days** by Norms Committee.

(c) **Exemption from compulsory negotiation** of documents through banks. The remittance/receipts, however, would continue to be received through banking channels.

(d) **Exemption from furnishing of Bank Guarantee** in Schemes under FTP.

(e) **Two Star Export Houses and above are permitted to establish export warehouses.**

(f) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to **self-certify their manufactured goods** (as per their IEM/IL/LOI) as originating from India with a view **to qualify for preferential treatment** under specified agreements.

(g) Status holders shall be **entitled to export freely exportable items on free of cost basis** for export promotion subject to a specified annual limit.

(h) The status holders would be **entitled to preferential treatment** and **priority in handling of their consignments** by the concerned agencies.

Advance Authorisation (AA) and Duty Free Import Authorisation (DFIA)

Question 7

State salient aspects of Advance authorisation for annual requirements to exporters.

Answer

Annual Advance authorisation would be **issued to exporters having past export performance for at least two preceding financial years**, to enable them to import the inputs required by them on annual basis.

Advance authorization for annual requirement shall **only be issued for items, notified in SION** and not on basis of ad hoc norms under self-declared authorisations where SION does not exist.

Annual Advance Authorisation in terms of **CIF value of imports will be granted upto 300% of FOB value of physical exports in preceding financial year** and/or FOR value of deemed exports in preceding year **or ₹ 1 crore, whichever is higher.**

Question 8

What are the key features of Advance Authorization Scheme? Enlist the items which can be and which cannot be imported against Advance Authorization.

Answer

Under advance authorization scheme, **INPUTS which are physically used**/incorporated **in the export product can be imported without payment of customs duty. IGST and GST Compensation Cess**

have been exempted on imports under Advance Authorisation **for physical exports** (including exports to SEZ units) **or deemed exports** like supply of goods against Advance Authorisation, capital goods against EPCG, supply of goods to EOU/STP/EHTP etc.

The goods imported are **exempt from basic customs duty, additional customs duty, education cess, anti-dumping duty, countervailing duty, safeguard duty**, transition product specific safeguard duty, wherever applicable, unless otherwise specified. However, specified deemed exports are not exempted from payment of applicable anti-dumping duty and safeguard duty. The **conditions for duty free imports against physical exports are provided** in notification issued under the Customs law.

Validity period for import of Advance Authorisation shall be **12 months from the date of issue of Authorisation**. Validity of Advance Authorisation **for deemed export** supplies shall be co-terminus with **contracted duration** of project execution **or 12 months** from the date of issue of Authorisation, **whichever is later.**

Period of fulfillment of export obligation **under Advance Authorization is 90 days from the date of clearance of import consignment**.

Exports proceeds shall be realized in freely convertible currency except otherwise specified. Export to SEZ Units shall be taken into account for discharge of export obligation provided payment is realised from Foreign Currency Account of the SEZ unit. **Export to SEZ Developers/Co-developers** can also be taken into account for discharge of export obligation **even if payment is realised in Indian Rupees**.

Items which can be imported duty free against advance authorization:

- **Inputs, which are physically incorporated** in export product (making normal allowance for wastage)
- **Fuel, oil, catalysts** which are consumed/utilised to obtain export product
- **Mandatory spares** which are required to be exported/supplied with resultant product permitted **upto 10% of CIF value** of Authorization.

However, items reserved for imports by STEs cannot be imported against advance authorization.

Question 9

Briefly explain duties which are exempted in case of imports under Advance Authorisation.

Answer

Imports under Advance Authorisation are exempted from payment of:

- **Basic Customs Duty,**
- **Additional** Customs Duty,
- Education Cess,
- **Anti-dumping** Duty,
- **Countervailing** Duty,
- **Safeguard** Duty,
- Transition Product Specific Safeguard Duty, wherever applicable.

However, specified deemed exports as given under are not exempted from payment of applicable anti-dumping duty, countervailing duty, safeguard duty and transition product specific safeguard duty, if any:

- Supply of capital goods against EPCG authorisation.
- Supply to goods to UN or international organisations for their official use or supplied to projects financed by them.

It may be noted that imports under Advance Authorisation for physical as well as deemed exports are also exempt from whole of the Integrated Tax and Compensation Cess.

Question 10

What are the salient features of Duty-Free Import Authorization Scheme (DFIA)? Which duties are exempted under this scheme?

Answer

DFIA is issued to allow duty free **import of inputs, oil and catalyst which are required for** production of **export product.** The goods imported are **exempt ONLY from basic customs duty.**

DFIA shall be issued on post export basis for products for which SION have been notified. **Separate DFIA shall be issued for each SION and each port.**

No DFIA shall be issued for an export product **where SION prescribes 'Actual User' condition** for any input.

Holder of DFIA has an option to procure the materials/ inputs from indigenous manufacturer/STE in lieu of direct import against Advance Release Order (ARO)/Invalidation letter. However, DFIA holder may obtain supplies from EOU/EHTP/BTP/STP/SEZ units, without obtaining ARO or Invalidation letter.

Drawback as per rate determined and fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product.

DFIA or inputs imported against it can be transferred after fulfillment of export obligation. A **minimum 20% value addition is required for issuance of DFIA** except for items in gems and jewellery sector.

Question 11

Discuss the key similarities and differences between Advance Authorization and DFIA (Duty Free Import Authorization) schemes.

Answer

In both DFIA and Advance Authorization schemes, **import of inputs, oil and catalyst** which are consumed/ utilised in the process of production of export product are **permitted without payment of customs duty. Validity period** for both the schemes is **12 months** from the date of issue.

Key **differences between DFIA and Advance Authorisation** schemes are as follows -

(i) **Advance Authorisation is not transferable. DFIA is transferable** after export obligation is fulfilled.

(ii) **Advance Authorisation** scheme requires **15% value addition, while** in case of **DFIA, minimum 20% value addition** is required.

(iii) Advance Authorisation and/or material imported under **Advance Authorisation is subject to 'Actual User' condition. No DFIA** shall be issued for an input which is subject to pre-import

condition or **where SION prescribes 'Actual User' condition** or certain other specified inputs with pre import condition.

(iv) DFIA cannot be issued where SION (Standard Input Output Norms) prescribes actual user condition [as the material is transferable after fulfilment of export obligation]. **Advance Authorisation can be issued even if SION for that product is not fixed. DFIA can be issued only if SION has been fixed** for that product to be exported.

(v) **IGST** has been **exempted** on imports **under Advance Authorisation** scheme but there is **no such exemption available if** imports are under **DFIA** scheme.

Question 12

Jigsaw Puzzle has imported inputs, having CIF value of ₹ 25,00,000 without payment of duty under Advance Authorisation. Inputs are supplied free of cost valued at ₹ 5,00,000 to meet eventualities of quality issues arising during manufacture. On manufacturing, the products are supplied to SEZ units and realisation is in Indian currency through regular current account.

Jigsaw Puzzle wants to know whether it is entitled to Advance Authorisation scheme and what should be the minimum value addition. And you are required to compute FOR value of supplies to SEZ.

Jigsaw Puzzle has manufactured and supplied goods against EPCG authorisation to their customer. Jigsaw Corporation who are setting up a new unit for exports. The payment for such supply is received in Indian currency. Can Advance Authorization be denied as payment has not received in free foreign exchange?

Answer

Advance authorisation (AA) **can be issued for supplies made to SEZ units** (as supplies made to SEZ units are considered as equivalent to physical exports). The **minimum value addition** required to be achieved under AA is **15%**. The FOR value of supplies made to SEZ units is computed as under:

Value addition = (FOR value of supply received – CIF value of inputs/CIF value of inputs) x 100

Notional value of free of cost inputs supplied by foreign buyer needs to be **added to the CIF value of imported inputs** to compute FOR value of the supplies made to SEZ units.

FOR value of supplies made to SEZ units (after adding minimum 15% value addition) **= 30,00,000 x 115% = ₹ 34,50,000**

Jigsaw Puzzles will, however, be **not eligible** for AA **as** the **payment from SEZ unit is not realised from its Foreign Currency Account.**

Supply of goods to against EPCG Authorisation is a deemed export eligible for grant of AA. However in this case, **AA can also be issued when the payment for such deemed exports** is realised in free foreign exchange.

Question 13

Answer the following questions with reference to the provisions of Foreign Trade Policy 2023:

(i) Flintex Manufacturers manufactures goods by using imported inputs and supplies the same under Aid Programme of the United Nations. The payment for such supply is received in free foreign exchange. Can Flintex Manufacturers seek Advance Authorization for the supplies made by it?

(ii) XYZ Ltd. has imported inputs without payment of duty under Advance Authorization. The CIF value of such inputs is ₹ 10,00,000. The inputs are processed and the final product is exported. The exports made by XYZ Ltd. are subject to general rate of value addition prescribed under Advance Authorization Scheme. No other input is being used by XYZ Ltd. in the processing. What should be minimum FOB value of exports made by the XYZ Ltd. as per provisions of Advance Authorization?

(iii) 'A' has used some duty paid inputs in its export products. However, for the rest of the inputs, he wants to apply for the Advance Authorization. Can he do so?

Answer

(i) **Supply to goods to UN** or international organisations for their official use or supplied to projects financed by them **are 'deemed exports'. Advance Authorization can be issued** for supplies made **to such 'deemed exports'**. Therefore, Flintex Manufacturers can seek an Advance Authorization for the supplies made by it.

(ii) Advance Authorization necessitates exports with a **minimum of 15% value addition (VA).**

VA = [(A – B)/B x 100]

A = FOB value of export realized, B = CIF value of inputs covered by authorization.

Therefore, the minimum FOB value of the **exports made by XYZ Ltd. should be ₹ 11,50,000** to attain 15% VA.

(iii) **Yes, he can do so.** In case of part duty free and part duty paid imports, **both advance authorization and drawback are available.**

Drawback can be obtained for any duty paid material, whether imported or indigenous, used in goods exported, as per prescribed drawback rates. **Advance authorization can be used for importing duty free material.** Details about duty paid material must be mentioned in the application for Advance Authorization.

Remission of Duties and Taxes on Exported Products (RoDTEP) Scheme

Question 14

With reference to the Foreign Trade Policy 2023, explain in brief the objectives and salient features of Remission of Duties and Taxes on Exported Products (RoDTEP) scheme.

Answer

Remission of Duties and Taxes on Exported Products (RoDTEP) scheme is based on the globally accepted principle that taxes and duties should not be exported, and taxes and levies borne on the exported products should be either exempted or remitted to exporters. **RoDTEP scheme aims to refund such duties and taxes on exported products, as are otherwise not being refunded** under other provisions of law. The rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

The objective of the scheme is to refund, currently unrefunded:

(i) Duties/taxes/levies, at Central, State & local level, borne on exported product, including prior stage cumulative indirect taxes on goods & services used in production of the exported product, and

(ii) Such indirect duties/taxes/levies in respect of distribution of exported products.

Salient features of the scheme:

(i) Rebate amount is **issued in the form of a transferable** duty credit/electronic scrip **(e-scrip)**, which will be maintained in an electronic ledger by the CBIC.

(ii) Such duty credit shall be **used only to pay basic customs duty** on imported goods.

(iii) The duty credit scrips are **freely transferable,** i.e. credits can be transferred to other importers.

(iv) The rebate under the scheme shall **not be available in respect of duties and taxes already exempted** or remitted or credited.

Export Promotion Capital Goods (EPCG)

Question 15

Explain the significant features of EPCG Scheme. Which type of capital goods cannot be imported under such Scheme?

Answer

Export Promotion Capital Goods Scheme (EPCG) permits exporters **to import capital goods** for pre-production, production and post-production at zero customs duty **or procure them indigenously without paying duty** in the prescribed manner. **In return, exporter** is under an **obligation to fulfill the export obligation.**

Capital goods imported under EPCG Authorisation **for physical exports are also exempt from IGST and Compensation Cess.**

Import under EPCG scheme shall be subject to an **export obligation equivalent to 6 times of duties, taxes and cess** saved on capital goods **to be fulfilled in 6 years** reckoned from the date of issue of authorization. **Authorisation shall be valid for 24 months from the date of issue of Authorisation.**

Import of capital goods shall be **subject to 'Actual User' condition till export obligation is completed.** After export obligation is completed, capital goods can be sold or transferred.

In case integrated tax and compensation cess are paid in cash on imports under EPCG, incidence of the said integrated tax and compensation cess would not be taken for computation of net duty saved provided, input tax credit is not availed.

Export proceeds shall be **realized in freely convertible currency except for deemed exports** supplies. Export to SEZ Units shall be taken into account for discharge of export obligation provided payment is realised from Foreign Currency Account of SEZ unit. Export to SEZ Developers/Co-developers can also be taken into account for discharge of export obligation even if payment is realised in Indian Rupees.

Eligible capital goods under EPCG Scheme are:

- **Capital Goods** including capital goods **in CKD/SKD condition**
- **Computer systems and software** which are a part of the Capital Goods being imported
- **Spares, moulds, dies, jigs, fixtures,** tools & refractories
- **Catalysts for initial charge** plus one subsequent charge

Question 16

Which exporters are eligible for Export Promotion Capital Goods Scheme as per Foreign Trade Policy 2023? Also describe which capital goods are eligible for import under this scheme?

Answer

Following exporters are eligible for Export Promotion Capital Goods Scheme (EPCG) as per Foreign Trade Policy 2023:

(i) **Manufacturer exporters** with or without supporting manufacturer(s),

(ii) **Merchant exporters** tied to supporting manufacturer(s), and

(iii) **Service providers** including service providers designated as Common Service Provider (CSP) subject to prescribed conditions.

Further, following capital goods are eligible for imports under this scheme:

(1) **Capital goods including** capital goods in **CKD/SKD condition**

(2) **Computer systems and software** which are a part of capital goods being imported

(3) **Spares, moulds, dies, jigs, fixtures, tools** & refractories

(4) **Catalysts for initial** charge plus one subsequent charge

Question 17

XP Pvt. Ltd., a manufacturer, wants to import capital goods in CKD condition from a foreign country and assemble the same in India. The capital goods will be used for pre-production processes. The final products of XP Pvt. Ltd. would be supplied in SEZ unit. XP Pvt. Ltd. wishes to sell the capital goods imported by it as soon as the production process starts.

XP Pvt. Ltd. seeks your advice whether it can avail the benefit of EPCG Scheme for importing the intended capital goods.

Note: Base your opinion on the facts given above assuming that all other conditions required for being eligible to the EPCG Scheme are fulfilled in the above case.

Answer

Export Promotion Capital Goods Scheme (EPCG) permits exporters to **import capital goods at zero customs duty or procure them indigenously without paying duty** in prescribed manner.

In return, exporter is under an **obligation to fulfill the export obligation**. Export obligation means obligation to export product(s) covered by Authorisation/permission in terms of quantity or value or both, as may be prescribed/specified by Regional or competent authority. **Exports to SEZ unit will be considered for discharge of export obligation of EPCG Authorization**, irrespective of currency, **however, payment must be received from the Foreign Currency Account.**

The authorisation holder can either procure the capital goods (whether used for pre-production, production or post-production) from global market or domestic market. The **capital goods can also be imported in CKD/SKD to be assembled in India.**

Export obligation for such EPCG Authorizations **would be 6 times of duty saved to be fulfilled in 6 years.**

However, import of capital goods is **subject to 'Actual User' condition** till export obligation is completed. Only after completion of export obligation, capital goods can be sold or transferred.

Therefore, based on the above discussion, XP Pvt. Ltd. can import the capital goods under EPCG Scheme. However, it **has to make sure that it does not sell capital goods till export obligation is completed.**

Deemed Export

Question 18

What is 'deemed exports'? Which type of supplies are regarded as deemed exports?

Or

List some supplies which are 'deemed exports' for purpose of benefits under Foreign Trade Policy 2023.

Answer

It refers to those transactions in which **goods supplied do not leave country**, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as specified in FTP shall be regarded as "Deemed Exports" provided goods are manufactured in India.

As per FTP 2023, following are treated as deemed exports:

- Supplies against **Advance Authorisation/DFIA**
- Supplies to EOU/STP/EHTP/BTP
- Supplies **against EPCG authorization**
- Supplies **to projects against International Competitive Bidding**
- Supplies to projects where imports permitted at zero customs duty
- Supply to **mega power projects**
- Supplies **to UN or International Organizations** for their official use.
- Supplies to **nuclear projects**

Question 19

Mr. X is desirous to know the benefits of deemed exports under FTP. You are required to discuss the same with reference to FTP.

Answer

Deemed exports shall be eligible for any/all of **following benefits** in respect of manufacture and supply of goods, qualifying as deemed exports, subject to specified terms and conditions:

a. **Advance Authorisation**/Advance Authorisation for Annual requirement/DFIA

b. **Deemed Export Drawback**

Refund of drawback on the inputs used in manufacture and supply under the deemed exports category can be claimed on 'All Industry Rate' of Duty Drawback Schedule provided no CENVAT credit has been availed by supplier of goods on excisable inputs or on 'Brand rate basis' upon submission of documents evidencing actual payment of basic custom duties.

c. **Refund of terminal excise duty** for specified excisable goods

Supply of goods will be eligible for refund of terminal excise duty provided recipient of goods does not avail CENVAT credit/rebate on such goods and supply is eligible under that category of deemed exports.

EOU/EHTP/STP/BTP

Question 20

With reference to the provisions relating to EOU, EHTP, STP, BTP & SEZ Schemes as contained in FTP, answer the following questions:

(i) A unit intending to trade in handicrafts wants to set up an EOU. Is it allowed?

(ii) An EOU has started production after 4 years 10 months from the date of grant of Letter of Permission (LoP)/Letter of Intent (LoI). Is it correct?

(iii) A EOU wants to import a second hand capital goods which is prohibited under ITC (HS). Can it do so?

Answer

(i) **No.** Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering and rendering of services. **Trading units are not covered under these schemes.**

(ii) **No.** EOU/BTP/EHTP/STPs should **start production within 2 years** from the date of grant of Letter of Permission (LoP)/Letter of Intent (LoI). In other words, LoP/LoI have an **initial validity of 2 years**, by which time unit should have commenced production. Its validity **may be extended further up to 2 years** by competent authority. However, proposals for extension **beyond four years shall be considered in exceptional circumstances,** on a case to case basis by BoA.

(iii) **No.** Though an EOU is permitted to import duty free second hand capital goods, without any age limit, it **cannot import capital goods that are prohibited items of import in the ITC(HS).**

Question 21

Write short notes on the following with reference to the provisions relating to EOU/EHTP/STP/BTP as contained in the FTP:

(i) Entitlement for supplies from DTA

(ii) Inter-unit transfer

(iii) Sale of unutilized material

(iv) Exit from EOU Scheme

Answer

(i) **Entitlements for supplies from DTA**

- **Supplies from DTA to EOU/EHTP/STP/BTP units will be regarded as "deemed exports"** and DTA supplier shall be eligible for relevant entitlements for deemed exports, besides discharge of export obligation, if any, on supplier. The refund of GST paid on such supply would be available to the supplier subject to specified conditions and documentations under GST law.
- In addition, **EOU/EHTP/STP/BTP units shall be entitled to following:**
  - ✓ **Imported goods are exempt from basic customs duty.** Further, **IGST and GST compensation cess is exempt.**
  - ✓ **Input Tax Credit of GST paid on inputs and capital goods.**

(ii) **Inter-unit transfer**

- Transfer of manufactured goods from one EOU/EHTP/STP/BTP unit to another EOU/EHTP/STP/BTP unit is **allowed on payment of applicable GST and compensation cess** with prior intimation to concerned Development Commissioners of the transferor and transferee units as well as concerned Customs authorities, following the prescribed procedure.
- **Capital goods may be transferred or given on loan to other** EOU/EHTP/STP/BTP/SEZ units, with prior intimation to concerned DC and Customs authorities **on payment of applicable GST and compensation cess.** Such transferred goods **may also be returned by the second unit to the original unit in case of rejection or for any reason on payment of applicable GST and compensation cess.**

(iii) **Sale of unutilized material**

- If EOU/EHTP/STP/BTP unit is **unable to utilize goods** (including capital goods and spares that have become obsolete/surplus) **and services**, imported or procured from DTA, **it may be**
  - ✓ **transferred to another** EOU/EHTP/STP/BTP/SEZ unit; or
  - ✓ **disposed off in DTA** with intimation to Customs authorities **on payment of applicable duties and/or taxes and compensation cess**; or
  - ✓ **exported.**

  Such transfer from EOU/EHTP/STP/BTP unit to another such unit **would be treated as import for receiving unit.**
- In case of capital goods, **benefit of depreciation, as applicable, will be available** in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed.
- **No duty shall be payable** other than the applicable taxes under GST laws in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap/waste/remnants/rejects are **destroyed within unit** after intimation to Customs authorities or **destroyed outside unit with permission of Customs authorities.**
- **Disposal of used packing material** will be allowed on payment of duty on transaction value.

(iv) **Exit from EOU Scheme**

With approval of DC, an EOU may opt out of scheme. Such exit shall be **subject to payment of applicable IGST/CGST/SGST/UTGST and compensation cess**, if any, and industrial policy in force. If unit has **not achieved obligations**, it shall **also be liable to penalty at the time of exit**.

Miscellaneous

Question 22

Mr. Ayush Bhandari wants to import samples from US. State in brief policy for import of samples.

Answer

Import of samples of even 'restricted' items, is **allowed without import authorisation. Exceptions are defence/security items, seeds, bees, and new drugs**; these need authorisation.

Duty free import of samples upto ₹ 3,00,000 for all exporters shall be allowed subject to terms and conditions of customs notification as amended.

Question 23

CD Corporation, a merchant exporter, procured order of goods from a customer in USA. It approached AB Corporation, a manufacturer, for execution of said order. The shipping bills relating to consignment bear the name of CD Corporation. Bank Realization Certificate, export order and invoice are also in the name of CD Corporation. Comment whether AB Corporation would be deemed as the exporter under FTP.

Answer

The given scenario is a **case of third-party exports.**

Third-party exports means **exports made by an exporter or manufacturer on behalf of another exporter(s).** The conditions for being allowed as third-party exports under FTP are:

(i) Export documents such as **shipping bills** shall **indicate** name of **both manufacturing exporter**/manufacturer **and third party exporter(s).**

(ii) **e-BRC, export order** and **invoice** should be **in the name of third party exporter.**

In the above case, though BRC, export order and invoice are in the name of CD Corporation (third party exporter), the shipping bill **does not have the name of AB Corporation (manufacturer). Therefore, AB Corporation will not be treated as the exporter** in this case. (However, AB Corporation can supply goods without payment of GST under bond of Merchant Exporter)

Question 24

Mr. A has brought a laptop from USA with him. Such laptop has been used by Mr. B - the seller for few months there. Mr. A contends that he can freely import such laptop as baggage without any restriction/authorization. Examine the correctness of Mr. A's claim in the light of provisions of FTP 2023.

Answer

Import of **one laptop** computer (notebook computer) **as baggage is exempt** from whole of the customs duty. Further, FTP 2023 provides that **import of second hand laptop requires authorization.**

In view of above, **Mr. A's claim is not correct** as second hand laptops can be imported only against an authorization.

Question 25

Monotype traders wants to enter into export contracts with various customers. It intends to understand the currency denomination while entering into contract with them and seeks your advice as to how it should ensure compliance.

Answer

Monotype Traders can denominate all **export contracts and invoices either in freely convertible currency or Indian rupees but export proceeds should be realised in freely convertible currency.**

However, **export proceeds** against specific exports may **also be realized in rupees**, provided it is **through a freely convertible Vostro account of a non-resident bank** situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.

Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account.

Contracts for which **payments** are **received through ACU shall be denominated in ACU Dollar.** Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/Government of India line of credit.

Question 26

Under Foreign Trade Policy (FTP), what does the National Trade Facilitation Action Plan aim to achieve? Enumerate the trade facilitation measures which are provided under Foreign Trade Policy (FTP).

Answer

The National Trade Facilitation Action Plan aims to achieve:

- **Improvement in ease of doing business** through reduction in transaction cost and time.
- A **paperless** regulatory environment.

The **following trade facilitation measures** are provided under FTP:

- **Free passage** will be provided to export consignment.
- There will **not be any seizure of export related stock** except in exceptional cases.
- Single window system to facilitate export of perishable agricultural produce.
- DGFT is implementing the **Niryat Bandhu Scheme** for mentoring new and potential exporter on the intricacies of foreign trade through counseling, training and outreach programmes including the 'Districts as Export Hubs'.
- DGFT **online customer portal** provides information relating to export and import including Acts, rules, policy and procedures.
- DGFT has undertaken a **number of IT Initiatives** to enable a paperless, contactless and transparent environment for availing benefits under the export promotion schemes.
- A **dedicated 24 X 7 Helpdesk facility** has been put in place to assist the exporters in filing online applications on the DGFT portal and other matters pertaining to FTP.

Working Notes