

**14th
Edition
(1st Print)**

SATC

SURAJ AGRAWAL TAX CLASS

INDIRECT TAX

GST & CUSTOMS

VOLUME - I & II

CMA INTER

700+ Practice Questions



CA SURAJ AGRAWAL

CA Rank Holder, CPA (USA), B.COM (H)

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SURAJ AGRAWAL TAX CLASS

+91-8527230445
suraj.agrawal@hotmail.com
CA Suraj Agrawal - SATC

MRP. 725/-



THIS BOOK HAS BEEN A REALITY
ONLY BECAUSE OF MY FAMILY &
STUDENTS.

CA SURAJ AGRAWAL

For CMA Intermediate - June & Dec 2025 Exam
Updated with the Finance Act 2024 & the Finance (No. 2) Act 2024

Date: 10.01.2025

PREFACE

Taxation is a dynamic subject, which is not only a vast subject but also difficult to comprehend in view of frequent amendments. Yet it is the scoring subject of your syllabus. In addition, practice in the field of Taxation is also highly remunerative.

My association with the students has helped me to bring this book in its present form – simplified, comprehensive and easy to understand.

The present edition (**14th Edition**) of this book is designed to bridge the gap between theory & applications and incorporates the following Chapters:

❖ Introduction to GST	❖ Tax Invoice
❖ Payment of Tax	❖ E-Way Bill
❖ TDS & TCS under GST	❖ Return
❖ Registration	❖ Input Tax Credit
❖ Supply under GST	❖ Job Work & ISD
❖ Charge of GST including composition scheme	❖ Place of Supply
❖ Exemption	❖ GST Valuation Rules
❖ Time & Value of Supply	❖ Special Cases
	& Customs Laws

Hope this book serves the purpose of the students. I shall be thankful to the readers for their suggestions, criticism and feedback if any.

Email: suraj.agrawal@hotmail.com
Mobile: 8527230445 (10am to 2pm)

ACKNOWLEDGEMENT

This book is a result of sincere efforts of our family members, colleagues, associates, well-wishers and students, whose contribution cannot go unacknowledged.

Master Reyaan, my wife **CA Monika Agrawal** and my mother deserve special mention for the time (on which they had the first right) they allowed me for this book.

I dedicate this book to my beloved late grandparents & parents.

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“One more step towards success”

PROFILE – CA SURAJ AGRAWAL

CA Suraj Agrawal is a Commerce Graduate [B.Com (H)] from Kolkata University and has qualified CA in November 2005 in **First Attempt** from Kolkata. He has also secured All India **27th Rank in CA-Foundation** - 1st level (First Attempt).

Besides CA, he has completed **Certification Course of International Taxation** of the ICAI in 2009. He has also qualified **CPA (Certified Public Accountant) examination from AICPA (USA)** in 2009 with **more than 90 Marks in each of four papers** in First Attempt [*Presently, he is inspired to complete CIMA, London as well as LLM in International Taxation (UK)*]

He has started his career by joining Direct Tax Department of **Reliance Industries Limited, Mumbai** and worked for near 2 years in core tax team. He has also worked in Taxation Division of **Chaturvedi & Shah (Chartered Accountants), Delhi** followed by Tax Division of **Ernst & Young, Gurgaon, India** (A Leading Big 4 Firm having International Presence). During the working tenure of more than 4 years, he is exposed to in-depth theoretical and practical knowledge of Direct Taxation & has a consultancy exposure in various industries including Energy - Oil & Gas, Airlines, Retail, Infrastructure and Shipping Industries.

With the above academic and practical knowledge, he is in teaching profession since 2010 to serve professional students (taught **25,000 CA/CMA**s Students till date). ***His in-depth coverage of legal provisions in Tax with practical approach is very well recognized among the students.*** He is also an associate member of ICAI and is also providing services as Tax Consultant to various organisations.

He was also a member in WTO, FEMA & International Tax Study Group of the NIRC of the ICAI for the year 2011-12 and was member of ***International Taxation & FEMA Research Study Group of NIRC of the ICAI*** for the year 2010-11. He is regularly contributing tax articles and various opinions on subjects of Direct Taxation including International Taxation in various leading magazines [Taxmann] and professional forums.

CA Suraj Agrawal

“CA Rank Holder, Qualified CPA (USA), B.Com (H)”

Email: suraj.agrawal@hotmail.com

Contact: +91 85272 30445

Subjects: DIRECT TAX & INDIRECT TAX

YouTube: CA Suraj Agrawal - SATC

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GST IN INDIA – AN INTRODUCTION

Taxes are broadly classified into Direct and Indirect Taxes

Indirect taxes are levied on consumption, expenditure or privilege **but not on income or property**. Hitherto (Until now), a number of indirect taxes were levied in India, namely, excise duty, customs duty, service tax, central sales tax (CST), value added tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc.

However, Indirect taxation in India has witnessed a major change on July 01, 2017 **to introduced a unified indirect tax regime** wherein a large number of Central and State indirect taxes have been amalgamated into a **single tax – Goods and Services Tax (GST)**.

The introduction of GST is a very significant step in the field of indirect tax reforms in India. Customs duty will continue in post-GST regime.

Difference between Direct Taxes and Indirect Taxes

S. No.	Direct Taxes	Indirect Taxes
1	Payer of tax and sufferer of tax one and same (i.e. impact and incidence on the same person)	Payer of tax not sufferer of tax whereas sufferer of tax is not paying directly to the Government (i.e. impact on one head and incidence on other head)
2	Income based taxes	Supply based taxes
3	Rate of taxes are different from person to person	Rate of duties are not differ from person to person
4	Entire revenue goes to Central Government of India	Revenue source to Central Government of India as well as State Governments (i.e. CGST and SGST)
5	Previous year income assessed in the assessment year	There is no previous year and assessment year concept
6	Central Board of Direct Taxes (CBDT) is an important part of Department of Revenue and responsible for implementation of Direct Tax .	Central Board of Indirect Taxes & Customs (CBIC) is an important part of Department of Revenue and responsible for implementation of Indirect Tax .
7	Progressive nature.	Regressive nature.

FEATURES OF INDIRECT TAXES**[5 Marks]**

- (i) **An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow **as more countries move to consumption oriented tax regimes**. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- (ii) **Tax on commodities and services:** It is levied on commodities at the time of manufacture or purchase or sale or import/export thereof. **Hence, it is also known as commodity taxation**. It is also levied on provision of services.
- (iii) **Shifting of burden:** There is a **clear shifting of tax burden in respect of indirect taxes**. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- (iv) **No perception of direct pinch:** Since, value of indirect taxes is **generally inbuilt in the price** of the commodity, most of the time the tax payer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
- (v) **Inflationary:** Tax imposed on commodities and services causes an all-round price spiral. In other words, indirect taxation directly **affects the prices of commodities and services and leads to inflationary trend**.
- (vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- (vii) **Promotes social welfare:** High taxes are imposed on the consumption of harmful products (also known as '**sin goods**') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

GENESIS OF GST IN INDIA**[Reading purpose]**

- ✓ It has now been more than a decade since the idea of national Goods and Services Tax (GST) was **mooted by Kelkar Task Force in 2004**. The Task Force strongly recommended fully integrated 'GST' on national basis.
- ✓ Subsequently, the then Union Finance Minister, Shri P. Chidambaram, while presenting the Central Budget (2007-2008), announced that GST would be introduced from April 1, 2010. Since then, GST missed several deadlines and continued to be shrouded by the clouds of uncertainty.
- ✓ The GST introduction, however, gained momentum in the year 2014 when the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST in the Parliament **on 19th December, 2014**.
- ✓ The Lok Sabha passed the Bill **on 6th May, 2015** and Rajya Sabha **on 3rd August, 2016**. Subsequent to ratification of the Bill by more than 50% of the States, Constitution (122nd Amendment) Bill, 2014 **received the assent of the President on 8th September, 2016 and became Constitution (101st Amendment) Act, 2016**, which paved the way for introduction of GST in India.
- ✓ In the following year, on 27th March, 2017, **the Central GST legislations – (a) Central Goods and Services Tax Bill, 2017, (b) Integrated Goods and Services Tax Bill, 2017, (c) Union Territory Goods and Services Tax Bill, 2017 and (d) Goods and Services Tax (Compensation to States) Bill, 2017** were introduced in Lok Sabha.
- ✓ Lok Sabha passed these bills on 29th March, 2017 and with the receipt of the President's assent **on 12th April, 2017, the Bills were enacted**. The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures.
- ✓ **France was the first country to implement GST in the year 1954**. Within 62 years of its advent, about 160 countries across the world have adopted GST because this tax has the capacity to raise revenue in the most transparent and neutral manner.

WHAT IS GST

2 Marks Goods and services tax means a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption **[Article 366 (12A) of Constitution of India]**.

Features: 3 Marks

- ✓ GST is a **value added tax** levy on supply of goods or service or both.
- ✓ GST is a **destination based** consumption tax.
- ✓ GST offers **comprehensive and continuous** chain of tax credit.
- ✓ GST where **burden borne by final consumer**.
- ✓ GST **eliminate cascading** effect of tax.
- ✓ GST brings **uniform tax structure** all over India.
- ✓ GST **does not differentiate between goods and services** and thus, the two are taxed at a single rate.

NEED FOR GST IN INDIA

The following deficiencies in the existing Indirect Tax Laws cause need to bring GST in India as a cure for ills of existing Indirect Tax regime. **[4 Marks]**

- (1) Non-integration of VAT and Service Tax causes double taxation
- (2) Non Inclusion of several Local Levies in State VAT such as Luxury Tax, Entertainment tax etc
- (3) No CENVAT Credit after manufacturing stage to a dealer
- (4) Cascading of taxes on account of levy of CST Inter-state purchases
- (5) VAT was charged by dealer on **value comprising of (basic value + excise duty charged by manufacturer + profit by dealer)**
- (6) Double Taxation of a transaction as both goods and services

GST is a Cure for ills of existing Indirect Tax:

The given statement is true. Cascading affect of tax is one of the vital cause-to-cause ill of existing Indirect Tax. It means, a tax that is levied on a good at each stage of the production process up to the point of being sold to the final consumer. It is also known as tax on tax.

Simultaneous introduction of GST at both Centre and State levels **has integrated taxes on goods and services for the purpose of set-off relief** and ensures that both the cascading effects of CENVAT and VAT are removed and a continuous chain of set-off from the original producer's point/ service provider's point upto the retailer's level/ consumer's level is established.

One of the fundamental features of GST is the seamless flow of input credit across the chain (from the manufacture of goods till it is consumed) and across the country.

TAXES TO BE SUBSUMED IN GST**[6 Marks]****CENTRAL LEVIES TO BE SUBSUMED**

- a. Central Excise Duty*
- b. Additional Duties of excise (Goods of Special Importance)*
- c. Additional Duties of excise (Textiles & Textile Product)*
- d. Excise Duty under Medicinal & Toilet Preparation Act*
- e. Additional Duties of Custom - CVD & Special CVD levied under Custom Tariff Act 1975*
- f. Service Tax*
- g. Central Sales Taxes*
- h. Central Surcharges and Cesses in so far as they relate to Supply of Goods & Services*

STATE LEVIES TO BE SUBSUMED

- a. State Value Added Tax/Sales Taxes*
- b. Luxury Tax*
- c. Taxes on Advertisement*
- d. Entry Tax (All Forms)*
- e. Purchase Tax*
- f. Tax on Lottery, Betting & Gambling*
- g. Entertainment tax (Except those levied by local bodies)*
- h. State surcharges and cesses in so far as they relate to supply of goods & services*

A. Dual GST:

India has adopted a dual GST which is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services.

Now, Centre has the power to tax intra-State sales in addition to services & States are empowered to tax services in addition to goods. **GST extends to whole of India.**

B. CGST/SGST/UTGST/IGST

- ✓ GST is a **destination based tax** applicable on all transactions involving supply of goods and services for a consideration subject to exceptions thereof.
- ✓ GST in India comprises of **Central Goods and Service Tax (CGST)** - levied and collected by Central Government, **State Goods and Service Tax (SGST)** - levied and collected by State Governments/Union Territories with State Legislatures and **Union Territory Goods and Service Tax (UTGST)** - levied and collected by Union Territories without State Legislatures, on intra-State supplies of taxable goods and/or services.
- ✓ **Inter-State supplies of taxable goods and/or services** are subject to Integrated Goods and Service Tax (IGST).
- ✓ IGST is approximately the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.

C. Legislative Framework

There is single legislation – **CGST Act, 2017 for levying CGST**. Similarly, **Union Territories without State legislatures** are governed by **UTGST Act, 2017 for levying UTGST**. States and Union territories with their own legislatures have their own GST legislation for levying SGST.

Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are **uniform in all the SGST legislations**, as far as feasible. **This is necessary to preserve the essence of dual GST.**

D. Registration

Every supplier of goods and/ or services is required to obtain registration in the State/UT from where he makes the taxable supply if his aggregate turnover **exceeds a specified limit during a FY.**

E. Composition Scheme

In GST regime, tax (i.e. CGST and SGST/UTGST for intra-State supplies and IGST for inter-State supplies) is payable by every taxable person and in this regard provisions have been prescribed.

However, **for providing relief to small businesses making intra-State supplies**, a simpler method of paying taxes and accounting thereof is also prescribed, **known as Composition Levy**.

F. Exemptions

Apart from providing relief to small-scale business, the law also contains provisions for granting **exemption from payment of tax on essential goods and/or services**.

G. Manner of utilization of ITC

Input Tax Credit (ITC) of CGST and SGST/UTGST is available throughout the supply chain, but cross utilization of credit of CGST and SGST/UTGST is not possible, i.e. CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

However, cross utilization is allowed between CGST/SGST/UTGST and IGST, i.e. **credit of IGST can be utilized for the payment of CGST/SGST/UTGST and vice versa**.

H. Seamless flow of credit

Since GST is a destination based consumption tax, **revenue of SGST ordinarily accrues to the consuming States**.

The inter-State supplier in the exporting State is allowed to set off the available credit of IGST, CGST and SGST/UTGST (in that order) against the IGST payable on inter-State supply made by him.

The buyer in the importing State is allowed to avail the credit of IGST paid on inter-State purchase made by him.

Thus, unlike the earlier scenario where the credit chain used to break in case of inter-State sales on account of non-VATable CST, under GST regime there is a seamless credit flow in case of inter-State supplies too.

The revenue of inter-State sale does not accrue to the exporting State **and the exporting State transfers to the Centre the credit of SGST/UTGST used in payment of IGST**.

The Centre transfers to the importing State the credit of IGST used in payment of SGST/UTGST.

Thus, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre.

A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.

I. Compensation Cess 2 Marks

A GST Compensation Cess at specified rate has been imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017 **on the specified luxury items or demerit goods**, like pan masala, tobacco, aerated waters, motor cars etc., **computed on value of taxable supply**. Compensation cess is leviable on intra-State supplies and inter-State supplies with a view to **provide for compensation to the States for the loss of revenue arising on account of implementation of the GST**.

Initially, GST compensation cess was levied for a period of 5 years upto 30th June, 2022. Now, its levy and collection has been extended till 31st March, 2026.

GST Common Portal**5 Marks**

A common portal or platform is needed which could act as a clearing house and verify the claims and inform the respective government to transfer the funds. This is possible with the help of a strong IT infrastructure.

Accordingly, **Common GST Electronic Portal “www.gst.gov.in”** a website managed by **Goods and Services Tax Network (GSTN)** [a company incorporated under the provisions of section 8 of the Companies Act, 2013] has been set by the Government to establish **a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.**

GST being a destination based tax, **the inter-state trade of goods and services** would need a robust settlement mechanism amongst the States and the Centre. This is possible only when there is a strong IT Infrastructure and Service back bone which enables capture, processing and exchange of information amongst the stakeholders (including tax payers, States and Central Governments, Accounting Offices, Banks and RBI). **As a result Goods and Services Tax Network (GSTN) has been set up.**

Primarily, GSTN provides **3 front end services** to the taxpayers namely **Registration, Payment and Return** through GST Common Portal.

The functions of the GSTN include: 3 Marks

- a) Facilitating Registration;
- b) Filing of Return: Forwarding the returns to Central and State authorities;
- c) Computation and settlement of IGST;
- d) Matching of tax payment details with banking network;
- e) Providing various MIS reports to the Central and the State Governments based on the taxpayer return information;
- f) Providing analysis of taxpayers' profile;

However, Common GST Electronic Portal **for furnishing electronic way bill is www.ewaybillgst.gov.in** [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India]. E-way bill is an electronic document generated on the GST portal **evidencing movement of goods.**

Further, **Invoice Registration Portal (IRP) is the website for uploading/reporting of e-invoices** by the notified persons. It is managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India.

GSPs/ASPs**[2 Marks]**

- GSTN has selected certain Information Technology, Information Technology enabled Services and financial technology companies, **to be called GST Suvidha Providers (GSPs).**
- GSPs **develop applications to be used by taxpayers for interacting with the GSTN.** They facilitate the tax-payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services. They customize products that address the needs of different segment of users.
- **GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.**

BENEFITS OF GST**[5 Marks]**

GST is a win-win situation for the entire country. It brings benefits to all the stakeholders of industry, Government and the consumer.

Benefits to economy

Creation of unified national market: GST aims to make India a common market with common tax rates and procedures and remove the economic barriers thus paving the way for an integrated economy at the national level.

Boost to 'Make in India' initiative: GST gives a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This will create India as a - Manufacturing hub.

Enhanced investment and employment: The subsuming of major Central and State taxes in GST, complete and comprehensive setoff of input tax on goods and services and phasing out of Central Sales Tax (CST) reduces the cost of locally manufactured goods and services and increases the competitiveness of Indian goods and services in the international market and thus, gives boost to investments and Indian exports. With a boost in exports and manufacturing activity, more employment is generated and GDP is increased.

Simplified tax structure

Ease of doing business: Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity. The uniformity in laws, procedures and tax rates across the country makes doing business easier.

Certainty in tax administration: Common system of classification of goods and services ensures certainty in tax administration across India.

Easy tax compliance

Automated procedures with greater use of IT: There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.

Reduction in compliance costs: The compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed, therefore, there is lesser investment of resources and manpower in maintaining records. The uniformity in laws, procedures and tax rates across the country goes a long way in reducing the compliance cost.

Advantages for trade and industry

Benefits to agriculture and Industry: GST has given more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in industry, trade and agriculture.

Mitigation of ill effects of cascading: By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.

Benefits to small traders and entrepreneurs:

GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

CONSTITUTION [101st AMENDMENT] ACT, 2016

[READING PURPOSE]

Constitution (101st Amendment) Act, 2016 was enacted on 8th September, 2016, with following significant amendments:

- (a) **Concurrent powers on Parliament and State Legislatures** to make laws governing goods and services. It means there will be dual control of State and Central authorities for all assesseees
- (b) **As per Article 246A, the power to levy GST has been given to the Parliament as well as to Legislature of every State.**
 - **CGST** – enacted by Central Government of India.
 - **IGST** – enacted by Central Government of India.
 - **SGST** – enacted by respective State Governments
 - **UTGST** – enacted by Central Government of India
- (c) **IGST** will be apportioned between Centre and the States in the manner provided by Parliament by Law as per the recommendation of the GST Council.
- (d) **GST** will be levied on all supply of goods and services **except alcoholic liquor for human consumption.**
- (e) **The explanation to Article 269A of Constitution of India provides that the import of goods or services will be deemed as supply of goods or services or both in the course of inter-State trade or commerce.**

In case of import of goods, IGST will be levied along with the Basic Customs duty. It means IGST is levied in replacement of CVD + Spl. CVD. **In case of import of services only IGST will be levied.**
- (f) **Principles** for determining the place of supply and when a supply takes place in the course of inter-state trade or commerce **shall be decided by the Parliament.**
- (g) **The power to levy Central Excise duty on goods manufactured or produced in India is available in respect of the following products:**
 - a. Petroleum crude;
 - b. High speed diesel
 - c. Motor spirit (commonly known as petrol);
 - d. Natural gas;
 - e. Aviation turbine fuel; and
 - f. Tobacco and tobacco products.

However, once GST is imposed there will be no duty on manufacture of these goods (except Tobacco).

- (h) **The power to impose tax on sale of the following products is still provided to the State Governments:**
 - a. Petroleum crude;
 - b. High speed diesel;
 - c. Motor spirit (commonly known as petrol);
 - d. Natural gas;
 - e. Aviation turbine fuel; and
 - f. Alcoholic liquor for human consumption.

However, once GST Council is recommend the date from which GST is imposed on these products (except alcoholic liquor for human consumption), and no sales tax will be imposed on these products.

Article 246A: Power to make laws with respect to Goods and Services Tax**[5 Marks]**

1. Notwithstanding anything contained in Articles 246 and 254, **Parliament, and, subject to clause (2), the Legislature of every State**, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
2. **Parliament has exclusive power** to make laws with respect to goods and services tax where the supply of goods, or of services, or both **takes place in the course of inter-State trade or commerce**.

Explanation-

The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of article 279A, take effect **from the date recommended by the Goods and Services Tax Council**.

[GST on Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel.]

Note:

1. This article grants power to Centre and State Governments to make laws with respect to GST imposed by Centre or such State.
2. **Centre has the exclusive power to make laws with respect to GST in case of inter-State supply of goods and/or services.**

Article 269A: Levy and collection of GST on Inter-State Supply**[Reading Purpose]**

- Article 269A stipulates that GST on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax **shall be apportioned** between the Union and the States **in the manner as may be provided by Parliament by law on the recommendations of the GST Council**.
- In addition to above, **import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce**.
- This will give power to **Central Government to levy IGST on the import transactions which were earlier subject to Countervailing duty (CVD) under the Customs Tariff Act, 1975**.
- Where an amount collected as IGST has been used for payment of SGST or vice versa, such **amount shall not form part of the Consolidated Fund of India**. This is to facilitate transfer of funds between the Centre and the States.
- Parliament is empowered to formulate the principles regarding **place of supply and when supply** of goods, or of services, or both occurs in **inter-State trade or commerce**.

- (1) **Article 279A** of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- (2) President constituted the GST Council **on 15th September, 2016**.
- (3) **The GST Council shall consist of the following members, namely:-**
- a) the Union Finance Minister **is the Chairperson**;
 - b) the Union Minister of State in charge of Revenue or Finance is the Member;
 - c) the Minister in charge of Finance or Taxation or any other Minister **nominated by each State Government are the Members**.
- [The Members of the GST Council referred to clause (c) above shall, as soon as may be, choose one amongst themselves to be the **Vice-Chairperson of the Council** for such period as they may decide.]
- (4) **The GST Council shall make recommendations to the Union and the States on-**
- a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies **which may be subsumed** in the goods and services tax;
 - b) the goods and services that may be **subjected to, or exempted from** the goods and services tax;
 - c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
 - d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
 - e) the rates including floor rates with bands of goods and services tax;
 - f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
 - g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand [Such States are referred as **Special Category States**]; and
 - h) any other matter relating to the goods and services tax, as the Council may decide.
- (5) **GST Council shall recommend the date** on which the goods and services tax be levied on **petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel**.
- (6) **One-half of the total number of Members of the GST Council shall constitute the quorum** at its meetings.
- (7) **Every decision of the GST Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:**
- a) the vote of the Central Government shall have a **weightage of one-third of the total votes cast**, and
 - b) the votes of all the State Governments taken together shall have a **weightage of two-thirds of the total votes cast**, in that meeting.
- (8) **The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute**
- a) between the Government of India and one or more States; or
 - b) between the Government of India and any State or States on one side and one or more other States on the other side; or
 - c) between two or more States,
- arising out of the recommendations of the Council or implementation thereof.**

Even after the Introduction of GST**[4 Marks]**

GST is levied on all goods and services, except alcoholic liquor for human consumption and petroleum crude, diesel, petrol, ATF and natural gas.

Alcoholic liquor for human consumption: is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to **State excise duty** and inter-State/intra-State sale of the same is subject to **VAT/CST** respectively.

Petroleum crude, diesel, petrol, ATF and natural gas: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. **GST will be levied on these products from a date to be notified on the recommendations of the GST Council.**

Till such date, **central excise duty continues** to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and **inter-State/intra-State sale of the same** is subject to CST/ VAT respectively.

Tobacco: Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government **has also retained the power to levy excise duties on tobacco and tobacco products** manufactured in India. Resultantly, **tobacco is subject to GST as well as central excise duty.**

Opium, Indian hemp and other narcotic drugs and narcotics: Opium, Indian hemp and other narcotic drugs and narcotics **are within the purview of GST, i.e. GST is leviable on them.** However, State Governments have also retained the power to levy excise duties on such products manufactured in India. **Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.**

GST is not levied **on sale/purchase of immovable property.**

'UNION TERRITORIES' IN GST SYLLABUS

UNION TERRITORIES WITHOUT LEGISLATURE

1. Andaman and Nicobar Islands
2. Lakshadweep
3. **Dadra and Nagar Haveli and Daman and Diu**
4. **Ladakh**
5. Chandigarh

UNION TERRITORIES WITH LEGISLATURE

1. Delhi
2. Puducherry
3. **Jammu & Kashmir**

UNDER GST

Section 2(103) of CGST Act 2017 - "State" includes a Union territory with Legislature.

Section 2(114) of CGST Act 2017 - 'Union Territory' is defined in Clause 114 of Section 2 of CGST Act 2017.

"Union territory" means the territory of -

- a) the Andaman and Nicobar Islands;
- b) Lakshadweep;
- c) **Dadra and Nagar Haveli and Daman and Diu,**
- d) **Ladakh,**
- e) Chandigarh; and
- f) other territory.

Explanation - For the purposes of this Act (CGST Act), each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

EXAM POSITION

1. Ladakh UT is a **UT without legislature**. UTGST Act & UTGST Tax is applicable now.
2. Jammu and Kashmir UT is a **UT with legislature** and hence it is a State for GST purpose.
3. Dadra and Nagar Haveli and Daman and Diu is now merged UT and considered as ONE UT only.
4. Delhi & Puducherry is a **UT with legislature**, hence they are State for GST purpose.

INTRODUCTION

1. Differentiate between direct and indirect taxes

Solution:

Direct Taxes	Indirect Taxes
The person paying the tax to the Government directly bears the incidence of the tax.	The person paying the tax to the Government collects the same from the ultimate consumer. Thus, incidence of the tax is shifted to the other person.
Progressive in nature - high rate of taxes for people having higher ability to pay.	Regressive in nature - All the consumers equally bear the burden, irrespective of their ability to pay.

2. Enumerate major direct and indirect taxes.

Solution:

Major indirect taxes are **goods and services tax and customs duty** and direct tax is **income tax**.

3. Define 'intra State supply' and 'inter-State supply' under GST law. Is it correct to say that inter-State supply attracts both CGST and SGST?

Solution:

Where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as intra-State supply of goods or services respectively.

Where the location of the supplier and the place of supply of goods or services are in

- (i) two different States or
- (ii) two different Union Territories or
- (iii) a State and a Union territory, it is treated as inter-State supply of goods or services respectively.

No, it is not correct to say that inter-State supply attracts both CGST and SGST as inter-State supply attracts IGST. **However, IGST is the sum total of CGST and SGST/UTGST.**

4. Explain the concept of 'Dual GST'

Solution:

Under dual GST model, GST is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services. Centre has the power to levy GST on inter-state supplies of goods and/or services.

5. Bring out the salient features of cross utilization of Input Tax Credit (ITC) under the GST Law?

Solution:

- (i) CGST credit cannot be utilized for payment of SGST/UTGST.
- (ii) SGST/UTGST credit cannot be utilized for payment of CGST.
- (iii) Credit of IGST can be utilized for the payment of CGST/SGST/UTGST and vice versa.

6. Govind, a registered supplier, is engaged in providing services in the neighbouring States from his registered office located in Mumbai. He has furnished the following details in respect of the inward and outward supplies made during a tax period:-

Particulars	(₹)
Inter-State supply of services	1,80,000
Receipt of goods and services within the State	1,00,000

Assume the rates of taxes to be as under:-

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

Note:

- Both inward and outward supplies are exclusive of taxes, wherever applicable.
- All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by Govind during the given tax period. Make suitable assumptions if required.

Solution:

Computation of net GST payable by Govind

Particulars	₹
IGST @ 18% payable on inter-State supply of services [Being an inter-State supply, IGST is payable on the same in terms of section 5 of the IGST Act, 2017]	32,400 [1,80,000 × 18%]
Less: ITC of CGST @ 9% paid on intra-State receipt of goods and services [Cross utilisation of CGST towards IGST]	9,000 [1,00,000 × 9%]
ITC of SGST @ 9% paid on intra-State receipt of goods and services [Cross utilisation of SGST towards IGST]	9,000 [1,00,000 × 9%]
Net GST payable in cash	14,400

Note:

- CGST shall first be utilised towards payment of CGST and the amount remaining, if any, be utilised towards the payment of IGST.
- SGST shall first be utilised towards payment of SGST and the amount remaining, if any, may be utilised towards the payment of IGST.
- However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully**

[Section 49 of the CGST Act, 2017]

7. Shipra Traders is a registered supplier of goods in Assam. It purchased goods valued at ₹ 10,000 from Kartik Suppliers located within the same State. Kartik Suppliers charged CGST & SGST separately in its invoice. Subsequently, Shipra Traders sold goods valuing ₹ 9,500 to Rabina Manufacturers located in Assam. 20% of the inputs purchased are still lying in stock and there was no opening stock of goods. Rate of CGST and SGST on supply and purchase of goods is 9% each. Calculate the net GST payable by Shipra Traders and input tax credit (ITC) to be carried forward, if any.

Solution:**Computation of net GST payable by Shipra Traders**

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)
GST payable on intra-State supply of goods [Being an intra-State supply, CGST and SGST is payable on the same]	855 [9,500 × 9%]	855 [9,500 × 9%]
Less: ITC on intra-State purchase of goods [ITC of CGST and SGST paid on intra-State purchase is available in full, even if some inputs are lying in stock]	900 [10,000 × 9%]	900 [10,000 × 9%]
Net GST payable	Nil	Nil
Input tax credit carried forward in Electronic Credit Ledger	45	45

8. Mr. A registered person under GST located in Tamil Nadu, sold goods worth ₹ 10,000 after manufacture to Mr. C of Chennai (Intra State). Subsequently, Mr. C sold these goods to Mr. H of Hyderabad for ₹ 17,500 (Inter state). Mr. H being a trader finally sold these goods to customer Mr. S of Secunderabad for ₹ 30,000 (Intra state). Applicable rates of CGST= 9%, SGST=9% and IGST=18%. Find the net tax liability of each supplier of goods and revenue to the government.

Solution:

Since, Mr. A supplied goods to Mr. C in Tamil Nadu itself, it is an intra-state sale and both CGST @ 9% and SGST @ 9% will apply.

Mr. C of Chennai supplied goods to Mr. H of Hyderabad. Since, it is an interstate sale, IGST@18% will apply.

Mr. H of Hyderabad (Telangana) supplied goods to Mr. S of Secunderabad (Telangana). Once again it is an intrastate sale and both CGST @ 9% and SGST @ 9% will apply.

Statement showing Net tax liability of Mr. A and revenue to Government:

Particulars	Value in (₹)	CGST in (₹)	SGST in (₹)	IGST in (₹)
Mr. A to Mr. C	10,000	900	900	Nil
Less: ITC	Nil	Nil	Nil	Nil
Net liability of Mr. A		900	900	Nil
		Revenue to Centre ₹ 900	Revenue to Tamil Nadu ₹ 900	

Statement showing net tax liability of Mr. C and revenue to the Government

Particulars	Value in (₹)	CGST in (₹)	SGST in (₹)	IGST in (₹)	Remarks
Mr. C to Mr. H	17,500	Nil	Nil	3,150	
Less: ITC		-900	-900	-1,800	1st CGST, 2nd SGST
Net liability of Mr. C		Nil	Nil	1,350	

Since, Mr. C a dealer has used SGST of Tamil Nadu to the extent of ₹ 900/- in payment of IGST, Tamil Nadu State (i.e. exporting State) has to transfer ₹ 900/- to the credit of the Centre.

Tamil Nadu (exporting state) revenue = Nil (i.e. ₹ 900 - ₹ 900)

Total revenue to the Centre = ₹ 3,150

(i.e. ₹ 1,350 + ₹ 900 received from Tamil Nadu + ₹ 900 CGST already collected from Mr. A in 1st Intra-State supply)

Statement showing net tax liability of Mr. H and revenue to the Government

Particulars	Value in (₹)	CGST in (₹)	SGST in (₹)	IGST in (₹)	Remarks
Mr. H to Mr. S	30,000	2,700	2,700	Nil	
Less: ITC		(2,700)	(450)	(3,150)	IGST credit 1 st adjust against IGST, next CGST and SGST in any order.
Net liability of Mr. H		Nil	2,250	Nil	<i>As per Rule 88A, IGST credit can be utilised now against CGST & SGST in any order.</i>

Since, Mr. H a dealer has used IGST of ₹ 450/- to pay the SGST of Telangana State, the Centre has to transfer ₹ 450/- to the Telangana State (i.e. importing State).

Net revenue to the Telangana State = ₹ 2,700 (i.e. ₹ 2,250 + ₹ 450)

Net Revenue to the Centre = ₹ 2,700 (i.e. ₹ 3,150 – ₹ 450)

Total revenue to the Government = ₹ 5,400 (i.e. ₹ 30,000 x 18%)

Note:

The order of utilisation of ITC is as under:-

- (i) IGST credit should first be utilized towards payment of IGST.
- (ii) Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion.
- (iii) Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
- (iv) ITC of CGST should be utilized for payment of CGST and IGST in that order.
- (v) ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

9. Mr. M of Madurai supplied goods/services for ₹ 24,000 to Mr. S of Salem. Mr. M purchased goods/services for ₹ 23,600 (inclusive of CGST 9% and SGST 9%) from Mr. C of Chennai. Find the following:

- (1) Total price charged by Mr. M for supply of goods/services and
- (2) Who is liable to pay GST?
- (3) Net liability of GST.

Solution:

Particulars	Value in (₹)
Value charged for supply of goods/services	24,000
Add: CGST 9%	2,160
Add: SGST 9%	2,160
(1) Total price charged by Mr. M from Mr. S for local supply of goods/services.	28,320
(2) Mr. M is liable to pay GST.	

Particulars	CGST (₹)	SGST (₹)
Output tax	2,160	2,160
Less: Input Tax Credit (ITC)	(1,800)	(1,800)
(3) Net tax liability of Mr. M	360	360

10. Mr. X, a supplier of goods, pays GST under regular scheme. The amount of input tax credit (ITC) available and output tax liability under different tax heads is as under:-

Head	Output tax liability	ITC
IGST	2,000	4,000
CGST	800	2,000
SGST/ UTGST	2,500	500

Compute the minimum GST payable in cash by Mr. X. Make suitable assumptions as required.

Solution:

Mr. X can use the ITC to pay his output tax liability. The order of utilisation of ITC is as under:-

- IGST credit should first be utilized towards payment of IGST.
- Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST **in any order and in any proportion**.
- Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
- ITC of CGST should be utilized for payment of CGST and IGST in that order.
- ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.
- CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

Computation of minimum GST payable in cash

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST payable	800	2,500	2,000
Less: ITC	-	(2,000)-IGST	(2,000)-IGST
	(800)-CGST	(500) – SGST	
Net GST payable in cash	Nil	Nil	Nil

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, it is beneficial to use ITC of IGST to pay SGST (after paying IGST liability) to minimize cash outflow.

11. Explain the salient features of indirect taxes.

Solution:

- An important source of revenue:** Indirect taxes are a major source of tax revenues for Governments worldwide and continue to grow as more countries move to consumption oriented tax regimes. In India, indirect taxes contribute more than 50% of the total tax revenues of Central and State Governments.
- Tax on commodities and services:** It is levied on commodities at the time of supply or manufacture or purchase or sale or import/export thereof. Hence, it is also known as commodity taxation. It is also levied on supply of services.
- Shifting of burden:** There is a clear shifting of tax burden in respect of indirect taxes. For example, GST paid by the supplier of the goods is recovered from the buyer by including the tax in the cost of the commodity.
- No perception of direct pinch:** Since, value of indirect taxes is generally inbuilt in the price of the commodity, most of the time the tax payer/consumer pays the same without actually knowing that he is paying tax to the Government. Thus, tax payer does not perceive a direct pinch while paying indirect taxes.
- Inflationary:** Tax imposed on commodities and services causes an all- round price spiral. In other words, indirect taxation directly affects the prices of commodities and services and leads to inflationary trend.

- (vi) **Wider tax base:** Unlike direct taxes, the indirect taxes have a wide tax base. Majority of the products or services are subject to indirect taxes with low thresholds.
- (vii) **Promotes social welfare:** Higher taxes are imposed on the consumption of harmful products (also known as 'sin goods') such as alcoholic products, tobacco products etc. This not only checks their consumption but also enables the State to collect substantial revenue.
- (viii) **Regressive in nature:** Generally, the indirect taxes are regressive in nature. The rich and the poor have to pay the same rate of indirect taxes on certain commodities of mass consumption. This may further increase the income disparities between the rich and the poor.

12. Write a short note on various Lists provided under Seventh Schedule to the Constitution of India.

Solution:

Seventh Schedule to Article 246 of the Constitution contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.

- (i) **List-I (UNION LIST):** It contains the matters in respect of which the Parliament (Central Government) has the exclusive right to make laws.
- (ii) **List-II (STATE LIST):** It contains the matters in respect of which the State Government has the exclusive right to make laws.
- (iii) **List-III (CONCURRENT LIST):** It contains the matters in respect of which both the Central & State Governments have power to make laws.

13. Discuss the deficiencies in the existing indirect taxes which led to the need for ushering in-to GST regime.

Solution:

Deficiencies in the erstwhile indirect tax regime:

- (a) Certain transactions were subject to double taxation and were taxed as both goods and services, since under the earlier regime, distinction between goods and services was often blurred.
- (b) CENVAT did not include chain of value addition in the distributive trade after the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the cascading of taxes.
- (c) Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy.
- (d) There were several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT. Hence for a single transaction, multiple taxes in multiple forms were required to be paid.
- (e) VAT on goods was not integrated with tax on services, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of the States potentially eroded their tax- buoyancy.
- (f) CST was another source of distortion in terms of its cascading nature since it was non-VATABLE. Being an origin based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.

14. Discuss the dual GST model as introduced in India.**Solution:**

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

Thus, tax is imposed concurrently by the Centre and States, i.e. Centre and States simultaneously tax goods and services. Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services.

15. List the Central and State levies which have been subsumed in GST in India.**Solution:****Central levies that are subsumed in GST are as follows:**

- Central Excise Duty & Additional Excise Duties
- Service Tax
- Excise Duty under Medicinal & Toilet Preparation Act
- CVD & Special CVD
- Central Sales Tax
- Central surcharges & Cesses in so far as they relate to supply of goods & services State levies that are subsumed in GST are as follows:

State surcharges and cesses in so far as they relate to supply of goods & services

- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax (All Forms) & Purchase Tax
- VAT/ Sales tax
- Luxury Tax
- Taxes on advertisements

16. Discuss the need and functions of the common GST portal.**Solution:**

GST being a destination-based tax, the inter-State trade of goods and services (IGST) needed a robust settlement mechanism amongst the States and the Centre. A Common Portal was needed which could act as a clearing house and verify the claims and inform the respective Governments to transfer the funds. This was possible only with the help of a strong IT Infrastructure.

Resultantly, Common GST Electronic Portal – www.gst.gov.in – a website managed by **Goods and Services Tax Network (GSTN)** [a company incorporated under the provisions of section 8 of the Companies Act, 2013] is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.

The functions of the GSTN include facilitating registration; forwarding the returns to Central and State authorities; computation and settlement of IGST; matching of tax payment details with banking network; providing various MIS reports to the Central and the State Governments based on the taxpayer return information; providing analysis of taxpayers' profile.

17. Briefly explain the leviability of GST or otherwise on petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas.**Solution:**

Petroleum crude, diesel, petrol, ATF and natural gas are presently not leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council. Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

18. *Elaborate the principles that were borne in mind while subsuming various central, state and local levies, under GST.*

Solution:

The various central, state and local levies were examined to identify their possibility of being subsumed under GST. While identifying, the following principles were kept in mind:

- (i) Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Taxes or levies to be subsumed should be part of the transaction chain which commences with import/manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.
- (iii) The subsuming of taxes should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that were not specifically related to supply of goods & services should not be subsumed under GST.
- (iv) Revenue fairness for both the Union and the States individually would need to be attempted.

19. *GST is a simplified tax structure. Justify the statement.*

Solution:

GST is a simplified tax structure. The statement is justified. Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes under GST has led to simplification and uniformity in tax structure. The uniformity in laws, procedures and tax rates across the country makes doing business easier. Common system of classification of goods and services across the country ensures certainty in tax administration across India.

20. *List the advantages that GST accrues to the trade and industry.*

Solution:**GST accrues following advantages to the trade and industry**

- (i) **Benefits to industry:** GST has given more relief to trade and industry through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several Central and State taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which results in widening of tax base and better tax compliance also leads to lowering of tax burden on an average dealer in trade and industry.
- (ii) **Mitigation of ill effects of cascading:** By subsuming most of the Central and State taxes into a single tax and by allowing a set-off of prior-stage taxes for the transactions across the entire value chain, it helps in mitigating the ill effects of cascading, improving competitiveness and improving liquidity of the businesses.
- (iii) **Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Further, single registration is needed in one State. Small businesses have also been provided the additional benefit of composition scheme. With the creation of a seamless national market across the country, small enterprises have an opportunity to expand their national footprint with minimal investment.

21. *List the special category States as prescribed in Article 279A of the Constitution of India.*

Solution:

There are 11 Special Category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

22. *Discuss the leviability of GST or otherwise on tobacco.*

Solution:

Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to GST as well as central excise duty.

23. List some of the benefits that GST may accrue to the economy.**Solution:**

GST may accrue following benefits to the economy:

- (a) Creation of unified national market:** GST aims to make India a common market with common tax rates and procedures and remove the economic barriers, thereby paving the way for an integrated economy at the national level.
- (b) Boost to 'Make in India' initiative:** GST may give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market. This would make India a manufacturing hub.
- (c) Boost to investments, exports and employment:** Under the GST regime, the principle of exporting only the cost of goods or services and not taxes is being followed. This may boost Indian exports thereby improving the balance of payments position.

Further, the subsuming of major Central and State taxes in GST, complete and comprehensive set-off of input tax on goods and services and phasing out of Central Sales Tax (CST) may reduce the cost of locally manufactured goods and services. Resultantly, the competitiveness of Indian goods and services in the international market may increase to give boost to investments and Indian exports.

With a boost in exports and manufacturing activity, more employment would be generated and GDP would increase.

24. Explain with the help of examples how a particular transaction of goods and services is taxed simultaneously under Central GST (CGST) and State GST (SGST)?**Solution:**

The Central GST and the State GST is levied simultaneously on every intra-State supply of goods or services or both made by registered persons except the exempted goods and services as well as goods and services which are outside the purview of GST. Further, both are levied on the same price or transaction value. The same can be better understood with the help of following examples:

Example I: Suppose that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say ₹ 100, the dealer would charge CGST of ₹ 10 and SGST of ₹ 10 in addition to the basic price of the goods. The CGST component will go into a Central Government account while the SGST portion into the account of the concerned State Government (viz. U.P.).

It is important to note that he might not actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (inputs, input services and capital goods) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. CGST credit cannot be used for payment of SGST and *vice versa*.

Example II: Suppose, again the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say ₹ 100, the ad company would charge CGST of ₹ 10 as well as SGST of ₹ 10 at the basic value of the service. The CGST component will go into a Central Government account while the SGST portion into the account of the Maharashtra Government.

He might not actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his eligible purchases (say, of inputs such as stationery, office equipment, services of an artist etc.) assuming that all his purchases are intra-State. However, for paying CGST, he would be allowed to use only the credit of CGST paid on its purchase while for SGST, he can utilise the credit of SGST alone. CGST credit cannot be used for payment of SGST and *vice versa*.

25. Why was the need to amend the Constitution of India before introducing the GST?**Solution:**

Earlier, the fiscal powers between the Centre and the States were clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre had the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States had the powers to levy tax on the sale of goods. In the case of inter-State sales, the Centre had the power to levy the Central Sales Tax but the tax was collected and retained entirely by the States. As for services, it was the Centre alone that was empowered to levy service tax.

Introduction of the GST necessitated the amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The Constitution of India was amended by the Constitution (101st Amendment) Act, 2016 for this purpose. **Article 246A of the Constitution introduced thereby empowered the Centre and the States to simultaneously levy and collect the GST.**

26. GST is a destination-based tax on consumption of goods or services or both. Discuss the validity of the statement.**Solution:**

The given statement is valid. GST is a destination-based tax on consumption of goods or services or both. GST is known as destination-based tax since the tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as place of supply.

For example, if Mr. A in Delhi produces the goods and sells the goods to Mr. B in Haryana. In this case, the tax would accrue to the State of Haryana and not to the State of Delhi. On the other hand, under pre-GST regime, origin-based taxation was prevailing in such cases.

Under origin-based taxation, the tax used to accrue to the State from where the transaction originated. In the given case, under origin-based taxation, the central sales tax would have been levied by Centre and collected by the State of Delhi and not by the State of Haryana.

27. Discuss the leviability of GST or otherwise on the following: [VERY IMPORTANT]**a) Alcoholic liquor for human consumption**

Alcoholic liquor for human consumption: is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to State excise duty and inter-State/intra-State sale of the same is subject to CST/VAT respectively.

b) Petroleum crude, diesel, petrol, Aviation Turbine Fuel (ATF) and natural gas

Petroleum crude, diesel, petrol, ATF and natural gas: As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

Till such date, central excise duty continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to CST/ VAT respectively.

c) Tobacco

Tobacco: Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. **Resultantly, tobacco is subject to GST as well as central excise duty.**

d) Opium, Indian hemp and other narcotic drugs and narcotics

Opium, Indian hemp and other narcotic drugs and narcotics: Opium, Indian hemp and other narcotic drugs and narcotics **are within the purview of GST, i.e. GST is leviable on them.** However, State Governments have also retained the power to levy excise duties on such products manufactured in India. **Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to GST as well as State excise duties.**

28. Under Goods and Services Tax (GST), only value addition is taxed and burden of tax is to be borne by the final consumer. Examine the validity of the statement.

Solution:

The statement is correct. Goods and Services Tax is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. Resultantly, only value addition is taxed and burden of tax is to be borne by the final consumer.

29. Which are the commodities which have been kept outside the purview of GST? Examine the status of taxation of such commodities after introduction of GST.

Solution:

Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption.

Therefore, alcohol for human consumption is kept out of GST by way of definition of GST in the Constitution.

Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel **have temporarily been kept out of the purview of GST**; GST Council shall decide the date from which they shall be included in GST. **The erstwhile taxation system (CST/VAT & central excise) still continues in respect of the said commodities.**

30. A dual GST has been implemented in India. Elaborate.

Solution:

A dual GST has been implemented in India with the Centre and States simultaneously levying it on a common tax base. The GST levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that levied by the States/ Union territory is called the State GST (SGST)/ Union GST (UTGST). Similarly, Integrated GST (IGST) is levied and administered by Centre on every inter-State supply of goods and/or services.

India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST, therefore, keeps with the Constitutional requirement of fiscal federalism.

31. Discuss Article 269A pertaining to levy and collection of GST on inter-State supply.

Solution:

Article 269A of the Constitution stipulates that Goods and Services Tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States **in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.**

Here, supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

The amount so apportioned to a State shall not form part of the Consolidated Fund of India. Where an amount collected as IGST has been used for payment of SGST or vice versa, **such amount shall not form part of the Consolidated Fund of India/State respectively.** This is to facilitate transfer of funds between the Centre and the States.

Parliament is empowered to formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

32. Discuss Article 246A which grants the power to make laws with respect to Goods and Services Tax.

Solution:

Article 246A stipulates that Parliament, and, the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.

However, Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

Further, in respect to petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel, **the aforesaid provisions shall apply from the date to be notified by the Government on the recommendations by the GST Council.**

PAYMENT OF TAX

[SECTION 49 to SECTION 53A]

The introduction of **E-ledgers** is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are **Statements of Cash** (Electronic Cash Ledger) and **Input Tax Credit** (Electronic Credit Ledger) in respect of each registered taxpayer. In addition, each taxpayer shall also have an Electronic Tax Liability register (**Electronic Liability Ledger**).

Chapter X of the **CGST Act** prescribes the provisions relating to payment of tax containing **Section 49** to **Section 53A**.

While **Section 49** discusses the **3 ledgers** namely the **Electronic Cash Ledger**, **Electronic Credit Ledger** and **Electronic Liability Register** [**3 Marks**], **Section 50** discusses about the interest on delayed payment of tax.

Section 51 lays down the circumstances in which tax deduction at source (TDS) becomes mandatory. **Section 52** deals with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator.

Further, **Section 53** deals with transfer of ITC. **Section 53A** deals with transfer of Certain amount.

Chapter IX [Rule 85 to Rule 88D] of **CGST Rules** deals with provisions relating to payment of tax.

Provisions of payment of tax under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

FEW DEFINITIONS

Electronic Cash Ledger means the electronic cash ledger referred to in Section 49(1) [Section 2(43)].

Electronic Credit Ledger means the electronic credit ledger referred to in Section 49(2) [Section 2(46)]

[4 Marks] Input Tax in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him **and includes-**

- ✓ the integrated goods and services tax charged on import of goods;
- ✓ the tax payable under the provisions of Section 9(3) & 9(4);
- ✓ the tax payable under the provisions of Section 5(3) & 5(4) of the IGST Act;
- ✓ the tax payable under the provisions of Section 9(3) & 9(4) of the **respective State** GST Act; or
- ✓ the tax payable under the provisions of Section 7(3) & 7(4) of the UTGST Act,
- ✓ **but does not include the tax paid under the composition levy** [Section 2(62)].

[2 Marks] Output Tax in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent ***but excludes tax payable by him on reverse charge basis*** [Section 2(82)].

Input Tax Credit means the credit of input tax [Section 2(63)].

Reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both **under Section 9(3)/9(4) of the CGST Act, or under Section 5(3)/5(4) of the IGST Act** [Section 2(98)].

[2 Marks] Valid Return means a return furnished under Section 39(1) on which self-assessed tax has been paid in full [Section 2(117)].

PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]

- (1) Every deposit made towards **Tax, Interest, Penalty, Fee or any other amount** by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be **credited to the Electronic Cash Ledger**.
- (2) The ITC as self-assessed in the return of a registered person shall be **credited to his Electronic Credit Ledger**.
- (3) The amount available in the Electronic Cash Ledger **may be used for making any payment towards tax, interest, penalty, fees or any other amount payable** under the provisions of this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.
- (4) **[1 Marks]** The amount available in the **Electronic Credit Ledger may be used for making any payment towards output tax (tax only)** under this Act or **under the Integrated Goods and Services Tax Act** in such manner and subject to “such conditions **and restrictions**” and within such time as may be prescribed.
- (5) **Section 49(5) - [5 Marks]** The amount of ITC available in the Electronic Credit Ledger of the registered person on account of-
- (a) **Integrated Tax (IGST) shall first be utilised** towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, **in any order in that order (Refer Section 49B & Rule 88A);**
 - (b) the **Central Tax (CGST) shall first be utilised** towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
 - (c) the **State Tax (SGST) shall first be utilised** towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
 - (d) the **Union Territory tax (UTGST) shall first be utilised** towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
 - (e) the central tax (CGST) **shall not be** utilised towards payment of State tax or Union territory tax; and
 - (f) the State tax or Union territory tax **shall not be** utilised towards payment of central tax.

Further, ITC on account of SGST/UTGST can be utilized towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of IGST.

- (6) The **balance in the Electronic Cash Ledger or Electronic Credit Ledger** after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder **may be refunded** in accordance with the provisions of section 54.
- (7) All liabilities of a taxable person under this Act shall be **recorded and maintained in an Electronic Liability Register** in such manner as may be prescribed.
- (8) **[3 Marks] Section 49(8)** - 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 or Section 74A**;
- (9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, **be deemed to have passed on the full incidence of such tax** to the recipient of such goods or services or both. **[2 Marks]**
- (10) **[3 Marks]** 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 this Act, to the electronic cash ledger for,-
- a. integrated tax, central tax, State tax, Union territory tax or cess; or
 - b. **integrated tax or central tax of a distinct person as specified in Section 25(4) or 25(5), in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:**
- Provided that no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.**
- (11) Where any amount has been transferred **to the electronic cash ledger under this Act**, the same shall be deemed to be deposited in the said ledger.
- (12) ***Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the IGST Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed."***

Note:

- (i) **“Tax Dues” means** the tax payable under this Act and **does not include** interest, fee and penalty; **[1 Marks]** and
- (ii) **“Other Dues” means** interest, penalty, fee or any other amount payable under this Act or the rules made there under **[1 Marks]**.

ITC of IGST to be fully utilised first [Section 49A of the CGST Act, 2017]

*Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, **only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.***

SATC Note: Section 49A provides that ITC of CGST and SGST shall be utilised only after the ITC of IGST has been first utilised fully toward payment of IGST, CGST & SGST. **Accordingly, Section 49A provides single restriction that ITC of IGST must be first full exhausted before utilising the ITC of CGST & SGST.**

Order of utilization of ITC [Section 49B of the CGST Act, 2017]

*Notwithstanding anything contained in this Chapter **and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49,** the Government may, on the recommendations of the Council, **prescribe the order and manner of utilisation of the input tax credit** on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.”*

Rule 88A: Mechanism prescribed for utilisation of ITC

Rule 88A allows utilization of ITC of IGST towards the payment of CGST and SGST/UTGST **in any order** subject to the condition that the entire ITC of IGST is completely exhausted first before the ITC of CGST or SGST/UTGST can be utilized.

Manner of utilisation of ITC [Combined reading of section 49(5), 49A, 49B, Rule 88A] [5 Marks]
[It will work as working note in exam] Exam Night Concept

- *Available IGST credit in the credit ledger should first be utilized towards payment of IGST. Remaining amount, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order and in any proportion, i.e. ITC of IGST can be utilized either against CGST or SGST.*
- *Entire ITC of IGST is to be fully utilised first before the ITC of CGST or SGST/UTGST can be utilized.*
- *Available CGST Credit in the credit ledger shall first be utilized for payment of CGST. Remaining amount if any, will be utilized for payment of IGST*
- *Available SGST/UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST. Remaining amount if any, will be utilized for payment of IGST, only when credit of CGST is not available for payment of IGST*

Rule 85 of CGST Rules 2017: Electronic Liability Register

- (1) The Electronic Liability Register shall be maintained in **FORM GST PMT-01** for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him **shall be debited to the said register**.
- (2) **[3 Marks]** The Electronic Liability Register of the person shall be **debited** by:-
- (a) the amount payable towards tax, interest, late fee or any other amount payable **as per the return** furnished by the said person;
 - (b) the amount of tax, interest, penalty or any other amount payable **as determined by a proper officer** in pursuance of any proceedings under the Act or as ascertained by the said person; or
 - (c) any **amount of interest** that may accrue from time to time.
- (3) Subject to the provisions of Section 49, **Section 49A & Section 49B**, payment of every liability by a registered person as per his return shall be made **by debiting the Electronic Credit Ledger or the Electronic Cash Ledger and the Electronic Liability Register shall be credited accordingly**.
- (4) The **amount deducted under section 51 (TDS), or the amount collected under section 52 (TCS), or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger and the electronic liability register shall be credited accordingly.** **[2 Marks]**
- (5) *A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.*

Rule 86: Electronic Credit Ledger

- (1) The **electronic credit ledger shall be maintained in FORM GST PMT-02 [1 Marks]** for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be **credited** to the said ledger.
- (2) The electronic credit ledger shall be **debited** to the extent of discharge of any liability in accordance with the provisions of section 49, **Section 49A & Section 49B**.
- (3) Where a registered person has claimed **refund** of any unutilized amount 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.
- (4) If the refund so filed is rejected, either fully or partly, the amount debited to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.
- (4A) **[2 Marks]** Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, **shall be re-credited to the electronic credit ledger** by the proper officer by an order made in **FORM GST PMT-03**."
- (4B) *Where a registered person deposits the amount of erroneous refund sanctioned to him, –*
a. under section 54(3) of the Act, or
b. under Rule 96(3),
along with interest and penalty, wherever applicable, through FORM GST DRC-03, by debiting the electronic cash ledger, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03A.

[SATC Note: This sub-rule 4B is NOT important at intermediate level]

RULE 86A - Conditions of use of amount available in electronic credit ledger [3 Marks]

- (1) The **Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that** credit of input tax available in the electronic credit ledger has been **fraudulently availed or is ineligible in as much as-**
- a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
 - i. issued by a registered person **who has been found non-existent or not to be conducting any business from any place** for which registration has been obtained; or
 - ii. without receipt of goods or services or both; or
 - b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document as prescribed in respect of any supply, **the tax charged in respect of which has not been paid to the Government**; or
 - c) the registered person availing the credit of input tax has been **found non-existent or not to be conducting any business** from any place for which registration has been obtained; or
 - d) the registered person availing any credit of input tax is **not in possession of a tax invoice** or debit note or any other document as prescribed,
- may, **for reasons to be recorded in writing, not allow debit** of an amount equivalent to such credit in electronic credit ledger **for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.**
- (2) The Commissioner, or the officer authorised by him may, upon being satisfied **that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.**
- (3) Such restriction **shall cease to have effect after the expiry of a period of 1 year** from the date of imposing such restriction."

Grounds for disallowing debit of an amount from electronic credit ledger

The **reasons for such belief** must be based on one or more following grounds:

1. The credit is availed by the registered person on the invoices or debit notes issued by a supplier, who is found to be non-existent or is found not to be conducting any business from the place declared in registration.
2. The credit is availed by the registered person on invoices or debit notes, without actually receiving any goods or services or both.
3. The credit is availed by the registered person on invoices or debit notes, the tax in respect of which has not been paid to the government.
4. The registered person claiming the credit is found to be non-existent or is found not to be conducting any business from the place declared in registration.
5. The credit is availed by the registered person without having any invoice or debit note or any other valid document for it.

Restrictions on use of amount available in electronic credit ledger [Rule 86B]**[5 Marks]**

Rule 86B has been inserted in the CGST Rules to restrict the amount available in electronic credit ledger which a registered person can use to discharge his output tax liability to 99% of such tax liability in cases where the value of taxable supply other than exempt supply and zero-rated supply, **in a month exceeds ₹ 50 lakh**. This rule overrides all other rules.

Example:

The total value of inter-State supply of Raman & Sons for the month of February 20XX is of ₹ 100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is ₹18 lakh. Amount available in electronic credit ledger is ₹ 20 lakh (IGST).

In terms of restriction imposed by rule 86B, Raman & Sons can discharge 99% of its output tax liability, i.e. ₹17,82,000 (99% of ₹18,00,000) from the amount available in electronic credit ledger.

However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹ 18,000 (1% of ₹18,00,000) through electronic cash ledger only.

Exceptions to the Rule 86B: This restriction shall not apply in following cases:-

a) Payment of Income Tax more than ₹ 1 lakh

Rule 86B may not apply in cases whereby person mentioned below have deposited sum of more than ₹ 1 lakh as income tax under the Income - tax Act, 1961 in **each** of the last 2 financial years for which the time limit to file return of income under section 139(1) of the said Act has expired

- The registered person or
- The karta/proprietor/the managing director of the registered person;
- Any of the two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees of the registered person, as the case may be.

b) Receipt of refund of input tax credit of more than ₹ 1 lakh

Rule 86B may not apply whereby registered person has received a refund amount of **more than ₹ 1 lakh** on account of unutilized input tax credit under the following:

- zero-rated supplies made without payment of tax
- Inverted duty structure

It is pertinent to note that refund should have been received in the **preceding financial year**

c) Payment of total output tax liability through electronic cash ledger in excess of 1% of total output tax liability

If the registered person has paid more than 1% of total output tax liability using electronic cash ledger upto the said month in the current financial year, the restrictions as specified in Rule 86B shall not apply

Example: Assuming a scenario wherein in the FY 2023-24 upto August 2023, the total output tax liability payable is ₹ 30 lakh and such registered person has deposited ₹ 1 lakh through electronic cash ledger and balance through electronic credit ledger, **rule 86B would not be applicable in September 2023 [if the turnover during this month exceeds ₹ 50 lakh], since payment made in cash is more than 1% of total output tax liability. (1% of ₹ 30 lakhs is ₹ 30,000).**

Interestingly, the aforesaid exception needs to be evaluated in 'current financial year', and hence, for the month of April of any financial year, the said exception will not be applicable.

Accordingly, registered person would be required to pay minimum 1% of output liability through electronic cash ledger unless the registered person is covered under any of the other exceptions or if the taxable turnover in a month is less than ₹50 lakh.

Note: GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

d) Specified registered person:

Rule 86B would not be applicable in case of below-mentioned registered person:

- Government Department; or
- a public sector undertaking; or
- a local authority; or
- a statutory body.

However, Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit

Rule 87: Electronic Cash Ledger

- (1) The **electronic cash ledger** shall be maintained in **FORM GST PMT-05 [1 Marks]** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal **for crediting the amount deposited** and **debiting the payment therefrom** towards tax, interest, penalty, fee or any other amount.
- (2) Any person, or a person on his behalf, **shall generate a challan in FORM GST PMT-06 [1 Marks]** on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.

Provided that the challan in FORM GST PMT-06 generated at the common portal shall be valid for a period of 15 days.

- (3) **[5 Marks]** The deposit shall be made through any of the following modes, namely:-
- (i) Internet Banking through authorised banks;
 - (ii) Unified Payment Interface (UPI) from any bank;
 - (iii) Immediate Payment Services (IMPS) from any bank;
 - (iv) Credit card or Debit card through the authorised bank;
 - (v) **National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS)** from any bank; or
 - (vi) **Over the Counter payment through authorised banks for deposits up to ₹ 10,000 per challan per tax period, by cash, cheque or demand draft.**

The restriction for deposit up to ₹ 10,000 per challan in case of an Over the Counter payment shall not apply to deposit to be made by -

- (a) Government Departments or any other deposit to be made by persons **as may be notified by the Commissioner** in this behalf;
- (b) Proper officer or any other officer **authorised to recover outstanding dues** from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer **authorised for the amounts collected by way of cash**, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit:

Explanation: For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the **challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.**

- (4) Any payment required to be made by a person who is not registered under the Act, shall be made **on the basis of a Temporary Identification Number generated** through the common portal.
- (5) **[2 Marks]** Where the payment is made by way of **National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or Immediate Payment Service (IMPS) mode** from any bank, the **mandate form shall be generated along with the challan** on the common portal and the same shall be submitted to the bank from where the payment is to be made:

Mandate form shall be valid for a period of 15 days from the date of generation of challan.

- (6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a **Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.**
- (7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be **credited to the electronic cash ledger** of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.

If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not been reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, **can make a representation in prescribed form i.e. FORM GST PMT-07 through the common portal or e-gateway through which the payment has been made.**

Where the bank fails to communicate details of Challan Identification Number to the common portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the RBI in cases where the details of the said e-Scroll are in conformity with the details in challan generated in Form GST PMT-06 on the common portal.

Note: Date of credit into the treasury of the State Government/Central Government is deemed to be the **date of debit in the electronic cash ledger and not the actual date of deposit of amount in the electronic cash ledger** of the taxable person.

- (8) **[2 Marks]** Any amount deducted under section 51 or collected under section 52 and claimed by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be **credited to his electronic cash ledger**.
- (9) Where a person has **claimed refund** of any amount from the electronic cash ledger, the said amount shall be **debited** to the electronic cash ledger.
- (10) ***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.***
- (11) ***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 central tax or integrated tax of a distinct person as specified in Section 25(4) or 25(5), in FORM GST PMT-09.***

However, no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

FORM GST PMT-09

Form GST PMT-09 is available on the GST portal and it enables a taxpayer to make intra-head or inter-head transfer of amount available in Electronic Cash Ledger.

A taxpayer can file GST PMT 09 for transfer of any amount of tax, interest, penalty, fee, or others available under one (major or minor) head to another (major or minor) head in the Electronic Cash Ledger.

Form GST PMT 09 provides flexibility to taxpayers to make multiple transfers from more than one Major/Minor head to another Major/Minor head if the amount is available in the Electronic Cash Ledger.

1. What is Form GST PMT-09?

Form GST PMT-09 enables any registered taxpayer to perform intra-head or inter-head transfer of amount as available in Electronic Cash Ledger. Thus, a registered taxpayer can now file Form GST PMT-09 for transfer of any amount of tax, interest, penalty, fee or others, under one (major or minor) head to another (major or minor) head, as available in the Electronic Cash Ledger.

2. What is the use of Form GST PMT-09?

In case, a taxpayer deposits any amount under a major head (Integrated tax, Central tax, State/UT tax, and Cess) or minor head (Tax, Interest, Penalty, Fee and Others), they can then utilize this amount for discharging their liabilities only under that major head and minor Head.

So, they need to deposit amount only under a particular Head to meet their existing liabilities under that head (only). Form GST PMT-09 on the GST portal allows taxpayers to make Intra-head and Inter-Head transfer of funds, as available in their Electronic Cash Ledger.

Thus this facility can be used to transfer any amount available in Electronic Cash Ledger as given below (it is just an example & not an exhaustive list):

- To transfer amount from minor head tax under major head cess to minor head interest under major head CGST or
- To transfer amount from minor head Interest under major head IGST to minor head Tax under same major head IGST.

3. Can I select more than one major/minor head while filing Form GST PMT-09?

Yes, you can select more than one major/minor heads while transferring amount from one head to another, one at a time, while filing Form GST PMT-09.

What are CPIN, CIN, BRN and E-FPB?

- **[2 Marks] CPIN stands for Common Portal Identification Number.** It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. **CPIN remains valid for a period of 15 days.**
- **[2 Marks] CIN or Challan Identification Number** is generated by the banks, once payment in lieu of a generated Challan is successful. **It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.**

CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. **CIN is communicated by the authorized bank to taxpayer as well as to GSTN.**

- **BRN or Bank Reference Number** is the transaction number given by the bank for a payment against a Challan
- **[2 Marks] E-FPB stands for Electronic Focal Point Branch.** These are branches of authorized banks which are authorized to collect payment of GST. **Each authorized bank will nominate only one branch as its E-FPB for pan India transaction.**

The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such Governments. **For NEFT/RTGS Transactions, RBI will act as E-FPB.**

- **Are manual Challans applicable as allowed earlier under the VAT regimes?**
Manual or physical Challans are not allowed under the GST regime. **It is mandatory to generate Challans online on the GST Portal.**
- **How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?**
There is **single Challan** prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

What happens if the taxable person files the return but does not make payment of tax?

In such cases, the return is **not considered as a valid return**. Section 2(117) defines a valid return to mean a return furnished under section 39(1) on which self-assessed tax has been paid **in full**. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient.

In other words, **unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return**, the ITC of the recipient would not be confirmed.

How do the new payment systems benefit the taxpayer and the Commercial Tax Department?**[5 Marks]**

- No more queues and waiting for making payments as payments can be made online 24 X 7.
- Instant online receipts for payments made online.
- Tax Consultants can make payments on behalf of the clients.
- Single Challan form to be created online, replacing the three or four copy Challan.
- Revenue will come earlier into the Government Treasury as compared to the old system.
- Greater transparency.
- Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

Key Features of Payment process**[5 Marks]**

- *Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;*
- *Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;*
- *Convenience of making payment online;*
- *Logical tax collection data in electronic format;*
- *Faster remittance of tax revenue to the Government Account;*
- *Paperless transactions;*
- *Speedy Accounting and reporting;*
- *Electronic reconciliation of all receipts;*
- *Simplified procedure for banks;*
- *Warehousing of Digital Challan.*

INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]

- (1) **[4 Marks]** **SECTION 50(1)** - Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but **fails to pay** the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, **not exceeding 18%**, as may be notified (**notified rate of Interest is 18% p.a.**) by the Government on the recommendations of the Council.

Proviso to Sub-section (1) of Section 50 - “Provided 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 or Section 74A** in respect of the said period, **shall be PAYABLE** on that portion of the tax that is paid by debiting the electronic cash ledger.”

SATC Note: Above proviso is being inserted in Section 50(1) of the CGST Act so as to provide for charging **interest only on the net cash tax liability**, except in those cases where returns are filed subsequent to initiation of any proceedings under section 73 or 74 **or 74A** of the CGST Act.

- (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the **day succeeding the day on which such tax was due to be paid**.
- (3) **[2 Marks]** Where the **input tax credit has been wrongly availed and utilised**, the registered person shall pay interest on such input tax credit wrongly availed and utilised, **at such rate not exceeding 24% as may be notified** by the Government (**notified rate of Interest is 18% p.a.**), on the recommendations of the Council, and the interest shall be calculated, **in such manner as may be prescribed**.”.

Other relevant points:

- The payment of interest in case of belated payment of tax **should be made voluntarily** i.e. even without a demand.
- The interest payable under this section **shall be debited** to the Electronic Liability Register.
- The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger **but not with balance in electronic credit ledger**.

Rule 88B: Manner of calculating interest on delayed payment of tax

- (1) In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 or section 74A [Effective from 01.11.2024] in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under section 50(1).

Provided that where any amount has been credited in the Electronic Cash Ledger as per provisions of section 49(1) on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

- (2) In all other cases, where interest is payable in accordance with section 50(1), the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid, at such rate as may be notified under section 50(1).
- (3) In case, where interest is payable on the amount of input tax credit wrongly availed and utilised in accordance with section 50(3), the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount, at such rate as may be notified under said section 50(3).

For the purposes of this sub-rule,-

- (1) Input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilisation of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.
- (2) **the date of utilisation of such input tax credit shall be taken to be,-**
- (a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or
- (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases;

Example:

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 20XX on 15th April, 20XX. The prescribed due date to file the said GSTR 3B was 20th February, 20XX. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹ 36,500 which was paid on 15th April, 20XX.

Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

Answer:

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Thus, the amount of interest payable by Mr. Alok is as under:-

Period of delay = 21st February, 20XX to 15th April, 20XX = 54 days

Hence, amount of interest = ₹ 36,500 x 18% x 54/365 = ₹ 972

Example: [5 Marks]

M/s ABC Ltd., have filed their GSTR 3B for the month of July, 20XX within the due date prescribed under Section 39 i.e. 20.08.20XX. Post filing of the return, the registered person has noticed during September 20XX that tax dues for the month of July, 20XX have been short paid for ₹ 40,000. M/s ABC Ltd., has paid the above shortfall of ₹ 40,000, through GSTR 3B of September 20XX, filed on 20.10.20XX [payment through Cash ledger - ₹ 30,000 and Credit ledger ₹ 10,000].

Examine the Interest payable under the CGST Act, 2017.

What would be your answer if, GSTR 3B for the month of July 20XX has been filed belatedly on 20.10.20XX and the self-assessed tax of ₹ 40,000/- has been paid on 20.10.20XX [payment through electronic cash ledger - ₹ 30,000 and electronic credit ledger ₹ 10,000]

Notes:

- There exists adequate balance in Electronic Cash & Credit ledger as on 31.07.20XX for the above short fall
- No other supply has been made nor tax payable for the month of July, 20XX other than ₹ 40,000/- missed out to be paid on forward charge basis
- Ignore the effect of leap year, if applicable in this case.

Answer:

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

In the above scenario, M/s ABC Ltd., has defaulted in making the payment for ₹ 40,000 on self-assessment basis in the return for the month of July, 20XX. Accordingly, interest is payable on the gross liability and proviso of sub- section 50(1) shall not be applicable.

Thus, the amount of interest payable by M/s ABC Ltd., is as under:-

Period of delay = 21st August, 20XX to 20th October, 20XX = 61 days.

Hence, amount of interest = ₹ 40,000 x 18% x 61/365 = ₹ 1,203

If M/s ABC Ltd., have filed the return for the month of July, 20XX on 20.10.20XX

If M/s ABC Ltd., have filed the return for the month of July, 20XX on 20.10.20XX, beyond the stipulated due date of 20.08.20XX and if the self- assessed tax for July, 20XX has been paid on 20.10.20XX, **Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.**

Hence Interest is payable from 21st August 20XX till 20th October 20XX = 61 days

Amount of Interest = ₹ 30,000 x 18% x 61/365 = ₹ 902

Clarification on charging of interest under section 50(3) in cases of wrong availment of IGST credit and reversal thereof

Issue 1: *Whether in the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B, whether the balance of ITC available in electronic credit ledger (ECL) under the head of IGST only needs to be considered or total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered?*

Clarification: Since the amount of ITC available in ECL, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total ITC available in ECL, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B and for determining as to whether the balance in the ECL has fallen below the amount of wrongly availed ITC of IGST, and to what extent the balance in ECL has fallen below the said amount of wrongly availed credit.

Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50(3) if, during the time period starting from such availment and up to such reversal, the balance of ITC in the ECL, under the heads of IGST, CGST and SGST **taken together**, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in ECL individually falls below the amount of such wrongly availed IGST credit.

However, when the balance of ITC, under the heads of IGST, CGST and SGST of ECL **taken together**, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization **will be the extent to which the total balance in ECL under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit**, and will attract interest as per section 50(3).

Issue 2: *Whether the credit of compensation cess available in ECL shall be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit?*

Clarification: Since ITC in respect of compensation cess can be utilised only towards payment of compensation cess. **Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.**

Accordingly, credit of compensation cess available in ECL **cannot be taken into account** while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.

TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 77 OF CGST ACT]

[Not for Exam Day]

1. 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.**
2. A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, **shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union territory tax payable.**

TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 19 OF IGST ACT]

[Not for Exam Day]

- (1) *A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.*
- (2) **Imp:** *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.*

**TRANSFER OF INPUT TAX CREDIT
[SECTION 53 OF CGST ACT & SECTION 18 OF IGST ACT]**

[Not for Exam Day]

If the amount of CGST is utilised towards dues of IGST then, in terms of Section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.

Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of Section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.

*However, if the amount of IGST is utilised towards dues of SGST then, in terms of Section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, **and will be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government.***

PAYMENT OF TAX

- (1) Which of these electronic ledgers are maintained online?
- (a) Electronic liability register
 - (b) Electronic credit ledger
 - (c) Electronic cash ledger
 - (d) **All of the above**
- (2) Deposits towards tax, penalty, interest, fee or any other amount are credited into the----- of a taxable person.
- (a) Electronic liability register
 - (b) Electronic credit ledger
 - (c) **Electronic cash ledger**
 - (d) All of the above
- (3) Input tax credit as self-assessed in the return of the registered person shall be credited to which of the following ledger?
- (a) Electronic liability register
 - (b) **Electronic credit ledger**
 - (c) Electronic cash ledger
 - (d) All of the above
- (4) Which of the following items are debited to electronic credit ledger?
- (a) **Output tax**
 - (b) Interest
 - (c) Penalty
 - (d) All of the above
- (5) Balance in electronic credit ledger under SGST can be used against which liability?
- (a) SGST Liability only
 - (b) **SGST and IGST liability**
 - (c) SGST, IGST and CGST liability
 - (d) None of the above
- (6) Which input tax credit cannot be claimed against which output tax liability?
- (a) IGST, SGST
 - (b) CGST, IGST
 - (c) SGST, IGST
 - (d) **CGST, SGST**
- (7) Which of the following liability cannot be adjusted against input tax credit of CGST?
- (a) IGST
 - (b) **SGST/UTGST**
 - (c) All of the above
 - (d) None of the above
- (8) Which of the following shall be discharged first, while discharging liability of a taxable person?
- (a) **All dues related to previous tax period**
 - (b) All dues related to current tax period
 - (c) Demand raised under section 73 and 74
 - (d) No such condition is mandatory
- (9) Interest is calculated:-
- (a) **From the day following the day on which tax becomes due to be paid**
 - (b) From the last day such tax was due to be paid
 - (c) No period is specified
 - (d) None of the above

(10) How many types of electronic ledger are there?

Answer:

- (a) Electronic cash ledger
- (b) Electronic credit ledger
- (c) Electronic liability register

(11) [Important] What are the main features of GST payment process?

Answer:

The main features of GST payment process are as follows:-

- a) Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
- b) Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
- c) Convenience of making payment online;
- d) Realtime data for tax collection in electronic format;
- e) Faster remittance of tax revenue to the Government Account;
- f) Paperless transactions;
- g) Speedy Accounting and reporting;
- h) Electronic reconciliation of all receipts;
- i) Simplified procedure for banks;
- j) Warehousing of Digital Challan.

(12) Explain the following terms in brief: (refer notes)

- (a) E-FPB
- (b) CPIN
- (c) CIN

(13) Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?

Answer:

No, as per Section 49(4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.

As per Section 2 of the CGST Act, 2017, **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.

(14) Are principles of unjust enrichment applicable for payment made under GST?

Answer:

Yes, as per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

(15) State the name of output tax under GST, where any of the input tax credit under GST can be availed?

Answer:

IGST.

IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.

- (16) ABC limited filed the return for GST under section 39(1) for the month of November on 20th, December showing self assessed tax of ₹ 2,50,000 which was not paid. Explain what are the implications for ABC limited as per relevant provisions?

Answer:

As per section 2(117) of CGST Act, “valid return” means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.

- (17) Mr. X, a supplier of goods, pays GST under regular scheme. The amount of input tax credit (ITC) available and output tax liability under different tax heads is as under:-

Head	Output tax liability	ITC
IGST	2,000	4,000
CGST	800	2,000
SGST/ UTGST	2,500	500

Compute the minimum GST payable in cash by Mr. X. Make suitable assumptions as required.

Answer:

Mr. X can use the ITC to pay his output tax liability. The order of utilisation of ITC is as under:-

- IGST credit should first be utilized towards payment of IGST.
- Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion.
- Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
- ITC of CGST should be utilized for payment of CGST and IGST in that order.
- ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

Note: These notes are based on provisions – Section 49, 49A, 49B & Rule 88A

Computation of minimum GST payable in cash

Particulars	CGST (₹)	SGST (₹)	IGST (₹)
GST payable	800	2,500	2,000
Less: ITC	-	(2,000)-IGST	(2,000)-IGST
	(800)-CGST	(500) – SGST	
Net GST payable in cash	Nil	Nil	Nil

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, it is beneficial to use ITC of IGST to pay SGST (after paying IGST liability) to minimize cash outflow.

(18) M/s X Ltd. being a registered person supplying taxable goods in the following manner:

Particulars	₹
Intra-State supply of goods	18,00,000
Inter-State supply of goods	13,00,000
Intra-State purchases	13,00,000
Inter-State purchases	1,50,000
ITC at the beginning of the relevant tax period:	
CGST	1,30,000
SGST	1,30,000
IGST	1,70,000

(i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

(ii) Inward and outward supplies are exclusive of taxes.

(iii) All the conditions necessary for availing the input tax credit have been fulfilled.

Compute the net GST payable by M/s X Ltd during the tax period. Make suitable assumptions.

Answer:

Statement showing input tax credit (i.e. Electronic Credit Ledger)

Particulars	CGST ₹	SGST ₹	IGST ₹
Opening balance	1,30,000	1,30,000	1,70,000
Add: ITC for the tax period	1,17,000	1,17,000	27,000
Total credit	2,47,000	2,47,000	1,97,000

Statement showing Net GST payable by M/s X Ltd for the tax period

Particulars	CGST ₹	SGST ₹	IGST ₹
Output tax	1,62,000	1,62,000	2,34,000
Less: ITC allowed			
IGST	-	-	1,97,000
CGST	1,62,000		37,000
SGST		1,62,000	
Net GST liability	Nil	Nil	Nil
Excess ITC c/f	48,000	85,000	Nil

Note:

X Ltd. can use the ITC to pay his output tax liability. The order of utilisation of ITC is as under:-

- (i) IGST credit should first be utilized towards payment of IGST.
- (ii) Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion.
- (iii) Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
- (iv) ITC of CGST should be utilized for payment of CGST and IGST in that order.
- (v) ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

(19) Mr. A has output Tax Liability of ₹ 1,00,000/- towards CGST & SGST/UGST and ₹ 20,000 towards IGST and also interest payable of ₹ 1,800/-. Explain the manner of discharge tax liability by Mr. A in the following two independent cases:

1. Input tax credit available of CGST & SGST is ₹ 25,000/- each & IGST is ₹ 25,000/-
2. Input tax credit not available.

Answer:**Case 1:**

In case Input Tax credit available-

Ledger	Particulars	CGST	SGST	IGST	Interest payable
Electronic liability ledger	Output tax payable	50,000	50,000	20,000	1,800
Electronic credit ledger	Input Tax Credit				
	IGST	5,000	-	20,000	
	CGST	25,000	-	-	
	SGST	-	25,000	-	
	Net output tax liability	20,000	25,000	-	
Electronic cash ledger	Cash to be deposited	20,000	25,000	-	1,800 (Note-2)

Note-

1. Put above highlighted notes - Solution to Q. 18 (common for all practicals)
2. Interest cannot be adjusted with Input Tax credit

Case 2:

Ledger	Particulars	CGST	SGST	IGST	Interest payable
Electronic liability ledger	Output tax payable	50,000	50,000	20,000	1,800
Electronic cash ledger	Cash to be deposited	50,000	50,000	20,000	1,800

(20) **IMPORTANT:** Y Ltd. is operating in two states Andhra Pradesh and Tamil Nadu. The tax liability for the month of Nov 20XX is as follows-

S.No	Tax Liability	Andhra Pradesh(₹)	Tamil Nadu(₹)
1.	Output CGST Payable	25,000	10,000
2.	Output SGST Payable	10,000	5,000
3.	Output IGST payable	3,000	2,500
4.	Input CGST	8,000	13,000
5.	Input SGST	15,000	1,500
6.	Input IGST	12,000	16,000

Calculate the tax payable for the month of Nov 20XX.

Answer:

Net Tax payable for the month of August is as follows-

Particulars	Andhra Pradesh			Tamil Nadu		
	IGST	CGST	SGST	IGST	CGST	SGST
Output tax	3,000	25,000	10,000	2,500	10,000	5,000
Less: IGST	3,000	9,000	-	2,500	10,000	3,500
CGST	-	8,000	-	-	-	-
SGST	-	-	10,000	-	-	1,500
Balance after credit Adjustment	NIL	8,000	NIL	NIL	NIL	NIL
Net Tax payable in cash	-	8,000	-	-	-	-
Input credit carry forwarded to next month	-	-	5,000	-	13,000	NIL

Notes-

Y Ltd. can use the ITC to pay his output tax liability. The order of utilisation of ITC is as under:-

- (i) IGST credit should first be utilized towards payment of IGST.
- (ii) Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion.
- (iii) Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
- (iv) ITC of CGST should be utilized for payment of CGST and IGST in that order.
- (v) ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully.

CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.

CGST & SGST Input tax credit of one State cannot be adjusted against Output CGST & SGST of other state (same principle is applicable to IGST credit also).

(21)[Important] X Ltd. has following tax liabilities under the provisions of Act-

Particulars	Amount (₹)
(1) Tax liability of CGST, SGST/UGST, IGST for supplies made during August 20XX	1,00,000
(2) Interest & Penalty on delayed payment and filing of returns belonging to Aug. 20XX	20,000
(3) Tax liability of CGST, SGST/UGST, IGST for supplies made during Sept. 20XX	1,20,000
(4) Interest & Penalty on delayed payment and filing of returns belonging to Sep. 20XX	20,000
(5) <u>Demand raised as per Sec 73 or 74 under CGST Act, 2017 belonging to July 20XX</u>	8,00,000
(6) Demand raised as per the old provisions of Indirect Taxes	1,00,000

X Ltd. has ₹ 5,00,000 in Electronic cash ledger. Suggest X Ltd. in discharging the tax liability.

Answer:

Balance in Electronic cash ledger can be used in the following manner to discharge tax liability by X Ltd.-

Particulars	Amount (₹)
Balance available in Electronic cash ledger	5,00,000
Less-	
Tax liability of CGST, SGST/UGST, IGST for supplies made during August 20XX	(1,00,000)
Interest & Penalty on delayed payment and filing of returns belonging to August 20XX	(20,000)
Tax liability of CGST, SGST/UGST, IGST for supplies made during September 20XX	(1,20,000)
Interest & Penalty on delayed payment and filing of returns belonging to September 20XX	(20,000)
Demand raised as per section 73 or section 74 under CGST Act, 2017	(2,40,000)
Balance in electronic cash ledger	Nil

The balance amount of ₹ 5,60,000 towards demand raised under section 73 or section 74 under CGST Act, 2017 to be discharged before discharging liability of demand rose under old provisions of Indirect Taxes.

(22)[Important] Mr. Ram Narayan, a registered supplier under GST, wants to first discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period. Examine briefly whether he can do so?

Solution:

As per section 49(8) of the CGST Act, 2017, the liability of a taxable person has to be discharged in a chronological order as under:-

- (a) self -assessed tax and other dues for the previous tax periods have to be discharged first;
- (b) the self -assessed tax and other dues for the current period have to be discharged next;
- (c) Once these two steps are exhausted, thereafter any other amount payable including demand determined under section 73 or section 74 of the CGST Act, 2017 to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last.

This sequence has to be mandatorily followed.

Thus, in view of the above-mentioned provisions, Mr. Ram Narayan cannot discharge his self-assessed tax liability for the current period before settling the dues for the previous tax period.

- (23) Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September, 20XX and wishes to pay his IGST liability for the month. Since he's making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST .

You are required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

- (a) Are manual challans allowed under GST?
- (b) What is the validity period of the challan?
- (c) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

Solution:

Section 49(1) of CGST Act, 2017 read with rule 87 of CGST Rules, 2017 provides that the deposit in electronic cash ledger can be made through any of the following modes, namely:-

- (i) Internet Banking through authorised banks;
- (ii) Unified Payment Interface (UPI) from any bank;
- (iii) Immediate Payment Services (IMPS) from any bank;
- (iv) Credit card or Debit card through the authorised bank;
- (v) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- (vi) Over the Counter payment through authorised banks.

Thus, offline mode is also permitted under GST.

- (a) Manual or physical Challans **are not allowed** under the GST regime. It is mandatory to generate Challans online on the GST Portal.
- (b) E-challan is valid for a **period of 15 days**.
- (c) Amount entered under any Minor head (Tax, Interest, Penalty, etc.) and Major Head (CGST, IGST, SGST /UTGST) of the Electronic Cash Ledger can be utilized only **for that liability**. **Direct Cross-utilization among Major and Minor heads is not possible.**

Alternatively, it can transfer the fund available in Electronic cash ledger by using FORM GST PMT 09 to required major/minor head. As per amended provisions of Section 49 read with Rule 87, registered person can transfer amount available in electronic cash ledger to another major/minor heads in electronic cash ledger as per requirements and pay GST liability accordingly.

SATC NOTE: Direct cross utilization is not possible.

- (24) State the items which are to be debited to electronic liability register of the taxable person under the CGST Act, 2017 and rules thereunder.

Answer:

The items to be debited to electronic liability register of the taxable person are as under:-

- (a) all amounts payable towards tax, interest, late fee and any other amount as per return filed;
- (b) all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
- (c) any interest amount that may accrue from time to time.

- (25) What is CIN?

Solution: CIN is Challan Identification Number. It is generated by the banks indicating that the payment has been realized and credited to the appropriate government account against a generated challan.

(26) Insight Ltd. is operating in West Bengal. The tax liability for the month of April, 20XX is as follows :

Sl. No.	Tax liability	West Bengal (₹)
1	Output CGST payable	24,000
2	Output SGST payable	9,000
3	Output IGST payable	3,000
4	Input CGST	7,000
5	Input SGST	14,000
6	Input IGST	12,000

Calculate tax payable and carry forward for the month of April, 20XX.

Solution:

Computation of net tax payable and carry forward for the month of April, 20XX

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Output tax payable	3,000	24,000	9,000
Less: Input tax credit [Refer note below]	(3,000)-IGST	(9,000)-IGST	
		(7,000)-CGST	
			(14,000)-SGST
Net GST payable	Nil	8,000	Nil
			5000 – SGST Carry forward

Note:

1. ITC of IGST has been used to pay IGST first.
2. Balance IGST credit can be used to pay CGST or SGST in any order. **Here it is beneficial to utilize IGST credit against CGST liability as there is enough SGST Credit for payment of SGST Liability.**
3. Further, ITC of SGST cannot be utilised towards payment of CGST.

(27) Mr. Nimit, a supplier of goods, pays GST under regular scheme. He is not eligible for any threshold exemption. He has made the following outward taxable supplies in the month of August, 20XX:-

	₹
Intra state supplies of goods	6,00,000
Inter state supplies of goods	2,00,000

He has also furnished following information in respect of purchases made by him from registered dealers during August, 20XX:-

	₹
Intra state purchase of goods	4,00,000
Inter state purchase of goods	50,000

Balance of ITC available at the beginning of the August 20XX:-

CGST	15,000
SGST	35,000
IGST	20,000

Note:

- (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively, on both inward and outward supplies.
- (ii) Both inward and outward supplies given above are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr. Nimit for the month of August, 20XX

Solution:**Computation of net GST payable by Mr. Nimit for the month of August, 20XX**

S.No.	Particulars	(₹)	GST (₹)
(i)	Intra-State supply of goods		
	CGST@9%on ₹ 6,00,000	54,000	
	SGST@9% on ₹ 6,00,000	<u>54,000</u>	1,08,000
(ii)	Inter-State supply of goods		
	IGST@18% on ₹ 2,00,000		36,000

Computation of Total ITC

Particulars	CGST @ 9%	SGST @ 9%	IGST @18%
Opening ITC	15,000	35,000	20,000
Add: ITC on Intra-State purchases of Goods valuing ₹ 4,00,000	36,000	36,000	
Add: ITC on Inter-State purchases of Goods valuing ₹ 50,000			9,000
Total ITC	51,000	71,000	29,000

Computation of Net GST Payable

Particulars	CGST @ 9%	SGST @ 9%	IGST @ 18%
GST payable	54,000	54,000	36,000
Less: ITC	(51,000)CGST	(54,000)SGST	(29,000)IGST
Net GST payable	3,000	Nil	(7,000)-SGST Nil

Note: ITC of SGST has been used to pay SGST and IGST in that order.

(28) Ms. Jimmy wants to adjust input tax credit for payment of interest, penalty and payment of tax under reverse charge. Explain whether she can do so.

Solution:

The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger which may be used for making any payment towards output tax.

“Output tax” inter alia excludes tax payable on reverse charge basis.

Thus, Ms. Jimmy **cannot adjust input tax credit for payment of interest, penalty** as also for payment of tax under reverse charge.

(29) How does the new payment system benefit the taxpayer & the Commercial Tax Department?

Solution: The new payment system benefits the taxpayer and the commercial tax department in the following ways:

Benefits to Taxpayer: -

- No more queues and waiting for making payments as payments can be made online 24 X 7.
- Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan. Paperless transactions.
- Instant online receipts for payments made online.
- Tax consultants can make payments on behalf of the clients.
- Single challan form to be created online, replacing the three or four copy Challan.
- Greater transparency.
- Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

Benefits to the Commercial Tax Department:-

- Revenue will come earlier into the Government Treasury as compared to the old system.
- Logical tax collection data in electronic format.
- Speedy accounting and reporting.
- Electronic reconciliation of all receipts.
- Warehousing of digital challan.

(30) What is an electronic cash ledger? Enumerate the modes of making deposit in the electronic cash

Solution:

Electronic cash ledger is maintained in **Form GST PMT-05** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

The deposit can be made through any of the following modes, namely: -

- (i) Internet Banking through authorised banks;
- (ii) **Unified Payment Interface (UPI) from any bank;**
- (iii) **Immediate Payment Services (IMPS) from any bank;**
- (iv) Credit card or Debit card through the authorised bank;
- (v) NEFT or RTGS from any bank; or
- (vi) Over the Counter payment through authorised banks for deposits up to ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft

[Section 49 of the CGST Act read with rule 87 of the CGST Rules]

(31) A makes intra-State supply of goods valued at ₹ 50,000 to B within State of Karnataka. B makes inter-State supply to X Ltd. (located in Telangana) after adding 10% as its margin. Thereafter, X Ltd. sells it to Y in Telangana (Intra-State sale) after adding 10% as his margin.

Assume that the rate of GST chargeable is 18% (CGST 9% plus SGST 9%) and IGST chargeable is 18%. Calculate tax payable at each stage of the transactions detailed above. Wherever input tax credit is available and can be utilized, calculate the net tax payable in cash. At each stage of the transaction, indicate which Government will receive the tax paid and to what extent.

Answer

I. Intra-State supply of goods by A to B

	₹
Value charged for supply of goods	50,000
Add: CGST @ 9%	4,500
Add: SGST @ 9%	4,500
Total price charged by A from B	59,000

A is the first stage supplier of goods and hence, does not have credit of CGST, SGST or IGST. Thus, the entire CGST (₹ 4,500) & SGST (₹ 4,500) charged will be paid in cash by A to the Central Government and Karnataka Government respectively.

II. Inter-State supply of goods by B to X Ltd. - Margin @ 10%

	₹
Value charged for supply of goods (₹ 50,000 x 110%)	55,000
Add: IGST @ 18%	9,900
Total price charged by B from X Ltd.	64,900

* It has been logically presumed that 10% margin is on the value of goods (exclusive of taxes).

Computation of IGST payable by B to Central Government in cash

	₹
IGST payable	9,900
Less: Credit of CGST	4,500
Less: Credit of SGST	4,500
IGST payable to Central Government in cash	900

Credit of CGST and SGST can be used to pay IGST [Section 49(5) of the CGST Act, 2017]. **Karnataka Government will transfer SGST credit of ₹ 4,500 utilised in the payment of IGST to the Central Government.**

III. Intra-State supply of goods by X Ltd. to Y

	₹
Value charged for supply of goods (₹ 55,000 x 110%)	60,500
Add: CGST @ 9%	5,445
Add: SGST @ 9%	5,445
Total price charged by X Ltd. from Y	71,390

Computation of CGST and SGST payable by X Ltd in cash

	₹
CGST payable	5,445
Less: Credit of IGST	5,445
CGST payable to Central Government in cash	Nil
SGST payable	5,445
Less: Credit of IGST [₹ 9,900 - ₹ 5,445]	4,455
SGST payable to Telangana Government in cash	990

Credit of IGST can be used to pay IGST First & then CGST and SGST in any order [Section 49(5) of the CGST Act, 2017 read with Rule 88A].

Central Government will transfer IGST of ₹ 4,455 utilised in the payment of SGST to Telangana Government

(32) Examine the authority vested under CGST Act, 2017 for preventing a registered person from utilising the input tax credit availed in a fraudulent manner?

Answer:

As per provisions contained in Rule 86A, In case the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, has reasons to believe that ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, he may prohibit use of ITC for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

(33) Mr. A has deposited a sum of ₹ 30,000 under minor head of “Interest” column for the major head “IGST”. At the time of filing GSTR-3B for a particular tax period, he noticed that there is no sufficient amount under the minor head ‘Tax’ towards payment of ₹ 30,000. When approached with the Jurisdictional Tax officer, Mr. A was guided to deposit the tax amount under proper head of account and claim a refund for the remittance of amount deposited under head “interest”. Examine the relevant provisions of CGST Act, 2017 towards payment of tax and compliance with the law.

Answer:

Provisions of Section 49(10) of CGST Act, 2017 permit a registered person for transferring the amount deposited under any of the minor head i.e. tax, interest, penalty, fees or others to any of the heads under IGST/CGST/SGST/UTGS and make the payment of taxes there upon.

Accordingly, Mr. A need not deposit the tax amount under head “tax” and claim a refund for the remittance of amount deposited under head “interest”. **Rather, using the Form GST PMT 09, such amount can be transferred suo-moto on the common portal from “interest” to “tax” head and tax liability be paid**

(34)[Important] M/s ABC & Co., have defaulted in filing the return under Section 39 of CGST Act, 2017 i.e. GSTR-3B for the month of March, 20XX within the specified due date. Reason for such delay is attributable to delay in closure of Books for March 20XX which have been finalised during May 20XX. The GST Common portal prompted for payment of late fees payable under Section 47 of CGST Act, 2017 for a sum of ₹ 2,000 under CGST and SGST each. Accountant, of M/s ABC & Co., sought your confirmation for payment of such late fees through the balance available in Electronic Credit Ledger for the late fees. Give your guidance in this regard

Answer:

Section 49(3) of the CGST Act, 2017 provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in prescribed manner.

Further, section 49(4) provides that the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in prescribed manner.

Accordingly, as per the combined reading of the above provisions, **late fees shall be paid only through electronic cash ledger and not possible through electronic credit ledger**. Thus, contention of the accountant of M/s ABC & Co., is not correct and the above amount shown on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes.

(35) Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹ 75,000 to various vendors. The total input tax involved on the goods and services procured by her is ₹ 13,500. Out of the total bills paid by her, one bill for ₹ 15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is ₹ 2,700.

Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Suhasini is right? Explain with reasons.

Answer:

The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax [Section 49(4)]. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].

Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger.

Thus, Suhasini is wrong and she will need to pay the GST of ₹ 2,700 on security service through electronic cash ledger.

(36) M/s. Daksha Enterprises has made a cash deposit of ₹ 10,000 under minor head 'tax' of major head 'SGST'. It has a liability of ₹ 2,000 for minor head "Interest" under the major head "SGST".

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

Answer:

The Registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of ₹ 10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹ 2,000 under minor head 'interest' of the same major head, **after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'.**

(37) Clarifications regarding utilization of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities [GST Circular]

Issue 1: Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Clarification: In terms of section 49(4), the amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the IGST Act, **subject to the provisions relating to the order of utilisation of ITC as laid down in section 49B read with rule 88A.**

Rule 86(2) provides for debiting of the electronic credit ledger **to the extent of discharge of any liability in accordance with the provisions of section 49/Section 49A/Section 49B.**

Further, output tax in relation to a taxable person [i.e. a person who is registered or liable to be registered under section 22 or section 24] is defined in section 2(82) as the **tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.**

Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

It is further reiterated that as **output tax does not include tax payable under reverse charge mechanism**, implying thereby that the **electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.**

Issue 2: Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST laws?

Clarification: As per section 49(4), the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. **It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said Acts.**

Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

Issue 3: Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST laws?

Clarification: As per section 49(3), the amount available in the electronic cash ledger **may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST laws.**

TDS & TCS UNDER GST

Registration of TDS deductor & ECO [Section 24 & 25]

A TDS deductor has to compulsorily register without any threshold limit. The deductor has a privilege of obtaining registration under GST without having required to obtain PAN. He can obtain registration using his Tax Deduction and Collection Account Number (TAN) issued under the IT Act, 1961.

Further, **every Electronic Commerce Operator who is required to collect TCS under Section 52** has to compulsorily register without any threshold limit.

Rule 12: Grant of registration to persons required to deduct tax at source or to collect tax at source

E-Application [Rule 12(1)]:

Any person required to deduct tax in accordance with the provisions of section 51 or a person required to collect tax at source in accordance with the provisions of section 52 shall electronically submit an application, duly signed or verified through electronic verification code, in **FORM GST REG-07** for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Procedure if Tax deductor or collector do not have principal place of business in the state in which registration application is made [Rule 12(1A)]:

A person applying for registration to deduct or collect tax in accordance with the provisions of section 51, or, as the case may be, section 52, in a State or Union territory where he does not have a physical presence, **shall mention the name of the State or Union territory in PART A** of the application in **FORM GST REG-07** and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.

Certificate to be issued within 3 working days [Rule 12(2)]:

The proper officer may grant registration after due verification and issue a certificate of registration in **FORM GST REG-06** within a period of 3 working days from the date of submission of the application.

Cancellation of Registration Certificate [Rule 12(3)]:

Where, on a request made in writing by a person to whom a registration has been granted or upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in **Form GST REG-06** has been issued is no longer liable to deduct tax at source u/s 51 or collect tax at source u/s 52, the said officer may cancel the registration and such cancellation shall be communicated to the said person electronically in **Form GST REG-08**

Procedure as provided in **Rule 22 [Registration Chapter]** for the **cancellation of registration** shall be followed here.

Furnishing of Returns - SECTION 39(3)

Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed.

[1 Marks] Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.

[Effective from 01.11.2024 - Amendment by the Finance (No. 2) Act, 2024]

~~Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within 10 days after the end of such month.~~

SATC Note: The above amendment is **NOT applicable** for CA Inter May 2025 exam. However, this amendment **is applicable** for CA Inter Sept 2025/Jan 2026 Exam & CMA Inter June 2025/Dec 2025 Exam.

Rule 66: Form and manner of submission of return by a person required to deduct tax at source

1. Every registered person required to deduct tax at source under section 51 (deductor) shall furnish a return in **FORM GSTR-7** on or before the 10th day of the month succeeding the calendar month electronically through the common portal.

[Inserted by NN 20/2024 CT dated 08.10.2024 - effective from 01.11.2024]

2. The details furnished by the deductor shall be made available electronically to each of the deductees on the common portal after filing of **FORM GSTR-7** for claiming the amount of tax deducted in his electronic cash ledger after validation.

3. The certificate shall be made available electronically to the deductee on the common portal in **FORM GSTR-7A** on the basis of the return furnished.

Rule 67: Form and manner of submission of statement of supplies through an e-commerce operator [ECO]

1. Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in **FORM GSTR-8** electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under section 52(1).

2. The details of tax collected at source under section 52(1) furnished by the operator shall be made available electronically to each of the registered suppliers on the common portal after filing of **FORM GSTR-8** for claiming the amount of tax collected in his electronic cash ledger after validation.

Tax Deducted at Source [Section 51]

SECTION 51(1)

Notwithstanding anything to the contrary contained in this Act, the Government may mandate,-

- a) a department or establishment of the Central Government or State Government; or
- b) Local Authority; or
- c) Governmental Agencies; or
- d) **such persons or category of persons as may be notified by the Government**

on the recommendations of the Council, (hereafter in this section referred to as “the deductor”), to deduct tax at the rate of **1% from the payment made or credited to the supplier** (hereafter in this section referred to as “the deductee”) of **taxable** goods or services or both, **where the total value of such supply, under a contract, exceeds ₹ 250,000.**

However, no deduction shall be made 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.**

For the purpose of TDS, the **value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.**

Following persons are notified [NN 50/2018 CT dated 13.09.2018] u/s 51(1)(d) as liable for TDS:

- a. **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;
- b. **society established** by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
- c. **Public Sector Undertakings**
- d. **any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975, from other registered person**

[Effective from 10.10.2024 - NN 25/2024 CT dated 09.10.2024]

Categories of persons not liable to deduct TDS:

- A. When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, **whether or not a distinct person**
- B. When supply of goods and/or services takes place between one person to another person specified in Section 51(1), **except the person referred to in clause (d) of the notification issued under section 51(1)(d).**

Note: TDS is required to be deducted even if any person specified in the list of persons required to deduct TDS (For example, Central Government, State Government, etc.) receives metal scrap from a registered person

- C. **Post audit authorities under Ministry of Defence exempted** from TDS compliance.

Examples of supply of goods and services to Government/local authorities: Procurement of stationery items, toilet articles, towels, furniture, air-conditioning machines, electrical goods, books and periodicals & medicines, food and beverage for employees or other stakeholders, computers and printers, books, Procurement of security services, car rental services, generator rental services, consultants services, legal services, rental services like office building/land taken on rent, maintenance services, rental of machinery, Works Contract services such as road, bridge, building development/renovation/repairing/ maintenance services, etc

IMPORTANT: TDS is not required to be deducted on supply of exempt goods or services

For example, in case a PSU/ Govt. dept. receives GST books for all its employees, no TDS is required to be deducted since GST books are exempt supplies. Similarly in case a PSU/ Govt. dept. avails the services of a medical practitioner, no TDS is required to be deducted.

Important Points:

1. Standard Rate of deduction

The deductors have to deduct tax at the rate of **2% (1% CGST & 1% SGST)** from the **payment made or credited** to the supplier of taxable goods and/or services.

2. Deductees

The deductees are the suppliers whose total value of supply of **taxable** goods and/or services **under a contract** exceeds ₹ 2,50,000 (exclusive of tax & cess).

3. Deduction is required where the **total value of supply of taxable goods and/or services under 'a contract' exceeds ₹ 250,000.**

Thus, individual supplies may be less than ₹ 2,50,000/-, but if total value of supply under a contract is more than ₹ 2,50,000/-, TDS will have to be deducted.

4. NO TDS - IMPORTANT

No deduction shall be made 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.

The above statement can be explained in the following situations:

a) Supplier, place of supply and recipient are in the same state.

It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

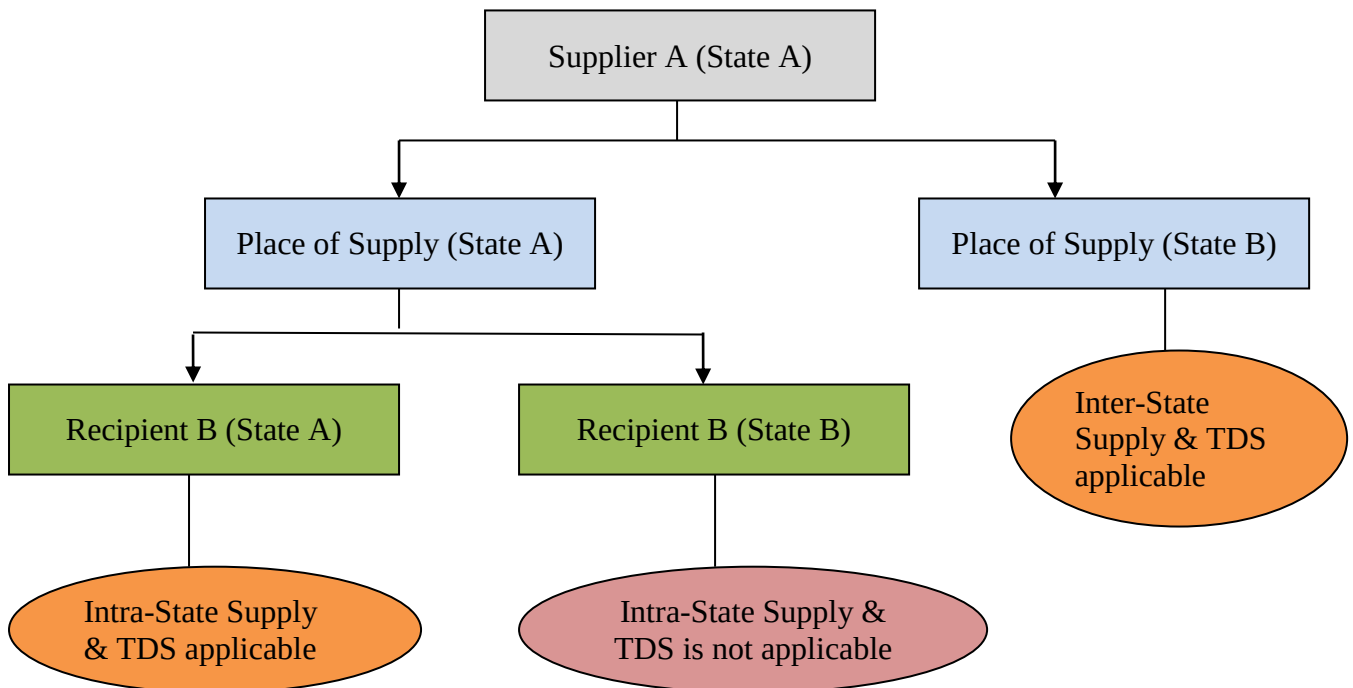
b) Supplier as well as the place of supply are in different states.

In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

c) Supplier as well as the place of supply are in State A and the recipient is located in State B.

The supply would be intra-State supply and Central tax and State tax would be levied. **In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.**

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.



5. **Deposit of TDS with the Government**

The amount deducted shall be paid to the Central Government **within 10 days** after the end of the month in which such deduction is made.

CGST rules provides that **payment shall be made by debiting the electronic cash ledger** and crediting the electronic tax liability register.

6. **TDS Certificate** *[Deductor is not required to furnish any certificate]*

A certificate of tax deduction at source shall be made available electronically to the deductee on the common portal in **FORM GSTR-7A** on the basis of the return furnished by deductor.

The content of Form GSTR 7A (TDS Certificate) are given below:

1. TDS Certificate No.
2. GSTIN of deductor
3. Name of deductor
4. GSTIN of deductee
5. (a) Legal name of the deductee
(b) Trade name, if any
6. Tax period in which tax deducted and accounted for in GSTR-7
7. Details of supplies
8. Amount of tax deducted

7. **Non-remittance by the deductor**

If the deductor does not remit the amount deducted as TDS, **he is liable to pay penal interest** under Section 50 in addition to the amount of tax deducted.

8. TDS Return: Form GSTR-7 [Monthly] – Section 39(3) & Rule 66 – Refer Page 2B.2**9. Reflection of amount of TDS**

The amount of tax deducted is reflected in Electronic Cash Ledger of deductee on return filed by deductor. The deductee can claim credit of the tax deducted, in his electronic cash ledger.

This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.

10. Refund on excess collection

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases.

However, if the amount deducted has been credited to the Electronic Cash Ledger of the deductee, the deductor cannot claim refund (only deductee can claim).

11. Consequences of not complying with TDS provisions

S. No.	Event	Consequence
1	TDS deducted but not paid to the government or paid later than 10th of the succeeding month	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law.
2	Delay filing of TDS returns - GSTR 7 [Section 47]	Late fee - ₹ 25 for every day during which such failure continues <u>or ₹1000</u> ; whichever is lower. [Same amount in SGST/UTGST]

FEW EXAMPLES

A. Total value of taxable supply > ₹ 2.5 Lakh under a single contract. This value shall exclude taxes & cess leviable under GST.

- 1) In case the value of 1 contract for printing material is ₹ 3 Lakhs plus GST and the same is received vide 6 invoices of ₹ 50,000/- plus GST each, in FY 2024-25 and FY 2025-26. TDS is required to be deducted on each bill.
- 2) In case the value of 6 contracts for printing material from the same vendor A is ₹ 50,000/- plus GST each and the same is received vide 6 invoices of ₹ 50,000/- plus GST each. TDS is not required to be deducted on any bill.
- 3) **IMPORTANT:** In case the value of 1 contract for printing material from a vendor A is ₹ 2,75,000/- inclusive of 18% GST. TDS is not required to be deducted as the value of contract exclusive of GST is less than ₹ 2,50,000.

B. If the contract is made for both taxable supply and exempted supply, deduction will be made if the total value of taxable supply in the contract > ₹ 2.5 Lakh. This value shall exclude taxes & cess leviable under GST.

1. In case the value of 1 contract for printing material and books from a vendor A is ₹ 3,50,000 plus GST as applicable. Value of books is ₹ 1,00,000 (GST is exempt) and Value of printing material is ₹ 2,50,000 (GST chargeable). TDS is not required to be deducted as the value of contract of taxable goods (printing material) is not exceeding ₹ 2,50,000.
2. In case the value of 1 contract for printing material and books from a vendor A is ₹ 4,00,000 plus GST as applicable. Value of books is ₹ 1,00,000 (GST is exempt) and Value of printing material is ₹ 3,00,000 (GST chargeable). TDS is required to be deducted on only the value of contract of taxable goods (printing material) of ₹ 3,00,000.

C. When the contract value is revised

A contract with a supplier ABC was entered into where the value of taxable supply is ₹ 2 Lakh and payment of ₹ 1 Lakh has been made on 15.7.2024. **Now, on 20.12.2024 the contract value is revised from ₹ 2 Lakh to ₹ 6 Lakh.**

In this case TDS shall have to be deducted on entire amount i.e. ₹ 6 lakhs while making remaining payment of ₹ 5 Lakh. **In other words, ₹ 12,000/- would be deducted when remaining payment of ₹ 5 Lakh is made.**

TCS UNDER GST

TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies taxable goods or services through portal of e-commerce operator and the payment for that supply is collected by said electronic commerce operator.

The nature of working of electronic commerce operator can be better understood with the following example

There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Jabong, etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. **On placing the order for a particular product/service, the actual supplier supplies the selected product/service to the consumer.**

The price/consideration for the product/ service **is collected by the Operator** from the consumer and passed on to the actual supplier **after the deduction of commission by the Operator.**

Such Operator is only required to collect the tax at source.

Power to collect tax: Section 52 of the CGST Act, 2017 provides for Tax Collection at source, by e-Commerce operator in respect of the taxable supplies made through it by other suppliers, **where the consideration in respect of such supplies is collected by him.**

Section 2(44) - "electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network;

Section 2(45) - "Electronic Commerce Operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

1. [Section 52(1)]

Every electronic commerce operator [ECO], not being an agent, shall collect an amount calculated **at such rate not exceeding 1%**, as may be notified by the Government on the recommendations of 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.**

Who is liable to collect TCS?

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) from the **net value of taxable supplies** made through it by other suppliers, whenever the ECO collects the consideration on behalf of the supplier

2. Rate of TCS [Notified]

0.5% of the net value of intra-State taxable supplies as CGST ***[TCS rate is reduced to 0.25%, effective from 10.07.2024].***

1% of the net value of inter-State taxable supplies as IGST ***[TCS rate is reduced to 0.5%, effective from 10.07.2024].***

[NN 15/2024 CT dated 10.07.2024]

3. Net Value of Taxable Supplies

The “**net value of taxable supplies**” means the aggregate value of taxable supplies of goods or services or both, **other than the services on which entire tax is payable by the e-commerce operator under section 9(5), made during any month** by a registered supplier through such operator **reduced by the aggregate value of taxable supplies returned to such supplier during the said month.**

An e-commerce company is required to collect tax only on the net value of taxable supplies made through it. In other words, value of the supplies which are returned (supply return) **may be adjusted from the aggregate value** of taxable supplies **made by each supplier.**

The value of net taxable supplies is calculated at GSTIN level.

In other words, if two suppliers “A” and “B” are making supplies through an ecommerce operator, the “net value of taxable supplies” would be **calculated separately** in respect of “A” and “B”.

If the value of returned supplies is more than supplies made on behalf of any of such supplier during any tax period, the same would be ignored in his case.

Net Value of Taxable Supplies

[(Aggregate Value of Taxable Supplies of Goods + Services) – (Services covered under Section 9(5) – (Aggregate Value of Returned Taxable Supplies)]

Example: Gross taxable value of supplies made by a particular supplier in a month is let us say ₹10 lakhs. During the said month, the aggregate value of supplies returned (original supply might have been done during the same month or even before) is ₹1 lakhs. **Then, as per the above definition, “net value of taxable supplies” shall be ₹9 lakhs on which TCS is to be collected for that particular month.**

Note:

- A. The “value of taxable supplies” shall not include the GST.**
- B. TCS is not required to be collected on exempt supplies.**
- C. Further, TCS is not required to be collected on supplies on which the recipient is required to pay tax on reverse charge basis.**
- D. At what time should the e-commerce operator collect TCS?**

TCS is to be collected once supply has been made through the e-commerce operator and where the business model is that the consideration is to be collected by the e-commerce operator **irrespective of the actual collection of the consideration.**

For example, if the supply has taken place through the ecommerce operator on 30th January, 2025 **but the consideration for the same has been collected in the month of March, 2025, then TCS for such supply has to be collected and reported in the statement for the month of January, 2025.**

4. Deposit of TCS by ECO to Government

The TCS amount collected by the ECO has to be remitted to the Government Treasury **within 10 days after the end of the month** in which the collection was made.

5. Monthly Statements by ECO

Every ECO who collects TCS shall furnish a statement, electronically, containing

- ✓ the **details of outward supplies** of goods or services or both effected through it,
- ✓ including the supplies of goods or services or both **returned through it**, and
- ✓ the **TCS collected** during a month,

in Form GSTR 8 within 10 days after the end of such month

Note: The Commissioner may **extend the time limit for furnishing the monthly statement**

Maximum time limit for furnishing GSTR-8

The operator **shall not be** allowed to furnish a statement in Form GSTR 8 **after the expiry of a period of 3 years from the due date of furnishing the said statement.**

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish such statement, **even after the expiry of the said period of 3 years** from the due date of furnishing the said statement.

6. Late fees for delay in filing statement [Form GSTR 8] [Section 47]

₹100 for every day during which such failure continues [Maximum ₹5,000]

[Equal Late fee under SGST/UTGST]

7. Rectification in Monthly Statement [Form GSTR 8] by ECO [SECTION 52(6)]

If ECO after furnishing a statement in Form GSTR 8 discovers **any omission or incorrect particulars** therein, **other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities**, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in section 50(1).

However, the limit for rectification is earlier of the two **[2 Marks]**

i. **30th November** following the end of the financial year.

or,

ii. Actual date of furnishing of **relevant annual statement [Form GSTR 9B]**.

8. Annual Statement [SECTION 52(5)]

Every ECO who collects TCS under section 52(1) shall **furnish an annual statement**, electronically, containing

- ✓ the details of outward supplies of goods or services or both effected through it,
- ✓ including the supplies of goods or services or both returned through it, and
- ✓ the amount collected during the financial year

in **Form GSTR 9B**, **before 31st December following the end of such financial year.**

Note: The Commissioner may **extend the time limit for furnishing the annual statement**

9. The supplier who has supplied the goods or services or both through the ECO **shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the Form GSTR 8 furnished by the ECO [SECTION 52(7)]**

10. Notice to the ECO seeking details [Section 52(12) to (14)]

1. Any authority **not below the rank of Deputy Commissioner may serve a notice**, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to-
 - a) supplies of goods or services or both effected through such operator during any period; or
 - b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.
2. Every operator on whom a notice has been served shall furnish the required information **within 15 working days** of the date of service of such notice.
3. Any person [ECO] who fails to furnish the information shall, without prejudice to any action that may be taken under section 122, **be liable to a penalty upto ₹25,000.**

FEW IMPORTANT POINTS

1. **E-Commerce operator has to obtain separate registration for TCS** irrespective of the fact whether e-Commerce operator is already registered under GST as a supplier or otherwise and has GSTIN.
2. **Payment of TCS is not allowed through Electronic Credit Ledger (Input Tax Credit) of e-Commerce operator**
3. As per Rule 46 of the CGST Rules, 2017 there is **no requirement to indicate TCS on the invoice issued by the concerned supplier.**
4. The details of tax collected at source furnished by an E-commerce operator under Section 52 in Form GSTR 8 **shall be made available to the supplier electronically through the Common Portal."**
5. The amount of tax collected is reflected in Electronic Cash Ledger of supplier since related monthly statement is filed by E-Commerce Operator. As on date, **there is no concept of TCS certificate.**
6. **How shall the amount collected in excess be refunded**
As per Section 52 of the CGST Act, 2017 any errors or omissions in the statement filed can be corrected subject to certain time limit. However there is no specific provision to seek refund of the tax collected in excess. **Hence the concerned supplier can claim the credit of such excess tax in his cash ledger and utilize the same.**

Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators in one transaction.**[GST Circular]**

*In the current platform-centric model of e-commerce, **the buyer interface and seller interface are operated by the same ECO.***

This ECO:

- collects the consideration from the buyer,
- deducts the TCS under section 52,
- credits the deducted TCS amount to the GST cash ledger of the seller and
- passes on the balance of the consideration to the seller after deducting their service charges.

*In the case of the ONDC Network (Open Network for Digital Commerce) or similar other arrangements, **there can be multiple ECOs in a single transaction** - one providing an interface to the buyer and the other providing an interface to the seller. **In this setup, buyer-side ECO could collect consideration, deduct their commission and pass on the consideration to the seller-side ECO.***

In this context, clarity has been sought as to which ECO should deduct TCS and make other compliances under section 52 in such situations, as in such models having multiple ECOs in a single transaction, both the Buyer-side ECO and the Seller-side ECO qualify as ECOs as per section 2(45).

CBIC has clarified following issues in this regard:

Issue 1: *In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances under section 52 including collection of TCS?*

Clarification: *In such a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier of the said goods or services, the compliances under section 52, including collection of TCS, is to be done **by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.***

Example: *Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, as applicable and pay the same to the Government in accordance with section 52 and also make other compliances under section 52.*

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with section 52 with respect to this particular supply.

Issue 2: *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, who is liable for compliances under section 52 including collection of TCS?*

Clarification: *In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.*

Example: *Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier [who is itself an ECO as per the definition in Sec 2(45)]. **In this scenario, the Buyer-side ECO will also be required to collect TCS, as applicable, pay the same to the Government in accordance with section 52 and also make other compliances under section 52.***

Practice Questions

1. 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%**.

2. 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.

3. State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?

Answer:

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated **at such rate not exceeding 1%**, as may be notified by the Government on the recommendations of 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.

4. There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.

Answer:

The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month **within 10 days after the end of the each month in which supplies are made**.

Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

- 5. State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?**

Answer:

As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding 1% as may be notified by the Government on the recommendations of 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.

If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

- 6. Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an “electronic commerce operator”? Whether he is required to collect TCS on such supplies?**

Answer:

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an “electronic commerce operator”.

However, according to Section 52 of the Act, *ibid*, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO.

In cases, where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section.

These transactions will be liable to GST at the prevailing rates.

- 7. If Mr. A purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?**

Answer:

No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO.

In this case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website.

For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

REGISTRATION

- ☞ **Chapter VI - Registration [Sections 22 to 30]** of the CGST Act stipulates the provisions relating to registration.
- ☞ Provisions of registration under CGST Act have also been made applicable to IGST Act **vide section 20 of the IGST Act.**

INTRODUCTION

- ✓ **Under any taxation system,**
 - (a) registration is the most fundamental **requirement for identification of tax payers** ensuring tax compliance in the economy.
 - (b) Under indirect tax regime, without registration, a **person can neither collect tax** from his customers **nor claim any credit of tax** paid by him.
 - (c) Registration **legally recognizes a person as supplier** of goods or services and **legally authorizes him to collect taxes** from his customers **and pass on the credit of the taxes paid** on the goods or services supplied to the purchasers/recipients.
 - (d) He **can claim the input tax credit of taxes paid** and can **utilize the same for payment of taxes due** on supply of goods or services.
 - (e) There is **seamless flow of input tax credit** from suppliers to recipients at the national level.
- ✓ **Prior to introduction of GST**
 - (a) a **service provider** was required to be registered with the Service Tax Department, while a **trader of goods** had to be registered with the VAT Department. Similarly, a **manufacturer** of goods has to be registered with Central Excise and VAT Department with respect to the goods manufactured as also with the **Service Tax Department in respect of services availed which were taxed under reverse charge mechanism.**
 - (b) The **Central Excise law** prescribed **factory wise registration** with few exceptions where centralized registration was permitted, **VAT laws provided for State-wise registrations** while the **Service Tax law provided for either centralised or premise-wise registration.**
The registration numbers allotted under central laws were PAN-based which was not the case under State laws.

✓ Under GST

- (a) Registrations need to be taken **State-wise**, i.e. **there are no centralized registrations** under GST.
- (b) A business entity having its branches in multiple States will have to take **separate State wise registration for the branches in different States**.
- (c) Further, within a State, an entity with different branches would have single registration wherein it can declare **one place as Principal Place of Business (PPoB) and other branches as Additional Place(s) of Business (APoB)**.
- (d) However, a PAN based business entity **having multiple place of business** in a registration State **may obtain separate registration for each of its place of business** otherwise a given PAN based legal entity would have one registration number – Goods and Services Tax Identification Number (GSTIN) per State.

- ✓ **Registration under GST is not tax specific, which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and Cesses.**

Certificate of Registration - 3 Marks

Certificate of registration shall be granted in Form GST REG-06. Certification of registration contains Goods and Services Tax Identification Number (GSTIN):

- ✓ **Two characters** for the State code
- ✓ **Ten characters** for the PAN
- ✓ **Two characters** for the entity code; and
- ✓ **One checksum** character

Structure of GSTIN

Each taxpayer is assigned a state-wise **PAN-based 15 digit Goods and Services Taxpayer Identification Number (GSTIN)**.

Advantages of registration - 5 Marks

The following are advantages to a taxpayer who obtain registration under GST:

- (i) He is **legally recognized as supplier** of goods or services or both.
- (ii) He is **legally authorized to collect taxes** from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
- (iii) He **can claim Input Tax Credit** of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- (iv) **Seamless flow of Input Tax Credit** from suppliers to recipients at the national level.
- (v) Registered person is **eligible to apply for Government bids** or contracts or assignments.
- (vi) Registered person under GST **can easily gain trust from customers**.

PERSONS LIABLE FOR REGISTRATION [SECTION 22(1)]**3 Marks**

Section 22(1) - Every supplier shall be 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 ₹ 20,00,000.

However, where such person makes taxable supplies of goods or services or both from **special category States** (Manipur, Mizoram, Nagaland, Tripura only), he shall be liable to be registered if his aggregate turnover in a financial year **exceeds ₹ 10,00,000**.

Further, *Government may, at the request of a Special Category State and on the recommendations of the Council, enhance the threshold limit for Special Category States from ₹ 10 lakh to such amount, not exceeding ₹ 20 lakh and subject to such conditions and limitations, as may be so notified.*

The Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from ₹ 20 lakh to such amount not exceeding ₹ 40 lakh in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation - For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in 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.

SATC Note:

Presently, the enhanced threshold limit of **₹ 40 lakh** has been made effective for some States by way of exemption Notification No. 10/2019 CT dated 07.03.2019.

NOTE:

11 Special category States as specified in Article 279A(4)(g) of the Constitution

States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim, Himachal Pradesh, Uttarakhand and Jammu and Kashmir (Initial position).

Exemption from Registration upto Turnover of ₹40,00,000

In **Notification No. 10/2019 – CT dated 7th March 2019**, CBIC has provided exemption in exercise of powers conferred under section 23(2) of the CGST Act, for person exclusively engaged in supply of goods, having an aggregate turnover of ₹40 lacs from obtaining registration.

However, the above exemption is not available to following person:

- Person **required to take compulsory registration as per Section 24;**
- Person engaged in **supply of**
 - 1. ice-cream and other edible ice** (whether or not containing cocoa),
 - 2. pan masala,**
 - 3. tobacco and manufactured tobacco** substitutes,
 - 4. Fly ash bricks; Fly ash aggregate, Fly ash blocks**
~~Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks~~
 - 5. Bricks of fossil meals or similar siliceous earths**
 - 6. Building bricks**
 - 7. Earthen or roofing tiles**
- Person engaged in intra state supply in states of **Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand;**
- Person who has **voluntarily obtained registration;** and
- Registered persons **intending to continue their existing registration.**

In Nutshell; the threshold limits for obtaining registration for suppliers exclusively engaged in supply of goods (not services) in such states is as below:

- Threshold limits ₹10 Lacs **for Manipur, Mizoram, Nagaland, Tripura.**
- Threshold limits ₹20 Lacs **for Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana, Uttarakhand.**
- Threshold limits ₹40 Lacs for **all other states/union territories including Assam, J&K, HP**

Meaning of Aggregate Turnover [Clause 6 of Section 2 – Section 2(6)]

5 Marks Aggregate turnover means the aggregate value of all

- (a) Taxable Supplies
 - (b) Exempt Supplies
 - (c) Exports of Goods or Services or both **and**
 - (d) Inter State Supplies
- of persons having the same PAN computed on all India Basis**

but excludes

- (a) CGST
- (b) SGST/UTGST
- (c) IGST and
- (d) Compensation Cess
- (e) **Value of inward supplies on which tax is payable by a person (i.e. the Recipient) on reverse charge basis**

Note:

1. **IMP:** The Expression “**Aggregate Turnover**” **includes** all supplies made by the taxable person whether **on his own account or made on behalf of all his principals**

Example:

Mohini Enterprises has appointed M/s Bestfords & Associates as its agent. M/s Bestfords & Associates makes supply of goods on its own account as well as on behalf of Mohini Enterprises. **All the supplies of goods** made by M/s Bestfords & Associates as agent of Mohini Enterprises as well as on its own account **will be included** in the aggregate turnover of M/s Bestfords & Associates.

2. If a person has **more than one branch** whether in the same State/Union Territory or in more than one state or UT, he shall be liable to registration **if the aggregate turnover of all the branches exceeds specified limits.**
3. If a person having place of business in different States across India **has one branch (making taxable supply) in any of the special category States (Manipur, Mizoram, Nagaland, Tripura only)**, the threshold limit for GST registration will be **reduced to ₹ 10 lakh.**
4. **Outward supplies taxable under reverse charge *would continue to be part of the aggregate turnover of the supplier of such supplies.***

Example: Raghubir Private Ltd. pays GST on sitting fees paid to its directors for the services rendered by them, under reverse charge. Value of services provided by the directors to Raghubir Private Ltd. will form part of the aggregate turnover of the directors and not of Raghubir Private Ltd.

5. Value of exported goods/services, exempted goods/ services, Inter-State supplies between distinct persons **having same PAN to be included** in aggregate turnover.
6. **[2Marks] Exempted Supply** means Supply of any Goods or Services or both which attracts **NIL rate** of tax or which may be **wholly exempt** from tax under Section 11 of the CGST Act or under Section 6 of the IGST Act and **includes non-taxable supply**.

Few Examples

Rohan Oils, Telangana, is engaged in **supplying machine oil as well as petrol**. Supply of petrol is not leviable to GST, but supply of machine oil is taxable. In order to determine whether Rohan Oils is liable for registration, turnover of both the supplies – non-taxable as well as taxable - would be taken into account and if the same exceeds ₹ 20 lakh, Rohan Oils is liable for registration.

EXAMPLES RELATED TO REGISTRATION UNDER SECTION 22(1)

Example 1:

Prithviraj of Assam is **exclusively engaged in intra-State supply of shoes**. His aggregate turnover in the current financial year is ₹ 22 lakh. The applicable threshold limit for registration for Prithviraj in the given case is ₹ 40 lakh. Thus, he is not liable to get registered under GST.

If in above example, all other things remaining the same, Prithviraj is exclusively engaged in supply of **pan masala instead of shoes**, he will not be eligible for higher threshold limit of ₹ 40 lakh and the applicable threshold limit for registration in that given case will be ₹ 20 lakh. Thus, Prithviraj will be liable to get registered under GST.

If instead of pan masala, Prithviraj is **exclusively engaged in supply of taxable services**, the applicable threshold limit for registration will still be ₹ 20 lakh. Thus, Prithviraj will be liable to get registered under GST.

Further, if Prithviraj is **engaged in supply of both taxable goods and services**, the applicable threshold limit for registration will be ₹ 20 lakh only. Thus, Prithviraj will be liable to get registered under GST.

Example 2:

Shivaji of Telangana is **exclusively engaged in intra-State supply of toys**. Its aggregate turnover in the current financial year is ₹ 22 lakh. Since Shivaji is making taxable supplies from Telangana, he will not be eligible for higher threshold limit available in case of exclusive supply of goods. The applicable threshold limit for registration for Shivaji in the given case is ₹ 20 lakh. Thus, he is liable to get registered under GST.

If in above example, all other things remaining the same, Shivaji is **exclusively engaged in supply of taxable services instead of toys**, the applicable threshold limit for registration will still be ₹ 20 lakh. Thus, Shivaji will be liable to get registered under GST.

Further, if Shivaji is engaged in supply of **both taxable goods and services**, the applicable threshold limit for registration will be ₹ 20 lakh only. Thus, Shivaji will be liable to get registered under GST.

Example 3:

Ashoka of Manipur is **exclusively engaged in intra-State supply of paper**. Its aggregate turnover in the current financial year is ₹12 lakh. Since Ashoka is making taxable supplies from Manipur which is a Special Category State, the applicable threshold limit for registration for Ashoka in the given case is ₹10 lakh. Thus, he is liable to get registered under GST.

If in above example, all other things remaining the same, **Ashoka is exclusively engaged in supply of taxable services instead of paper**, the applicable threshold limit for registration will still be ₹10 lakh. Thus, Ashoka will be liable to get registered under GST.

Further, if Ashoka is engaged in supply of **both taxable goods and services**, the applicable threshold limit for registration in that given case will be ₹10 lakh only. Thus, Ashoka will be liable to get registered under GST.

Example 4:

Raghav of Assam is **exclusively engaged in intra-State supply of readymade garments**. Its turnover in the current FY from Assam showroom is ₹28 lakh. It has **another showroom in Tripura** with a turnover of ₹11 lakh in the current FY.

Since Raghav is engaged in supplying garments from a Special Category State as per section 22, the applicable threshold limit for him **gets reduced to ₹10 lakh**. Further, Raghav is liable to get registered under GST in both Assam and Tripura on his aggregate turnover crossing the threshold limit of ₹10 lakh.

[VERY IMP] Registration required only for a place of business from where taxable supply takes place

- 5 Marks

A person is required to obtain registration with respect to his each place of business in India from where a taxable supply has taken place. **However, a supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply.**

Further, the threshold limit of a person having places of business in more than one State/UT in India gets reduced to ₹10 lakh only when such person **makes taxable supplies** of goods or services or both from any of the Special Category States as per section 22.

However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be so reduced.

Example 5:

Uday Enterprises is engaged in supply of taxable goods in Maharashtra. It also supplies alcoholic liquor for human consumption from Nagaland. Its turnover in the current financial year is ₹34 lakh in Maharashtra and ₹8 lakh in Nagaland.

Since Uday Enterprises is **exclusively engaged in making taxable supplies of goods** from Maharashtra, the applicable threshold limit for obtaining registration is ₹40 lakh. **However, the threshold limit will not be reduced to ₹10 lakh in this case, as supply of alcoholic liquor for human consumption from Nagaland (one of the Special Category States) are non-taxable supplies.**

In the given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of ₹40 lakh, it is liable to obtain registration.

It will obtain registration in Maharashtra, but is not required to obtain registration in Nagaland as he is not making any taxable supplies from said State.

Person liable for registration in case of transfer of business [Section 22(3) & (4)]

- (1) Where a business carried on by a taxable person registered under this Act is **transferred**, whether **on account of succession or otherwise**, to another person **as a going concern**, the **transferee or the successor**, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

Clarification that transfer/change in the ownership of business to include the transfer /change in the ownership of business due to death of the sole proprietor

Section 29(1)(a) of the CGST Act provides that reason of transfer of business includes “death of the proprietor”.

Similarly, for uniformity and for the purpose of section 22(3) of the said Act, it is clarified that transfer or change in the ownership of business under said section **will include transfer/change in the ownership of business due to death of the sole proprietor.**

- (2) In a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation / de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order

COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24] - IMPORTANT

[6 Marks] Notwithstanding anything contained in Section 22(1), the following categories of persons shall be required to be registered under this Act- (Aggregate Turnover is not relevant)

(i) **Persons making any Inter-State taxable supply;**

[However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) **is available in case of inter-State supply of taxable services and of notified handicraft goods.**]

(ii) **Casual Taxable Persons (CTP) making taxable supply;**

[However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) **is available in case of CTP** who is making inter-State **taxable supplies of notified handicraft goods** and availing the benefit of exemption from registration]

(iii) **Persons who are required to pay tax under Reverse Charge;**

[However, persons engaged exclusively in making outward supplies, tax on which is liable to be paid on reverse charge basis are exempt from registration.]

(iv) **Non-Resident Taxable Persons (NRTP) making taxable supply;**

(v) **E-commerce:**

a. Every ECO (Electronic Commerce Operator) **who is required to collect tax at source under section 52,**

b. Person who are required to **pay tax under section 9(5),**

c. Persons who **supply goods and/or services**, other than supplies specified under section 9(5), **through such ECO** who is required to collect tax at source under section 52, but threshold limit **is available in case of suppliers supplying goods or services through ECO.**

(vi) Persons **who are required to deduct tax under Section 51**, whether or not separately registered under this Act;

(vii) Persons who **make taxable supply** of goods or services or both ***on behalf of other taxable persons whether as an agent or otherwise;***

(viii) **Input Service Distributor**, whether or not separately registered under this Act

(ix) Every person supplying **Online Information and Data base Access or Retrieval [OIDAR] services from a place outside India to a person in India, other than a registered person;**

(x) **every person supplying online money gaming from a place outside India to a person in India; and**

(xi) **Such other person or class of persons as may be notified by the Government on the recommendations of the Council.**

CONCEPT OF TAXABLE PERSON

As per Section 2(107) of the CGST Act, taxable person *means a person who is registered or liable to be registered under section 22 or section 24.*

From the definition of 'taxable person' provided above, it may be inferred that even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

PERSONS NOT LIABLE FOR REGISTRATION [SECTION 23] – IMP**4 Marks****(1) The following persons shall not be liable to registration, namely:-**

- a) 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 this Act or under the Integrated Goods and Services Tax Act

Example:

Madhur Oils, Punjab, is exclusively engaged in supplying petrol. Supply of petrol is not leviable to GST. Thus, Madhur Oils is not liable for registration as it is engaged exclusively in supplying goods not leviable to tax.

Example:

*Bhavyajyoti Foundation, a charitable trust registered under section 12AB of the Income-tax Act, 1961, is **exclusively engaged in supply of services by way of charitable activities.** Services by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities **are exempt from GST.***

Thus, Bhavyajyoti Foundation is not liable for registration as it is exclusively engaged in supplying services exempt from tax.

- b) **an Agriculturist**, to the extent of supply of produce out of cultivation of land

Agriculturist [Section 2(7)]:

means an Individual/HUF who undertakes cultivation of land-

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

Example:

Deshbandhu is an agriculturist engaged in cultivation of wheat in his field in the State of Punjab. He was exclusively engaged in supply of wheat cultivated in his field in the previous year. Thus, he was not liable to registration as he was exclusively engaged in supply of produce out of cultivation of land.

In the current year, he decides to start trading in rice apart from supplying his wheat produce. His turnover in the current year is ₹ 32 lakh from supply of wheat produced and ₹ 9 lakh from trading of rice.

Since he is engaged in trading of rice also, he is not covered under section 23 above. The threshold limit for registration applicable to a person exclusively engaged in supply of goods in the State of Punjab is ₹40 lakh.

The aggregate turnover of Deshbandhu in the current year is ₹41 lakh [₹32 lakh + ₹9 lakh] which exceeds the threshold limit. Thus, he will be liable to registration.

- (2) [Section 23(2)] Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.

Specified category of persons notified by the Government exempted from obtaining registration

Following category of persons have been notified as being exempted from obtaining registration under GST law:

A. Persons making only reverse charge supplies except suppliers of metal scrap (Chapter 72 to 81)]

Persons who are **only engaged** in making supplies of taxable goods or services or both, the total tax on which is liable to be paid **on reverse charge basis** by the recipient of such goods or services or both under section 9(3) have been **exempted from obtaining registration.**

New - Effective from 10.10.2024: However, nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975.

[NN 5/2017 CT dated 19.06.2017 is amended vide NN 24/2024 CT dated 09.10.2024]

Example:

Surya Transporters is a Goods Transport Agency (GTA) engaged exclusively in supplying GTA services liable to tax under reverse charge [GTA has not exercised the option to pay GST itself in the given case]. Thus, it is exempt from registration as it is engaged exclusively in making supplies, tax on which is liable to be paid on reverse charge basis.

Further, Surya Transporters supplies said service to Agrawal Manufacturing Pvt. Ltd. whose aggregate turnover does not exceed the applicable threshold limit. However, since Agrawal Manufacturing Pvt. Ltd. has to pay tax on GTA services under reverse charge, it is required to obtain registration mandatorily irrespective of its aggregate turnover.

B. Persons making inter-State supplies of taxable services up to ₹ 20,00,000

The persons making **inter-State supplies of taxable services** and having an aggregate turnover, to be computed on all India basis, **not exceeding an amount of ₹ 20 lakh** in a financial year have been exempted from obtaining compulsory registration.

However, the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ₹ 10 lakh in case of **specified special category States** (Manipur, Mizoram, Nagaland, Tripura only).

Example:

Dhola & Co., located in Delhi, is engaged in supply of taxable goods in the neighbouring States of Punjab and Haryana. Its aggregate turnover in current FY is ₹ 10 lakh. Since it is engaged in making inter-State taxable supply of goods, it is required to register mandatorily under GST irrespective of its aggregate turnover.

However, if in the above case, Dhola & Co. is engaged in inter- State supply of taxable services instead of goods, it will be eligible for exemption from registration till its aggregate turnover does not exceed ₹ 20 lakh.

C. Casual Taxable Persons making taxable supplies of handicraft goods 'OR' persons making inter-State supplies of specified handicraft goods up to ₹ 20,00,000

As per section 24, a CTP or a person making inter-State supplies of goods are liable to be registered compulsorily under GST irrespective of the threshold limit.

However, persons making inter-State supplies of specified handicraft goods & few notified products (handmade) have been exempted from obtaining registration provided:

1. Aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of specified Special Category States] in a FY.
2. such persons have obtained a PAN and have generated an e-way bill.

Further, **CTPs making inter-State taxable supplies of specified handicraft goods & few notified products (handmade)** have also been exempted from obtaining registration **provided conditions specified above are fulfilled.**

D. Persons making supplies of services through an ECO (other than supplies specified under section 9(5) of the CGST Act) with aggregate turnover up to ₹ 20,00,000

Persons making **supplies of services**, other than supplies specified under section 9(5), through an ECO who is required to collect tax at source under section 52, and having an aggregate turnover, to be computed on all India basis, not exceeding ₹ 20 lakh [₹ 10 lakh in case of **special category States (Manipur, Mizoram, Nagaland, Tripura only)**] in a FY, **have been exempted from obtaining compulsory registration.**

Therefore, all service providers, whether supplying intra-State, inter-State or through ECO, will be exempt from obtaining registration, ***provided their aggregate turnover does not exceed ₹ 20 lakh (₹ 10 lakh in specified special category States).***

E. Persons making supplies of Goods through an ECO

Unregistered persons with aggregate turnover upto threshold limit permitted to supply goods through an ECO.

With effect from 01.10.2023, the persons making supplies of goods through an ECO who is required to collect TCS under section 52 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, 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/Union territory***
- (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.***

Apart from this, with effect from 01.10.2023, following special procedure has been laid down under section 148 to be followed by ECO through which above unregistered persons supply goods, vide Notification No. 37/2023 CT dated 04.08.2023:

- (i) ECO shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;***
- (ii) ECO shall not allow any inter-State supply of goods through it by the said person;***
- (iii) ECO shall not collect tax at source under section 52(1) in respect of supply of goods made through it by the said person; and***
- (iv) ECO shall furnish the details of supplies of goods made through it by the said person in the statement in Form GSTR-8 electronically on the common portal.***

Where multiple ECOs are involved in a single supply of goods through ECO platform, "ECO" shall mean the ECO who finally releases the payment to the said person for the said supply made by the said person through him.

DEFINE "PLACE OF BUSINESS" [3 Marks]**Place of business: includes**

- A. a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
- B. a place where a taxable person maintains his books of account; or*
- C. a place where a taxable person is engaged in business through an agent, by whatever name called.*

PROCEDURE FOR REGISTRATION [SECTION 25]

- 1 Every person who is liable to be registered under Section 22 or Section 24 shall apply for registration in **every such State or Union territory** in which he is so liable **within 30 days** from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.

However, Casual Taxable Person (CTP) or a Non-Resident Taxable Person (NRTP) shall apply for registration **at least 5 days** prior to the commencement of business.

*Further, a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer **shall have to apply for a separate registration**, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.*

Explanation- Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Example:

Suvarna Industries is engaged in manufacturing activities in Uttar Pradesh. It has two manufacturing units in UP - one in SEZ and another outside SEZ. Under GST, one registration per State is required. However, since in this case, one of the two units of Suvarna Industries is located in SEZ, SEZ unit will have to compulsorily make a separate application for registration as a place of business distinct from unit located outside SEZ in the same State.

- 2 **A person seeking registration under this Act shall be granted a single registration in a State or Union territory.**

Further, a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.

- 3 **[Section 25(3)]** A person, though not liable to be registered under section 22 or section 24 **may get himself registered voluntarily**, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
- 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**

- 5 Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then **such establishments shall be treated as establishments of distinct persons** for the purposes of this Act.

Example: Mohan, a qualified Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.

- 6 Every person **shall have a Permanent Account Number** issued under the Income- tax Act, 1961 in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a **Tax Deduction and Collection Account Number** issued under the said Act in order to be eligible for grant of registration.

- 7 A **Non-Resident Taxable Person** may be granted registration under sub-section (1) **on the basis of such other documents as may be prescribed**

- 8 **[Section 25(8)]** Where a person who is liable to be registered under this Act **fails to obtain registration**, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, **proceed to register such person in such manner as may be prescribed**

- 9 **Notwithstanding anything contained in sub-section (1),-**

a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries ; and

b) any other person or class of persons, **as may be notified** by the Commissioner,

shall be granted a Unique Identity Number (UIN) in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

- 10 The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

Aadhaar authentication

Sub-sections (6A) to (6D) of Section 25

Sub-section (6A):

Every **registered person** shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed.

Provided that if an **Aadhaar number is not assigned** to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe.

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

Sub-section (6B):

Every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification (manner as specified in Rule 8 is notified).

Provided that **if an Aadhaar number is not assigned** to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification (manner as specified in Rule 9 is notified).

Sub-section (6C):

Every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification (manner as specified in Rule 8 is notified).

Provided that where such person or class of persons **have not been assigned the Aadhaar Number**, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification (manner as specified in Rule 9 is notified).

[Note: While opting for Aadhaar authentication, the applicant needs to select at-least 1 Primary Authorized Signatory and 1 Promoter/Partner/Karta/Director/Member for authentication purposes.]

Sub-section (6D): **[3 Marks]**

The provisions relating to aadhaar authentication not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

As per notification, following persons have been exempted from Aadhaar Authentication

- A. A person who is not a citizen of India
- B. Department or establishment of State Government or Central Government
- C. Local authority
- D. Statutory body
- E. Public Sector Undertaking
- F. A person applying for Unique Identity Number.

FEW IMPORTANT POINTS

A. Under GST, the application for registration has to be submitted electronically **at the GST Common Portal “www.gst.gov.in” duly signed** or verified through **Electronic Verification Code (EVC)**.

B. One registration per State

Registration needs to be taken State-wise, i.e. there are no centralized registrations under GST. A business entity having its branches in multiple States will have to **take separate State-wise registration for the branches in different States**.

Further, within a State, an entity with different branches would have single registration wherein it can declare **one place as Principal Place of Business (PPoB) and other branches as Additional Place of Business (APoB)**.

C. Separate registration for multiple place of business within a State/UT may be granted

***Rule 11 stipulates that** any person having multiple places of business within a State/UT, requiring a separate registration for any such place of business shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:*

- a. such person has more than one place of business as defined in section 2(85);*
- b. such person shall not pay tax under composition levy for any of his places of business if he is paying tax under normal scheme for any other place of business.*
- c. Where any place of business of a registered person that has been granted a separate registration **becomes ineligible to pay tax under composition scheme**, all other registered places of business of the said person shall become ineligible to pay tax under said scheme.*
- d. **all separately registered places of business** of such person shall pay tax under the Act on supply of goods or services or both made to **another registered place of business of such person** and issue a tax invoice or a bill of supply, as the case may be, for such supply.*
- e. A registered person opting to obtain separate registration for a place of business shall submit a **separate application in respect of such place of business**.*
- f. The provisions relating to the verification and the grant of registration shall be applicable here.*

D. IMP: Voluntary registration [Section 25(3)] 5 Marks

- ✓ A person who is not liable to be registered under section 22 or section 24 **may get himself registered voluntarily**. In case of voluntary registration, all provisions of this Act, **as are applicable to a registered person, shall apply to voluntarily registered person.**
- ✓ Voluntary registration is usually obtained by the business for ensuring **seamless flow of credit to their customers**.
- ✓ Voluntary registration is advantageous for the persons which supply of goods or services or both to registered persons. The reason for the same is that by virtue of section 9(4) of the CGST Act, in case of **notified supplies** received from unregistered supplier by **notified registered recipient**, recipient has to pay the tax under reverse charge.

Therefore, business units would prefer receiving supplies from the registered persons only. ***Thus, voluntary registration enables a supplier of goods or services or both to enhance its B2B [Business to Business] transactions.***

- ✓ However, once a person obtains voluntary registration, ***he has to pay tax even though his aggregate turnover does not exceed specified limit.***

E. Unique Identity Number (UIN) [Section 25(9) & (10) read with CGST Rules] 5 Marks

- ✓ Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person notified by the Commissioner, **is required to obtain a UIN from the GSTN portal.**
- ✓ This UIN is needed **for claiming refund of taxes paid on notified supplies of goods and/or services received by them**, and for such other purpose as may be notified.
- ✓ **UIN granted is a centralized UIN i.e. it shall be applicable to the territory of India.**
- ✓ The proper officer may, upon submission of an application in prescribed form or after filling up the said form **or after receiving a recommendation from the Ministry of External Affairs, Government of India**, assign a UIN to the said person and issue registration certificate within 3 working days from the date of submission of application.
- ✓ **A person having UIN is not registered person and thus, is not a taxable person.**

Registered Person: means a person who is registered under Section 25 **but does not include a person having a Unique Identity Number**

F. IMP: Suo-motu registration by the proper officer [Section 25(8) read with CGST Rules]

5 Marks Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, **such officer may register the said person on a temporary basis** and issue an order in prescribed form.

Such person shall either:

- a) submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration, or
- b) file an appeal against **such temporary registration**.

In case (b), if the Appellate Authority upholds the liability to registration, application for registration **shall be submitted within 30 days from the date of issuance of such order of the Appellate Tribunal**.

GSTIN thereafter granted shall be effective from the date of order of proper officer granting temporary registration.

G. Procedure for registration [Section 25 read with CGST Rules]

Provisions relating to procedure for application for registration, verification of the application and approval & issue of registration certificate are contained in the rules 8, 9 and 10 of the CGST Rules, 2017 respectively. The same have to be read in conjunction with section 25 provisions.

However, procedure so laid down will not apply to:

- ✓ Non-resident taxable person
- ✓ A person required to deduct tax at source under section 51
- ✓ A person required to collect tax at source under section 52
- ✓ A person supplying online information and database access or retrieval services from a place outside India **to a non-taxable online recipient** referred to in section 14 of IGST Act.

Procedure for registration prescribed under rules 8, 9 and 10 are **also applicable to a person paying tax under composition levy, every person seeking voluntary registration under section 25(3) as well as a Casual Taxable Person.**

Such persons shall apply for registration in **Form GST REG 01**. The application for registration in **FORM GST REG 01** is divided into two parts – Part A and Part B.

Rule 8 - Application for registration**1. Every person, other than**

- ✓ **a non-resident taxable person,**
- ✓ **a person required to deduct tax at source under section 51,**
- ✓ **a person required to collect tax at source under section 52 and**
- ✓ **a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 or a person supplying online money gaming from a place outside India to a person in India referred to in section 14A under the IGST Act, 2017**

who is liable to be registered under Section 25(1) and every person seeking registration under Section 25(3) shall, before applying for registration, declare his Permanent Account Number, ~~mobile number, e-mail address~~, State or UT in **Part A of FORM GST REG-01** on the common portal.

Note:

1. A person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer **shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone.**
 2. Every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.
-
2. The **Permanent Account Number** shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes **and shall also be verified through separate one-time passwords sent to the mobile number and e-mail address linked to the Permanent Account Number**
 3. On successful verification of the Permanent Account Number, mobile number and e-mail address, a **Temporary Reference Number (TRN)** shall be generated and communicated to the applicant on the said mobile number and e-mail address.
 4. Using the TRN generated above, the applicant shall electronically submit an application in **Part B of FORM GST REG-01**, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal.
 5. **Rule 8(4A):**
Where an applicant opts for authentication of Aadhaar number, he shall, while submitting the application, undergo authentication of Aadhaar number and the **date of submission of the application** in such cases shall be
 - a) the date of authentication of the Aadhaar number, or
 - b) 15 days from the submission of the application in Part B of FORM GST REG-01, whichever is earlier.

Provided that every application made by a person, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner and the application shall be deemed to be complete only after completion of the process laid down under this proviso.

[2nd Proviso to Rule 8(4A) - NN 13/2024 CT dated 10.07.2024] Provided further that every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has not opted for authentication of Aadhaar number, shall be followed by taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under section 25(6C) where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centers notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after successful verification as laid down under this proviso.

6. **Rule 8(4B):** The Central Government may, on the recommendations of the Council, by notification specify the States or Union territories wherein the proviso to sub-rule (4A) shall not apply.

Notification: Proviso to Rule 8(4A) are NOT applicable to all the states & UTs except the state of Gujarat, Puducherry & Andhra Pradesh.

Effective from 10.07.2024 (NN 13/2024 CT dated 10.07.2024); the Central Government, on the recommendations of the Council, hereby rescinds the above notification. It means biometric-based Aadhaar Authentication for GST registration, earlier implemented on a pilot basis in few states, has now been extended to the whole of India.

7. On receipt of an application, an acknowledgement shall be issued electronically to the applicant in **FORM GST REG-02**.
8. A person applying for registration as a casual taxable person **shall be given a temporary reference number** by the common portal **for making advance deposit of tax and the acknowledgement shall be issued electronically only after the said deposit**.

Rule 9 - Verification of the application and approval

1. The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of **7 working days** from the date of submission of the application.

“Provided that where-

- a. a person fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or
- b. a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- c. the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the registration shall be granted **within 30 days** of submission of application, after physical verification of the place of business ~~in the presence of the said person~~ in the manner provide under rule 25 and verification of such documents as the proper officer may deem fit.

2. Where the application submitted is **found to be deficient**, either in terms of any **information** or any **document** required to be furnished under the said rule, or where the proper officer **requires any clarification** with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in **FORM GST REG-03** within a period of **7 working days** from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in **FORM GST REG-04**, within a period of **7 working days** from the date of the receipt of such notice.

“Provided that where-

- a) a person fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or
- b) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- c) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in FORM GST REG-03 may be issued **not later than 30 days** from the date of submission of the application.”

Here, **‘clarification’ includes modification or correction of particulars declared** in the application for registration, **other than** Permanent Account Number and State declared in **Part A** of **FORM GST REG-01**.

3. Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of **7 working days** from the date of the receipt of such clarification or information or documents.

4. Where no reply is furnished by the applicant in response to the notice issued or where the proper officer is not satisfied with the clarification, information or documents furnished, he **may, for reasons to be recorded in writing, reject such application** and inform the applicant electronically in **FORM GST REG-05**.

5. **Deemed Approval of Application [Rule 9(5)]**

[5 Marks]

If the proper officer fails to take any action,-

(a) within a period of **7 working days** from the date of submission of the application in cases where the **physical verification of place of business is not required**; or

(b) within a period of **30 days from the date of submission** of the application in cases where the physical verification of place of business is required; or

(c) within a period of **7 working days from the date of the receipt** of the clarification, information or documents furnished by the applicant in Form GST REG-04,

the application for grant of registration shall be deemed to have been approved."

Issuance of registration certificate [Rule 10]

1. **[3 Marks]** Where the application for grant of registration has been approved under rule 9, a certificate of registration in **FORM GST REG-06** showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal and a **Goods and Services Tax Identification Number shall be assigned subject to the following characters, namely:-**

- a. **two characters** for the State code;
- b. **ten characters** for the Permanent Account Number or the Tax Deduction and Collection Account Number;
- c. **two characters** for the entity code; and
- d. **one checksum character**.

2. 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.**

3. Where an application for registration has been submitted by the applicant **after the expiry of 30 days** from the date of his becoming liable to registration, **the effective date of registration shall be the date of the grant of registration.**

4. Every certificate of registration shall be duly signed or verified through electronic verification code by the proper officer under the Act.

5. **Deemed registration:** Where the registration has been granted under rule 9(5), the applicant shall be communicated the registration number, and the certificate of registration, duly signed or verified through electronic verification code, **shall be made available to him on the common portal, within a period of 3 days after the expiry of the period specified in rule 9(5).**

Where an applicant submits application for registration	Effective date of registration is
Within 30 Days from the date he becomes liable to registration	<u>The date on which he becomes liable to Registration</u>
After 30 Days from the date he becomes liable to registration	<u>Date of Grant of Registration</u>

Example:

Sugam Services Ltd. is engaged in taxable supply of services in Madhya Pradesh. The turnover of Sugam Services Ltd. exceeded ₹ 20 lakh on 1st November. It is liable to get registered by 1st December [30 days] in the State of Madhya Pradesh. It applies for registration on 28th November and is granted registration certificate on 5th December. **The effective date of registration of Sugam Services Ltd. is 1st November.**

If Sugam Services Ltd. applies for registration on 3rd December and is granted registration certificate on 10th December. **The effective date of registration of Sugam Services Ltd. is 10th December.**

Grant of registration to non-resident taxable person [Rule 13]

1. A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code, **in Form GST REG-09, at least 5 days prior to the commencement of business** at the common portal either directly or through a Facilitation Centre notified by the Commissioner.

However, **in the case of a business entity incorporated or established outside India**, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

2. A person applying for registration as a non-resident taxable person **shall be given a temporary reference number** by the common portal for making an advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement shall be issued electronically only after the said deposit in his electronic cash ledger.
3. The provisions of rule 9 and rule 10 **relating to the verification and the grant of registration** shall, mutatis mutandis, apply to an application submitted under this rule.
4. The application for registration made by a non-resident taxable person shall be duly signed or verified through electronic verification code **by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.**

Rule 14: Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient or to a person supplying online money gaming from a place outside India to a person in India-

ONLY FOR READING & REFERENCE PURPOSE

- (1) Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient or any person supplying online money gaming from a place outside India to a person in India shall electronically submit an application for registration, duly signed or verified through electronic verification code, in **FORM GST REG-10**, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- (2) The applicant referred to in sub-rule (1) shall be granted registration, in **FORM GST REG-06**, subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.

Non-taxable online recipient" means any unregistered person (including a person registered under section 51 of the CGST Act, 2017) **receiving online information and database access or retrieval services located in taxable territory**

"Online information and database access or retrieval (OIDAR) services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply impossible to ensure in the absence of information technology **and includes electronic services such as, -**

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming, **excluding the online money gaming as defined in section 2(80B) of the CGST Act, 2017;**

Rule 10A - Furnishing of Bank Account Details [3 Marks]

After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, **shall within a period of 30 days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using invoice furnishing facility, whichever is earlier**, furnish information with respect to details of bank account on the common portal .

This relaxation is **not available** for those who have been granted registration as TDS deductor or TCS collector or who have obtained suo-motu registration.

Note:

If a person violates the provisions of rule 10A, his GST registration is liable to be cancelled [Rule 21]

Rule 10B: Aadhaar authentication for registered person**[5 Marks]**

The registered person, **other than a person notified under Section 25(6D)**, who has been issued a certificate of registration **shall, undergo authentication of the Aadhaar number of:**

- Proprietor, in the case of proprietorship firm, or
- Any partner, in the case of a partnership firm, or
- Karta, in the case of a Hindu undivided family, or
- Managing Director or any whole time Director, in the case of a company, or
- Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
- Trustee in the Board of Trustees, in the case of a Trust

and of the authorized signatory, in order to be eligible for the purposes as specified below

1. For filing of application for revocation of cancellation of registration in **FORM GST REG-21** under Rule 23
2. For filing of refund application in **FORM RFD-01** under rule 89
3. For refund under rule 96 of the integrated tax paid on goods exported out of India

[It is not mandatory for every authorized signatory, promoter or partner to get Aadhaar authenticated for an existing GST registration. The Aadhaar authentication will be needed only for 1 Primary Authorized Signatory and 1 Promoter/ Partner/ Karta/ Director/ Member.]

If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely:

- a. her/his Aadhaar Enrolment ID slip; and*
- b. (i) Bank passbook with photograph; or*
 - (ii) Voter identity card issued by the Election Commission of India; or*
 - (iii) Passport; or*
 - (iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988*

However, such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

Note:

The afore-said rule 10B shall not be applicable to persons notified under section 25(6D) of the CGST Act i.e. to persons exempt from aadhaar authentication.

Display of registration certificate and GSTIN on the name board [Rule 18]

[2 Marks]

Every registered person shall display his registration certificate in a prominent location at his PPoB and at every APoB. Further, his GSTIN **also has to be displayed on the name board** exhibited at the entry of his PPoB and at every APoB.

Physical verification of business premises in certain cases [Rule 25]**[3 Marks]**

- (1) Where the proper officer is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of 15 working days following the date of such verification.
- (2) Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to sub-rule (1) of rule 9, the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.

[SATC Note: Now, presence of the applicant is not required for physical verification]

Deemed Registration [Section 26]

- ☞ The grant of registration or UIN (Unique Identity Number) under the SGST Act / UTGST Act shall be deemed to be a grant of registration or the UIN under this Act subject to the condition that the application for registration or the UIN **has not been rejected under this Act within the time specified in Section 25(10)**.
- ☞ Any rejection of application for registration or the UIN under the SGST Act / UTGST Act shall be deemed to be a rejection of application for registration under this Act.

Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP)

Casual Taxable Person [2 Marks]: means a person who **occasionally undertakes transactions** involving supply of goods or services or both **in the course or furtherance of business**, whether as principal, agent or in any other capacity, **in a State/UT** where he has no fixed place of business.

Example: Krishnadev & Co., engaged in supplying taxable goods, is registered in Rajasthan. It wishes to participate in a 5 days' business exhibition being held in Delhi. However, it does not have a fixed place of business in Delhi. **In this case, Krishnadev & Co. has to obtain registration as a casual taxable person in Delhi.**

Non-Resident Taxable Person [2 Marks]: means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, **but who has no fixed place of business or residence in India.**

NOTE:

- ✓ A CTP does not have a fixed place of business in the State/UT where he undertakes supply **though he might be registered with regard to his fixed place of business in some other State/UT, while a NRTP does not have fixed place of business/residence in India at all.**
- ✓ A CTP has to undertake transactions **in the course or furtherance of business** whereas the **business test is absent in the definition of NRTP.**

Special Registration Provisions:

- A. Both CTP and NRTP have to compulsorily get registered under GST **irrespective of the threshold limit**, at least 5 days prior to commencement of business.
- B. As per section 25(6), every person must have a PAN to be eligible for registration. Since NRTP will generally not have a PAN of India, **he may be granted registration on the basis of other prescribed documents.**

[He has to submit a self-attested copy of his valid passport along with the application **signed by his authorized signatory who is an Indian Resident having valid PAN**. However, in case of a business entity incorporated or established outside India, the application for registration shall be submitted **along with its tax identification number or unique number** on the basis of which the entity is identified by the Government of that country or its PAN, if available.]

Application will be submitted by NRTP in a **different prescribed form** (Registration procedure is different for NRTP) whereas CTP will submit the application for registration in the **normal form** for application for registration i.e. **Form GST REG 01 and his registration of CTP will be a PAN based registration.**

C. [IMP] - Period of validity of registration certificate granted to CTP/NRTP 3 Marks

Registration Certificate granted to CTP/NRTP will be valid for:

- (i) Period specified in the registration application, or
- (ii) 90 days from the effective date of registration

whichever is earlier.

However, the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of 90 days by a further period not exceeding 90 days in case application is filed before the end of the validity of the registration granted.

D. CTP & NRTP will make taxable supplies only after the issuance of the Certificate of Registration.

E. CTP & NRTP cannot exercise the option to pay tax under composition levy [2 Marks].

Advance Deposit of Tax

At the time of submitting the registration application, CTP/NRTP are required to make an **advance deposit of tax in an amount equivalent to the estimated tax liability** of such person for the period for which the registration is sought.

Such person will get a TRN for making an advance deposit of tax which shall be credited to his electronic cash ledger. An acknowledgement of receipt of application for registration is issued only after said deposit.

Note:

Where **extension of time is sought**, such registered taxable person will deposit an **additional amount of tax equivalent to the estimated tax liability** of such person for the period for which the extension is sought.

Clarification on issues under GST related to casual taxable person

1. CBIC has clarified that the amount of advance tax, which a casual taxable person is required to deposit while obtaining registration **should be calculated after considering the due eligible ITC**, which might be available to such taxable person.
2. The Circular clarified that in case of long running exhibitions **(for a period more than 180 days)**, the taxable person **cannot be treated as a CTP** and thus such person would be required to obtain registration as a normal taxable person, subject to certain conditions as prescribed in the said circular.

AMENDMENT OF REGISTRATION [SECTION 28]

- (1) Every registered person and a person to whom a Unique Identity Number (UIN) has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and **within a period of 15 days of such change**
- (2) The proper officer may, on the basis of information furnished above **or as ascertained by him**, **approve or reject amendments** in the registration particulars in such manner and within such period as may be prescribed.

Approval of the proper officer shall not be required in respect of amendment of such **particulars as may be prescribed (non-Core Fields)**.

The proper officer shall not reject the application for amendment in the registration particulars **without giving the person an opportunity of being heard**.

- (3) Any rejection or approval of amendments under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

Important Point:

- a) 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.
- **Core fields of information (IMP) 3 Marks**
 - ✓ Legal Name of Business (Same PAN)
 - ✓ Address of **PPoB/APoB** (Same State)
 - ✓ Addition, Deletion or Retirement of partners or Directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or Equivalent, responsible for day to day affairs of the business
 - If PO is of the Opinion that documents furnished are complete/correct for amendments, the PO **shall grant permission within 15 working days** for amendment in registration certificate.
 - If PO is of the Opinion that amendment is unwarranted or documents furnished are incomplete/incorrect, **the PO within 15 working days of receipt of application**, will serve a SCN why application for amendment should not be rejected
 - If registered Person replies to the notice **within 7 working days & reply is satisfactory** the registration certificate will be amended
 - If reply is not received within 7 working days or reply is not satisfactory, **then application shall be rejected**.
 - Change of **legal name, constitutional changes like members/partners etc** shall be applicable for all registrations of a registered person obtained under provisions of this chapter on same PAN.

- Above Changes **does not warrant cancellation of Registration** under Section 29
 - Mobile No. / Email address of authorised signatory can be amended **only after online verification through GST Portal**
- b) 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.**
- c) **[3 Marks]** If the proper officer fails to take any action
- within a period of **15 working days** from the date of submission of the application, or
 - within a period of **7 working days** from the date of the receipt of the reply to the show cause notice,
- the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.**
- d) Any particular of the application for registration shall not stand amended with effect from a date earlier than date of submission of application for amendment on common portal **except with order of Commissioner for reasons to be recorded in writing** and subject to conditions specified by Commissioner in the said order.

NOTE:

1. 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.

Example:

Varun Enterprises, a sole proprietorship firm, is engaged in supply of electrical goods in Delhi. The firm is registered under GST. Varun is the proprietor of the firm. He wishes to expand his business and his friend Arun - approaches him to provide additional capital for his business if he is made a partner in Varun's business.

Varun agrees and changes the constitution of his business and form a partnership firm – Varun Arun & Co. Since the change in constitution of business from sole proprietorship firm to partnership firm results in change in PAN of the registered person, the partnership firm has to apply for fresh registration.

The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

2. Similarly, application for amendment of registration form **cannot be filled if there is change in place of business from one State to the other** because GST registrations are State-specific.

If one wishes to relocate his business to another State, he must voluntarily cancel his current registration and apply for a fresh registration in the State he is relocating his business.

Cancellation or Suspension of Registration [Section 29]

- (1) **[3 Marks]** The proper officer may, either on his own motion or on an application filed by the **registered person or by his legal heirs**, in case of death of such person, cancel the registration, in such manner & within such period as may be prescribed, having regard to the circumstances where:
- (a) the business has been **discontinued, transferred fully** for any reason including death of the proprietor, **amalgamated** with other legal entity, **demerged** or otherwise disposed of **OR**
 - (b) there is any **change in the constitution** of the business **OR**
 - (c) the **taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt-out of the registration voluntarily made under Section 25(3)**
- Provided that during the pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed**
- (2) **[5 Marks]** The proper officer **may cancel the registration** of a person **from such date, including any retrospective date**, as he may deem fit, **where, -**
- (a) a registered person **has contravened such provisions as may be prescribed in Rule 21.**
 - (b) a person paying tax under section 10 [Composition Levy] has **not furnished the return for a financial year beyond 3 months from the due date**
 - (c) any registered person, other than a person specified in clause (b), has **not furnished returns for such continuous tax period as may be prescribed.**
 - (d) any person who has taken voluntary registration under Section 25(3) **has not commenced business within 6 months from the date of registration**
 - (e) registration has been **obtained by means of fraud, wilful misstatement or suppression of facts**

The proper officer shall not cancel the registration without giving the person an opportunity of being heard.

During the pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed

- (3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder **for any period prior to the date of cancellation** whether or not such tax and other dues are determined **before or after** the date of cancellation.
- (4) The cancellation of registration under the SGST Act or the UTGST Act, as the case may be, **shall be deemed to be a cancellation of registration under this Act.**

(5) [Section 29(5)] **5 Marks:** Every registered person whose registration is cancelled **shall pay an amount**, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the

(a) credit of **input tax in respect of inputs** held in stock and inputs contained in semi-finished or finished goods held in stock **or capital goods or plant and machinery** on the day immediately preceding the date of such cancellation **OR**

(b) **the output tax payable on such goods**,

whichever is higher, calculated in such manner as may be prescribed.

In case of capital goods or plant and machinery, the taxable person shall pay an amount **equal to the ITC taken on the said CGs or P&M, reduced by such percentage points** as may be prescribed **(monthly basis - 60 months)** **OR** the tax on the transaction value of such **CGs or P&M** under section 15, **whichever is higher**.

Rule 20 - Application for cancellation of registration

A registered person, seeking cancellation of his registration under section 29(1) shall electronically submit an application in prescribed form (**FORM GST REG-16**), including therein the **details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock** on the date from which the cancellation of registration is sought, **liability thereon, the details of the payment, if any, made against such liability and may furnish, along with the application, relevant documents** in support thereof, at the common portal **within a period of 30 days of the occurrence of the event warranting the cancellation**, either directly or through a Facilitation Centre notified by the Commissioner:

Rule 21 - Registration to be cancelled in certain cases**[5 Marks]**

The registration granted to a person is liable to be cancelled, if the said person,-

- a. does not conduct any business from the declared place of business; or
- b. issues invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder; or
- c. violates the provisions of Section 171 of the Act or the rules made thereunder.
- d. violates the provision of Rule 10A.
- e. avails input tax credit in violation of the provisions of Section 16 of the Act or the rules made thereunder; or
- f. furnishes the details of outward supplies in FORM GSTR-1 **as amended in Form GSTR-1A** under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
- g. violates the provision of Rule 86B.
- h. violates the provisions of third or fourth proviso to Rule 23(1);**
- i. being a registered person required to file monthly return under section 39(1), has not furnished returns for a continuous period of 6 months;
- j. being a registered person required to file quarterly return, has not furnished returns for a continuous period of two tax periods;

Period & manner of Suspension of Registration [Rule 21A]**(1) Where registered person has applied for cancellation of registration:**

Where a registered person has applied for cancellation of registration, **the registration shall be deemed to be suspended from:**

- a) the date of submission of the application or
- b) the date from which the cancellation is sought, **whichever is later,**

pending the completion of proceedings for cancellation of registration.

(2) Where cancellation of the registration has been initiated by the Department on their own motion:

Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under Section 29 or under Rule 21, he may, ~~after affording the said person a reasonable opportunity of being heard,~~ suspend the registration of such person **with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration.**

(3) [4 Marks] [Rule 21A(2A)]

Where

- (a) a comparison of the returns furnished by a registered person under section 39 with the details of outward supplies furnished in FORM GSTR-1 **as amended in Form GSTR-1A, if any,** or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1 **or in FORM GSTR-1A of the previous tax period, if any,** or such other analysis, as may be carried out on the recommendations of the Council, show that there are **significant differences or anomalies** indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or

- (b) there is a contravention of the provisions of rule 10A by the registered person,

the registration of such person shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, **highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of 30 days,** as to why his registration shall not be cancelled.

(6) **[3 Marks] [Rule 21A(3)]** A registered person, whose registration has been suspended as above:

- ✓ **shall not make any taxable supply**

The expression “shall not make any taxable supply” shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

- ✓ **shall not be required to furnish any return under Section 39.**

- ✓ **shall not be granted any refund under section 54**

during the period of suspension of his registration

(7) **[Rule 21A(4)]** The suspension of registration shall be **deemed to be revoked upon completion of the cancellation** proceedings by the proper officer. Such revocation shall be effective from the date on which the suspension had come into effect.

“The suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.”

Provided further that where the registration has been suspended for contravention of the provisions contained in Section 29(2)(b) or 29(2)(c) and the registration has not already been cancelled, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.

Provided also that where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

(8) Where any order having the effect of revocation of suspension of registration has been passed, **the provisions of Section 31(3)(a) [Revised Invoice] and section 40 [First Return]** in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

Procedure for cancellation of registration [Rule 22]

- (1) Where the proper officer has **reasons to believe** that the registration of a person is liable to be cancelled under section 29, he **shall issue a notice** to such person, requiring him to show cause, **within a period of 7 working days from the date of the service of such notice**, as to why his registration shall not be cancelled.
- (2) The reply to the show cause notice shall be furnished in **prescribed form**.
- (3) Where a person who has submitted an **application for cancellation** of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order, **within a period of 30 days** from
- the date of application submitted or,
 - the date of the reply to the show cause notice
- cancel the registration, with effect **from a date to be determined by him** and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).
- (4) Where **the reply furnished in response to the notice issued** is found to be satisfactory, the proper officer shall drop the proceedings and pass an order.

However, where the person instead of replying to the **notice served for failure to furnish return**, **furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee**, the proper officer shall drop the proceedings and pass an order.

Revocation of Cancellation of Registration [Section 30 & Rule 23]

- (1) **[2 Marks]** A registered person, whose registration is cancelled by the proper officer on his own motion, may, subject to the provisions of Rule 10B, submit an application for revocation of cancellation of registration, in **FORM GST REG-21**, to such proper officer, within a period of 90 days from the date of the service of the order of cancellation of registration.

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

- (2) **No application for revocation shall be filed**, if the registration has been cancelled for the failure of the registered person to furnish returns, **unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.**

[3rd Proviso to Rule 23(1)] All returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration.

Note:

Common portal does not allow furnishing of returns for the period **after the effective date of cancellation**, but returns for the earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order) can be furnished after cancellation.

Where the registration is cancelled with effect from the date of order of cancellation of registration, person applying for revocation of cancellation has to furnish all returns due till the date of such cancellation before the application for revocation can be filed and has to pay any amount due as tax, in terms of such returns along with any amount payable towards interest, penalties or late fee payable in respect of the said returns.

However, since the portal does not allow to furnish returns for the period after the date of cancellation of registration, **all returns due for the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.**

Example: *The registration of Naman Associates was cancelled by the proper officer by an order dated 1st June for its failure to furnish returns. The registration was cancelled with effect from 1st June itself. It applied for revocation of cancellation of registration and the order for revocation of cancellation of Naman Associates is passed on 31st July. In this case, Naman Associates shall be required to furnish all the returns for the period from 1st June to 31st July within a period of 30 days from 31st July, i.e. by 30th August.*

(3) Where the registration has been cancelled with retrospective effect: [3 Marks]

Where the registration has been cancelled with retrospective effect, it is not possible to furnish the returns before filing the application for revocation of cancellation of registration. In that case, the application for revocation of cancellation of registration is allowed to be filed, subject to the condition that **all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration** [4th Proviso to Rule 23(1)]

Example:

The registration of Naman Associates was cancelled by the proper officer by an order dated 1st June for its failure to furnish returns. The registration was cancelled with effect from 1st January itself. It applied for revocation of cancellation of registration and the order for revocation of cancellation of Naman Associates is passed on 31st July. In this case, Naman Associates shall be required to furnish all the returns for the period from 1st January to 31st July within a period of 30 days from 31st July, i.e. by 30th August.

- (4) [2 Marks] Revoke the cancellation or Reject the application:** Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he **shall revoke** the cancellation of registration by an order in **FORM GST REG-22** **within a period of 30 days from the date of the receipt of the application** and communicate the same to the applicant.

“Such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.”

[Added by the Finance (No. 2) Act, 2024, Effective from 01.11.2024]

The proper officer may, **for reasons to be recorded in writing**, by an order in **FORM GST REG-05**, **reject the application** for revocation of cancellation of registration and communicate the same to the applicant.

(5) Opportunity of being heard:

The proper officer shall, before passing the rejection order, issue a notice in **FORM GST REG-23** requiring the applicant to show cause as to why the application submitted for revocation **should not be rejected** and the applicant shall furnish the reply in **FORM GST REG-24** **within a period of 7 working days** from the date of the service of the notice.

(6) Upon receipt of the information or clarification, the proper officer shall proceed to dispose of the application **within a period of 30 days** from the date of the receipt of such information or clarification from the applicant.

(7) The revocation of cancellation of registration under the State GST Act or the Union Territory GST Act, as the case may be, **shall be deemed to be a revocation of cancellation of registration under this Act.**

REGISTRATION

1. Mr. A has started supply of goods in Assam. He is required to obtain registration if his aggregate turnover exceeds _____ during a financial year.
 - a) ₹ 10 lakh
 - b) ₹ 40 lakh**
 - c) ₹ 30 lakh
 - d) ₹ 50 lakh
2. Aggregate turnover includes:
 - a) Taxable supplies
 - b) Exempt supplies
 - c) Exports
 - d) All of the above**
3. Which of the following persons are compulsorily required to obtain registration?
 - a) Persons making any inter-State taxable supply of goods
 - b) Non-resident taxable persons making taxable supply
 - c) Casual taxable persons making taxable supply
 - d) All of the above**
4. Which of the following persons are not liable for registration?
 - a) Any person engaged exclusively in supplying services wholly exempt from tax**
 - b) Casual Taxable Person
 - c) Both (a) and (b)
 - d) None of the above
5. Rohan Toys is a registered supplier of goods in Delhi. It intends to attend a 7 days' Business Fair organised in Mumbai (next month) where it does not have a fixed place of business. Examine which of the following statements are true for Rohan Toys:
 - a) Rohan Toys is not required to obtain registration in Mumbai for attending a 7 days' Business Fair.
 - b) Rohan Toys has to obtain registration as a casual taxable person for attending the Business Fair.**
 - c) Rohan Toys has to obtain a Unique Identification Number for attending the Business Fair.
 - d) None of the above
6. *Can a person having multiple places of business in a State obtain separate registrations for each place of business?*

Answer:

Yes. As per section 25, a person having multiple places of business in a State may obtain a separate registration for each place of business, subject to such conditions as may be prescribed.

7. *Determine the effective date of registration in following cases:*
 - (a) The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹ 40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.*
 - (b) Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.*

Answer:

- (a) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [₹ 40 lakh in this case] in a financial year [Section 22 read with Notification No. 10/2019 CT dated 07.03.2019]. Since in the given case, the turnover of Dhampur Industries exceeded ₹ 40 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration. **Therefore, the effective date of registration is 1st September.**

- (b) Since in the given case, the turnover of Mehta Teleservices exceeds the applicable threshold limit [₹ 20 lakh] on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. **Therefore, the effective date of registration is 5th December.**

8. Determine the effective date of registration under CGST Act in respect of the following cases with proper explanation:

- (i) The aggregate turnover of Varun Industries of Mumbai has exceeded ₹ 40 lakh on 1st August. Varun Industries manufactures LED TVs in Mumbai and sells them in Pune. It submits the application for registration on 20th August. Registration certificate granted on 25th August.
- (ii) Sweta InfoTech Services is the provider of internet services in Pune. Its aggregate turnover exceeds ₹ 20 lakh on 25th September. It submits the application for registration on 27th October. Registration certificate is granted on 5th November.

Answer:

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, 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:-

- (c) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
(d) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
(e) ₹ 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:-

- (a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
(b) ₹ 20 lakh for the rest of India.

As per rule 10, where a person submits the application for registration within 30 days of becoming liable for registration, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

In the light of the above provisions, in the given cases, the applicable turnover limit for registration will be ₹ 40 lakh and ₹ 20 lakh respectively in case (i) and (ii).

- (i) Since Varun Industries applied for registration within 30 days of becoming liable to registration, the effective date of registration is 1st August.
- (ii) Since Sweta InfoTech Services applied for registration after the expiry of 30 days from the date of becoming liable to registration, the effective date of registration is 5th November.

9. State the time-period within which registration needs to be obtained in each of the following independent cases:

- a) Casual taxable person
b) Person making inter-State taxable supply

Answer:

Section 25(1) of the CGST Act stipulates the time-period within which registration needs to be obtained in various cases. It provides the following time-limits:

In case of	registration needs to be obtained
a person who is liable to be registered under section 22 or section 24	within 30 days from the date on which he becomes liable to registration
a casual taxable person or a non-resident taxable person	at least 5 days prior to the commencement of business

In view of the aforesaid provisions:

- (a) A casual taxable person must obtain registration at least 5 days prior to the commencement of its business.
- (b) As per section 24 of the CGST Act, person making inter-State taxable supply is liable to get compulsorily registered. Therefore, such person must obtain registration within 30 days from the date on which he becomes liable to registration.

10. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

Answer:

A Permanent Account Number is mandatory to be eligible for grant of registration. **One exception to this is a non-resident taxable person.**

A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form.

11. State which of the following suppliers are liable to be registered:

- (a) **Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed the applicable threshold limit during the financial year.**

Answer:

Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit in a financial year. However, as per section 24, a person making taxable supply of goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered **even if its aggregate turnover does not exceed the applicable threshold limit during the financial year.**

- (b) **An agriculturist who is only engaged in supply of produce out of cultivation of land and its aggregate turnover exceeds the applicable threshold limit during the financial year.**

Answer:

As per section 23, an agriculturist who is only engaged in supply of produce out of cultivation of land is not required to obtain registration **even if his turnover exceeded the applicable threshold limit for registration.**

12. What are the advantage of taking registration in GST?

Answer:

- (a) Legally recognized as supplier of goods or services.
- (b) Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- (c) Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- (d) Become eligible to avail various other benefits and privileges rendered under the GST laws.

13. Can a person without GST registration collect GST and claim ITC?**Answer:**

No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

14. If a person is operating in different States, with the same PAN number, can he operate with a single registration?**Answer:**

No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and is liable to pay GST)

No. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation (and making taxable supplies) provided his aggregate turnover exceeds applicable threshold limit.

15. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?**Answer:**

Yes. In terms of section 25(3), a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

16. Can the Department, through the proper officer, suo-moto proceed to register of a person?**Answer:**

Yes. In terms of section 25(8), where a person who is liable to be registered under GST law fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as is prescribed in the CGST Rules, 2017.

17. Whether the registration granted to any person is permanent?**Answer:**

Yes, the registration certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

18. Is it necessary for the UN bodies to get registration under GST?**Answer:**

Yes. In terms of section 25(9) of the CGST Act, all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal.

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States.

This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

19. What is the responsibility of the taxable person making supplies to UN bodies?**Answer:**

The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices **and treat such supplies as supplies to another registered person (B2B).**

20. What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person?

Answer:

In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" **shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier.**

However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

21. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts?

Answer:

In such cases, the registration may be cancelled with retrospective effect by the proper officer [Section 29].

22. Is there an option to take centralized registration for services under GST Law?

Answer:

No, the taxpayer has to take separate registration in every State from where he makes taxable supplies

23. What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Answer:

The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from the date of such transfer or succession [Section 22(3)].

24. At the time of registration, will the assessee have to declare all his places of business?

Answer:

Yes. The principal place of business and additional place of business have been separately defined under the CGST Act respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

25. What will be the time limit for the decision on the on-line registration application (in case of successful Aadhaar Authentication)?

Answer:

If the information and the uploaded documents are found in order, the proper officer has to respond to the application **within 7 common working days.**

If he communicates any deficiency or discrepancy in the application within such time, then the applicant will have to remove the discrepancy / deficiency within 7 days of such communication.

Thereafter, for either approving the application or rejecting it, the proper officer has 7 days' time from the date when the taxable person communicates removal of deficiencies.

In case no response is given by the proper officer within the said time line, the portal shall automatically generate the registration.

26. What will be the time of response by the applicant if any query is raised in the online application?

Answer:

If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal **within 7 working days (or within 30 days in case Aadhaar authentication is not opted or fails to undergo such authentication).**

The applicant will reply to the query/rectify the error/ answer the query within a period of 7 working days from the date of receipt of deficiency intimation.

On receipt of additional document or clarification, the relevant tax authority will respond within 7 working days from the date of receipt of clarification

27. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

Answer:

Yes, as per section 29(5) of the CGST Act, every registered taxable person whose registration is cancelled **shall pay an amount**, by way of debit in the electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, **whichever is higher**.

In case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the ITC taken on the said CGs or P&M, reduced by such percentage points as may be prescribed or the tax on the transaction value of such CGs or P&M under section 15, **whichever is higher**.

28. Mr. C of Tripura is trading on his own goods and also acting as an agent of Mr. B. Mr. C turnover in the financial year is ₹ 12 lacs in his own account and ₹ 9 lacs on behalf of principal. Whether Mr. C is liable to register compulsorily under GST law.

Answer:

In computing the total turnover, both the value of supply on his own account that is ₹ 12 lacs and on behalf of principal ₹ 9 lacs will be aggregated. Hence, the aggregate turnover will be ₹ 21 lacs. Mr. C is liable to register compulsorily under the GST law.

Note: Exemption limit of ₹ 40,00,000 as provided in Notification No. 10/2019 CT Dated 07/03/2019 is not applicable to a person engaged in supply of goods in Tripura state.

29. Mr. Rajan (Telangana) is a farmer with an annual turnover in relation to agriculture of ₹ 18,00,000 lakh. Since this income is agriculture-related, the turnover is exempt from GST. However, Mr. Rajan also supplies plastic bags worth of ₹ 2,50,000 (taxable goods) along with his crop and charges separately for this. Mr. Rajan is required to register under GST? Advise.

Answer:

Mr. Rajan is required to register under GST because his aggregate turnover exceeds the threshold limit of ₹ 20 lakh.

Note: Exemption limit of ₹ 40,00,000 as provided in Notification No. 10/2019 CT Dated 07/03/2019 is not applicable to a person engaged in supply of goods in Telangana state.

30. Mr. X a dealer dealing with Intra State supply of goods and services has place of business in India furnished the following information in the financial year:

1. Sale of taxable goods by Head Office located in Chennai for ₹ 1,00,000
2. Supply of taxable services by Branch office at Bengaluru for ₹ 50,000
3. Supply of goods exempted from GST ₹ 10,000
4. Supply of services exempted from GST ₹ 2,00,000
5. Sale of goods acting as agent on behalf of principal for ₹ 15,00,000

Mr. X is required to register compulsorily under GST Law, advise.

Answer:

Statement showing aggregate turnover in a Financial Year

Particulars	Value in ₹
Sale of taxable goods by Head Office located in Chennai	1,00,000
Supply of taxable services by Branch office at Bengaluru	50,000
Supply of goods exempted from GST	10,000
Supply of services exempted from GST	2,00,000
Sale of goods acting as agent on behalf of principal	15,00,000
Aggregate turnover	18,60,000

Since, aggregate turnover does not exceeds ₹ 20 lakhs. Mr. X is not required to register under GST.

31. VERY IMP: Examine whether the supplier is liable to get registered in the following independent cases:-

- (i) Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is ₹ 28 lakh. He has another showroom in Tripura with a turnover of ₹ 11 lakh in the current FY.
- (ii) Pulkit of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is ₹ 22 lakh.
- (iii) Harshit of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹ 24 lakh.
- (iv) Ankit of Assam is exclusively engaged in intra-State supply of taxable services. His aggregate turnover in the current financial year is ₹ 25 lakh.
- (v) Sanchit of Assam is engaged in intra-State supply of both taxable goods and services. His aggregate turnover in the current financial year is ₹ 30 lakh.

Answer:-

As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019 CT dated 07.03.2019, 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:-

- (a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (c) ₹ 40 lakh for rest of India.

However, the higher threshold limit of ₹ 40 lakh is not available to persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes, Fly ash bricks or fly ash aggregate; Fly ash blocks; Bricks of fossil meals or similar siliceous earths; Building bricks and Earthen or roofing tiles.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- (a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the rest of India.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:-

- (i) Raghav is eligible for higher threshold limit of turnover for registration, i.e. ₹ 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to ₹ 10 lakh. Thus, Raghav is liable to get registered under GST as his turnover exceeds ₹ 10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.
- (ii) The applicable threshold limit for registration for Pulkit in the given case is ₹ 40 lakh as he is exclusively engaged in intra-State taxable supply of goods. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.
- (iii) Harshit being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of ₹ 40 lakh. The applicable threshold limit for registration in this case is ₹ 20 lakh. Thus, Harshit is liable to get registered under GST.
- (iv) Though Ankit is dealing in Assam, he is not entitled for higher threshold limit for registration as the same is applicable only in case of exclusive supply of goods while he is exclusively engaged in providing services. Thus, the applicable threshold limit for registration in this case is ₹ 20 lakh and hence, Ankit is liable to get registered under GST.
- (v) Since Sanchit is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in his case is ₹ 20 lakh. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.

32. **IMP:** M/s Moon Pvt. Ltd. incorporated in Chennai on 1st July 20XX has the following details for the year 20XX-XY:

S.No.	Particulars	Value (₹ in lacs)
(i)	Inter-State <u>exempted</u> supply of goods	4.0
(ii)	Intra-State supplies of services	5.0
(iii)	Non-taxable supplies	2.0
(iv)	Exempted supplies of services	0.60
(v)	Exempted supplies of goods (Intra)	7.0

M/s Moon Pvt. Ltd. is required to register compulsorily under GST Law, advise. Whether your answer is different if S.No. (i) above, inter-State taxable supply goods for ₹ 4 lacs.

Answer:

Aggregate turnover is as follows:

Particulars	Value (₹ in lacs)
(i) <i>Inter-State exempted supply</i> of goods	4.0
(ii) Intra-State supplies of services	5.0
(iii) Non-taxable supplies	2.0
(iv) Exempted supplies of services	0.60
(v) Exempted supplies of goods (Intra)	7.0
Aggregate turnover	18.60

Since, aggregate turnover of Moon Pvt. Ltd. does not exceeds ₹ 20 lakhs, registration is not compulsory in the financial year 20XX-XY. (In case of Inter-state exempted supply, Section 24 is not applicable)

In case of Inter State Taxable Supply of goods:

Yes. Our answer is different in the case of M/s Moon Pvt. Ltd. made inter state taxable supply of goods. As per Sec. 24 of the CGST Act, 2017 **Person making any inter-state taxable supply of goods is required to register under GST Law irrespective of his aggregate turnover.** Therefore, M/s Moon Pvt. Ltd. is required to register under GST Law.

33. Mr. Gold runs a retail shop for handmade jewellery and is registered in Chennai. Mr. Gold is planning to sell the jewellery at an exhibition in Mumbai, to be held from 1st January 20XX to 10th January 20XX. Advise time with regard to registration and payment of GST.

Answer:

Mr. Gold should apply for registration as a casual taxable person within 5 days prior to the date of commencing the exhibition on 1st January 20XX. Mr. Gold should also make an advance deposit of the estimated tax liability for the period from 1st January 20XX to 10th January 20XX.

34. M/s Siya Ram is a trader of decorative items in Hauz Khas, Delhi. His aggregate turnover exceeded ₹ 20 lakh in the month of October, 20XX. He applied for registration on GST portal, but missed to submit the details of his bank account. His tax consultant advised him that prior submission of bank details is mandatory to obtain registration. Examine whether the advice of Mr. Siya Ram's tax consultant is correct.

Solution:

The advice of Mr. Siya Ram's consultant that prior submission of bank details is mandatory to obtain registration is not valid in law.

Rule 10A allows the registered person to furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision, soon after obtaining certificate of registration and a GSTIN, but not later than ~~45 days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier.~~ **30 days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using invoice furnishing facility, whichever is earlier,**

This relaxation is however not available for those who have been granted registration as TDS deductor/ TCS collector or who have obtained suo-motu registration.

35. M/s X Ltd is an advertising company located in Chennai and is registered as a normal taxable person there. Now, they have secured an assignment to manage digital marketing for the Koti Deepothsavam Festival, which will take place in Hyderabad, Telangana. This will require M/s X Ltd. to displace some resources in Hyderabad until the festival is over. Advise M/s X Ltd. to obtain for separate registration in the State of Telangana.

Answer:

In this case, since M/s X Ltd does not have too many assignments coming from Hyderabad, they can register as a Casual Taxable Person in Telangana for 90 days.

36. **IMPORTANT** Discuss the circumstances where registration is liable to be cancelled. [AMENDED]

Solution:

Section 29(1) of the CGST Act, 2017 provides that the proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:

- (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
- (b) there is any change in the constitution of the business; or
- (c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt-out of the registration voluntarily made under Section 25(3)

Further, section 29(2) of the CGST Act, 2017 provides that the proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed (Rule 21); or
- (b) a person paying tax under section 10 [Composition Levy] has not furnished the return for a financial year beyond 3 months from the due date
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed.
- (d) any person who has taken voluntary registration under section 25(3) has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts

Further, the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

37. *Pure Oils, Delhi has supplied machine oil and high-speed diesel in the month of April as per the details given in table below. Pure Oils is not yet registered.*

SN	Particulars	Amount (₹)*
(i)	Supply of machine oil in Delhi	15,00,000
(ii)	Supply of high speed diesel in Delhi	10,00,000
(iii)	Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab	10,00,000

*excluding GST

Determine whether Pure Oils is liable for registration.

Answer:

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, 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:-

- (a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes, Fly ash bricks or fly ash aggregate; Fly ash blocks; Bricks of fossil meals or similar siliceous earths; Building bricks and Earthen or roofing tiles.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

- (a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 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'.

Section 9(2) provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47), exempt supply includes non-taxable supply. **Thus, supply of high speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.**

In the backdrop of the above-mentioned discussion, the aggregate turnover of Pure Oils for the month of April is computed as under:

SN	Particulars	Amount (₹)*
(i)	Supply of machine oil in Delhi	15,00,000
(ii)	Add: Supply of high speed diesel in Delhi	10,00,000
(iii)	Add: Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab	10,00,000
	Aggregate Turnover	35,00,000

Pure Oils is making exclusive supply of goods and hence the threshold limit for registration would be ₹ 40,00,000. Since the aggregate turnover does not exceed ₹ 40,00,000, Pure Oils is not liable to be registered.

38. **Imp:** What will be your answer if in question 37 above, in S. No. (ii), Pure Oils supplies the high speed diesel in Delhi in the capacity of an agent of Mixed Oils Ltd.?

Answer:

In case Pure Oils makes the supply in capacity of an agent of Mixed Oils Ltd.:

Section 24 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit. However, in the present case, if Pure Oils supply high speed diesel on behalf of Mixed Oil Ltd. in Delhi as its agent, it shall still not be liable to obtain registration in Delhi since section 24 comes into play only when agent is making taxable supply of goods on behalf of principal whereas in the given case, **Pure Oils is supplying non-taxable goods on behalf of Mixed Oils Ltd.**

39. Explain the registration requirements under GST law in the following independent cases:

- (i) Mr. Ahmad of Jammu engaged in the business of supplying tobacco based Pan Masala with an aggregate turnover of ₹ 24 lacs.
- (ii) Mr. Lepcha of Mizoram is engaged in the supply of papers with an aggregate turnover of ₹ 13 lacs.
Will your answer be different if Mr. Lepcha is located in Meghalaya?

Answer:

- (i) A person is eligible for enhanced threshold limit of ₹ 40 lakh in the State of Jammu and Kashmir if he is engaged exclusively in intra-State supply of goods.

However, the enhanced threshold limit is not applicable if the person is engaged, inter alia, in the supply of pan masala and Tobacco and manufactured tobacco substitutes. In that case, the normal threshold limit of ₹ 20 lakh will be applicable.

In view of said provisions, in the given case, Mr. Ahmad is liable to register since his aggregate turnover (₹ 24 lakh) exceeds the applicable threshold limit for registration of ₹ 20 lakh.

- (ii) The enhanced threshold limit of ₹ 40 lakh as applicable to a person engaged exclusively in intra-State supply of goods, is not applicable to Mizoram [a specified Special Category State]. Instead, a lower threshold limit of ₹ 10 lakh for registration is applicable for Mizoram.

Thus, in the given case, Mr. Lepcha of Mizoram is liable to register since his aggregate turnover (₹ 13 lakh) exceeds the applicable threshold limit for registration of ₹ 10 lakh.

The enhanced threshold limit of ₹ 40 lakh is also specifically not applicable in the State of Meghalaya. Instead, the normal threshold limit of ₹ 20 lakh for registration is applicable to it.

Therefore, if Mr. Lepcha is located in Meghalaya, he is not liable to register since his aggregate turnover (₹ 13 lakh) does not exceed the applicable threshold limit for registration of ₹ 20 lakh.

40. Examine, with reason, whether registration is required under CGST Act, 2017 in the following independent cases:

- (i) Aadhav Computers of Gujarat is providing Computer Maintenance Service. Aggregate turnover of Aadhav Computers is ₹ 15 Lakh which comprises both inter- state and intra-state supply.
- (ii) Soft Wings of West Bengal, exclusively trading in garments, supplies its taxable goods to various States in India. Aggregate turnover of Soft Wings is ₹ 35 Lakh.

Answer

- (i) Registration is compulsory for suppliers engaged in inter-State supply. However, threshold exemption of ₹ 20 lakh [₹ 10 lakh in case of Specified Special Category States] is available in case of **inter-State supply of taxable services**.

Therefore, Aadhav Computers (aggregate turnover ₹ 15 lakh) is not required to obtain registration as it is engaged in inter-State supply of taxable services and thus, is eligible for threshold exemption of ₹ 20 lakh applicable for Gujarat.

- (ii) The threshold limit for registration in the State of West Bengal for the persons engaged exclusively in supply of goods, is ₹ 40 lakh. However, registration is compulsory if the supplier is engaged inter-State supply of goods. The threshold exemption is not available in case of inter-State supply of taxable goods.

Thus, Soft Wings is required to obtain registration.

41. Examine the liability of compulsory registration under Section 24 of the CGST Act, 2017, in each independent cases mentioned below:

- (a) Meenu, a supplier in Maharashtra, (FREE PDF NOTES – 8527230445) is engaged in supply of potatoes within Maharashtra and also outside Maharashtra, whose turnover exceeds threshold limit under GST Law.
- (b) Jinu Oils, Gujarat, is engaged in supplying machine oil as well as petrol. Total turnover of machine oil is ₹ 35 lakh and of petrol is ₹ 15 lakh.
- (c) Tilu is working as an agent, he is supplying goods as an agent of Tiku (who is registered taxable person) and its aggregate turnover does not exceed ₹ 20 lakh during the financial year.

Answer

- (a) Section 24 of the CGST Act provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

However, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.

Assuming that Meenu is engaged in cultivation and supply of potatoes, she is not liable to registration of the fact that she is engaged in making inter-State supply and her turnover exceeds the threshold limit.

Note: Any person engaged exclusively in the business of supplying exempted goods is not liable to registration. Since potatoes are exempted goods, Meenu is not liable to obtain registration irrespective of the fact that she is engaged in making inter-State supply and her turnover exceeds the threshold limit.

- (b) Section 24 of the CGST Act specifies the categories of persons who are required to be mandatorily registered under GST irrespective of the quantum of their aggregate turnover.

In the given case, Jinu Oils does not fall in any of the specified categories. Therefore, it is not required to obtain registration compulsorily under GST.

However, as per Section 22 of the CGST Act, 2017 **read with Notification No. 10/2019 CT dated 07.03.2019**, if the aggregate turnover of the person making exclusive intra - State taxable supplies of goods in state Gujarat exceeds ₹ 40 lakhs in a financial year, is liable for registration.

Aggregate turnover includes exempted turnover of goods or services;

Accordingly, Jinu Oils is liable obtain registration on the basis of the turnover since its aggregate turnover [₹ 50 lakh - including turnover of exempt supply of petrol] exceeds the threshold limit of ₹ 40 lakhs.

- (c) Section 24 of the CGST Act provides that persons who make taxable supply of goods and/or services on behalf of other taxable persons whether as an agent or otherwise are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Therefore, Tilu will be mandatorily required to obtain registration.

42. Answer the following questions with respect to casual taxable person under the CGST Act, 2017 :

- (i) Who is a casual taxable person?
- (ii) Can a casual taxable person opt for the composition scheme?
- (iii) When is the casual taxable person liable to get registered?
- (iv) What is the validity period of the registration certificate issued to a casual taxable person?
- (v) Can the validity of registration certificate issued to a casual taxable person be extended? If yes, what will be the period of extension?

Answer

- (i) **Casual taxable person means** a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State/UT where he has no fixed place of business.
- (ii) No, a casual taxable person cannot opt for the composition scheme.
- (iii) A casual taxable person (CTP) is liable to obtain registration compulsorily under GST laws, at least 5 days prior to commencement of business.

However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category State) is available in case of CTP making taxable supplies of specified handicraft goods.

(iv) The registration certificate issued to a casual taxable person will be valid for:

- a) the period specified in the registration application, or
- b) 90 days from the effective date of registration
whichever is earlier.
- (v) Yes, the validity of registration certificate issued to a casual taxable person can be extended. It can be extended by a further period not exceeding 90 days.

43. State with brief reason, whether following suppliers of taxable goods are required to register under the GST Law :

- (i) **Mr. Raghav is engaged in wholesale cum retail trading of medicines in the State of Assam. His aggregate turnover during the financial year is ₹ 9,00,000 which consists of ₹ 8,00,000 as Intra-State supply and ₹ 1,00,000 as Inter-State supply.**
- (ii) **Mr. S.N Gupta of Rajasthan is engaged in trading of taxable goods on his own account and also acting as an agent of Mr. Rishi of Delhi. His turnover in the financial year is of ₹ 12 lakhs on his own account and ₹ 9 lakhs on behalf of principal. Both turnovers are Intra -State supply.**

Answer

- (i) Person making any inter-State taxable supply of goods is required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Thus, in the given case Mr. Raghav is required to obtain registration compulsorily under GST laws even though his aggregate turnover does not exceed the threshold limit.

- (ii) Persons who make taxable supply of goods on behalf of other taxable persons whether as an agent or otherwise are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

Aggregate turnover includes all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

Since Mr. S.N Gupta is also acting as an agent of Mr. Rishi of Delhi, he is required to obtain registration compulsorily under GST laws.

44. Determine with brief reasons, whether the following statements are True or False:

Registration under the CGST Act, 2017 can be cancelled by the proper officer, if the voluntarily registered person has not commenced the business within three months from the date of registration.

Solution:

The said statement is False.

Registration under the CGST Act, 2017 can be cancelled by the proper officer, if the voluntarily registered person has not commenced the business within six months from the date of registration.

45. State the persons who are not liable for registration as per provisions of Section 23 of Central Goods and Service Tax Act, 2017.

Solution:

As per provisions of Section 23 of CGST Act, 2017, the persons who are not liable for registration are as under—

- a) Person engaged exclusively in supplying goods/services/both that are wholly exempt from tax.
- b) Person engaged exclusively in supplying goods/services/both that are not liable to tax.
- c) Agriculturist to the extent of supply of produce out of cultivation of land.
- d) Persons only engaged in making supplies of taxable goods or services or both liable to reverse charge.
- e) Persons making inter-State supplies of taxable services up to an aggregate turnover of ₹ 20 lakh (₹ 10 lakh in case of notified special category States).
- f) Casual Taxable Persons making taxable supplies of specified handicraft goods up to an aggregate turnover of ₹ 20 lakh (₹ 10 lakh in case of notified special category States) subject to specified conditions.
- g) Persons making inter-State supplies of specified handicraft goods up to an aggregate turnover of ₹ 20 lakh (₹ 10 lakh in case of notified special category States) subject to specified conditions.
- h) Persons making supplies of services through an electronic commerce operator (other than supplies specified under section 9(5) of the CGST Act) up to an aggregate turnover of ₹ 20 lakh (₹ 10 lakh in case of notified special category States).
- i) **Persons making supplies of goods through an electronic commerce operator up to threshold limits.**

46. Mr. Allan, a non-resident person, wishes to provide taxable supply of goods. He has no fixed place of business or residence in India. He seeks your advise on the following aspects, relating to CGST Act, 2017:

- (i) **When shall he apply for registration?**
- (ii) **Is PAN mandatory for his registration?**
- (iii) **What is the period of validity of RC granted to him?**
- (iv) **Will he be able to extend the validity of his registration? If yes, what will be the period of extension?**

Solution:

- (i) Mr. Allan, being a non-resident person, should apply for registration, irrespective of the threshold limit, at least 5 days prior to the commencement of business

- (ii) No, PAN is not mandatory for his registration.

He has to submit a self-attested copy of his valid passport along with the application signed by his authorized signatory who is an Indian Resident having valid PAN.

However, in case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

- (iii) **Registration Certificate granted to Mr. Allan will be valid for:**

- a) Period specified in the registration application, or
- b) 90 days from the effective date of registration

whichever is earlier.

- (iv) Yes, Mr. Allan can get the validity of his registration extended. Registration can be extended further by a period not exceeding 90 days.

47.

- i. *There is a dairy farm selling milk and milk products in Delhi. The turnover of his dairy farm is as below*
Milk (Exempted) : ₹ 39,90,000
Butter (Taxable) : ₹ 50,000
- What is the registration liability under GST for the above mentioned person?*
- ii. *Amit, a taxable person, is operating in Tamilnadu, Punjab and West Bengal, with the same PAN. Can he operate with a single registration in West Bengal?*

Solution:

- (i) As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019 CT dated 07.03.2019, 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:-

- (a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.
- (b) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
- (c) ₹ 40 lakh for rest of India.

However, the higher threshold limit of ₹ 40 lakh is not available to persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes, Fly ash bricks or fly ash aggregate; Fly ash blocks; Bricks of fossil meals or similar siliceous earths; Building bricks and Earthen or roofing tiles.

Further, aggregate turnover, inter alia, means the aggregate value of all taxable supplies as well as exempt supplies.

Here Supplier is exclusively in supply of goods & located in Delhi. Hence, threshold limit of ₹ 40,00,000 is applicable.

Aggregate Turnover is
= ₹ 39,90,000 + ₹ 50,000
= ₹ 40,40,000

Since aggregate turnover of the dairy farm in Delhi exceeds ₹ 40 lakh, it is liable to get registered.

- (ii) No, Amit Cannot operate with a single registration in West Bengal if he is making taxable supplies from Tamilnadu and Punjab also. Every person who is liable to take a registration will have to get registered separately for each of the States where he has a business operation and is liable to pay GST.

However, if he is not making taxable supplies from Tamilnadu and Punjab, he can operate with a single registration in West Bengal.

48. List the inclusions and exclusions for computing the "Aggregate Turnover" under CGST Act, 2017.

Solution:

Aggregate turnover includes the aggregate value of all:

- (i) taxable supplies,
(ii) exempt supplies,
(iii) exports of goods and/or services and
(iv) inter-State supplies of persons having the same PAN , to be computed on all India basis

Aggregate turnover excludes: -

- (i) value of inward supplies on which tax is payable by a person on reverse charge basis,
(ii) central tax, State tax, Union territory tax, integrated tax and
(iii) cess

49. [Important] What is the difference between casual and non- resident taxable persons?

Solution:

Casual and Non-resident taxable persons are separately defined in the CGST Act in Sections 2(20) and 2(77) respectively. Some of the differences are outlined below:

Casual Taxable Person	Non-Resident Taxable Person
Occasionally undertakes transactions involving supply of goods or services or both in a State or Union territory where he has no fixed place of business.	Occasionally undertakes transactions involving supply of goods or services or both, but has no fixed place of business or residence in India.
Has a PAN Number	Do not have a PAN Number; A non- resident person, if having PAN number may take registration as a casual taxable person
Same application form for registration as for normal taxable persons.	Separate application form for registration by nonresident taxable person.
Has to undertake transactions in the course or furtherance of business	Business test is absent in the definition.
Can claim input tax credit of all inward supplies	Can get input tax credit only in respect of import of goods and /or services

50. **VERY IMPORTANT** Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of goods at multiple locations, i.e. in Himachal Pradesh, Uttarakhand and Tripura in the month of June.

It has furnished the following details relating to the sale made at such multiple locations for the month of June:-

Particulars	Himachal Pradesh	(₹)*	
		Uttarakhand	Tripura
Intra- State sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed deposits	-	-	60,000
Intra-State sale of non-taxable goods	-	21,00,000	40,000
* excluding GST			

With the help of the above mentioned information, answer the following questions giving reasons:-

- Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case.
- Explain with reasons whether your answer in (1) will change in the following independent cases:
 - If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh;
 - If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
 - If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also effected inter - State supplies of taxable goods amounting to ₹ 4,00,000.

Solution:

As per section 22 of the CGST Act, 2017 read with Notification No. 10/2019 CT dated 07.03.2019, 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) of the CGST Act, 2017, 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 the light of the afore-mentioned provisions, the 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 sale of taxable goods	22,50,000	-	7,00,000
Intra-State sale of exempted goods	-	-	6,00,000
Interest received from banks on the fixed deposits [Note-1]	-	-	60,000
Intra-State sale of non-taxable goods [Note-2]	-	21,00,000	40,000
Aggregate Turnover	22,50,000	21,00,000	14,00,000

Notes:

- Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt vide Notification No. 12/2017 CT (R) dated 28.06.2017. Since aggregate turnover includes exempt supply, interest received from banks on the fixed deposits, being exempt supply, is included in the aggregate turnover.
- As per section 2(47) of the CGST Act, 2017, 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.

In the given case, Mahadev Enterprises is engaged in exclusive intra -State supply of goods from Himachal Pradesh and Uttarakhand and in supply of both goods and exempted services from Tripura, the threshold limit for registration will be ₹ 40 lakh, ₹ 20 lakh and ₹ 10 lakh respectively.

Further, since Mahadev Enterprises also makes taxable supply of goods from one of the specified Special Category States (i.e. Tripura), the threshold limit for registration will be reduced to ₹ 10 lakh.

- Thus, in view of the above-mentioned provisions, Mahadev Enterprises is liable to be registered under GST law with the aggregate turnover amounting to ₹ 57,50,000 (computed on all India basis). The applicable threshold limit of registration in this case is ₹ 10 lakh.
- 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, the 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 of the CGST Act, 2017 requires compulsory registration irrespective of the quantum of aggregate turnover. Thus, Mahadev Enterprises will be liable to registration.

51. [AMENDED] 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 declared place of business; or
- (ii) issues invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder; or
- (iii) violates the provisions of Section 171 of the Act or the rules made thereunder.
- (iv) violates the provision of Rule 10A.
- (v) avails input tax credit in violation of the provisions of Section 16 of the Act or the rules made thereunder; or
- (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 his valid return under section 39 for the said tax periods; or
- (vii) violates the provision of Rule 86B.
- (viii) ***required to file monthly return under section 39(1), has not furnished returns for a continuous period of 6 months;***
- (ix) ***required to file quarterly return, has not furnished returns for a continuous period of two tax periods;***
- (x) ***paying tax under section 10 [Composition Levy] has not furnished the return for a financial year beyond 3 months from the due date***
- (xi) has not commenced business within 6 months from date of registration
- (xii) has obtained the registration by means of fraud, wilful misstatement or suppression of facts.

52. [Important] Happy Ltd. located at Alwar (Rajasthan), exclusively manufactures and sells the product "Shine & Shine", which is exempt from GST. Happy Ltd. sells "Shine & Shine" only within Rajasthan. The turnover of Happy Ltd. in the previous year was ₹ 60 lakhs. Happy Ltd. purchased additional machinery (Capital Goods) for manufacturing "Shine & Shine" on 1st April, 20XX. The invoice for supply of machinery also was issued on 1st April, 20XX. The purchase price of the machinery was ₹ 25 lakh exclusive of CGST and SGST @ 12% (6% + 6%). On 1st December, 20XX exemption available on the product "Shine & Shine" was withdrawn by the Central Government and CGST and SGST @ 18% (9% + 9%) was imposed thereon. The turnover of Happy Ltd. on 30th September, 20XX was ₹ 45 lakh.

Examine the issue and provide the answers (with supporting explanatory note for each answer) to the following:

- (i) Does Happy Ltd. have to register under CGST Act, 2017?
- (ii) ***[Refer ITC CHAPTER – SECTION 18] - Can Happy Ltd. take Credit of tax paid on the machinery purchased? If yes, what is the amount of Input Tax Credit (ITC) that can be availed?***

Answer

- i. As per section 22 of the CGST Act, 2017 **read with Notification No. 10/2019 CT dated 07.03.2019**, 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:-

(d) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

(e) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(f) ₹ 40 lakh for rest of India.

However, the higher threshold limit of ₹ 40 lakh is not available to persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa; Pan masala; Tobacco and manufactured tobacco substitutes; Fly ash bricks or fly ash aggregate; Fly ash blocks; Bricks of fossil meals or similar siliceous earths; Building bricks and Earthen or roofing tiles.

The term 'aggregate turnover' includes exempt turnover also. However, a person exclusively engaged in making exempt supplies is not liable to registration in terms of section 23(1) of CGST Act, 2017.

In view of combined reading of above provisions, although the 'aggregate turnover' of Happy Ltd. exceeds the applicable threshold limit of ₹ 40 lakh on 30.09.20XX [₹ 45 lakh], it was not required to be registered till 30.11.20XX as it supplied only exempted goods till that day.

Therefore, Happy Ltd. needs to register within 30 days from 01.12.20XX (the date on which its supplies became taxable) as its turnover had already exceeded the threshold limit of ₹ 40 lakh on 01.12.20XX.

- ii. **[ITC Chapter]** As per Section 17 of the CGST Act, the input tax credit (ITC) on capital goods used or intended to be used exclusively for effecting exempt supplies is disallowed. However, where an exempt supply **by a registered person** becomes a taxable supply, such person gets entitled to take proportionate ITC on such capital goods in terms of section 18(1)(d) of CGST Act, 2017. **Thus, a non-registered person cannot take ITC on capital goods under this provision.**

Further, a person who has applied for registration within thirty days from the date on which he becomes liable to registration and has been granted such registration **is also not entitled to take ITC on capital goods held with him on the day immediately preceding the date from which he becomes liable to pay tax in terms of section 18(1)(a) of CGST Act, 2017.**

In the given case, Happy Ltd. is not registered at the time when its exempt supply becomes taxable. **Thus, the company cannot take proportionate ITC on capital goods as mentioned above.** Further, the company will also not be entitled for credit on capital goods held with it when it applies for registration in the prescribed manner.

SUPPLY UNDER GST

The concept of 'Supply' is the key stone of the GST architecture. The provisions relating to meaning and scope of supply are contained in Chapter III of the CGST Act read with various Schedules given under the said Act.

Section 7 Meaning and Scope of Supply

Schedule I Matters to be treated as supply even if made without consideration

Schedule II Matters to be treated as supply of goods or as supply of services

Schedule III Matters or transactions which shall be treated neither as supply of goods nor as supply of services [Negative List]

Section 8 Taxability of Composite and Mixed Supplies

Section 7: Meaning and Scope of Supply**(1) [Section 7(1)] “Supply” includes- 5 Marks**

(a) **all forms of supply** of goods or services or both **such as** sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made **for a consideration** by a person **in the course or furtherance of business** [Section 7(1)(a)];

(b) *the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration”*

Clarification: *For the purposes of this clause, it is hereby clarified that, Notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;” [Section 7(1)(aa)]*

(c) import of **services** for a consideration **whether or not** in the course or furtherance of business [Section 7(1)(b)], and

(d) the activities specified in **Schedule I**, made or agreed to be **made without a consideration** [Section 7(1)(c)].

(1A) where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),-

(a) activities or transactions specified in **Schedule III (Negative List)**; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any Local Authority **in which they are engaged as public authorities**, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

A. The services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of the Constitution are treated neither as a supply of goods nor as a supply of service

B. Grant of alcoholic liquor licence:

Services by way of **grant of alcoholic liquor licence** by the State Governments are treated neither as a supply of goods nor as a supply of service

(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as-

- a. a supply of goods and not as a supply of services; or
- b. a supply of services and not as a supply of goods.

The meaning and scope of supply taxable under GST can be understood in terms of following parameters: **5 Marks**

1. Supply **should be of goods or services**. Supply of anything other than goods or services like money, securities etc. **does not attract GST**.
2. Supply should be **made for a consideration**.
3. Supply should be **made in the course or furtherance of business**.
4. Supply should be **made by a taxable person**.
5. Supply should be **a taxable supply**

Definitions - GOODS & SERVICES

Goods means every kind of movable property **other than money and securities** but includes **actionable claim**, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply [Section 2(52)] **[2 Marks]**

Services means anything **other than goods, money and securities** but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for **which a separate consideration is charged**

Explanation - For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities [Section 2(102)] **[2 Marks]**

Since securities are excluded from the definition of both ‘goods’ and ‘services’ in the CGST Act, they are neither goods nor services. However, facilitating or arranging transactions in securities is liable to GST.

Example: *If some service charges or service fees or documentation fees or broking charges or such like fees or charges are charged in relation to transactions in securities, the same would be a consideration for provision of service and chargeable to GST.*

CONSIDERATION

One of the essential conditions for the supply of goods and/or services to fall within the ambit of GST is that a supply is made for a consideration. However, consideration does not always mean money. It covers anything which might be possibly done, given or made in exchange for something else. Further, a consideration **need not always flow from the recipient** of the supply. It can also be made by a third person.

Consideration in relation to the supply of goods or services or both **includes:**

[5 marks]

- ✓ any payment made or to be made, whether in money **or otherwise**, in respect of, in response to, or for the inducement of, the supply of goods or services or both, **whether by the recipient or by any other person** but **shall not include any subsidy given by the Central Government or a State Government.**
- ✓ the **monetary value of any act or forbearance**, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person **but shall not include any subsidy** given by the Central Government or a State Government.

However, **a deposit** given in respect of the supply of goods or services or both **shall not be considered as payment** made for such supply **unless the supplier applies such deposit as consideration for the said supply**

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

Art works sent by artists to galleries for exhibition is not a supply - Circular

Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.

It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Donations received by charitable institutions from individual donors, without *quid pro quo*

An important feature of consideration is *quid pro quo* [something for something]. 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).**

Generally, institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. receive financial help or any other support in the form of donation or gift from the individual donors.

In order to express the gratitude towards such help/support, the recipient institutions place a name plate or similar such acknowledgement in their premises. **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).**

In other words, there is no obligation (*quid pro quo*) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

Some examples of cases where there would be no taxable supply are as follows:-

- 1. Bhushan donated a blackboard to Yoganisht Sansthan – a charitable yoga institution.** Yoganisht Sansthan printed underneath the blackboard so donated - "Good wishes from Mr. Bhushan".
- 2. Smt. Durga Devi donated some money to a temple in the memory of her late father.** The Temple Trust constructed a room in the temple complex from such donation and wrote "**Donated by Smt. Durga Devi in the memory of her father**" on the door floor of the room.

In above examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised.

Clarification on taxability of shares held in a subsidiary company by holding company
[READING PURPOSE ONLY]

The issue which arose for consideration is whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' and whether the same will attract GST or not.

It is clarified that securities are considered neither as goods nor as services in terms of definition of goods under section 2(52) and the definition of services under section 2(102). Further, securities include 'shares' as per definition of securities.

This implies that the securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services.

For a transaction/activity to be treated as supply of services, there must be a supply as defined under section 7. It cannot be said that a service is being provided by the holding company to the subsidiary company, **solely on the basis of holding securities of (or other equity interests in) companies and enterprises for the purpose of owning a controlling interest.**, unless there is a supply of services by the holding company to the subsidiary company in accordance with section 7.

Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

PERSON: includes [Section 2(84) of CGST Act]

- a. an Individual;
- b. a Hindu Undivided Family;
- c. a Firm;
- d. a Limited Liability Partnership;
- e. an Association of Persons or a Body of Individuals, whether incorporated or not, in India or outside India;
- f. a Company;
- g. any Corporation established by or under any Central Act, State Act or a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013;
- h. any Body Corporate incorporated by or under the laws of a country outside India;
- i. a Co-operative Society registered under any law relating to co-operative societies;
- j. Society as defined under the Societies Registration Act, 1860;
- k. Trust; and
- l. a Local Authority;
- m. Central Government or a State Government;
- n. every Artificial Juridical Person, not falling within any of the above.

IN COURSE OR FURTHERANCE OF BUSINESS**Section 2(17): Business includes –**

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, **whether or not it is for a pecuniary benefit**;
- (b) any activity or transaction in connection **with or incidental or ancillary to (a) above**;
- (c) any activity or transaction in the nature of (a) above, **whether or not there is volume**, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital assets and services in connection with **commencement or closure of business**;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits **to its members**, as the case may be;

A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.

- (f) admission, for a consideration, of persons **to any premises**;

Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.

- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and

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

'Totalisator' is a computerised device that pools the wagers/bets (after deduction of charges and statutory taxes) of various persons placing the bet and also divides the total wager amount to be distributed to the winning persons.

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

Note:

1. GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST.

Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of business.

2. Any activity undertaken in course / for furtherance of business would constitute a supply. **Since 'business' includes vocation, sale of goods or service even as a vocation is a supply under GST.**

Example:

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

SUPPLY BY A TAXABLE PERSON

A supply to attract GST should be made **by a taxable person**. Hence, a supply between two non-taxable persons does not constitute taxable supply under GST.

The restriction of being a taxable person is only on the supplier whereas the recipient can be either taxable or non-taxable. Further, there is no condition that supply needs to be made to another person, i.e. supplies made to self are also taxable

[As per Section 2(107) of the CGST Act, taxable person **means a person who is registered or liable to be registered under section 22 or section 24.**]

TAXABLE SUPPLY

For a supply to attract GST, the **supply must be taxable**. Taxable supply has been broadly defined and means any supply of goods or services or both which, **is leviable to tax under the GST Law**.

Exemptions may be provided to the specified goods or services or to a specified category of persons/entities making supply [Discussed in Chapter "Exemptions from GST"].

Importation of Services for Consideration whether or not in course or furtherance of business**3 Marks**

The meaning of 'supply' gets expanded significantly through the second part of section 7 i.e. 7(1)(b) which brings within the ambit of 'supply', **the importation of services for a consideration whether or not in the course or furtherance of business.**

This is the only exception to the condition of supply being in course or furtherance of business.

Example:

Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) **though it is not in course or furtherance of business.**

Supply without Consideration – Deemed Supply [Section 7(1)(c) & Schedule I]

As per Schedule I, in the following 4 cases, supplies made without consideration will be treated as supply under section 7 of the CGST Act: 4 Marks

1. **Permanent transfer or disposal of business assets** where input tax credit has been availed on such assets
2. **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.

Provided that **gifts not exceeding ₹ 50,000** in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. **Supply of goods** -
 - a. **by a principal to his agent** where the agent undertakes to supply such goods on behalf of the principal; or
 - b. **by an agent to his principal** where the agent undertakes to receive such goods on behalf of the principal.
4. **Import of services** by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business

ANALYSIS**I. Permanent Transfer/Disposal of Business Assets:**

Any kind of **disposal or transfer of business assets made by an entity on permanent basis** even though without consideration qualifies as supply.

(This clause is wide enough to cover transfer of business assets from holding to subsidiary company for NIL consideration.)

However, it is important to note that this provision would apply only if input tax credit has been availed on such assets.

Note:

Permanent transfer/disposal of following business assets, without consideration, **will not be covered within this para and thus will not be deemed as supply:**

- i. Business assets on which ITC is blocked/not available under GST
- ii. Business assets though eligible for ITC, ITC has not been availed by the registered person.

Examples:

- a) XYZ & Co. donates old laptops to Charitable Schools when new laptops are purchased by business **will qualify as supply** provided input tax credit has been availed by XYZ & Co. on such laptops.
- b) A cloth retailer gives clothes from his business stock to his friend free of cost. In this case, transfer of business stock **would amount to 'supply' if he had claimed input tax credit on his purchase of the business asset.**
- c) A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence. The transaction will constitute a supply as it is a permanent transfer/ disposal of business assets. **The only condition is that input tax credit should have been availed on such assets.**
- d) Dhruv gives old laptops being used in his business to his friend free of cost. **This will qualify as supply provided input tax credit has been availed by Dhruv on such laptops.**
- e) A dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle is blocked. **The transaction will not constitute a supply as the condition of availment of ITC on the business asset transferred is not fulfilled.**

II. Supply between related person or distinct persons:

Supply of goods or services or both ***between related persons or between distinct persons as specified in section 25***, will qualify as supply **provided it is made in the course or furtherance of business.**

Provided that **gifts not exceeding ₹ 50,000** in value in a financial year by an employer to an employee **shall not be treated as supply of goods or services or both**

Related persons:

Explanation to Section 15, related persons have been defined as follows:

(a) persons shall be deemed to be “related persons” if-

- i. such persons are officers or directors of one another's businesses;
- ii. such persons are legally recognised partners in business;
- iii. such persons are employer and employee;
- iv. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
- v. one of them directly or indirectly controls the other;
- vi. both of them are directly or indirectly controlled by a third person;
- vii. together they directly or indirectly control a third person; or
- viii. they are members of the same family;

FAMILY: means

(a) Spouse and Children of the person and

(b) the parents, grandparents, brothers & sisters of the Person if they are wholly or mainly dependent on the said person.

(b) the term “person” also includes legal persons;

(c) 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.**

Distinct Persons specified under Section 25

A person who has obtained/is required to obtain 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.**

Further, where a person who has obtained or is required to obtain registration in a State or Union territory **in respect of an establishment**, has an establishment in another State or Union territory, then **such establishments shall be treated as establishments of distinct persons.**

Example:

Rishabh Enterprises, a registered supplier, owns an air- conditioned restaurant in Virar, Maharashtra. It has opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Since supply of alcoholic liquor for human consumption in Uttarakhand is a non-taxable supply, Rishabh Enterprises is not required to obtain registration with respect to the same in Uttarakhand.

*In this case, air- conditioned restaurant in Maharashtra and liquor shop [though unregistered] in Uttarakhand **shall be treated as establishments of distinct persons. Supply by Maharashtra restaurant to Uttarakhand shop, in course or furtherance of business, even without consideration will qualify as supply.***

Stock transfers or branch transfers:

Transactions between different locations (**with separate GST registrations**) of same legal entity (eg., stock transfers or branch transfers) will qualify as 'supply' under GST

Example:

1. Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. **Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.**
2. Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business. Since no consideration is charged, supply of goods from factory to retail showroom in same State under single registration does not constitute supply.

Supply of goods or services or both between an employer and employee:

By virtue of the definition of related person given above, employer and employee are related persons. However, services provided by an employee to the employer in the course of or in relation to his employment are **not treated** as supply of services [**Schedule III of CGST Act**].

Gifts by employer to employee

Schedule I provides that gifts not exceeding ₹ 50,000 in value in a financial year by an employer to an employee **shall not be treated as supply of goods or services or both**. However, gifts of value more than ₹ 50,000 made without consideration are subject to GST, when made in the course or furtherance of business.

[The term 'gift' has not been defined in the GST law. **In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally.** It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.]

Note:

1. Services by an employee to the employer in the course of or in relation to his employment is **outside the scope of GST** (neither supply of goods or supply of services).
2. Supply by the employer to the employee ***in terms of contractual agreement*** entered into between the employer and the employee, **will not be subjected to GST**.

Example: As per terms of employment, if services such as membership of a club, health and fitness centre etc. are provided free of charge to all the employees by the employer, the same will not be subjected to GST. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to company

III. Supply of goods by a principal to his agent or vice-versa:

Agent: means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both **on behalf of another.**

Principal: means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both.

Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

Similarly, supply of goods by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.

Example:

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.

Supply of goods by ABC Manufacturers Ltd. to Raghav & Sons will qualify as supply even though Raghav & Sons has not paid any consideration yet.

Important: Supply of services between the principal and the agent and vice versa would require “consideration” to be considered as supply and thus, to be liable to GST.

In order to determine whether a particular principal agent relationship falls within the ambit of the “Para 3 of Schedule I” as discussed above or not, the deciding factor is whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not? In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

1. **VERY IMP:** Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of Para 3 above.
2. *However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Para 3 above.*
3. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by Para 3 above [GST Circular].

The above clarification can be understood with the help of following scenario examples:

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

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

- B. M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder.

In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, **Mr. B is not an agent of M/s XYZ for the supply of goods in terms of Para 3 of Schedule I.**

- C. Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. **The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder.**

In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. **This scenario is covered under Para 3 of Schedule I.**

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

- E. Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Para 3 of Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) **doesn't fall under the category of agent covered under Para 3.**

Scope of principal and agent relationship under Schedule I of CGST Act, 2017 in the context of del-credere agent

GST Circular

In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier. In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.

In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer.

Concerns have been expressed regarding the valuation of supplies from Principal to recipient where the payment for such supply is being discharged by the recipient through the loan provided by DCA or by the DCA himself.

Issues arising out of such loan arrangement have been examined and the clarifications on the same are as below:

S.No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	As already clarified, whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios: ➤ In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent. ➤ In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.

2	Whether the temporary short-term transaction based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) <u>where DCA is not an agent under Para 3 of Schedule I of the CGST Act?</u>	In such a scenario following activities are taking place: 1. Supply of goods from supplier (principal) to recipient; 2. Supply of agency services from DCA to the supplier or the recipient or both; 3. Supply of extension of loan services by the DCA to the recipient. It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply. Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier. Also, services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) has been exempted
3	Where DCA is an agent under Para 3 of Schedule I of the CGST Act <u>and</u> makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of goods being supplied, whether the interest will form a part of the	In such a scenario following activities are taking place: 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both; 4. Extension of credit by the DCA to the recipient. It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer <u>no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient.</u>

	value of supply of goods also or not?	<i>It is emphasised that the activity of extension of credit by the DCA to the recipient <u>would not be considered as a separate supply</u> as it is in the context of the supply of goods made by the DCA to the recipient.</i> <i>It is further clarified that the <u>value of the interest charged for such credit would be required to be included in the value</u> of supply of goods by DCA to the recipient as per clause (d) of sub-section (2) of section 15 of the CGST Act.</i>

IV. Import of services by a person from a related person outside India:**3 Marks**

Import of services by a person from a related person or from his establishments located outside India, **without consideration, in the course or furtherance of business** shall be treated as “supply”.

Example:

- (a) ABC Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services **free of cost** to its branch office.

Since ABC Associates and the branch office **are related persons**, services received by ABC Associates will qualify as supply even though the head office has not charged anything from it.

- (b) Sumedha, a proprietor registered in Delhi, has sought architect services from his dependent brother located in US, with respect to his newly constructed house in Delhi. Although services have been received by Sumedha without consideration from a related person, **yet it will not qualify as supply since the same has not been received in course or furtherance of business.**

Activities or Transactions to be treated as supply of goods or as supply of services [Schedule II]

Section 7(1A) of the Act refers to Schedule II for determining whether a particular transaction is a supply of goods or supply of service. This helps in mitigating the ambiguities which existed in earlier laws

Schedule II appended to the CGST Act enlists the matters/transactions to be treated as Supply of either goods or services. The matters listed out are primarily those which had been entangled in litigation in the earlier regime owing to their complex nature and susceptibility to double taxation.

These are as follows:- **5 Marks**

A.	Transfer of Title in goods	Supply of Goods
B.	Transfer of Right in goods/ undivided share in goods without transfer of title in goods	Supply of Services
C.	Transfer of Title in goods under an agreement which stipulates that property shall pass at a future date.	Supply of Goods
D.	Lease, tenancy, easement, licence to occupy land	Supply of Services
E.	Lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly (Lease rentals collected shall be taxable as supply of services under GST)	Supply of Services
F.	Treatment or Process applied to another person's goods ('Job Work' performed by a job worker like dyeing of fabric in various colours)	Supply of Services
G.	Goods forming part of business assets are transferred or disposed off by/under directions of person carrying on the business so as no longer to form part of those assets.	Supply of Goods
H.	Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business.	Supply of Services
I.	Goods forming part of assets of any business carried on by a person who ceases to be a taxable person shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person. (A, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him and GST shall be payable.) Exceptions: ➤ Business is transferred as a going concern to another person. ➤ Business is carried on by a personal representative who is deemed to be a taxable person	Supply of Goods

J.	(a) Renting of immovable property (b) Construction of complex, building, civil structure, etc. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. The term construction includes additions, alterations, replacements, or remodeling of any existing civil structure [Paragraph 5(b) of Schedule II] (c) Temporary transfer or permitting use or enjoyment of any intellectual property right (d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software (Supply of GST related software to businesses for smooth processing of returns and accounts is supply of service.) (e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. ➤ Cable operator – Sakharam has entered into an agreement with Cable operator - Aatmaram that Sakharam will not provide cable connections in the specified areas where Aatmaram is providing the connections. Non-compete agreements constitute supply of service. ➤ Late delivery charges recovered from supplier for non-fulfilment of contract within stipulated time. ➤ Notice pay recovered from employee for leaving the job before agreed period of notice for leaving a job. (f) Transfer of right to use any goods for any purpose	Supply of Services
K.	Following composite supplies:- ✓ <u>Works contract services</u> Works contract: means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.	Supply of Services

	✓ <u>Restaurant Services</u> Supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink [Paragraph 6(b) of Schedule II]	

CBIC has clarified Taxability of ‘Tenancy Rights’/‘Pagadi’ under GST as under:

Pagadi system, i.e. transfer of tenancy rights against tenancy premium, is prevalent in some States. 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, licence 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 since 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 para 5 of Schedule III. Thus, it is not a negative list activity and consequently, a consideration for the said activity shall attract levy of GST.

To sum up, transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST.

[GST Circular]

It is important to note that grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both **is exempt from tax.**

[In Pagadi system, the tenant acquires tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property, but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The **tenant also usually has the option to sell the tenancy right of the said property** and in such a case has to **share a percentage of the proceed with owner of land**, as laid down in their tenancy agreement. **Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated.]**

Negative List under GST [Section 7(2)(a) read with Schedule III]

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services [5 to 6 Marks]

- 1) Services **by an employee to the employer** in the course of or in relation to his employment.
- 2) Services **by any Court (SC, HC, District Court etc) or Tribunal** established under any law for the time being in force.
- 3)
 - (a) **Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;**
 - (b) **Duties performed by any person who holds any post in pursuance of the provisions of the Constitution** in that capacity; or
Example: Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity etc
 - (c) **Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority** and who is not deemed as an employee before the commencement of this clause.
- 4) Services of **funeral, burial, crematorium or mortuary including transportation** of the deceased.
- 5) **Sale of land** and, **subject to paragraph 5(b) of Schedule II, sale of building.**
- 6) *Actionable claims, **other than Specified Actionable Claims***

Thus, specified actionable claims qualify as supply. All other actionable claims are outside the ambit of definition of supply.

As per Section 2(102A), “specified actionable claim” means the actionable claim involved in or by way of

- i. betting;*
- ii. casinos;*
- iii. gambling;*
- iv. horse racing;*
- v. lottery; or*
- vi. online money gaming.*

For Reading Purpose:

As per Section 2(80A), **"Online gaming"** means offering of a game on the internet or an electronic network and includes online money gaming.

As per Section 2(80B), **"Online money gaming"** means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.

As per Section 2(117A), **Virtual digital asset** shall have the same meaning as assigned to it in section 2(47A) of the Income-tax Act, 1961.

"Virtual digital asset" means-

- (a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;
- (b) a non-fungible token or any other token of similar nature, by whatever name called;
- (c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify

Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein.

Note: "non-fungible token" means such digital asset as the Central Government may, by notification in the Official Gazette, specify;

Some of the other examples of actionable claims are: Right to recover insurance money, claim for arrears of rent, claims for future rents (if these can be assigned), unsecured loans, unsecured debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, right to the benefit of a contract, etc.

- 7) Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
- 8) (a) Supply of warehoused goods to any person before clearance for home consumption;
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.
- 9) Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.
- 10) Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

[Effective from 01.11.2024 - Amendment by the Finance (No. 2) Act, 2024]

SATC Note: The above amendment is NOT applicable for CA Inter May 2025 exam. However, this amendment is applicable for CA Inter Sept 2025/Jan 2026 Exam & CMA Inter June 2025/Dec 2025 Exam.

Important Points:

- i. Amounts received by an employee from the employer **on premature termination of contract** of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment.
- ii. Services **provided by casual worker** to employer who gives wages on daily basis to the worker are services provided by the worker in the course of employment.
- iii. Casual workers are **employed by a contractor**, like a building contractor or a security services agency, who deploys them for execution of a contract or for provision of security services to a client, respectively are services in the course of employment.
- iv. Only services that are provided by the employee to the employer in the course of employment are outside the ambit of supply. **Services provided outside ambit of employment for a consideration would qualify as supply.** For example, if an employee provides his services on contract basis to an associate company of the employer, then these are not services provided in the course of employment and thus, it would be treated as supply.

Similarly, **services provided on contract basis i.e. principal-to principal basis** are not services provided in the course of employment.

- v. Any **amount paid for not joining a competing business would be liable to be taxed** being paid for providing the service of forbearance to act.

Clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc.

As per Schedule III of the CGST Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services. Therefore, the sale of land does not attract GST.

*Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. **It is clarified that sale of such developed land is also sale of land and is covered by Schedule III and accordingly, does not attract GST.***

*However, it may be noted that **any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.***

ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company**[ONLY FOR READING PURPOSE]**

Some of the Indian companies provide the option to their employees for allotment of securities/shares of their foreign holding company as part of the compensation package as per terms of contract of employment. In such cases, on exercising the option by the employees of Indian subsidiary company, the securities/shares of foreign holding company are allotted directly by the holding company to the concerned employees of Indian subsidiary company **and the cost of such securities/shares is generally reimbursed by the subsidiary company to the holding company.**

In case where securities/shares of the foreign holding company are transferred to the employees of domestic subsidiary company **as Employee Stock Purchase Plan (ESPP) or Employee Stock Option Plan (ESOP) or Restricted Stock Unit (RSU)**, GST is not leviable on the compensation paid to the employee by the employer as per the terms of employment contract since, **the purchase or sale of securities/shares, in itself, is neither a supply of goods nor a supply of services.** Moreover, **the ESOP/ESPP/RSU is a part of remuneration of the employee by the employer as per terms of employment and is covered under Para 1 of Schedule III of the CGST Act.**

When **reimbursement** for transfer of securities/shares (which is neither in the nature of goods nor services) is done by domestic subsidiary company to foreign holding company on cost-to-cost basis, the **same cannot be treated as import of services** by the domestic subsidiary company from the foreign holding company **and hence, is not liable to GST.**

If the foreign holding company charges any additional fee, markup, or commission from the domestic subsidiary company for issuing ESOP/ESPP/RSU to the employees of the domestic subsidiary company, then the same shall be considered to be in nature of consideration for the supply of services of facilitating/arranging the transaction in securities/shares by the foreign holding company to the domestic subsidiary company. The GST shall be payable by the domestic holding company **on reverse charge basis** on such import of services from the foreign holding company.

Circular No. 213/07/2024 GST dated 26.06.2024

Define “Supplier” & “Recipient”

Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied

Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims

Recipient of supply of goods or services or both, means-

- (a) where a consideration is payable **for the supply of goods or services** or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable **for the supply of goods**, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the **supply of a service**, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

[Section 2(93) of the CGST Act, 2017]

COMPOSITE AND MIXED SUPPLIES [SECTION 8]

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:- **3 Marks**

- (a) a **composite supply** comprising two or more supplies, **one of which is a principal supply**, shall be treated as a supply of such principal supply; and
- (b) a **mixed supply** comprising of two or more supplies shall be treated as supply of that particular supply *that attracts highest rate of tax*.

Composite supply means a supply made by a taxable person to a recipient and comprises two or more taxable supplies of goods or services or both, or any combination thereof 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] - **2 Marks**

Principal Supply means 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.

Example: Suvarna Manufacturers entered into a contract with XYZ Ltd. for supply of readymade shirts packed in designer boxes at XYZ Ltd.'s outlet. Further, Suvarna Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.

Example: When a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.

Example: A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transport of passenger, constitutes the predominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

Works contract and restaurant services are classic examples of composite supplies. However, the GST law identifies both as supply of services and such services are chargeable to specific rate of tax mentioned against such services (works contract and restaurants).

How to determine whether the services are bundled in the ordinary course of business?

Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

- ✓ **The perception of the consumer or the service receiver** - If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- ✓ **Majority of service providers in a particular area of business provide similar bundle of services.**
For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- ✓ The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.

For example, service of stay in a hotel is often combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

- ✓ **Other illustrative indicators, not determinative but indicative of bundling of services in the ordinary course of business are:**
 - There is a single price or the customer pays the same amount, no matter how much package they actually receive or use.
 - The elements are normally advertised as a package.
 - The different elements are not available separately.
 - The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above. The above principles explained in the light of what constitutes a naturally bundled service can be gainfully adopted to determine whether a particular supply constitutes a composite supply under GST and if so what constitutes the principal supply so as to determine the right classification and rate of tax of such composite supply.

For instance, in case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, CBIC has clarified that the goods and services would be liable to tax at the rates as applicable to such goods and services separately

[GST Circular]

Further, given below is the illustrative list determining what constitutes the principal supply in the given composite supplies [GST Circular]

Activity/ transaction	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such printed goods	In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [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, letter cards, printed boxes, tissues, napkins, wall paper etc. 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.
Activity of bus body building	The principal supply may be determined on the basis of facts and circumstances of each case
Retreading of tyres	Pre-dominant element is process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods.

How to determine the tax liability on composite supplies? 2 Marks

A **composite supply** comprising of two or more supplies, one of which is a principal supply, shall be treated as a **supply of such principal supply**. Accordingly, the entire value of composite supply [i.e. main supply + ancillary supply(ies)] shall be classified under the category of main supply and shall be taxed at the GST rate applicable to the main supply.

This can be better understood with the help of following example:

Rati Computers supplies laptop (worth ₹ 52,000) alongwith laptop bag (worth ₹ 3,000) to a customer for ₹ 55,000. Being naturally bundled, supply of laptop bag along with the laptop is composite supply which is treated as the supply of the principal supply [viz. laptop]. Assuming that the rate of tax applicable on laptop is 18% and on laptop bag is 28%, **in the given case, rate of principal supply, i.e. laptop @ 18% will be charged on the entire value of ₹ 55,000**

Mixed Supply means: 2 Marks

- 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**

The individual supplies are independent of each other **and are not naturally bundled**. **A supply can be a mixed supply only if it is not a composite supply**. As a corollary (Finally) it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Example: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

Example: A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.

Example: A house is given on rent through a single rent deed - one floor of which is to be used as residence and the other for housing a printing press, at a lump sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supply.

Example: Srinagar Enterprises supplies 10,000 kits (at ₹50 each) amounting to ₹5,00,000 to Raghav General Store. Each kit consists of 1 shampoo, 1 face wash and 1 kajal pencil. It is a mixed supply and is treated as supply of that particular supply which attracts highest tax rate. Assuming that the rate of tax applicable on shampoo is 18%, on face wash is 28% and on kajal pencil is 12%, in the given case, highest tax rate [viz. face wash] @ 28% will be charged on the entire value of ₹ 5,00,000.

More than one supply made together and taxed at the individual rates [IMPORTANT]

There can be a case where an activity/transaction involves more than one supply of goods or services or both, **but neither they are composite supplies nor can be categorised as mixed supplies**, that is, all supplies carry independent significance.

In such a case, if separate consideration is indicated against each supply, each such supply shall be charged at the respective rate applicable to that particular supply.

Example: In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, **the goods and services would be liable to tax at the rates as applicable to such goods and services separately.**

Supply of food and beverages at cinema halls taxable as restaurant service

Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also.

The cinema operator:

- i. may run these refreshment/eating stalls/ kiosks/ counters/ restaurant themselves, or*
- ii. they may give it on contract to a third party.*

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

It is hereby clarified that:

- (i) supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:
 - a. the food or beverages are supplied by way of or as part of a service, and*
 - b. supplied independent of the cinema exhibition service.**
- (ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.*

Whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.

- **Doubts were raised on the applicability of GST on supply of electricity by the real estate companies, malls, airport operators etc., to their lessees or occupants.**
- **It is clarified that whenever electricity is being supplied bundled with renting of immovable property and/or maintenance of premises, as the case may be, it forms a part of composite supply and shall be taxed accordingly. The principal supply is renting of immovable property and/or maintenance of premise, as the case may be, and the supply of electricity is an ancillary supply as the case may be.**

Even if electricity is billed separately, **the supplies will constitute a composite supply and therefore, the rate of the principal supply** i.e., GST rate on renting of immovable property and/or maintenance of premise, as the case may be, would be applicable.

- **However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc., as a pure agent, it will not form part of value of their supply.**

Further, where **they charge for electricity on actual basis** that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, **they will be deemed to be acting as pure agent for this supply.**

Clarification on doubts related to treatment of sales promotion schemes under GST

It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products.

Taxability of two such schemes has been clarified as under:

A. Free samples and gifts:

*It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. **without charging any consideration.***

*As per section 7(1)(a) of the CGST Act, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made **for a consideration** by a person in the course or furtherance of business.*

Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the CGST Act).

*Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, **except where the activity falls within the ambit of Schedule I of the CGST Act.***

B. Buy one get one free offer:

Sometimes, companies announce offers like ‘Buy One, Get One free’. For example, “buy one soap and get one soap free” or “Get one tooth brush free along with the purchase of tooth paste”.

As per section 7(1)(a) of the CGST Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the CGST Act).

*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. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. **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 of the CGST Act.

[GST Circular]

Service by way of grant of alcoholic liquor licence is neither a supply of goods nor a supply of service

In terms of Section 7(2) of the CGST Act, the Government has notified the following activity or transaction undertaken by the State Governments in which they are engaged as public authorities, to be **treated neither as a supply of goods nor a supply of service**, namely:-

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

GST Circular has clarified that the above special dispensation applies **only to supply of service by way of grant of liquor licenses by the State Governments** as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

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

Clarification in respect of goods sent/ taken out of India for exhibition or on consignment basis for export promotion

As per section 7 of the CGST Act, for any activity or transaction to be considered a supply, it must satisfy twin tests namely-

1. it should be for a consideration by a person; and
2. it should be in the course or furtherance of business.

The exceptions to the above are the activities enumerated in Schedule I of the CGST Act which are treated as supply even if made without consideration.

Further, section 2(21) of the 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 the IGST Act deals with “Zero rated supply”. The provisions contained in the said section read as under:

“Zero Rated supply” means any of the following supplies of goods or services or both, namely:-

- a. export of goods or services or both; or
- b. supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Therefore, it can be concluded that only such “supplies” which are either “export” or are “supply to SEZ unit / developer” would qualify as zero-rated supply.

It is, accordingly, 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.

[GST Circular]

Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors

Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.

When the name of the donor is displayed in recipient institution 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). There is no obligation (*quid pro quo*) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

Some examples of cases where there would be no taxable supply are as follows:-

- i. "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- ii. "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

In each of these examples, it may be noticed that there is no reference or mention of any business activity of the donor which otherwise would have got advertised.

Thus, where all the three conditions are satisfied namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) **and not advertisement, GST is not leviable.**

[GST Circular]

Clarification on issue of GST on airport levies

Passenger service fee (PSF) is charged under rule 88 of Aircraft Rules, 1937 according to which the airport licensee may collect PSF from embarking passengers at such rates as specified by the Central Government. **According to the rule the airport licensee shall utilize the said fee for infrastructure and facilitation of the passengers.**

User development fee (UDF) is levied under rule 89 of the Aircraft rules 1937 which provides that **the licensee may levy and collect, at a major airport, the User Development Fee** at such rate as may be determined under clause (b) of sub-section (1) of section 13 of the Airports Economic Regulatory Authority of India Act, 2008. Though the rule does not prescribe the specific purpose of levy and whether it is to be charged from the airlines or the passengers, however, it is seen from section 2(n) of Airports Economic Regulatory Authority of India Act, 2008, that **the authority which manages the airport is eligible to levy and charge UDF from the embarking passengers at any airport.**

Further, Director General of Civil Aviation has clarified that in order to avoid inconvenience to passengers and for smooth and orderly air transport/airport operations, the UDF shall be collected from the passengers by the airlines at the time of issue of air ticket and the same shall be remitted to Airports Authority of India in the line system/procedure in vogue. For this, collection charges of Rs. 5/- shall be receivable by the airlines from AAI, which shall not to be passed on to the passengers in any manner.

The above facts clearly indicate that PSF and UDF are charged by airport operators for providing the services to passengers.

Section 2(31) of the CGST Act states that "consideration" in relation to the supply of goods or services or both includes any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person. **Thus, PSF and UDF charged by airport operators are consideration for providing services to passengers.**

Thus, services provided by an airport operator to passengers against consideration in the form of **UDF and PSF are liable to GST. UDF was also liable to service tax.**

The **airport operators shall pay GST** on the PSF and UDF collected by them from the passengers through the airlines. **Since, the airport operators are collecting PSF and UDF inclusive of GST, there is no question of their not paying GST collected by them to the Government.**

The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator and airlines shall be liable to pay GST on the same under forward charge. **ITC of the same will be available with the airport operator.**

[GST Circular]

Clarification on issue of GST on airport levies

It has been clarified that services provided by an airport operator to passengers against consideration in the form of user development fee (UDF) and passenger development fee (PSF) are liable to GST. PSF and UDF being charges levied by airport operator for services provided to passengers, are collected by the airlines as an agent and is not a consideration for any service provided by the airlines.

Thus, airline is not responsible for payment of GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules. It is the licensee, that is the airport operator which is liable to pay GST on UDF and PSF.

Airlines may act as a pure agent for the supply of airport services in accordance with rule 33 of the CGST rules.

Accordingly, the airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF.

The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers.

In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules.

The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.

[GST Circular]

Clarification regarding GST on payment of honorarium to the Guest Anchors

TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. **Services provided by the guest anchors in lieu of honorarium attract GST liability.**

However, guest anchors whose aggregate turnover in a financial year does not exceed ₹ 20 lakh (₹ 10 lakh in case of specified Special Category States) **shall not be liable** to take registration and pay GST.

NON-SUPPLIES CLARIFIED BY WAY OF CLARIFICATION

CBIC has clarified that following three activities/transactions are non supplies:

Grant of alcoholic liquor licence:

Services by way of grant of alcoholic liquor licence by the State Governments are treated neither as a supply of goods nor a supply of service. **Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called.**

This special dispensation is applicable **only to supply of service by way of grant of liquor licenses by the State Governments** as an agreement between the Centre and States. Hence, this is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

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

[GST Circular]

Inter-State movement of various modes of conveyance

Inter-State movement of various modes of conveyance, between distinct persons including-

- ✓ Trains,
- ✓ Buses,
- ✓ Trucks,
- ✓ Tankers,
- ✓ Trailers,
- ✓ Vessels,
- ✓ Containers,
- ✓ Aircrafts,

a. carrying goods or passengers or both; or

b. for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that **such inter-State movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.**

Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply. **However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance**

[GST Circular]

Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]

Above circular shall mutatis mutandis apply to **inter- State movement of rigs, tools and spares, and all goods on wheels [like cranes]**, [except in cases where movement of such goods is for further supply of the same goods], such inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.

In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, **is leviable on repairs and maintenance done for such goods**

[GST Circular]

Example:

Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.

Discuss the levability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India.

Solution:

As per section 25(4), 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 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, 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.

Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is 'neither a supply of goods nor supply of service'.

Salvage/wreck value earmarked in claim assessment of damage caused to motor vehicle

*In case of motor vehicle insurance provided by the insurance companies engaged in providing general insurance services, **such companies insure the cost of repairs/damages of motor vehicles incurred by the policyholders.***

In case a claim is made by an insurer for damage of the motor vehicle, while settling said insurance claim, where the general insurance companies, as per the pre-decided terms of the insurance contract:

- i. **deduct the value of salvage/wreckage of the motor vehicle as deductibles from the claim amount paid to the insured, the salvage remains the property of insured** and insurance companies are not liable to discharge GST liability on the same.
- ii. **do not deduct the value of salvage/wreckage of the motor vehicle and pay the full amount of insurance claim, the salvage becomes the property of the insurance company** and the insurance company will be obligated to discharge GST on supply of salvage to the salvage buyer.

Circular No. 215/9/2024 GST dated 26.06.2024

FEW CLARIFICATIONS THROUGH CIRCULARS

1. **Whether various perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are liable for GST**

Clarification: Schedule III to the CGST Act provides that “services by employee to the employer in the course of or in relation to his employment” **will not be considered** as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.

Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee **are in lieu of the services provided by employee to the employer in relation to his employment.**

It follows therefrom that **perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.**

2. **GST Circular - GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law – reg.**

“Agreeing to the obligation to refrain from an act or to tolerate an act or a situation, or to do an act” has been specifically declared to be a supply of service in Schedule II of CGST Act if the same constitutes a “supply” within the meaning of the Act.

The said expression has following three limbs: -

- a) **Agreeing to the obligation to refrain from an act:**

Example of activities that would be covered by this part of the expression would include non-compete agreements, where one party agrees not to compete with the other party in a product, service or geographical area **against a consideration paid by the other party.**

Another example of such activities would be a builder refraining from constructing more than a certain number of floors, even though permitted to do so by the municipal authorities, against a compensation paid by the neighbouring housing project, which wants to protect its sunlight, or an industrial unit refraining from manufacturing activity during certain hours **against an agreed compensation paid by a neighbouring school, which wants to avoid noise during those hours.**

- b) **Agreeing to the obligation to tolerate an act or a situation:**

This would include activities such as a shopkeeper allowing a hawker to operate from the common pavement in front of his shop against a monthly payment by the hawker, or an RWA tolerating the use of loud speakers for early morning prayers by a school located in the colony subject to the school paying an agreed sum to the RWA as compensation.

- c) **Agreeing to the obligation to do an act:**

This would include the case where an industrial unit agrees to install equipment for zero emission/discharge at the behest of the RWA of a neighbouring residential complex against a consideration paid by such RWA, even though the emission/discharge from the industrial unit was within permissible limits and there was no legal obligation upon the individual unit to do so.

A. Liquidated Damages

It is common for the parties entering into a contract, to specify in the contract itself, the compensation that would be payable in the event of the breach of the contract. **The taxability or otherwise of liquidated damages is clarified as under:**

*It is argued that performance is the essence of a contract. **Liquidated damages** cannot be said to be a consideration received for **tolerating the breach** or non-performance of contract. **They are rather payments for not tolerating the breach of contract.***

Payment of liquidated damages is stipulated in a contract to ensure performance and to deter non-performance, unsatisfactory performance or delayed performance. Liquidated damages are a measure of loss and damage that the parties agree would arise due to breach of contract. **They do not act as a remedy for the breach of contract. They do not restitute the aggrieved person.** A contract is entered into for execution and not for its breach. **The liquidated damages or penalty are not the desired outcome of the contract.**

*By accepting the liquidated damages, the party aggrieved by breach of contract **cannot be said to have permitted or tolerated the deviation or non-fulfilment of the promise by the other party.***

*Where the amount paid as 'liquidated damages' is an amount paid **only to compensate** for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases **liquidated damages are merely a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.***

Examples of such cases are:

1. damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright,
2. penalty stipulated in a contract for delayed construction of houses,
3. forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or by Government or local authority **in the event of a successful bidder failing to act after winning the bid, for allotment of natural resources.**

On the contrary, consider the following examples:

1. A contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty.
2. A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up.

3. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer.
4. A contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty.
5. Some banks similarly charge pre- payment penalty if the borrower wishes to repay the loan before the maturity of the loan period.

In the above examples, amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, **constitute consideration for the supply of a facility**, namely, of acceptance of late payment, early termination of a lease agreement, of prepayment of loan and of making arrangements for the intended supply by the tour operator respectively.

Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable.

Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply. Naturally, such payments will not be taxable if the principal supply is exempt.

B. **Cheque dishonor fine/ penalty**

The supplier wants payment to be received on time and does not want cheque to be dishonoured. There is never an implied or express offer or willingness on part of the supplier that he would tolerate deposit of an invalid, fake or unworthy instrument of payment against consideration in the form of cheque dishonour fine or penalty.

Cheque dishonor fine or penalty is not a consideration for any service and not taxable.

C. **Penalty imposed for violation of laws**

Penalty imposed for violation of laws such as traffic violations, or for violation of pollution norms or other laws **are also not consideration for any supply received and are not taxable.**

There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty. There cannot be such an agreement as violation of law is never a lawful object or consideration.

In short, fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations **are not leviable to tax.**

D. Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period

The provisions for forfeiture of salary or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period **are incorporated in the employment contract to discourage non-serious candidates from taking up employment.**

The said amounts are recovered by the employer **not as a consideration for tolerating the act** of such premature quitting of employment **but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation.**

Further, the employee does not get anything in return from the employer against payment of such amounts.

Therefore, such amounts recovered by the employer **are not taxable** as consideration for the service of agreeing to tolerate an act or a situation.

E. Late payment surcharge or fee

The facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier **naturally bundled with the main supply.** It is not uncommon or unnatural for customers to sometimes miss the last date of payment of electricity, water, telecommunication etc.

Almost all service providers across the world provide the facility of accepting late payments with late fine or penalty. Even if this service is described as a service of tolerating the act of late payment, **it is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply.**

F. Fixed charges for power

The price charged for electricity by the power generating companies from the State Electricity Boards (SEBs)/DISCOMS or **by SEBs/DISCOMs from individual customers** has two components, namely, a minimum fixed charge (or capacity charge) and variable per unit charge.

Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges **are charged for sale of electricity and are thus not taxable as electricity is exempt from GST.**

G. Cancellation charges

It is a common business practice for suppliers of services such as hotel accommodation, tour and travel, transportation etc. **to provide the facility of cancellation of the intended supplies within a certain time period on payment of cancellation fee.**

Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply and the costs involved in cancellation of the supply, such as in cancellation of reserved tickets by the Indian Railways.

Services such as transportation travel and tour constitute a bundle of services. The transportation service, for instance, starts with booking of the ticket for travel and lasts at least till exit of the passenger from the destination terminal.

The facilitation service of allowing cancellation against payment of cancellation charges is also a natural part of this bundle.

Therefore, facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply.

For example, cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class of travel (i.e., 5% GST on first class or air-conditioned coach ticket and nil for other classes such as second sleeper class). Same is the case for air travel.

Accordingly, the amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.

Important: However, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or such forfeiture by Government or local authority in the event of a successful bidder failing to act after winning the bid for allotment of natural resources, **is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money.** Forfeiture of earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract **but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders.** **Such payments being merely flow of money are not a consideration for any supply and are not taxable.**

3. No supply of service by the insured to the insurance company in lieu of 'No Claim Bonus (NCB)' offered by said insurance company to him

As per practice prevailing in the insurance sector, the insurance companies deduct 'No Claim Bonus' from the gross insurance premium amount, **when no claim is made by the insured person during the previous insurance period(s).**

The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy **and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of NCB.**

It is clarified that there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and therefore, NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company.

SUPPLY UNDER GST

- 1) Which of the following is not a supply as per section 7 of the CGST Act?
 - (a) Management consultancy services not in course or furtherance of business
 - (b) Import of service for consideration not in course or furtherance of business
 - (c) Both (a) and (b)
 - (d) None of the above
- 2) _____ specifies the activities to be treated as supply even if made without consideration.
 - (a) Schedule I of CGST Act
 - (b) Schedule II of CGST Act
 - (c) Schedule III of CGST Act
 - (d) All of the above
- 3) Which of the following activity is outside the scope of supply and not taxable under GST?
 - (a) Services by an employee to the employer in the course of or in relation to his employment
 - (b) Services of funeral
 - (c) Actionable claims, other than Specified Actionable claims.
 - (d) All of the above
- 4) Which of the following supplies are naturally bundled?
 - (a) Rent deed executed for renting of two different floors of a building-one for residential and another for commercial purpose to same person
 - (b) Pack of watch, tie and belt
 - (c) Package of canned food such as burger, chocolates, sweets, cake etc.
 - (d) None of the above
- 5) A _____ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts highest rate of tax.
 - (a) Composite
 - (b) Mixed
 - (c) Both (a) and (b)
 - (d) None of the above
- 6) Which of the following activities is a supply of services?
 - (a) Transfer of right in goods/ undivided share in goods without transfer of title in goods
 - (b) Transfer of title in goods
 - (c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.
 - (d) All of the above
- 7) What is the taxable event under GST?

Answer:

Taxable event under GST is **Supply** of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

- 8) What is the tax treatment of composite supply and mixed supply under GST?

Answer:

Composite supply shall be treated as **supply of the principal supply**. Mixed supply would be treated as supply of **that particular goods or services which attracts the highest rate of tax**.

- 9) Supply of all goods and/or services is taxable under GST. Discuss the validity of the statement.

Answer:

The statement is incorrect.



Supplies of all goods and services are taxable **except alcoholic liquor for human consumption and undenatured extra neutral alcohol [ENA] or rectified spirit used for manufacture of alcoholic liquor, for human consumption.**

Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable **with effect from a future date**. This date would be notified by the Government on the recommendations of the GST Council.

- 10) Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

Answer:

Title as well as possession **both have to be transferred** for a transaction to be considered as a supply of goods. **In case title is not transferred, the transaction would be treated as supply of service** in terms of Schedule II of the CGST Act.

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

- 11) Examine whether the following activities would amount to supply under Section 7 of the CGST Act:

- (a) Damodar Charitable Trust, a trust who gets the eye treatment of needy people done free of cost, donates clothes and toys to children living in slum area.
- (b) 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.
- (c) **IMPORTANT:** Raman is an Electronic Commerce Operator 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.
- (d) Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

Answer:

- (a) Section 7 of the CGST Act, inter alia, provides that supply must be made for a consideration **except the activities specified in Schedule I and in course or furtherance of business**. Since, both these elements are missing, donation of clothes and toys to children living in slum area **would not amount to supply** under section 7 of the CGST Act.
- (b) Schedule I of CGST Act, 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, where a person who has obtained or is required to obtain registration in a State in respect of an establishment, has an establishment in another State, then such establishments shall be treated as establishments of distinct persons [Section 25 of the CGST Act].

In view of the same, factory and depot of Sulekha Manufacturers are establishments of two 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 under Section 7** of the CGST Act. *Notes are compiled by SATC.*

- (c) Schedule I of CGST Act, inter alia, stipulates that import of services **by a 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, -

- a. the spouse and children of the person, and
- b. 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) 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 read with Schedule I of the CGST Act.

- (d) 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 **as although the same are provided in course or furtherance of business, such services have not been received from a related person**

12) State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:

- (a) Renting of immovable property
- (b) Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.
- (c) Transfer of right in goods without transfer of title in goods.
- (d) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Answer:

- (a) Supply of services
- (b) Supply of goods
- (c) Supply of services
- (d) Supply of goods

13) Determine whether the following supplies amount to composite supplies:

- (a) A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided along with the room accommodation.
- (b) A toothpaste company has offered the scheme of free toothbrush along with the toothpaste.

Answer:

Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are **naturally bundled and supplied in conjunction with each other**, in the ordinary course of business, **one of which is a principal supply**.

In view of the same,

- (a) since, supply of breakfast and dinner with the accommodation in the hotel **are naturally bundled**, said supplies qualify as ‘composite supply’.
- (b) since supply of toothbrush along with the toothpaste are **not naturally bundled**, said supplies **do not qualify as ‘composite supply’**.

- 14) Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.

Answer:

Supply of goods on hire purchase shall be treated as **supply of goods** as there is transfer of title, although at a future date.

- 15) **Important:** Akbar Travels Pvt. Ltd., a travel agent books ticket for a customer Mr. X. Travel agent raises invoice on customer Mr. X for transportation of passenger by air of ₹ 10,000 and his commission of ₹ 500.

The entire amount of ₹ 10,500 is not his consideration. The amount of ₹ 500 retained by the air travel is to be considered as his consideration.

- 16) M/s X Ltd., being an authorized dealer of the TATA brand, rendered services to buyer of car, but payment is made to authorized dealer by the TATA Company.

It is called as consideration is given by third person. Therefore, it is treated as supply of service and liable to tax in the hands of M/s X Ltd.

- 17) A Sports Club agrees to hire services of cricket player Mr. B for a consideration of ₹ 2 crores. In addition to this, the agreement provides that the player shall be provided with the car valued for ₹ 20 lakhs. The entire value of ₹ 2.20 crores will be considered as consideration and subject to tax.

- 18) Mr. X sells office furniture to Mr. Y on the condition that donation of ₹ 10,000 is payable by Mr. Y to a trust.

The amount of ₹ 10,000 is paid by Mr. Y is by reason of purchase of furniture. Hence, ₹ 10,000 will be treated as consideration for sale of furniture. Thereby Mr. X is liable to pay GST on ₹ 10,000 in addition to the value of furniture.

- 19) M/s Lakshman Ltd. agreed to sell its business to M/s Ram Ltd., for a consideration of ₹ 50,00,000. M/s Lakshman Ltd. further agrees that it will not conduct same or similar business for a period of 10 years, for which M/s Ram Ltd., paid ₹ 20,00,000. Hence, M/s Lakshman Ltd., consideration is ₹ 70,00,000.

- 20) **Imp:** Mr. Rajesh during long drive with his wife Manju violated traffic rules and was imposed fine of ₹ 1,000. The amount received as fine or penalty for violation of statutory provisions will not be considered as consideration.

- 21) The following generally not considered as consideration:

- Grant of pocket money
- Gift or reward (which has not been given in terms of reciprocity) or
- Amount paid on alimony for divorce

- 22) Subsidy given by the Government to benefit the farmers cannot be considered an additional consideration:

The Government provides subsidy, for the benefit of farmers but it is given to the manufacturer of fertilizers will not be considered as consideration.

- 23) X Ltd. supplied spare parts freely to replace during warranty period. Is it supply and chargeable to GST?

Answer:

It is not supply. GST is not chargeable if free replacement is provided by a business to customers without consideration under warranty.

- 24) Penalties levied on late or delayed payment of loans and advances are taxable supply?

Answer:

Yes. These are taxable under GST.

- 25) Online information and data base access or retrieval services, where import of free services from Google and Facebook by Mr. Ram located in India, without any consideration. Is it subject to GST?

Answer:

These are not considered as supply and hence not attract GST.

Note: GST will be levied only when services are provided with consideration.

- 26) Import (Downloading) of a song for consideration for personal use by Mr. Bharath. Is it supply of service?

Answer:

Yes. It is supply of service and IGST will be levied **unless it is exempt**.

Note: Services may be in the course or furtherance of business or not.

- 27) Mr. C of Chennai paid fees for on-line coaching obtained from a teacher located in USA for coaching of Accountancy course for his son. Is it supply. If so who is liable to pay GST.

Answer:

Yes, it is supply. Even if receipt of this service is not for business or furtherance of business.

However, Mr. C is not liable to pay GST under reverse charge mechanism as it is **exempt from GST**.

- 28) Ramesh Apparels in Chennai, Tamil Nadu, avails fashion designing services of ₹ 50,00,000 from Suresh Designs in Singapore. Is it supply. If so who is liable to pay GST.

Answer:

Yes. It is supply (i.e. import of service). *Notes are compiled by SATC.*

Ramesh Apparels in Chennai being recipient of service is liable to pay IGST.

- 29) Import of some services by an Indian branch from their parent company, in the course or furtherance of business, without consideration. Is it taxable supply in India?

Answer:

Yes. It is a taxable supply in India and hence IGST will be levied.

Note: Import of services **by a person from a related person** or from any of his other establishments outside India, in the course or furtherance of business will be subject to GST even if made without consideration.

- 30) X Ltd., upgrades the computer system. The existing computers and laptops, which do not support the upgraded version, **donated to a Trust**. This amounts to permanent transfer of business assets. The same will be treated as supply of goods and liable to GST in the hands of X Ltd., **provided if company availed input tax credit on such computers and laptops**.

- 31) M/s Peter England Pvt. Ltd., being a trader in clothes permanently transfers 50% of its stock to a Society free of cost. In this case, transfer of business stock would amount to **supply if the company had availed input tax credit on purchase of clothes**.

- 32) Mr. Raj purchased a car for personal use and after a year sold it to a car dealer for ₹ 2 lac. Will the transaction be a supply in terms of GST Act?

Answer:

This transaction is not a supply. Moreover, supply is made by the individual is not in the course or furtherance of business. Further, no input tax credit was admissible on such car at the time of its acquisition as it was meant for non-business use.

- 33) M/s A & Co., a sole proprietor, is in the business of selling furniture. Its owner took a set of furniture to furnish his house permanently. Will the transaction be a supply in terms of GST Act?

Note: ITC on such furniture not availed.

Answer:

No, the transfer of the furniture by the owner without consideration is not a supply of goods.

- 34) M/s B Ltd., is in the business of Hotel. He purchase AC for business purpose and after 2 years, he transfer the AC to director without consideration. Will the transaction be a supply in terms of GST ACT?

NOTE: AC machines on which ITC availed.

Answer:

Yes, it shall be a deemed supply (as per schedule I).

- 35) **Related Person:**

Any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them:

M/s Ram & Co., holds 30,000 shares in M/s X Ltd. and 25,000 shares in Y Ltd.

Share Capital of M/s X Ltd: 1,00,000 Equity Shares of ₹ 10 each.

Share Capital of M/s Y Ltd: 80,000 Equity Shares of ₹ 10 each.

Since, M/s Ram Ltd., holds more than 25% of the share in the company X Ltd and Y Ltd, they will be considered as related persons.

- 36) **Reliable** group has three companies namely M/s A Ltd., M/s B Ltd., and M/s C Ltd., as group companies and M/s Reliable Ltd., as a parent company. **M/s Reliable Ltd., holds 25% of the shares in each group company.**

Therefore, A, B & C companies will be considered as related persons.

- 37) **Raman & Co., (a firm) employer who represents his employee before the Income Tax authorities but does not charge any professional fee in respect of the same. Is it supply? Liable to GST?**

Answer:

It would constitute a taxable supply under GST and be subject to levy and collection of taxes. **Employer & employee is considered as related person and supply is taxable even if there is no consideration.**

- 38) **Pragyan has received a sum of ₹ 5,00,000 from his employer on premature termination of his contract of employment. Pragyan needs your advice as to whether such receipts are liable to GST.**

Answer:

It is not a supply. As per Section 7(2)(a) of CGST Act, 2017 supply excludes services provided by the employee to the employer in the course of employment (covered under Schedule III of CGST Act, 2017).

Hence, amounts so paid would not be chargeable to GST. *Notes are compiled by SATC.*

- 39) **Mr. Raju, an employee provides his service on contract basis to an associate company of Vikram Enterprises, the employer. The above activity is being carried out in lieu of specific monetary consideration. Is it supply?**

Answer:

Yes. It is supply of service. Since, Mr. Raju supplied services for consideration to associate company of Vikram Enterprises **but not to his employer.**

- 40) **Salary paid to partners by partnership firm is liable to GST?**

Answer:

No. It is not supply. **It is merely an appropriation of profit.**

- 41) **Mr. Ram, a Practicing Accountant, has a registered head office in Chennai. He has also obtained registration in the State of Andhra Pradesh in respect of his branch office.**

Mr. CMA Ram shall be treated as distinct persons in respect of registrations in Tamil Nadu and Andhra Pradesh. Transactions between head office and branch office will be considered as supply of service even though there is no consideration.

- 42) Mr. C of Chennai makes taxable supply of goods from Tamil Nadu exceeds ₹ 40 lakhs. Therefore, Mr. C will be required to obtain registration in Tamil Nadu. Such person may have establishment in the State of Telangana where no taxable supplies are made but only the establishment in Telangana helps in handling of materials like procuring and storing.

Hence, establishment in Tamil Nadu and establishment in Telangana will be considered as distinct person even when establishment in Telangana is not registered (Sec. 25(5) of CGST Act, 2017).

- 43) M/s Guideline Academy Pvt. Ltd., gives Diwali Gifts to each employee worth ₹ 75,000/-. Since, an employee and employer are considered to be related persons, such gift treated as supply and would be leviable to GST on the entire value.
- 44) Apte & Apte Ltd is located in India and holding 51% of shares of Wilson Ltd, a USA based company. Wilson Ltd provides Business Auxiliary Services to Apte & Apte Ltd. will be treated as supply.
- 45) Sparsh Ltd. of Mumbai imports business support services from its head office located in USA. The head office has rendered such services free of cost to its branch office.

Services received by Sparsh Ltd. will qualify as supply even though the head office has not charged anything from it. Notes are compiled by SATC.

- 46) Renting of vacant land to a stud farm for ₹ 1,50,000.

Answer:

It is supply of service. GST is liable to pay.

- 47) Leasing of vacant land to a poultry farm for ₹ 76,000. [Exemption Chapter]

Answer:

It is a supply of service. However, specifically exempted from GST. It is an agricultural activity.

- 48) M/s. ABC Ltd. provides the following relating to information technology software. Compute the value of taxable service and GST liability (Rate of CGST 9% and SGST 9%)?
- (a) Development and Design of information technology software: ₹ 15 lakhs;
- (b) Sale of pre-packaged software, which is put on media: ₹ 52 lakhs.

Answer:

(a) and (b) both are treated as supply of Service.

Value of Taxable supply of service is ₹ 67 Lakhs [i.e. ₹ 15 Lakhs + 52 Lakhs]

CGST is ₹ 6.03 lakhs

[i.e. ₹ 67 Lakhs x 9%].

SGST is ₹ 6.03 lakhs

[i.e. ₹ 67 Lakhs x 9%].

- 49) Shyam has given his tempos on hire to Mohan Brothers for transportation of foodstuff for ₹ 40,00,000. He has also transferred the right to use such tempos to Mohan Brothers. Discuss whether Shyam is liable to pay GST on the said transaction.

Answer:

It is treated as supply of service as title is not transferred. Shyam is liable to pay GST.

- 50) Booking of Air Tickets which involves cost of the meal to be provided during travel will be Composite supply and tax will be calculated on the principle supply which in this case is transportation passengers through flight.
- 51) M/s X Ltd. entered into a contract with M/s Y Ltd. for supply of goods. Where goods are packed and transported with insurance. The supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.

- 52) Mr. Ram being a dealer in laptops. Sold a laptop bag along with the laptop to a customer, for ₹ 55,000. CGST and SGST for laptop @18% and for laptop bag @28%. What would be the rate of tax leviable? Also find the GST liability.

Answer:

If the laptop bag is supplied along with the laptop in the ordinary course of business, **the principal supply is that of the laptop and the bag is an ancillary.**

Therefore, it is a composite supply and the rate of tax would that as applicable to the laptop. Hence, applicable rate of GST 18% on ₹ 55,000. CGST is ₹ 4,950 and SGST is ₹ 4,950

- 53) Diwali gift hamper which consist of different Items like sweets, chocolates, cakes, dry fruits packed in one pack is **Mixed supply as these items can be sold separately and it shall be treated as a supply of that particular item which attracts the highest rate of tax.**
- 54) M/s X Ltd. a dealer offer combo packs of shirt, watch, wallet, book and they are bundled as a kit and this kit is supplied for a single price and the supply of one item does not naturally necessitate the supply of other elements. **Hence the supply is a mixed supply.** Tax rate for a shirt, watch, wallet and book are 12%, 18%, 5% and Nil respectively. In this case, watch attracts the highest rate of tax in the mixed supply i.e., 18%. **Hence, the mixed supply will be taxed at 18%. Notes are compiled by SATC.**

- 55) Mr. A booked a Rajdhani train ticket, which includes meal. Is it composite supply or mixed supply?

Answer:

It is a bundle of supplies. **It is a composite supply where the products cannot be sold separately.** The transportation of passenger is, therefore, the principal supply. Rate of tax applicable to the principal supply will be charged to the whole composite bundle.

Therefore, rate of GST applicable to transportation of passengers by rail will be charged by IRCTC on the booking of Rajdhani ticket.

- 56) Big Bazar offers a free bucket with detergent purchased. Is it composite supply or mixed supply? Assume rate of GST for detergent @28% and bucket @18%.

Answer:

This is a mixed supply. These items can be sold separately.
Product which has the higher rate, will apply on the whole mixed bundle.

- 57) **IMPORTANT** - The temple of ancestral deity of Mr. Aman goel and his family is located at Beri, Haryana. The temple is run by a charitable organisation registered under section 12AB of the Income Tax Act, 1961. The family has got unshakeable faith in their ancestral deity. Mr. Aman is a big entrepreneur having flourishing business of tiles in Gurugram. Upon the birth of their first child, he donated ₹ 10 lakh to the said temple for construction of a sitting hall in the temple. On the main door of the sitting hall, a name plate was placed stating "Donated by Mr. Aman Goel upon birth of his first child".

You are required to examine the levability of GST on the donation received from Mr. Aman Goel?

Solution:

GST circular has that when the name of the donor is displayed in the religious institution premises, by placing a name plate or similar such acknowledgement, 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). There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service). Therefore, there is no GST liability on such consideration.

In the given case, there is no reference or mention of any business activity of the donor which otherwise would have got advertised. Thus, since the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement, hence GST is not leviable.

58) **IMPORTANT** - Examine whether the activity of import of service in the following independent cases would amount to supply under section 7 of the CGST Act, 2017?

- (i) Miss Shriniti Kaushik received vastu consultancy services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is ₹ 5,000 Australian dollar.
- (ii) Miss Shriniti Kaushik received vastu consultancy services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.
- (iii) Miss Shriniti Kaushik received vastu consultancy services for her business premises located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia). Further, Miss Shriniti did not pay any consideration for the said service.

Solution:

- (i) Supply, under section 7 of the CGST Act, 2017, inter alia,

- includes import of services for a consideration
- even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business, **as the vastu consultancy service has been availed in respect of residence, it would amount to supply.**

[Taxability - Even if it is treated as Supply, it is an exempted Supply as import of service is used by Individual for personal purpose.]

- (ii) **Section 7 of the CGST Act, 2017 read with Schedule I provides that** import of services by a 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.**

In the given case, import of service without consideration by Miss Shriniti from her brother – Mr. Varun [brother, being member of the same family, is a related person] **will not be treated as supply as it is not in course or furtherance of business.**

- (iii) Section 7 of the CGST Act, 2017 read with Schedule I provides that import of services by a 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.

Thus, import of service without consideration by Miss Shriniti from her brother – Mr. Varun **[brother, being member of the same family (assuming Mr. Varun is dependent), is a related person] will be treated as supply as she receives vastu consultancy service for her business premises, i.e. in course or furtherance of business.**

59) Sahab Sales, an air-conditioner dealer in Janakpuri, Delhi, needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air-conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017.

Further, a Janakpuri resident, Aakash, approached Sahab Sales. He sold an air-conditioner to Sahab Sales for ₹ 5,000. Aakash had bought the said air-conditioner six months before, for his residence.

Does sale of the air conditioner by Aakash to Sahab Sales amount to supply under section 7 of the CGST Act, 2017?

Solution:

Section 7 of the CGST Act, 2017 stipulates that in order to qualify as supply:

- (a) Supply should be of goods and/or services.
- (b) Supply should be made for a consideration.
- (c) Supply should be made in the course or furtherance of business. Follow us on Youtube – CA SURAJ AGRAWAL - SATC

Further, Schedule I of the CGST Act, 2017 illustrates the activities to be treated as supply even if made without consideration. One such activity is permanent transfer or disposal of business assets where input tax credit has been availed on such assets, i.e. said activity is to be treated as supply even if made without consideration.

In view of said provisions, permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence, though without consideration, would amount to supply.

However, sale of air-conditioner by Aakash to Sahab Sales **will not qualify** as supply under section 7 of the CGST Act, 2017 **as although it is made for a consideration, but it's not in the course or furtherance of business.**

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

Solution:

Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II of the CGST Act. *Notes are compiled by SATC.* In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

61) State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of CGST Act:

- i. Renting of immovable property
- ii. Transfer of right in goods without transfer of title in goods.
- iii. Works contract services
- iv. Temporary transfer of permitting use or enjoyment of any intellectual property right
- v. Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

Solution:

- i. Renting of immovable property would be treated as supply of services in terms of Schedule II of CGST Act, 2017.
- ii. As per Schedule-II of CGST Act, 2017, transfer of right in goods without transfer of title in goods would be treated as supply of services.
- iii. As per Schedule-II of CGST Act, 2017, works contract services would be treated as supply of services.
- iv. As per Schedule-II of CGST Act, 2017, temporary transfer of permitting use or enjoyment of any intellectual property right would be treated as supply of services.
- v. As per Schedule-II of CGST Act, 2017, transfer of title in goods under an agreement which stipulates that property shall pass at a future date would be treated as supply of goods. For free PDF – 8527230445.

62) Discuss the term 'composite supply' and its taxability under GST law.

Solution:

Composite supply means a supply made by a taxable person to a recipient and:

- comprises two or more taxable supplies of goods or services or both, or any combination thereof.
- 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 of the CGST Act].

Taxability:

A composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply [Section 8 of the CGST Act, 2017].

63) State the necessary elements for a supply to be chargeable to GST.**Solution:**

The following elements are required to be satisfied for a supply to be chargeable to GST, i.e.-

- a) the activity involves supply of goods or services or both;
- b) the supply is for a consideration unless otherwise specifically provided for;
- c) the supply is made in the course or furtherance of business;
- d) the supply is a taxable supply; and
- e) the supply is made by a taxable person

64) Modest Ltd., registered in Delhi dealing in supply of electronic items transferred some of its stock to its another unit located in Haryana (inter-state transfer). Whether such self-supplies are taxable under GST?**Solution:**

Yes, transfer of stock made by Modest Ltd. are taxable under GST. The definition of supply given under section 7 of CGST Act, 2017 is an inclusive one. It does not specify that supply is to be made by one person to the another. So, self-supplies are to be treated as supply in terms of section 7 of CGST Act.

Further, section 25(5) provides that where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Schedule I of CGST Act, 2017 inter alia provides that supply of goods between distinct persons as specified in section 25 made in the course or furtherance of business is to be treated as supply even if made without consideration. *Notes are compiled by SATC.*

Inter-state self-supplies such as stock transfers, branch transfers or consignment sales shall be taxable under IGST even though such transactions may not involve payment of consideration. Every supplier is liable to register under the GST law in the State or Union territory from where he makes a taxable supply of goods or services or both in terms of Section 22 of the CGST Act. **However, intra-state self supplies are not taxable subject to not opting for separate registration for each place of business**

65) “Diligent Force” a professional training institute gets its training material of “Aptitude 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.

Solution:

GST Circular has clarified that supply of books printed with contents supplied by the recipient of such printed goods, is composite supply and the 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 of the CGST Act 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. Contact through whatsapp 8527230445 for PDF notes.

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.

66) How the tax liability on composite and mixed supplies is determined under GST law? Answer in single sentence each.

Solution:

A composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply [Section 8 of CGST Act, 2017].

A mixed supply comprising of two or more supplies shall be treated as supply of that particular supply that attracts highest rate of tax in terms of [Section 8 of CGST Act, 2017].

67) Meghraj & Co. wishes to commence the business of supplying ready-made garments within Punjab and in the neighbouring States of Delhi and Haryana. Kindly state as to what is the taxable event under GST and levability of CGST, SGST/UTGST and IGST on the same?

Solution:

Taxable event under GST is supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

68) Damodar Private Ltd., registered in Delhi, has transferred some goods to its branch, registered in West Bengal, so that the goods can be sold from the branch. The goods have been transferred without any consideration. The company believes that the transaction undertaken by it does not qualify as supply as no consideration is involved. Ascertain whether the transfer of goods by Damodar Private Ltd. to its branch office qualifies as supply.

Solution:

As per Schedule I of the CGST Act, 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, is deemed as supply even if made without consideration. In the given case, since the Damodar Private Ltd. and its branch located in another State are distinct persons, supply of goods between them qualifies as supply.

69) Prithvi Associates is engaged in supply of taxable goods. It enquires from its tax advisor as to whether any activity can be treated as supply even if made without consideration in accordance with the provisions of the CGST Act. Enumerate such activities, if any.

Solution:

Section 7 stipulates that the supply should be for a consideration and should be in the course or furtherance of business. However, Schedule I of the CGST Act enumerates the cases where an activity is treated as supply, even if the same is without consideration. **These are as follows:**

- (i) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (ii) 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.

However, gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

(iii) Supply of goods —

- (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- (iv) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

70) Composite supply is treated as supply of that particular goods or services which attracts the highest rate of tax. Examine the validity of the statement.

Solution:

The statement is not correct. Composite supply is treated as supply of the principal supply. It is the mixed supply that is treated as supply of that particular goods or services which attracts the highest rate of tax.

- 71) Determine whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:
- Temporary transfer or permitting use or enjoyment of any intellectual property right.
 - Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.
 - Any treatment or process which is applied to another person's goods.
 - Transfer of title in goods.

Solution:

- Supply of services
- Supply of goods
- Supply of services
- Supply of goods

- 72) **[Important]** - Dumdum Electronics has sold the following electronic items to Akbar Retail Store.

- Refrigerator (500 litres) taxable @ 18%
- Stabilizer for refrigerator taxable @ 12%
- LED television (42 inches) taxable @ 12%
- Split air conditioner (2 Tons) taxable @ 28%
- Stabilizer for air conditioner taxable @ 12%

Dumdum Electronics has issued a single invoice, indicating price of each of the above items separately in the same. Akbar Retail Store has given a single cheque of ₹ 1,00,000/- for all the items as a composite discounted price. State the type of supply and the tax rate applicable in this case.

Solution:

In the given case, the items supplied by Dumdum Electronics are not naturally bundled in the ordinary course of business. Therefore, such supply is not a composite supply.

Further, although Akbar Retail Store has paid a composite discounted price for these goods, Dumdum Electronics has not charged a single price for the said supply. Therefore, said supply is also not a mixed supply.

Supply of these goods is, therefore, supply of individual items which are taxable at the respective rates applicable to them.

- 73) Manikaran, a registered supplier of Delhi, has supplied 20,000 packages at ₹ 30 each to Mukhija Gift Shop in Punjab. Each package consists of 2 chocolates, 2 fruit juice bottles and a packet of toy balloons. Determine the rate(s) of GST applicable assuming the rates of GST to be as under:

Goods/services supplied	GST rate
Chocolates	18%
Fruit juice bottles	12%
Toy balloons	5%

Solution:

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] and the rate of GST applicable on the package of ₹ 6,00,000 (20,000 × ₹ 30) is 18%

- 74) PTL Pvt. Ltd. is a retail store of merchandise located in 25 States/UTs in the country. For the purpose of clearance of stock of merchandise and to attract consumers, PTL Pvt. Ltd. launched scheme of "Buy One Get One Free" for the same type of merchandise, for instance, one shirt to be given free with purchase of one shirt. Determine how the taxability of the goods supplied under "Buy One Get One Free" scheme is determined.

Solution:

As per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) are not treated as “supply” except in case of activities mentioned in Schedule I of the CGST Act.

Under “Buy One Get One Free” scheme, 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. However, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. 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 accordingly.

- 75) **[Imp]** Sarvanna & Sons wishes to start supplying liquor in the State of Tamil Nadu. Therefore, it applies for license for selling liquor to the Tamil Nadu Government for it has charged specified fee from it. Examine whether the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons qualifies as supply.

Solution:

Services by way of grant of alcoholic liquor license by the State Governments have been notified to be treated neither as a supply of goods nor as a supply of service. Such licence is granted against consideration in the form of licence fee or application fee or by whatever name it is called.

This special dispensation is applicable only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and is not applicable/has no precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

Thus, in the given case, the grant of alcoholic liquor license by the Tamil Nadu Government to Sarvanna & Sons is neither a supply of goods nor a supply of service.

- 76) *Gagan Engineering Pvt. Ltd., registered in Haryana, is engaged in providing maintenance and repair services for heavy steel machinery. For carrying out the repair work, Gagan Engineering Pvt. Ltd. sends its container trucks equipped with items like repair equipments, consumables, tools, parts etc. from Haryana workshop to its own repairing centres (registered under GST law) located in other States across India where the clients' machinery are being brought and are being repaired.*

Discuss the levability of GST on the inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. in Haryana to its own repairing centres located in other States across India.

Solution:

As per section 25, 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 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, when made in the course or furtherance of business is one such activity included in Schedule I under para 2.

However, as per CBIC circular, the inter-State movement of various modes of conveyance including, *inter alia*, trucks, carrying goods or passengers or both or for repairs and maintenance, between ‘distinct persons’ as specified in section 25(4), not involving further supply of such conveyance, 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.

Thus, in the given case, inter-State movement of trucks from the workshop of Gagan Engineering Pvt. Ltd. located in Haryana to its repair centres located in other States is ‘neither a supply of goods nor supply of service’.

CHARGE OF GST

EXTENT & COMMENCEMENT OF CGST ACT

a) **Central Goods and Services Tax Act, 2017 extends** to the whole of India.

India means

- **territory of India** as referred to in Article 1 of the Constitution
- its **territorial waters [12NM]**,
- seabed and sub-soil underlying such waters,
- the **air space** above its territory and territorial waters
- **continental shelf, exclusive economic zone** or any other maritime zone as referred to in the **Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 [200 NM]**

b) **State GST law of the respective State/Union Territory with State Legislature extends** to whole of that State/Union Territory.

[State includes a Union Territory with legislature]

LEVY & COLLECTION OF CGST [SECTION 9 OF THE CGST ACT]

1. **[Section 9(1)]** Subject to the provisions of sub-section (2), there shall be levied a tax called the CGST on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption *and un-denatured extra neutral alcohol [ENA] or rectified spirit used for manufacture of alcoholic liquor, for human consumption,* on the Value determined u/s 15 and at such rates, not exceeding 20%, as may be notified by the Government on the recommendations of the Council & collected in such manner as may be prescribed and shall be paid by the taxable person.

[Effective from 01.11.2024 - Amendment by the Finance (No. 2) Act, 2024]

SATC Note: The above amendment is NOT applicable for CA Inter May 2025 exam. However, this amendment is applicable for CA Inter Sept 2025/Jan 2026 Exam & CMA Inter June 2025/Dec 2025 Exam.

2. **[Section 9(2)]** The central tax on the supply of Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as Petrol), Natural Gas and Aviation Turbine Fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
3. **[Section 9(3)]** The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both (*Here supplier may be register or unregistered*)
4. **[Section 9(4)]**
The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

5. [Section 9(5)] **5 Marks** The Government may, on the recommendations of the Council, by notification, ***specify categories of services***, the tax on intra-State supplies of which shall be ***paid by the electronic commerce operator if such services are supplied through it***, and all the provisions of this Act shall apply to ***such ECO as if he is the supplier liable for paying the tax in relation to the supply of such services***.

Where an ***ECO does not have a physical presence in the taxable territory***, any ***person representing*** such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Where an ***ECO does not have a physical presence in the taxable territory and also does not have a representative in the said territory***, such ECO shall ***appoint a person*** in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Tax payable by the ECO on notified services

The Government may notify **specific categories of services**, the tax on intra-State supplies (or inter-state supplies) of which **shall be paid by the electronic commerce operator (ECO)** if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

Following categories of services supplied through ECO are notified for this purpose:

- (a) services by way of **transportation of passengers by a radio-taxi**, motorcab, maxicab, **motor cycle or any other motor vehicle except omnibus**;

Radio taxi: means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

Maxi cab: means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward.

Motor cab: means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward.

Motor car: means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage.

- (b) **Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company**

[Here, “Omnibus” means any motor vehicle constructed or adapted to carry more than 6 persons excluding the driver]

- (c) services by way of **providing accommodation in hotels**, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, **except** where the person supplying such service through electronic commerce operator **is liable for registration under section 22(1) of the CGST Act**.

- (d) **services by way of house-keeping, such as plumbing, carpentering etc.**, **except** where the person supplying such service through electronic commerce operator **is liable for registration under section 22(1) of the CGST Act**.

Thus, when such services (**point ‘c’ & ‘d’**) are supplied through an ECO, CGST on the said supply shall be paid by the ECO **if the person supplying such service through ECO is not liable for registration under section 22(1) of the CGST Act**.

- (e) **IMP: supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises**

Note: Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹7,500 per unit per day or equivalent

GST on service supplied by restaurants through e-commerce operators**1. ECOs not to collect TCS in respect of restaurant services so notified**

ECOs will no longer be required to collect TCS and file Form GSTR-8 in respect of restaurant services on which it pays tax in terms of section 9(5).

2. ECOs not required to take separate registration for paying tax on restaurant service supplied through them

As ECOs are already registered in accordance with rule 8 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5).

3. ECO to pay tax on any restaurant services supplied through them

ECOs will be liable to pay GST on any restaurant service supplied through them **including by an unregistered person.**

4. Supply of restaurant services to be included in aggregate turnover of person supplying restaurant services through ECO

It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed in accordance with definition of aggregate turnover under section 2(6) and shall include the aggregate value of supplies made by the restaurant through ECOs.

Accordingly, for threshold consideration or any other purpose in the CGST Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover.

5. Restaurant services provided through ECO not to be considered as inward supply for ECOs liable to RCM

ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge) in Form GSTR-3B.

6. Reversal of proportionate ITC on input goods and services not required by ECO

[Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'?]

ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (ITC). The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. **Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5).**

It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO)

7. GST to be paid by the supplier on services not notified under section 9(5) of CGST Act but supplied through ECO

In respect of supplies not notified under section 9(5) but supplied through ECO, the liability to pay GST continues on such supplier and ECO shall continue to deposit TCS on such supplies.

8. Billing in case of 'restaurant service' and goods/services other than restaurant service being sold by a restaurant to a customer under the same order

There can a situation where 'restaurant service' and goods or services other than restaurant service are sold by a restaurant to a customer under the same order. The question arises as to who shall be liable for raising invoices in such cases.

Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the CGST Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies).

9. ECO to raise invoice in respect of restaurant service supplied through ECO

The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.

List of services taxable under reverse charge, i.e. the services where tax is payable by the recipient:

Notification No. 13/2017 CT (R) dated 28.06.2017 (amended time to time) has notified the **following categories of supply of services** wherein whole of the CGST shall be ***paid on reverse charge basis by the recipient of services***: [7 to 8 Marks]

S. No.	Category of Supply of <u>Services</u>	Recipient of <u>Services</u>
1.	Supply of services by a <u>Goods Transport Agency (GTA)</u> in respect of <u>transportation of goods by road</u> to a) any Factory registered under or governed by the Factories Act, 1948; or b) any Society registered under the Societies Registration Act 1860 or under any other law for the time being in force in any part of India; or c) any Co-operative Society established by or under any law; or d) any Person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or e) any Body Corporate established, by or under any law; or f) any Partnership Firm (including LLP) whether registered or not under any law including association of persons; or g) any Casual Taxable Person	Specified person located in the taxable territory. The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory <i>shall be treated as the person who receives the service</i> for the purpose of this notification.
	<u>Reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road where, -</u> A. the supplier has taken registration under the CGST Act, 2017 <u>and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge</u>; and B. the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates <u>and has made a declaration on such invoice issued by him.</u>"	

	<u>Reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to –</u> a) a Department/establishment of the Central Government/ State Government/ Union territory; or b) local authority; or c) Governmental agencies, which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services. It may be noted that the said services have been simultaneously exempted from payment of tax. Thus, there will be no tax liability in this case.	
2.	Services supplied by an individual advocate including a senior advocate or firm (including LLP) of advocates by way of legal services, directly or indirectly to any business entity located in the taxable territory “Legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.	Any business entity located in the taxable territory. The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
3.	Services supplied by an arbitral tribunal to a business entity.	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm (including LLP)	Any body corporate or partnership firm (including LLP) located in the taxable territory.

5.	Services supplied by the <u>Central Government, State Government, Union territory or local authority</u> to a business entity excluding- (i) ~~Services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority~~ <u>and the Ministry of Railways (Indian Railways)</u> (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers. (iv) Renting of Immovable Property	Any business entity located in the taxable territory.
6.	Services supplied by the Central Government [Excluding the Ministry of Railways (Indian Railways)], State Government, Union territory or local authority by way of renting of immovable property	A person <u>Registered</u> under GST.
7.	Service by way of renting of residential dwelling to a registered person	Any registered person
8.	<u>Services supplied by any unregistered person by way of renting of any immovable property other than residential dwelling to a registered person</u> <u>[Effective from 10.10.2024 - NN 09/2024 CT(R) dated 08.10.2024]</u>	Any registered person
9.	Services supplied by a director of a company/body corporate to the said company/body corporate	The company or a body corporate located in the taxable territory.
10.	Services supplied by an insurance agent to any person carrying on insurance business	Any person carrying on insurance business, located in the taxable territory

11.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company	A banking company or a financial institution or a nonbanking financial company, located in the taxable territory
12.	Supply of services by a an music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a <u>copyright covered under section 13(1)(a) of the Copyright Act, 1957</u> relating to original dramatic, musical or artistic works to a music company, producer or the like	Music Company, Producer or the like, located in the taxable territory.
13.	<i>Supply of services <u>by an author</u> by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub -section (1) of section 13 of the Copyright Act, 1957 relating to <u>original literary works to a publisher</u></i>	<i><u>Publisher</u> located in the taxable territory</i>
	<i>However, an author <u>can choose to pay tax under forward charge</u> if-</i> <i>i. he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services <u>and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</u></i> <i>ii. he makes a declaration on the invoice issued by him in prescribed form to the publisher.</i>	
14.	Services supplied <u>by the members of Overseeing Committee</u> constituted by the Reserve Bank of India to Reserve Bank of India	Reserve Bank of India
15.	Services supplied by Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership (LLP) firm to bank or non-banking financial company (NBFCs).	A banking company or a NBFC, located in the taxable territory

16.	Services provided by Business facilitator to a banking company	A banking company, located in the taxable territory
17.	Services provided by an agent of business correspondent to business correspondent	A business correspondent located in the taxable territory
18.	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter	Promoter
19.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Promoter
20.	Security services (services provided by way of supply of security personnel) <u>provided by any person other than a body corporate to a registered person</u> However, nothing contained in this entry shall apply to: i. (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or ii. a registered person paying tax under composition scheme.	A <u>Registered</u> person, located in the taxable territory

21.	Services provided by way of <u>renting of a motor vehicle designed to carry passengers</u> where the <u>cost of fuel is included in the consideration</u> charged from the service recipient, <u>provided to a body corporate</u> Supplier: Any person, other than a body corporate who supplies the service to a body corporate <u>and does not issue an invoice charging central tax at the rate of 6 percent</u> to the service recipient.	Any body corporate located in the taxable territory
22.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India, as amended Lender i.e., a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI.	Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI

Note:

- Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 **shall also be considered as a partnership firm or a firm.**
- Renting of immovable property means** allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property **and includes** letting, leasing, licensing or other similar arrangements in respect of immovable property.
- All the above services have also been notified for reverse charge under IGST Act.
- GTA services are taxable at the following two rates:**
 - @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) where GTA has not taken the Input Tax Credit (ITC) on goods or services used in supplying GTA service** (there can be either of the cases - where GTA exercises the option to itself pay GST at said rate or /does not exercise the option to itself pay GST at said rate, on services supplied by it) or
 - @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) where GTA exercises the option to itself pay GST at said rate on services supplied by it. In this case, there is no restriction on availing ITC on goods or services used in supplying GTA service by GTA.**
- Service 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 are taxable at the following two rates:**
 - @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business); or**

B. @ 12% (6% CGST+6% SGST/UTGST or 12% IGST) where supplier of services opts to pay GST at said rate. In this case, there is **no restriction on availing ITC** on goods or services used in supplying renting of motor vehicles service by the supplier of service

6. Provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament, State Legislatures, **Courts & Tribunals.**

Renting of any motor vehicle - RCM

Now there may arise a doubt as to whether RCM is applicable on:

- (i) service of renting of motor vehicle designed to carry passengers*
- or*
- (ii) service of transportation of passengers.*

It is clarified that there is a clear distinction between the two services which is as under:

A. The two services fall under two different headings in the Tariff.

B. (i) Services of renting of motor vehicles designed to carry passengers covers:

- *renting of motor vehicle*
- *for transport of passengers*
- *for a period of time*
- *where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.*

(ii) 'Passenger transport services' covers passenger transport services over pre-determined routes on pre-determined schedules.

Accordingly, where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under 'services of renting of motor vehicles designed to carry passengers', and the body corporate shall be liable to pay GST on the same under RCM.

Thus, reverse charge would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under 'passenger transport services' and the body corporate shall not be liable to pay GST on the same under RCM.

Clarification in respect of levy of GST on Director's remuneration**[GST Circular]**

1. Various references have been received from trade and industry seeking clarification whether the GST is leviable on Director's remuneration paid by companies to their directors. Doubts have been raised as to **whether the remuneration paid by companies to their directors falls under the ambit of entry in Schedule III of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) i.e. "services by an employee to the employer in the course of or in relation to his employment" OR whether the same are liable to be taxed in terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017.**
2. **The issue of remuneration to directors has been examined under following two different categories:**
 - (i) *leviability of GST on remuneration paid by companies to the independent directors defined in terms of section 149(6) of the Companies Act, 2013 or those directors who are not the employees of the said company; and*
 - (ii) *leviability of GST on remuneration paid by companies to the whole-time directors including managing director who are employees of the said company.*
3. *In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies the issue as below:*

Leviability of GST on remuneration paid by companies to the independent directors or those directors who are not the employee of the said company

The primary issue to be decided is whether or not a "Director" is an employee of the company. In this regard, from the perusal of the relevant provisions of the Companies Act, 2013, it can be inferred that:

- a) *the definition of a whole time-director the Companies Act, 2013 is an inclusive definition, and thus he **may be a person who is not an employee** of the company.*
- b) *the definition of "independent directors" under the Companies Act, 2013 makes it amply clear that **such director should not have been an employee** or proprietor or a partner of the said company, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed in the said company.*

*Therefore, in respect of such directors who are not the employees of the said company, the services provided by them to the Company, **in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable.***

In terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017, the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.

*Accordingly, it is hereby clarified that the **remuneration paid to such independent directors, or those directors, by whatever name called, who are not employees of the said company, is taxable in hands of the company, on reverse charge basis.***

4. Levability of GST on remuneration paid by companies to the directors, who are also an employee of the said company

Once, it has been ascertained whether a director, irrespective of name and designation, is an employee, **it would be pertinent to examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a “contract of service”) or is there any element of “contract for service”.**

The issue has been deliberated by various courts and it has been held that a director who has also taken an employment in the company may be functioning in dual capacities, namely, one as a director of the company and the other on the basis of the contractual relationship of master and servant with the company, i.e. under a contract of service (employment) entered into with the company.

It is also pertinent to note that similar identification and treatment of the Director’s remuneration is also present in the Income Tax Act, 1961 wherein the salaries paid to directors are subject to Tax Deducted at Source (‘TDS’) under Section 192 of the Income Tax Act, 1961 (‘IT Act’). However, in cases where the remuneration is in the nature of professional fees and not salary, the same is liable for deduction under Section 194J of the IT Act.

Accordingly, it is clarified that the part of Director’s remuneration which are declared as “Salaries” in the books of a company and subjected to TDS under Section 192 of the IT 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 of the CGST Act, 2017.

It is further clarified that the part of employee Director’s remuneration which is declared separately other than “salaries” in the Company’s accounts and subjected to TDS under Section 194J of the IT Act as Fees for professional or Technical Services shall be treated as consideration for providing services which are outside the scope of Schedule III of the CGST Act, and is therefore, taxable.

Further, in terms of notification No. 13/2017 – Central Tax (Rate) dated 28.06.2017, the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis.

Tax on services supplied by director of a company in his personal capacity such as renting of immovable property to the company/body corporate not payable under RCM

[GST Circular]

Tax on services supplied by director of a company/body corporate to the said company or the body corporate is payable by the company/body corporate under reverse charge mechanism (RCM).

It is hereby clarified that services supplied by a director of a company/body corporate to the company/body corporate in his private/personal capacity such as services supplied by way of renting of immovable property **are not taxable under RCM.**

Only those services supplied by director of company/body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be **taxable under RCM** in the hands of the company or body corporate under Notification No. 13/2017 CT(R) dated 28.06.2017.

Classification under GST**[Only for Reading Purpose]**

In order to determine the rate applicable on a particular supply of goods or services, one needs to first determine the classification of such goods or services. Classification of goods and services assumes significance since there are different rates prescribed for supply of different goods and services. Therefore, classification is crucial for determining the rate of tax applicable on a particular product or service.

Classification of goods

Classification of goods means **identification of the chapter, heading, sub-heading and tariff item in which a particular product will be classified.**

Chapter, heading, sub-heading and tariff item are referred in the Schedules of rate notification for goods under GST are the Chapter, heading, sub-heading and tariff item of the First Schedule to the Customs Tariff Act, 1975. Indian Customs Tariff is based on HSN.

HSN stands for Harmonized System of Nomenclature. It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the World in a systematic manner. It comprises of about 5,000 commodity groups; each identified by a 6 digit code [code can be extended], arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. **India has extended the HSN codes upto 8-digits.**

Classification of services

*A new **Scheme of Classification of Services** has been devised under GST. It is a modified version of the United Nations Central Product Classification. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups.*

Chapter 99 has been assigned for services. This chapter has following sections:

Section 5 : Construction Services

Section 6 : Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services

Section 7 : Financial and related services; real estate services; and rental and leasing services

Section 8 : Business and Production Services

Section 9 : Community, social and personal services and other miscellaneous services

Each section is divided into various headings which is further divided into Groups. Its further division is made in the form of 'Tariff item'/ Service Codes.

Rate of tax is determined in accordance with the Service Code in which the service is classified.

GST Rates

GST Rates prescribed for various goods:

Broadly, **6 rates** of CGST have been notified for goods, viz., **0.125%, 1.5%, 2.5%, 6%, 9% and 14%**. **Certain specified goods have been exempted from tax.** Equivalent rate of SGST/ UTGST will also be levied. **Certain specified goods have been exempted from tax.**

GST Rates prescribed for various services:

Broadly, **6 rates** of CGST have been notified for services, viz., **0.75%, 2.5%, 3.75%, 6%, 9% and 14%**. Equivalent rate of SGST/ UTGST will also be levied. **For certain specified services, nil rate of tax has been notified.**

Classification of cut pieces of fabrics under GST (Unstitched Salwar Suits)

It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size. Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials.

Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric

COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]

The **objective of composition scheme** is to bring simplicity and to reduce the compliance cost for the small taxpayers.

Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on the same, etc. They are not required to raise any tax invoice, but simply need to issue a **Bill of Supply**.

At the end of a quarter, the registered person opting for composition levy would pay a certain specified percentage of his turnover of the quarter as tax, without availing the benefit of input tax credit.

1. **[Section 10(1)] 5 Marks** *Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9*, a registered person, whose **aggregate turnover** in the **preceding** financial year **did not exceed ₹ 1,50,00,000**, **may opt** to pay, in lieu of the tax payable by him **under sub-section (1) of section 9**, an amount **of tax** calculated at such rate as may be prescribed, **but not exceeding-**

- a. **0.5% of the turnover** in State or turnover in Union territory **in case of a manufacturer**
- b. **2.5% of the turnover** in State or turnover in Union territory in case of persons engaged in **restaurant services (not serving alcohol)**
and
- c. **0.5% of the turnover** of **taxable supply of goods or services** in State or turnover in Union territory **in case of other suppliers**
subject to such conditions and restrictions as may be prescribed.

A person who opts to pay tax under Section 10(1) may supply services (other than restaurant services), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or ₹ 500,000, whichever is higher. [Applicable CGST Rate will be 0.5%]

For this purpose, 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.

Note:

1. Above Rates are composite rates specified under Rule 7 of the CGST Rules 2017. An equivalent amount of SGST is also payable)
2. Turnover limit for composition levy shall be ₹ 75 lakh in respect of 8 of the Special Category States (except Assam, Himachal Pradesh & JK)
3. Turnover in case of traders has been defined as 'Turnover of taxable supplies of goods'.

'Aggregate turnover' Vs. 'Turnover in a State':

The aggregate turnover is different from turnover in a State. The former is used for determining the threshold limit for registration and eligibility for composition scheme.

However, once a person is eligible for composition levy, the amount payable under composition levy would be calculated on the basis of 'turnover in the State/UT'.

2. [Section 10(2)] **5 Marks** The registered person shall be eligible to opt under section 10(1), if-
- (a) save as provided in sub-section (1), he is not engaged in the supply of services other than Restaurant Services
 - (b) he is not engaged in making any supply of Goods or Services which are not leviable to tax under this Act
 - (c) he is not engaged in making any inter-State outward supplies of Goods or Services
 - (d) he is not engaged in making any supply of Goods or Services through an ECO who is required to collect tax at source under section 52;
 - (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council;

Notified Goods are:

1. *Ice cream and other edible ice, whether or not containing cocoa,*
2. *Aerated Water,*
3. *Pan masala*
4. *Tobacco and manufactured tobacco substitutes*
5. *Fly ash bricks; Fly ash aggregate, Fly ash blocks*
6. *Bricks of fossil meals or similar siliceous earths*
7. *Building bricks*
8. *Earthen or roofing tiles*

- (f) he is neither a casual taxable person nor a non-resident taxable person

NOTE: Where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for composition scheme **unless all such registered persons opt to pay tax under that sub-section.**

Special procedure to be followed by ECOs in respect of supplies of goods through them by composition taxpayers

Following special procedure has also been laid down under section 148 to be followed by ECO through which composition supplier supplies goods:

- (i) the ECO shall **not allow any inter-State supply** of goods through it by the said person;
- (ii) the ECO shall **collect tax at source under section 52(1)** in respect of supply of goods made through it by the said person and pay to the Government as per provisions of section 52(3); and
- (iii) the ECO shall **furnish the details of supplies of goods** made through it by the said person in the **statement in Form GSTR-8** electronically on the common portal.

(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of Section 9(3) & 9(4), a registered person, not eligible to opt to pay tax under Section 10(1) & 10(2), whose aggregate turnover in the preceding financial year did not exceed ₹ 50 lakh, may opt to pay, in lieu of the tax payable by him under Section 9(1), an amount of tax calculated at such rate as may be prescribed, **but not exceeding 3% of the turnover in State or turnover in Union territory**, if he is not-

- a. engaged in making any supply of goods or services which are not leviable to tax under this Act;
- b. engaged in making any inter-State outward supplies of goods or services;
- c. engaged in making any supply of ~~goods~~ or services through an electronic commerce operator who is required to collect tax at source under section 52;
- d. a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- e. a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.”;

- 3. The composition scheme **shall lapse with effect from the day** on which his aggregate turnover during a financial year exceeds the limit specified under Section 10(1) or Section 10(2A). [Section 10(3)].
- 4. A taxable person opted for composition scheme **shall not collect any tax** from the recipient on supplies made by him **nor shall he be entitled to any credit of input tax**. [Section 10(4)].

5. 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 that may be payable by him under any other provisions of this Act, **be liable to a penalty** and the provisions of section 73 or section 74 or section 74A shall, mutatis mutandis, apply for determination of tax and penalty [Section 10(5)].

Explanation 1: For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, **the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.**

Explanation 2: For the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” **shall not include the value of following supplies, namely:—**

- (i) **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; and**
- (ii) **exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.**

Rule 7: Rate of tax of the composition levy

S.No.	Section under which composition levy is opted	Category of registered persons	Rate of tax
(1)	(1A)	(2)	(3)
1	Sub-sections (1) and (2) of section 10	Manufacturers, other than manufacturers of such goods as may be notified by the Government	0.5% of the turnover in the State or Union territory
2	Sub-sections (1) and (2) of section 10	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II (Restaurant Services)	2.5% of the turnover in the State or Union territory
3	Sub-sections (1) and (2) of section 10	Any other supplier eligible for composition levy under sub-sections (1) and (2) of section 10	0.5% of the turnover of <u>taxable supplies of goods and services</u> in the State or Union territory
4	Sub-section (2A) of section 10	Registered persons not eligible under the composition levy under sub-sections (1) and (2), but eligible to opt to pay tax under sub-section (2A), of section 10	3% of the turnover of supplies of goods and services in the State or Union territory.

Intimation of opting for composition levy [Rules 3 & 4]

- (i) **Intimation by person applying for registration:** Any person who is not registered and applies for registration may **give an option** to pay tax under composition levy **in Part B of the registration form, viz., FORM GST REG-01**. The same **shall be considered as an intimation** to pay tax under Composition Levy. Such intimation shall be considered **only after the grant of registration** to the applicant and his option to pay tax under composition levy **shall be effective from the date from which registration is effective**.
- (ii) **Intimation by a registered person:** A registered person who opts to pay tax under composition levy scheme **shall electronically file an intimation in prescribed form** on the Common Portal [www.gst.gov.in], **prior to the commencement of the FY** for which said option is exercised.

Any intimation in respect of any place of business in a State/UT shall be **deemed to be an intimation in respect of all other places of business** registered on the same PAN.

The option to pay tax under composition levy shall **be effective from the beginning** of the FY.

Conditions and restrictions for composition levy [Rule 5 of CGST Rules 2017]

Person opting for composition levy has to comply with the following conditions: **5 Marks**

- He is neither a **Casual Taxable Person** nor a **Non-Resident Taxable Person**
- Goods held in stock by him have not been purchased **from an unregistered supplier** and where purchased, **he pays the tax under reverse charge under Section 9(4)**.
- He **shall pay tax** (normal rate) under section 9(3) / 9(4) (reverse charge) **on inward supply of goods or services** or both.
- He was ***not engaged in the manufacture of goods as notified under section 10(2)(e)***, during the **preceding FY**.
- He shall mention the words **“Composition Taxable Person, not eligible to collect tax on supplies”** at the top of the **bill of supply** issued by him; and
- He shall mention the words **“Composition Taxable Person”** on **every notice or signboard displayed at a prominent place** at his principal place of business and at every additional place or places of business.

Validity of composition levy [Section 10(3) read with rule 6]**A. Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions**

The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the relevant section and rules. For instance, the option to pay tax under composition scheme lapses from the day on which aggregate turnover of a registered person exceeds the specified limit (₹ 1.5 crore/ ₹ 75 lakh) during the FY.

Such person is required to pay tax under regular scheme under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter. Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.

The effective date from which withdrawal from the composition scheme shall take effect shall be the date indicated by him in his intimation, but such date may not be prior to the commencement of the financial year in which such intimation is being filed.

B. Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme

The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in prescribed form.

The effective date from which withdrawal from the composition scheme shall take effect shall be the date indicated by him in his application but such date may not be prior to the commencement of the financial year in which such application for withdrawal is being filed.

C. Denial of option to pay tax under the composition scheme by tax Authorities

Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under composition scheme or has contravened the provisions of the CGST Act or provisions of this Chapter, he may issue a show cause notice (SCN) to such person. Upon receipt of reply to SCN, he shall pass an order either accepting the reply, or denying the option to pay tax under composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

In case of denial of option to pay tax under composition levy by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules.

In each of the above cases, such person may furnish a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn/denied, within a period of 30 days from the date from which the option is withdrawn/ or from the date of the order denying composition scheme.

**Imposition of penalty in case of irregular availment of the composition scheme
[Section 10(5) read with CGST Rules]**

1. If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, ***the person would be liable to penalty and the provisions of section 73 or 74 or 74A of the CGST Act shall be applicable for determination of tax and penalty.***
2. Where the **proper officer has reasons to believe** that the registered person was not eligible to pay tax under composition levy or has contravened the provisions of the Act/provisions of this Chapter, **he may issue a show cause notice to such person in prescribed form.**
3. Upon receipt of the reply to such show cause notice from the registered person in prescribed form, the proper officer **shall issue an order in prescribed form within 30 days** of the receipt of such reply, **either accepting the reply, or denying the option to pay tax under composition levy from the date of the option or from the date of the event concerning such contravention,** as the case may be.

Effective date in case of denial of composition option by tax authorities

In case of denial of option to pay tax under composition levy by the tax authorities, it has been clarified that the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities.

However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules

[GST Circular]

Rule 62: "Form and manner of submission of statement and return"

- (i) Every registered person paying tax under section 10 shall electronically furnish -
- a) a statement in **FORM GST CMP-08** containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter; and
 - b) a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.

Provided that the return in FORM GSTR-4 for a financial year from FY 2024-25 onwards shall be required to be furnished by the registered person till 30th June following the end of such financial year.

[Effective from 10.07.2024 – NN 12/2024 CT dated 10.07.2024]

- (ii) Every registered person furnishing the statement shall discharge his liability towards tax or interest payable **by debiting the electronic cash ledger.**
- (iii) The return furnished shall include the-
- a) invoice wise inter State and intra-State inward supplies received from registered and unregistered persons; and
 - b) consolidated details of outward supplies made.
- (iv) A registered person who has opted to pay tax under section 10 **from the beginning of a financial year shall**, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, **whichever is earlier.**
- (v) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, **furnish a statement in FORM GST CMP-08** for the period for which he has paid tax under the composition scheme till the 18th day of the month succeeding the quarter in which the date of withdrawal falls and **furnish GSTR 4 for the said period till the 30th day of April** following the end of the financial year during which such withdrawal falls.

Intimation for Composition levy and Effective Date: (3 Marks)

Procedure for opting for composition levy is provided in Rule 3 and 4 of CGST Rules, 2017. **The assessee can be divided into 2 categories as follows:**

- A. Registered under GST and person switches to Composition Scheme:** must follow the following:
- (a) Intimation in **FORM GST CMP - 02** for exercise option
 - (b) Statement in **FORM GST ITC - 3** for details of ITC relating to inputs lying in stock, inputs contained in semi-finished or finished goods **within 60 days** of commencement of the relevant financial year
- B. For persons who applied for fresh register under GST to opt scheme:** For fresh registration under the scheme, intimation in **FORM GST REG - 01** must be filed.

As per rule 3(5) of CGST Rules 2017 intimation sent by any place of business in any State ***shall be deemed to be intimation in respect of other place of business under same PAN.***

Intimation in every year is **not required**.

Effective date for opting composition Scheme:

Assessee filing intimation	Effective date of composition levy
Registered Person	Beginning of financial year
Form GST REG-01 (3 Marks)	Effective date shall be from the date fixed under Rule 10(2) or Rule 10(3) of Chapter III of CGST Rules, 2017. <i>Rule 10(2) provides that if person has applied for registration within 30 days from the date when he is liable to obtain registration, the effective date is when he is liable to be registered.</i> Example: If a person is liable to be registered on 1st Oct 20XX and he has applied for registration on 17th Oct 20XX, the date of registration will be 1st Oct 20XX. As a result effective date of registration for composition levy is 1st Oct 20XX. Rule 10(3) provides that the applicant has submitted an application for registration after the expiry of 30 days from the date of his becoming liable to registration; the effective date of registration shall be the date of the grant of registration.

Validity of Composition Levy

As per Rule 6 of Chapter II of CGST Rules, 2017 provides that option exercised by the person to pay tax on composition basis **remain valid as long as he satisfies the conditions.**

A. If Conditions are satisfied

Composition levy allowed

B. If conditions are not satisfied

- ✓ Pay tax as per normal rates.
- ✓ Issue tax invoice for taxable supply
- ✓ **within 7 days file Form GST CMP-4** as intimation

The option to pay tax under composition scheme **lapses** from the day on which his aggregate turnover during the FY **exceeds the specified limit of ₹ 1.5 Cr or ₹ 75 lakhs as the case may be.**

C. Self Withdrawal from Scheme

Before the date of withdrawal, file an application **Form GST CMP-4** as intimation **within 7 days.**

D. Proper officer has reason to believe taxpayer is not eligible for the composition levy

- ✓ Issue **Show Case Notice** in Form GST CMP-05
- ✓ **Within 15 days** taxpayer must file reply in Form GST CMP-06
- ✓ Issue order **within 30 day in Form GST CMP-07** either by accepting or denying the composition levy.

[Every person who has furnished an intimation or filed an application for withdrawal or a person in respect of whom an order of withdrawal of option has been passed in FORM GST CMP-07, may electronically furnish at the common portal, a statement in FORM GST ITC 01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of 30 days from the date from which the option is withdrawn or from the date of the order passed in FORM GST CMP-07, as the case may be.]

**LEVY & COLLECTION OF IGST [SECTION 5 OF THE IGST ACT, 2017]**

1. **[Section 5(1)]** Subject to the provisions of sub-section (2), there shall be levied a tax called the Integrated Goods and Services Tax **on all Inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol [ENA] or rectified spirit used for manufacture of alcoholic liquor, for human consumption,** on the value determined under Section 15 (Transaction Value) of the Central Goods and Services Tax Act and at such rates, **not exceeding 40%.**, as may be **notified by the Government on the recommendations of the Council** and collected in such manner as may be prescribed and shall be paid by the taxable person.

Integrated tax on goods **other than the goods as may be notified* by the Government on the recommendations of the Council** imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act (Custom Act, 1962) at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962. [SATC Note: IGST shall be levied as additional duty of customs in addition to basic customs duty under the Customs Tariff Act, 1975]

****Consequently, with effect from 01.10.2023, supply of online money gaming has been notified for the said purpose. This implies that import of specified actionable claim of online money gaming will be taxed under IGST as import of goods without applicability of customs duty.***

2. **[Section 5(2)]** The integrated tax on the supply of **Petroleum Crude, High Speed Diesel, Motor Spirit (commonly known as petrol), Natural Gas and Aviation Turbine Fuel** shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
3. **[Section 5(3)]** The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid **on reverse charge basis** by the recipient of such goods or services or both and **all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.**
4. **[Section 5(4)]** The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

5. [Section 5(5)] The Government may, on the recommendations of the Council, by notification, **specify categories of services**, the tax on inter-State supplies of which shall be **paid by the electronic commerce operator if such services are supplied through it**, and all the provisions of this Act shall apply to **such ECO as if he is the supplier liable for paying the tax in relation to the supply of such services**.

Where an ***ECO does not have a physical presence in the taxable territory***, any **person representing such ECO** for any purpose in the taxable territory shall be liable to pay tax.

Where an ***ECO does not have a physical presence in the taxable territory and also does not have a representative in the said territory***, such ECO shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

List of Services taxable under Reverse Charge

[Notification No. 10/2017 IT (R) dated 28.06.2017]

All the services which have been notified for reverse charge purposes under CGST Act have also been notified for reverse charge under IGST Act. Further, **following services are additionally included for IGST purposes**:

S. No.	Category of Supply of Services	Supplier of Services	Recipient of Services
1.	Any service supplied by any person who is located in a non-taxable territory <u>to any person other than non-taxable online recipient.</u>	Any person located in a non-taxable territory	Any person located in the taxable territory <u>other than non-taxable online recipient.</u>
2.	~~Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India~~	~~A person located in non-taxable territory~~	~~Importer as defined in section 2(26) of the Customs Act, 1962, located in the taxable territory.~~



Reverse charge in respect of Supply of Goods

Applicable for CMA-Intermediate Students only

Excluded from CA-Intermediate Syllabus

Notification No. 4/2017 CT (R) dated 28.06.2017 as amended has notified the **following categories of supply of Goods** wherein whole of the CGST shall be ***paid on reverse charge basis by the recipient of Goods***:

S. No.	Description of supply of Goods	Supplier of goods	Recipient of supply
1	Cashew nuts, not shelled or peeled	Agriculturist	Any Registered Person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any Registered Person
3	Tobacco leaves	Agriculturist	Any Registered Person
3A	<u>Following essential oils other than those of citrus fruit namely:</u> a) of peppermint (<i>Mentha piperita</i>) b) of other mints: i. Spearmint oil (<i>ex-mentha spicata</i>), ii. Water mint-oil (<i>ex-mentha aquatic</i>), iii. Horsemint oil (<i>ex-mentha sylvestries</i>), iv. Bergament oil (<i>ex-mentha citrate</i>) v. <i>Mentha arvensis</i>	Any unregistered person	Any registered person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any Registered Person
4A	Raw Cotton	Agriculturist	Any Registered Person
5	Supply of <u>lottery</u>	State Government, Union Territory or any local authority	Lottery distributor or selling agent.
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government [Excluding Ministry of Railways (Indian Railways)], State Government, Union territory or a local authority	Any registered person

7	Priority Sector Lending Certificate [These are not securities] [Note: PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted GST.]	Any registered person	Any registered person
8	Metal Scrap [Chapter 72 to 81]	Any unregistered person	Any registered person



[NN 6/2024 CT(R) dated 08.10.2024, effective from 10.10.2024]

CHARGE OF GST – SET A

1. What is the maximum rate of CGST prescribed under CGST Act?
(a) **20%**
(b) 28%
(c) 24%
(d) 40%
2. Which of the following taxes levied on intra-State supply?
(a) CGST
(b) SGST/UTGST
(c) **Both (a) and (b)**
(d) IGST
3. What is the threshold limit of turnover in the preceding financial year to be eligible for composition levy **under Section 10(1) and Section 10(2)** in Delhi?
(a) ₹ 20 lakh
(b) ₹ 30 lakh
(c) ₹ 50 lakh
(d) **₹ 1.5 Crore**
4. Which of the following is not included in aggregate turnover?
(a) Exempt supplies of goods or services or both
(b) Export of goods or services or both
(c) Inter-State supply of goods or services or both
(d) **Value of inward supplies on which tax is paid under reverse charge**
5. IGST is levied on:
(a) **Inter-State supplies**
(b) Intra-State Supplies
(c) Both (a) and (b)
(d) None of the above
6. _____ is levied on the import of goods and/or services.
(a) **IGST**
(b) CGST and SGST
(c) CGST and UTGST
(d) None of the above
7. On supply of which of the following items, GST shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:
(a) **Petroleum crude**
(b) Alcoholic liquor for human consumption
(c) Both (a) and (b)
(d) None of the above
8. GST is payable by the recipient under reverse charge on:
(a) **Sponsorship services**
(b) Transport of goods by rail
(c) Transport of passengers by air
(d) All of the above

9. A person availing composition scheme under Section 10(1) in Haryana during a financial year crosses the turnover of ₹ 1.5 Crore during the course of the year i.e. he crosses the turnover of ₹ 1.5 Crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Solution:

No. The option to pay tax under composition scheme **lapses from the day** on which the aggregate turnover of the person availing composition scheme during the financial year exceeds the specified limit (₹ 1.5 Crore). He is required to **file an intimation for withdrawal** from the scheme in prescribed **form within 7 days** from the day on which the threshold limit has been crossed.

10. Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed ₹ 1.5 Crore:

- a) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.
- b) Mohan Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State

Solution:

- a) Since supplier of inter-State outward supplies of goods is **not eligible for composition levy**, Sugam Manufacturers is **not eligible for composition levy**.
- b) A supplier engaged **in the manufacture of goods as notified under section 10(2)(e)**, during the preceding FY is not eligible for composition scheme. Pan masala is notified goods here.

However, in the given case, since **Mohan Enterprises is engaged in trading of pan masala and not manufacture** and his turnover does not exceed ₹ 1.5 crore, **he is eligible for composition scheme under Section 10(1) subject to fulfillment of specified conditions**.

11. *Subramanian Enterprises has two registered places of business in Delhi. Its aggregate turnover for the preceding year for both the places of business was ₹ 120 lakh. It wishes to pay tax under composition levy [Section 10(1)] for one of the place of business in the current year while under normal levy for other. You are required to advice Subramanian Enterprises whether he can do so?*

Solution:

A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy under Section 10(1) in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹ 1.5 crore, it is eligible for composition levy in the current year.

However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme.

Thus, Subramanian Enterprises either have to opt for composition levy for both the places of business or under normal levy for both the places of business.

12. Mr. Ajay has a registered repair centre where electronic goods are repaired/serviced. His repair centre is located in State of Rajasthan and he is not engaged in making any inter-State supply of services. His aggregate turnover in the preceding financial year is ₹ 45 lakh.

With reference to the provisions of the CGST Act, 2017, examine whether Mr. Ajay can opt for the composition scheme in the current financial year?

Considering the option of payment of tax available to Mr. Ajay, compute the amount of tax payable by him assuming that his aggregate turnover in the current financial year is ₹ 35 lakh.

Will your answer be different if Mr. Ajay procures few items required for providing repair services from neighbouring State of Madhya Pradesh?

Solution:

In the given case, since Mr. Ajay is an exclusive supplier of services other than restaurant services [viz. repair services], he is **not eligible** for composition scheme under section 10(1) & 10(2).

However, **Section 10(2A)** provides an option to a registered person (subject to certain conditions) whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh **and** who is not eligible to pay tax under composition scheme under section 10(1) & 10(2), **to pay tax @ 3% [Effective rate 6% (CGST+SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.**

Thus, in view of the above-mentioned provisions, Mr. Ajay is eligible to avail the composition scheme under section 10(2A) as his aggregate turnover in the preceding FY does not exceed ₹ 50 lakh and he is not eligible to opt for the composition scheme under section 10(1) & 10(2).

Thus, the amount of tax payable by him as per the composition scheme under section 10(2A) is ₹ 2,10,000 [6% of ₹ 35 lakh].

A registered person cannot opt for composition scheme under section 10(2A), if, inter alia, he is engaged in making any inter-State outward supplies. **However, there is no restriction on inter-State procurement of goods. Hence, answer will remain the same even if Mr. Ajay procures few items from neighboring State of Madhya Pradesh.**

13. M/s X Ltd. being a manufacturer of laptops has four factories in Chennai, Salem, Coimbatore and Madurai.

Place	Preceding Yr. Turnover ₹ in lakhs (Including Taxes @ 18%)
Chennai	57.91
Salem	12.00
Coimbatore	8.00
Madurai	10.00
Chennai-II	83.60
Total	171.51

M/s X Ltd is eligible for composition levy in the current year.

Answer:

Aggregate turnover (Excluding GST) = $171.51 \times 100/118 = ₹ 145.35$ lakh

Note: Since, Aggregate turnover in the preceding financial year does not exceed ₹ 1.5 crore and hence, M/s X Ltd. is eligible for composition Scheme.

14. M/s Y Ltd. being a trader of laptops has two units in Chennai and in Mumbai.

Place	P.Y. Turnover ₹ in lakhs (Excluding taxes)
Chennai	52.00
Mumbai	12.00

You are required to answer the following:

- M/s Y Ltd is eligible for composition levy in the current year.
- If so, M/s Y Ltd can opt composition scheme for Chennai location and normal scheme for Mumbai.
- Need to give separate intimations for opting composition scheme in each State.

Answer:

- Yes. M/s Y Ltd is eligible to avail the composition scheme **under Section 10(1)** in both the States namely Tamil Nadu and Maharashtra.

Since, M/s Y Ltd. has same PAN, and his aggregate turnover does not exceeds ₹ 1.5 crore is eligible for composition levy, **even though the company has multiple registrations under GST.**

- No. M/s Y Ltd cannot opt composition scheme for one location normal scheme for another location. Where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under Section 10(1) of CGST Act, 2017 **unless all such registered persons opt to pay tax under that sub-section.**
- Intimation to opt composition scheme in respect of any place of business in any state or union Territory shall be deemed to be intimation in respect of all other places of business registered on the same permanent account number. **Hence, there is no need to give separate intimation for each state.**

15. *Hotel King Pvt., Ltd.* provider of restaurant services in New Delhi. They also serve beer, whisky and so on. Turnover in the preceding previous year is ₹ 67 lakhs. Hotel King Pvt. Ltd. is eligible for composition scheme in the current year.

Answer:

Hotel King Pvt. Ltd., is **not eligible** for composition scheme under Section 10. **Since they are supplying the product, which is not levied to GST (namely beer, whisky).**

16. Mr. C of Chennai is a retailer dealing with cell phones. He supplies goods to the person located in Chennai and Pondicherry. Aggregate turnover in the preceding financial year is ₹ 45 lakhs. Mr. C wants to opt for composition scheme in the current financial year.

Answer:

No. When the **person makes inter-State supply** of goods benefit of composition scheme is prohibited. Therefore, Mr. C will not be entitled to the benefit of composition scheme.

17. Hot Breads Pvt. Ltd is the supplier of bakery products registered in the current financial year w.e.f. 1st Jun 20XX. In the month of Jun 20XX, total taxable supplies ₹ 88 lakhs.

Answer the following:

- Company is eligible for Composition Scheme?
- If so company wants to pay tax @ 1% being a trader. However, the Deputy Commissioner of Central Tax contended that the assessee is liable to pay tax @ 5% under the Food and Restaurant Services category? Advise.

Answer:

- (a) Hot Breads Pvt. Ltd. is eligible for composition levy under Section 10(1) in the current year.
- (b) The supply of food and restaurant services category is the only service included under the composition scheme under Section 10(1). For a business to be categorised as food and restaurant services, there needs to be an element of service involved.

In the given case, **supply of bakery products, there is only a supply of goods** i.e. food items but there is no element of supply of service. **Hence supply of bakery products is eligible to pay GST @1%, under the Traders category and not Food and Restaurant Services category.**

Therefore, department contention is not correct.

18. If a person is liable to be registered on 11th Oct 20XX and he has applied for registration on 17th Oct 20XX, what is the effective date of registration for composition levy.

Answer:

Effective date of registration for composition levy is 11th Oct 20XX.

19. A person is liable to be registered on 1st Oct 20XX and he has applied for registration on 17th Nov 20XX. Registration granted on 20th Nov 20XX. What is the effective date of registration if he wants to opt composition levy.

Answer:

The effective date of registration will be the date of grant of registration as application is not made within 30 days. As a result effective date of registration will be effective date for opting for composition scheme (i.e. 20th Nov 20XX) provided no discrepancies found.

20. Mr. Rahim is dealer who is selling taxable goods, exempted goods and non-taxable goods (i.e. Liquor). His turnover in the preceding financial year is ₹ 35 lakh, ₹ 10 lakh, ₹ 15 lakh goods which are leviable to GST, exempted and non-taxable respectively. Whether Mr. Rahim is eligible for Composition Scheme?

Answer:

If a person is selling the goods, **which are not leviable to tax under GST**, then he is not eligible to opt for composition scheme. In this case aggregate turnover not exceeds ₹ 1.5 crore even though, Mr. Rahim is not eligible for composition Scheme.

21. Mr. H registered in Hyderabad, who is selling goods from Telangana to Tamil Nadu. Turnover of Mr. H is ₹ 73 Lakh in the preceding financial year. Whether Mr. H is eligible for Composition? Whether your answer will change if Mr. H is making purchase from Tamil Nadu and selling goods in Telangana?

Answer:

Mr. H is not eligible for composition as he is making interstate outward supply. **If Mr. H is making purchase from Tamil Nadu then he is eligible for composition as there is restriction on outward interstate supply not on inward interstate supply.**

22. Turnover of Mr. X in the preceding financial year is ₹ 49 Lakh. Mr. A has opted for Composition Scheme under Section 10(1). During the year on 18th February 20XX, turnover of Mr. X exceeds ₹ 1.5 crore. What compliances are required to carry by Mr. X.

Answer:

Mr. X is required to do the following compliances:

1. File a **FORM GST CMP-04 within 7 days** i.e. before 25th February 20XX.
2. Details of stock and capital goods, as on the 18th February, 20XX, are required to file in **FORM GST ITC-01 within 30 days** i.e. before 20th March 20XX to take the credit of input on the same.

23. M/s X Pvt. Ltd., is a manufacturer having two units namely Unit-A in Andhra Pradesh and another Unit-B in Tamil Nadu. Total turnover of two units in last Financial Year was ₹ 95 lakh (₹ 10 lakh of Unit – A + ₹ 85 lakh of Unit – B).

Total turnover of two units in the First quarter of this financial year was ₹ 15 lakh (₹ 5 lakh of Unit – A + ₹ 10 lakh of Unit – B). Applicable rate of CGST 9% and SGST 9%. Find the Net liability of X Pvt. Ltd.

Note: M/s X Pvt. Ltd., is not availing input tax credit.

Answer:

Since, the company is not availing the benefit of input tax credit the said company can pay GST under composition levy under Sec. 10(1) of the CGST Act, 2017. Applicable rate of CGST 0.5% and SGST 0.5%.

Unit	Location	Turnover in the previous	Turnover in 1 st Quarter of the	Total tax (@ 1%)	
				0.5%	0.5%
A	AP	10 lakh	5 lakh	2,500	2,500
B	TN	85 lakh	10 lakh	5,000	5,000

24. [Reverse Charge] - State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:
- (a) Services provided by an arbitral tribunal to any business entity.
 - (b) Sponsorship services provided by a company to an individual.
 - (c) Renting of immovable property service provided by the Central Government to a registered business entity.

Solution:

- (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is **payable under reverse charge**, in the given case, GST is payable by the recipient - business entity.
- (b) GST on sponsorship services provided **by any person to any body corporate or partnership firm** located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided **to an individual**, reverse charge provisions **will not be attracted**. GST is payable under **forward charge by the supplier – company**.
- (c) GST on services supplied by way of renting of immovable property by the Central Government **[excluding the Ministry of railways (Indian Railways)]**, State Government, Union Territory, or local authority to any registered person is payable under reverse charge. **Hence**, in the given case, GST is payable by the recipient – registered business entity.

25. [Reverse Charge] - Senior Advocate supplied services of ₹ 1,50,000/- to business entity for Legal services. Business entity has ITC of ₹ 7,000. Senior Advocate has registered office in Chennai. Business entity is located in Madurai (Same state).

Find the following:

- (a) Who is liable to pay GST?
(b) Net GST liability?

Note:

- (i) all services rendered in the month of Oct 20XX.
(ii) Turnover of business entity in the previous year ₹ 43 lakh.
(iii) Applicable rate of GST @18%

Answer:

As per Notification No. 13/2017 (as amended), in case services are supplied by Senior advocate to Business entity, Business entity located in taxable territory will be liable to pay GST under reverse charge.

Further, exemption under Notification No. 12/2017 (as amended) is also not available as Turnover of Business entity exceeds 20 Lakhs in previous year.

(a) Business entity being recipient of service is liable to pay GST.

(b) Net GST liability of the business entity:

CGST 9% on ₹ 1,50,000 = ₹ 13,500/-

SGST 9% on ₹ 1,50,000 = ₹ 13,500/-

Note: recipient is not allowed to utilize ITC against his GST liability. However, after payment of GST under RCM, the same can be availed as ITC against his outward supplies.

26. [Reverse Charge] - With reference to the provisions of GST law, briefly explain as to who is the person responsible to pay GST in the following:

- (i) Legal services are provided by Senior Advocates to business entities.
(ii) Representation services are provided by Senior Advocates to any business entity.
(iii) Were Contracts for representation service provided by the Senior Advocates to any business entity has been entered into through another advocate or firm of advocates.

Answer:

Service provider	Service recipient	Nature of service	Taxability	Person responsible to pay GST
(i) & (ii) Senior Advocate	Business Entity (whose turnover exceeds ₹ 20 Lakh in P.Y.)	Representation services	Taxable supply of service	Recipient of service, which is the business entity, who is litigant, applicant or petitioner.

(iii) Recipient of service that is the business entity, who is the litigant, applicant or petitioner, is liable to pay GST.

Note: Previous year turnover more than ₹ 20 lacs (in case of special category States is ₹ 10 lakh).

27. [Reverse Charge] - GT Jewellers Ltd. paid ₹ 50 lakhs for sponsorship of Miss India beauty pageant in Mumbai to a Stylish & Co., a partnership firm. It is taxable supply, if so who is liable to pay GST.

Answer:

Yes. It is taxable supply of service. GST is liable to pay recipient of supply of service namely GT Jewellers Ltd. under RCM as per Notification No. 13/2017 (as amended).

28. **[Reverse Charge]** - M/s Shakshi Associates a recovery agent (located in Chennai) empanelled by State Bank of India, Local Head Office, Nungambakkam, Chennai. The following service supplied M/s Shakshi Associates in the month of Nov 20XX are as follows:

- (1) Fee of ₹ 2,25,825 for supply of services in relation to recovery of dues from the defaulting Borrowers at the place of business/occupation and if such Borrowers is/are unavailable at the place of business then at his/ her residence.
- (2) Supply of services with regard to demand for recovery or taking possession of the security from defaulting Borrowers, for which separate fee charge from the bank ₹ 55,175/-

Find the following:

- (a) Is it supply of service.
- (b) If so, who is liable to pay GST.
- (c) Find the GST liability

Note: Assume applicable rate of GST for recovery agent services @18%.

Answer:

- (a) Yes. It is taxable supply of service.
- (b) State Bank of India being recipient of service is liable to pay GST under RCM as per Notification No. 13/2017 (as amended)
- (c) GST liability = ₹ 50,580 [i.e ₹ 2,25,825 + ₹ 55,175] x 18%

29. **[Reverse Charge]** Mr. Suraj Agrawal (not a registered person) has written a book on Indirect Taxes which is published by M/s Agrawal Publications of New Delhi.

You are required to find the following:

- (a) who is liable to pay GST?
- (b) Rework, if publisher is located in New York, then who is liable to pay GST?

Answer:

- (a) M/s Agrawal Publications of New Delhi being recipient of service is liable to pay GST under RCM as per Notification No. 13/2017 (as amended). **Option of forward charge is not applicable to Author as he is not registered.**
- (b) **If M/s Virat Law Publications located in New York** then it is treated as export of service provided payment received in convertible foreign currency. **Otherwise, tax will be payable by the author. No RCM as recipient is located outside India.**

30. Ram received ₹ 2,05,200 (after TDS @10%) from client on 1st Nov 20XX for taxable services rendered in the month of July 20XX. Find the GST liability. Applicable rate of CGST 9% and SGST 9%.

Answer:

Payment received net of TDS u/s 194J	= 2,05,200
Add: TDS u/s 194J (refer WN)	= 19,000
Gross value of Bill (i.e. inclusive of GST)	= 2,24,200
CGST (2,24,200 x 9/118)	= 17,100
SGST (2,24,200 x 9/118)	= 17,100

Working Note:

Assume taxable value of supply	X
Add: CGST & SGST	0.18x
Value of Bill	1.18x
Less: TDS @10% on X (u/s Sec 194J of the Income Tax Act, 1961)	-0.1X
Net Paid	1.08X
X (i.e. 2,05,200/1.08) [i.e. taxable value of supply]	1,90,000
TDS u/s 194J 10% on ₹ 1,90,000	19,000

CHARGE OF GST – SET B

1. [REVERSE CHARGE] Mr. Vicky Frankyn, an unregistered famous author, received ₹ 3 crore of consideration from Shiv Bhawan Publications (SBP) located in Indore for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book.

He finished his work & made available the book to the publisher, but has yet not raised the invoice. Mr. Vicky Frankyn is of the view that SBP is liable to pay tax under reverse charge on services provided by him. SBP does not concur with his view and is not ready to deposit the tax under any circumstances.

Examine whether the view of Mr. Vicky Frankyn is correct. Further, if the view of Mr. Vicky Frankyn is correct, what is the recourse available with Mr. Vicky Frankyn to comply with the requirements of GST law as SBP has completely refused to deposit the tax.

Solution:

Yes, the view of Mr. Vicky Frankyn is correct. GST is payable under reverse charge in case of supply of services by an author **by way of transfer/permitting the use or enjoyment of a copyright** covered under section 13(1)(a) of the Copyright Act, 1957 **relating to original literary work** to a publisher located in the taxable territory in terms of reverse charge Notification No. 13/2017 CT(R) dated 28.06.2017. **Therefore, in the given case, person liable to pay tax is the publisher – SBP.**

However, since SBP has completely refused to deposit the tax on the given transaction, Mr. Vicky Frankyn has an **option to pay tax under forward charge** on the same. **For the purpose, he needs to fulfill the following conditions:**

- (i) since he is unregistered, he has to first take registration under the CGST Act, 2017
- (ii) he needs to file a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services **and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;**
- (iii) he has to make a declaration on the invoice, which he would issue to SBP, in prescribed form.

2. [REVERSE CHARGE] With reference to the provisions of GST law, briefly answer the following questions:-

- (a) Income is received by Maharashtra Government from renting of immovable property to Ganpati Morya Pvt. Ltd., registered in Maharashtra (Turnover of the company was ₹ 18 lakh in the preceding financial year). Is GST payable in the present case? If yes, who is liable to pay the same?
- (b) Mr. Vivek Goyal, director of A2Z Pvt. Ltd., has received sitting fee amounting to ₹ 1 lakh from A2Z Pvt. Ltd for attending the Board meetings. (whatsapp for PDF at 8527230445)

Solution:

- (a) Notification No. 12/2017 CT (R) dated 28.06.2017 has inter alia exempted the services provided by the State Government to a business entity with an aggregate turnover of up to ₹ 20 lakh (₹ 10 lakh in case of a Special Category States) in the preceding FY. **However, the same shall not apply to services by way of renting of immovable property.**

In the given case, services by way of renting of immovable property is provided by Maharashtra Government to Ganpati Morya Pvt. Ltd, registered in Maharashtra. **Therefore, the above exemption will not apply in this case even though the turnover of the company was less than ₹ 20 lakh in the preceding financial year. Thus, GST is payable in the given case.**

Notification No. 13/2017 CT (R) dated 28.06.2017 **as amended *inter alia* provides** that reverse charge is applicable in case of services supplied by the State Government by way of renting of immovable property to a **person registered** under the Central Goods and Services Tax Act, 2017. **Thus, GST is payable by Ganpati Morya Pvt. Ltd., being a registered person in the present case.**

- (b) Notification No. 13/2017 CT (R) dated 28.06.2017 *inter alia* provides that GST on supply of services by director of a company to the said company located in the taxable territory **is payable on reverse charge basis.**

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., A2Z Pvt. Ltd. Company.

3. **[REVERSE CHARGE] - Decide which person is liable to pay GST in the following independent cases, where the recipient is located in the taxable territory. Ignore the Aggregate Turnover and Exemption available.**

- (i) **Miss Shinu Ambani provided sponsorship services to Indian Love Cricket Academy, a Limited Liability Partnership.**
- (ii) **"Fast move", a Goods Transport Agency, transported goods of Amba & Co., a partnership firm which is not registered under GST.**

Solution:

- (i) In case of services provided by any person by way of sponsorship **to any body corporate or partnership firm / limited liability partnership (LLP)**, GST is liable to be paid under reverse charge by such body corporate or partnership firm / LLP located in the taxable territory. **Therefore, in the given case, Indian Love Cricket Academy is liable to pay GST under reverse charge.**

- (ii) In case of services provided by Goods Transport Agency (GTA) in respect of transportation of goods by road to, *inter alia*, **any partnership firm whether registered or not under any law; GST is liable to be paid by such partnership firm.** Therefore, in the given case, Amba & Co. is liable to pay GST under reverse charge.

4. **[REVERSE CHARGE] - M/s X & Sons, tax consultant of Zenson Ltd., have advised them that reverse charge mechanism is applicable only to services. Examine the validity of the advice given by M/s X & Sons.**

Solution:

The advice given by M/s X & Sons is not valid in law. The reverse charge mechanism applies to supplies of both goods and services, as notified by the Government on the recommendations of the GST Council vide section 9(3)/5(3) of CGST/IGST Act, 2017.

Reverse charge also applies to supplies (goods or services or both) received by a registered person from unregistered persons under section 9(4)/5(4) of CGST/IGST Act, 2017, if notified.

5. **[REVERSE CHARGE] - State, with reason, person liable to pay GST in each of following independent cases. Assume recipient is located in taxable territory.**

- (i) **Rental income received by Tamil Nadu State Government from renting an immovable property to Mannappa Pvt. Ltd. (Turnover of the company was ₹ 22 lakhs in the preceding FY) registered under CGST Act 2017.**
- (ii) **Legal Fees received by Mr. Sushrut, a senior advocate, from M/s. Tatva Trading Company having turnover of ₹ 50 lakhs in preceding F. Y.**

Solution:

- (i) Notification No. 12/2017 CT (R) dated 28.06.2017 has *inter alia* exempted the services provided by the State Government to a business entity with an aggregate turnover of up to ₹ 20 lakh (₹ 10 lakh in case of a notified Special Category States) in the preceding FY. **However, the same shall not apply to services by way of renting of immovable property.**

In the given case, services by way of renting of immovable property is provided by Tamil Nadu Government to **Mannappa Pvt. Ltd.. Thus, GST is payable in the given case.**

Notification No. 13/2017 CT (R) dated 28.06.2017 as amended *inter alia provides* that reverse charge is applicable in case of services supplied by the State Government by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017. **Thus, GST is payable by Mannappa Pvt. Ltd., being a registered person in the present case.**

- (ii) GST on legal services supplied by a senior advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Tatva Trading Company.

6. State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

- (a) **Services provided by an arbitral tribunal to any business entity.**
- (b) **Sponsorship services provided by a company to an individual.**
- (c) **Renting of immovable property service provided by the Central Government to a registered business entity.**

Answer:

- (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge. In the given case, GST is payable by the recipient - business entity.
- (b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, **reverse charge provisions will not be attracted**. GST is payable under forward charge by the supplier – company.
- (c) GST on services supplied by Central Government [excluding the Ministry of railways (Indian Railways)], State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. **Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.**

7. Raghu Associates provided sponsorship services to WE-WIN Cricket Academy, an LLP. Determine the person liable to pay tax in this case.

Answer:

In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory.

Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 is also be considered as a partnership firm.

Therefore, in the given case, WE-WIN Cricket Academy is liable to pay GST under reverse charge.

8. 'Safe Trans', a Goods Transport Agency, transported goods of Kapil & Co., a partnership firm, which is not registered under GST. Determine the person liable to pay tax in this case.

Answer:

In case of services provided by Goods Transport Agency (GTA) in respect of transportation of goods by road to, inter alia, any partnership firm whether registered or not under any law; GST is liable to be paid by such partnership firm. **Therefore, in the given case, Kapil & Co. is liable to pay GST under reverse charge.**

9. State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

- (a) **Services supplied by an insurance agent to an Insurance Company.**
- (b) **Imp: Services supplied by a recovery agent to a car dealer.**
- (c) **Security services (services provided by way of supply of security personnel) provided to a registered person.**

Answer:

- (a) GST on services supplied by an insurance agent to any person carrying on insurance business located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – Insurance Company.
- (b) GST on services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company located in the taxable territory is payable under reverse charge. However, since, in the given case, **services are being supplied by a recovery agent to a car dealer, GST is payable under forward charge by the service provider - recovery agent.**
- (c) GST on security services (services provided by way of supply of security personnel) provided to a registered person, located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered person receiving the services.

10. Example:

A **shoes' dealer 'Prithviraj'** has offices in Maharashtra and Goa. He makes intra-State supply of goods from both these offices. In order to determine whether 'Prithviraj' is eligible to avail benefit of the composition scheme for goods, turnover of both the offices would be taken into account and if the same does not exceed ₹ 1.5 crore, 'Prithviraj' can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for goods for both the offices.

11. Example:

A **hair stylist 'Billoo Barber'** has his salon in Delhi and Haryana, making intra-State supplies. In order to determine whether 'Billoo' is eligible to avail benefit of the composition scheme for services, turnover of both the salons would be taken into account and if the same does not exceed ₹ 50 lakh, 'Billoo' can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for both the salons.

12. Taxpayer 'Tolaram' is a manufacturer who has opted for composition levy for goods, having one unit – A1 in UP and another unit – A2 in MP. Total turnover of two units in last FY was ₹ 115 lakh (₹ 85 lakh + ₹ 30 lakh). Turnover of units A1 and A2 in the first quarter of current financial year is ₹ 5 lakh and ₹ 10 lakh respectively. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Tolaram'

Answer:

Unit	Location	Turnover in previous FY	Turnover in 1st quarter of this FY	Total tax (@1%)
A1	U.P.	85 lakh	5 lakh	₹ 5,000
A2	M.P.	30 lakh	10 lakh	₹ 10,000
		115 lakh	15 lakh	₹ 15,000

13. Taxpayer 'Bholaram' is a trader, who has opted for composition levy for goods, of both taxable and exempted goods. It has one retail showroom – A1 in Punjab and another retail showroom – A2 in Rajasthan, both selling taxable as well as exempted goods. Total turnover (including taxable and exempted goods) of the two showrooms in last FY was ₹ 115 lakh (₹ 85 lakh + ₹ 30 lakh). Turnover of showrooms A1 and A2 in the first quarter of current financial year is ₹ 35 lakh [A1 - ₹ 15 lakh (₹ 5 lakh from sale of taxable goods and ₹ 10 lakh from sale of exempted goods) and A2 - ₹ 20 lakh (₹ 10 lakh from sale of taxable goods and ₹ 10 lakh from sale of exempted goods)]. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Bholaram'.

Answer:

Unit	Location	Turnover in previous FY	Taxable Turnover in 1st quarter of this FY (taxable supply only)	Total tax (@1%)
A1	Punjab	85 lakh	5 lakh	₹ 5,000
A2	Rajasthan	30 lakh	10 lakh	₹ 10,000
		115 lakh	15 lakh	₹ 15,000

Note: A supplier, other than manufacturer and restaurant service provider, eligible for composition levy under section 10(1) & 10(2) has to pay tax @ 1% (CGST+ SGST) of the **turnover of only taxable supplies** of goods and services in the State.

14. Taxpayer 'Padmavati' is a salon stylist, who has opted for composition levy for services, having one branch – B1 in Vasant Kunj, Delhi and another branch – B2 in Gurgaon, Haryana. Total turnover of two branches in last FY was ₹ 45 lakh (₹ 25 lakh + ₹ 20 lakh). Turnover of branches B1 and B2 in the first quarter of current financial year is ₹ 5 lakh and ₹ 10 lakh respectively. Compute the amount payable under composition levy under section 10(2A) of the CGST Act, 2017 by 'Padmavati'.

Answer:

Unit	Location	Turnover in previous FY	Turnover in 1st quarter of this FY	Total tax (@6%)
A1	Delhi	25 lakh	5 lakh	₹ 30,000
A2	Haryana	20 lakh	10 lakh	₹ 60,000
		45 lakh	15 lakh	₹ 90,000

A registered person opting for composition levy for services shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.

15. **Example:**

A photographer 'Champak' has commenced providing photography services in Delhi from April this year. His turnover for various quarters till December is as follows:

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

In the given case, since Champak has started the supply of services in the current financial year, his aggregate turnover in the preceding FY is Nil. **Consequently, in the current FY, he is eligible for composition scheme for services.** He becomes eligible for the registration when his aggregate turnover exceeds ₹ 20 lakh.

While registering under GST, he opts for composition scheme for services.

For determining his turnover of the State for payment of tax under composition scheme for services, 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], he 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, his aggregate turnover reaches ₹ 50 lakh.

Consequently, his option to avail composition scheme for services shall lapse by the end of July-Sept quarter **and thereafter, he is required to pay tax at the normal rate of 18%. Thus, the tax payable for Oct-Dec quarter is ₹ 20 lakh × 18%, i.e. ₹ 3,60,000.**

Note: While computing aggregate turnover for determining Champak's 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 included.

16. **[Important]** Sultan & Sons, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification, in the State of Maharashtra. Its aggregate turnover in the preceding financial year is ₹ 130 lakh. The firm wishes to opt for composition scheme under section 10(1) & 10(2) of the CGST Act. However, its accountant is of the view that a person engaged in making supply of exempt goods is not eligible for the said scheme. Discuss.

Note: Assume that Sultan & Sons is not engaged in manufacture of goods as notified under section 10(2)(e).

Answer:

The view taken by the accountant of Sultan & Sons is **not valid in law**. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Further, such person must not be engaged in making any supply of goods

which are not leviable to tax under this Act and must not be engaged in making any inter-State outward supplies of goods, for being eligible to pay tax under said scheme.

In the given case, the aggregate turnover of Sultan & Sons does not exceed ₹ 1.5 crore. Further, it is engaged in making only intra-State supply of goods and **Product P supplied by it is taxable and Product Q supplied by it is leviable to tax though exempted by way of notification**. Therefore, it is eligible for composition levy under section 10(1) & 10(2) in the current year.

17. A person availing composition scheme, under section 10(1) & 10(2) of the CGST Act, in Haryana during a financial year crosses the turnover of ₹ 1.5 crore in the month of December. Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March? Please advise.

Answer:

No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme for goods during the financial year exceeds the specified limit (₹ 1.5 crore). Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.

Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

18. **[COMPOSITION SCHEME]** Care & Care Beauty Centre wishes to opt for composition scheme from the next financial year. You are required to advise it whether it can do so?

Solution:

Yes, Care & Care Beauty Centre can now opt for composition scheme under Section 10(2A) from the next financial year if it exclusively engaged in supply of services. Earlier, the composition scheme under Section 10(1) can be availed in respect of goods and only one service namely, restaurant service.

As regards services other than restaurant services are concerned, only marginal supply of the services for a specified value along with the supply of goods and/or restaurant service, as the case may be, were permitted under section 10(1) of CGST Act, 2017.

Persons engaged in supply of services may also opt for composition scheme under Section 10(2A) if he is not eligible for scheme under Section 10(1) and *whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees*.

Therefore, a person engaged exclusively in supply of services other than restaurant services can be eligible to opt for composition scheme now.

19. **IMPORTANT - [COMPOSITION SCHEME]** Chanchal started providing beauty and grooming services and inaugurated "Care & Care Beauty Centre" in Janak Puri, Delhi on 1st April, 2024. She opted to pay tax under composition scheme under Section 10(2A) in the said financial year.

The aggregate turnover of Care & Care Beauty Centre for the quarter ending 30th June, 2024 was ₹ 20 lakh. Further, for the half year ending 30th September, 2024, the turnover reached ₹ 50 lakh. Care & Care Beauty Centre recorded a rapid growth and the turnover reached ₹ 70 lakh by the end of October, 2024. Determine the total tax liability of Care & Care Beauty Centre by the end of October, 2024. Note: Normal GST rate is 18%.

Solution:

Section 10(2A) provides an option to a registered person to pay CGST maximum @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on/after 1st April in any financial year, subject to specified conditions.

It is clarified in the explanation to Section 10 that first supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this section, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act, but for the purpose of determination of tax payable under this Section, **shall not include** the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

Thus, Care & Care Beauty Centre is eligible to pay tax under Section 10(2A) upto the turnover of ₹ 50 lakh. The total tax payable by it is as under:-

Period	Tax Rate	Turnover (₹)	Tax liability (₹)
I Quarter	Since turnover did not exceed ₹ 20 lakh, it was not required to obtain registration. Hence, no tax was required to be paid	20 Lakh	Nil
II Quarter	Effective rate is 6% (CGST+ SGST/ UTGST)] under Section 10(2A)	30 Lakh [(50-20) lakh]	1,80,000
For the month of October, 2024	Normal rate of GST of 18% is to be applied	20 lakh [(70-50) Lakh]	3,60,000
Total tax payable			5,40,000

20. **[COMPOSITION SCHEME]** Explain in brief the conditions to be fulfilled by a registered person under GST law for availing the option to pay composition tax under Section 10(2A) as amended.

Answer:

The registered person desirous of availing the option to pay composition tax under Section 10(2A) should -

- not be engaged in making any supply which is not leviable to tax.
- not be engaged in making any inter-State outward supply of goods and/or services.
- neither be a casual taxable person nor a non-resident taxable person.
- not be engaged in making any supply of ~~goods or~~ services through an electronic commerce operator who is required to collect tax at source.
- not be engaged in making supplies of notified goods.
- neither collect any tax from the recipient nor be entitled to any input tax credit.
- issue a bill of supply instead of tax invoice.
- not have the aggregate turnover in the preceding financial year exceeding ₹ 50 lakh
- not be eligible for composition scheme under Section 10(1).

21. **[COMPOSITION SCHEME]** Enumerate the persons who are not eligible to opt for Composition Scheme under section 10(2) of the CGST Act, 2017.

Answer

A registered person shall not be eligible to opt for composition scheme if:-

- Save as provided in sub-section (1)**, he is engaged in supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II.
- he is engaged in supply of goods or services not leviable to tax
- he is engaged in inter-State outward supplies of goods or services
- he is engaged in supply of ~~goods or~~ services through an electronic commerce operator
- he is a manufacturer of notified goods, namely, manufacturer of ice cream, **aerated water**, pan masala, **Tobacco and manufactured tobacco substitutes; Fly ash bricks or fly ash aggregate; Fly ash blocks; Bricks of fossil meals or similar siliceous earths; Building bricks and Earthen or roofing tiles.**

22. **[COMPOSITION SCHEME]** Examine in relation to composition levy scheme under the CGST Act, 2017 and the rules made there under in the following individual cases:

- Ketu is a manufacturer of ice-cream and pan masala in State of Maharashtra. His turnover for the year does not exceed ₹ 1.5 Crore. He wants to register for composition levy scheme. Is he eligible for it?
- Jadhu of Gujarat opts for composition scheme during a financial year 2024-25. But on 10-02-2025 his turnover crosses ₹ 1.5 Crore, can he continue under composition levy scheme.
- X Ltd. has 2 branches K & L in Delhi, having same PAN. Branch K opts for normal scheme. X Ltd. want to continue composition levy in case of its branch L. Can X Ltd. continue composition levy only for branch L?

Answer

1. A registered person who is engaged in manufacture of, inter alia, ice cream and pan masala, is not eligible to opt for composition levy even if his aggregate turnover does not exceed ₹ 1.5 crore.

Therefore, in the given case, Ketu is not eligible to opt for composition levy.

2. The option to pay tax under composition levy availed of by a registered person lapses with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹ 1.5 crore. He needs to pay tax under normal scheme from that day.

Since in the given case, the turnover of Jadhu crosses ₹ 1.5 crore on 10.02.2025, he cannot continue under composition scheme from that day.

3. Where person having the same Permanent Account Number, has more than one registration, the registered person shall not be eligible to opt for composition scheme unless all such registered persons opt to pay tax under composition scheme. In other words, all the registrations under the same PAN have to opt for composition scheme.

In view of the same, in the given case, X Ltd. cannot continue with composition scheme only for branch L.

23. [Composition Scheme] - M/s Sai Trading Company, an eligible registered dealer in goods making intra-state supplies within the state of Andhra Pradesh, has reported an aggregate turnover of ₹ 138 Lakhs in the preceding financial year.

- (i) Determine whether Sai Trading Company will be eligible for composition levy, as on 1-4-2024.
- (ii) Will your answer be different, if in the above scenario, M/s Sai Trading Company is making intra state supply within the state of Jammu and Kashmir?

Solution:

- (i) Section 10 of CGST Act, 2017 provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore may opt for composition scheme under Section 10(1). The turnover limit is ₹ 75 lakh in case of Special Category States. **However, for Assam, HP & Jammu and Kashmir, the turnover limit is ₹ 1.5 crore only.**

In the given case, the applicable turnover limit for composition scheme will be ₹ 1.5 crore as Andhra Pradesh is not a Special Category State.

Further, since the aggregate turnover of the registered person in the given case does not exceed ₹ 1.5 crore **and it satisfies other conditions of composition scheme namely, not making inter-State supplies of goods, it is eligible for composition levy.**

- (ii) Since the turnover limit for determining the eligibility for composition scheme in the State of Jammu and Kashmir is also ₹ 1.5 crore, Sai Trading Company will be eligible for composition levy with other condition of not making inter-State supplies of goods being fulfilled.

24. *Draupad Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.*

Solution:

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed.

Therefore, in the given case, Draupad Fabrics cannot issue tax invoice. Instead, it shall issue a Bill of Supply.

25. [COMPOSITION SCHEME] *M/s. Ranveer Industries, registered in Himachal Pradesh, is engaged in making inter-State supplies of readymade garments. The aggregate turnover of M/s. Ranveer Industries in the financial year 2023-24 is ₹ 70 lakh. It opted for composition levy in the year 2024-25 and paid tax for the quarter ending September, 2024 under composition levy.*

The proper officer has levied penalty for wrongly availing the scheme on M/s. 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) 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 [₹ 75 lakh in case of Special Category States except Jammu and Kashmir, Assam & HP], 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 M/s Ranveer Industries is engaged in making inter-State supplies of readymade garments, it is not eligible to opt for composition scheme in FY 2024-25 irrespective of its turnover 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.

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

26. **[COMPOSITION SCHEME]** Bansal and Chandiook started a partnership firm of Chartered/Cost Accountants in Jaipur (Rajasthan) on 1.04.2024. 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 01.08.2024. Bansal and Chandiook wishes to opt to pay tax under composition scheme 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?

Solution:

Section 10(2A) provides an option to a registered person whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme under Section 10(1), to pay tax @ 6% [CGST @ 3% and SGST @ 3%] on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on or after 1st April in any financial year, subject to specified conditions.

Further, for the purposes of this notification, the expression “first supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

In the given case, Bansal and Chandiook Firm is eligible to opt for the scheme to pay tax at concessional rate since his turnover in the preceding financial year was NIL and he is not eligible to opt for composition scheme since he is dealing exclusively in services other than restaurant services.

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 ₹ 50 lakh.
- (ii) **July-Sep quarter:** While computing the tax payable by the firm in second quarter, the turnover from 01.04.20XX 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

27. **VERY IMPORTANT [COMPOSITION SCHEME]** M/s Heeralal and Sons registered in Karnataka has opted to avail the benefit of composition scheme. It has furnished the following details for the tax period ended on 30-06-20XX.

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 the tax period ended on 30.06.20XX in following independent situations:

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

Solution:

Computation of amount payable under composition scheme

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

Tax is to be paid @ 1% (CGST+ 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% (CGST+ 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]

EXEMPTIONS FROM GST

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. **However, for determining the liability to pay the tax, one needs to further check whether such supply of goods and/or services are exempt from tax.**

Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply.

Non-taxable supply means a supply of goods or services or both which is **not leviable to tax** under CGST Act or under the IGST Act. **Thus, under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'.**

Examples of supply not leviable to tax are

- ✓ alcoholic liquor for human consumption,
- ✓ specified petroleum products namely Petroleum Crude, High Speed Diesel, Motor spirit (commonly known Petrol), Natural Gas and Aviation Turbine Fuel.

It is important to note that exemption under GST may be provided in any of the following manner:

A. Exemption to specified activities or transactions

Sometimes, exemption is provided in respect of specified activities or transactions. **Consequently, the status of the supplier or recipient becomes immaterial.**

B. Exemption to specified suppliers

At times, exemption is given to specified suppliers only. **Here, the status of recipient becomes immaterial.**

C. Exemption to specified recipients

In some cases, exemption is given to specified recipient only. **Here, the status of supplier becomes immaterial.**

D. Exemption to specified suppliers and specified recipients

Sometimes, exemption is given **only when activities or transactions are carried out by specified suppliers for specified recipients only.**

Power to grant exemption from GST has been **granted vide section 11 of the CGST Act** and vide **section 6 of the IGST Act**. State GST laws also contain identical provisions granting power to exempt SGST.

POWER TO GRANT EXEMPTION FROM TAX [SECTION 11 OF THE CGST ACT]

- (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, **by notification, exempt generally, either absolutely or subject to such conditions** as may be specified therein, goods or services or both of any specified description from the **whole or any part of the tax leviable** thereon with effect from such date as may be specified in such notification
- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, **by special order in each case, under circumstances of an exceptional nature** to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any **notification issued** under sub-section (1) or **order issued** under sub-section (2), **insert an explanation in such notification or order**, as the case may be, by notification **at any time within 1 year of issue** of the notification/order, and every such explanation shall have effect **as if it had always been the part of the first such notification or order, as the case may be**.

Explanation:

For the purposes of this section, where an exemption in respect of any goods or services or both from the **whole or part** of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both **shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both**.

Clarification on the effective date of insertion of explanation in notification

Section 11(3) of CGST Act provides that the Government **may insert an explanation** in any notification issued under section 11, for the purpose of clarifying its scope or applicability, **at any time within 1 year of issue of the notification** and every such explanation shall have effect **as if it had always been the part of the first such notification**.

It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is **effective from the inception of the entry in notification and not from the date from which the notification** (that inserted said explanation) becomes effective.

For example, the principal **Notification No. 12/2017 CT (R) dated 28.06.2017** came into force with effect from 1.07.2017. Thereafter, a new entry - Entry no. 3(vi) is inserted w.e.f. 21.09.2018. Subsequently, an explanation is also inserted with respect to entry no. 3(vi) on 26.07.2019. Although the effective date mentioned in the notification which inserted said explanation is 27.07.2019, **said explanation will be effective from the inception of entry in notification i.e. 21.09.2018 and not 27.07.2019**.

Section 11A - Power not to recover Goods and Services Tax not levied or short-levied as a result of general practice**[Effective from 01.11.2024 - Amendment by the Finance (No. 2) Act, 2024]**

Notwithstanding anything contained in this Act, if the Government is satisfied that-

- a)** a practice was, or is, generally prevalent regarding levy of central tax (including non-levy thereof) on any supply of goods or services or both; and
- b) such supplies were, or are, liable to, –**
 - (i)** central tax, in cases where according to the said practice, central tax was not, or is not being, levied, or
 - (ii)** a higher amount of central tax than what was, or is being, levied, in accordance with the said practice,

the Government may, on the recommendation of the Council, by notification in the Official Gazette, direct that the whole of the central tax payable on such supplies, or, as the case may be, the central tax in excess of that payable on such supplies, **shall not be required to be paid in respect of the such supplies.**

SATC Note: The above amendment is **NOT applicable** for **CA Inter May 2025 exam**. However, this amendment **is applicable** for **CA Inter Sept 2025/Jan 2026 Exam & CMA Inter June 2025/Dec 2025 Exam**.

SATC:

Section 11A aims to empower the government to waive the levy of GST in cases where tax is not levied or is short levied due to normal business practice.

As per Section 11A, if the government feels that GST recovery on a business activity has not been made due to normal business practice, then it can waive the recovery of that tax. This section also covers business activities which were not taxed or had lower tax rates. **This arrangement provides relief to traders from past compliance problems and also protects them from the threat of litigation.**

**LIST OF SERVICES EXEMPT FROM CGST UNDER NOTIFICATION NO. 12/2017 CT (R)
DATED 28.06.2017****Charitable and religious activity related services**

1. [5 Marks] Services by an entity registered under section 12AA or section 12AB of the Income-tax Act, 1961 by way of charitable activities.

In order to claim exemption under this head, following two conditions must be satisfied:-

- (i) The **entity is registered** with income tax authorities under section 12AA or section 12AB of the Income Tax Act, 1961, and
- (ii) The entity **carries out one or more of the specified charitable activities.**

Charitable activities: means activities relating to -

- (i) **public health by way of,-**

(A) care or counseling of

- ✓ terminally ill persons or persons with severe physical or mental disability;
- ✓ persons afflicted with HIV or AIDS;
- ✓ persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

- (ii) **advancement of religion, spirituality or yoga;**

- (iii) **advancement of educational programmes or skill development relating to,-**

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

- (iv) **preservation of environment including watershed, forests and wildlife;**

Note:

- a. Grant of advertisement rights on the premises/publication of the charitable trust **is not exempt**
- b. Activities of a school, college or an institution run by a trust **which do not come within the ambit of charitable activities (as discussed above) will not be exempt here**
- c. Hostel accommodation services provided by trusts to students **do not fall** within the ambit of charitable activities **as defined above**.
- d. Religious Yatras/pilgrimage organised by any charitable or religious trust **(except point 4) are not exempt here**.
- e. Fee or consideration charged in any other form from the participants for participating in a religious, yoga or meditation programme or camp meant for advancement of religion, spirituality or yoga **shall be exempt**.

Residential programmes or camps where the fee charged **includes cost of lodging and boarding shall also be exempt** as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.

- f. However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, **such activities will be taxable**.

Similarly, activities such as holding of **fitness camps or classes such as those in aerobics, dance, music etc. will not be exempt here**.

- g. **Services provided to charitable or religious trusts** are not outside the ambit of GST. ***Unless specifically exempted***, all goods and services supplied to charitable or religious trusts are leviable to GST.

Example: Sarvsewa Trust, a charitable trust registered **under section 12AB** of the Income-tax Act, 1961, has organized a Skill Development Programme for the old age people over the age of 65 years residing in **Bangalore city (an urban area)**. Services provided by Sarvsewa Trust **do not fall** within the purview of 'charitable activities'.

The activities relating to advancement of skill development relating to persons over the age of 65 years, are covered under the definition of 'charitable activities' only when such persons are residing in rural area.

Example: Bhavyajyoti Foundation, a charitable trust registered under section 12AB of the Income-tax Act, 1961, **has organized a 'Yoga Meditation Camp' for the old age people**.

GST would be exempt on the same as services provided by entity registered under section 12AB of the Income- tax Act, 1961 **by way of advancement of religion, spirituality or yoga are exempt**.

2. [5 Marks] Services by a person by way of-**(a) conduct of any religious ceremony (all religions);**

[Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts **by a person so authorized by such religious texts**. Occasions like birth, marriage, and death involve elaborate religious ceremonies.]

Example: Raamanand Joshi, a priest, charges ₹ 12,000 for conducting a religious ceremony on the birthday of Ghanshyam's son. **The amount charged for the conduct of any religious ceremony is exempt from GST.**

(b) renting of precincts of a religious place meant for general public, *owned or managed by*

- ✓ an entity registered as a **charitable or religious trust under section 12AA or section 12AB** or
- ✓ a trust or an institution registered under section 10(23C)(v) or
- ✓ a body or an authority covered under section 10(23BBA) of the Income-tax Act, 1961.

However, nothing contained in entry (b) of this exemption shall apply to-

- (i) renting of rooms** where charges are **₹ 1,000 or more** per day;
- (ii) renting of premises, community halls, kalyanmandapam or open area, and the like** where charges are **₹ 10,000 or more per day;**
- (iii) renting of shops or other spaces for business or commerce where charges are ₹ 10,000 or more per month.**

NOTE:

Activities **other than conduct of religious ceremony and renting of precincts of religious place will be taxable irrespective of the manner or the name in which the consideration is received**. For example, if donation is received with specific instructions/mutual understanding between the donor and the receiver **that religious place will host an advertisement promoting business of the donor, such donation will be subject to GST**. However, if donation is received without such instructions or without a quid pro quo (something for something) in the form of supply of any goods or services by the receiver to the donor, it shall not be subject to GST.

Example: Durgadevi Trust, a religious trust registered under section 12AB of the Income-tax Act, owns and manages a temple in their locality. It rents the commercial shops located in the precincts of the temple for a rent of ₹ 10,000 per month per shop. **The consideration so received is liable to GST** as such services are exempt only when the consideration is less than ₹ 10,000 per month.

Example: Sarvshiksha Foundation, an educational institution registered under section 10(23C)(v) of the Income-tax Act, owns and manages a gurudwara. It rents the community hall located in the precincts of the gurudwara for a rent of ₹ 9,000 per day for a marriage function. **The consideration so received is exempt from GST as the consideration is less than ₹ 10,000 per day.**

3. [3 Marks] Services by way of training or coaching in

- (a) recreational activities relating to arts or culture, by an Individual or
- (b) sports by charitable entities registered under section 12AA or section 12AB of the Income-tax Act.

It is important to note that the exemption with regard to services provided by way of training or coaching relating to sports has a restricted scope. Here, said exemption is available **only when said services are provided by a charitable entity registered under section 12AA/12AB of Income-tax Act.**

Further, training or coaching relating to all forms of arts, culture or sports is covered under this entry, namely, dance, music, painting, sculpture making, literary activities, theatre, etc. of any school, tradition or language or any of the sports.

Example: Manavtaa Sansthaan, a charitable trust registered under section 12AB of the Income-tax Act, 1961, has organized a 'Basketball Training Camp' for teenagers. GST would be exempt on the same as services provided by entity registered under section 12AB of the Income-tax Act, 1961 **by way of training or coaching in sports are exempt.**

4. Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement.

Specified organisation: shall mean,-

- (a) Kumaon Mandal Vikas Nigam (KMVN) Limited, a Government of Uttarakhand Undertaking; or
- (b) 'Committee' or 'State Committee' as defined in section 2 of the Haj Committee Act, 2002.

Example:

KMVN supplies numerous services, namely, medical facilities, catering services, security, accommodation services, etc. to the pilgrims undertaking Kailash-Mansarovar pilgrimage. **Such services provided by KMVN in respect of the religious pilgrimage to Kailash-Mansarovar are covered in exemption notification and thus, are exempt.**

~~5. Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having Value of Supply of a unit of accommodation below or equal to ₹1,000 per day or equivalent.~~

6. **[Important]** Services by way of renting of residential dwelling for use as residence **except where the residential dwelling is rented to a registered person.**

Explanation: For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where,-

- i. the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and
- ii. such renting is on his own account and not that of the proprietorship concern.

Nothing contained in this entry shall apply to-

- (a) accommodation services for students in student residences;
- (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like.

Note:

- a) Renting of residential dwelling either by a registered person or an unregistered person for use as residence to UNREGISTERED PERSON is exempt from GST.
- b) Renting of residential dwelling for use as residence to a registered person (other than proprietor covered in explanation above) as well as renting of residential dwelling for commercial use to registered or unregistered person is liable to GST.
- c) Further, tax on renting of residential dwelling to a registered person **is payable by the registered person under reverse charge** whether such residential dwelling is being used for commercial purposes or residential purposes.

7. **Supply of accommodation services having value of supply less than or equal to ₹ 20,000 per person per month provided that the accommodation service is supplied for a minimum continuous period of 90 days.**

[NN 4/2024 CT(R) dated 12.07.2024, effective from 15.07.2024]

Services by an unincorporated body or a non- profit entity

8. [4 Marks] Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or
- (c) up to an amount of ₹ 7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.

[Statutory dues such as property tax, electricity charges etc forming part of the monthly maintenance bill raised by the society on its members would be excluded while computing the aforesaid monthly limit of ₹ 7,500]

9. Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in:-

- i. activities relating to the welfare of industrial or agricultural labour or farmers; or
- ii. promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

to its own members against consideration in the form of membership fee upto an amount of ₹1000/- per member per year

Clarification on issues related to GST on monthly subscription/ contribution charged by a Residential Welfare Association from its members

Issue	Clarification
<i>Are the maintenance charges paid by residents to the Resident Welfare Association (RWA) in a housing society exempt from GST and if yes, is there an upper limit on the amount of such charges for the exemption to be available?</i>	Supply of service by RWA (unincorporated body or a non- profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7,500/- per month per member for providing services and goods for the common use of its members in a housing society or a residential complex are exempt from GST.
<i>A RWA has aggregate turnover of ₹ 20 lakh or less in a FY. Is it required to take registration and pay GST on maintenance charges if the amount of such charges is more than ₹ 7500/- per month per member?</i>	No. <u>If aggregate turnover of an RWA does not exceed ₹20 Lakh in a FY, it shall not be required to take registration and pay GST even if the amount of maintenance charges exceeds ₹ 7,500/- per month per member.</u>

	RWA shall be required to pay GST on monthly subscription/ contribution charged from its members, only if such subscription is more than ₹ 7,500/- per month per member and the annual aggregate turnover of RWA by way of supplying of services and goods is also ₹ 20 lakh or more.
<i>Is the RWA entitled to take ITC of GST paid on input and services used by it for making supplies to its members and use such ITC for discharge of GST liability on such supplies where the amount charged for such supplies is more than ₹ 7,500/- per month per member?</i>	RWAs are entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services.
<i>Where a person owns 2 or more flats in the housing society/residential complex, whether the ceiling of ₹ 7,500/- per month per member on the maintenance for the exemption to be available shall be applied per residential apartment or per person?</i>	As per general business sense, a person who owns 2 or more residential apartments in a housing society/residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. <u>The ceiling of ₹ 7,500/- per month per member shall be applied separately for each residential apartment owned by him.</u> For example, if a person owns 2 residential apartments in a residential complex and pays ₹ 15,000/- per month as maintenance charges towards maintenance of each apartment to the RWA (₹ 7,500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.
<i>How should the RWA calculate GST payable where the maintenance charges exceed ₹ 7500/- per month per member? Is the GST payable only on the amount exceeding ₹ 7500/- or on the entire amount of maintenance charges?</i>	The exemption from GST on maintenance charges charged by a RWA from residents is available only if such charges do not exceed ₹ 7500/- per month per member. In case the charges exceed ₹ 7500/- per month per member, the entire amount is taxable. For example, if the maintenance charges are ₹ 9000/- per month per member, GST @18% shall be payable on the entire amount of ₹ 9000/- and not on [₹ 9000 - ₹ 7500] = ₹ 1500/- .

Passenger Transportation Services

- 10. Services provided to the Central Government**, by way of transport of passengers with or without accompanied belongings, by air, embarking **from or terminating at a RCS (Regional Connectivity Scheme) airport**, against consideration in the form of **Viability Gap Funding**:

However, nothing contained in this entry shall apply **on or after the expiry of a period of 3 year from the date of commencement of operations** of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

Note: A **Regional Connectivity Scheme** is introduced to facilitate / stimulate regional air connectivity by making it affordable by supporting airline operators through

- a. concessions by Central Government/State Governments and airport operators to reduce the cost of airline operations on regional routes/other support measures and
- b. financial (viability gap funding or VGF) support to meet the gap, if any, between the cost of airline operations and expected revenues on such routes.

Under RCS, the underserved airports of India are aimed to be connected to key airports through flights that will cost ₹ 2,500 for per hour flight.

- 11. [5 Marks] Transport of passengers, with or without accompanied belongings, by –**

- (a) Air **in economy class**, embarking from or terminating in an airport located in the state of **Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura** or at **Bagdogra** located in West Bengal;
- (b) non-air conditioned contract carriage other than radio taxi, for transportation of passengers, **excluding** tourism, conducted tour, charter or hire; or
- (c) stage carriage other than **air- conditioned** stage carriage.

Provided that nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST Act, 2017

- **Radio taxi** means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service
- **Stage carriage**: means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver **for hire or reward at separate fares** paid by or for individual passengers, **either for the whole journey or for stages of the journey**

- **Contract carriage** means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf **on a fixed or an agreed rate or sum-**
 - (a) **on a time basis**, whether or not with reference to any route or distance; or
 - (b) from one point to another, and in either case, ***without stopping to pick up or set down passengers not included in the contract anywhere during the journey, and includes—***
 - (i) a maxicab; and
 - (ii) a motor cab notwithstanding that separate fares are charged for its passengers.
- **Conducted tour** is a short visit to a place in which someone shows you around and tells you information about it

Examples:

- A. Subroto has hired a non-air conditioned bus from Mohit Travels for organising a religious tour from Delhi to Jaipur. Transport of passengers by a non-air-conditioned contract carriage are exempt from GST. However, said transportation of passengers for tourism purposes is excluded therefrom. **Therefore, such passenger transportation services are taxable.**
- B. The non-air conditioned buses are being operated by a State Transport Corporation for carrying passengers within the State. The passengers are being picked and dropped from and to various points by issuing individual tickets to the passengers. **Such services provided by said State Transport Corporation are exempt from GST.**

Clarification regarding hiring of vehicles by firms for transportation of their employees to and from work

Transport of passengers, with or without accompanied belongings, **by non-air conditioned contract carriage**, other than radio taxi, for transport of passengers, excluding tourism, conducted tour, charter or hire **is exempt**.

The said exemption would apply to passenger transportation services by **non-air conditioned contract carriages where transportation takes place over pre-determined route on a pre-determined schedule**.

The **exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient** and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

12. [5 Marks] Service of transportation of passengers, with or without accompanied belongings, by-

(a) railways in a class **other than**

(i) first class; or

(ii) an air-conditioned coach;

(b) metro, monorail or tramway;

(c) inland waterways;

(d) **public transport**, other than predominantly for tourism purpose, in a vessel between places located in India; and

(e) metered cabs or auto rickshaws (including e-rickshaws).

Provided that nothing contained in items (e) above shall apply to services supplied through an electronic commerce operator, and notified under Section 9(5) of the CGST Act, 2017

[Services referred herein are the service by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, omnibus or any other motor vehicle, the tax on supplies of which shall be paid by the ECO if such services are supplied through ECO.]

Clarification regarding applicability of GST on tickets of private ferry used for passenger transportation

The circular clarifies the applicability of GST on private ferry tickets. For instance, private ferries are used as means of transport from one island to another in Andaman and Nicobar Islands.

Transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is exempted.

It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/government.

It is further clarified that, the expression 'public transport' used in the exemption notification only means that the transport should be open to public. It can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

Goods Transportation Services

13. Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.

14. [3 Marks] Services by way of transportation of goods-

(a) by road **except the services of—**

(i) a goods transportation agency;

(ii) a courier agency;

(b) by inland waterways.

What is courier agency?

Courier agency means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.

Express cargo service: Some transporters undertake door-to-door transportation of goods or articles **and they have made special arrangements for speedy transportation and timely delivery of such goods or articles.**

Such services are known as 'Express Cargo Service' **with assurance of timely delivery.** The nature of service provided by 'Express Cargo Service' falls within the scope and definition of the courier agency. **Hence, the said service relating to transportation of goods by road is not exempt.**

Clarification regarding applicability of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time

*The issue which arose for consideration was whether transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time would be exempt **as transport of goods by road except by a GTA.***

Usually in such cases the vehicles such as tippers, dumpers, loader, trucks etc., are given on hire to the mining lease operator. Expenses for fuel are generally borne by the recipient of service. The vehicles with driver are at the disposal of the mining lease operator for transport of minerals within the mine area (mining pit to railway siding, beneficiation plant etc.) as per his requirement during the period of contract.

Such services are nothing but “rental services of transport vehicles with operator”. The person who takes the vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations.

The person who gives the vehicles on rent with operator cannot be said to be supplying the service by way of transport of goods.

Accordingly, it is clarified that such 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.

Consequently, it is not eligible for exemption.

15. Services by way of transportation by rail or a vessel from one place in India to another of the following goods –

- (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
- (b) defence or military equipments;
- (c) newspaper or magazines registered with the Registrar of Newspapers;
- ~~(d) railway equipments or materials;~~
- (e) agricultural produce;
- (f) milk, salt and food grain including flours, pulses and rice; and
- (g) organic manure.

16. [5 Marks] Services provided by a Goods Transport Agency, by way of transport in a goods carriage of-

- (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- (b) defence or military equipments.
- (c) newspaper or magazines registered with the Registrar of Newspapers;
- ~~(d) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage **does not exceed ₹ 1,500;**~~
- ~~(e) goods, where consideration charged for transportation of all such goods for a single consignee **does not exceed ₹ 750;**~~
- (f) agricultural produce;
- (g) milk, salt and food grain including flour, pulses and rice;
- (h) organic manure;

17. [3 Marks] Supply of services provided by a GTA to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: -

- a. any factory registered under or governed by the Factories Act, 1948; or
- b. any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
- c. any Co-operative Society established by or under any law for the time being in force; or
- d. any body corporate established, by or under any law for the time being in force; or
- e. any partnership firm whether registered or not under any law including association of persons;
- f. any casual taxable person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act;

have been exempted from GST.

18. Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to, -

- a) Department or Establishment of the Central/State Government/Union territory; or
- b) local authority; or
- c) Governmental agencies,

which has taken GST registration only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

“ABOUT GTA”

Who is a GTA – Goods Transport Agency?

Goods transport agency has been defined in the Notification to mean any person who:

- provides service in relation to transport of goods by road, and
- issues consignment note, by whatever name called.

Thus, it can be seen that **issuance of a consignment note is mandatory for a supplier of service to be considered as a GTA**. If such a consignment note is not issued by the transporter, the service provider will not come within the ambit of GTA.

If a consignment note is issued, it indicates that the lien on the goods has been transferred (to the transporter) and the transporter becomes responsible for the goods till its safe delivery to the consignee. **It is only the services of such GTA, which assumes agency functions, that has been brought into the GST net.**

Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. As a result, the services provided by such individual transporters who do not issue a consignment note will always be exempt from GST.

Consignment Note [3 Marks]

Consignment note means a document, issued by a GTA against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains:

- ✓ the name of the consignor and consignee,
- ✓ registration number of the goods carriage in which the goods are transported,
- ✓ details of the goods transported,
- ✓ details of the place of origin and destination,
- ✓ gross weight of the consignment;
- ✓ GSTIN of the person liable for paying tax whether consignor, consignee or GTA
- ✓ other particulars as prescribed for a tax invoice.

Significance of the term 'in relation to' in the definition of GTA

The use of the phrase 'in relation to' has **extended the scope** of the definition of GTA. It includes not only the actual transportation of goods, **but also various intermediary and ancillary services, such as, loading/ unloading, packing/ unpacking, transshipment and temporary warehousing, which are provided in the course of transport of goods by road.** These services 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 the GTA, **such service would form part of the GTA service, being a composite supply, and would not be treated as a separate supply.**

~~However, if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.~~

It is clarified by CBIC that ancillary or incidental services provided by GTA in the course of transportation of goods by road, such as loading/unloading, packing/unpacking, transshipment, temporary warehousing etc. will be treated as composite supply of transport of goods.

The method of invoicing used by GTAs will not generally alter the nature of the composite supply of service.

However, if such services are not provided in the course of transportation of goods and are invoiced separately, then these services will not be treated as composite supply of transport of goods

Circular No. 234/28/2024 GST dated 11.10.2024

Other Transport related services**19. [2 Marks] Services by way of giving on hire –**

(a) to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers;
or

(b) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;

[EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle.]

(c) to a goods transport agency, a means of transportation of goods.

(d) 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

Clarification regarding renting of vehicles to State Transport Undertakings and Local Authorities

Notifications exempts services by way of giving on hire (a) to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers; or (aa) to a local authority, an Electrically Operated vehicle meant to carry more than 12 passengers.

It is clarified that the expression “giving on hire” here includes renting of vehicles.

Accordingly, where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities, said services are eligible for above exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles.

20. Service by way of access to a road or a bridge on payment of toll charges.**Clarification regarding GST on overloading charges at toll plaza**

Service by way of access to a road or a bridge on payment of toll charges is exempt from GST.

With regard to said entry, following issues have been clarified:

a. Ministry of Road Transport and Highways (MORTH) permitted the overloaded vehicles to ply on the national highways after payment of higher toll charges.

It has been clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.

- b. MORTH has directed to collect additional amount from the users of the road to the extent of two times of the fees applicable to that category of vehicle which is not having a valid functional Fastag.

Essentially, the additional amount collected from the users of the road not having a functional Fastag, **is in the nature of toll charges and should be treated as additional toll charges.**

Therefore, it is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles **and may be given the same treatment as given to toll charges.**

~~21. Supply of service by way of access to a road or a bridge on payment of annuity, has been exempted from GST.~~

22. Supply of services associated **with transit cargo to Nepal and Bhutan (landlocked countries)** have been exempted from CGST

23. Services by way of granting **National Permit to a goods carriage to operate through-out India / contiguous States**

Services provided by specified bodies

24. **EPFO:** Services provided by the **Employees Provident Fund Organisation** to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.
25. **ESI:** Services by the **Employees' State Insurance Corporation** to persons governed under the Employees' State Insurance Act, 1948.
- ~~26. Services provided by the **Insurance Regulatory and Development Authority** of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999.~~
- ~~27. Services provided by the Securities and Exchange Board of India by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.~~
28. Services by **Coal Mines Provident Fund Organisation** to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.
29. Services by **National Pension System (NPS) Trust** to its members against consideration in the form of administrative fee.
30. ~~Satellite launch services supplied by **Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.**~~

*[The CBIC has issued notification to provide that satellite launch services provided **by any entity or any person would be exempted under GST**. Earlier, the exemption was available on the services of satellite launch provided by the Indian Space Research Organisation, Antrix Corporation Limited, or New Space India Limited **only**. Now, exemption is extended to private organization also to encourage start-ups]*

Banking and financial services

~~31. Services by the Reserve Bank of India.~~

32. [3 Marks] Services by way of—

- (a) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.
- (b) 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**);

Examples:

- Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.
- Providing a loan or overdraft facility or a credit limit facility in consideration for payment of interest.
- Mortgages or loans with a collateral security to the extent that the consideration for advancing such loans or advances are represented by way of interest.
- Corporate deposits to the extent that the consideration for advancing such loans or advances are represented by way of interest or discount.

Note:

1. **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 thus, represent taxable consideration.
2. **Invoice discounting/ cheque discounting or any other similar form of discounting** is covered only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.
3. **Any interest/ delayed payment charges charged to clients for delay in payment of brokerage amount/ settlement obligations/ margin trading facility: is exempt from GST** since settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances and are covered.
4. **Charges for late payment of outstanding dues on credit card**: Interest charged on outstanding credit card balances has been **specifically excluded**. Hence, the same is liable to GST.

33. Services by an acquiring bank, to any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card or other payment card service.

Here, **“acquiring bank” means** any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

34. Services **by an intermediary of financial services** located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services **in currencies other than Indian rupees (INR).**

35. Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).

36. Services by the following persons in respective capacities –

- (a) business facilitator or a business correspondent **to a banking company** with respect to **accounts in its rural area branch**;
- (b) any person **as an intermediary to a business facilitator or a business correspondent** with respect to services mentioned in entry (a); or
- (c) **business facilitator or a business correspondent to an insurance company in a rural area.**

Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments (EMI)

[GST Circular]

Issue: *Whether GST is applicable on additional / penal interest on the overdue loan? Whether such penal interest would be exempt under Entry 27 of exemption notification or it would be taxable treating it as consideration for liquidated damages?*

Clarification: As per the provisions of section 15(2)(d) of the CGST Act, the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. Entry 27 of exemption notification, inter alia, exempts the 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).

Here, interest means interest payable in any manner in respect of any moneys borrowed/debt incurred (including a deposit, claim or other similar right or obligation), **but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.**

There are two transaction options involving EMI that are prevalent in the trade. **In view of the provisions of law discussed in preceding para, these two options, alongwith the GST applicability on them, have been explained with the help of illustrations as under -**

Illustration – 1: X sells a mobile phone to Y. The cost of mobile phone is ₹40,000/-. However, X gives Y an option to pay in installments, ₹11,000/- every month before 10th day of the following month, over next four months ($₹11,000/- \times 4 = ₹44,000/-$). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to ₹500/- per month for the delay.

In some instances, X is charging Y ₹40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to ₹500/- per month for each delay in payment.

In this case, the amount of penal interest is to be included in the value of supply [in terms of section 15(2)(d)]. The transaction between X and Y is for supply of taxable goods i.e. mobile phone.

Accordingly, the penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.

Illustration – 2: X sells a mobile phone to Y. The cost of mobile phone is ₹40,000/-. **Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd.** The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27.

Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry.

However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances **does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.**

Moreover, the value of supply of mobile by X to Y would be ₹40,000/- for the purpose of levy of GST.

Life & General insurance business services

- 37.** Services of **life insurance business provided by way of annuity** under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.
- 38.** Services of **life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds** to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
- 39.** Services of **life insurance provided/agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds** to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
- 40.** Services of **life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government**
- 41.** Services of **life insurance business** provided under following schemes-
- (a) Janashree Bima Yojana;
 - (b) Aam Aadmi Bima Yojana;
 - (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, **having maximum amount of cover of ₹ 2,00,000;**
 - (d) Varishtha Pension Bima Yojana;
 - (e) Pradhan Mantri Jeevan Jyoti Bima Yojana;
 - (f) Pradhan Mantri Jan Dhan Yojana;
 - (g) Pradhan Mantri Vaya Vandan Yojana.
- 42.** Services of **general insurance business** provided under following schemes –
- (a) Hut Insurance Scheme;
 - (b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
 - (c) Scheme for Insurance of Tribals;
 - (d) Janata Personal Accident Policy and Gramin Accident Policy;
 - (e) Group Personal Accident Policy for Self-Employed Women;
 - (f) Agricultural Pumpset and Failed Well Insurance;
 - (g) premia collected on export credit insurance;

- (h) “Restructured Weather Based Crop Insurance Scheme (RWCIS)” and “Pradhan Mantri Fasal Bima Yojana (PMFBY)”
- (i) Jan Arogya Bima Policy;
- (j) Pilot Scheme on Seed Crop Insurance;
- (k) Central Sector Scheme on Cattle Insurance;
- (l) Universal Health Insurance Scheme;
- (m) Rashtriya Swasthya Bima Yojana;
- (n) Coconut Palm Insurance Scheme;
- (o) Pradhan Mantri Suraksha Bima Yojna;
- (p) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.
- (q) Bangla Shasya Bima

43. Services by way of reinsurance of the insurance schemes specified above in serial number 41 or 42.

Pension schemes

- 44. Services by way of collection of contribution under the Atal Pension Yojana.**
- 45. Services by way of collection of contribution under any pension scheme of the State Governments.**

Agriculture related services

46. [6 Marks] Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of-

- (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
- (b) supply of farm labour;
- (c) processes carried out **at an agricultural farm** including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce **but make it only marketable for the primary market;**
- (d) **renting or leasing of agro machinery or vacant land** with or without a structure incidental to its use;

[Example: Leasing of vacant land with a greenhouse and a storage shed which is incidental to its use for agriculture is exempt from GST.]

- (e) **loading, unloading, packing, storage or warehousing** of agricultural produce;
- (f) agricultural extension services;
- (g) services by any **Agricultural Produce Marketing Committee** or Board **OR** services provided **by a commission agent** for sale or purchase of agricultural produce.
- ~~(h) Services by way of fumigation in a warehouse of agricultural produce~~

Agricultural produce: means any produce out of cultivation of plants and rearing of all life forms of animals, **except the rearing of horses**, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer **which does not alter its essential characteristics but makes it marketable for primary market.**

Note:**a) Following processes are liable to GST -**

- i. **Process which alters the essential characteristics of the agricultural produce:** For instance, potato chips or tomato ketchup are manufactured through processes which alter the essential characteristic of farm produce (potatoes and tomatoes in this case).
- ii. **Process which makes agricultural produce marketable in the retail market:** The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make the agricultural products **marketable in retail market, would NOT be covered in this entry.**

b) Agricultural Extension Services (AES)

*It means the application of scientific research and knowledge to agricultural practices through farmer education or training. The main objective of AES is to transmit latest technical know-how to farmers. It also focuses on enhancing farmers' knowledge about crop techniques and help them to increase productivity. **This is done through training courses, kisan call centres, farm visits, on-farm trials, kisan melas, kisan clubs, advisory bulletins and the like.***

c) Agricultural Produce Marketing Committee:

Agricultural Produce Marketing Committee or Board means any committee or board set up under a State Law for the time being in force for purpose of regulating the marketing of agricultural produce.

Such marketing committees or boards have been set up in most of the States and provide a variety of support services for facilitating the marketing of agricultural produce by provision of facilities and amenities like, sheds, water, light, electricity, grading facilities etc. They also take measures for prevention of sale or purchase of agricultural produce below the minimum support price. **APMCs collect market fees, license fees, rents etc.**

However, any service provided by such bodies **which is not directly related 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, **will be liable to tax e.g. renting of shops or other property.**

d) Processed Tea and coffee

Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same.

Thus, **green tea leaves and not tea is the “agricultural produce” eligible for exemption** available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with **coffee obtained after processing of coffee beans**.

Jaggery

Similarly, processing of **sugarcane into jaggery** changes its essential characteristics. **Thus, jaggery is also not an agricultural produce.**

Pulses

Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. **Therefore, pulses (dehusked or split) are also not agricultural produce.** However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

In view of the above, it is inferred that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. **fall outside the definition of agricultural produce and therefore the exemption from GST is not available** to their loading, packing, warehousing etc

47. Services by way of loading, unloading, packing, storage or warehousing of rice.

48. Services by way of warehousing of minor forest produce.

~~49. Services by way of fumigation in a warehouse of agricultural produce.~~

50. Services by way of storage/ warehousing of cereals, pulses, fruits and vegetables spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.

51. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

- 52.** Services provided by the **National Centre for Cold Chain Development** under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.
- 53.** ~~Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators~~
- 54.** 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.**

Note:

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 that milling of paddy into rice is not eligible for exemption

55. ~~Services by way of slaughtering of animals.~~

56. Services by way of artificial insemination of **livestock (other than horses).**

Legal services

57. [6 Marks] Services provided by-

(a) an arbitral tribunal to –

- (i) any person other than a business entity; or
- (ii) a business entity with an aggregate turnover *up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;*
- (iii) *the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity*

(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

- (i) an advocate or partnership firm of advocates providing legal services;
- (ii) any person other than a business entity; or
- (iii) a business entity with an aggregate turnover *up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;*
- (iv) *the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity*

(c) a senior advocate by way of legal services to-

- (i) any person other than a business entity; or
- (ii) a business entity with an aggregate turnover *up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017;*
- (iii) *the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity*

Education services

58. [6 Marks] Services provided -

- (a) **by an educational institution** to its students, faculty and staff;
- (b) **by an educational institution** by way of conduct of entrance examination against consideration in the form of entrance fee
- (c) **to an educational institution, providing pre-school education and education up to higher secondary school or equivalent, by way of,-**
 - (i) **transportation** of students, faculty and staff;
 - (ii) **catering**, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) **security** or **cleaning** or **house-keeping** services **performed in such educational institution**;
 - (iv) services relating to **admission to, or conduct of examination** by, such institution;
- (d) **to Educational institution providing education as a part of a curriculum for obtaining a recognised qualification by way of**
 - i. services relating to admission to, or conduct of examination by, such institution
 - ii. supply of online educational journals or periodicals
- (e) **to Education institution providing education as a part of approved vocation education course** by way of services relating to admission to, or conduct of examination by, such institution

Educational institution: means an institution providing services by way of,-

- A. **pre-school education** and education up to higher secondary school or equivalent;
- B. **education as a part of a curriculum for obtaining a qualification recognised by any law (Indian law)** for the time being in force;
- C. **education as a part of an approved vocational education course**

“Approved vocational education course” means

- ✓ a course run by an **Industrial Training Institute (ITI)** or an **Industrial Training Centre (ITC)** affiliated to the **National Council** for Vocational **Education and** Training or **State Council** for Vocational Training offering courses **in designated trades notified under the Apprentices Act, 1961** or

- ✓ a Modular Employable Skill Course, approved by the **National Council for Vocational Education and Training**, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;



59. Services of affiliation provided by a Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity.

[NN 8/2024 CT(R) dated 08.10.2024, effective from 10.10.2024]

Note:

- a. Central and State Educational Boards shall be treated as 'Educational Institution' for the limited purpose of providing services by way of conduct of examination to the students.**

- b. Exemption available to educational institutions and Central and State educational boards for conduct of entrance examination extended to any authority/ board/ body set up by the Central/State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions**

It clarifies that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.

- c. Clarification regarding GST on supply of various services by Central and State Boards**

GST Circular clarifies the taxability of various services supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services.

For example, NBE provides services of conducting entrance examinations for admission to courses including Diplommat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.

“Central and State Educational Boards” are treated as educational institution for the limited purpose of providing services by way of conduct of examination to the students.

Therefore, NBE is an ‘educational institution’ in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

It is clarified that:

- i. GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.***
- ii. GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards.***

GST is applicable to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services.

- d. Services of supply of online educational journals/periodicals are exempt only if they are provided to 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***
- e. Composite and mixed supply in so far as education is concerned***

Boarding schools provide service of education coupled with other services like providing dwelling units for residence and food. **This may be a case of composite supply if the charges for education and lodging and boarding are inseparable.**

Such services in the case of boarding schools are naturally bundled and supplied in the ordinary course of business. Therefore, the bundle of services will be treated as consisting entirely of the principal supply, which means the service which forms the predominant element of such a bundle.

In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability **and in this case the entire consideration for the supply will be exempt.**

Let's take another example where a course in a college leads to dual qualification only one of which is recognized by law. Would service provided by the college by way of such education be covered by the exemption notification? Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.

If an artificial bundle of service is created by clubbing two courses together, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply. The taxability will be determined by the supply which attracts highest rate of GST.

However, incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being will be an example of naturally bundled course, and therefore treated as composite supply.

One relevant consideration in such cases will be the amount of extra billing being done for the unrecognized component viz-a-viz the recognized course. If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in the ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of the higher taxed component for the entire consideration

Affiliation provided by universities to colleges

- The activity of affiliation is to monitor and ensure whether the institution possesses the required infrastructure in terms of space, technical prowess, financial liquidity, faculty strength, etc. and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions.
- The affiliation services provided by the universities **are not related** to the admission of students to such colleges or the conduct of examinations by such colleges.
- It has been clarified by CBIC that the **affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions.**

[Circular No. 234/28/2024 GST dated 11.10.2024]

Affiliation provided by Central and State educational boards or Councils, or other similar bodies, to schools

- The activity of affiliation carried out by educational boards or councils, or other similar bodies, is to monitor and ensure whether the schools possess the required infrastructure, finances, faculty strength etc. and are thereby eligible for the privileges to operate under the aegis of said boards or councils.
- The **affiliation services are not related** to the admission of students to such schools or the conduct of examinations by such schools.
- It has been clarified by CBIC that **such services of affiliation, provided to schools by Central or State educational boards or councils, or other similar bodies, by whatever name called, are taxable.**

[Circular No. 234/28/2024 GST dated 11.10.2024]

However, it may be noted that the affiliation services provided by Central and State educational boards or Councils, or other similar bodies to GOVERNMENT SCHOOLS i.e. schools established, owned or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority or Government entity are exempt.

Private ITIs

Private ITIs qualify as an educational institution if the education provided by these ITIs is approved as vocational educational course as defined above. Accordingly, services provided by a private ITI **only in respect of designated trades notified under Apprentices Act, 1961 are exempt** from GST under this entry. Services in respect of other than designated trades are liable to GST.

Further, in case of designated trades, **services provided by private ITI** by way of **conduct of entrance examination** against consideration in the form of entrance fee **will also be exempt**. Moreover, in respect of such designated trades, **services provided TO private ITIs** relating to admission to or **conduct of examination** by a private ITI will also be exempt.

In case of **other than designated trades** in private ITIs, **GST is payable** on the aforesaid services provided by/to the private ITIs.

Government ITIs

As far as **Government ITIs** are concerned, services provided by a Government ITI to individual trainees/ students, are exempt **under separate entry as these are in the nature of services provided by the Central or State Government to individuals**. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs.

Unrecognized educational institutions

Private coaching centres or other unrecognized institutions, though self-styled as educational institutions, **would not be treated as educational institutions under GST** and thus cannot avail exemptions available to an educational institution.

Example: 'SATC', a coaching institute in New Delhi, provides coaching for Institute of Banking Personnel Selection (IBPS) Probationary Officers Exam. SATC, being a coaching centre which trains candidates to secure a banking job, **is not an educational institution** in terms of the exemption notification.

Indian Institutes of Management - IIMs

Indian Institutes of Management 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.**

Long duration programs - IIMs provide various **long duration programs (1 year or more)** for which they award **diploma/ degree certificate** duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. **Services provided by IIMs to their students in all such long duration programs (one year or more) are exempt from levy of GST.**

Short duration/short term programs - IIMs also provide various **short duration/short term programs (less than 1 year)** for which they award **participation certificate** to the executives/ professionals as they are considered as "participants" of the said programmes. These participation certificates are not any qualification recognized by law. **Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST and GST is payable on the same.**

Supply of food in a mess or canteen

Educational institutions generally have mess facility for providing food to their students and staff.

Such facility is either:

- (i) run by the institution/ students themselves or
- (ii) outsourced to a third person.

If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt.

If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the catering activity to an outside contractor, then it is a supply of service to the concerned educational institution by such outside caterer and attracts GST. However, said services when provided to an educational institution providing pre-school education or education up to higher secondary school or equivalent are exempt from tax.

Clarification regarding applicability of GST on supply of food in anganwadis and schools

*The issue which arose for consideration was as to whether serving of food in schools under Mid-Day Meals Scheme **would be exempt if such supplies are funded by government grants and/or corporate donations.***

*Services provided to an educational institution, by way of catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory **is exempt. This entry applies to pre-school and schools.***

*Accordingly, any catering service provided to an educational institution is exempt from GST and it includes mid- day meal service also. The **scope of this entry is thus wide enough to cover any serving of any food to a school (including pre-school).***

*An anganwadi, inter alia, provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution (as pre-school). Further, it is clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST **irrespective of its funding from government grants or corporate donations.***

Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

Fees charged from prospective employers

Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to campus recruitments. **Such services shall also be liable to tax**

Maritime courses approved by DG Shipping

Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. **Therefore, Maritime Training Institutes are educational institutions and the courses conducted by them are exempt subject to fulfilment of other conditions specified herein**

Approved flying training courses conducted by FTOs approved by DGCA

Directorate General of Civil Aviation (DGCA) approves Flying Training Organizations (FTOs) as well as also approves flying training courses and mandates the requirement of course completion certificates to be issued to successful candidates in terms of the Aircraft Act, 1934 and the rules prescribed thereunder.

*Therefore, the approved flying training courses conducted by FTOs approved by DGCA, wherein the DGCA **mandates the requirement of a completion certificate are exempt** as services provided by educational institutions (an institution providing services by way of education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force) to its students, faculty and staff are exempt from levy of GST.*

[Circular No. 234/28/2024 GST dated 11.10.2024]



Clarification regarding 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

*In this regard, it is stated that educational services supplied by educational institutions to its students are exempt from GST, **relevant portion of which reads as under-***

Services provided –

- a) by an educational institution to its students, faculty and staff;
- b) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.

Therefore, it can be seen that all services supplied by an ‘educational institution’ to its students are exempt from GST. Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt.

*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 the leaving or ex-students are also covered by the exemption.

Accordingly, such activities of educational institutions are also exempt.

FEW MORE EXAMPLES:

1. Dharam Institute of Technology’ (DIT), a private engineering college in M.P., offers post graduate engineering programmes. All the engineering courses including the distance learning post graduate engineering programme offered by DIT are recognised by the law [The All India Council for Technical Education (AICTE)].

Since DIT imparts education as a part of a curriculum for obtaining a qualification recognised by the Indian law, the **same is an educational institution.**

2. ‘Little ways Public School’ is a school located in Tamil Nadu. The school has two branches – one is a pre-school and another is a higher secondary school affiliated to CBSE.

A pre-school and a higher secondary school are educational institutions. Thus, Little ways Public School qualifies as an educational institution.

3. Kaladrishti ITI, Gorakhpur is engaged in providing skill development courses in **other than designated trades notified under the Apprentices Act, 1961.**

Since courses offered by Kaladrishti ITI are not in designated trades notified under the Apprentices Act, 1961, education provided by it **is not approved** as vocational educational course as defined above. Resultantly, **it doesn't qualify as an educational institution.**

4. 'Little Millennium' a pre-school in outskirts of Mumbai has subscribed the online journals on child development and experiential learning.

Services of supply of online educational journals or periodicals provided, inter alia, to an institution providing services by way of pre- school education are not exempt.

5. SM Transporters has provided services of transportation of students and faculty from their residence to school and back, to Pathwheels School - a higher secondary school.

Services of transportation of students, faculty and staff provided, inter alia, to an institution providing services by way of education up to higher secondary school or equivalent **are exempt.**

6. Shiksha College, offering degree courses, has to conduct its half yearly examination in November. For this purpose, it has paid the honorarium to paper setters and examiners (not on the rolls of Shiksha College) for their services. Further, it availed the printing services for printing the question papers (paper and content are provided by Shiksha College) for conducting examination.

Services provided to an educational institution relating to admission to, or conduct of examination by, such institution are exempt. Therefore, services of paper setters and examiners and printing services availed by Shiksha College **are exempt.**

7. Gyaani Public School – a higher secondary school – has hired Suvidha Services Ltd. **for security and housekeeping services in the school.** Security and housekeeping services provided **within the premises** of, inter alia, a higher secondary school are exempt. **Therefore, said services provided by Suvidha Services Ltd. are exempt.**

The school subsequently hired Suvidha Services Ltd. for providing the security and housekeeping services at School's Annual Day function organised in an auditorium **outside the school campus.** Security and housekeeping services provided to Gyaani Public School for School's Annual Day function organised outside the school campus **will be taxable** as only the security and housekeeping services performed **within the premises** of the higher secondary school are exempt.

Skill Development services**60. Any services provided by-**

- a) *the National Skill Development Corporation set up by the Government of India;*
- b) *the National Council for Vocational Education and Training;*
- c) *an Awarding Body recognized by the National Council for Vocational Education and Training;*
- d) *an Assessment Agency recognized by the National Council for Vocational Education and Training;*
- e) *a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training,*

in relation to

- (i) *the National Skill Development Programme or any other scheme implemented by the National Skill Development Corporation; or*
- (ii) *a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or*
- (iii) *any National Skill Qualification Framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.*

~~Any services provided by, —~~

- ~~(a) the National Skill Development Corporation set up by the Government of India;~~
- ~~(b) a Sector Skill Council approved by the National Skill Development Corporation;~~
- ~~(c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;~~
- ~~(d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council;~~

~~in relation to-~~

- ~~(i) the National Skill Development Programme implemented by the National Skill Development Corporation; or~~
- ~~(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or~~
- ~~(iii) any other Scheme implemented by the National Skill Development Corporation.~~

[NN 8/2024 CT(R) dated 08.10.2024, effective from 10.10.2024]

61. Services of **assessing bodies empanelled centrally** by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.
62. Services provided **by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)** implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the **National Council for Vocational Education and Training**.

Health care services

63. [5 Marks] Services by way of-

- (a) **health care services** by a clinical establishment, an authorised medical practitioner or para-medics;

Provided that nothing in this entry shall 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

- (b) transportation of a patient in an ambulance, other than those specified in (a) above.

➤ Health care services:

- a) means any service by way of diagnosis or treatment or care for **illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines (Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani etc)** in India and
- b) includes **services by way of transportation** of the patient to and from a clinical establishment,
- c) 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.
- Clinical establishment: means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in **any recognised system of medicines** in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.

- **Authorised medical practitioner:** means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in **any recognised system of medicines** in India as per any law for the time being in force.
- Further, **Paramedics** are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc. **Services by them in a clinical establishment would be in the capacity of employee and not provided in independent capacity and will thus be considered as services by such clinical establishment. Similar services in independent capacity are also exempted.**

➤ **Clarification regarding applicability of GST on services in form of ART/ IVF**

The issue which arose for consideration was whether GST is applicable on services by way of Assisted Reproductive Technology (ART) procedures such as In vitro fertilization (IVF).

Health care services provided by a clinical establishment, an authorized medical practitioner or para-medics are exempt.

As per the definition of health care services, it means 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.

Since, the abnormality/disease/ailment of infertility is treated using ART procedure such as IVF, it is clarified that services by way of IVF are also covered under the definition of health care services.

NOTE:

- a. Rent of rooms provided to in-patients in hospitals is **exempt if room charges does not exceeds ₹ 5,000 per day.**

b. **Services provided by senior doctors/ consultants/ technicians**

Hospitals hire senior doctors/ consultants/ technicians independently. Such persons do not have any contract with the patient. Hospitals pay them consultancy charges and there is no employer-employee relationship between them.

It is clarified by CBIC that services provided by such senior doctors/ consultants/ technicians, whether employees or not, are healthcare services which are exempt from GST

c. **Amount charged by hospitals from the patients**

Hospitals charge the patients, say, ₹ 10,000/- and pay to the consultants/technicians only ₹ 7,500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc. Going through the definition of health care services [given above], it can be inferred that hospitals also provide healthcare services.

The entire amount charged by them 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

d. **Food supplied to the patients**

- i. Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the hospitals from outdoor caterers.
 - ii. When outsourced, there is no ambiguity that the suppliers shall charge tax as applicable **and hospital will get no ITC.**
 - iii. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food **to the doctors and their staff**; such supplies, even when not charged, may be subjected to GST.
 - iv. **Food supplied to the in-patients** as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable.
 - v. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors **are taxable**
- e. **Supply** of services other than healthcare services **such as renting of shops, auditoriums in the premises of the clinical establishment, display of advertisements** etc. will be subject to GST.

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

~~**65.** Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.~~

~~**66.** Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.~~

67. Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act **at medical establishments, educational institutions, rehabilitation centres established by Central/State Government/ Union territory or an entity registered under section 12AA or section 12AB of the Income Tax Act, 1961.**

Performance by an Artist

68. [3 Marks] Services by an artist by way of a performance in folk or classical art forms of-

- (a) music, or
- (b) dance, or
- (c) theatre,

if the consideration charged for such performance is not more than ₹ 1,50,000. However, the exemption shall not apply to service provided by such artist as a brand ambassador.

Right to admission to various events

69. [3 Marks] Services by way of right to admission to-

- (a) circus, dance, or theatrical performance including drama or ballet;
- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- (c) recognised sporting event,
- (d) planetarium,

where the consideration for admission is not more than ₹ 500 per person as referred to in (a), (b), (c) and (d) above.

70. Services **by way of admission** to a museum, national park, wildlife sanctuary, tiger reserve or zoo.

71. Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts, for the time being in force

Sports related services**72. Services provided to a recognised sports body by-**

- (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognised sports body;
- (b) another recognised sports body.

73. Services by way of sponsorship of sporting events organised -

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
- (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- (c) by the Central Civil Services Cultural and Sports Board;
- (d) as part of national games, by the Indian Olympic Association; or
- (e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.

74. Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020 whenever rescheduled.**75. Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India whenever rescheduled.****Condition to be fulfilled:**

Director (Sports), Ministry of Youth Affairs and Sports have to certify that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020

76. Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India.

Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022."

77. Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022

Services Provided by Governments etc

78. Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted **to a municipality** under article 243W of the Constitution are exempt.

79. Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted **to a Panchayat** under article 243G of the Constitution.

Governmental authority: means an authority or a board or any other body, (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with 90%, or more participation by way of equity or control, **to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.**

Government Entity: means an authority or a board or any other body including a society, trust, corporation, (i) set up by an Act of Parliament or State Legislature; or (ii) established by any Government, with 90%, or more participation by way of equity or control, **to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.**

Meaning of Government

- As per section 2(53), 'Government' means the Central Government.
- Various State/ Union Territories (with Legislatures) GST Acts define 'Government' as Government of respective State Government/ Union Territory.
- For Union Territories (without State Legislatures), '**Government**' means the **Administrator** or any Authority or officer authorized to act as **Administrator by the Central Government.**
- Regulatory bodies/agencies, for instance, Competition Commission of India, Press Council of India, Directorate General of Civil Aviation, Forward Market Commission, Inland Water Supply Authority of India, Central Pollution Control Board, Securities and Exchange Board of India, **do not fall under the definition of Government.**

Statutory collections made by the Real Estate Regulatory Authority (RERA)

RERA is constituted under the Real Estate (Regulation and Development) Act, 2016. RERA performs function of regulating the real estate development and construction of the building entrusted to them.

RERA is a 'governmental authority' and statutory collections made by RERA are exempt from GST.

80. [5 Marks] Services by the Central Government, State Government, Union Territory or local authority excluding the following services-

- (a) services by the Department of Posts by way of ~~speed post, express parcel post, life insurance, and agency services provided to a person~~ other than the Central Government, State Government, Union territory **and the Ministry of Railways (Indian Railways);**
- (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (c) transport of goods or passengers; or
- (d) **any service**, other than services covered under entries (a) to (c) above, **provided to business entities.**

Clarification on applicability of GST on accommodation services supplied by Air Force Mess and other similar messes to its personnel

*All services supplied by Central Government, State Government, Union Territory or local authority to any person **other than business entities (barring a few specified services such as services of postal department, transportation of goods and passengers etc.)** are exempt from GST.*

Therefore, it is hereby clarified that accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are eligible for exemption provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

81. Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).

Note:

- a. **Services provided by Police/security agencies** of Government to PSUs/corporate entities/sports events held by private entities are not exempt from GST. Such services are taxable supplies and the recipients are required to pay the tax under reverse charge mechanism on the amount of consideration paid to Government for such supply of services.

Example:

The Karnataka Cricket Association, Bangalore requests the Commissioner of Police, Bangalore to provide security in and around the Cricket Stadium for the purpose of conducting the cricket match. The Commissioner of Police arranges the required security for an agreed consideration.

In this case, services of providing security by the police personnel are not exempt. As the services are provided by Government, **Karnataka Cricket Association is liable to pay the tax on the consideration paid, under reverse charge mechanism.**



82. Services provided by Ministry of Railways (Indian Railways) to individuals by way of –

- a) sale of platform tickets
- b) facility of retiring rooms/waiting rooms;
- c) cloak room services;
- d) battery operated car services

83. Services provided by one zone/division under Ministry of Railways (Indian Railways) to another zone(s)/division(s) under Ministry of Railways (Indian Railways)

84. Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing to use the infrastructure built and owned by them during the concession period against consideration and services of maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.

[NN 4/2024 CT(R) dated 12.07.2024, effective from 15.07.2024]

85. [2 Marks] Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to *such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017.*

Explanation - For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to following services:-

- (i) Clauses (a), (b) and (c) of 'Point 80' above.
- (ii) services by way of renting of immovable property.

86. Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.

However, nothing contained in this entry shall apply to services referred in clauses (a), (b) and (c) of 'Point 80' above.

- 87. Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ₹ 5,000.**

However, **nothing contained in this entry shall apply to services referred in Clause (a), (b) and (c) of 'Point 80' above**

Further, in case where **continuous supply of service** is provided by the Central Government, State Government, Union territory or a local authority, **the exemption shall apply only where the consideration charged for such service does not exceed ₹ 5,000 in a FY.**

- 88. Services provided by the Central Government, State Government, Union Territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period **prior to the 1st April, 2016, on payment of licence fee or spectrum user charges**, as the case may be.**
- 89. Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.**
- 90. Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.**
- 91. Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, **except the rearing of horses**, for food, fibre, fuel, raw material or other similar products.**
- 92. Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority **before the 1st April, 2016:****

However, the exemption shall apply **only to tax payable on one time charge payable**, in full upfront or in installments, for assignment of right to use such natural resource.

- 93.** Services provided by the Central Government, State Government, Union territory by way of deputing officers **after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo** on payment of Merchant Overtime charges.
- 94.** Services provided by the Central Government, State Government, Union territory or local authority by way of-
- (a) **registration required** under any law for the time being in force;
 - (b) testing, calibration, safety check or certification relating to **protection or safety of workers, consumers or public at large**, including fire license, required under any law for the time being in force.
- 95. Services by an old age home run by:**
- ✓ Central Government
 - ✓ State Government or
 - ✓ an entity registered **under section 12AA or section 12AB** of the Income-tax Act, 1961 to its residents (aged 60 years or more) **against consideration upto ₹ 25,000 per month per member**, provided that the **consideration charged is inclusive of charges for boarding, lodging and maintenance.**
- 96.** Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings(PSUs) **by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions.**

Clarification regarding applicability of GST on service supplied by State Government to their undertakings or PSUs by way of guaranteeing loans taken by them

Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions are exempt.

Accordingly, it is reiterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt.

97. Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.

However, at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of GST deposited by mining lease holders on royalty is more than the GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.

Explanation

Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government under section 15(1) of the Act.

- 98. Services by way of collecting or providing news** by an independent journalist, Press Trust of India or United News of India.
- 99. Services of public libraries** by way of lending of books, publications or any other knowledge-enhancing content or material.
- 100. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.**
- 101. Services by a foreign diplomatic mission** located in India.
- 102. Services by way of providing information under the Right to Information Act, 2005**

Services Provided to Government

103. Supply of **service by a Government Entity** to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, **in the form of grants**, has been exempted from CGST.

~~**104.** Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.~~

105. 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.

Clarification regarding coaching services supplied by coaching institutions and NGOs under the central scheme of 'Scholarships for students with Disabilities'

Free coaching services provided by coaching institutions and NGOs under the central scheme of "Scholarships for students with Disabilities" where **total expenditure** is borne by the Government to coaching institutions **by way of grant in aid is covered and hence is exempt from GST.**

106. Services provided to the Central Government, State Government, Union territory under any insurance scheme for which **total premium is paid** by the Central Government, State Government, Union territory.

107. Supply of service provided **by Fair Price Shops to Central Government, State Government or Union territory** by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.

108. Pure services provided TO Government:

- Pure services (excluding works contract service or other composite supplies involving supply of any goods) **provided to the Central Government, State Government or Union territory or local authority** ~~or a Governmental authority or Government Entity~~
- by way of **any activity**:
 - (i) in relation to any function entrusted **to a Panchayat** under article 243G of the Constitution or
 - (ii) in relation to any function entrusted **to a Municipality** under article 243W of the Constitution

109. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority ~~or a Governmental authority or a Government Entity~~ by way of any activity in relation to any function entrusted to a **Panchayat** under article 243G of the Constitution or in relation to any function entrusted to a **Municipality** under article 243W of the Constitution.

Clarification by GST Circular No. 204/16/2023 GST dated 27.10.2023

Whether supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD [Central Public Works Department] are eligible for exemption from GST

- Public parks in government residential colonies, government offices and other public areas are developed and maintained by CPWD.
- Maintenance of community assets, urban forestry, protection of the environment and promotion of ecological aspects are functions entrusted to Panchayats and Municipalities under Article 243G and 243W of the constitution.
- Notification No. 12/2017-CT(R) dated 28.06.2017 exempt pure services and composite supply of goods and services in which value of goods does not constitute more than 25%, that are provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
- **Accordingly, it is clarified that supply of pure services and composite supplies by way of horticulture/horticulture works (where the value of goods constitutes not more than 25 per cent of the total value of supply) made to CPWD are eligible for exemption from GST under Notification no 12/2017-CTR dated 28.06.2017.**

110. Services provided to a Governmental Authority by way of -

- a) water supply;
- b) public health;
- c) sanitation conservancy;
- d) solid waste management; and
- e) slum improvement and upgradation.

Construction Services

- 111.** Services provided by way of **pure labour contracts** of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration **of a civil structure or any other original works** pertaining to the beneficiary-led individual house construction or enhancement under the **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana**.
- 112.** Services by way of **pure labour contracts** of construction, erection, commissioning, or installation of **original works** pertaining to a single residential unit otherwise than as a part of a residential complex.

The term '**original works**' means-

- all **new constructions**;
- all types of **additions and alterations to abandoned or damaged structures** on land that are required to make them workable;
- erection, commissioning or **installation of plant, machinery or equipment** or structures, whether pre-fabricated or otherwise.

Further, '**single residential unit**' means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

Leasing Services

- 113. One time upfront amount** (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (30 years, or more) lease of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 20% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area, has been exempted.

The State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard:

In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty:

*Further, the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, **the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.***

GST Circular has clarified that **GST exemption on the upfront amount is admissible** irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront.

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

*Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, **but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses.***

- 115. Services of ~~leasing of assets~~ (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation ~~to Indian Railways~~**

Other exempt services

116. Taxable services, provided or to be provided, **by a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP)** recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or **bio- incubators recognized by the Biotechnology Industry Research Assistance Council**, under the Department of Biotechnology, Government of India.

117. Services provided by an incubatee up to a total turnover of ₹ 50 lakh in a financial year subject to the following conditions, namely:-

(a) the total turnover **had not exceeded ₹ 50 lakh** during the preceding financial year; and

(b) a period of **3 years has not elapsed from the date of entering** into an agreement as an incubatee.

Incubatee: means **an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP)** recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park **to enable himself to develop and produce hi-tech and innovative products.**

118. Transmission or distribution of electricity by an electricity transmission or distribution utility.

~~However, in this regard CBIC has clarified that the other services provided by DISCOMS (distribution companies) to consumer against charges are liable to GST such as,~~

- ~~i. — Application fee for releasing connection of electricity~~
- ~~ii. — Rental Charges against metering equipment~~
- ~~iii. — Testing fee for meters/transformers, capacitors etc.~~
- ~~iv. — Labour charges from customers for shifting of meters or shifting of service lines~~
- ~~v. — charges for duplicate bill~~



119. Supply of services by way of

- ✓ *providing metering equipment on rent,*
- ✓ *testing for meters/transformers/capacitors etc.,*
- ✓ *releasing electricity connection,*
- ✓ *shifting of meters/service lines,*
- ✓ *issuing duplicate bills etc.,*

which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers

[NN 8/2024 CT(R) dated 08.10.2024, effective from 10.10.2024]

120. *Services supplied by Electricity Distribution Utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.*

121. *Research and development services against consideration received in the form of grants supplied by –*

- a) *a Government Entity; or*
- b) *a research association, university, college or other institution, notified under clauses (ii) or (iii) of section 35(1) of the Income Tax Act, 1961.*

The condition to be fulfilled in this case is that the research association, university, college or other institution, notified under clauses (ii) or (iii) of section 35(1) of the Income Tax Act, 1961 is so notified at the time of supply of the research and development service.

[NN 8/2024 CT(R) dated 08.10.2024, effective from 10.10.2024]

122. *Services by way of transfer of a going concern, as a whole or an independent part thereof.*

123. *Services by an organiser to any person in respect of a business exhibition held outside India.*

124. [5 Marks] Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India:

Provided that value of the tour operator service performed outside India shall be such proportion of the total consideration charged for the entire tour which is equal to the proportion which the number of days for which the tour is performed outside India has to the total number of days comprising the tour, **or 50% of the total consideration charged for the entire tour, whichever is less:**

Provided further that in making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

“Foreign Tourist” means a person not normally resident in India, who enters India for a stay of **not more than 6 months** for legitimate non-immigrant purposes.

Illustrations:

A tour operator provides a tour operator service to a foreign tourist as follows: -

(a) 3 days in India, 2 days in Nepal; Consideration Charged for the entire tour: ₹1,00,000/-

Exemption: ₹ 40,000/- ($₹ 1,00,000/- \times 2/5$) or, ₹ 50,000/- (50% of ₹ 1,00,000/-) whichever is less, i.e., ₹ 40,000/- (i.e., Taxable value: ₹ 60,000/-);

(b) 2 days in India, 3 nights in Nepal; Consideration for the entire tour: ₹1,00,000/-

Exemption: ₹ 60,000 ($₹ 1,00,000/- \times 3/5$) or, ₹ 50,000/- (50% of ₹ 1,00,000/-) whichever is less, i.e., ₹ 50,000/- (i.e., Taxable value: ₹ 50,000/-);

(c) 2.5 days in India, 3 days in Nepal; Consideration for the entire tour: ₹ 1,00,000/-

Exemption: ₹ 54,545 ($₹ 1,00,000/- \times 3/5.5$) or, ₹ 50,000/- (50% of ₹ 1,00,000/-) whichever is less, i.e., ₹ 50,000/- (i.e., Taxable value: ₹ 50,000/-).

List of additional Services exempt from IGST under Notification No. 9/2017 IT (R) dated 28.06.2017

1. Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
2. **[5 Marks]** Services received from a provider of service located in a non- taxable territory by –
 - (a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
 - (b) an entity registered under section 12AA or section 12AB of the Income-tax Act, 1961 for the purposes of providing charitable activities;
 - (c) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of-
 - (i) pre-school education and education up to higher secondary school or equivalent; or
 - (ii) education as a part of an approved vocational education course; have been exempted.
 - (d) a person located in a non-taxable territory.

However, the exemption shall not apply to –

- (i) online information and database access or retrieval services [OIDAR Services] received by persons specified in entry (a) or entry (b); or
- ~~(ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry~~

Online Information And Database Access or Retrieval Services [OIDAR Services]: means services whose delivery is *mediated by information technology over the internet or an electronic network* and the nature of which renders their supply ~~essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology~~ **and includes electronic services such as,-**

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming, excluding the online money gaming

EXEMPTIONs

1. Transportation of passengers by _____ are exempt from GST.
 - (a) Railway in first class
 - (b) Railway in an air-conditioned coach
 - (c) Metro
 - (d) All of the above
2. Transportation of _____ by a GTA in a goods carriage is exempt from GST.
 - (a) Agricultural produce
 - (b) Organic manure
 - (c) Milk
 - (d) All of the above
3. What of the following service provided to an educational institution – Debo Public School- are exempt from GST?
 - (a) Transportation of staff of school
 - (b) Cleaning of School
 - (c) Services relating to conduct of higher secondary exams
 - (d) All of the above
4. Transportation of passengers by _____ are exempt from GST.
 - (a) air conditioned stage carriage
 - (b) radio taxi
 - (c) air (economy class), terminating in Nagaland airport
 - (d) All of the above
5. Which of the following services provided by Department of Posts are exempt from GST?
 - (a) Speed posts
 - (b) Life Insurance
 - (c) Express parcel posts
 - (d) None of the above
6. An individual acts as a referee in a football match organized by Sports Authority of India. He has also acted as a referee in another charity football match organized by a local sports club, in lieu of a lump sum payment. Discuss whether he is required to pay any GST?

Answer:

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

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

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

7. RXL Pvt. Ltd. manufactures beauty soap with the brand name 'Forever Young'. RXL Pvt. Ltd. has organized a concert to promote its brand. Ms. Ahana Kapoor, its brand ambassador, who is a leading film actress, has given a classical dance performance in the said concert. The proceeds of the concert worth ₹ 1,20,000 will be donated to a charitable organization.

Whether Ms. Ahana Kapoor will be required to pay any GST?

Answer:

Services by an artist by way of a performance in folk or classical art forms of music, or (ii) dance, or (iii) theatre are exempt from GST, if the consideration charged for such performance is not more than ₹ 1,50,000.

However, such exemption is not available in respect of service provided by such artist as a brand ambassador.

Since Ms. Ahana Kapoor is the brand ambassador of 'Forever Young' soap manufactured by RXL Pvt. Ltd., the services rendered by her by way of a classical dance performance in the concert organized by RXL Pvt. Ltd. to promote its brand will not be eligible for the above-mentioned exemption and thus, be liable to GST. The fact that the proceeds of the concert will be donated to a charitable organization will not have any bearing on the eligibility or otherwise to the above-mentioned exemption.

8. Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons for Jan 20XX:

Particular	Amount ₹
Fees charged for yoga camp conducted by a charitable trust	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

Answer:**Computation of value of taxable supply**

Particulars	(₹)
Fees charged for yoga camp conducted by a charitable trust [Note-1]	Nil
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts [Note-2]	Nil
Amount charged by cord blood bank for preservation of stem cells [Note-3]	5,00,000
Service provided by commentator to a recognized sports body [Note-4]	5,20,000

Notes:

- Services by an entity registered under section 12AB of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. The activities relating to advancement of yoga are included in the definition of charitable activities. So, such activities are exempt from GST.
- Services by business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch have been exempted from GST.
- Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation **are now not exempt from GST.**
- Services provided to a recognized sports body only by an individual 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. Thus, services provided by commentators are liable to GST.

9. Examine whether GST is exempted on the following independent supplies of services:

- Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from the school.
- Services provided by way of vehicle parking to general public in a shopping mall.

Answer:

- (i) Yes. Services provided TO an educational institution by way of transportation of students are exempted from GST.
- (ii) No service provide by way of vehicle parking to general public are not Exempted from GST Therefore, GST is payable on the same.

10. Discuss whether GST is payable in respect of transportation services provided by Raghav Goods Transport Agency in each of the following independent cases:

<u>Customer</u>	<u>Nature of services provided</u>	<u>Amount charged</u>
A	Transportation of milk	₹ 20,000
B	Transportation of books on a consignment transported in a single goods carriage	₹ 3,000
C	Transportation of chairs for a single consignee in the goods carriage	₹ 600

Answer:

Customer	Nature of services provided	Amount charged	Taxability
A	Transportation of milk	₹ 20,000	Exempt. Transportation of milk by goods transport agency is exempt.
B	Transportation of books on a consignment transported in a single goods carriage	₹ 3,000	GST is payable.
C	Transportation of chairs for a single consignee in the goods carriage	₹ 600	GST is payable.

11. Dukhiya Das is engaged in providing following services. With the help of information given below, determine which of the services provided by Dukhiya Das are exempt from GST:

- (1) Packaging of the onions purchased from village farmers into small packets of 1 kg each, in Dukhiya Das warehouse, so that same can be sold in a nearby city mall.
- (2) Warehousing of jaggery and tea.
- (3) Renting of warehouse for storage of agricultural produce.

Answer:

- (1) Processes/operations carried out at an agricultural farm on the agricultural produce which do not alter the essential characteristics of agricultural produce, but make it marketable only for the primary market are exempt under GST.

In the given case, though the packaging of onions does not alter their essential characteristic, it makes them marketable for retail market and not for the primary market and further, such packaging is being done at the warehouse of Dukhiya Das and not at an agricultural farm. **Hence, said services are not exempt.**

- (2) Warehousing of certain specified items **cereals, pulses, fruits and vegetables** are exempt. **Jaggery and tea are now excluded from the list, their warehousing is taxable under GST.**
- (3) Services of loading, unloading, packing, storage or warehousing of agricultural produce is exempt under GST. Thus, warehousing of agricultural produce, per se, is exempt.

However, in the given case, services being provided are not warehousing services but renting of immovable property services. Such services are not exempt.

12. Good Health Medical Centre, a clinical establishment, offers the following services:

- (i) Reiki healing treatments.
- (ii) Plastic surgeries. One such surgery was conducted to repair cleft lip of a new born baby.
- (iii) Air ambulance services to transport critically ill patients from distant locations to the Medical Centre.
- (iv) Palliative care for terminally ill patients. On request, such care is also provided to patients at their homes. (Palliative care is given to improve the quality of life of patients who have a serious or life-threatening disease but the goal of such care is not to cure the disease).
- (v) Alternative medical treatments by way of yoga.

Good Health Medical Centre also operates a cord blood bank which provides services in relation to preservation of stem cells.

Good Health Medical Centre is of the view that since it is a clinical establishment, all the service provided by it as well as all the services provided to it are exempt from GST.

You are required to examine the situation in the light of relevant statutory provisions.

Answer:

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. In light of the same, the eligibility to exemption in respect of each service offered by Good Health Medical Centre is examined below:

- (i) **Not Exempt.** Since **reiki healing is not a recognized system of medicine**, it would not be exempt and thus, GST would be payable thereon.
- (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 and thus, GST would be payable thereon. However, 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 Good Health Medical Centre would be eligible for exemption under the said notification.
- (iv) **Exempt.** Health care service means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India. It is immaterial whether such service is provided at the clinical establishment or at the home of the patient or at any other place. Thus, palliative care for terminally ill patients is exempt.
- (v) **Exempt.** Since Yoga is a recognized system of medicine, the same would be eligible for exemption under the said notification.

Further, services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are now taxable under GST. Therefore, services provided in relation to preservation of stem cells by the cord blood bank operated by Good Health Medical Centre will be taxable.

It is important to note that Entry of the exemption notification grants exemption to health care services provided BY a clinical establishment and not to services provided TO a clinical establishment. **Therefore, Good Health Medical Centre's contention that since it is a clinical establishment, all the services provided to it are also exempt from GST is not correct in law.**

13. M/s. Apna Bank Limited, a scheduled commercial bank, has furnished the following details for the month of August:

Particulars	Amount [₹ in crores] (excluding GST)
Extended housing loan to its customers	100
Processing fees sanction of loan collected from its customers on	20
Commission collected from its customers on bank guarantee	30
Interest income on credit card issued by the bank	40
Interest received on housing loan extended by the bank	25
Minimum balance charges collected from current account and saving account holder	01

Compute the value of taxable supply

Answer:

Computation of value of taxable supply of M/s. Apna Bank Limited for the month of August:

Particulars	Amount in crores (₹)
Housing loan extended to customers [Since money does not constitute goods, extending housing loan is not a supply.]	Nil
Processing fee collected on sanction of loan [Interest does not include processing fee on sanction of the loan. Hence, the same is taxable.]	20
Commission collected on bank guarantee [Any commission collected over and above interest on loan, advance or deposit are not exempt.]	30
Interest income on credit card issued by the bank [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax. However, interest involved in credit card services is specifically excluded from this exemption entry.]	40
Interest received on housing loan [Services by way of extending loans in so far as the consideration is represented by way of interest are exempt from tax.]	Nil
Minimum balance charges collected from current account and saving account holder [Any charges collected over and above interest on loan, advance or deposit are not exempt.]	01
Value of taxable supply	91

14. Determine the GST payable, if any, in each of the following independent cases, assuming that the rate of GST is 18% and that the service providers are registered:
- Bollywood dance performance by a film actor in a film and consideration charged is ₹ 1,45,000.
 - Carnatic music performance by a classical singer to promote a brand of readymade garments and consideration charged is ₹ 1,30,000.
 - Carnatic music performance by a classical singer in a music concert and consideration charged is ₹ 1,55,000.
 - Kathak dance performance by a classical dancer in a cultural programme and consideration charged is ₹ 1,45,000.

Answer:

- (a) Bollywood Dance performance by a film actor in a film is **not exempt** from GST even though the consideration charged is less than threshold limit of ₹ 1,50,000. **The reason for the same is that the dance performance by an artist is exempt only if it is a performance in folk or classical art forms of dance.**

- (b) Carnatic music performance by a classical singer to promote a brand of readymade garments is not exempt from GST **even though, the consideration charged is less than threshold limit of ₹ 1,50,000 and it is a performance in classical art forms of music.** The reason for the same is that the said exemption is not applicable to service provided by such artist as a brand ambassador.
- (c) Carnatic music performance by a classical singer in a music concert is not exempt from GST even though it is a performance in classical art forms of music. The reason for the same is the consideration charged for the service exceeds ₹ 1,50,000. **Consequently, entire consideration charged is subject to GST as follows: = ₹ 1,55,000 × 18% = ₹ 27,900**
- (d) Kathak dance performance by a classical dancer in a cultural programme is exempt from GST as it is a performance in classical art forms of dance and consideration charged does not exceed ₹ 1,50,000 [i.e. ₹ 1,45,000].

15. Exempt supply includes supply of any goods or services or both which attracts nil rate of tax and which may be wholly exempt from tax, but excludes non-taxable supply. Discuss the validity of the statement.

Answer:

The statement is not fully valid in law. Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply.

16. Services provided by an entity registered under section 12AB of the Income- tax Act, 1961 are exempt from GST if such services are provided by way of charitable activities. Elaborate the term 'charitable activities'.

Answer:

The term 'charitable activities' mean activities relating to-

(i) public health by way of-

(A) care or counseling of

- terminally ill persons or persons with severe physical or mental disability;
- persons afflicted with HIV or AIDS;
- persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion, spirituality or yoga;

(iii) advancement of educational programmes/skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests & wildlife.

17. Examine which of the following independent services are exempt from GST:

- (a) Food supplied by the canteen run by a hospital to the in-patients as advised by the doctors.
- (b) An RWA, registered under GST, collects the maintenance charges of ₹ 6,500 per month per member.

Answer:

- (a) Services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST. **Food supplied to the in-patients by a canteen run by the hospital, as advised by the doctor/nutritionists, is a part of composite supply of healthcare and not separately taxable.**
- (b) Supply of service by a RWA (unincorporated body or a non-profit entity registered under any law) to its own members by way of reimbursement of charges or share of contribution up to an amount of ₹ 7,500 per month per member for providing services and goods for the common use of its members in a housing society/a residential complex are exempt from GST. Hence, in the given case, services provided by the RWA are exempt from GST since the maintenance charges collected per month per member do not exceed ₹ 7,500.

18. A State Transport Undertaking has hired motor vehicles meant to carry 8 - 10 passengers from Fast Cab Renting, a motor vehicle renting company. Give your comments as to whether any GST is payable in this case.

Answer:

Services by way of giving on hire, inter alia, to a State Transport Undertaking, **a motor vehicle meant to carry more than 12 passengers is exempt from GST.**

Since the motor vehicles given on hire by Fast Cab Renting to the State Transport Undertaking are meant to carry 8-10 passengers, the same would not be eligible for exemption and would thus, be liable to GST.

19. Indiana Engineering College, a recognised educational institution, has conducted an entrance test examination for various courses run by it and charged entrance fees from the applicants. Determine whether Indiana Engineering College is liable to pay GST on the same.

Answer:

Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee are exempt from GST.

Since in the given case, services provided by Indiana Engineering College - an educational institution - are by way of conduct of entrance examination against entrance fee, the same is exempt and thus, GST is not payable in this case.

20. Ram, an agriculturist, has stored sugarcane in a warehouse. He has taken fumigation services in the said warehouse from Gupta Pest Control Co. for which he paid the consideration of ₹ 6,000. He seeks your advise on the taxability or otherwise of the service so availed by him.

Answer:

Services by way of fumigation in a warehouse of agricultural produce **are now taxable under GST**. In the present case, since Gupta Pest Control Co. provides services by way of fumigation in the warehouse of sugarcane, **said services are taxable and GST is payable on the same.**

21. Poorva acts as a Team Manager for Indian Sports Authority (ISA), a recognised sports body, for a tennis tournament organised by a multinational company and received a remuneration of ₹ 2,00,000. Determine whether GST is payable on the remuneration received by Poorva.

Answer:

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

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

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

Answer:

Services provided by a goods transport agency, by way of transport in a goods carriage of relief materials meant for victims of, inter alia, natural or man-made disasters, calamities, **are exempt from GST**. Therefore, services provided by Babloo Transporters will be exempt from GST.

23. Keyan Enterprises, an event organizer, provided services to Breathing Wall Ltd. by way of organizing business exhibition in New Delhi as part of Make in India initiative. Keyan Enterprises claims that it is not required to pay GST as the services provided by way of organizing business exhibition are exempt from GST. Examine the technical veracity of the claim of Keyan Enterprises, in the given case.

Answer:

No, the claim made by Keyan Enterprises that it is not required to pay GST is not correct. Services provided by an organiser to any person in respect of a business exhibition **are exempt from GST only when such business exhibition is held outside India**. However, since in the given case, the exhibition is being organized in India, the services of organization of event by Keyan Enterprises will not be exempt from GST.

24. Ekta Charitable trust, registered under section 10(23C)(v) of the Income-tax Act, 1961, manages a temple in Rohini, Delhi. It has given on rent a community hall, located within temple premises, to public for celebration of Teej Mela. Rent charged is ₹ 9,500. You are required to determine whether the services provided by Ekta Charitable trust are liable to GST.

Answer:

Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a trust or an institution under section 10(23C)(v) of the Income-tax Act are exempt provided renting charges of premises, community halls, kalyanmandapam or open area are not ₹ 10,000 or more per day.

Thus, in the given case, renting of community hall by Ekta Charitable Trust is exempt from GST, as rent is less than ₹ 10,000 per day.

25. ST Ltd. has given on hire 5 trucks to Titu Transporters of Delhi (a goods transport agency) for transporting goods in Central and West Delhi. The hiring charges for the trucks are ₹ 7,500 per truck per day. Examine whether GST is payable in the given case.

Answer:

GST is not payable in case of hiring of trucks to Titu Transporters. **Services by way of giving on hire, inter alia, to a goods transport agency, a means of transportation of goods are exempt.**

26. Divyakripa Trust, an entity registered under section 12AB of the Income-tax Act, 1961, has furnished you the following details with respect to the activities undertaken by it. You are required to compute its tax liability from the information given below:

Particulars	₹
Amount received for the Yoga camps organized for elderly people	4,83,000
Payment made for the services received from a service provider located in US, for the purposes of providing 'charitable activities'	5,50,000
Amount received for counseling of mentally disabled persons	10,50,000
Amount received for <u>renting of commercial property</u> owned by the trust	1,50,000
Amount received for activities relating to preservation of forests and wildlife	12,35,000

Note: Applicable CGST 9% and SGST 9% have been charged separately wherever applicable. Divyakripa Trust is not eligible for composition levy.

Answer:

Particulars	₹
Amount received for the Yoga camps organized for elderly people	Exempted supply
Payment made for the services received from a service provider located in US, for the purposes of providing 'charitable activities'	Exempted supply
Amount received for counseling of mentally disabled persons	Exempted supply
Amount received for renting of commercial property owned by the trust	1,50,000
Amount received for activities relating to preservation of forests and wildlife	Exempted supply
Value of Taxable Supply	150,000
CGST 9% x 1,50,000	13,500
SGST 9% x 1,50,000	13,500
Total GST liability	27,000

27. M/s X & Co., is a partnership firm registered under GST Law. The partners decided to convert the partnership into a limited liability partnership (LLP). The LLP takes over M/s X & Co., assets and liabilities and continues to operate the same business. Is it taxable supply?

Answer:**Services by way of Transfer of a Going concern**

Services by way of transfer of a going concern, as a whole or an independent part thereof, are exempt from Goods and Services Tax. Therefore, no GST on such sale of business.

28. A contract awarded by Bombay Municipal Corporation (BMC) for repair of a particular road to M/s B Ltd. of Mumbai with a total consideration of ₹12 lakhs with terms and conditions as stated that:

- It is pure service (excluding works contract service or other composite supplies involving supply of any goods) and
- the entire work should be completed within 30 days. The said work has been completed as per terms and conditions. Applicable rate of GST 18%

Find the following:

- Is it taxable supply?
- Rework if the contract is in the nature of works contract where material is involved to the extent of 30% in the value of contract. Is it taxable supply? If so who is liable to pay GST.

Note: previous turnover of M/s B Ltd. was ₹ 22 crores

Answer:

- Pure services (excluding works contract service or other composite supplies involving supply of any goods) **provided to the local authority exempt from GST.**

Therefore, in the given case M/s B Ltd. supplied exempted service.

- M/s B Ltd. supplied **works contract service (composite supply of goods & Services)** which includes material of **more than 25% of the value** and hence it is taxable supply. M/s B Ltd is liable to pay GST.

CGST 9%	= ₹ 1,08,000
SGST 9%	= ₹ 1,08,000

29. Validate the following statement:

Charges recovered by the Government for regulation of land use like conversion of agriculture to non-agriculture will be exempt from payment of GST?

Answer:

The given statement is valid. It is exempted service as it is a service by govt. in relation to function entrusted to municipality.

30. Validate the following statement:

Grant received by the State Government from Central Government for implementing National Bio-gas and Manure management Programme operating under Ministry of New and Renewable Energy is taxable supply of service?

Answer:

The given statement is invalid:

31. Guideline Academy Pvt. Ltd. provided following services in the preceding year:

1. Manpower supply services to Higher Secondary School for ₹ 12,00,000.
2. House keeping services to Kidzee (i.e. Pre-school education) for ₹ 9,00,000.

In the current year Guideline Academy Pvt. Ltd. received advertisement services for ₹ 75,000 from State Government Transport department.

Find the following:

- (a) Who is liable to pay GST?
- (b) Total tax liability if any?
- (c) Rework, if the preceding total turnover ₹ 11,10,000 then find the GST liability in the C.Y.?

Note: Applicable rate of GST 18%

Answer:

P.Y. turnover (₹ 12 lakh + ₹ 9 lakh) = ₹ 21,00,000

- (a) Since, aggregate turnover of the preceding year exceeds ₹ 20 lakh, in the current year recipient of service is liable to pay GST under RCM.
- (b) GST 18% on ₹ 75,000 = 13,500
- (c) Re-work: GST liability is nil, since P.Y. turnover not exceeds ₹ 20 lakhs (vide Exemption Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017).

32. State Police provided protection services to the Judges of High Court in the month of July 20XX. The police protection is provided on payment of ₹ 2,00,000. GST is payable?

Answer:

It is exempted service as it is covered under Exemption Notification No. 12/2017 dated 28.6.2017 Central Tax (Rate).

33. The Chief Secretary to Finance Minister travelled from Delhi to Chennai by rail in an air conditioned coach on official trip. Cost of ticket is ₹ 1,200. Is it exempt from GST? Applicable rate of GST 5%.

Answer:

It is taxable supply of service. GST will be levied under forward charge.

34. Passport is issued by the office of the External Affairs Ministry under Passport Act, 1967 to individual. The fee of ₹ 6,500 paid by business entity in which such individual person is working. This activity will attract GST?

Answer:

The exemption from payment of GST would be available both cases, where fee is paid by individual or by the business entity. The said activity is exempted from GST under Exemption Notification No.12/2017 date 28.06.2017 Central Tax (Rate).

35. X Pvt. Ltd., received the following services from the Government of India during the taxable period:
1. Application fee paid towards processing of application for issuance of advance authorization ₹ 12,000.
 2. Security services provided by Government security agency for a period of four months for a total consideration of ₹ 6,000:
 - (a) Jan 2025 – Part payment ₹ 500
 - (b) Feb 2025 – Part payment ₹ 2,000
 - (c) Mar 2025 – Part payment ₹ 2,000
 - (d) April 2025 – Final payment ₹ 1,500.
 3. Customs authorities have charged Merchant Over Time (MOT) fee for ₹ 1,000 at the time of special warehousing of goods.

Find the total GST payable by X Pvt. Ltd. if any?

Note: Previous Turnover of X Pvt. Ltd. ₹ 21 lakhs. Applicable rate of GST 18%

Answer:

Statement showing GST liability of X Pvt. Ltd.

S. No.	Particulars	Value in ₹	Remarks
1	Application fee paid towards processing of application for issuance of advance authorization	12,000	Taxable supply of service. Since, amount exceeds ₹ 5,000.
2	Security services provided by Government security agency. FY 2024-25 ₹ 4,500 FY 2025-26 ₹ 1,500 Exemption shall apply only where the consideration charged for such service does not exceed ₹ 5,000 in a financial year.	Nil	Exempted supply of service.
3	Merchant Overtime charges under	Nil	Exempted supply of service
	Total subject to tax under reverse charge	12,000	
	Total GST liability	2,160	12,000 x 18%

36. M/s X Ltd. paid penalty under section 49 of the CGST Act, 2017 ₹ 20,00,000 to the Government Department in the month of Oct 20XX. Is it taxable supply under the GST law?

Answer:

It is not a supply of service. The fine or penalty chargeable by Government or local authority imposed for violation of statute, bye-laws, rules or regulations are not leviable to GST. Such fines or penalty are not recovered for tolerating non-performance of a contract.

37. For registration of a company whose nominal share capital does not exceeds ₹ 1,00,000, paid registration fee of ₹ 5,000. Whether your answer is different if registration fee ₹ 6,000. Is it taxable supply? Attract GST?

Answer:

Exempted from GST vide Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017. Our answer is not differ even if the registration fee is ₹ 6,000.

38. Domicile Certificate for certifying the number of years during which the person has stayed in State, has been obtained from District Collector's Office, by paying fee of ₹ 5,500. Is it taxable supply?

Answer:

This activity is falls under Exemption Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017. Therefore, the given activity is exempted from GST.

39. X Ltd. covered under the Factories Act, 1948. Inspector of Factories certified the factory is safe for the workers to carry their work and charged Government fee of ₹ 10,000. X Ltd. owned one more factory at another place, which is not covered under Factories Act, 1948. However, X Ltd. obtained safety certificate for the factory from the Inspector of Factories by paying ₹ 15,000 voluntarily. Is it taxable supply? Attract GST? If so who is liable to pay GST. Applicable rate of GST 18%.

Answer:

X Ltd. being recipient of service from the Inspector of Factories is not liable to pay GST. Since, certification relating safety of workers required under the Factories Act, 1948 covered under exemption notification.

Another factory which is not covered under Factories Act, 1948 for which fee paid by X Ltd. voluntarily is liable to pay GST under reverse charge mechanism.

CGST 9% on ₹ 15,000 = ₹ 1,350
SGST 9% on ₹ 15,000 = ₹ 1,350

40. The Inspector of the Metrology department verified the calibration of weighing scale as well as the weight and collected charges of ₹ 7,500 from the shop owner under the The Legal Metrology Act, 2009. Is it taxable supply?

Answer:

This activity is exempt from GST under Exemption Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017.

41. The Department of Agriculture, Co-operation and Farmers Welfare, provided Soil Conservation Service, Animal Husbandry, Dairying and Fisheries to a farmer by charging fee of ₹ 20,000. It is taxable supply?

Answer:

This activity is specifically exempted from GST under Exemption Notification No. 12/2017- Central Tax (Rate) Dt 28-06-2017.

42. Rana contractors under taken pure labour contracts to repair a single residential house own by Mr. TYN. Is it taxable supply?

Answer: Yes, the given activity is a taxable supply and GST will be levied.

43. Ram contractors under taken to construct new single shop for M/s X & Co. Is it taxable supply?

Answer: Yes, the given activity is a taxable supply and GST will be levied.

44. Kapleswara Charitable Trust registered under Section 12AB of the Income Tax Act, 1961. Supplied the following services during the taxable period. Find the taxable supply or exempted supply from the following:

- Income from Navratri functions, other religious functions, and religious poojas conducted for ₹ 2,12,345/-
- During Ganeshutsav or other religious functions, charitable trusts rent out their space to agencies for advertisement hoardings, income from such advertisement ₹ 4,98,765/-
- Donation for religious ceremony is received with specific instructions to advertise the name of a donor for ₹ 1,00,001/-.

Answer:

Particulars	Nature of supplies	Remarks
Income from Navratri functions etc.	Exempted supply	Meant of religious ceremony
Income for renting out space	Taxable supply	Advertisement services
Donation received with reciprocity	Taxable supply	Donation is compensating against consideration

45. Marry Charitable Trust registered under section 12AB of the income tax and also registered person under GST Law. Provided the following services in the month of October.

- (1) Services by way of training or coaching in recreational activities relating to sports for ₹ 4,00,000/-
- (2) Fee from organizing fitness camps for ₹ 5,00,500/-
- (3) Organizes fitness camps in reiki, aerobics, etc., and receive donation from participants ₹ 2,25,000/-.
- (4) Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material for ₹ 20,000 Assume applicable rate of GST for taxable supplies @18%.

Answer:

Particulars	Value in ₹	Remarks
training or coaching in recreational activities relating to sports	Nil	Exempted supply.
Fee from organizing fitness camps	5,00,500	Since, not covered under advancement of religion, spirituality or yoga, it is taxable supply.
Donation for Organizes fitness camps in reiki, aerobics	2,25,000	Covered under health and fitness services, which is not exempted.
Public libraries	Nil	Exempted supply.
Total	7,25,500	
GST 18%	1,30,590	(7,25,500 x 18%)

46. ABC Parcel Services is a goods transport agency issued consignment note to X Ltd. for transporting of goods from Hyderabad to Y Ltd of Chennai. Hence, ABC Parcel Services is a provider of GTA service.

47. Compute taxable value for transport of goods by rail within India (all sums exclusive of all taxes) –

- (1) Transport of postal mails and postal bags : ₹ 55 lakhs;
- (2) Transportation of household effects: ₹ 50 lakhs
- (3) Transport of petroleum products: ₹ 25 lakhs;
- (4) Transport of relief materials to flood affected areas: ₹ 25 lakhs;
- (5) Transport of newspapers and magazines registered with registrar of newspapers: ₹ 15 lakhs
- (6) Transport of milk: ₹ 15 lakhs;
- (7) Transport of alcoholic beverages: ₹ 7 lakhs;
- (8) Transport of defence and military equipments: ₹ 40 lakhs;
- (9) Transport of chemical fertilizers: ₹ 90 lakhs;
- (10) Transport of other taxable goods: ₹ 200 lakh (including ₹ 20 lakhs demurrages).

Answer:

Statement showing GST liability:

Nature of service	₹ in lakhs
Transport of postal mails and postal bags	55
Transportation of household effects	50
Transport of petroleum products	25
Transport of relief materials to flood affected areas	Exempted supply
Transport of newspapers and magazines registered with registrar of newspapers	Exempted supply
Transport of milk	Exempted supply
Transport of alcoholic beverages	7
Transport of defence and military equipments	Exempted supply
Transport of chemical fertilizers:	90
Transport of other taxable goods (including demurrages of ₹ 20 lakhs)	200
Taxable value of supply	427

48. Validate the following:

Air Speed Airlines transported Fruits (i.e. agricultural produce) from Chennai airport to Meghalaya. It is exempted supply of service under GST.

Answer:

The given statement is invalid.

Transportation of goods within India by Air, exemption not granted. Hence, GST will be levied.

49. Intertoll India Consultants was under taken a contract to collect toll on commission basis from Noida Toll Bridge Company (i.e. agency authorised to levy toll). Noida Toll Bridge Company collection in the month of Oct 20XX ₹ 2 crore. Commission paid to Intertoll India Consultants @ 5% on the gross receipts. Find the exempted value of supply and taxable supply.

Exempted value of supply	= ₹ 2 crore
Taxable value of supply	= ₹ 10 lakh
(₹ 2 crore x 5%)	

Note: The activity of toll collection outsourced to any third party agency who undertakes the work for consideration is a taxable supply and GST will be levied.

50. Find the taxability for the following independent cases:

- Packing of pulses in retail packs for ₹ 42,000.
- Packing of tomato ketchup for ₹ 54,000
- Commission on sale of rice for ₹ 10,125.
- Storage of rice flour in the warehouse for ₹ 12,000.

Answer:

- taxable supply of services
- taxable supply of services
- taxable supply of services
- taxable supply of services

51. Robinson Bank Ltd. furnishes the following information relating to services provided and the gross amount received during the month of December 20XX. Compute the value of taxable supply of services and GST payable:

Particulars	₹ in Lakhs
(i) Amount of commission received for debt collection service	10
(ii) Discount earned on bills discounted	4.5
(iii) Dealing in sale and purchase of forward contract	5.7
(iv) Charges received on credit card and debit card facilities extended	3.8
(v) Penal interest recovered from the customers for the delay in repayment of loan	2.6
(vi) Commission received for service rendered to Government for tax collection	6.0
(vii) Interest earned on reverse repo transaction	25.0

(Show the workings with explanation wherever required)

Answer:

Particulars	₹ in Lakhs
(i) Amount of commission received for debt collection service	10
(ii) Discount earned on bills discounted	nil
(iii) Dealing in sale and purchase of forward contract	nil
(iv) Charges received on credit card and debit card facilities extended	3.8
(v) Penal interest recovered from the customers for the delay in repayment of loan	nil
(vi) Commission received for service rendered to Government for tax collection	6.0
(vii) Interest earned on reverse repo transaction	nil
Taxable supply of services	19.80
Total tax GST 18%	3.564

52. X Bank Ltd., furnishes the following information relating to services provided and the gross amount received

Particulars	₹ in Lakhs
Merchant Banking Services	8
Asset Management (including portfolio management)	3
Service charges for services to the Government of India	1.5
Interest on overdraft and cash credits	2
Banker to the issue	5
Locker rent	2

Repayment of financial lease made by the customer to the bank ₹ 80 lakhs which includes a principal amount of ₹ 50 lakhs. Compute the value of taxable supply of services under "Banking and other financial services" as per the Central Goods and Services Tax Act, 2017 and also find the CGST and SGST where rate of GST is 9% each.

Note: Input Tax Credit availed by the bank on the asset which is given on financial lease

Answer:

Statement showing GST liability of X Bank Ltd

Particulars	₹ in Lakhs
Merchant banking	8.00
Asset Management	3.00
Service charges for services to the Government of India	1.50
Interest on overdraft and cash credits	Nil
Banker to the issue	5.00
Locker rent	2.00
Financial lease (supply of service)	80.00
Taxable supply of services	99.50
CGST 9%	8.955
SGST 9%	8.955

53. Kotak Mahindra Pension Fund provided the following services in a financial:

- Annual Premium of ₹ 6,000 collected from each individual in relation to National Pension Scheme (Atal Pension Yojna). No. of subscribers 200.
- Monthly premium collected ₹ 8,750 towards general insurance to cover risk. No. of subscribers 500. Applicable rate of GST 18%. Find the GST liability.

Answer:

- annual premium of ₹ 6,000 collected in relation to National Pension Scheme is exempted from GST.
- Monthly premium of ₹ 8,750 for 500 subscribers will attract GST @18%. Therefore, GST liability is ₹ 7,87,500 per month.

54. Mr. X being a registered person (Business Correspondent) under GST Law provided the following services in the month of Oct 20XX:

- Services provided to Gramena Bank located in rural area in the nature of Enrollment of customers and charge ₹ 20,000.
- Disbursal of credit facilities to borrowers involving small amounts strictly as per the instructions of the Bank locate in a village and collected ₹ 12,250.
- Facilitating the repayment of dues owed to the HDFC bank (Mylapore Branch, Chennai) by its customers and collected fee ₹ 55,000 from the bank.
- Recovery agent services to the State Bank of India, Mount Road Branch, Chennai, for ₹ 2,20,500.

Find the GST liable to pay by Mr. X. applicable rate of GST @18%.

Answer:

Particulars	Value in ₹
Enrollment of customers in rural area bank	Exempted supply
Disbursal of credit facilities as per bank located in rural area	Exempted supply
Facilitating the repayment of loan to bank in urban area	55,000
Recovery agent services to the SBI	Reverse applicable
Total taxable supply	55,000
CGST 9%	4,950
SGST 9%	4,950

55. Cloud M Power Technologies Pvt. Ltd., is a business incubatee provided following taxable services in the financial year 2024-25:

Cloud computing services	= ₹ 25,00,000
Mobile application services	= ₹ 20,00,000
Social networking and location aware applications	= ₹ 10,00,000

Note:

- Previous year taxable services is ₹ 22,00,000.
- Service provider enter into an agreement with STEP in the year 2023-24.

Find GST liability of Cloud M Power Technologies Pvt. Ltd. for the financial year 2024-25. Assume applicable rate of GST 18%.

Answer:

Statement showing GST liability of Cloud M Power Technologies Pvt. Ltd for the year 2024-25:

Particulars	Taxable Services in (₹)	Remarks
Cloud computing services	Nil	Exempted up to ₹ 50 lakh
Mobile application services	Nil	-do-
Social networking and location aware applications	5,00,000	Over and above ₹ 50 Lakh is taxable in the financial year 2024-25
Taxable services	5,00,000	
CGST 9%	45,000	(5,00,000 x 9%)
SGST 9%	45,000	(5,00,000 x 9%)

56. Clean and Green Pvt. Ltd. provided the bio-medical waste treatment facility to a veterinary clinic is a taxable supply of service, if so GST will be levied?

Answer:

It is taxable supply of service.

57. Technopark Technology Business Incubator (T-TBI), provided the following taxable services in the financial year 2024-25:

- Entrepreneurship Awareness Camps to a Business incubatee for ₹ 20 lakh.
- Commercial space provided to Infosys Ltd. a non-incubatee for ₹ 2 lakh.

Find GST liability of Technopark Technology Business Incubator?

Answer:

Statement showing GST liability of Technopark Technology Business Incubator

Particulars	Taxable services in (₹)	Remarks
Entrepreneurship Awareness Camps to a Business incubatee.	Nil	Exempted service.
Commercial space provided to Infosys Ltd. a non-incubatee	Nil	Exempted service
Taxable supply of services	Nil	

58. M/s DLF Ltd., sponsored ₹ 20 lakhs in respect of a Tournament organized by Board of Council for Cricket in India (BCCI).

- Is it taxable supply of service?
- If so who is liable to pay GST?

Answer:

- Yes, the given service is taxable supply of service.
- M/s DLF Ltd., is liable to pay GST under reverse charge being a recipient of such sponsorship services from BCCI.

Note: BCCI is not a National Sports Federation.

59. BCCI conducted a tournament in the month of October 20XX, in India (i.e. India vs. Australia) by selling tickets in the following denominations:

- 1,00,000 tickets @ 195 per ticket
- 10,000 tickets @ 650 per ticket.

Find the GST if any?

Answer:

- (a) Where the consideration for admission is not more than ₹ 500 per person is exempted from GST.
 (b) GST liability is as follows:
 ₹ 650 x 10,000 tickets = ₹ 65,00,000
 CGST @14% = ₹ 9,10,000
 SGST @14% = ₹ 9,10,000

Note:

- (1) Entry fee per person per ticket exceeding ₹ 500 fully taxable.
 (2) Admission to all sports events organized by recognized sports federations were to attract 28% GST

60. Mark Agro Products Ltd., furnishes the following details of various services provided by it in the month of August, 20XX:

S. No. Particulars	Amount (₹)
(1) Rearing of Silkworm and horticulture	2,50,000
(2) Plantation of tea and coffee	2,00,000
(3) Renting of vacant land for performing marriage ceremony	4,50,000
(4) Sale of wheat on commission basis	50,000
(5) Sale of rice on commission basis	2,00,000

Compute the value of taxable supply of services and the GST liability of Mark Agro Products Ltd. for the month of August 20XX. Assume rate of GST 18%.

Answer:

S. No. Particulars	Amount (₹)
(1) Rearing of Silkworm and horticulture	Exempted Supply
(2) Plantation of tea and coffee	Exempted Supply
(3) Renting of vacant land for performing marriage ceremony	4,50,000
(4) Sale of wheat on commission basis	Exempted Supply
(5) Sale of rice on commission basis	2,00,000
Taxable Supply	6,50,000
GST 18% of ₹ 6,50,000	1,17,000

61. From the following information find GST liability of M/s A. Ltd. for the month of October 20XX:

S. No. Particulars	Amount (₹)
(i) Renting of Agro-machinery	5.0
(ii) Cultivation of Ornamental flowers	2.5
(iii) Processing of Tomato Ketchup under the brand name of Y Ltd.	3.0
(iv) Plantation of Rubber	3.5
(v) Processing of Potato chips on job work basis	1.5

Assume applicable CGST 2.5% & SGST 2.5%.

Answer:

Statement Showing GST Liability of M/s A. Ltd. for the month of October 20XX:

S. No. Particulars	Amount (₹)
(i) Renting of Agro-machinery	Exempted supply of Service
(ii) Cultivation of Ornamental flowers	Exempted supply of Service
(iii) Processing of Tomato Ketchup under the brand name of Y Ltd.	3.0
(iv) Plantation of Rubber	Exempted supply of Service
(v) Processing of Potato chips on jobwork basis	1.5
Taxable supply of service	4.50
CGST 2.5%	0.1125
SGST 2.5%	0.1125

62. Transport facility provided by a school to its students through a private Bus / Cabs Operator.

Answer: Exempted supply of service. GST will not be levied.

63. Service provided by a private transport operator to a school in relation to transportation of students to and from a school.

Answer: Exempted supply of service. GST will not be levied.

64. Service provided by a School in relation to a tour to its students and staff.

Answer: Exempted supply of service. GST will not be levied.

65. Service provided by a private transport operator to a school in relation to a tour and travel services of students and staff.

Answer:

Taxable Supply. GST will be levied

66. Hr. Sec. School provided auditorium hall on rent to SATC Academy in New Delhi. Monthly charges ₹ 1,21,200 through out the year. Is it taxable supply of service? Applicable GST 18%. Find the GST liability.

Answer:

This given activity is a taxable supply of service. Hr. Sec. School is liable to pay GST .

GST liability = ₹ 2,61,792

(₹ 1,21,200 pm x 12 months) x 18%

67. Mr. M.S. Dhoni provided services to Chennai Super Kings (a franchisee) in a premier league. Is it taxable service?

Answer: Yes, it is taxable in the hands of Mr. M.S. Dhoni. Since, the service of a player to a franchisee which is not a recognized sport body.

68. Mr. Krishnamachari Srinivasan provided services as umpire in a premier league (IPL). This service is taxable?

Answer:

No. the given service is exempt from GST.

Since, services of an individual as umpire, provided directly to a recognized sport body (BCCI) shall be exempt.

69. Green Tree society provided following services in the month of March 20XX:

- (i) Banquet hall provided to a Member of the society on hire for the purpose of celebrating his son birthday party for ₹ 25,000.
- (ii) Payment of electricity bill issued by third person, in the name of its members; collected ₹ 1,10,000 from its members and paid to electricity department ₹ 1,00,000.
- (iii) contribution per month per member is ₹ 8,500 for 20 members and ₹ 2,500 for 30 members has been received in the March 20XX.

Find the tax liability of the Green Tree Society for the month of March 20XX.

Answer:

Statement showing GST liability of Green Tree society for the month of Mar 20XX:

Particulars	Amount (₹)	Remarks
Banquet hall rent	25,000	Taxable service
Service charges	10,000	Taxable service
Maintenance charges	1,70,000	8,500 x 20
Total taxable value of supply of services	2,05,000	
GST @18%	36,900	

70. Mr. Navab, a performing artist, provides the following information relating to August, 20XX.

Receipts from:

	₹
Performing classical dance	98,000
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts	2,10,000
Activities in sculpture making	3,10,000
Performing western dance	90,000

Determine the value of taxable supply of services and GST payable by Mr. Navab for August, 20XX. GST @ 18%.

Answer:

Receipts from	Value in ₹	Remarks
Classical dance	Nil	Exempt as receipt is less than or equal to ₹ 1,50,000
Performing in television serial	2,80,000	
Brand ambassador	12,00,000	
Coaching in recreational activities in relation to arts	Nil	
sculpture making	3,10,000	
Western dance	90,000	
Value of taxable supply of service	18,80,000	
GST 18%	3,38,400	

71. Admission to IPL is ₹ 195 and entertainment tax ₹ 25. Whether this is activity exempt from GST?

Answer:

Exempted supply of service. Since, transaction value ₹ 220 (i.e ₹ 195 plus ₹ 25) not exceeds ₹ 500 per ticket.

72. Validate the following statement:

Indian Bank, Mound Road Branch in Chennai imported external asset management services is exempt from GST.

Answer:

The given statement is invalid. It is taxable supply of service and hence IGST will be levied.

73. Service provided by Indian tour operator to a Sri Lankan for a tour conducted in Bhutan. Is it taxable supply?

Answer:

It is exempted supply of service and hence GST will not be levied.

TIME OF SUPPLY

The CGST Act provides **separate provisions for Time of Supply for Goods and Services** vide **Sections 12 and 13** of CGST Act. Sections 12 and 13 ***use the provisions of Section 31 relating to issue of Tax Invoice*** as a reference point.

Section 14 provides for the method of determining the time of supply **in case there is a change in the rate of tax** on supply of goods or services. [Section 14 is applicable for CMA Inter Students only (It is excluded from CA Intermediate Syllabus)]

Provisions of **Time of Supply** under CGST Act have also been made applicable to IGST Act vide **Section 20** of the IGST Act.

TIME OF SUPPLY OF GOODS [SECTION 12]

[Read - Section 31 at Page 7.5]

1. The **liability to pay tax on Goods** shall arise at the time of supply as determined in terms of the **provisions of this Section**.
2. [Section 12(2)] The Time of Supply of Goods shall be the **earlier** of the following dates, namely:- [3 Marks]
 - (a) the date of issue of invoice by the supplier or the last date on which he is required, under Section 31, to issue the invoice with respect to the supply; or
 - (b) The date on which the supplier **receives the payment** with respect to the supply

Note:

1. "The date on which the supplier receives the payment" shall be the date on which the **payment is entered in his books** of account or the date on which the **payment is credited to his bank** account, **whichever is earlier**.
2. **Here, "supply"** shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Example: A Ltd. enters into an agreement with B Ltd. to supply 100 kg of raw material. However, A Ltd. supplies only 80 kg of raw material and issues the invoice for the same. Here, the supply would be deemed to have been made in respect of 80 kg of raw material, i.e. to the extent covered by the invoice. Therefore, the provisions relating to time of supply will also be applicable to supply of 80 kg of raw material and not for entire 100 kg of raw material.

Tax not payable at the time of receipt of advance for supply of goods – Special procedure for payment of tax in case of supply of goods

Notification No. 66/2017 CT dated 15.11.2017 specifies that a registered person (excluding composition supplier), other than registered persons making supply of specified actionable claims, should 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, including in the situation attracting the provisions of section 14.

[SATC Note: All taxpayers (under forward charge) not opted for composition scheme {other than registered person making supply of specified actionable claims as defined in section 2(102A)} are exempt to pay GST at the time of receipt of advance in relation to supply of goods]

The entire GST shall become payable only when the invoice for the supply of such goods is issued or ought to have been issued. Thus, 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 under section 31.

[Note: A composition supplier has to pay, in lieu of tax payable by him, an amount calculated at the prescribed rate **applied on his ‘turnover in the State/Union Territory’ for a quarter. Therefore, the composition supplier is **not required to pay any tax on advance received as the same does not form part of taxable supplies** and, in turn, also does not form part of the ‘turnover in a State/Union Territory’ at the end of the quarter.]**

Example: Sphinx Pvt. Ltd. enters into a contract for supply of 100 office chairs @ ₹ 15,000 with Joy Sales on 21st August. Chairs are removed from the warehouse of Sphinx Pvt. Ltd. on 5th September along with the invoice of even date. Joy Sales has paid 30% of the total contract value on 21st August; balance 70% is paid after delivery of chairs on 10th September. Since the invoice is issued on the date of removal of goods, it is issued within the prescribed time limit and hence, time of supply for payment of tax on entire contract value of ₹ 15,00,000 is the date of issue of invoice, i.e. 5th September. **No GST will be payable on advance of ₹ 4,50,000 received on 21st August.**

3. [Section 12(3)] In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:
- the date of the receipt of the **goods**, or
 - the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier, or
 - the date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof **by the supplier**:
- Provided that where it is not possible to determine the time of supply under clause (a), (b), or (c), the **time of supply shall be the date of entry in the books of account of the recipient of supply.** **[5 Marks]**

Important: 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 may be payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment).

Question

Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Bridge & Co. (30 days from the date of issuance of invoice elapse on June 3)
May 12	Bridge & Co receives the goods
May 30	Bridge & Co makes the payment

ANSWER:

Here, **May 12** will be the time of supply, being the earliest of the three stipulated dates namely, receipt of goods, date of payment and **date immediately following 30 days of issuance of invoice** [Section 12(3)]. (Here, date of invoice is relevant only for calculating thirty days from that date.)

Question

Determine the time of supply from the given information.

May 4	Supplier invoices goods taxable on reverse charge basis to Pillar & Co. (30 days from the date of issuance of invoice elapse on June 3)
June 12	Pillar & Co receives the goods, which were held up in transit
July 3	Payment made for the goods

ANSWER:

Here, **June 4, 31st day from the date of supplier's invoice**, will be the time of supply, being the **earliest of the three stipulated dates namely**, receipt of goods, date of payment and date immediately following 30 days of issuance of invoice [Section 12(3)].

4. [Section 12(4)] In case of supply of vouchers by a supplier, the time of supply shall be –
- (a) the **date of issue of voucher**, if the supply is identifiable at that point; or
 - (b) the **date of redemption of voucher**, in all other cases.

[3 Marks]

Vouchers are instruments that can be exchanged as payment for goods or services of the designated value. As per the definition, they are instruments that certain persons (potential suppliers) are obliged to accept as consideration, part or full, for goods and/or services; the instrument or its related documentation sets out the terms and conditions of use, the goods / services covered, and the identity of the potential suppliers of these

Example:

A Limited sells food coupons to a company, which gives these to its employees as part of the agreed perquisites. The coupons can be redeemed for purchase of any item of food /provisions in the outlets that are part of the program.

As the supply against which the coupon will be redeemed is not known on the date of the sale of the coupon, the ***time of supply of the coupon will be the date on which the employee redeems it against food / provision items of his choice.***

Example:

With each purchase of a large pizza during the Christmas week from Perfect Pizza, one can buy a voucher for Rs. 20 which will be redeemable till 5 Jan for a small pizza.

As the supply against which the voucher will be redeemed is **known on the date of the sale**, the time of supply **is the date of issue of the voucher.**

5. [Section 12(5)] Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall--
- (a) in a case **where a periodical return has to be filed**, be the date on which such return is to be filed; or
 - (b) in any other case, **be the date on which the tax is paid.**

[3 Marks]

Example:

Investigation reveals clandestine removal of goods by a supplier who is not registered under GST. The evidence is in the form of noting, often undated, and some corroborative material. The supplier voluntarily pays tax during the investigation, to close the case. The time of supply will be the date on which the tax is paid, as being unregistered, the supplier is not required to file periodical returns.

6. [Section 12(6)] The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

[1 Marks]

Example: Radha Traders sold goods to Shyam Sales on 6th June with a condition that interest @ 2% per month will be charged if Shyam Sales failed to make payment within 15 days of the delivery of the goods. Goods were delivered as also the invoice was issued on 6th June. Shyam Sales paid the consideration for the goods on 6th July along with applicable interest.

Time of supply for the goods sold is the date of issue of invoice i.e., 6th June and the time of supply for addition in value by way of interest is the date when such addition in value is received by Radha Traders i.e., 6th July.

Tax Invoice (to the extent relevant to Time of Supply) - Section 31

[Only relevant sub-sections related to Goods are covered here]

1. [Section 31(1)] - A registered person supplying taxable goods shall, before or at the time of,
(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
(b) delivery of goods or making available thereof to the recipient, in any other case,
issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:
2. [Section 31(4)] - In case of **continuous supply of goods**, where successive statements of accounts or successive payments are involved, the **invoice shall be issued before or at the time each such statement is issued** or, as the case may be, **each such payment is received**.
3. [Section 31(7)] - Notwithstanding anything contained in sub-section (1), 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 6 months from the date of removal, whichever is earlier.***

[SATC Note: If date of removal of goods is 15.01.2024, then last date to issue invoice is 15.07.2024]

TIME OF SUPPLY OF SERVICES [SECTION 13]**[Read - Section 31 at Page 7.9]**

1. The liability to **pay tax on services** shall arise at the time of supply, as determined in terms of the provisions of this section.
2. **5 Marks** - [Section 13(2)] The time of **supply of services** shall be the following dates, namely:-
 - (a) the **date of issue of invoice** by the supplier, if the invoice is issued within the period prescribed under section 31 or **the date of receipt of payment**, whichever is earlier; or
 - (b) the **date of provision of service**, if the invoice is not issued within the period prescribed under Section 31 or **the date of receipt of payment**, whichever is earlier; or
 - (c) the **date on which the recipient shows the receipt of services** in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply

Where the supplier of taxable service receives an amount **up to one thousand rupees** in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

A telephone company receives ₹ 5,000 against an invoice of ₹ 4,800. The excess amount of ₹ 200 can be adjusted against the next invoice. The company has the option to take the **date of the next invoice as the time of supply of service** in relation to the amount of ₹ 200 received in excess against the earlier invoice.

Example: Mohit Khanna & Sons is a firm of management consultants. The firm enters into a contract with Spark Pvt. Ltd. on 1st September for providing consultancy services. Provision of service gets completed on 15th September. Invoice for the service is issued on 20th September and payment is received on 10th October. Since invoice is issued within 30 days from the date of supply of service, time of supply is the date of issue of invoice, i.e. 20th September being earlier than the date of receipt of payment.

If in the above example, invoice is issued on 25th October, the time of supply will be the date of provision of service, i.e. 15th September being earlier than the date of receipt of payment. This would be so as the invoice is not issued within 30 days from the date of supply of service.

3. [Section 13(3)] In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the **earlier of the following dates**, namely-

- (a) the **date of payment** as entered in the books of account of the recipient or the date on which the payment is **debited in his bank account**, whichever is earlier; or
- (b) the **date immediately following 60 days from the date of issue of invoice** or any other document, by whatever name called, in lieu thereof by the supplier, in cases where invoice is required to be issued by the supplier, or
- (c) **W.e.f. 01.11.2024, the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient.**

[Amendment by The Finance (No. 2) Act, 2024]

Where it is not possible to determine the time of supply under clause (a) or (b) or (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

However, in case of supply by 'associated enterprises', where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier. [5 Marks]

SATC Note: The above amendment is NOT applicable for CA Inter May 2025 exam. However, this amendment is applicable for CA Inter Sept 2025/Jan 2026 Exam & CMA Inter June 2025/Dec 2025 Exam.



4. [Section 13(4)] In case of supply of vouchers by a supplier, the time of supply shall be-
- (a) the date of issue of voucher, if the **supply is identifiable** at that point; or
 - (b) the date of redemption of voucher, in all other cases;

Example: Best Hospitality Services enters into agreement with Drive Marketing Ltd by which Drive Marketing Ltd. markets Best Hospitality Services' hotel rooms and sells coupons / vouchers redeemable for a discount against stay in the hotel.

As the supply against which the voucher will be redeemed **is identifiable**, the time of supply of the voucher will be its date of issue.

5. [Section 13(5)] - Where it is not possible to determine the time of supply of services in the manner specified in sub-sections (2), (3) or (4), the time of supply shall
- (a) in a case where a **periodical return** has to be filed, be the *date on which such return is to be filed*; or
 - (b) in any other case, **be the date on which the tax is paid**.
6. [Section 13(6)] The time of supply to the extent it relates to an addition in the value of supply **by way of interest, late fee or penalty** for delayed payment of any consideration shall be the **date on which the supplier receives such addition in value**.

Section 31: Tax invoice (to the extent relevant to Time of Supply Chapter)

[Only relevant sub-sections related to Services are covered here]

[Section 31(2)] - A registered person supplying taxable services **shall, before or after the provision of service but within a prescribed period, issue a tax invoice**, showing the description, value, tax charged thereon and such other particulars as may be prescribed.

[Section 31(5)] - In case of continuous supply of services,-

- (a)** where the **due date of payment is ascertainable** from the contract, the invoice shall be issued on or before the due date of payment;
- (b)** 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;
- (c)** where the **payment is linked to the completion of an event**, the invoice shall be issued on or before the date of completion of that event.

[Section 31(6)] - In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued **at the time when the supply ceases** and such invoice shall be issued to the extent of the supply made before such cessation.

Tax Invoice, Credit and Debit Notes of CGST Rules (Rule 47)**Time limit for issuing tax invoice**

In case of taxable supply of services, the invoice shall be issued **within a period of 30 days** from the date of supply of service.

Where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued **shall be 45 days** from the date of supply of service.

Further, an insurer or a banking company or a financial institution, including a non-banking financial company, **or a telecom operator, or any other class of supplier of services as may be notified** by the Government on the recommendations of the Council, making taxable supplies of services **between distinct persons as specified in section 25**, may issue the invoice before or at the time such **supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.**

Question

Determine the time of supply from the following particulars (amounts of exclusive of GST):

6th May	: Booking of convention hall, sum agreed ₹ 15,000, advance of ₹ 3,000 received
15th September	: Function held in convention hall
27th October	: Invoice issued for ₹ 15,000, indicating balance of ₹ 12,000 payable
3rd November	: Balance payment of ₹ 12,000 received

Answer:

As per Section 31 read with Rule 47 of CGST Rules, **the tax invoice is to be issued within 30 days of supply of service.** In the given case, the invoice is not issued within the prescribed time limit.

As per section 13(2)(b), in a case where the invoice is not issued within the prescribed time, the time of supply of service is the **date of provision of service or receipt of payment, whichever is earlier.**

Therefore, the time of supply of service to the extent of ₹ 3,000 is **6th May** as the date of payment of ₹ 3,000 is **earlier than the date of provision of service.**

The time of supply of service to the extent of the balance ₹ 12,000 is **15th September** which is the date of provision of service.

Question

Investigation shows that ABC & Co carried out service of cleaning and repairs of tanks in an apartment complex, for which the Apartment Owners' Association showed a payment in cash on 4th April to them against work of this description. The dates of the work are not clear from the records of ABC & Co. ABC & Co have not issued invoice or entered the payment in their books of account.

Answer:

The time of supply cannot be determined vide the provisions of clauses (a) and (b) of section 13(2) as neither the invoice has been issued nor the date of provision of service is available as also the date of receipt of payment in the books of the supplier is also not available. **Therefore, the time of supply will be determined vide clause (c) of section 13(2) i.e., the date on which the recipient of service shows receipt of the service in his books of account.**

Thus, time of supply will be 4th April, the date on which the Apartment Owners' Association records the receipt of service in its books of account.

Question

Determine the time of supply from the given information. (Assuming that service being supplied is taxable under reverse charge)

May 4 The supplier of service issues invoice for service provided. There is a dispute about amount payable, and payment is delayed.

August 21 Payment made to the supplier of service

Answer:

Here, July 4 will be the time of supply, being the earliest of the two stipulated dates namely, date of payment and date immediately following 60 days since issue of invoice.

Question

Determine the Time of Supply from the given information.

May 4 A German company issues email informing its associated company ABC Ltd. of the cost of technical services provided to it.

July 2 ABC Ltd transfers the amount to the account of the German company

Answer:

As there is **no prior entry of the amount in the books of account of ABC Ltd.**, July 2 will be the time of supply, being the date of payment in terms of second proviso to section 13(3).

Clarification on time of supply in respect of supply of services of construction of road and maintenance thereof of National Highway Projects of National Highways Authority of India (NHAI) in Hybrid Annuity Mode (HAM) model

Issue: Under the Hybrid Annuity Mode (HAM) model of National Highways Authority of India (NHAI), the concessionaire has to construct the new road and provide Operation & Maintenance of the same which is generally over a period of 15-17 years and the payment of the same is spread over the years. What is the time of supply for the purpose of payment of tax on the said service under the HAM model?

Clarification:

Under the Hybrid Annuity Model (HAM) of concession agreements, the highway development projects are under Design, Build, Operate and Transfer model (DBOT), wherein the concessionaire is required to undertake new construction of Highway, as well as the Operation and Maintenance (O&M) of Highways. The payment terms for the construction portion as well as the O&M portion of the contract are provided in the agreement between National Highways Authority of India (NHAI) and the concessionaire.

A HAM contract is a single contract for construction as well as operation and maintenance of the highway. The payment terms are so staggered that the concessionaire is held accountable for the repair and maintenance of the highway as well. The contract needs to be looked at holistically based on the services to be performed by the concessionaire and cannot be artificially split into two separate contracts for construction and operation and maintenance, based on the payment terms. The concessionaire is bound contractually to complete not only the construction of the highway but also to operate and maintain the same.

In HAM contract, the payment is made spread over the contract period in installments and payment for each installment is to be made after specified periods, or on completion of an event, as specified in the contract. The same appears to be covered under the 'Continuous supply of services' as defined under section 2(33) of the CGST Act, 2017.

It is clarified that the tax liability on the concessionaire under the HAM contract, including on the construction portion, would arise at the time of issuance of invoice, or receipt of payments, whichever is earlier, if the invoice is issued on or before the specified date or the date of completion of the event specified in the contract, as applicable.

If invoices are not issued on or before the specified date or the date of completion of the event specified in the contract, tax liability would arise on the date of provision of the said service (i.e., the due date of payment as per the contract), or the date of receipt of the payment, whichever is earlier.

It is also clarified that as the installments/annuity payable by NHAI to the concessionaire also includes some interest component, the amount of such interest shall also be includible in the taxable value for the purpose of payment of tax on the said annuity/installment in view of the provisions of section 15(2)(d) of the CGST Act, 2017.

Circular No. 221/15/2024 GST dated 26.06.2024

SECTION 14 is relevant for only CMA Inter Students**This section is excluded from CA-Intermediate Syllabus****CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF GOODS OR SERVICES**
Section 14 of CGST Act, 2017**Important - 2 to 3 Marks for CMA Inter Students only**

S. No.	Supply is completed before the change in rate of tax	Invoice issued before the date of change in tax	Payment received before the date of change in tax rate	Time of Supply	Applicable rate of Tax
1	Yes	No	No	Earliest of the date of invoice or payment	New Rate of Tax
2	Yes	Yes	No	Date of issue of invoice	Old Rate of tax
3	Yes	No	Yes	Date of receipt of payment	Old Rate of tax
4	No	Yes	Yes	Earliest of the date of invoice or payment	Old Rate of tax
5	No	Yes	No	Date of receipt of payment	New Rate of Tax
6	No	No	Yes	Date of issue of Invoice	New Rate of Tax

Date of receipt of payment in case of change in rate of tax

Normally the date of receipt of payment is the date of credit in the bank account of the recipient of payment or the date on which the payment is entered into his books of account, **whichever is earlier.**

However, in cases of change in rate of tax, the date of receipt of payment is **the date of credit in the bank account if such credit is after four working days from the date of change in rate of tax.**

TIME OF SUPPLY

1. **Date on which the supplier receives the payment as per section 12 of CGST Act is**
 - (a) Date entered in books of accounts
 - (b) Date of credit in bank account
 - (c) Date entered in books of accounts or date of credit in bank account, whichever is earlier**
 - (d) Date on which receipt voucher is issued by supplier
2. **What is time of supply of goods liable to tax under reverse charge mechanism?**
 - (a) Date of receipt of goods
 - (b) Date on which the payment is made
 - (c) Date immediately following 30 days from the date of issue of invoice by the supplier
 - (d) Earlier of (a) or (b) or (c)**
3. **What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?**
 - (a) Date of issue of voucher**
 - (b) Date of redemption of voucher
 - (c) Date of entry in books of accounts
 - (d) Earlier of (a) or (b) or (c)
4. **What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?**
 - (a) Date of issue of voucher
 - (b) Date of redemption of voucher**
 - (c) Date of entry in books of accounts
 - (d) Earlier of (a) or (b) or (c)
5. **What is the time of supply of service if the invoice is issued within 30 days from the date of provision of service?**
 - (a) Date of issue of invoice
 - (b) Date on which the supplier receives payment
 - (c) Date of provision of service
 - (d) Earlier of (a) & (b)**
6. **What is the time of supply of service if the invoice is not issued within 30 days from the date of provision of service?**
 - (a) Date of issue of invoice
 - (b) Date on which the supplier receives payment
 - (c) Date of provision of service
 - (d) Earlier of (b) & (c)**
7. **What is the time of supply of service in case of reverse charge mechanism?**
 - (a) Date on which payment is made to the supplier
 - (b) Date immediately following 60 days from the date of issue of invoice
 - (c) Date of invoice issued by supplier
 - (d) Earlier of (a) and (b)**
8. **What is the time of supply of service where services are received from an associated enterprise located outside India?**
 - (a) Date of entry of services in the books of account of recipient of service
 - (b) Date of payment
 - (c) Earlier of (a) & (b)**
 - (d) Date of entry of services in the books of the supplier of service

9. Explain the significance of time of supply under GST law.

Answer:

GST is payable on supply of goods or services. Time of supply indicates the point in time when the liability to pay tax arises. **However, it is important to note that though the liability to pay tax arises at the time of supply, the same can be paid to the Government by the due date prescribed with reference to the said 'time of supply'.**

The CGST Act provides separate provisions for time of supply for goods & services vide sections 12 & 13.

10. M/s Mansh & Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge. It has furnished the following information:

- (i) Goods were supplied on 3rd October
- (ii) Invoice was issued on 5th October
- (iii) Payment received on 9th October

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 (as amended)**, a registered person not opted for composition scheme under section 10 [**other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)**] 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.

Further, a registered person is required to issue a tax invoice before or at the time of removal of goods for supply to the recipient. Thus, in the given case, the invoice for supply of goods should have been issued on or before the removal of goods i.e., on 3rd October.

However, since the invoice has not been issued within the prescribed time, the time of supply for the purpose of payment of tax will be the last date on which the invoice is required to be issued i.e., 3rd October.

11. [Important] GST is payable on advance received for supply of goods and services taxable under forward charge.

Do you agree with the statement? Support your answer with legal provisions.

Answer:

The statement **is not correct**. While GST is payable on advance received for supply of services taxable under forward charge, **the same is not payable in case of advance received for supply of goods taxable under forward charge.**

As per section 13, the time of supply of services taxable under forward charge is –

- Date of issue of invoice or date of receipt of payment, whichever is earlier, if the same is issued within 30 days from the date of supply of service;
OR
- Date of provision of service or date of receipt of payment, whichever is earlier, if the invoice is not issued within 30 days from the date of supply of service.

Thus, in case of services, if the supplier receives any payment before the provision of service or before the issuance of invoice for such service, the time of supply gets fixed at that point in time and the liability to pay tax on such payment arises. **However, the tax can be paid by the due date prescribed with reference to such time of supply.**

As regards time of supply of goods taxable under forward charge is concerned, Notification No. 66/2017 CT dated 15.11.2017 (as amended) provides that, a registered person not opted for composition scheme under section 10 [**other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)**] should 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.

Therefore, in case of goods (other than Specified actionable claims), tax is not payable on receipt of advance payment.

12. 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:

17 th September	Purchase order with advance of ₹ 50,000 is received for machine worth ₹ 12 lakh and entry duly made in the seller's books of account
20 th October	The machine is assembled, tested at site, and accepted by buyer
23 rd October	Invoice raised
4 th November	Balance payment of ₹ 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 (as amended)**, a registered person not opted for composition scheme under section 10 [other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)] 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.

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)].

13. **[Important]** Gas is supplied by a pipeline to the recipient. The supply is to be made for a period of one year. Monthly payments are to be made by the recipient as per the contract.

The details of the payment made are:

July 5, August 5, September 5 - Payments of ₹ 2 lakh made in each month

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

Answer:

As per **Notification No. 66/2017 CT dated 15.11.2017 (as amended)**, a registered person not opted for composition scheme under section 10 [other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)] 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 July 5, August 5 and September 5, when monthly payments of ₹ 2 lakh are received.

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

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

S. No.	Date of payment by recipient for <u>supply of services</u>	Date of issue of invoice <u>by supplier</u> of services
(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:

S.N	Date of payment by recipient or supply of services	Date of issue of by supplier invoice of services	Date immediately following 60 days from date of invoice	Time of supply of Services [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 Part on September 1	June 29	August 29	June 30 for 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)

15. Determine the time of supply assuming that GST is payable under reverse charge:

S. No.	Date of receipt of goods	Date of payment by <u>recipient of goods</u>	Date of issue of invoice by supplier of goods
	(1)	(2)	(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 30 and debited in recipient's bank account on June 26	June 29
(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:

S. No	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods	Date Immediately following 30 days from the date of invoice	Time of supply of goods [Earlier of (1), (2) & (4)]
(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 the 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)
(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	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., 31 st day from issuance of invoice)

16. Kabira Industries Ltd engaged the services of a transporter (registered) for road transport of a consignment on 17th June and made advance payment for the transport on the same date, i.e., 17th June. However, the consignment could not be sent immediately on account of a strike in the factory, and instead was sent on 20th July. Invoice was received from the transporter on 22nd July. What is the time of supply of the transporter's service?

Note: Transporter's service is taxed on reverse charge basis.

Answer:

Time of supply of service taxable under reverse charge is the **earlier of the following two dates** in terms of section 13(3):

- A. Date of payment
- B. 61st day from the date of issue of invoice

In this case, the date of payment precedes 61st day from the date of issue of invoice by the supplier of service. **Hence, the date of payment, that is 17th June, will be treated as the time of supply of service [Section 13(3)(a)].**

17. Determine the time of supply from the given information. (Assume that service being supplied is taxable under reverse charge)

May 4	The supplier of service issues invoice <u>for service</u> provided. There is a dispute about amount payable, and payment is delayed.
August 21	Payment made to the supplier of service (by recipient who is registered in GST)

Answer:

Here, July 4 will be the time of supply, being the earliest of the two stipulated dates namely, date of payment and date immediately following 60 days since issue of invoice.

18. Raju Pvt Ltd. receives the order and advance payment on 5th January for carrying out an architectural design job. It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.

When is the time of supply of service?

Answer:

Since the invoice has not been issued within the prescribed time period, time of supply of service will be the earlier of the following two dates in terms of section 13(2)(b):

- A. Date of provision of service
- B. Date of receipt of payment

The payment was received on 5th January and the service was provided on 23rd April. **Therefore, the date of payment, i.e., 5th January is the time of supply of the service in this case.**

19. Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August but no invoice was made and the cartons were not entered in the accounts. There was no evidence of receipt of payment.

What is the time of supply of 150 cartons for the purpose of payment of tax?

Answer:

As per **Notification No. 66/2017 CT dated 15.11.2017 (as amended)**, a registered person not opted for composition scheme under section 10 [other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)] **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.

In this case since the invoice has not been issued, the time of supply will be the last date on which the invoice is required to be issued.

The invoice for supply of goods must be issued on or before the dispatch of goods i.e., on 2nd August. Therefore, time of supply of the goods will be 2nd August, the date when the invoice should have been issued

20. An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes. Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December. The customer collects the consignment from the premises of Ram & Co. on 7th December and hands over the payment on the same date, which is entered in the accounts on the next day, 8th December.

What is the time of supply of the shoes?

Answer:

As per **Notification No. 66/2017 CT dated 15.11.2017 (as amended)**, a registered person not opted for composition scheme under section 10 [other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)] **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.

In this case, the 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 2nd December

21. Sodexo meal coupons are sold to a company on 9th August for being distributed to the employees of the said company. The coupons are valid for 6 months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months. What is the date of supply of the coupons?

Answer:

As the coupons can be used for a variety of food items, which are taxed at different rates, the supply **cannot be identified** at the time of purchase of the coupons. **Therefore, the time of supply of the coupons is the date of their redemption in terms of section 12(4).**

22. M/s XYZ & Co., a firm of Chartered/Cost Accountants, issued invoice for services rendered to Mr. A on 7th September. Determine the time of supply in the following independent cases:
- (i) The provision of service was completed on 1st August and payment was received on 28th September.
 - (ii) The provision of service was completed on 14th August and payment was received on 28th September.
 - (iii) Mr. A made the payment on 3rd August. However, provision of service was remaining to be completed at that time.
 - (iv) Mr. A made the payment on 15th September. However, provision of service was remaining to be completed at that time.

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 [Section 13(2)(a)].

In case the invoice is not issued within 30 days from the date of supply of service, time of supply is the date of provision of service OR the date of receipt of payment, whichever is earlier [Section 13(2)(b)].

In accordance with the aforesaid provisions, the time of supply in the four independent cases will be:

- i. 1st August since the invoice is not issued within 30 days of supply of service.
 - ii. 7th September since the invoice is issued within 30 days of supply of service and the payment is received after the issuance of invoice.
 - iii. 3rd August viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (3rd August).
 - iv. 7th September viz., earlier of date of issuance of invoice (7th September) or date of receipt of payment (15th September).
23. A firm of lawyers (registered in GST) issues invoice for services to ABC Ltd. on 17th Feb 2025. The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company. The dispute drags on and finally payment is made on 3rd November 2025. Identify the time of supply of the legal services.

Note: Legal services are taxable on reverse charge basis.

Answer:

Time of supply of services that are taxable under reverse charge is **earliest** of the following two dates in terms of section 13(3):

- A. Date of payment [3rd November]
- B. 61st day from the date of issue of invoice [19th April 2025]

The date of payment comes subsequent to the 61st day from the issue of invoice by the supplier of service. Therefore, the 61st day from supplier's invoice has to be taken as the time of supply. **This fixes 19th April as the time of supply.**

24. M/s Pranav Associates, a partnership firm (Registered in GST), provided recovery agent services to Newton Credits Ltd., a non-banking financial company and a registered supplier, on 15th January 2025. Invoice for the same was issued on 7th February 2025 and the payment was made on 18th April 2025 by Newton Credits Ltd. Bank account of the company was debited on 20th April 2025.

Determine the following:

- i. Person liable to pay GST
- ii. Time of supply of service

Answer:

- i. Tax on services supplied by a recovery agent to, *inter alia*, a non-banking financial company (NBFC) is payable under reverse charge by such non-banking financial company.

Therefore, in the given case, person liable to pay GST is the NBFC - Newton Credits Ltd.

- ii. As per section 13(3), the time of supply of service on which GST is payable under reverse charge is earlier of the following:-

- ✓ Date of payment as entered in the books of account of the recipient (18th April 2025) or the date on which the payment is debited in his bank account (20th April 2025), whichever is earlier;
- ✓ Date immediately following 60 days since issue of invoice by the supplier, i.e. 9th April 2025.

Thus, time of supply of service is 9th April 2025.

25. Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return. The payment was made in December. What is the method to fix the time of supply of the service?

Answer:

The time of supply of services, if the invoice is not issued in time, is the date of payment or the date of provision of service, **whichever is earlier** [Section 13(2)(b)]. In this case, the service is provided on 5th September but not invoiced within the prescribed time limit.

Therefore, the date of provision of service, i.e., 5th September, will be the time of supply.

26. An income-tax and money laundering case against Mr. X, working in a multi-national company, reveals a large volume of undisclosed assets, which he claims as service income. On this basis, the GST authorities investigate the GST liability. Dates of provision of service, whether in the first half or the second half of the financial year being scrutinised by income-tax authorities, are not known. Mr. X voluntarily pays GST during the investigation.

What is the time of supply of the services?

Answer:

Where it is not possible to determine the time of supply in terms of date of invoice or date of provision of service or date of receipt of payment or date of receipt of services in the books of account of the recipient, and where periodical return is not to be filed (Mr. X, being an employee in a multi-national company, is not a registered person), **the date of payment of tax is taken as the time of supply** [Section 13(5)(b)].

Therefore, the date when Mr. X pays the GST will be the time of supply.

27. Mr. X supplied goods for ₹ 50,000 to its customer Miss Diyana on 1st January on the condition that payment for the same will be made within a week. However, Miss Diyana made payment for the said goods on 2nd February and thus, paid interest amounting to ₹ 2,000.

What is the time of supply with regard to addition in the value by way of interest in lieu of delayed payment of consideration?

Answer:

As per Section 12(6), the time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed payment of consideration is the date on which the supplier received such additional consideration.

Thus, time of supply in respect of interest would be the date on which the supplier has received such additional consideration, i.e. 2nd February.

28. M/s X Ltd, being a manufacturer, sold goods to M/s Y Ltd., wholesaler, and issued invoice for the sale on 01-08. Find the time of supply of goods in each of the following independent cases:
- (i) M/s X Ltd., removes the goods for delivery to M/s Y Ltd., on 16th August.
 - (ii) M/s. Y Ltd., collects the goods from premises of M/s X Ltd., on 10th August.
 - (iii) M/s Y Ltd., made full payment on 26th July.

Answer:

As per Section 12(2) read with Notification No. 66/2017 dated 15.11.2017 (as amended), a registered person not opted for composition scheme under section 10 [other than registered person making supply of Specified Actionable Claim as defined in section 2(102A)] are exempt from payment of GST on advances received in case of supply of goods irrespective of turnover limit. Time of supply shall be Date of Invoice as discussed in Section 12(2)(a).

(i) 1st August is the time of supply of goods.

i.e. Earlier of the following:

- Date of Invoice - 1st August

or

- Date on which invoice is required to be issued - 16th August.

(ii) 1st August is the time of supply of goods.

i.e. Earlier of the following:

- Date of Invoice - 1st August

or

- Date on which goods is delivered - 10th August.

(iii) 1st August is the time of supply of goods (assuming goods are removed on or after 1st August).

29. ABC & Co., a accounting firm issued invoice for services rendered to Mr. Ram on 5th August. Determine the time of supply in following independent cases:

(i) The provisions of services were completed on 1st July.**(ii) The provisions of services were completed on 15th July.****(iii) Mr. Ram made the payment on 3rd July, where provisions of services were remaining to be completed.****(iv) Mr. Ram made the payment on 15th August, where provisions of services were remaining to be completed.****Answer:****(i) 1st July will be the time of supply of services as invoice is not issued within the time frame of 30 days.****(ii) 5th August will be the time of supply of services as invoice is issued within the time frame.****(iii) 3rd July will be the time of supply of services as payment received before invoice date.****(iv) 5th August will be the time of supply of services as invoice is issued before the completion of provisions of services.**

30. Mr. A, a registered person received goods from Mr. B, an unregistered dealer. Mr. B issues invoice on 1st July. Find the time of supply of goods in following independent cases (assuming reverse charge is applicable):

(i) Mr. A received goods on 15th July, payment of which is not made yet.**(ii) Mr. A received goods on 3rd August & made payment for the same on 4th August.****(iii) Mr. A made payment on 8th July and received goods on the same date.****(iv) Mr. A received goods on 10th July & made payment for the same on 9th July.****Answer:****(i) Time of supply of goods = 15 July**

Earliest of the following:

Receipt of Goods = 15 July

Date of Payment = not paid

Date immediately following 30 days from the date of invoice i.e. 01 July = 01 Aug

(ii) Time of supply of goods = 1 Aug

Earliest of the following:

Receipt of Goods = 03 Aug

Date of Payment = 04 Aug

Date immediately following 30 days from the date of invoice i.e. 01 July = 1 Aug

(iii) Time of supply of goods = 08-07

Earliest of the following:

Receipt of Goods = 08 July

Date of Payment = 08 July

Date immediately following 30 days from the date of invoice i.e. 01 July = 1 Aug

(iv) Time of supply of goods = 09 July

Earliest of the following:

Receipt of Goods = 10 July

Date of Payment = 09 July

Date immediately following 30 days from the date of invoice i.e. 01 July = 1 Aug

31. C Ltd., a registered firm received services from a Raman & Co., an Advocate firm., a registered person. The firm issued invoice to C Ltd. on 1st July. Determine the time of supply of services in the following independent cases:

(i) C Ltd. made the payments to the firm on 15th August.

(ii) C Ltd. made the payments to the firm on 11th September.

Note: C Ltd turnover in the preceding financial year was ₹ 2 crore

Answer:

(i) Time of supply of service = 15-08

Note: as payment made earlier than the date immediately following 60 days from date of issue of invoice.

(ii) Time of supply of service = 31-08

Note: as payment made after the date immediately following 60 days from date of issue of invoice.

32. X Ltd. & Y Ltd. (London) is associated enterprises. X Ltd., a registered firm received the services of Y Ltd., a unregistered firm. Determine the time of supply in following cases:

(i) X Ltd. recorded the liability in the books on 15th July and payment will be made in the next month.

(ii) X Ltd. made advance payment to Y Ltd. on 10th July and recorded liability in the books on 15th Aug.

Answer:

(i) Time of supply = 15-07

Note: as the date of entry in the books is prior to the date of payment.

(ii) Time of supply = 10-07

Note: as the payment is made earlier to the date of entry in the books.

33. Reliable Industries a readymade garment manufacturer issued the voucher on 10 July to their prospective customer for enabling them to buy readymade garments manufactured by them from their shop. Customer purchased readymade garments on 20th Aug. Find the time of supply of goods?

Answer:

Time of supply of goods = 10 July.

Note: time of supply will be the issuance of the voucher. Since, the voucher is identifiable with the goods.

34. Shopper's Stop store a large retailer who sells various types of products like readymade garment, jewellery, cosmetics, fabrics, shoes etc., issued the voucher on 10-07 to their prospective customer for enabling them to buy any product from their shop. Customer purchased readymade garments on 20th Aug. Find the time of supply of goods?

Answer:

Time of supply of goods = 20-08

Note: time of supply will be the date of encashment of voucher (i.e. Redemption of voucher). Since, the voucher is not identifiable with any specific product.

VALUE OF SUPPLY

Section 15 of the CGST Act provides **common provisions** for determining the value of goods and services. It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration of the supply. **When value cannot be determined under Section 15(1), the same is determined using Chapter IV: Determination of Value of Supply of CGST Rules**

[Valuation Rules (Rule 27 to Rule 35 of CGST Rules, 2017) are NOT in CA-Intermediate Syllabus.]

[For CMA Inter Students, it is discussed/covered as a separate chapter in IDT/GST Volume II]

VALUE OF SUPPLY [SECTION 15]

1. The value of a supply of goods or services or both **shall be the transaction value**, which is the price **actually paid or payable** for the said supply of goods or services or both **where the supplier and the recipient of the supply are not related and the price is the sole consideration** for the supply. **[2 Marks]**

2. The value of supply **shall include-**

- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force **other than** this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

GST and GST cess are not part of taxable value, but other taxes/cesses/fees etc. will form part of the value of taxable supply, if separately billed. For instance, if a supplier of goods pays a municipal tax in relation to the goods being supplied and bills the same separately, such tax will form part of the value of taxable supply.

Clarification on valuation methodology for ascertainment of GST on TCS under Income Tax Act, 1961

Section 15(2) of CGST Act specifies that the value of supply shall include “any taxes, duties cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier. It has been 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.

[GST Circular]

- (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;

Example:

Grand Biz contracts with ABC Co. to conduct a dealers' meet. In furtherance of this, Grand Biz contracts with vendors to deliver goods services, like water, soft drinks, audio system, projector, catering, flowers etc. at the venue on the stipulated dates at the stipulated prices. Grand Biz is liable to make these payments as contracted.

The soft drinks supplier wants payment upon delivery; ABC Co. agrees to pay the bill raised by the soft drinks vendor on Grand Biz on receiving the crates of soft drinks. This amount is not billed by Grand Biz to ABC Co. However, it would be added to the value of service provided by Grand Biz to ABC Co. for payment of GST.

- (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;

Few examples of such incidental expenses are-

Commission: This may be paid to an agent and recovered from the buyer of the goods / services; this is part of the value of the supply.

Packing, if charged by the supplier to the recipient, is similarly part of the value of the supply.

Inspection or certification charges are another element that may be added to the value, if billed to the recipient of supply.

Installation and testing charges at the recipient's site will also be added, being an amount charged for something done by the supplier in respect of the supply at the time of making the supply.

Weighment charges, loading charges, designing charges etc. incurred before/at the time of supply will be added to the value, if billed to the recipient of supply.

VERY IMPORTANT: Outward freight, transit insurance Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a composite supply; the principal supply being the supply of goods. Therefore, outward freight and transit insurance become part of the value of the composite supply and GST is payable thereon at the same rate as applicable for the relevant goods. **However, if the contract for supply is on ex-factory basis where buyer pays the outward freight and insurance, the same will not be included in the value of supply of goods.**

- (d) Interest or late fee or penalty for delayed payment of any consideration for any supply; and

Example: A supply priced at ₹ 2,000 is made, with a credit period of 1 month for payment. Thereafter interest of 12% is charged. The payment is received after the lapse of two months from the date of supply. The amount of 12% p.a. (i.e. 1% per month) on ₹ 2,000 for one month after the free credit period is ₹ 20. Such interest will be added to the value and thus, the value of taxable supply will work out to be ₹ 2,020.

Note: Time of supply for such interest/ late fee/ penalty is the date when such amount is received by the supplier. Further, since such charges are an addition in the value of supply, same rate of tax as applicable on the main supply of goods / service are applicable on such charges as well.

- (e) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation

For the purposes of this sub-section, the **amount of subsidy shall be included in the value** of supply of the supplier who receives the subsidy.

Example:

The selling price of a notebook is ₹ 50. For notebooks sold to students in Government schools, a company uses its CSR funds to pay the seller ₹ 30, so that the students pay only ₹ 20 per notebook. The taxable value of the notebook will be ₹ 50, as this is a non-government subsidy.

If the same subsidy is paid by the Central Government or State Government, the taxable value of the notebook would be ₹ 20.

Summary:

Inclusions in transaction value [Section 15(2)] [5 Marks]

Under assessment based on “transaction value”, the taxable value includes certain elements **in addition to price**. The ingredients of “taxable value” based on transaction value are enumerated and discussed below. [T / T / E / I / S]

- (a) Any **taxes**, duties, fees and charges levied under any statute other than the CGST Act or the SGST Act or the UTGST Act and the GST (Compensation to States) Act, if charged separately [Transaction value under IGST will include taxes other than IGST and the compensation cess in terms of third proviso to section 20 of IGST Act]
- (b) Payments to **third** parties – Any amount that the supplier is liable to pay but which has been incurred by the recipient of the supply and not already included in the price.
- (c) Incidental **expenses**, such as, commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods/services at the time of, or before delivery of the goods /supply of the services
- (d) **Interest** or late fee or penalty for delayed payment of consideration
- (e) **Subsidies**, provided in any manner, linked to the price, other than subsidies given by the State or Central Governments

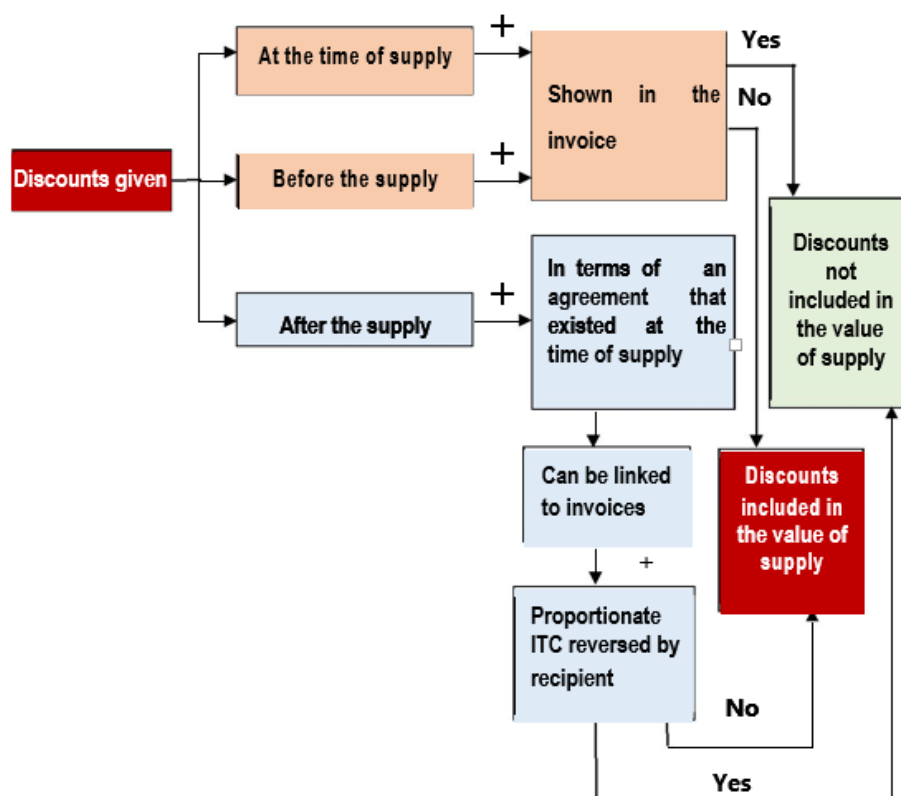
3. [3 Marks] The value of the supply shall not include any discount which is given

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; *and*

(b) after the supply has been effected, 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.*



Post supply discounts:

It is not always commercially feasible to determine all discounts before or at the time of supply or record them in the invoice. For instance, cash discount given for making the payment within a stipulated time. Even though the discount is established before/at the time of supply, the supplier cannot record such discount in the invoice as he does not know if the buyer will make the payment within the stipulated time.

Likewise, in case of quantity/volume/performance discount also, the supplier is not aware before/at the time of supply as to whether the buyer would purchase the requisite quantity within the stipulated time.

Therefore, in this case also, the discount cannot be recorded in the invoice. In such cases, initially the GST is paid on the gross value indicated in the invoice without considering the discount. The supplier, however, passes the discount to the buyers subsequently by issuing credit notes.

Post supply discounts, i.e. the discounts that are given after supply is made, are allowed as a deduction from the value of supply if the following two conditions are satisfied:

- Discount is in terms of an agreement that existed at the time of supply and can be worked out invoice-wise; and
- Proportionate input tax credit is reversed by the recipient

The buyer would have availed input tax credit (ITC) of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

If any of the above conditions are not satisfied, the GST liability of supplier cannot be reduced. The supplier, however, can issue a commercial credit note for the value of discount. In such a scenario, the buyer will not be required to reverse any input tax credit.

Example of discount deductible from value of supply

Royal Biscuit Co. gives a discount of 30% on the list price to its distributors. Thus, for a carton of Spicebisk, in the invoice the list price is mentioned as ₹ 200, on which a discount of 30% is given to arrive at the final price of ₹ 140. **The taxable value is ₹ 140, as the discount is allowed at the time of supply and shown in the invoice.**

Example of discount deductible from value of supply

The agreement of Raju Electrical Appliances with its dealers is that sale of rice cookers over 100 pieces in the Diwali month will entitle them to discount of 5% per cooker sold in the next month. The next month's stock has already been dispatched when the sales figures for the Diwali month are worked out. **However, as the agreement was in existence at the time of supply, and the discount can be worked out for each invoice, the taxable value will be billed price minus 5%.**

The dealer must reverse the proportionate input tax credit on the relevant stock to bring it in line with the reduced tax.

Example of non-deductible discount

A company announces turnover discounts after reviewing dealer performance during the year. The discounts are based on performance slabs and are given as cash-back. **As these discounts were not known at the time of supply of the goods, they will not be deducted from taxable value of those goods.**

Example:

Pink and Blue Pvt. Ltd. (PBPL) sold goods to Orange Pvt. Ltd. (OPL) on 15th January at ₹ 50,000 (exclusive of taxes and discounts) and charged ₹ 9,000 as IGST @ 18%. **The terms of supply stipulated that discount @ 2% will be given to OPL if it makes the payment within one month of the supply.** OPL avails the input tax credit of ₹ 9,000 in the month of January and makes the payment for the goods on 10th February.

PBPL issues credit note for ₹ 1180 [₹ 1,000 for value of discount and ₹ 180 for proportionate IGST leviable thereon] to OPL on 11th February. After receiving credit note, OPL reverses the input tax credit of ₹ 180 attributable to the discount given by the PBPL. PBPL can reduce its GST liability of the month of February by ₹ 180. **OPL would have paid ₹ 57,820 (₹ 50,000 + ₹ 9,000 - ₹ 1,000 - ₹ 180) to PBPL on 10th February.**

*In the above example, if the terms of supply did not provide for discount @ 2% for payment within one month but PBPL offers such discount to OPL at the time of payment after negotiation, **the discount will not be allowed as a deduction from the value (for GST purpose).***

PBPL will issue a commercial credit note for only the value of discount, i.e. for ₹ 1,000. OPL will not reverse any input tax credit and PBPL will also not be able to reduce its GST liability for the month of February. In this case, OPL would pay ₹ 58,000 (₹ 50,000 + ₹ 9,000 - ₹ 1,000) to PBPL on 10th February.

Supplies where value cannot be determined u/s 15(1) and notified supplies [Sub-sections (4) and (5) of section 15]

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THIS CONTENT IS NOT RELEVANT FOR CA INTERMEDIATE EXAMS

Chapter IV: Determination of Value of Supply of the CGST Rules

[Rule 27 to Rule 35 of CGST Rule 2017]

4. Where the value of the supply of goods or services or both **cannot be determined** under sub-section (1), the same shall be determined in such manner **as may be prescribed**.

Rule 27	Value of supply of goods or services where the consideration is not wholly in money
Rule 28	Value of supply of goods or services or both between distinct or related persons, other than through an agent
Rule 29	Value of supply of goods made or received through an agent
Rule 30	Value of supply of goods or services or both based on cost
Rule 31	Residual method for determination of value of supply of goods or services or both

5. Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council **shall be determined in such manner as may be prescribed**.

Rule 31A	Value of supply in case of <u>lottery, betting, gambling and horse racing</u>
Rule 31B	Value of supply in case of <u>online gaming including online money gaming</u>
Rule 31C	Value of supply of <u>actionable claims in case of casino</u>
Rule 32	<u>Determination of value in respect of certain supplies</u> ➤ Service of purchase or sale of foreign currency including money changing ➤ Service of booking air tickets by an air travel agent ➤ Life insurance service ➤ Buying and selling of second hand goods (Margin Scheme) ➤ Vouchers, token, coupons or stamps (other than postage stamps) redeemable against goods or services ➤ Services provided without consideration between distinct persons under GST laws that are different units of the same legal entity

Rule 33: Value of supply of services in case of pure agent

Rule 34: Rate of exchange of currency, other than Indian rupees, for determination of value.

Rule 35: Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.

THE ABOVE CONTENT IS NOT RELEVANT FOR CA INTERMEDIATE EXAMS

Clarification on Discounts - IMP**A. Discounts including 'Buy more, Save more' offers**

- i. Sometimes, the supplier offers **staggered discount** to his customers (increase in discount rate with increase in purchase volume). For example - Get 10 % discount for purchases above ₹ 5,000/-, 20% discount for purchases above ₹ 10,000/- and 30% discount for purchases above ₹ 20,000/-. **Such discounts are shown on the invoice itself.**
- ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10,000 pieces in a year, get additional discount of 2% if you purchase 15,000 pieces in a year. 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.

In commercial parlance, such discounts **are commonly** referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.

- iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under "Buy more, save more" scheme and post supply / volume discounts established before or at the time of supply) **shall be excluded** to determine the value of supply provided they satisfy the parameters laid down in section 15(3) of the CGST Act, 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.

B. Secondary Discounts

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10,000 packets of biscuits to M/s B at ₹ 10/- per packet. Afterwards M/s A re-values it at ₹ 9/- per packet. Subsequently, M/s A issues credit note to M/s B for ₹ 1/- per packet.
- ii. The issue for consideration is that whether credit notes(s) under section 34(1) of the CGST Act can be issued in such cases even if the conditions laid down in section 15(3)(b) of the CGST Act are not satisfied.

It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in section 15(3)(b) of the CGST Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

- iii. It is further clarified that such secondary discounts **shall not be excluded** while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) of the CGST Act are not satisfied.
- iv. In other words, **value of supply shall not include any discount** by way of issuance of credit note(s) as explained above or by any other means, except in cases where the provisions contained in section 15(3)(b) of the CGST Act are satisfied.
- v. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

[GST Circular]

No Claim Bonus permissible as deduction under section 15(3)(a) for the purpose of calculation of value of supply of the insurance services provided by insurance company to insured

The issue which arose for clarification was whether 'No Claim Bonus' (NCB) provided by the insurance company to the insured **can be considered as an admissible discount** for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured.

As per section 15(3)(a), value of supply **shall not include** any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply. The insurance companies make the disclosure of the fact of availability of discount in form of NCB, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the NCB in the invoices also. **The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of NCB in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under section 15(3)(a).**

It is, therefore, clarified that NCB is a permissible deduction under section 15(3)(a) for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured.

Accordingly, where the deduction on account of NCB is provided in the invoice issued by the insurer to the insured, **GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of NCB mentioned on the invoice.**

[GST Circular]

VALUE OF SUPPLY

1. **Value of supply under Section 15 is:**
 - (a) Wholesale price
 - (b) Market value
 - (c) Maximum retail price
 - (d) **Transaction value**
2. **The value of supply should include:**
 - (a) Any non-GST taxes, duties, cesses, fees charged separately by supplier
 - (b) Interest, late fee or penalty for delayed payment of any consideration for any supply
 - (c) Subsidies directly linked to the price except subsidies provided by the Central and State Governments
 - (d) **All of the above**
3. **Which of the following shall not be included in value of supply?**
 - (a) **GST**
 - (b) Interest
 - (c) Late fee
 - (d) Commission
4. **When can the transaction value be rejected for computation of value of supply?**
 - (a) When the buyer and seller are related and price is not the sole consideration
 - (b) **When the buyer and seller are related or price is not the sole consideration**
 - (c) It can never be rejected
 - (d) When the goods are sold at very low margins
5. **Which of the following statement(s) is/are correct?**
 - (a) Section 15 of CGST Act prescribes different provisions for valuation of goods and services
 - (b) CGST Act and IGST Act have different provisions for valuation of supply
 - (c) **Section 15 of CGST Act prescribes same set of provisions for valuation of goods and services**
 - (d) (a) and (b)
6. **Discount given after the supply is deducted from the value of taxable supply, if –**
 - (a) such discount is given as per the agreement entered into at/or before the supply
 - (b) such discount is linked to the relevant invoices
 - (c) proportionate input tax credit is reversed by the recipient of supply
 - (d) **all of the above**
7. **AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer. The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing and charges a testing fee for the same from the customer. AKJ Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the sale as it is a separate activity. Is his argument correct in the light of section 15?**

Answer:

Section 15(2) mandates the addition of certain elements to transaction value to arrive at taxable value. Clause (c) of section 15(2) specifies that amount charged for anything done by the supplier in respect of the supply at the time of or before delivery of goods or supply of services **shall be included in taxable value**.

Since AKJ Foods Pvt. Ltd. does the testing before the delivery of goods, the charges therefore will be included in the taxable value. **Therefore, AKJ Foods Pvt. Ltd.'s argument is not correct. The testing fee should be added to the price to arrive at taxable value of the consignment.**

8. A philanthropic association makes a substantial donation each year to a reputed private management institution to subsidise the education of low income group students who have gained admission there. The fee for these individuals is reduced thereby, coming to ₹ 3 lakh a year compared to ₹ 5 lakh a year for other students.

What would be the taxable value of the service of coaching and instruction provided by the institution?

Answer:

As per Section 15(2), the Value of a supply includes subsidies directly linked to the price, excluding State Government and Central Government subsidies. In this case, the subsidy is not from the Government but is from a philanthropic association. **Therefore, the subsidy is to be added back to the price to arrive at the taxable value, which comes to ₹ 5 lakh a year.**

9. Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days for payment by the customer. Its customer ABC paid for the supply 32 days after the supply of service. Mezda Banners waived the interest payable for delay of two days.

The Department wants to add interest for two days as per contract. Should notional interest be added to the taxable value?

Answer:

This is a supply that is valued as per transaction value under Section 15(1) as the price is the sole consideration for the supply and the supply is made to unrelated person. The concept of transaction value has been expanded to include certain elements like interest which are actually payable. **Once waived, the interest is not payable and is therefore, not to be added to transaction value.**

10. Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly. When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

Answer:

The discounts were not known or agreed at the time of supply of goods **to the dealers**. Therefore, such discounts cannot be reduced from the price on which tax had been paid in terms of Section 15(3).

11. [Value includes taxes other than GST]: Admission to True Theater is ₹ 90 per ticket for a Tamil Movie as well as for a Hindi Movie plus entertainment tax 10% on Tamil Movie and 20% on other languages. In the month of November, True Theater sold 2000 tickets of Tamil Movie and 1500 tickets of Hindi Movie. Find the value of taxable supply of service. Applicable rate of GST 18% & 28%. Find the GST liability if any?

Answer:

Statement showing value of taxable supply of service and GST liability:

Value of taxable services:

Tamil Movie	₹ 1,98,000	(₹ 99 x 2000 tickets)
Hindi Movie	₹ 1,62,000	(₹ 108 x 1500 tickets)

Particulars	9% CGST	9% SGST
GST liability (₹) (Tamil Movie)	17,820	17,820
	14% CGST	14% SGST
GST liability (₹) (Hindi Movie)	22,680	22,680

Working note:

Particulars	Tamil Movie (₹)	Hindi Movie (₹)
Rate Per ticket	90	90
Add: Entertainment tax	9	18
Value of taxable supply	99	108
Applicable GST rate	18%	28%

12. [Value includes amount paid by recipient on behalf of supplier]: Mr. Ram sold goods to Mr. Lakshman for ₹ 2,50,000. As per the contract of sale, Mr. Ram is required to deliver the goods in the premises of Mr. Lakshman. Mr. Ram hires transporter for transportation for delivery of goods.

However, the freight paid by Mr. Lakshman to transporter. Freight paid ₹ 2,500.
Find the transaction value of supply of goods.

Answer:

Particulars	Value in ₹
Value of supply of goods	2,50,000
Add: Freight paid by recipient of supply (which the supplier is so liable to pay)	2,500
Taxable value of supply of goods	2,52,500

13. [Value includes subsidies other than govt. subsidies]: Bharat Gas sells cooking gas cylinders. Subsidy directly transferred to the account of the customer. Selling price per cylinder is ₹ 800. Customer received subsidy ₹ 200 directly from Government to his bank account. Net outflow of the buyer is ₹ 600. Find the value of supply of goods (per cylinder) in the hands of Bharat Gas.

Answer:

Since, the amount of subsidy is directly credited to the account holder and not received by the Bharat Gas making the supply. **Therefore, such subsidy will not be considered as part of transaction value as it is not received by the Bharat Gas making the supply.**

Hence, transaction value is ₹ 800 per cylinder.

14. The Government provides subsidy, for the benefit of farmers but it is given to the manufacturer of fertilizers. Such subsidy will form part of value of supply?

Answer:

The buyer of goods does not provide subsidy, but the Government as per the scheme provides it.

Therefore, this will not form part of value of supply as it is specifically specified that such subsidy provided by the Government will not form part of the value of supply.

15. [Value excludes Discount]: M/s Ashok Enterprise sells mineral water bottles, with MRP ₹ 20 per bottle. However, customers availing discount of ₹ 4 per bottle. In the month of Oct 20XX, M/s Ashok Enterprise sold 2,000 bottles. Applicable rate of GST 18%. Find the tax liability.

Answer:

Particulars	₹
Transaction value	32,000
Add: CGST 9% on ₹ 32,000	2,880
Add: SGST 9% on ₹ 32,000	2,880
Invoice price	37,760

Working note:

MRP value (₹ 20 x 2000 pcs)	40,000
Less: Discount (₹ 4 x 2000 pcs)	(8,000)
Transaction value	32,000

16. Mr. Bhanu makes supply of ₹ 2,00,000 to Mr. Renu. The contract provides that Mr. Renu will pay ₹ 50,000 to Mr. Bhanu and ₹ 1,50,000 to Mr. Venu to settle the debt of Mr. Bhanu. Find the transaction value and GST liability in the hands of Mr. Bhau. Applicable rate of CGST and SGST 9% each.

Answer: Statement showing transaction value and GST liability:

Particulars	Value in ₹
Payment from Renu to Bhanu	50,000
Payment from Renu to Venue for settling the debt of Bhanu	1,50,000
Transaction value (i.e. Sole consideration)	2,00,000
CGST 9%	18,000
SGST 9%	18,000

17. Best Cars Ltd. sells a car worth ₹ 5,00,000 to Sundar Automobiles. Best Cars Ltd. incurred packing charges of ₹ 6,000 on the car. Best Cars Ltd provided a discount of 1% on the car price, as part of Diwali scheme. Best Cars Ltd agreed to provide a further discount of 0.5% if Sundar Automobiles makes payment by 31st of the month via net banking. Sundar Automobiles makes the payment by 31st of the month using net banking. Find the Net GST liability in the hands of Best Cars Ltd. Applicable rate of GST 18%.

Answer:

Particulars	Value in ₹
Value of the product	5,00,000
Add: packing charges	6,000
Sub-total	5,06,000
Less: Discount 1% on ₹ 5 lakh	(5,000)
Transaction value	5,01,000
Add: CGST 9%	45,090
Add: SGST 9%	45,090
Invoice price	5,91,180

Note: Since, the discount was known at the time of supply, and can be linked to this specific invoice, the discount amount can be reduced from the transaction value.

For this, Best Cars Ltd will issue a credit note to Sundar Automobiles for ₹ 2,500 (0.5% of ₹ 5,00,000 = ₹ 2,500+ GST@ 18% on ₹ 2,500 = ₹ 450), and the same must be linked to the relevant tax invoice.

Discount given after supply but agreed upon before or at the time of supply and can be specifically linked to relevant invoices, can be deducted from the transaction value.

18. However, due to a severe cash crunch, Best Cars Ltd requests Sundar Automobiles to make the payment within 2 days, promising a discount of 2% on doing so. Sundar Automobiles makes the payment within 2 days.

Answer: Since, the discount was not known at the time of supply, it couldn't be claimed as a deduction from the transaction value for GST calculation.

19. [Value Inclusive of GST]: An assessee was under impression that his product is exempt from GST and hence sold the goods @ ₹ 100 per piece without charging GST. Later, it was found that actually, the product was chargeable with IGST 18%. Department claimed that since goods were removed without GST, transaction value should be ₹ 100 and GST is payable accordingly. Assessee contended that price of ₹ 100 should be taken as inclusive of GST and actual GST payable should be calculated by back calculations. Determine the correct GST payable per piece.

Answer:

The Transaction value should be taken, as cum-tax-price and tax payable should be calculated by making back calculations. Hence, the transaction value is as follows:

The transaction value = ₹ 100 x 100/118	= ₹ 84.75
IGST = ₹ 100 x 18/118	= ₹ 15.25
Total invoice price	= ₹ 100.00

20. Are post-supply discounts eligible for deduction from the value of supplies in all situations? Explain.

Answer:

No, the post-supply discounts are not eligible for deduction from the value of supplies in all situations. Such discounts are allowed as a deduction from the value of supply **only in the situations where the following two conditions are satisfied:**

- The discount is in terms of an agreement that existed at the time of supply and can be worked out invoice-wise; and
- Proportionate input tax credit (ITC) is reversed by the recipient - The buyer would have availed ITC of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.

If any of the above conditions are not satisfied, post-supply discount is not allowed as a deduction from the value of supply and consequently, GST liability of the supplier does not get reduced.

21. 'Consideration under GST law includes both monetary and non-monetary considerations.'

Discuss the correctness or otherwise of the statement with reference to the definition of term 'consideration' provided under the CGST Act.

Answer:

The statement is correct. As per the definition of the term 'consideration' provided under the CGST Act, consideration under the GST law includes both payment in money or otherwise made by the recipient or any other person and also takes within its sweep the monetary value of any act or forbearance for the supply by the recipient or any other person. Further, it includes within its ambit any deposit which is applied as a consideration for the supply but excludes the subsidies provided by the State or Central Government.

The term money has also been defined under the CGST Act and it not only includes cash (Indian as well as foreign currency) but also cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveler's cheque, money order, postal/electronic remittance or any such similar instrument recognized by RBI. **Non-monetary consideration essentially means consideration in kind.**

22. Sharp Minds Institute provides coaching for engineering entrance examinations. Monthly fee charged by the Institute from a student is ₹ 10,000. The Institute is known for its commitment to provide education to underprivileged children. It trains 10 students every year for entrance examinations free of cost.

The Institute has received ₹ 3,00,000 as coaching fees during a month. Nav Jeevan, an NGO working in the area of education for underprivileged children, has given a subsidy of ₹ 10,000 (in lumpsum) during the month to the Institute as it is serving the cause of underprivileged children.

Determine the value of supply of education services made by Sharp Minds Institute during the month.

Answer:

As per section 15(2), the value of a supply includes subsidies directly linked to the price, excluding subsidies provided by the State Governments and the Central Government.

In the given case, though the subsidy is given by a non-Government body, **the same is not includible in the value as it is given in lumpsum and not directly linked to the price of the supply being valued.**

Therefore, the value of supply made by Sharp Minds during the month is ₹ 3,00,000.

23. Furniture Wala is a chain of retail showrooms selling both modern and classic furniture. In order to build strong customer association, the showroom provides free delivery of the furniture at the premises of the customers if the distance between the showroom and the customer's premises is upto 20 kms. Where the distance is more than 20 kms, the showroom charges a concessional freight of ₹ 10 for every additional km.

Ms. Leena Kapoor purchases a double bed, a dressing table and a centre table for ₹ 2,00,000 from Furniture Wala. Ms. Leena gets free delivery of the furniture as her residence is located at a distance of 18 km from the showroom. The showroom incurs an expenditure of ₹ 1000 for delivering the furniture at Ms. Leena's residence.

Determine the value of taxable supply made by Furniture Wala. Will your answer change if residence of Ms. Leena is 50 km away from the showroom?

Answer:

In the given case, the showroom is not charging any amount towards freight from Ms. Leena but incurring the same out of its own pocket. Therefore, the same should not be added to the value. Hence, the value of supply will be ₹ 2,00,000.

However, the answer will change in the second case when the showroom will charge ₹ 300 for freight [(50km – 20 km) x ₹ 10] from Ms. Leena. In this case, the supply will be a composite supply (principle supply being the supply of furniture) and value thereof will be ₹ 2,00,300.

24. Red Pepper Ltd., Delhi, a registered supplier, is manufacturing taxable goods. It provides the following details of taxable inter-State supply made by it during the month of March.

S. No.	Particulars	Amount (₹)
(i)	List price of taxable goods supplied inter-state (exclusive of taxes)	15,00,000
(ii)	Subsidy received from the Central Government for supply of taxable goods to Government School (exclusively related to supply of goods included at S. No. 1)	2,10,000
(iii)	Subsidy received from an NGO for supply of taxable goods to an old age home (exclusively related to supply of goods included at S. No. 1)	50,000
(iv)	Tax levied by Municipal Authority	20,000
(v)	Packing charges	15,000
(vi)	Late fee paid by the recipient of supply for delayed payment of consideration (Recipient has agreed to pay ₹ 6,000 in lump sum and no additional amount is payable by him)	6,000

The list price of the goods is net of the two subsidies received. However, the other charges/taxes/fee are charged to the customers over and above the list price.

Calculate the total value of taxable supplies made by Red Pepper Ltd. during the month of March. Rate of IGST is 18%.

Answer:

Computation of total value of taxable supplies made by Red Pepper Ltd. during the month of March

Particulars	Amount (₹)
List price of the goods	15,00,000
Subsidy amounting to ₹ 2,10,000 received from the Central Government [Since the subsidy is received from the Government, the same is not includible in the value in terms of section 15(2)]	NIL
Subsidy received from NGO [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)]	50,000
Tax levied by the Municipal Authority [Includible in the value as per section 15(2)]	20,000
Packing charges [Being incidental expenses, the same are includible in the value as per section 15(2)]	15,000
Late fees paid by recipient of supply for delayed payment [Includible in the value as per section 15(2) - As the amount of interest received is a lump sum amount, the same has to be taken as inclusive of GST] [₹ 6,000 x 100/118] rounded off	5,085
Total value of taxable supplies	15,90,085

25. Black and White Pvt. Ltd. has provided the following particulars relating to goods sold by it to Colourful Pvt. Ltd.

Particulars	₹
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods	5,000
CGST and SGST chargeable on the goods	10,440
Packing charges (not included in price above)	1,000

Black and White Pvt. Ltd. received ₹ 2,000 as a subsidy from a NGO on sale of such goods. The price of ₹ 50,000 of the goods is after considering such subsidy.

Black and White Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of taxable supply made by Black and White Pvt. Ltd.

Answer:

Computation of value of taxable supply

Particulars	₹
List price of the goods (exclusive of taxes and discounts)	50,000
Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)]	5,000
CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)]	-
Packing charges [Includible in the value as per section 15(2)]	1,000
Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)]	2,000
Total	58,000
Less: Discount @ 2% on ₹ 50,000 [Since discount is known at the time of supply, it is deductible from the value in terms of section 15(3)]	1,000
Value of taxable supply	57,000

26. M/s. Flow Pro, a registered supplier, sold a machine to BP Ltd. It provides the following information in this regard: -

S. No	Particulars	Amount (₹)
(i)	Price of the machine [excluding taxes and other charges mentioned at S. Nos. (ii) and (iii)]	25,000
(ii)	Third party inspection charges [Such charges were payable by M/s Flow Pro but the same have been directly paid by BP Ltd. to the inspection agency. These charges were not recorded in the invoice issued by M/s Flo Pro.]	5,000
(iii)	Freight charges for delivery of the machine [M/s Flow Pro has agreed to deliver the goods at BP Ltd.'s premises]	2,000
(iv)	Subsidy received from the State Government on sale of machine under Skill Development Programme [Subsidy is directly linked to the price]	5,000
(v)	Discount of 2% is offered to BP Ltd. on the price mentioned at S. No. (i) above and recorded in the invoice	

Note: Price of the machine is net of the subsidy received.

Determine the value of taxable supply made by M/s Flow Pro to BP Ltd.

Answer:

Particulars	Amount (₹)
Price of the machine [Since the subsidy is received from the State Government, the same is not includible in the value of supply in terms of section 15(2)]	25,000
Third party inspection charges [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)]	5,000
Freight charges for delivery of the machine value [Since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are added in the value of principal supply.]	2,000
Total	32,000
Less: Discount @ 2% on ₹ 25,000 being price charged to BP Ltd. [Discount given before or at the time of supply if duly recorded in the invoice is deductible from the value of supply in terms of section 15(3)]	500
Value of taxable supply	31,500

27. Shri Krishna Pvt. Ltd., a registered supplier, furnishes the following information relating to goods sold by it to Shri Balram Pvt. Ltd.-

S. No	Particulars	Amount (₹)
(i)	Price of the goods [excluding taxes and other charges mentioned at S. Nos. (iii), (v) and (vi)]	1,00,000
(ii)	Municipal tax	2,000
(iii)	Inspection charges	15,000
(iv)	Subsidy received from Shri Ram Trust [Subsidy is directly linked to the goods supplied]	50,000
(v)	Late fees for delayed payment inclusive of GST [Shri Balram Pvt. Ltd. paid the late fees. However, these charges were ultimately waived by Shri Krishna Pvt. Ltd. and the amount was refunded to Shri Balram Pvt. Ltd. during the same month]	1,000
(vi)	Weighment charges [Such charges were paid by Shri Balram Pvt. Ltd. to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd.]	2,000

Note: Price of the goods is net of the subsidy received.

Determine the value of taxable supply made by Shri Krishna Pvt. Ltd. to Shri Balram Pvt. Ltd.

Answer:

Particulars	Amount (₹)
Price of the goods	1,00,000
Municipal tax [Includible in the value as per section 15(2)]	2,000
Inspection charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value as per section 15(2)]	15,000

Subsidy received from Shri Ram Trust [Since the subsidy is received from a non-Government body and directly linked to the supply, the same is includible in the value in terms of section 15(2)]	50,000
Late fees for delayed payment [Not includible since the same is waived off]	Nil
Weighment charges paid to Radhe Pvt. Ltd. on behalf of Shri Krishna Pvt. Ltd. [Any amount that the supplier is liable to pay in relation to the supply but has been incurred by the recipient and not included in the price actually paid or payable for the goods, is includible in the value of supply in terms of section 15(2)]	2,000
Value of taxable supply	1,69,000

28. Koli Ltd., a registered supplier, has supplied machinery to Ghisa Ltd. (a supplier registered in the same State). It provides following particulars regarding the same:

S. No	Particulars	Amount (₹)
(i)	Price of machinery (exclusive of taxes and discounts)	5,50,000
(ii)	Part fitted in the machinery at the premises of Ghisa Ltd. [Amount has been paid by Ghisa Ltd. directly to the supplier. However, it was Koli Ltd.'s liability to pay the said amount. The said amount has not been recorded in the invoice issued by Koli Ltd.]	20,000
(iii)	Installation and testing charges for machinery, not included in price	25,000
(iv)	Discount @ 2% on price of the machinery mentioned at S. No. (i) above (recorded in the invoice)	
(v)	Koli Ltd. provides additional discount @ 1% at year end, based on additional purchase of other machinery for which adjustment is made at the end of the financial year without any change in individual transactions.	

Determine the value of taxable supply made by Koli Ltd. to Ghisa Ltd.

Answer:

Particulars	Amount (₹)
Price of machinery (exclusive of taxes and discounts)	5,50,000
Amount paid by Ghisa Ltd. directly to the supplier for the part fitted in the machinery [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 is includible in the value of supply in terms of section 15(2)]	20,000
Installation and testing charges [Any amount charged for anything done by the supplier in respect of the supply of goods at the time of/before delivery of goods is includible in the value of supply in terms of section 15(2)]	25,000
Less: Discount @ 2% on the price of machinery [₹ 5,50,000 x 2%] [Since discount is given at the time of supply of machinery and recorded in the invoice, the same is deductible from the value of the supply in terms of section 15(3)]	11,000

Less: Additional 1% discount at year end	Nil
[Though the additional discount is established before/at the time of supply, it is not deductible from the value of supply in terms of section 15(3) as the same is not linked to any specific transaction and is adjusted by the parties at the end of the financial year.]	
Value of taxable supply	5,84,000

29. Samriddhi Advertisers conceptualised and designed the advertising campaign for a new product launched by New Moon Pvt Ltd. for a consideration of ₹ 5,00,000. Samriddhi Advertisers owed ₹ 20,000 to one of its vendors in relation to the advertising service provided by it to New Moon Pvt Ltd. Such liability of Samriddhi Advertisers was discharged by New Moon Pvt Ltd. New Moon Pvt Ltd. delayed the payment of consideration and thus, paid ₹ 15,000 as interest.

Determine the value of taxable supply made by Samriddhi Advertisers. [GST rate is 18%]

Answer:

Computation of value of taxable supply

Particulars	₹
Service charges	5,00,000
Payment made by New Moon Pvt. Ltd to vendor of Samriddhi Advertisers [Liability of the supplier being discharged by the recipient, is includible in the value in terms of section 15(2)]	20,000
Interest for delay in payment of consideration [Includible in the value in terms of section 15(2)] – refer Note	12,712
Value of taxable supply	5,32,712

Note:

The interest for delay in payment of consideration will be includible in the value of supply but **the time of supply** of such interest will be the date when such interest is received in terms of Section 13(6).

Such interest will be taken to be inclusive of GST and the value will be computed by making back calculations $[\{\text{Interest} / (100 + \text{Tax Rate})\} \times 100]$

It is also possible to assume the interest to be exclusive of GST. In that case, the value of supply will work out to be ₹ 5,35,000

TAX INVOICE

An invoice is a commercial instrument issued by a supplier of goods/services to a recipient. It identifies both the parties involved, and lists, describes the items sold/services supplied, quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and the delivery and payment terms (in case of supply of goods).

Invoicing is very crucial aspect for ensuring tax compliance under any indirect taxation system. In order to **ensure transparency**, issuance of invoice for every taxable transaction **is a pre-requisite**. Tax invoice acts as a document evidencing the payment of the value of the goods or services or both **as also the tax portion in the same**. In certain cases, an invoice **serves as a demand for payment** and **becomes a document of title** when paid in full.

Significance of invoices **has enhanced manifolds under GST regime**. The reason behind the same is the **invoice matching mechanism** that has been introduced under GST. For the purpose of claiming the input tax credit, the invoice matching needs to be done. **The inwards supplies of the person claiming the credit (recipient) should match with the outward supplies of the supplier(s)**. Thus, a registered person cannot avail Input Tax Credit **unless he is in possession of a tax invoice or a debit note**.

Under the GST regime, an “Invoice” or “Tax Invoice” means the Tax Invoice referred to in Section 31 of the CGST Act, 2017. This section mandates the issuance of an invoice or a bill of supply for every supply of goods or services. It is not necessary that only a person supplying goods or services needs to issue an invoice. **The GST law mandates that any registered person buying goods or services from an unregistered person also needs to issue a payment voucher as well as a tax invoice.**

The provisions relating to tax invoices, debit and credit notes are contained in **Chapter VI - Tax Invoice, Credit and Debit Notes [Sections 31 to 34] of the CGST Act**.

Further, **E-way Bill** provisions discussed in later chapter are contained in section 68 read with **rules 138, 138A, 138B, 138C, 138D & 138E** of the CGST Rules, 2017.

FEW DEFINITIONS

Credit Note: means a document issued by a registered person under Section 34(1).

Debit Note: means a document issued by a registered person under Section 34(3).

[3 Marks] Continuous Supply of Goods: means

- ✓ a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis
- ✓ under a contract
- ✓ whether or not by means of a wire, cable, pipeline or other conduit, and
- ✓ for which the supplier invoices the recipient on a regular or periodic basis and
- ✓ includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify

[3 Marks] Continuous Supply of Services: means

- ✓ supply of services which is provided, or agreed to be provided, continuously or on recurrent basis
- ✓ under a contract
- ✓ **for a period exceeding 3 months** with periodic payment obligations and
- ✓ includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify

[2 Marks] Exempt Supply: means supply of any goods or services or both which attracts **NIL rate of tax** or which may be **wholly exempt from tax under section 11 of CGST Act 2017, or under section 6 of the IGST Act, and includes Non-Taxable Supply.**

Invoice or Tax Invoice: means the Tax Invoice referred to in Section 31.

Quarter: shall mean a period comprising **3 consecutive calendar months**, ending on the last day of March, June, September and December of a calendar year.

TAX INVOICE [SECTION 31]

- (1) **[3 Marks]** A registered person supplying taxable goods shall, before or at the time of -
- (a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
 - (b) delivery of goods or making available thereof to the recipient, in any other case
- issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed.

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

- (2) **[3 Marks]** A registered person supplying taxable services shall, before or after the provision of service but **within a prescribed period [Refer Rule 47 – Time of Supply Chapter]**, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed

“Provided that the Government may, on the recommendations of the Council, by notification-

- a) ***specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;***
- b) ***subject to the condition mentioned therein, specify the categories of services in respect of which-***
 - i. ***any other document issued in relation to the supply shall be deemed to be a tax invoice; or***
 - ii. ***tax invoice may not be issued.***

- (3) Notwithstanding anything contained in sub-sections (1) and (2)–

- a) **[1 Marks]** a registered person may, within 1 month from the date of issuance of certificate of registration and in such manner as may be prescribed, 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;
- b) a registered person **may not issue a tax invoice** if the value of the goods or services or both supplied is **less than ₹ 200** subject to such conditions and in such manner as may be prescribed;
- c) a registered person supplying exempted goods or services or both or paying tax under the provisions of Section 10 (Composition Levy) shall issue, **instead of a tax invoice, a Bill of Supply** containing such particulars and in such manner as may be prescribed.

Further, the registered person **may not issue a bill of supply** if the value of the goods or services or both supplied is **less than ₹ 200** subject to such conditions and in such manner as may be prescribed;

- d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, **issue a Receipt Voucher** or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;
- e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a **Refund Voucher** against such payment;
- f) **[2 Marks]** a registered person who is liable to pay tax under Section 9(3)/9(4) shall, **within the period as may be prescribed**, **issue an invoice** in respect of goods or services or both received by him from the **supplier who is not registered** on the date of receipt of goods or services or both;

Here, "supplier who is not registered" shall include the supplier who is registered solely for the purpose of deduction of tax under section 51

[Inserted by Finance (No. 2) Act, 2024 - Effective from 01.11.2024]

- g) **[1 Marks]** a registered person who is liable to pay tax under Section 9(3)/9(4) shall **issue a Payment Voucher** at the time of **making payment to the supplier**.

(4) In case of **Continuous Supply of Goods**, where successive statements of accounts or successive payments are involved, the invoice shall be issued ***before or at the time each such statement is issued or, as the case may be, each such payment is received.***

(5) **[4 Marks]** In case of continuous supply of **services**,-

- (a) where the **due date of payment is ascertainable** from the contract, the invoice shall be issued on or before the due date of payment;
- (b) 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;
- (c) where the **payment is linked to the completion of an event**, the invoice shall be issued on or before the date of completion of that event.

Example: Jhanvi Cinemas entered into an annual maintenance contract with Peer Services Ltd. for one year [April -March] for the Air conditioners fitted in their theaters. As per the contract, payment for said services had to be made on 7th April. However, Jhanvi Services made the payment on 15th April. Since services provided by Peer Services Ltd. to Jhanvi Cinemas is a continuous supply of services and due date of payment is ascertainable from the contract, Peer Services Ltd. had to issue a tax invoice on or before such due date, viz. 7th April.

(6) In a case where the **Supply of Services** ceases under a contract before the completion of the supply, the **invoice shall be issued at the time when the supply ceases** and such invoice shall be issued ***to the extent of the supply made before such cessation.***

- (7) **[2 Marks]** Notwithstanding anything contained in sub-section (1), 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
 - 6 months** from the date of removal, **whichever is earlier**.

Particulars of a Tax Invoice [Sections 31(1) & (2) read with Rule 46]

There is no format prescribed for an invoice, **but rules make it mandatory for an invoice to have the following fields** (only applicable fields are to be filled): **[5 Marks]**

- Name, Address and GSTIN of the Supplier;
- A Consecutive Serial Number not exceeding 16 characters, in one or multiple series, containing alphabets / numerals / special characters (hyphen or dash and slash), and any combination thereof, unique for a FY;
- Date of issue of Invoice;
- If recipient is registered - Name, Address and GSTIN or UIN of recipient
-

If recipient is unregistered and value of supply is	Particulars of Invoice
₹ 50,000 or more	Name and Address of the recipient and the address of delivery, along with the name of State and its code
less than ₹ 50,000	Unregistered recipient may still request the aforesaid details to be recorded in the tax invoice

Provided that

- in cases involving supply of online money gaming or
 - in cases where any taxable service is supplied
 - *by or through an electronic commerce operator or*
 - *by a supplier of online information and database access or retrieval services to a recipient who is un-registered,*
- irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the state of the recipient and the same name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient;**

- HSN (Harmonised System of Nomenclature) Code for Goods or SAC (Services Accounting Code) for Services;
- Description of Goods or Services;
- Quantity in case of Goods and unit or Unique Quantity Code thereof;
- Total Value of Supply of goods or services or both;

- (j) Taxable Value of supply of goods or services or both taking into account discount or abatement, if any;
- (k) Rate of Tax (Central Tax, State Tax, Integrated Tax, Union Territory Tax or Cess);
- (l) Amount of Tax charged in respect of taxable goods or services;
- (m) Place of Supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) Address of delivery where the same is different from the place of supply;
- (o) Whether the tax is payable on reverse charge basis; and

(p) **Signature or digital signature of the supplier or his authorized representative**

*However, the signature or digital signature of the supplier or his authorised representative **shall not be required in the case of issuance of an electronic invoice** in accordance with the provisions of the Information Technology Act, 2000*

- (q) **Quick Response code**, having embedded Invoice Reference Number (IRN) in it, in case E-invoice is issued as per Rule 48(4).

Further, Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.

- (r) *a declaration as below, that invoice is not required to be issued in the manner specified under rule 48(4), in all cases where an invoice is issued, other than in the manner so specified under rule 48(4), by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified-*

“I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under rule 48(4), we are not required to prepare an invoice in terms of the provisions of the said sub-rule”

SECTION 31A: Facility of digital payment to recipient.

The Government may, on the recommendations of the Council, **prescribe a class of registered persons** who shall provide **prescribed modes of electronic payment to the recipient** of supply of goods or services or both made by him **and give option to such recipient to make payment accordingly**, in such manner and subject to such conditions and restrictions, as may be prescribed.”

SATC NOTE: Section 31A is being inserted in the CGST Act so that specified suppliers shall have to mandatorily give the option of specified modes of electronic payment to their recipients.

Number of HSN digits required on tax invoice and class of registered person not required to mention HSN [First Proviso to Rule 46] – 4 Marks

Board may, on the recommendations of the Council, by notification, specify-

- i. the **number of digits of Harmonised System of Nomenclature code** for goods or services that a class of registered persons shall be required to mention; or
- ii. a **class of supply of goods or services** for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and
- iii. the **class of registered persons that would not be required to mention** the Harmonised System of Nomenclature code for goods or services.”

In this regard, **Notification No. 12/2017 CT dated 28.06.2017 (as amended)** has notified the following: **[4 Marks]**

S. No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
		W.e.f. 01/04/2021
1.	AT ≤ ₹ 5 crores	4
2.	AT > ₹ 5 crores	6

Above provisions are also applicable to Bill of Supply.

W.e.f 01/04/2021: A registered person having aggregate turnover up to ₹ 5 crores in the previous financial year **may not mention** the number of digits of HSN Code in a **tax invoice issued by him in respect of supplies made to unregistered persons**.

Time limit for issuing tax invoice in cases where recipient is required to issue invoice [Rule 47A]

[Effective from 01.11.2024 – NN 20/2024 CT dated 08.10.2024]

Notwithstanding anything contained in rule 47, where an invoice referred to in rule 46 is required to be issued under section 31(3)(f) **by a registered person**, who is liable to pay tax under sub-section (3) or sub-section (4) of section 9, he shall issue the said invoice **within a period of 30 days** from the date of receipt of the said supply of **goods or services**, or both, as the case may be.”

Manner of issuing Invoice [Rule 48]

(1) In case of taxable supply of Goods: Invoice shall be prepared in TRIPLICATE (3 Marks)

- ✓ Original Copy for Recipient
- ✓ Duplicate Copy for Transporter
- ✓ Triplicate for Supplier

(2) In case of taxable supply of Services: Invoice shall be prepared in Duplicate (3 Marks)

- ✓ Original Copy for Recipient
- ✓ Duplicate Copy for Supplier

(3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in **FORM GSTR-1** or in FORM GSTR-1A, if any.

**E-invoicing statutory provisions**

Rule 48(4) stipulates that the e-invoice shall be prepared by notified class of registered persons, by uploading such particulars **as contained in Form GST INV-01** on the Common GST Electronic Portal and **obtain an IRN (Invoice Reference Number)**, in prescribed manner and subject to prescribed conditions and restrictions.

However, the **Commissioner may**, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice under rule 48(4) for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

Every invoice, issued by above persons, in any manner other than the manner specified in the rule 48(4) shall not be treated as an invoice. **Where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/duplicate.**

Class of persons notified to mandatorily issue e-invoice

A registered person (except specified class of persons), whose aggregate turnover **in any preceding financial year from 2017-18 onwards exceeds ₹ 5 crores** has been notified as class of persons who **shall prepare e-invoice in respect of B2B supplies (supply of goods or services or both to a registered person) or for exports.**

Exemption from e-invoicing

Following entities are exempt from the mandatory requirement of e-invoicing:

- **Special Economic Zone units** (no SEZ developer)
- Insurer or banking company or financial institution including NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation services
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- **A Government Department**
- **A Local Authority**

Exemption from generation of e-invoices available for the entity as a whole and not restricted by the nature of supply being made by the said entity

In terms of Notification No. 13/2020 CT dated 21.03.2020, as amended, certain entities/sectors are exempted from mandatory generation of e-invoices as per rule 48(4).

The issue which arose for consideration was whether this exemption from mandatory generation of e-invoices is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity.

It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

Example:

A banking company providing banking services, **may also be involved in making supply of some goods, including bullion.**

The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification No. 13/2020 CT dated 21.03.2020, **for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.**

[GST Circular (2022)]

Applicability of e-invoicing to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51

The issue which arose for consideration was whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, **to Government Departments or establishments/ Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of TDS as per provisions of section 51.**

It is clarified that Government Departments or establishments/ Government agencies/ local authorities/ PSUs, **which are required to deduct TDS under section 51, are liable for compulsory registration in accordance with section 24.**

Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of TDS as per provisions of section 51, **are to be treated as registered persons under the GST law.**

Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, **is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc under rule 48(4).**

Very Important

Only SEZ units and not SEZ developers are exempt from issuing e-invoices. Thus, SEZ developers whose turnover exceeds ₹ 5 crores in any preceding financial year from 2017-18 onwards are mandatorily required to issue e-invoices. Further, in case of supplies made by notified persons to SEZ units, e-invoices need to be issued.

Example:

Maharaja Private Limited has an SEZ unit and a regular DTA unit (both having same PAN). The aggregate total turnover of Maharaja Private Limited is more than ₹ 5 crores (considering both the GSTINs). However, the turnover of DTA unit is below ₹ 5 crores for FY 2023-24.

In this scenario, SEZ unit is exempt from e-invoicing. However, e-invoicing will be applicable to DTA Unit because the aggregate turnover of the legal entity in this case exceeds ₹ 5 crores. The eligibility is based on aggregate annual turnover on the common PAN.

NOTE:

1. E-invoicing is not applicable to invoices issued by **Input Service Distributor (ISD)**.
2. If the invoice issued by a notified person is in respect of supplies made by him tax on which is payable under reverse charge under section 9(3), **e-invoicing is applicable**.
3. Where specified category of supplies are received by notified person from unregistered persons [attracting **reverse charge under section 9(4)]** or through **import of services**, **e-invoicing doesn't arise/ not applicable**.
4. E-invoicing is also not applicable for **import of goods** (Bills of Entry).

Invoice Registration Portal (IRP)

In exercise of the powers conferred by Section 146 of the Central Goods and Services Tax Act, 2017 **read with sub-rule(4) of rule 48** of the Central Goods and Services Tax Rules, 2017 and section 20 of the Integrated Goods and Services Tax Act, 2017, the Central Government, on the recommendations of the Council, hereby, **notifies the following as the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of sub-rule (4) of rule 48** of the aforesaid rules, namely:-

i. www.einvoice1.gst.gov.in ;	v. www.einvoice5.gst.gov.in ;	ix. www.einvoice9.gst.gov.in ;
ii. www.einvoice2.gst.gov.in ;	vi. www.einvoice6.gst.gov.in ;	x. www.einvoice10.gst.gov.in .
iii. www.einvoice3.gst.gov.in ;	vii. www.einvoice7.gst.gov.in ;	
iv. www.einvoice4.gst.gov.in ;	viii. www.einvoice8.gst.gov.in ;	

For the purposes of this notification, the above mentioned websites **mean the websites managed by the Goods and Services Tax Network**, a company incorporated under the provisions of section 8 of the Companies Act, 2013.

Advantages of e-invoicing

E-invoice has many advantages for businesses. **One such advantage is auto-reporting of invoices into GST return and auto-generation of e-way bill (wherever required).** Under e-invoicing, business has to report the B2B invoice data only once in the e-invoice form and the same is reported in multiple forms (GSTR-1, e-way bill etc.). **E-way bill can be auto-generated** using e-invoice data. **GSTR-1 can also be auto-populated** with the e-invoice data. It will become part of the business process of the taxpayer.

Consequently, there will be a **substantial reduction in transcription errors** as same data will get reported to tax department as well as to the buyer to prepare his inward supplies (purchase) register. On receipt of information through GST System, buyer can do reconciliation with his Purchase Order.

Thus, it will facilitate **standardisation and inter-operability leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.**

Further, since a **complete trail of B2B invoices** is available with the Department, it will enable the **system-level matching of input tax credit and output tax thereby reducing the tax evasion.**

Last but not the least, **e-invoicing will eliminate the fake invoices.** Claiming fictitious input tax credit (ITC) by raising fake invoices is also one of the biggest challenges currently faced by tax-authorities.

The e-invoice system will help to curb the actions of unscrupulous taxpayers and **reduce the number of fraud cases** as the tax authorities will have access to data in real-time.

What is 'e-invoicing'?

E-invoicing is **not generation of invoice by a Government portal.** Taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems as per e-invoice schema. These invoices will then be reported to 'Invoice Registration Portal (IRP)'. On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier. **A GST e-invoice will be valid only with a valid IRN.**

Presently, **invoices, credit notes and debit notes**, when issued by notified persons are covered under e-invoice. **Though different documents are covered, for ease of reference and understanding, the system is referred as 'e-invoicing'.**

How e-invoice is generated?

The taxpayer first prepares and generates his invoice using his own ERP/ accounting/ billing system or manual system. The invoice must conform to the e-invoice schema (standard notified format) and must have the mandatory parameters.

The details of this invoice are uploaded/reported by the taxpayer to the Invoice Registration Portal (IRP). This way taxpayer registers his supply transaction on IRP. **On uploading, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice and adding a QR Code (Quick Response Code).** Then, the supplier shares the e-invoice with the receiver (along with QR Code).

How e-invoice data is consumed by GST System for generation of e-way bill or populating relevant parts GST Returns?

IRP sends the e-invoice data along with IRN to the GST System as well as to E-Way Bill System. The GST system will auto-populate them into GSTR-1 of the supplier & GSTR-2A or GSTR-2B of respective receivers.

With source marked as 'e-invoice', IRN and IRN date will also be shown in GSTR-1 and GSTR-2A/2B. The e-invoice schema includes parameters e.g. 'Transporter ID' and 'Vehicle Number', etc. that are required for creating and generating e-way bills. These can be entered if available with seller, at the time of generation of e-invoice so that e-way bill can be created using this data without any further requirement of data entry by the user. The e-invoice reporting software already allows reporting of e-invoice and generation of e-way bill with same data.

Cancellation/amendment of reported invoice

Where needed, the seller can cancel IRN for an e-invoice already reported by reporting it on IRP within specified time. **Amendment of e-invoice already uploaded on IRP will be done only on GST portal. Amendment of invoices is not possible through the IRP.**

Implications for businesses

As can be inferred from the above discussion, e-invoicing does not mean that the invoice needs to be prepared/generated on the Government portal. It is only intimating the Government portal that invoice has been issued to the buyer, by registering that particular invoice on the Government portal. Consequently, businesses will continue to issue invoices as they were doing earlier. Necessary changes on account of e-invoicing requirement (i.e. to enable reporting of invoices to IRP and obtain IRN), be made by ERP/Accounting and Billing Software providers in their respective software. They need to get the updated version having this facility.

Important terms**E-invoice Schema**

Businesses use various accounting/billing software, each generating and storing invoices in their own electronic formats. These different formats are neither understood by GST System nor by the systems of suppliers and receivers.

An invoice generated by SAP system cannot be read by a machine which is using 'Tally' system, unless a connector is used. With more than 300 accounting/billing software products, there was no way to have connectors for all.

In this scenario, 'e-invoicing' was introduced aiming at machine-readability and uniform interpretation. To ensure this complete 'inter-operability' of e-invoices across the entire GST eco-system, an invoice standard is a must.

By this, e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh/manual data entry. Since, there was no such standard for e-invoice available earlier, as a first step, a standard/format for e-invoice has been finalized.

This uniform standard format (containing specified fields) applicable for all the businesses across the country is known as 'e-invoice schema'. It is notified as Form GST INV-1.

E-invoice schema mandates what particulars shall be reported in electronic format to IRP.

Invoice Registration Portal (IRP)

IRP is the website for uploading/reporting of invoices by the notified persons.

Invoice Reference Number

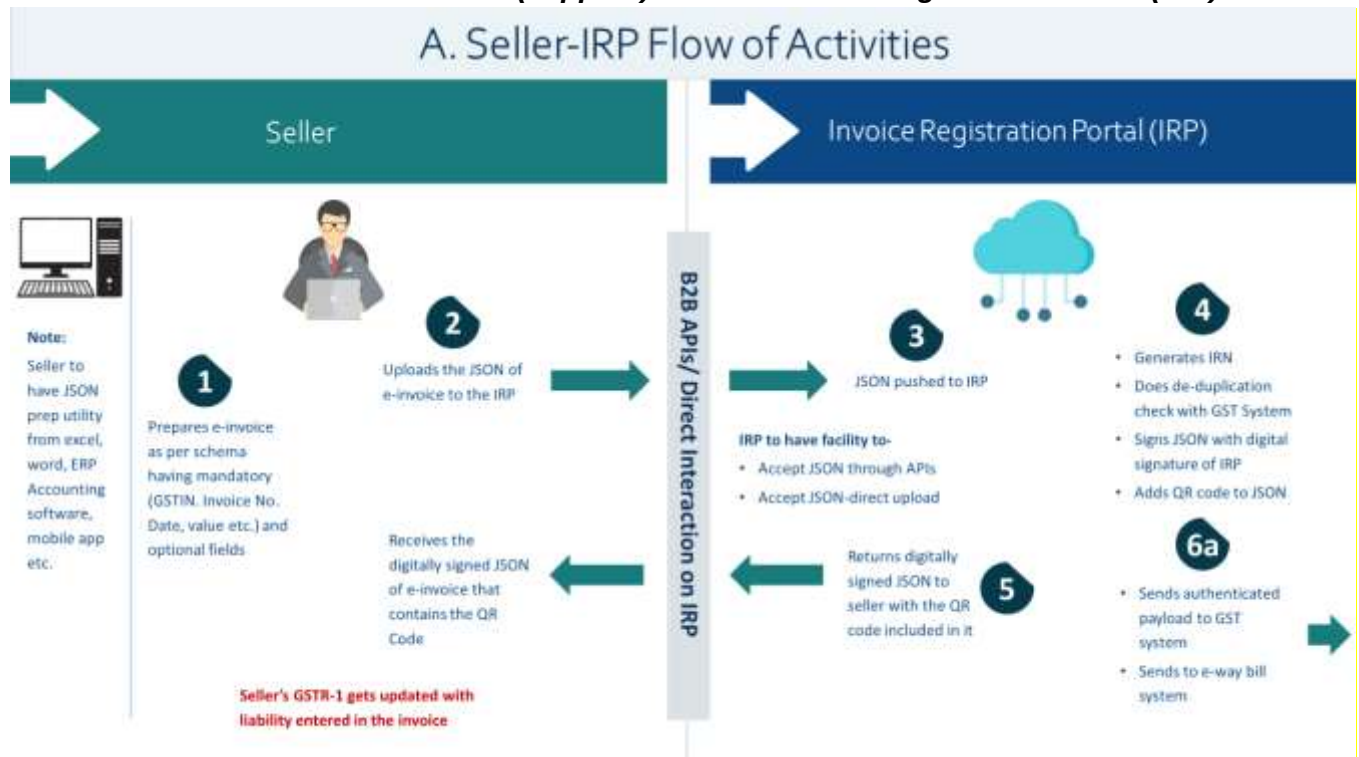
As seen earlier, GST invoice will be valid only with a valid IRN. **IRN is different from invoice number.** Invoice no. (e.g. ABC/1/2024-25) is assigned by supplier and is internal to business. Its format can differ from business to business and also governed by relevant GST rules.

IRN, on other hand, is a unique reference number (**64 character hash**) generated and returned by IRP, on successful registration of e-invoice, for instance,

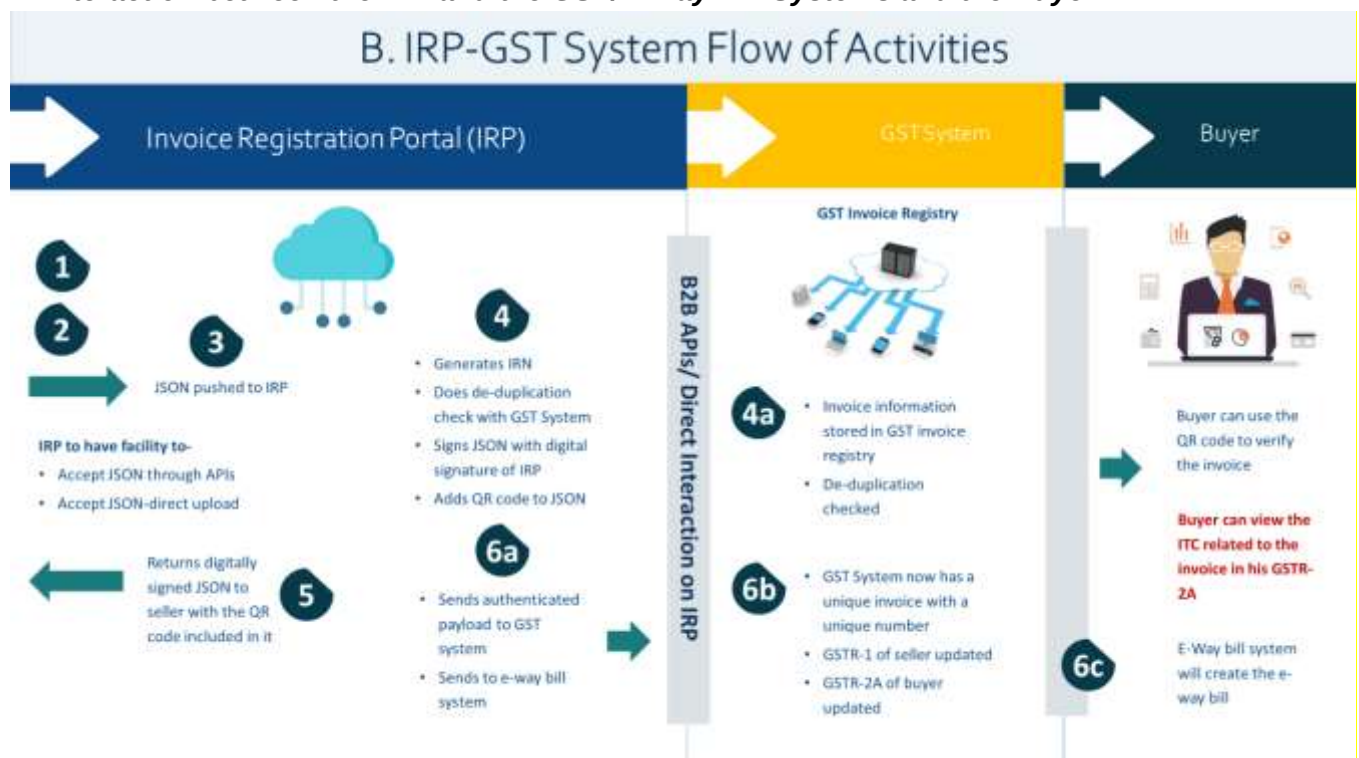
35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

The overall work flow of e-invoice generation, its reporting/registration and receipt of confirmation is depicted in the diagrams below:

A. Interaction between the business (supplier) and the Invoice Registration Portal (IRP).



B. Interaction between the IRP and the GST/E-Way Bill Systems and the Buyer.



Other points:

- The e-invoicing system is also available for the E-Commerce Operators (ECO) to report the invoices to the Invoice Registration portal, **generated by them on behalf of the suppliers.**
- **Bulk uploading of invoices to IRP** is also possible.

Quick Response (QR) code

Upon successful registration of invoice on IRP, it will return a signed e-invoice to the supplier with IRN and QR Code. IRN is embedded in the QR Code which shall be extracted and printed on the invoice.

The QR code enables quick view, validation and access of the invoices from the GST system from hand-held devices.

The digitally signed QR code will have a unique IRN which can be verified on the central portal as well as by an offline app by the officer.

This will be helpful for tax officers checking the invoice offline on the roadside where internet may not be available all the time.

The QR code consists of the following e-invoice parameters:

- GSTIN of supplier
- GSTIN of recipient
- Invoice number as given by supplier
- Date of generation of invoice
- Invoice value (taxable value and gross tax)
- Number of line items
- HSN code of main item (the line item having highest taxable value)
- Unique Invoice Reference Number (hash)
- Date of generation of IRN

Dynamic Quick Response Code [B2C Invoice]

All **B2C invoices** issued by a registered person whose **aggregate turnover** in any preceding financial year from 2017-18 onwards **exceeds ₹ 500 crores** are **mandatorily required to have a Dynamic QR code** from December 1, 2020 vide **Notification No. 14/2020 CT dated 21.03.2020**.

*Note: Where **such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display**, such B2C invoice issued by such registered person **containing cross-reference of the payment** using a Dynamic Quick Response (QR) code, **shall be deemed to be having Quick Response (QR) code**.*

*The purpose of this provision is to enable and encourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly. **Today, many shops have static QR code at the payment counter which is scanned by the buyer, but the buyer has to enter the amount to be paid to the shop in the mobile payment App.***

The dynamic QR code, on the other hand, will have the payment details and thus 'scan and pay' in one go is possible. This has no relevance or applicability to the e-invoicing in respect to B2B supplies by notified class of taxpayers.

Dynamic QR Code will be generated by the seller himself either on the Point of Sale (PoS) machine or the invoice issued.

Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020 - CT dated 21st March, 2020

GST Circular

Sn.	Issues	Clarification
1	To which invoice is Notification No 14/2020- Central Tax dated 21st March, 2020 applicable? Would this requirement be applicable on invoices issued for supplies made for Exports?	This notification is applicable to a tax invoice issued to an unregistered person by a registered person (B2C invoice) whose annual aggregate turnover exceeds ₹ 500 Cr in any of the financial years from 2017-18 onwards. However, the said notification is not applicable to an invoice issued in following cases [5 Marks]: i. Where the supplier of taxable service is: - an insurer or a banking company or a financial institution, including a non-banking financial company; - a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage; - supplying passenger transportation service; - supplying services by way of admission to exhibition of cinematograph in films in multiplex screens

		ii. OIDAR supplies made by any registered person, who has obtained registration under section 14 of the IGST Act 2017, to an unregistered person. As regards the supplies made for exports, though such supplies are made by a registered person to an unregistered person, however, as e-invoices are required to be issued in respect of supplies for exports, in terms of Notification no. 13/2020-Central Tax, dated 21st March, 2020 <u>treating them as Business to Business (B2B) supplies</u>, Notification no. 14/2020- Central Tax, dated 21st March, 2020 will not be applicable to them.
2	What parameters/ details are required to be captured in the Quick Response (QR) Code?	Dynamic QR Code, in terms of Notification No. 14/2020-Central Tax, dated 21st March, 2020 is required, inter-alia, to contain the following information [3 Marks]: i. Supplier GSTIN number ii. Supplier UPI ID iii. Payee's Bank A/C number and IFSC iv. Invoice number & invoice date, v. Total Invoice Value and vi. GST amount along with breakup i.e. CGST, SGST, IGST, CESS, etc. Further, Dynamic QR Code should be such that it can be scanned to make a digital payment
3	If a supplier provides/ displays Dynamic QR Code, but the customer opts to make payment without using Dynamic QR Code, then will the cross reference of such payment, made without use of Dynamic QR Code, on the invoice, be considered as compliance of Dynamic QR Code on the invoice?	If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements. In cases where the supplier, has digitally displayed the Dynamic QR Code and the customer pays for the invoice: - i. Using any mode like UPI, credit/ debit card or online banking or cash or combination of various modes of payment, with or without using Dynamic QR Code, and the <u>supplier provides a cross reference of the payment</u> (transaction id along with date, time and amount of payment, mode of payment like UPI, Credit card, Debit card, online banking etc.) on the invoice; or ii. In cash, without using Dynamic QR Code and the supplier provides a cross reference of the amount paid in cash, along with date of such payment on the invoice; The said invoice shall be deemed to have complied with the requirement of having Dynamic QR Code

4	Is generation/ printing of Dynamic QR Code on B2C invoices mandatory for prepaid invoices i.e. where payment has been made before issuance of the invoice?	<i>If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be deemed to have complied with the requirement of Dynamic QR Code.</i> In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.
5	Once the E-commerce operator (ECO) or the online application has complied with the Dynamic QR Code requirements, will the suppliers using such e-commerce portal or application for supplies still be required to comply with the requirement of Dynamic QR Code?	The provisions of the notification shall apply to each supplier/registered person separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies as per the said notification. In case, the supplier is making supply through the Ecommerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code. In cases other than pre-paid supply i.e. where payment is made after generation / issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.
6	Whether Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a Unique Identity Number as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017?	Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017, is not a "registered person" as per the definition of registered person provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
7	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. 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 the provisions of IGST Act 2017, and the payment is received by the supplier, <u>in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI</u>, 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."

Revised Tax Invoice [Section 31(3)(a) read with rule 53] When issued?

- ✓ This provision is necessary, as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration.
- ✓ Thus there would be a time lag between the date of grant of certificate of registration and the effective date of registration. ***For supplies made by such person during this intervening period, the law enables the issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.***

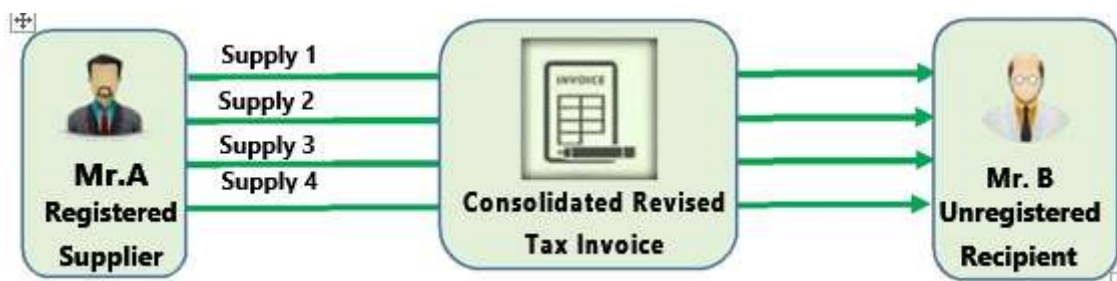
Example:

Sarabhai Private Ltd. commenced business of supply of goods on 1st April in Telangana. Its turnover exceeded ₹ 20,00,000 on 3rd September. Thus it became liable to registration on 3rd September. It applied for registration on 29th September and granted registration certificate on 5th October. Since it applied for registration within 30 days of becoming liable to registration, it was granted registration with effect from 3rd September.

Sarabhai Private Ltd. may issue Revised Tax Invoices in respect of taxable supplies effected between 3rd September and 5th October.

Consolidated Revised Tax Invoices in certain cases

A registered person may issue a Consolidated Revised Tax Invoice in respect of **all taxable supplies made to an unregistered recipient during such period.**



However, in case of inter-State supplies, a **consolidated Revised Tax Invoice cannot be issued in respect of all unregistered recipients if the value of a supply exceeds ₹ 2,50,000.**

Particulars of Revised Tax Invoice

- (a) The word “Revised Invoice”, wherever applicable, indicated prominently;**
- (b) Name, Address and GSTIN of the Supplier;**
- (c) A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY;**
- (d) Date of issue;**
- (e) Name, Address and GSTIN or UIN, if registered, of the recipient**
- (f) Name and Address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;**
- (g) Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;**
- ~~**(h) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited/debited to the recipient**~~
- (i) Signature/digital signature of the supplier/his authorized representative.**

No Tax Invoice required to be issued if value < ₹ 200 – A Consolidated Tax Invoice can be issued [Section 31(3)(b) read with Rule 46]

[3 Marks] A registered person (other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens) may not issue a Tax Invoice if:

- ✓ Value of the goods/services/both supplied < ₹ 200,
- ✓ the recipient is unregistered; **and**
- ✓ 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.

Thus, small taxpayers, like small retailers, doing a large number of small transactions for upto a value of ₹ 200 per transaction to unregistered customers need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transactions done during the day. However, they should also issue an invoice when the customer demands.

Above provisions are also applicable to Bill of Supply.

Example:

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S.No.	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?

SOLUTION

In the given illustration, Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth ₹ 188] and Aaradhya [worth ₹ 158] as the value of goods supplied to these recipients is less than ₹ 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 ₹ 200.**

Bill of Supply [Section 31(3)(c) read with Rule 49]

A registered person supplying exempted goods or services or both or paying tax under composition levy **shall issue a bill of supply instead of a tax invoice.**

*Person opting for composition levy shall mention the words “**composition taxable person, not eligible to collect tax on supplies**” at the top of the bill of supply issued by him.*

A registered person opting for the composition levy does not collect tax from the recipient on outward supplies made by him. Similarly, in case of a registered person supplying exempted goods and/or services, no tax implications are there. Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice.

Since no tax is collected from the recipient by a registered person opting for the composition levy as well as registered person supplying exempted goods and/or services, **Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.**

Particulars of Bill of Supply

- (a) Name, Address and GSTIN of the Supplier;
- (b) A consecutive serial number not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special characters and any combination thereof, unique for a FY;
- (c) Date of its issue;
- (d) Name, Address and GSTIN or UIN, if registered, of the recipient;
- (e) HSN Code for goods or services;
- (f) Description of goods or services or both;
- (g) Value of supply of goods or services or both taking into account discount/ abatement, if any; and
- (h) **Signature/Digital Signature of supplier/his authorized representative.**

However, signature or digital signature of the supplier or his authorized representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000.

“Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.”

Note:

Any tax invoice or any other similar document issued under any other Act for the time being in force **in respect of any non-taxable supply** shall be **treated as bill of supply** for the purposes of the Act.

Single invoice-cum-bill of supply for taxable as well as exempted supplies made to an unregistered person [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.**

Provided that the said single “invoice-cum-bill of supply” shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

Insurer / Banking Company / Financial Institution, including NBFC can issue a consolidated tax invoice at month end for the supply made during that month

Rule 54 of the CGST Rules provides that where the supplier of taxable service is **an insurer or a banking company or a financial institution, including a non-banking financial company**, the said supplier shall issue a tax invoice/any other document in lieu thereof, by whatever name called, whether issued or made available, physically or electronically **whether or not serially numbered**, and **whether or not containing the address of the recipient** of taxable service, but containing other information as mentioned under rule 46 of the said rules.

The aforesaid rule has been amended to provide that **in place of a tax invoice, a ‘consolidated tax invoice’ may be issued for the supply of services made during a month at the end of the month.**

Receipt Voucher [Section 31(3)(d) read with rule 50]

[2 Marks] A registered person shall, **on receipt of advance payment** with respect to any supply of goods or services or both, **issue a Receipt Voucher** evidencing receipt of such payment.

Particulars of Receipt Voucher

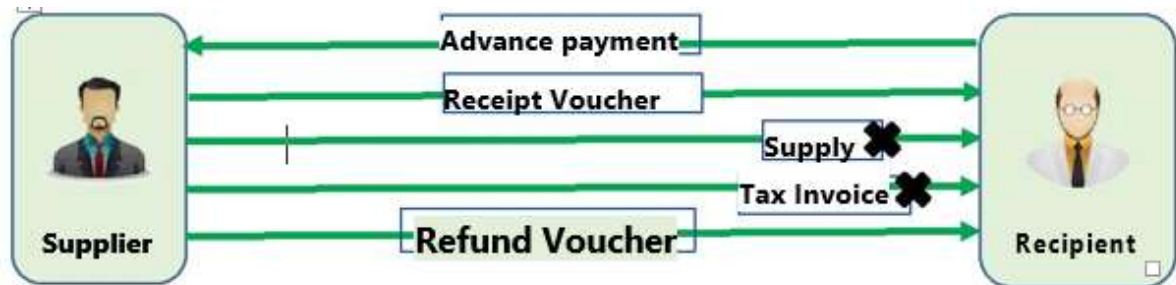
- (a) Name, Address and GSTIN of the Supplier;
- (b) A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters and any combination thereof, unique for a FY
- (c) Date of its issue;
- (d) Name, Address and GSTIN or UIN, if registered, of the recipient;
- (e) Description of goods or services;
- (f) **Amount of advance taken;**
- (g) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) Place of supply along with the name of State and its code, in case of a supply **in the course of inter-State trade or commerce;**
- (j) Whether the tax is payable on reverse charge basis; and
- (k) Signature/digital signature of supplier/his authorized representative

[3 Marks] **Where at the time of receipt of advance, rate of tax/ nature of supply is not determinable**

- (i) Rate of tax is not determinable tax shall be paid **at the rate of 18%**
- (ii) nature of supply is not determinable, same **shall be treated as inter-State supply**

Refund Voucher [Section 31(3)(e) read with rule 51]

[3 Marks] Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a Receipt Voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a Refund Voucher against such payment.



Particulars of Refund Voucher

- (i) Name, Address and GSTIN of the Supplier;
- (ii) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY;
- (iii) Date of its issue;
- (iv) Name, address and GSTIN or UIN, if registered, of the recipient;
- (v) **Number and date of Receipt Voucher issued**
- (vi) Description of goods/services in respect of which refund is made
- (vii) **Amount of refund made**
- (viii) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess)
- (ix) Amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess)
- (x) Whether the tax is payable on reverse charge basis; and
- (xi) Signature/digital signature of supplier/his authorized representative

Invoice and Payment Vouchers to be issued by recipient of supply liable to pay tax under reverse charge [Sec 31(3)(f) & (g) read with second proviso to rule 46 and rule 52]

Recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes. Such supplies can be received from a registered or an unregistered supplier [Section 9(3)].

Further, a builder/promoter is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:

- a. A builder/promoter must purchase 80% of inputs and input services used in supplying the service from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).***
- b. Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement on reverse charge basis and***
- c. GST on capital goods is payable by the promoter on reverse charge basis.***

A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue an Invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

Thus, a recipient liable to pay tax by virtue of section 9(3) has to issue invoice only when supplies have been received from an unregistered supplier.

Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] **shall issue a Payment Voucher** at the time of making payment to the supplier.

Particulars of Payment Voucher

- (a)** Name, Address and GSTIN of the Supplier if registered;
- (b)** A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and any combination thereof, unique for a FY
- (c)** Date of its issue;
- (d)** Name, Address and GSTIN of the Recipient;
- (e)** Description of Goods or Services;
- (f) Amount paid;**
- (g)** Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h)** Amount of tax payable in respect of taxable goods or services;
- (i)** Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
- (j)** Signature/digital signature of supplier/his authorized representative

Supplier permitted to issue any document other than tax invoice**[Section 31(2) and proviso to section 31(1) read with rules 54 and 55]**

Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which-

- a. any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- b. tax invoice may not be issued.

Further, Government may, on the recommendations of the Council, by notification, **specify the categories of goods or supplies** in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

Insurer / Banking company / Financial institution, including NBFC

Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier **may issue a consolidated tax invoice** or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically **whether or not serially numbered**, and **whether or not containing the address of the recipient of taxable service** but containing other information as mentioned under rule 46.

Provided that the signature or digital signature of the supplier or his authorised representative shall not be required **in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000.**

Goods Transport Agency (GTA)

Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called,

- ✓ containing the gross weight of the consignment,
- ✓ name of the consigner and the consignee,
- ✓ registration number of goods carriage in which the goods are transported,
- ✓ details of goods transported,
- ✓ details of place of origin and destination,
- ✓ Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency,

and also containing other information as mentioned under rule 46.

Passenger transportation service

Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall **include ticket** in any form, by whatever name called, **whether or not serially numbered, and whether or not containing the address of the recipient of service** but containing other information as mentioned under rule 46.

Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000.

Admission to exhibition of cinematograph films

Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required **to issue an electronic ticket** and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.

Further, the supplier of such service in a **screen other than multiplex screens may, at his option**, follow the above procedure.

Delivery Challan [Rule 55]

Rule 55 specifies the cases where at the time of removal of goods, goods may be removed on delivery challan and invoice may be issued after delivery.

Nature of Supply [3 Marks]

- a. Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
- b. Transportation of goods for job work,
- c. Transportation of goods for reasons other than by way of supply, or
- d. Such other supplies as may be notified by the Board

Particulars of Delivery Challan

- a. Date & number of the Delivery Challan
- b. Name, Address and GSTIN of the Supplier if registered;
- c. Name, Address and GSTIN/UIN of the consignee if registered;
- d. HSN Code & Description of Goods;
- e. Quantity (provisional, where the exact quantity being supplied is not known)
- f. Taxable value
- g. Tax rate and tax amount – central tax, state tax, integrated tax, union territory tax or cess, where the transportation is for supply to the consignee
- h. Place of supply, in case of inter-state movement
- i. Signature

Note: Delivery challan will be issued at the time of removal of goods for transportation.

A. Delivery challan in Triplicate

The delivery challan shall be prepared in **TRIPLICATE**, in case of supply of goods, in the following manner:

- ✓ **Original Copy** for Consignee
- ✓ **Duplicate Copy** for Transporter
- ✓ **Triplicate** for Consignor

B. Declaration in E-way Bill

Where goods are being transported **on a delivery challan in lieu of invoice**, the same shall be declared in E-Way Bill.

C. Tax invoice to be issued after delivery of goods

Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, **the supplier shall issue a tax invoice after delivery of goods.**

D. Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots -

- a. the supplier shall issue the complete invoice before dispatch of the first consignment;*
- b. the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;*
- c. each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and*
- d. the original copy of the invoice shall be sent along with the last consignment.*

Goods moved within the State or from the State of registration to another State for supply on approval basis and Art works sent by artists to galleries for exhibition

Suppliers of jewellery etc. who are registered in one State **may have to visit other States** (other than their State of registration) and need to carry the goods (such as jewellery) **along for approval**. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, **the supplier is not able to register as a casual taxable person**. Such goods are also carried within the same State for the purposes of supply.

In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on approval basis **can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods**. For this purpose, the person carrying the goods for such supply **can carry the invoice book** with him so that he can issue the invoice once the supply is fructified

[GST Circular]

Likewise, in case **where artists supply art works in different States** - other than the State in which they are registered as a taxable person and if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis **can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work**

[GST Circular]

CREDIT AND DEBIT NOTES [SECTION 34]

- (1) Where **one or more tax invoices have** been issued for supply of any goods or services or both and
- (a) the **taxable value** or **tax charged** in that tax invoice is **found to exceed** the taxable value or tax payable in respect of such supply, or
 - (b) where the **goods supplied are returned** by the recipient, or
 - (c) where goods or services or both supplied **are found to be deficient**,
- the **registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year** containing such particulars as may be prescribed **[3 Marks]**

Note: One consolidated Credit Note can be issued for one or more Tax Invoices.

- (2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued ***but not later than 30th November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier***, and the tax liability shall be adjusted in such manner as may be prescribed.

However, no reduction in output tax liability of the supplier shall be permitted, **if the incidence of tax and interest on such supply has been passed on to any other person.**

- (3) Where **one or more tax invoices have** been issued for supply of any goods or services or both and the **taxable value** or **tax charged** in that tax invoice is **found to be less than** the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, **shall issue to the recipient one or more debit notes for supplies made in a financial year** containing such particulars as may be prescribed.
- (4) Any registered person who issues a debit note in relation to a supply of goods or services or both ***shall declare the details of such debit note in the return for the month during which such debit note has been issued*** and the tax liability shall be adjusted in such manner as may be prescribed.

Issuance of Credit Note:

During the course of trade or commerce, after the invoice has been issued, there can be situations like:

- a. The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- b. The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- c. The quantity received by the recipient is less than what has been declared in the tax invoice.
- d. The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value
- e. Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as **credit note** to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce.

The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised.

The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

It is important to note that credit note(s) are not permitted to be issued in case secondary discounts are allowed by the supplier since the tax liability of the supplier does not get reduced in such case.

However, supplier can issue financial/ commercial credit note(s) to reduce the value of supply payable by the recipient to the supplier [GST Circular]

Issuance of Debit Note:

There can be situations when after the invoice has been issued:

- a) The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
- b) The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
- c) The quantity received by the recipient is more than what has been declared in the tax invoice.
- d) Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as **debit note** to the recipient.

Debit note shall include a supplementary invoice.

The issuance of a debit note/supplementary invoice creates additional tax liability. The treatment of a debit note/supplementary invoice is identical to the treatment of a tax invoice as far as returns and payment are concerned.

The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced. The issuance of the debit note allows the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.

Details of Debit Note/Credit Note to be declared in Return**I. Credit Note:**

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than:

- a. **30th November** following the end of the financial year in which such supply was made,
or
 - b. the date of furnishing of the relevant annual return,
- whichever is earlier.

The tax liability shall be adjusted in such manner as may be prescribed. **However, no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.**

II. Debit Note:

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued. The tax liability shall be adjusted in such manner as may be prescribed.

Contents prescribed for credit and debit notes - Rule 53(1A)

- a. *name, address and GSTIN of the supplier;*
- b. *nature of the document;*
- c. *a consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;*
- d. *date of issue of the document;*
- e. *name, address and GSTIN or UIN, if registered, of the recipient;*
- f. *name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;*
- g. *serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;*
- h. *value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and*
- i. *signature or digital signature of the supplier or his authorised representative.*

PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS [SECTION 33]

Notwithstanding anything contained in this Act or any other law for the time being in force, **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.

Signature or digital signature of supplier/ authorised representative not required

Signature / digital signature of the supplier / his authorised representative not required on

- a.** electronic tax invoice,
- b.** electronic bill of supply,
- c.** electronic consolidated tax invoice in case of insurance company/banking company/financial institutions including NBFCs and
- d.** electronic ticket for passenger transportation service

The above electronic documents need to be issued in accordance with the provisions of the Information Technology Act, 2000.

TAX INVOICE

1. In case of taxable supply of services, invoice shall be issued within a period of _____ from the date of supply of service.
 - (a) 30 days
 - (b) 45 days
 - (c) 60 days
 - (d) 90 days
2. In case of taxable supply of services by an insurer, invoice shall be issued within a period of _____ from the date of supply of service.
 - (a) 30 days
 - (b) 45 days
 - (c) 60 days
 - (d) 90 days
3. In case of continuous supply of services, where due date of payment is ascertainable from the contract, invoice shall be issued:
 - (a) before or at the time when the supplier of service receives the payment
 - (b) on or before the due date of payment
 - (c) Either (a) or (b)
 - (d) None of the above
4. In case of continuous supply of services, where due date of payment is not ascertainable from the contract, invoice shall be issued:
 - (a) before or at the time when the supplier of service receives the payment
 - (b) on or before the due date of payment
 - (c) Either (a) or (b)
 - (d) None of the above
5. 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:
 - (a) before/at the time of supply
 - (b) 6 months from the date of removal
 - (c) Earlier of (a) or (b)
 - (d) None of the above
6. Suman Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Suman Industries Ltd. removed the finished spare parts from its factory on 29th September. Determine the date by which invoice must be issued by Suman Industries Ltd. under GST law.

Answer:

As per the provisions of Section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, **where the supply involves movement of goods**. Accordingly, in the given case, the invoice must be issued on or before 29th September.

7. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

Answer:

Continuous supply of service means, inter alia, supply of any service which is provided, or agreed to be provided **continuously or on recurrent basis, under a contract, for a period exceeding 3 months** with the periodic payment obligations.

Therefore, the given situation **is a case of continuous supply of service** as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, **where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment.**

Therefore, in the given case, MBM Caretakers should issue quarterly invoices **on or before April 1, July 1, October 1, and January 1.**

8. The aggregate turnover of Sangri Services Ltd. exceeded ₹ 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advise Sangri Services Ltd. 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:

As per section 25 read with CGST Rules, 2017, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration.

Since, Sangri Services Ltd.'s turnover exceeded ₹ 20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, **the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.**

As per section 31 read with CGST Rules, 2017, every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, **may issue Revised Tax Invoices.**

Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) **within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.**

9. Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

Answer:

A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed [Section 31(3)(c) read with CGST Rules, 2017].

Therefore, in the given case, Shyam Fabrics **cannot issue tax invoice. Instead, it shall issue a Bill of Supply.**

10. Luv & Kush Pvt. Ltd. of Meghalaya engaged in the supply of gifts items and repair services, provides you the following details:-

S. No.	Particulars	Date
1.	Commencement of the business of supplying goods and services	01 st August
2.	Turnover exceeds ₹ 10,00,000 on	15 th August
3.	Turnover exceeds ₹ 20,00,000 on	05 th September
4.	Application for registration made on	28 th September
5.	Registration certificate granted on	06 th October

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

Answer:

A supplier of **both goods and services** whose aggregate turnover in a financial year exceeds ₹ 20 lakh in a State/UT [₹ 10 lakh in specified Special Category States] 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 of ₹ 20 lakh/ ₹ 10 lakh) in terms of section 22. Since Meghalaya is not a specified Special Category State, applicable threshold limit is ₹ 20 lakh.

Further, where the application is submitted within said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

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 within 1 month from the date of issuance of registration certificate in respect of taxable supplies effected during this period i.e. from the effective date of registration till the date of issuance of registration.

Since Luv & Kush Pvt. Ltd. has made the application for registration within 30 days of becoming liable for registration, the effective date of registration becomes the date on which the company becomes liable to registration i.e. 5th September.

Thus, Luv & Kush Pvt. Ltd. may issue revised tax invoices against the invoices already issued during the period between effective date of registration (5th September) and the date of issuance of registration certificate (6th October), within 1 month from 6th October.

Further, Luv & Kush Pvt. Ltd. may issue a consolidated revised tax invoice in respect of all taxable supplies made to unregistered dealers during such period. **However, in case of inter-State supplies made to unregistered dealers, a consolidated revised tax invoice cannot be issued in respect of all the recipients located in a State, if the value of a supply exceeds ₹ 2,50,000.**

11. Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March:

- Value of supply charged in invoice no. 1 was ₹ 2,50,000 against the actual taxable value of ₹ 2,30,000.
- Tax charged in invoice no. 4 was ₹ 32,000 against the actual tax liability of ₹ 68,000 due to wrong HSN code being chosen while issuing invoice.
- Value charged in invoice no. 8 was ₹ 3,20,000 as against the actual value of ₹ 4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following:

- Who shall issue a debit/credit note under CGST Act?
- Whether debit note or credit note has to be issued in each of the above circumstances?
- What is the maximum time-limit available for declaring the credit note in the GST Return?

Answer:

- (1) The debit/credit note shall be issued by the registered person who has supplied the goods and/or services, i.e. Kartik & Co.
- (2) Yes, debit/credit note need to be issued in each of the circumstances as under:
 - (i) A credit note is required to be issued as the taxable value in invoice no. 1 exceeds the actual taxable value.
 - (ii) A debit note is required to be issued as the tax charged in the invoice no. 4 is less than the actual tax payable.
 - (iii) A debit note is required to be issued as the value of supply charged in the invoice no. 8 is less than the actual value.
- (3) The details of the credit note **cannot be declared later than 30th November** following the end of the financial year in which such supply was made or the date of furnishing of the relevant annual return, whichever is earlier.

- 12. Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January. For the occasion, it gets the service by way of makeover of its models from Aura Beauty Services Ltd., Ashok Vihar, for which a consideration is ₹ 5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February showing the lumpsum amount of ₹ 5,90,000 inclusive of CGST and SGST @ 9% each for the services provided.**

Answer the following questions:

- (i) Examine whether the tax invoice has been issued within the time limit prescribed under law.
- (ii) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions.

Answer:

- (i) As per section 31 read with the CGST Rules, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.

In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. upto 3rd February. However, the invoice has been issued on 10th February.

- (ii) **Section 31 read with the CGST Rules**, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess).

Further 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.

The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply of makeover services should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law.

- 13. Kidzee Toys Ltd., a wholesaler of toys registered in Chandigarh, is renowned in the local market for the variety of toys and their reasonable prices. Kidzee Toys Ltd. makes supply of 100 pieces of baby's learning laptops and chat learning phones to Nancy General Store on 25th September by issuing a tax invoice amounting to ₹ 1,00,000.**

However, the said toys were returned by Nancy General Store on 30th September. Discuss which document Kidzee Toys Ltd. is required to issue in such a case?

Answer:

Kidzee Ltd. is required to issue a credit note in such a case.

As per section 34, where one or more tax invoices have been issued for supply of any goods or services or both and the goods supplied are returned by the recipient the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed. **Therefore, Kidzee Ltd. is required to issue a credit note to Nancy General Store for the good returned.**

- 14. Rana Sanga Ltd., a registered supplier has made following taxable supplies to its customer Babu in the quarter ending 30th June.**

Date	Bill No.	Particulars	Invoice value (including GST) ₹
5 th April	102	Notebooks [10 in numbers]	1,200
10 th May	197	Chart Paper [4 in number]	600
20 th May	230	Crayon colors [2 packets]	500
2 nd June	254	Poster colors [5 packets]	900
22 nd June	304	Pencil box [4 sets]	700

Goods in respect of bill no. 102, 230 and 254 have been returned by Babu. You are required to advise Rana Sanga Ltd. whether it can issue a consolidated credit note against all the three invoices?

Answer:

Where one or more tax invoices have been issued for supply of any goods and/or services and

- (a) the taxable value/tax charged in that tax invoice is found to exceed the taxable value/tax payable in respect of such supply, or
 (b) where the goods supplied are returned by the recipient, or
 (c) where goods and/or services supplied are found to be deficient,
 the registered person, who has supplied such goods and/or services, **may issue to the recipient one or more credit notes** for supplies made in a financial year containing prescribed particulars.

Thus, one (consolidated) or more credit notes can be issued in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

Hence, in view of the above-mentioned provisions, Rana Sanga Ltd. can issue a consolidated credit note for the goods returned in respect of all the three invoices.

- 15. Chidanand Products Pvt. Ltd. is a registered supplier who has opted for composition levy in the current financial year. He wishes to know whether the issue of a bill of supply can be dispensed with under any circumstances. You are required to advise him.**

Answer:

Yes. Chidanand Products Pvt. Ltd. may not issue a bill of supply if the value of the goods or services or both supplied is less than ₹ 200 subject to the condition that:

- (a) the recipient is not a registered person; and
 (b) the recipient does not require such bill of supply,

and he shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

- 16. A registered person has to mandatorily issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person. Examine the validity of the statement.**

Answer:

The statement is not valid in law. As per the CGST Rules, 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.

- 17. A non-banking financial company can issue a consolidated tax invoice at the end of every month for the supply made during that month. Examine the validity of the statement.**

Answer:

The said statement is valid in law. A customer may avail numerous services from a non-banking financial company in a given tax period. It may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available, physically/ electronically, for supply of services made during a month at the end of the month.

- 18. Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods and the delivery shall be made on or before 31st October. The goods were removed from the factory at Kolkata on 11th October. As per the Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.**

Answer:

A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods.

Therefore, in the given case, invoice has to be issued on or before, 11th October (the time of removal of goods).

- 19. Trust and Fun Ltd., an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June. Payment for the event was made on 19th June. Determine the time of issue of invoice as per the provisions of CGST Act.**

Answer:

A registered person [other than an insurer/banking company/financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of service, but within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June (date of supply of service), i.e. on or before, 5th July.

- 20. Udai Singh, a registered supplier, has received advance payment with respect to services to be supplied to Sujamal. His accountant asked him to issue the receipt voucher with respect to such services to be supplied. However, he is apprehensive as to what would happen in case a receipt voucher is issued, but subsequently no services are supplied. You are required to advise Udai Singh regarding the same.**

Answer:

Udai Singh is required to issue a receipt voucher at the time of receipt of advance payment with respect to services to be supplied to Sujamal. A receipt voucher is a document evidencing receipt of advance money towards a supply of goods and/or services or both. A registered person, on receipt of advance payment with respect to any supply of goods or services or both, shall issue a receipt voucher or any other document, evidencing receipt of such payment.

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment.

Therefore, in case subsequently no services are supplied by Udai Singh, and no tax invoice is issued in pursuance thereof, Udai Singh may issue a refund voucher against such payment to Sujamal.

- 21. Bhoj Raj, a registered person, has availed GTA services on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder.**

Answer:

Bhoj Raj is required to issue an invoice with regard to the GTA services availed by him. A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (i.e. where the recipient is liable to discharge GST on reverse charge basis) shall issue an invoice in respect of goods or services or both received by him **from the unregistered supplier** on the date of receipt of goods or services or both.

- 22. Sitaram Textiles has to send cloth for dyeing to its job-worker. It wishes to know whether it needs to issue a tax invoice at the time of sending the goods to job-worker. Please advise him with reference to the provisions of the CGST Act.**

Answer:

Sitaram Textiles has to issue a delivery challan and not the tax invoice at the time of sending the goods to job-worker.

Rule 55, inter alia, stipulates that for the purposes of transportation of goods for job work, the consignor may issue a delivery challan, serially numbered, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-

- (i) date and number of the delivery challan;
- (ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;
- (iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;
- (iv) Harmonised System of Nomenclature code and description of goods;
- (v) quantity (provisional, where the exact quantity being supplied is not known);
- (vi) taxable value;
- (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
- (viii) place of supply, in case of inter-State movement; and
- (ix) signature.

The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:-

- (a) the original copy being marked as ORIGINAL FOR CONSIGNEE;
- (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
- (c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

E-WAY BILL

E-way Bill is generated electronically in **Form GST EWB 01** on the common portal

Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India] **whereas the Common GST Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax is www.gst.gov.in** [managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013].

The facility of generation, cancellation, updation and assignment of e-way bill shall be made available **to the supplier, recipient and the transporter**, as the case may be.

The pre-requisite for generation of e-way bill is that **the person who generates e-way bill should be a registered person on GST portal and he should register on the e-way bill portal using his GSTIN.**

If the transporter is generating the e-way bill, but he is not registered person under GST law, **it is mandatory for him to get enrolled on e-waybill portal before generation of the e-way bill to get 15-digit Unique Transporter Id called TRANSIN.**

E-way Bill can be generated **through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (application program Interface) based site to site integration etc.**

Statutory requirement	Section 68 of the CGST Act stipulates that the Government may require the <u>person in charge</u> of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed. Rule 138 of CGST Rules, 2017 prescribes E-way bill as the document to be carried for the consignment of goods in certain prescribed cases.
What is e-way bill?	A <u>waybill is a receipt or a document</u> issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route. <u>Electronic Way Bill (E-Way Bill)</u> is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods <u>uploads the relevant information prior to the commencement</u> of movement of goods and generates e-way bill on the GST portal. In other words, <u>E-way bill is an electronic document generated on the GST portal evidencing movement of goods</u>

What are the benefits of e-way bill? [3 Marks]	Following benefits are expected from e-way bill mechanism: (i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts (ii) It will facilitate faster movement of goods (iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.
TRANSIN or Transporter id	TRANSIN or Transporter id is a unique number generated by EWB system for unregistered transporter, once he enrolls on the system which is similar to GSTIN format and is based on State code, PAN and check sum digit. This TRANSIN or Transporter id can be shared by transporter with his clients, who may enter this number while generating e-waybills for assigning goods to him for transportation.
When is e-way bill required to be generated? [Rule 138(1)] [3 Marks]	Whenever there is a movement of goods of <u>consignment value</u> exceeding ₹ 50,000: (i) in relation to a supply; or (ii) for <u>reasons other than supply</u>; or (iii) due to inward supply from an unregistered person, the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 <u>before commencement of such movement.</u> <u>VERY IMPORTANT:</u> In many cases, goods transit through another State while moving from one area in a State to another area in the same State. <u>E-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not.</u> Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.
Who causes movement of goods?	If supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier. If recipient arranges transport, movement is caused by him. If goods are supplied by an unregistered supplier to a registered known recipient, movement shall be caused by such recipient

Meaning of consignment value of goods [4 Marks]	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 ➤ <u>also includes</u> the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and ➤ <u>shall exclude the value of exempt supply of goods</u> where the invoice is issued in respect of both exempt and taxable supply of goods. Note: In case there is a movement of goods for reasons other than supply, the movement is occasioned by means of a delivery challan which has to necessarily contain the value of goods. The value given in the delivery challan should be adopted in the e-way bill.
Special situations where e-way bill needs to be issued even if the value of the consignment is less than ₹ 50,000 [2 Marks]	(i) <u>Inter-State transfer of goods by principal to job-worker</u> Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, <u>the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment</u> (ii) <u>Inter-State transfer of handicraft goods by a person exempted from obtaining registration</u> Where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall be generated by the said person irrespective of the value of the consignment.
E-way Bill in case of 'Bill To Ship To' Model	In a "Bill To Ship To" model of supply, there are 3 persons involved in a transaction, namely: 'A' is the person who has ordered 'B' to send goods directly to 'C'. 'B' is the person who is sending goods directly to 'C' on behalf of 'A'. 'C' is the recipient of goods. In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued: Invoice -1: which would be issued by 'B' to 'A'. Invoice -2: which would be issued by 'A' to 'C'. It is clarified that as per the CGST Rules, 2017, <u>either A or B can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated.</u>

Information to be furnished in e-way bill:	An e-way bill Form GST EWB-01 contains two parts: Part A [comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.]: to be furnished by the registered person** who is causing movement of goods of consignment value exceeding ₹ 50,000/- and Part B (transport details) [Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road]: to be furnished by the person who is transporting the goods. **However, information in Part-A may be furnished: ➤ by the transporter, on an authorization received from such registered person, or ➤ by the e-commerce operator or courier agency, where the goods to be transported are supplied through such e-commerce operator or a courier agency.
Who is mandatorily required to generate e-way bill? [4 Marks]	Where the goods are transported by a registered person - whether as consignor or recipient of supply as the consignee (whether in his own conveyance or a hired one or a public conveyance, by road), <u>the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal)</u> Where the goods are transported <u>by railways or by air or vessel</u>, the e-way bill shall be generated by the registered person, being the supplier or the recipient, <u>who shall, either before or after the commencement of movement, furnish, information in part B on the common portal</u> <u>Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road</u>, the registered person shall furnish the information relating to the transporter in Part A 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 <u>Above provisions can be summarised as under:</u> <i>E-way bill is to be generated by the consignor or consignee (if the transportation is being done in own/hired conveyance or by railways by air or by vessel) or the transporter (if the goods are handed over to a transporter for transportation by road).</i> Where <i>neither the consignor nor consignee generates the e-way bill</i> and the value of goods is more than ₹ 50,000/- it shall be the responsibility of the transporter to generate it.

	Note: A. Where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery B. The registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than ₹50,000 C. Where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement <i>shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.</i>
When is it not mandatory to furnish the details of conveyance in Part-B? [2 Marks]	E-way bill is valid for movement of goods by road only when the information in Part-B is furnished. However, <i>details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of upto 50 km within the State/Union territory:</i> ➤ from the place of business of the consignor to the place of business of the transporter for further transportation, or ➤ from the place of business of the transporter finally to the place of business of the consignee.
Unique e-way bill number (EBN) – 12 digit	Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.
Transfer of goods from one conveyance to another	Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A, or the transporter shall, <i>before such transfer and further movement of goods, update the details of conveyance in Part B of the e-way bill on the common portal.</i> Consignment of goods may be required to be transferred from the original conveyance to due to unforeseen exigencies like break down of the vehicle. In such case, the transporter transferring goods from one conveyance to another in the course of transit <i>shall, before such transfer and further movement of goods, update the details of the conveyance.</i> In some cases, consignments are transported by the transporter through transshipment using multiple vehicles (same mode of transportation) for carrying the same consignment before it is delivered to the recipient at the place of destination. Hence for each movement from one place to another, the transporter needs to update the vehicle number in which he is transporting that consignment in part B of the e-way bill. The user can update Part-B (Vehicle details) as many times as he wants for movement of goods to the destination. However, the updating should be done within the validity period.

	There can also be a case where one e-way bill can go through multiple modes of transportation before reaching destination. <u>As per the mode of transportation, the EWB can be updated with new mode of transportation by using the option of 'Update Vehicle Number'.</u>
Assigning the e-way bill number to another transporter [3 Marks]	The consignor/recipient, who has furnished the information in Part A, or the transporter, may assign the e-way bill number to another registered/enrolled transporter for updating the information in Part B for further movement of the consignment. However, once the details of the conveyance have been updated by the transporter in Part B, the consignor or recipient, as the case may be, who has furnished the information in Part A shall not be allowed to assign the e-way bill number to another transporter. Example: A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. <u>Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y.</u> <u>On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B.</u> Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.
Consolidated E-way bill [2 Marks]	After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and <u>a consolidated e-way bill in Form GST EWB-02 may be generated by him</u> on the said common portal prior to the movement of goods. Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle). That is, the transporter carrying multiple consignments of various consignor and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill instead of carrying separate document for each consignment in a conveyance. Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods.

	Hence, Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB. Further, where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 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 in Form GST EWB-01 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 in Form GST EWB-02 on the common portal prior to the movement of goods. Note: Where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of Form GST EWB-01 may be furnished by such e-commerce operator or courier agency.
Information submitted for e-way bill can be used for filing GST Returns	The information furnished in Part A of the e-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in Form GSTR-1 .
Cancellation of e-way bill [2 Marks]	Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, <u>the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.</u> However, an e-way bill cannot be cancelled if it has been verified in transit. Further, unique number generated is valid for a period of 15 days for updation of Part B.
Acceptance of e-way bill [2 Marks]	The details of the e-way bill generated shall be <u>made available to the –</u> (a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or (b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter, on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill. In case, the person to whom the information in Part-A is made available, <i>does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details.</i> The time-limit specified for this purpose is: (i) 72 hours of the details being made available to him on the common portal, or (ii) the time of delivery of goods, <u>whichever is earlier.</u>

E-way bill generated in one State is valid in another State	The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

Points to remember:

1. E-way bill is not valid for movement of goods without vehicle number on it.
2. If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.
3. E- Way Bill may be updated with vehicle number any number of times.
4. The latest vehicle number should be available on e-way bill and should match with the vehicle carrying it in case checked by the department.
5. **Important:** If multiple invoices are issued by the supplier to 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. That is, 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.

Validity period of e-way bill/consolidated e-way bill [Rule 138(10)] [3 Marks]

S. No.	Distance within country	Validity period from relevant date
1	<u>Upto 200 km</u>	<u>One day</u> in cases other than <u>Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</u>
2	For <u>every 200 km</u> or part thereof thereafter	<u>One additional day</u> in cases other than Over Dimensional Cargo <u>or multimodal shipment in which at least one leg involves transport by ship</u>
3	<u>Upto 20 km</u>	<u>One day</u> in case of <u>Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship</u>
4	For every 20 km or part thereof thereafter	<u>One additional day</u> in case of Over Dimensional Cargo <u>or multimodal shipment in which at least one leg involves transport by ship</u>

*Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, **the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.***

*Provided also that the validity of the e-way bill may be extended within 8 hours from the time of its expiry **(before or after)***

Relevant date means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period **expiring at midnight of the day immediately following the date of generation of e-way bill.**

This can be explained by following examples –

- (i)*** Suppose an e-way bill is generated at 00:04 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.
- (ii)*** Suppose an e-way bill is generated at 23:58 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

The validity of the e-way bill starts ***when first entry is made in Part-B*** i.e. vehicle entry is made first time in case of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is the first entry. It may be noted that validity is not re-calculated for subsequent entries in Part-B.

Situations where E-way Bill is not required to be generated [5 Marks]

No e-way bill is required to be generated in the following cases [Rule 138(14)]:

(a) where the goods being transported are the ones given below:

S.NO.	Description of Goods
1	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2	Kerosene oil sold under PDS
3	Postal baggage transported by Department of Posts
4	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) <u>However, e-way bill needs to be generated for transporting imitation jewellery (7117)</u>
6	Currency
7	Used personal and household effects
8	Coral, unworked (0508) and worked coral (9601)

(b) where the goods are being transported by a **non-motorised conveyance**

(c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station **to an inland container depot or a container freight station** for clearance by Customs

(d) in respect of movement of goods **within such areas as are notified** under of rule 138 of the State or Union territory GST Rules **in that particular State or Union territory**

(e) where the goods being transported are **alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel**

(f) where the supply of goods being transported is treated as **no supply under Schedule III** of the Act

(g) where the goods are being transported-

- i. under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
- ii. under customs supervision or under customs seal

(h) where the goods being transported are **transit cargo from or to Nepal or Bhutan**

(i) any **movement of goods caused by defence formation** under Ministry of defence as a consignor or consignee

(j) where the **consignor of goods is the Central Government, Government of any State or a local authority** for transport of **goods by rail**

(k) where **empty cargo containers** are being transported

- (l) where the goods are being transported **upto a distance of 20 km** from the place of the business of the consignor **to a weighbridge for weighment** or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan.

(m) where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

Documents and devices to be carried by a person-in-charge of a conveyance [Rule 138A]

(1) The person in charge of a conveyance shall carry -

- a. the invoice or bill of supply or delivery challan, as the case may be; **and**
- b. a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a **Radio Frequency Identification Device [RFID]** embedded on to the conveyance **in such manner as may be notified by the Commissioner**

Nothing contained in clause (b) of this sub-rule shall apply in case of movement of goods by rail or by air or vessel

In case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in **Part A of FORM GST EWB-01**.

(2) "In case, E-invoice is issued, the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, **may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.**"

(3) Where the registered person uploads the e-invoice, the information in **Part A of FORM GST EWB-01** shall be auto-populated by the common portal on the basis of the information furnished in **FORM GST INV-1**.

(4) **Unique RFID:**

The **Commissioner may, by notification**, require a class of transporters to obtain a **unique Radio Frequency Identification Device** and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) **Documents in lieu of e-way bill:**

Where circumstances so warrant, the **Commissioner may, by notification**, require the person-in-charge of the conveyance to carry the following documents **instead of the e-way bill**

- a. tax invoice or bill of supply or bill of entry; or
- b. a delivery challan, where the goods are transported for reasons other than by way of supply.

In case of issuance of e-invoice, no requirement to carry the physical copy of tax invoice

The question which arose for consideration was whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued e-invoices.

It is clarified that **there is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier.**

Whenever e-invoice has been generated, production of the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

[GST Circular]

Verification of documents and conveyances [Rule 138B]

The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to **intercept any conveyance to verify the e-way bill in physical or electronic form** for all inter-State and intra-State movement of goods.

The Commissioner **shall get RFID readers installed** at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

The **physical verification of conveyances** shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf.

However, on receipt of **specific information on evasion of tax**, physical verification of a specific conveyance **can also be carried out by any other officer** after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

Inspection and verification of goods [Rule 138C]

A summary report of every **inspection of goods in transit** shall be recorded online by the proper officer **in Part A of a prescribed form [FORM GST EWB-03] within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection.**

However, where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, **extend the time for recording of the final report in Part B of said form, for a further period not exceeding 3 days.**

The period of 24 hours or, as the case may be, 3 days **shall be counted from the midnight of the date on which the vehicle was intercepted.**

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, **no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently.**

Facility for uploading information regarding detention of vehicle [Rule 138D]

Where a vehicle has been intercepted and **detained for a period exceeding 30 minutes**, the transporter may upload the said information in **specified form [FORM GST EWB-04]** on the common portal.

Restriction on furnishing of information in PART A of FORM GST EWB-01 [RULE 138E] - 5 Marks

Notwithstanding anything contained in sub-rule (1) of rule 138, **no person** (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) **shall be allowed** to furnish the information in **PART A of FORM GST EWB-01, in respect of any outward movement of goods of a registered person, who,**

- a. **being a Composition supplier** person paying tax under section 10, has not furnished the statement in FORM GST CMP-08 for 2 consecutive quarters; or
- b. **being a person paying tax under regular scheme**, has not furnished the returns for a consecutive period of 2 tax periods
- c. **being a person paying tax under regular scheme**, has not furnished the statement of outward supplies for any 2 months or quarters, as the case may be.”
- d. **being a person, whose registration has been suspended under the provisions of Rule 21A**

The **Commissioner may**, on receipt of an application from a registered person, on sufficient cause being shown and for reasons to be **recorded in writing, by order, allow furnishing of the said information in PART A of FORM GST EWB 01**, subject to such conditions and restrictions as may be specified by him

However, no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB 01 shall be passed **without affording the said person a reasonable opportunity of being heard**.

Further, the permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

Example to understand amended position:

Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A. As per earlier position of law, Mr. B would not have been able to generate e-way bill with Mr. A's GSTIN.

In terms of the amended position of law, there will be no more restriction in generating e-way Bill as Mr. B who is making outward movement of goods is a regular return filer.

Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

Example to understand amended position:

M/s Raman & Co., a registered person under GST and paying tax monthly basis (located Mumbai). M/s Raman & Co., has not filed Form GSTR-1 for last 2 months. M/s Suraj & Co., a regular return filer (located Madhya Pradesh) wants to generate an e-way bill for goods to be supplied to M/s Raman & Co. As per earlier position of law, M/s Suraj & Co., would not have been able to generate e-way bill with M/s Raman & Co. GSTIN.

In terms of the amended position of law, there will be no more restriction in generating e-way Bill as M/s Suraj & Co., who is making outward movement of goods is a regular return filer.

M/s Raman & Co, wants to generate an e-way bill in respect of an outward supply of goods to M/s Reyaan & Co. E-way bill generation is blocked in this case as it's an outward movement of goods of M/s Raman & Co., who has not filed GSTR-1 for past 2 months.

CBIC Clarification regarding e-way bills**Situation A:**

Consider a situation where a consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. How would the e-way bill be generated in such situations?

Clarification:

It is clarified that in such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y. On reaching City Y, **Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B.** Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.

Situation B:

Consider a situation where a consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. How would the validity of e-way bill be calculated in such situations?

Clarification:

It is clarified that the validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time. In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. **When the transporter is ready to move the goods, he can fill the Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday.**

E-WAY BILL

1. EXAMPLE:

Bhanupratap Shoe Manufacturers, registered in Punjab, sold shoes to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%) and wants to send the consignment of such shoes to Gujarat. The consignment value will be ₹ 56,640 [₹ 48,000 × 118%]. 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.

2. Discuss the correctness of the following statements:-

- (i) Once generated, an e-way bill cannot be cancelled.
- (ii) E-way bill generated in one State is valid in another State.

Solution:

- (i) The said statement is partially correct. Where an e-way bill has been generated, but goods are either not transported at all or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill.

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.

- (ii) The said statement is correct. The e-way bill generated under Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

3. With reference to the provisions relating to the electronic way bill (E-way bill) as prescribed under the GST laws, answer the following questions:

- (i) 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?

- (ii) 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.

- (iii) 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 Prasanna 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).

Solution:

- (i) 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, 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.

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.**

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.

- (ii) 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.

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 the movement of goods is caused due to reasons other than supply, is not correct.**

- (iii) 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.

CBIC has clarified 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.

4. 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:

- (a) in relation to a supply; or
- (b) for reasons other than supply; or
- (c) 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.

5. Happy Company is a registered supplier of electric goods. It has three stores for electric goods in Jodhpur (Rajasthan) namely Ram Store, Shyam Store, Mohan Store. It receives an order for supply of electric goods worth ₹ 1,40,000 (exclusive of GST @ 18%) from Kishan Sons of Bhopal (Madhya Pradesh). Happy Company found that order worth ₹ 43,000 can be fulfilled from the company's Ram Store, order worth ₹ 45,000 can be fulfilled from its Shyam Store and remaining goods worth ₹ 52,000 can be sent from its Mohan Store. All three stores are instructed to issue separate invoices for the goods sent to Kishan Sons. The goods are transported to Kishan Sons in Bhopal in a single conveyance owned by Shiv Transporters.

You are required to advise Happy Company with regard to issuance of e-way bills as per the provisions of the CGST Act, 2017.

Answer

Rule 138 of the CGST Rules, 2017 stipulates that e-way Bill is mandatorily required to be generated if the goods are moved, inter alia, in relation to a supply and the consignment value [including CGST, SGST/UTGST, IGST and cess charged] exceeds ₹ 50,000.

Further, the CBIC has clarified that ***if multiple invoices are issued by the supplier to one recipient, multiple e-way bills have to be generated - one e-way bill for each invoice. Each invoice is considered as separate consignment for the purpose of generating e-way bills.***

In the given case, consignment value of goods supplied against separate invoices from Ram Store, Shyam Store and Mohan Store is ₹ 50,740 [₹ 43,000 × 118%], ₹ 53,100 [₹ 45,000 × 118%] and ₹ 61,360 [₹ 52,000 × 118%] respectively.

Thus, Happy Company is required to prepare 3 separate e-way bills since value of each invoice exceeds ₹ 50,000.

6. What are the documents and devices to be carried by person-in-charge of conveyance under rule 138A of CGST Rules, 2017?

Answer

The person-in-charge of a conveyance has to carry-

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner

7. Explain the meaning of consignment value of goods.**Answer**

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 the Central tax, State or Union territory tax, integrated tax 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.

8. Mr. X, a registered person has caused movement of goods of consignment value exceeding ₹ 50,000 in relation to a supply and thus, generated e-way bill. However, after generation of e-way bill, he found a mistake in the e-way bill and wants to edit it. You are required to advise Mr. X whether he can do so with the help of relevant provisions?

Answer

If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.

Thus, in view of the above-mentioned provisions, Mr. X cannot edit the e-way bill. However, he can cancel the e-way bill within 24 hours of generation and generate a new one with correct details.

9. Talli Lal, a registered person, has transported alcoholic liquor for human consumption of consignment value of ₹ 1,50,000 from Delhi to Haryana. He has not generated e-way bill for the same. You are required to examine the correctness of action taken by Talli Lal.

Answer

E-way bill is not required to be generated where the goods being transported are alcoholic liquor for human consumption.

Thus, the action of Talli Limited of not generating the e-way bill is correct in law.

10. Dhananjay Associates registered in Gujarat deals in industrial grade iron and steel products. The proprietor of Dhananjay Associates sold TMT Iron bars (GST applicable @18%) to a retailer in Maharashtra at a value of ₹ 40,000 (excluding GST). As per the agreement of sale, goods are to be delivered at the premises of retailer. The transportation cost of ₹ 7,000 has been charged separately to deliver the same to the retailer in Maharashtra. In the above scenario, determine whether an e-way bill is required to be issued under GST?

Answer

Consignment value of goods is the value determined in accordance with the provisions of section 15, and also includes the central tax, state or union territory tax, integrated tax and cess charged, if any, in the document.

Further, since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are to be added in the value of principal supply.

Accordingly, the value of supply as per section 15 in the given case would include the transportation cost in the invoice value i.e. ₹ 47,000 (₹ 40,000 + ₹ 7,000).

Consignment value = ₹ 47,000 × 118% = ₹ 55,460.

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 under GST in the given case.

RETURNS

The term “**Return**” ordinarily means **statement of information (facts)** furnished by the taxpayer, to tax administrators, at regular intervals. The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations forming the subject matter of taxation; the measure of taxation such as sale price, turnover, or value; deductions and exemptions; and determination and discharge of tax liability for a given period.

In any tax law, “**filing of returns**” constitutes the most important compliance procedure which enables the Government/ tax administrator to estimate the tax collection for a particular period and determine the correctness and completeness of the tax compliance of the taxpayers.

The returns serve the following purposes [5 Marks]:

- (a) Mode for transfer of information to tax administration;
- (b) Compliance verification program of tax administration;
- (c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;
- (d) Providing necessary inputs for taking policy decision;
- (e) Management of audit and anti-evasion programs of tax administration

Under the GST laws, the correct and timely filing of returns is of utmost importance **because of two reasons.**

Firstly, under GST laws, a taxpayer is required to estimate his tax liability on “self-assessment” basis and deposit the tax amount along with/before the filing of such return. The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer.

Secondly, under the GST regime, filing of returns not only determines the tax liability of the person filing the same, **but it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into taxable activities.**

Chapter IX of the CGST Act [Sections 37 to 48] prescribes the provisions relating to filing of returns as under:

Section 37	:	Furnishing details of outward supplies
Section 38	:	Communication of details of inward supplies & ITC
Section 39	:	Furnishing of Returns
Section 40	:	First Return
Section 41	:	Availment of ITC
~~Section 42~~	~~:~~	~~Matching, reversal and re-claim of input tax credit~~
~~Section 43~~	~~:~~	~~Matching, reversal and re-claim of reduction in output tax liability~~
Section 44	:	Annual Return
Section 45	:	Final Return
Section 46	:	Notice to return defaulters
Section 47	:	Levy of late fee
Section 48	:	Goods and Services Tax Practitioners [GSTP] [Section 48 is applicable to CA-Intermediate students but NOT in CMA Intermediate Syllabus]

The provisions relating to form and manner, in which information is to be furnished through returns, are given **under Chapter VIII of the CGST Rules [Rules 59 to Rule 84]**.

The basic features of the return mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to ITC from returns of supplier to that of recipient, invoice-level information matching etc. **The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.**

All the returns under GST laws are to be filed electronically. Taxpayers can file the statements and returns by various modes. Firstly, they can file their statement and returns directly on the GST common portal online. However, this may be tedious and time consuming for taxpayers with large number of invoices. For such taxpayers, **offline utilities have been provided by GSTN** that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal. **GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the common portal.**

Returns can be filed using any of the following methods: [3 Marks]

- A. GSTN portal (www.gst.gov.in)
- B. Offline utilities provided by GSTN
- C. **GST Suvidha Providers (GSPs)**

GSP [2 Marks]: It is an eco-system of third party service providers, having access to GST system, who can help taxpayers in GST Compliance.

GSP will develop applications for return filing, reconciliation of purchase register data with auto-populated data for acceptance/rejection/modification, dashboard for taxpayers for quick monitoring.

Various types of returns under GST Law

Return Form	Particulars	Frequency	Due Date
GSTR-1	Registered Persons opting for QRMP Scheme	Quarterly	13 th of the next month
	Registered Persons NOT opting for QRMP Scheme	Monthly	11 th of the next month
GSTR-3B	Registered Persons opting for QRMP Scheme	Quarterly	22 nd /24 th of the next month
	Registered Persons NOT opting for QRMP Scheme	Monthly	20 th of the next month
GSTR-4	Registered person paying tax under composition scheme	Annually	On or before <u>30th day of June</u> following the end of such FY). 
GST CMP-08	Registered person paying tax under composition scheme	Quarterly statement for payment of tax	18 th of the month succeeding the quarter

GSTR-5	Return for Non-Resident foreign taxable person	Monthly	<u>13th of the next month</u> or within 7 days after the last day of the period of registration specified u/s 27(1), whichever is earlier
GSTR-5A	Registered person providing OIDAR services from a place outside India, or providing <u>online money gaming</u> from a place outside India to a person in India	Monthly	20 th of the next month
GSTR-6	Input service distributor (ISD)	Monthly	13 th of the next month
GSTR-7	Registered person required to deduct tax at source	Monthly	10 th of the next month
GSTR-8	E-commerce operator required to collect tax at source	Monthly	10 th of the next month
GSTR-9	Annual Return	Annually	31 st December of next financial year
GSTR-9A	Registered person paying tax under composition scheme	Annually	31 st December of next financial year
GSTR-9B	E-commerce operator required to collect tax at source	Annually	31 st December of next financial year
GSTR-9C	Registered person whose aggregate turnover during a financial year <u>exceeds ₹ 5 crore.</u>	Reconciliation statement	To be submitted along with the annual return
GSTR-10	Final Return	Once	Within 3 months of the date of cancellation or date of cancellation order, whichever is later
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming refund.	Monthly	28 th of the month following the month in which inward supply is received.

FURNISHING DETAILS OF OUTWARD SUPPLIES [Form GSTR-1] - SECTION 37

- (1) **[Section 37(1)]** Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, **[in Form GSTR-1]** the details of outward supplies of goods or services or both effected during a tax period on or before the 10th day of the month succeeding the said tax period and such details shall, subject to such conditions and restrictions, within such time and in such manner as may be prescribed, be communicated to the recipient of the said supplies"

Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein.

Quarterly filing of GSTR-1: As a measure of easing the compliance requirement for small taxpayers, GSTR-1 has been allowed to be filed quarterly by small taxpayers with aggregate annual turnover up to ₹ 5 crore in the preceding financial year under Quarterly Return Monthly Payment Scheme.

The time limit for furnishing the details of outward supplies in Form GSTR-1 has been extended in the following manner:

Class of registered person	Time limit for furnishing the details of outward supplies in Form GSTR-1 for each quarter/tax period
Registered persons opting for QRMP scheme	<u>13th day of the month</u> succeeding such tax period
Others	<u>11th day of the month</u> succeeding such tax period

- (2) **[Section 37(3)]** Any registered person, who has furnished the details for any tax period, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period.

However, no rectification of error or omission in respect of the details furnished shall be allowed after 30th November following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

- (3) **[Section 37(4)]** A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

However, Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even if he has not furnished the details of outward supplies for one or more previous tax periods.”

(4) [Section 37(5)]

A registered person **shall not be allowed** to furnish the details of outward supplies for a tax period **after the expiry of a period of 3 years from the due date of furnishing the said details.**

However, Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even after the expiry of the said period of 3 years from the due date of furnishing the said details.

[For the purpose of Section 37, “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.]

Question: Who is required to furnish details of outward supplies? [4 Marks]

Solution: The details of outward supplies of both goods and services are required to be furnished by every registered person **including casual registered person except the following:**

- Input Service Distributor (ISD) [GSTR - 6]
- Non-Resident Taxable Person [GSTR - 5]
- Person paying tax under Composition Scheme (Section 10) [GSTR - 4]
- Person deducting Tax at Source [GSTR - 7]
- Person collecting Tax at Source i.e., e-commerce operator (ECO), not being an agent [GSTR - 8]
- A supplier of online information and database access or retrieval [OIDAR] services **located in non-taxable territory** [GSTR - 5A]
- **Person supplying online money gaming from a place outside India to a person in India** [GSTR - 5A]

RULE 59: Form and manner of furnishing details of Outward Supplies**VERY IMPORTANT**

- (1) Every registered person, other than a person referred to in Section 14 of the IGST Act, 2017 (OIDAR Service Providers), required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in **FORM GSTR-1 for the month or the quarter**, as the case may be, electronically. **[Quarterly GSTR-1 in QRMP Scheme]**

Provided that the said 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 electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner

[Effective from 10.07.2024 - NN 12/2024 CT dated 10.07.2024]

- (2) **Optional IFF under QRMP Scheme for first 2 months in any quarter: [3 Marks]**

- ✓ The registered persons required to furnish return for every quarter,
- ✓ **may furnish the details of such outward supplies of goods or services or both to a registered person,**
- ✓ as he may consider necessary, **for the 1st and 2nd months of a quarter,**
- ✓ **up to a cumulative value of ₹50 lakh in each of the months,**
- ✓ using **invoice furnishing facility** (hereafter in this notification referred to as the "IFF") electronically,
- ✓ **from the 1st day of the month succeeding such month till the 13th day of the said month.**

- (3) The details of outward supplies **furnished using the IFF**, for the 1st & 2nd months of a quarter, shall **not be furnished** in **FORM GSTR-1** for the said quarter.

(4) [5 Marks] The details of outward supplies of goods or services or both furnished in FORM

GSTR-1 shall include the –

a. *invoice wise details of all -*

- i. inter-State and intra-State supplies made **to the registered persons**; and
- ii. inter-State supplies **with invoice value more than ₹ 100,000 (effective from 01.08.2024) ₹250,000** made to the unregistered persons;

b. *consolidated details of all -*

- i. intra-State supplies made **to unregistered persons** for each rate of tax; and
- ii. State wise inter-State supplies **with invoice value upto ₹ 100,000 (effective from 01.08.2024) ₹250,000** made to unregistered persons for each rate of tax;

c. *debit and credit notes, if any, issued during the month for invoices issued previously.*

New Sub-rule 4A of Rule 59 - Effective from 10 July 2024 [NN 12/2024 CT Dated 10.07.2024]

The additional details or the amendments of the details of outward supplies of goods or services or both **furnished in FORM GSTR-1A** may, **as per the requirement of the registered person,** include the –

a. *invoice wise details of -*

- i. inter-State and intra-State supplies **made to the registered persons**; and
- ii. inter-State supplies with invoice value more than **₹ 100,000** made to the unregistered persons;

b. *consolidated details of -*

- i. intra-State supplies made to unregistered persons for each rate of tax; and
- ii. State wise inter-State supplies with invoice value upto **₹ 100,000** made to unregistered persons for each rate of tax;

c. *debit and credit notes, if any, issued during the month for invoices issued previously.*

(5) [2 Marks] The details of outward supplies of goods or services or both furnished using the

IFF shall include the –

a. **invoice wise details of inter-State and intra-State supplies made to the registered persons**; [B2B Supply]

b. *debit and credit notes, if any, issued during the month for such invoices issued previously.”*

(6) [5 Marks] Rule 59(6) - Cases where a registered person shall not be allowed to furnish details of outward supplies in GSTR-1/IFF

- i. a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1, **if he has not furnished the return in FORM GSTR-3B for the preceding month;**
- ii. a registered person, required to furnish return for every quarter, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, **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 of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility 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).

*Rule 88C has been introduced to determine a mechanism for dealing with difference in liability reported in statement of outward supplies between Form GSTR-1 and Form GSTR-3B. Accordingly, where the tax liability as per Form GSTR-1 for a tax period exceeds the tax liability as per Form GSTR-3B for that period **by more than a specified extent**, the registered person would be intimated on the portal of such difference and be directed to either (i) pay the differential tax liability along with interest, or (ii) explain the difference, **within specified time.***

*Unless the taxpayer either deposits the amount specified in the said intimation or furnishes a reply explaining the reasons for any amount remaining unpaid, **such a person should not be allowed to file Form GSTR-1/ IFF for the subsequent tax period.***

- iv. a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88D in respect of a tax period or periods, **shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility for a subsequent tax period, unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess input tax credit that still remains to be paid, as required under the provisions of sub-rule (2) of rule 88D;**
- v. a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in FORM GSTR-1 or using the invoice furnishing facility, **if he has not furnished the details of the bank account as per the provisions of rule 10A.**

Rule 88C - Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return

- 1.** Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in Form GSTR-1, **as amended in FORM GSTR-1A if any**, or using the IFF in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in Form GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference.

Such registered person shall be intimated in prescribed form, electronically on the common portal, and a copy of such intimation shall also be sent to his email address which registered person has provided at the time of registration or as amended from time to time.

In said intimation, the said difference between GSTR-1 and GSTR-3B will be highlighted and he will be directed to:

- a) pay the differential tax liability, along with interest under section 50, through prescribed form [Form GST DRC-03]; or
 - b) explain the aforesaid difference in tax payable on the common portal, **within a period of 7 days.**
- 2. Such registered person shall, upon receipt of the aforesaid intimation, either:**
- (a) pay the amount of the differential tax liability, as specified in intimation, fully or partially, along with interest under section 50, and furnish the details thereof electronically on the common portal; or
 - (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, **within the period of 7 days.**
- 3. Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, **the said amount shall be recoverable in accordance with the provisions of section 79.****

[Note: a registered person, to whom such an intimation of difference between GSTR-1 and GSTR-3B for a tax period is issued, will be blocked from furnishing the GSTR-1/using IFF for subsequent tax period unless he deposits amount specified in intimation or explains the reasons for any unpaid amount.]

Rule 88D: Manner of dealing with difference in ITC available in auto-generated statement containing the details of ITC and that availed in return prescribed

A mechanism has been devised which allows system-based intimation to the taxpayer about the excess availment of ITC in Form GSTR-3B vis-a-vis that reported in Form GSTR-2B, above a particular threshold and **with provision for self-compliance on the portal by the said taxpayer.**

Consequently, new rule 88D has been introduced to give a system-based intimation to the registered person in those cases where difference between the ITC availed as per GSTR-3B and that available as per GSTR-2B exceeds such amount and such percentage as may be recommended by the Council.

New rule 88D provides as follows:

1. Where the amount of ITC availed by a registered person in the return for a tax period(s) furnished by him in Form GSTR-3B exceeds the ITC available to such person in accordance with the auto-generated statement containing the details of ITC in Form GSTR-2B in respect of the said tax period(s), by specified amount and percentage, the said registered person shall be given an intimation in prescribed form electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time.

Said intimation shall highlight the said difference and will direct him to-

- a. pay an amount equal to the excess ITC availed in the said Form GSTR-3B, along with interest payable under section 50, through prescribed form **[Form GST DRC-03]**, or
 - b. explain the reasons for the aforesaid difference in ITC on the common portal, within a period of 7 days.
2. Such registered person shall, upon receipt of said intimation, either,
 - (a) pay an amount equal to the excess ITC, as specified in intimation, fully or partially, along with interest payable, through prescribed form and furnish the details thereof, electronically on the common portal, or
 - (b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess ITC that has still remained to be paid, within 7 days' period.
 3. Where any amount specified in the intimation remains to be paid within 7 days' period and where no explanation/reason is furnished by the registered person in default or where the explanation/reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74 or section 74A.

Furnishing of details of outward supplies under section 37 of the CGST Act in QRMP Scheme

1. **Invoice Furnishing Facility (IFF)** is a facility provided to quarterly taxpayers who are in QRMP scheme, **to file their details of outward supplies in first two months of the quarter, to pass on the credit to their recipients.**
2. Invoice furnishing facility (IFF) is **not mandatory, but an optional facility** made available to the registered persons under the QRMP scheme. At his option, a registered person may choose to furnish the details of outward supplies made during a quarter in Form GSTR-1 only, without using the IFF.
3. The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be **duly reflected in the Form GSTR-2A and Form GSTR-2B of the concerned recipient.**
4. In case where a buyer has made purchases from a person opting for QRMP scheme, he could not have claimed full ITC but due to introduction of IFF, such delay will not occur as the details submitted using IFF **will be reflected in the GSTR-2A, GSTR-2B, GSTR-4A or GSTR-6A of the recipients, as the case may be.**
5. Taxpayers opting for QRMP Scheme may furnish the details of such outward supplies **to a registered person**, as he may consider necessary, for the 1st and 2nd months of a quarter, upto a cumulative value of ₹ 50 lakh **in each of the first 2 months** of the quarter using IFF electronically on the common portal. **However, invoices pertaining to last month of a quarter are to be uploaded in GSTR-1 only.**
6. For each of the 1st & 2nd months of a quarter, such a registered person will have the **facility (Invoice Furnishing Facility- IFF)** to furnish the details of such outward **supplies to a registered person**, as he may consider necessary, between **the 1st day of the succeeding month till the 13th day of the succeeding month.**
7. **The said details of outward supplies shall, however, not exceed the value of ₹ 50 lakh rupees in each month.**
8. It may be noted that after 13th of the month, this facility for furnishing IFF for previous month would not be available. As a facilitation measure, continuous upload of invoices would also be provided for the registered persons **wherein they can save the invoices in IFF from the 1st day of the month till 13th day of the succeeding month.**
9. **The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be duly reflected in the FORM GSTR-2A and FORM GSTR-2B of the concerned recipient.**

For example, a registered person who has availed the Scheme wants to declare 2 invoices out of the total 10 invoices issued in the 1st month of quarter since the recipient of supplies covered by those 2 invoices desires to avail ITC in that month itself. Details of these 2 invoices may be furnished using IFF. The details of the remaining 8 invoices shall be furnished in **FORM GSTR-1** of the said quarter. The 2 invoices furnished in IFF shall be reflected in **FORM GSTR-2B** of the concerned recipient of the 1st month of the quarter and remaining 8 invoices furnished in **FORM GSTR-1** shall be reflected in **FORM GSTR-2B** of the concerned recipient of the last month of the quarter.

- 10.** The said facility would however be available, say for the month of July, from 1st August till 13th August. Similarly, for the month of August, the said facility will be available from 1st September till 13th September.
- 11.** The details of invoices furnished using the said facility in the first 2 months are not required to be furnished again in **FORM GSTR-1**. Accordingly, the details of outward supplies made by such a registered person during a quarter shall consist of details of invoices furnished using IFF for each of the first two months and the details of invoices furnished in **FORM GSTR-1** for the quarter.

Form and manner of ascertaining details of inward supplies

FORM GSTR-2A:

Form GSTR-2A is a system generated read only statement of inward supplies for a recipient. This statement is updated on a real time basis.

The details become available to the recipient for view/download and **are updated incrementally** as and when supplier(s) upload or change details in their respective form of return/statement, for the given tax period.

Details of outward supplies furnished by the supplier in Form GSTR-1 **or Form GSTR-1A** or using the IFF is made available electronically to the **concerned registered persons (recipients) in Form GSTR-2A, Form GSTR-2B in Form GSTR-4A and in Form GSTR-6A, as the case may be.**

Details of invoices furnished by a non-resident taxable person in Form GSTR- 5 and by an Input Service Distributor in Form GSTR-6, details of TDS by deductor furnished in Form GSTR-7 and details of TCS by an e-commerce operator furnished in Form GSTR-8, are made available to the recipient, deductee or concerned person, in Form GSTR-2A.

Further, details of the **integrated tax paid on the import of goods or goods brought in DTA from SEZ** unit/developer on a bill of entry **are also made available in Form GSTR-2A.**

FORM GSTR-2B:

An auto-generated statement (READ ONLY STATEMENT - STATIC) containing the details of ITC shall be made available to the registered person in **FORM GSTR-2B**, for every month, electronically through the common portal, and shall consist of -

- (i) the details of outward supplies furnished by his supplier, other than a supplier required to furnish return for every quarter, in **FORM GSTR-1**, between the day immediately after the due date of furnishing of **FORM GSTR-1** for the previous month to the due date of furnishing of **FORM GSTR-1** for the month;
- (ii) the details of outward supplies furnished by his supplier required to furnish return for every quarter, in **FORM GSTR-1** or using the IFF (invoice furnishing facility), as the case may be,-
 - a) for the 1st month of the quarter, between the day immediately after the due date of furnishing of **FORM GSTR-1** for the preceding quarter to the due date of furnishing details using the IFF for the 1st month of the quarter;
 - b) for the 2nd month of the quarter, between the day immediately after the due date of furnishing details using the IFF for the 1st month of the quarter to the due date of furnishing details using the IFF for the 2nd month of the quarter;
 - c) for the 3rd month of the quarter, between the day immediately after the due date of furnishing of details using the IFF for the 2nd month of the quarter to the due date of furnishing of **FORM GSTR-1** for the quarter;

Example:

If a supplier opting for QRMP files an invoice dated 15th July on 13th August, it will get reflected in GSTR-2B of July (generated on 14th August). **If the document is filed on 14th August, the document will be reflected in Form GSTR-2B of August (generated on 14th September).**

- (iii) **the additional details or amendments in details of outward supplies furnished by his supplier in FORM GSTR-1A filed between the day immediately after the due date of furnishing of FORM GSTR-1 for the previous tax period to the due date of furnishing of FORM GSTR-1 for the current tax period**

[Effective from 10.07.2024 - NN 12/2024 CT dated 10.07.2024]

[2 Marks] The Statement in **FORM GSTR-2B for every month** shall be made available to the registered person,-

- (i) for the 1st & 2nd month of a quarter, a day **after the due date** of furnishing of details of outward supplies for the said month, in the IFF (invoice furnishing facility) by a registered person required to furnish return for every quarter, or in **FORM GSTR-1** by a registered person required to furnish return monthly, whichever is later;
- (ii) in the 3rd month of the quarter, a day **after the due date** of furnishing of details of outward supplies for the said month, in **FORM GSTR-1** by a registered person required to furnish return for every quarter”



GSTR-2A and its features

- System generated read only statement of inward supplies
- Updated on Real Time basis
- Reflects details of invoices furnished by a non-resident taxable person in Form GSTR-5
- Reflects details of invoices furnished by Input Service Distributor in Form GSTR-6
- **Reflects details of TDS by deductor furnished in Form GSTR-7**
- **Reflects details of TCS by an e-commerce operator furnished in Form GSTR-8**
- Reflects details of IGST paid on the import of goods, goods brought in the DTA from SEZ unit/developer

GSTR-2B and its features

- Auto-generated statement containing the details of eligible ITC
- **Available once a month**
- **Static statement**
- Reflects details of outward supplies furnished by the suppliers in Form GSTR-1, 5 & 6, between the cut-off dates
- Reflects details of outward supplies furnished by the supplier who has opted for QRMP scheme, in Form GSTR-1 or using the IFF between the cut off dates
- Reflects details of IGST paid on the import of goods, goods brought in the DTA from SEZ unit/developer

**How are the details of outward supply furnished in the current period amended?
[Proviso to rule 59(1)]**



In cases where a taxpayer, after having filed Form GSTR-1, realizes that some amendment (downward or upward) is required to be made in his tax liability in Form GSTR-1, **an optional Form GSTR-1A is provided to him.**

This allows him to **add any particulars** of the current tax period missed out in reporting in Form GSTR-1 of current tax period or **amend any particulars** already declared in Form GSTR-1 of current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers).

A 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 [Proviso to rule 59(1)].

Example: A supplier issued two invoices INV1 and INV2 in the month of January. Then, he furnished the details of the invoice INV1 on 8th Feb in Form GSTR-1. However, he misses one invoice INV2 and furnishes the details of the same in Form GSTR-1A on 15th Feb.

In this case, INV1 will go to Form GSTR-2B of the recipient for the month of January made available on 14th Feb. Further, INV2 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.

Example: A supplier issued two invoices INV 3 and INV 4 in the month of January. Then, he furnished the details of the invoice INV 3 on 15th Feb in Form GSTR-1.

However, he declared INV 4 in Form GSTR-1A on 16th Feb. In this case, both INV3 and INV4 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.

**Key features of Form GSTR-1A are as follows: [5 Marks]**

- Form GSTR-1A is an optional facility.
- It can be filed only once for a return period.
- It allows to amend the records filed in the Form GSTR-1 of current tax period only.
- The corresponding effect of the changes made through Form GSTR-1A on the liability of the taxpayer shall be reflected in Form GSTR-3B for the same tax period.
- At the recipient's end, the ITC for the supplies declared or amended by the suppliers through Form GSTR-1A will be available to the recipient in Form GSTR-2B generated for the next tax period.
- It can be amended only electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.
- There is no due date for filing of GSTR-1A.
- **For the taxpayers filing Form GSTR-1 on monthly basis:**
 - ☞ Form GSTR-1A will be available on the portal every month from the due date of filing of Form GSTR-1 or the actual date of filing of Form GSTR-1, whichever is later, and will be available till the actual filing of corresponding Form GSTR-3B of the same tax period.
 - ☞ From the liability perspective, the net impact of particulars declared or amended through Form GSTR-1A, along with the particulars declared in Form GSTR-1, shall be auto-populated in Form GSTR-3B for the same tax period as that of Form GSTR-1.
- **For the QRMP taxpayers, who files FORM GSTR-1 on Quarterly basis:**
 - ☞ Form GSTR-1A shall be available quarterly after actual filing of Form GSTR-1 (Quarterly) or the due date of filing of Form GSTR -1 (Quarterly), whichever is later, and will be available till the actual filing of Form GSTR-3B of the same tax period.
 - ☞ The supplies reported in Form GSTR-1 of the current tax period (including those declared in IFF, for the first month, M1 and second month, M2 of a quarter, if any) can be amended through corresponding quarterly GSTR-1A.
 - ☞ From the liability perspective, the net impact of the particulars declared in GSTR 1A (Quarterly), along with particulars furnished in Form GSTR-1 (Quarterly) (or through IFF of Month M1 and M2, if filed), shall be auto-populated in Form GSTR-3B (Quarterly) of the same tax period.
 - ☞ There will be no separate amendment facility available for records furnished through IFF for the months M1 and M2, during the month M1 and M2.
- In case where **change is required to be made in GSTIN** of a recipient for a supply reported in Form GSTR-1 of a tax period, **the same can be rectified through Form GSTR-1 for the subsequent tax period only.**

How are the details of outward supply furnished in prior periods amended?**(a) Scope of amendment/ correction entries**

Tables in GSTR-1 provide for amendments in details of taxable outward supplies furnished in earlier periods (hereinafter referred to as "Amendment Table"). The **supplier** can make amendments in the particulars furnished in GSTR-1 filed by him for the prior periods.

The details of original debit notes/ credit notes / refund vouchers issued by the tax-payer in the current tax period as also the revision in the debit notes/ credit notes / refund vouchers issued in the earlier tax periods **are required to be shown in GSTR-1.**

Ordinarily in Amendment Table the supplier is required to give details of original invoice (No and Date), **the particulars of which have been wrongly entered in GSTR-1 of the earlier tax periods and are now sought to be amended.** However, it may happen that, a supplier altogether forgets to include the entire original invoice while furnishing the GSTR-1 for a particular tax period.

In such cases also, he would be required to show the details of the said missing invoice which was issued in earlier tax period **in the Amendment Table only**, as such type of errors would also be regarded as data entry error.

(b) Rectification of errors

If suppliers discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

(c) Time limit for rectification

Suppose for some reason, supplier could not make correction at the time of filing of GSTR-1 for the month (in which error is noticed) then he can make such amendments in the subsequent periods.

However, the maximum time limit within which such amendments are permissible is earlier of the following dates:

- ✓ **30th November following the end of the financial year to which such details pertain; or**
- ✓ Date of filing of the relevant annual return

IMPORTANT POINTS:

- ✚ GSTR 1 needs to be filed **even if there is no business activity** (Nil Return) in the tax period.
- ✚ Taxpayer opting for voluntary cancellation of GSTIN **will have to file GSTR-1 for active period.**
- ✚ In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR 1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. **The GSTR 1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.**
- ✚ **Invoices can be uploaded at any time during the tax period** and not just at the time of filing.
- ✚ **Invoices can be modified/deleted any number of times** till the submission of GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the GSTR-1 is submitted and can be changed irrespective of due date.
- ✚ **Scanned copies of invoices are not required to be uploaded.**
- ✚ **In case there is no consideration**, but the activity is a supply by virtue of Schedule 1 of CGST Act, the taxable value will have to be worked out as prescribed and uploaded.
- ✚ **Description of each item in the invoice will not be uploaded.** Only HSN code in respect of supply of goods and accounting code in respect of supply of services will have to be fed.
- ✚ *GST is a destination based consumption tax, hence the tax revenue is transferred to the State which is the place of supply of the particular transaction. Since, the place of supply is crucial for determining the share of every State in the tax revenue, **GSTR-1 also captures information relating to place of supply.***

What are the precautions that a taxpayer is required to take for a hassle free compliance under GST?**1. Timely uploading of the details of outward supplies in Form GSTR-1**

One of the most important things under GST is the **timely furnishing of the details of outward supplies in GSTR-1 / IFF**. How best this can be ensured will depend on the number of B2B invoices that the taxpayer issues. If the number is small, the taxpayer can upload all the information in one go.

However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis.

2. Regular uploading of invoices

GST common portal allows regular uploading of invoices even on a real time basis. Till the statement is actually submitted, the system also allows the taxpayer to modify the uploaded invoices. **Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices.** Last minute rush makes uploading difficult and comes with higher risk of possible failure and default.

3. Follow up with suppliers to upload the invoices of inward supplies

The second thing would be to ensure that taxpayers **follow up on uploading the invoices of their inward supplies by their suppliers**. This would be helpful in ensuring that the ITC is available without any hassle and delay. **Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date.** The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them.

Section 38: Communication of details of inward supplies and input tax credit**[5 Marks]**

- (1) The details of outward supplies furnished by the registered persons under Section 37(1) and of such other supplies as may be prescribed, **and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients** of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.
- (2) **The auto-generated statement under sub-section (1) shall consist of—**
- (a) details of inward supplies in respect of which credit of input tax **may be available to the recipient**; and
 - (b) details of supplies in respect of which **such credit cannot be availed**, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished under section 37(1)-
 - (i) by any registered person within such period of taking registration as may be prescribed; or
 - (ii) by any registered person, **who has defaulted in payment of tax** and where such default has continued for such period as may be prescribed; or
 - (iii) by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him under the said sub-section during such period, as may be prescribed, **exceeds the output tax paid by him during the said period by such limit as may be prescribed**; or
 - (iv) by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount **that exceeds the credit that can be availed by him in accordance with clause (a)**, by such limit as may be prescribed; or
 - (v) by any registered person, **who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12)** subject to such conditions and restrictions as may be prescribed; or
 - (vi) by such other class of persons as may be prescribed. ”.

Furnishing of Returns [Section 39]

1. **[3 Marks]** Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return [Form GSTR-3B], electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

[Proviso to Section 39(1)] Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

2. A registered person paying tax under the provisions of section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

3. **[1 Marks]** Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed.

Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.

[Effective from 01.11.2024 - Amendment by the Finance (No. 2) Act, 2024]

~~Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within 10 days after the end of such month.~~

SATC Note: The above amendment is **NOT applicable** for CA Inter May 2025 exam. However, this amendment **is applicable** for CA Inter Sept 2025/Jan 2026 Exam & CMA Inter June 2025/Dec 2025 Exam.

4. **[1 Marks]** Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within 13 days after the end of such month.

5. **[2 Marks]** Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, **within 13 days** after the end of a calendar month or within 7 days after the last day of the period of registration specified under section 27(1), **whichever is earlier**.
6. The **Commissioner may**, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:
- Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.*
7. Every registered person who is required to furnish a monthly return, shall pay to the Government the tax due as per such return **not later than the last date on which he is required to furnish such return:**
- “Provided that every registered person furnishing quarterly return shall pay to the Government, in such form and manner, and within such time, as may be prescribed,-***
- a. ***an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month; or***
- b. ***in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed. ”***
- Also, every registered person (opted for composition scheme) furnishing return shall pay to the Government the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars **during a quarter**, in such form and manner, and within such time, as may be prescribed.
8. **[1 Marks]** Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period **whether or not any supplies of goods or services or both have been made** during such tax period.
9. **IMPORTANT (4 Marks):** If any registered person after furnishing a return **discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:**

Provided that no such rectification of any omission or incorrect particulars shall be allowed after 30th November following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

10. **[2 Marks]** A registered person shall not be allowed to furnish a return for a tax period **if the return for any of the previous tax periods or the details of outward supplies under section 37(1) for the said tax period has not been furnished by him.**

However, Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies for the said tax period.

11. **[Section 39(11)]**

A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of 3 years from the due date of furnishing the said return.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of 3 years from the due date of furnishing the said return.

Important Points:

1. **[2 Marks]** GSTR-3B is a simple return containing summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR- 3B does not require invoice-wise data of outward supplies.

GSTR-3B can be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. Further, a Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B can be filed monthly or quarterly

2. **A return furnished under section 39(1) on which self-assessed tax has been paid in full is considered as a valid return.**
3. **Filing of returns for current month is possible only when returns of the previous month have been filed.**
4. **A taxpayer needs to electronically sign the submitted returns otherwise it will be considered not-filed.**
5. **Taxpayers can electronically sign their returns using a**
 - ✓ **DSC (mandatory for all types of companies and LLPs),**
 - ✓ **E-sign (Aadhaar-based OTP verification), or**
 - ✓ **EVC (Electronic Verification Code sent to the registered mobile number of the authorized signatory).**
6. **If a return has been filed, how can it be revised if some changes are required to be made?**

Solution:

In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes.

Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. **They can be amended in any of the future GSTR-1 in the tables specifically provided therein for the purposes of amending previously declared details.**

Quarterly Return Monthly Payment Scheme (QRMP Scheme)

Proviso to section 39(1) of the CGST Act, 2017 (Amended), empowers the Government to **notify** certain class of registered persons who shall furnish **return on quarterly basis**. Further, section 39(7) provides that **person so notified** to furnish quarterly return shall pay taxes due **during a month** within prescribed time and manner.

In terms of above provisions, **with effect from 01.01.2021, a Quarterly Return Monthly Payment (QRMP) Scheme has been introduced** as a trade facilitation measure and in order to further ease the process of doing business.

QRMP Scheme 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.

This will significantly reduce the compliance burden on such taxpayers as now 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**.

Class of Registered person notified for QRMP Scheme

Registered persons having an **aggregate turnover of up to ₹ 5 crore in the preceding financial year, and who have opted to furnish a return for every quarter** under Rule 61A **as the class of persons** who shall, subject to the following conditions and restrictions, **furnish a return for every quarter**, and pay the tax due every month, namely: -

- i. the return for the preceding month, as due on the date of exercising such option, has been furnished;
- ii. where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the same.

A registered person whose **aggregate turnover crosses five crore rupees during a quarter in a financial year** shall not be eligible for furnishing of return on quarterly basis **from the first month of the succeeding quarter**.

Manner of opting for furnishing quarterly return [RULE 61A]

- (1) **Every registered person intending to furnish return on a quarterly basis indicate his preference** for furnishing of return on a quarterly basis, electronically, on the common portal, **from the 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised:**

[**Example:** A registered person intending to avail of QRMP scheme for the quarter 'July to September' can exercise his option from 1st May to 31st July.]

However, where such option has been exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, **unless the said registered person,–**

- a. **becomes ineligible** for furnishing the return on a quarterly basis as per the conditions and restrictions notified in this regard; **or**
- b. **opts for furnishing** of return on a monthly basis, electronically, on the common portal:

Further, a registered person **shall not be eligible to opt for furnishing quarterly return** in case the last return due on the date of exercising such option has not been furnished.

Example: If a registered person intending to avail of QRMP scheme for the quarter 'July to September' is exercising his option on 27th July for the said quarter, **he must have furnished the return for the month of June which was due on 20th July.**

- (2) **Option of QRMP scheme to lapse:** A registered person, whose aggregate turnover exceeds 5 crore rupees during the current financial year, **shall opt for furnishing of return on a monthly basis**, electronically, on the common portal, **from the 1st month of the quarter, succeeding the quarter during which his aggregate turnover exceeds 5 crore rupees.**

RULE 61: Form and manner of furnishing of return

- (1) Every registered person **other than a person referred to in Section 14 of the IGST Act, 2017 (OIDAR Service Provider) or an Input Service Distributor (ISD) or a non-resident taxable person (N RTP) or a Person paying tax under section 10 or Section 51 or, as the case may be, under Section 52** shall furnish a return in **FORM GSTR-3B**, electronically, as specified under-

- i. **Monthly Return:** for each month, or part thereof, **on or before the 20th** of the month succeeding such month:
- ii. **Quarterly Return (QRMP Scheme):** for each quarter, or part thereof, on or before the date mentioned below:–

S. No.	Class of Registered Persons	Due Date
(1)	(2)	(3)
1	Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	22nd of the month succeeding such quarter.

2	Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th of the month succeeding such quarter.

(2) Every registered person required to furnish return, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in the return in **FORM GSTR-3B**.

(3) Every registered person required to furnish return, every quarter, shall pay the tax due for each of the first 2 months of the quarter, **by depositing the said amount** in **FORM GST PMT-06**, by the **25th of the month succeeding such month**:

Provided that the **Commissioner may, on the recommendations of the Council, by notification**, extend the due date for depositing the said amount in **FORM GST PMT-06**, for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner:

Provided also that while making a deposit in **FORM GST PMT-06**, such a registered person may –

- a. **for the first month** of the quarter, **take into account the balance in the electronic cash ledger**.
- b. **for the second month** of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the first month.

(4) The amount deposited by the registered persons in first 2 months, **shall be debited** while filing the return for the said quarter in **FORM GSTR-3B**, and any claim of refund of such amount lying in balance in the electronic cash ledger, if any, **out of the amount so deposited shall be permitted only after the return in FORM GSTR-3B for the said quarter has been filed.**”

Monthly Payment of Tax under QRMP Scheme

1. The registered person under the QRMP Scheme would be required to pay the tax due in each of the first 2 months of the quarter by depositing the due amount in **FORM GST PMT-06**, by the 25th day of the month succeeding such month. While generating the challan, taxpayers should select **"Monthly payment for quarterly taxpayer"** as reason for generating the challan.

The said person can use any of the following 2 options provided below for monthly payment of tax during the first 2 months -

- a. **Fixed Sum Method:** A facility is being made available on the portal for generating a pre-filled challan in **FORM GST PMT-06** for an amount
 - equal to 35% of the tax paid in cash in the preceding quarter where the return was furnished quarterly; or
 - equal to the tax paid in cash in the last month of the immediately preceding quarter where the return was furnished monthly.

For easy understanding, the same is explained by way of illustration in table below:

- i. In case the last return filed was on quarterly basis for Quarter Ending March, 2025:

Tax paid in Cash in Quarter (January - March, 2025)		Tax required to be paid in <u>each of the months</u> – April and May, 2025	
CGST	100	CGST	35
SGST	100	SGST	35
IGST	500	IGST	175
Cess	50	Cess	17.5

- ii. In case the last return filed was monthly for tax period March, 2025:

Tax paid in Cash in March, 2025		Tax required to be paid in each of the months – April and May, 2025	
CGST	50	CGST	50
SGST	50	SGST	50
IGST	80	IGST	80
Cess	-	Cess	-

Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.

A **complete tax period means** a tax period in which the person is registered from the 1st day of the tax period till the last day of the tax period.

- b. **Self-Assessment Method:** The said persons, in any case, can pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, in **FORM GST PMT-06**.

In order to facilitate ascertainment of the ITC available for the month, an auto-generated input tax credit statement has been made available in **FORM GSTR- 2B**, for every month.

2. The said registered person is **free to avail either of the 2 tax payment method above in any of the 2 months of the quarter**.

3. It is clarified that **in case the balance in the electronic cash ledger and/or electronic credit ledger is adequate** for the tax due for the 1st month of the quarter or where there is nil tax liability, the registered person may not deposit any amount for the said month.

Similarly, for the 2nd month of the quarter, in case the balance in the electronic cash ledger and/or electronic credit ledger is adequate for the cumulative tax due for the 1st and the 2nd month of the quarter or where there is nil tax liability, the registered person may not deposit any amount.

4. Any claim of refund in respect of the amount deposited for the first 2 months of a quarter for payment of tax shall be permitted only after the return in **FORM GSTR-3B** for the said quarter has been furnished.

Further, this deposit cannot be used by the taxpayer for any other purpose till the filing of return for the quarter.

Quarterly filing of FORM GSTR-3B

Such registered persons would be required to furnish **FORM GSTR-3B**, for each quarter, on or before 22nd or 24th day of the month succeeding such quarter. In **FORM GSTR-3B**, they shall declare the supplies made during the quarter, ITC availed during the quarter and all other details required to be furnished therein.

The amount deposited by the registered person in the first two months shall be debited solely for the purposes of offsetting the liability furnished in that quarter's **FORM GSTR-3B**.

However, any amount left after filing of that quarter's **FORM GSTR-3B** may either be claimed as refund or may be used for any other purpose in subsequent quarters.

In case of cancellation of registration of such person during any of the first two months of the quarter, he is still required to furnish return in **FORM GSTR-3B** for the relevant tax period.

Applicability of Interest

1. For registered person making payment of tax by opting Fixed Sum Method

- i. No interest would be payable in case the tax due is paid in the first 2 months of the quarter by way of depositing auto-calculated fixed sum amount by the due date. In other words, if while furnishing return in **FORM GSTR-3B**, it is found that in any or both of the first 2 months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan, then, no interest would be charged provided they deposit system calculated amount for each of the first 2 months and discharge their entire liability for the quarter in the **FORM GSTR-3B** of the quarter by the due date.
- ii. In case such payment of tax by depositing the system calculated amount in **FORM GST PMT-06** is not done by due date, **interest would be payable at the applicable rate, from the due date of furnishing FORM GST PMT-06 till the date of making such payment.**
- iii. Further, in case **FORM GSTR-3B** for the quarter is furnished beyond the due date, interest would be payable **as per the provisions of Section 50 of the CGST Act for the tax liability net of ITC.**

Illustration 1 –

A registered person, who has opted for the Scheme, had paid a total amount of ₹ 100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax under **fixed sum method**. He therefore pays ₹ 35/- each on 25th February and 25th March for discharging tax liability for the first two months of quarter viz. January and February.

In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was ₹ 40/- and for February it was ₹ 42/-. No interest would be payable for the lesser amount of tax (i.e. ₹ 5 and ₹ 7 respectively) discharged in these two months **provided that he discharges his entire liability for the quarter in the FORM GSTR-3B of the quarter by the due date.**

Illustration 2 –

A registered person, who has opted for the Scheme, had paid a total amount of ₹ 100/- in cash as tax liability in the previous quarter of October to December. He opts to pay tax **under fixed sum method**. He therefore pays ₹ 35/- each on 25th February and 25th March for discharging tax liability for the first two months of quarter viz. January and February.

In his return for the quarter, it is found that total liability for the quarter net of available credit was ₹ 125 but he files the return on 30th April. Interest would be payable at applicable rate on ₹ 55 [₹ 125 – ₹ 70 (deposit made in cash ledger in M1 and M2)] **for the period between due date of quarterly GSTR 3B and 30th April.**

2. For registered person making payment of tax by opting Self-Assessment Method

Interest amount would be payable as per the provision of Section 50 of the CGST Act for tax or any part thereof (net of ITC) **which remains unpaid / paid beyond the due date for the first 2 months of the quarter.**

3. Interest payable, if any, shall be paid through FORM GSTR-3B.**Applicability of Late Fee:**

Late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of Section 47 of the CGST Act. As per the Scheme, the requirement to furnish the return under the proviso to sub-section (1) of Section 39 of the CGST Act **is quarterly.**

Accordingly, late fee would be the applicable for delay in furnishing of the said **quarterly** return / details of outward supply.

It is clarified that no late fee is applicable for delay in payment of tax in first two months of the quarter.

RULE 67A - Manner of furnishing of return or details of outward supplies by short messaging service facility [4 Marks]

Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish

- ✓ a Nil return under section 39 in **FORM GSTR-3B** or
- ✓ a Nil details of outward supplies under section 37 in **FORM GSTR-1**
- ✓ or a Nil statement in **FORM GST CMP-08**

for a tax period, any reference to electronic furnishing **shall include** furnishing of the said return or the details of outward supplies or statement through a short messaging service using the registered mobile number and the said return or the details of outward supplies or statement shall be **verified by a registered mobile number based One Time Password facility**.

Explanation: For the purpose of this rule, a Nil return or Nil details of outward supplies or NIL Statement shall mean a return under section 39 or details of outward supplies under section 37, for a tax period that has nil or no entry in all the Tables in **FORM GSTR-3B** or **FORM GSTR-1** or **FORM GST CMP-08**, as the case may be."

Write Short Notes on "NIL GSTR-1"

Filing of GSTR-1 is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-1 is required to be filed.

A Nil GSTR-1 does not have any entry. For example, a Nil GSTR-1 for a tax period cannot be filed, if the taxpayer has made any outward supply (including exempt, nil rated or non-GST supplies), or it has received supplies on which tax is payable under reverse charge or an amendment needs to be made to any of the supplies declared in an earlier return or any credit or debit notes is to be declared / amended etc.

A Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer can file Nil GSTR-1, anytime from 1st of the month subsequent of the tax period onwards. For example, GSTR-1 for the calendar month of April, can be filed from 1st May onwards. GSTR-1 for the quarter of April to June can be filed from 1st July onwards.

Write Short Notes on "GSTR-3B" [Rule 61(5) of the CGST Rules]

Section 39(1) prescribes a monthly return for every registered person, other than an input service distributor or a non-resident taxable person or a composition taxpayer, a person deducting tax at source, a person collecting tax at source, i.e. an electronic commerce operator and supplier of OIDAR services located in non-taxable territory providing such services to non-taxable online recipient.

Initially, return in Form GSTR-3 was notified as the return under section 39(1) which was to be filed by 20th day of the month succeeding the relevant calendar month or part thereof. However, GSTR-3 never became practically applicable as the filing thereof has been deferred by the GST Council since the introduction of GST law.

Therefore, **in lieu of return** in Form GSTR-3, return in **Form GSTR-3B** has been notified as the monthly return under section 39(1). **Now, notified class of registered persons has an option to file GSTR-3B quarterly.**

GSTR-3B can be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. **Further, a Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer.**

GSTR-3B is a simple return containing summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. **Thus, GSTR- 3B does not require invoice-wise data of outward supplies.**

Write Short Notes on “Nil GSTR-3B”

Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-3B is required to be filed.

A Nil GSTR-3B does not have any entry in any of its tables. For example, a Nil GSTR-3B for a tax period cannot be filed, if the taxpayer has made any outward supply (including nil-rated, exempt or non-GST supplies) or has received any supplies which are taxable under reverse charge or it intends to take ITC etc.

A Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer may file Nil Form GSTR-3B, anytime on or after the 1st of the subsequent month for which the return is being filed for.

Write Short Notes on “Nil GST CMP-08”

Filing of GST CMP-08 is mandatory for all taxpayers who have opted to pay tax under composition scheme, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GST CMP-08 is required to be filed.

A Nil GST CMP-08 does not have any entry in any of its tables. For example, a Nil GST CMP-08 for a tax period cannot be filed, if the taxpayer has made any outward supplies or has received any supplies which are taxable under reverse charge.

A Nil GST CMP-08 can be filed through an SMS using the registered mobile number of the taxpayer. A Nil GST CMP-08 submitted through SMS is verified by registered mobile number-based OTP facility.

Filing of Returns by Non-Resident Taxable Persons**[Section 39(5) read with rule 63 of CGST Rules]**

Non-Resident Taxable Persons (NRTPs) are those suppliers **who do not have a business establishment in India** and have come for **a short period** to make supplies in India. They would **normally import their products** into India and make local supplies.

A. Monthly Return: A registered NRTP is not required to file separately the Statement of Outward Supplies, Statement of Inward Supplies and Return. In place of the same, **a simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof.**

NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5.

B. Last date of filing return [2 Marks]: The details in GSTR-5 should be furnished **within 13 days** after the end of the calendar month **or within 7 days after the last day of validity period** of the registration, **whichever is earlier.**

C. A NRTP is not required to file Annual Return.

Details of inward supplies of persons having UIN [Rule 82 of CGST Rules, 2017]

Such person shall furnish the details of those inward supplies of taxable goods and/or services on which refund of taxes has been claimed **in Form GSTR-11**, along with application for such refund claim.

Form and manner of submission of return by persons providing online information and data base access or retrieval services and by persons supplying online money gaming from a place outside India to a person in India [Rule 64]

Every registered person

- ***either providing online money gaming from a place outside India to a person in India,***
- ***or providing online information and data base access or retrieval services from a place outside India***
 - ☞ ***to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or***
 - ☞ ***to a registered person other than a non-taxable online recipient,***

shall file **return in FORM GSTR-5A** on or before the **20th day of the month** succeeding the calendar month or part thereof.

FIRST RETURN [SECTION 40]

Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted **shall declare the same in the first return furnished by him after grant of registration.** [Section 40]

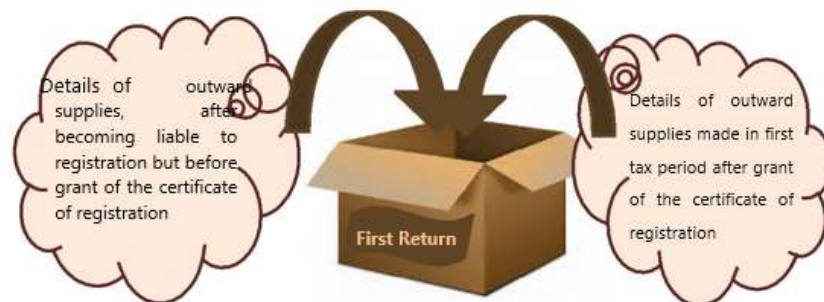
ANALYSIS

When a person becomes liable to registration after his turnover crossing the threshold limit, he may apply for registration within 30 days of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate.

During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.

Now, in order to enable such registered person to declare the taxable supplies made by him for the period between the date on which he became liable to registration till the date on which registration has been granted so that ITC can be availed by the recipient on such supplies, **firstly**, the registered person may issue Revised Tax Invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration.

Further, Section 40 provides that registered person shall declare his out ward supplies made during said period **in the first return furnished by him after grant of registration. The format for this return is the same as that for regular return.**

**FINAL RETURN [Section 45 read with Rule 81]****(i) Who are required to furnish Final Return?**

Every registered person who is required to furnish return under section 39(1) **and whose registration has been surrendered or cancelled** shall file a Final Return electronically in **Form GSTR-10** through the common portal.

(ii) What is the time-limit for furnishing Final Return?

Final Return has to be filed within 3 months of the:

(a) date of cancellation

or

(b) date of order of cancellation

whichever is later.

Annual Return [Section 44 read with Rule 80]**1. Every registered person, other than**

- an Input Service Distributor,
- a person paying tax under section 51 or section 52,
- a casual taxable person and
- a non-resident taxable person
- A supplier of online information and database access or retrieval [OIDAR] services **located in non-taxable territory**
- **Person supplying online money gaming from a place outside India to a person in India**

shall furnish an annual return for every financial year electronically, in **FORM GSTR-9 on or before the 31st December following the end of such financial year..**

Every registered person **whose aggregate turnover during a financial year exceeds ₹ 5 crore, shall also furnish a self-certified reconciliation statement**, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement in **FORM GSTR-9C** along with the annual return.

Every ECO required to collect tax at source under section 52 shall furnish annual statement in **FORM GSTR -9B**.

NN 14/2024 CT dated 10.07.2024

In exercise of the powers conferred by the first proviso to section 44 of the CGST Act, 2017, the Commissioner, on the recommendations of the Council, hereby **exempts the registered person whose aggregate turnover in the financial year 2023-24 is up to ₹ 2 crore, from filing annual return for the said financial year.**

2. Section 44(2)

A registered person shall not be allowed to furnish an annual return under section 44(1) for a financial year after the expiry of a period of 3 years from the due date of furnishing the said annual return.

However, the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year, even after the expiry of the said period of 3 years from the due date of furnishing the said annual return.

Note: Nothing contained in this section **shall apply to any department of the Central Government or a 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.

DEFAULT IN FURNISHING RETURN [SECTIONS 46 & 47]**[4 Marks]**

- (1) Where a registered person fails to furnish a return under **Section 39 (Normal Return)** or **Section 44 (Annual Return)** or **Section 45 (Final Return)**, a notice **shall be issued** requiring him to furnish such return **within 15 days** in such form and manner as may be prescribed. **[Section 46]**
- (2) Any registered person who fails to furnish the details of outward supplies required under section 37 or returns required under section 39 or section 45 **or section 52** by the due date **shall pay a late fee of ₹ 100 for every day** during which such failure continues subject to a **maximum amount of ₹ 5,000**. **[Section 47]**
- (3) Any registered person who fails to furnish the return required under **Section 44** by the due date shall be liable to pay **a late fee of ₹ 100** for every day during which such failure continues subject to a maximum of an amount calculated at a **0.25% of his turnover** in the State or Union territory. **[Section 47]**

Note:

1. Late fee has been rationalised for delayed filing of GSTR-4**A. Total Tax Payable in GSTR-4 in NIL:**

₹ 20 (₹ 10 CGST + ₹ 10 SGST/UTGST) for every day during which such failure continues
Maximum - ₹ 500 (₹ 250 each under CGST & SGST/UTGST)

B. Other cases:

₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues
Maximum - ₹ 2,000 (₹ 1,000 each under CGST & SGST/UTGST)

2. Late fee has been rationalised for delayed filing of GSTR-1 and GSTR-3B**A. Registered persons who have NIL outward supplies in the tax period / whose total amount of tax payable in the GSTR- 3B is Nil, as the case may be**

₹ 20 (₹ 10 CGST + ₹ 10 SGST/UTGST) for every day during which such failure continues
Maximum - ₹ 500 (₹ 250 each under CGST & SGST/UTGST)

B. In Other cases:**a) If the annual turnover in the preceding FY is upto ₹ 1.5 crore**

₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues
Maximum - ₹ 2,000 (₹ 1,000 each under CGST & SGST/UTGST)

b) If the turnover ranges between ₹ 1.5 crore and ₹ 5 crore in the preceding FY

₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues
Maximum - ₹ 5,000 (₹ 2,500 each under CGST & SGST/UTGST)

c) If the turnover is more than ₹ 5 crore in the preceding FY

₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues

Maximum - ₹ 10,000 (₹ 5,000 each under CGST & SGST/UTGST)

3. Maximum late fees payable under section 47 for delayed filing of annual return, rationalized

Section 47 stipulates a specified amount of late fee for delay in filing annual return. An equal amount of late fee is payable by such person under the respective SGST/UTGST Act as well.

The late fee can be waived off partially or fully by the Central Government. Consequently, since the inception of GST law, late fee is being regularly waived off by the Central Government either partially or fully.

From the financial year 2022-23 onwards, late fee for delayed filing of annual return, has been rationalized as follows:

S. No.	Class of registered persons	Amount [under CGST Act, 2017]
1	Registered persons having an aggregate turnover of <u>up to ₹ 5 crore</u> in the relevant financial year.	<u>₹ 25 per day</u> , subject to a <u>maximum of an amount calculated at 0.02% of turnover</u> in the State or Union territory. [Same amount in SGST/UTGST]
2	Registered persons having an aggregate turnover of more than <u>₹ 5 crore</u> and up to <u>₹ 20 crore</u> in the relevant financial year.	<u>₹ 50 per day</u> , subject to a <u>maximum of an amount calculated at 0.02% of turnover</u> in the State or Union territory.
3	Registered persons having an aggregate turnover of more than <u>₹ 20 crore</u> in the relevant financial year.	<u>₹ 100 per day</u> , subject to a <u>maximum of an amount calculated at 0.25% of turnover</u> in the State or Union territory.

4. Late fees payable under section 47 for delayed filing of GSTR 7, rationalized

₹ 50 (₹ 25 each under CGST & SGST/UTGST) for every day during which such failure continues

Maximum- ₹ 2,000 (₹ 1,000 CGST + ₹ 1,000 SGST) whichever is lower.

RETURNS

1. Who is required to furnish details of outward supplies in Form GSTR-1?
 - (a) Person paying tax under composition scheme
 - (b) Non-resident taxable person
 - (c) Both (a) & (b)
 - (d) **None of the above**
2. What does 'N' stand for in HSN?
 - (a) Network
 - (b) Nationalization
 - (c) **Nomenclature**
 - (d) Nomination
3. Which form is furnished for submission of details of outward supplies u/s 37?
 - (a) **GSTR-1**
 - (b) GSTR-2
 - (c) GSTR-3
 - (d) GSTR-5
4. What is the due date for submission of monthly GSTR-1?
 - (a) **on or before 11th day of the immediately succeeding month**
 - (b) on or before 15th day of the immediately succeeding month
 - (c) on or before 17th day of the immediately succeeding month
 - (d) on or before 20th day of the immediately succeeding month
5. Composition tax payer is required to file return in Form no. _____.
 - (a) GSTR-2
 - (b) GSTR-3
 - (c) **GSTR-4**
 - (d) GSTR-5
6. Which of the following are not required to file the Annual Return?
 - (a) Input Service Distributor
 - (b) Casual Taxable Person
 - (c) Non-resident Taxpayer
 - (d) **All of the above**
7. The due date of filing Final Return is _____.?
 - (a) 20th of the next month
 - (b) 18th of the month succeeding the quarter
 - (c) **Within 3 months of the date of cancellation or date of order of cancellation, whichever is later**
 - (d) 31st December of next financial year
8. Mr. X, a regular tax payer, did not make any taxable supply during the month of July. Is he required to file a GSTR-3B?

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 **GSTR-3B** even if he did not make any taxable supply during the month of July.

9. *List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF).*

Answer:

Details of outward supplies which can be furnished using IFF are as follows:

- a. Invoice wise details of inter-State and intra-State supplies made to the registered persons;
- b. Debit and credit notes, if any, issued during the month for such invoices issued previously.

10. If a return has been filed, how can it be revised if some changes are required to be made?**Answer:**

In GST since the returns are built from details of individual transactions, **there is no requirement for having a revised return**. Any need to revise a return may arise due to the need to change a set of invoices or debit/credit notes. Instead of revising the return already submitted, **the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended**. They can be amended in any of the future GSTR-1 in the tables specifically provided for the purposes of amending previously declared details.

As per section 39(9), omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest.

The rectification of errors/omissions is carried out by entering appropriate particulars in "Amendment Tables" contained in GSTR-1.

11. Explain the provision relating to filing of Annual Return under Section 44 of CGST Act, 2017 and Rules there under.**Solution:**

Every registered person, other than

- an Input Service Distributor,
- a person deducting/collecting tax at source,
- a casual taxable person and
- a non-resident taxable person,
- **Person supplying OIDAR services from outside India to unregistered persons in India**
- **Person supplying online money gaming from a place outside India to a person in India**

shall furnish an annual return for every financial year electronically in Form GSTR-9 on or before 31st December following the end of such financial year.

12. Who is required to furnish Final Return under CGST Act, 2017 and what is the time limit for the same? Discuss.**Solution:**

Every registered person who is required to furnish a return u/s 39(1) of the CGST Act, 2017 and whose registration has been surrendered or cancelled shall file a Final Return electronically in the prescribed form through the common portal.

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.**

13. What is First Return and Revision of Returns in GST?**Solution:****First Return:**

As per section 40 of the CGST Act, 2017 every registered person who has made outward supplies in the period between the dates on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

Revision of Returns:

The mechanism of filing revised returns for any correction of errors/omissions is not available under GST. The rectification of errors/omissions is, however, allowed in the subsequent returns.

However, no rectification is allowed after 30th November following the end of the financial year to which, such details pertain, or furnishing of the relevant annual return, whichever is earlier.

14. Mr. Anand Kumar, a regular taxpayer, filed his return of outward supply (GSTR-1) for the month of August, 2024 before the due date. Later on, in February, 2025 he discovered error in the GSTR-1 return of August 2024 already filed and wants to revise it. You are required to advise him as to the future course of action to be taken by him according to statutory provisions.

Solution:

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.

Therefore, Mr. Anand Kumar who discovered an error in GSTR-1 for August, 2024, **cannot revise it after filing of GSTR 3B of the same month**. However, he should rectify said error in the GSTR-1 filed for February, 2025 and should pay the tax and interest, if any, in case there is short payment, in the return to be furnished for February, 2025.

The error can be rectified by furnishing appropriate particulars in the “Amendment Tables” contained in GSTR -1.

15. X Ltd. is winding up its business in Rajasthan. The Tax Consultant of X Ltd. has suggested that X Ltd. will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the state of Rajasthan.

Do you agree with the stand taken by Tax Consultant of X Ltd.? Offer your comments.

Answer:

No, the stand taken by Tax Consultant of X Ltd. is not correct.

Annual return is required to be filed by every registered person paying tax as a normal taxpayer. Final return is filed by the registered persons who have applied for cancellation of registration within 3 months of the date of cancellation or the date of cancellation order.

In the given case, X Ltd., a registered person, is winding up its business and has thus, applied for cancellation of registration.

Therefore, it is required to file both annual return and final return.

16. Ms. Pragya, a taxpayer registered under regular scheme (Section 9), files GSTR-3B for the month of October on 20th November. After filing the return, she discovers that the value of a taxable supply has been under-reported therein.

Ms. Pragya now wants to file a revised GSTR-3B. Examine the scenario and give your comments.

Answer

Under GST law, a return once filed cannot be revised. However, the details of those transactions that are required to be amended can be changed in any of the future GSTR-1s. For this purpose, specific tables are provided in GSTR-1 to amend previously declared details.

Thus, Ms. Pragya cannot revise GSTR-3B filed by her for the month of October. However, she can amend the details of the taxable supply, which was under-reported, in GSTR-1 for the month of November. The tax payable on account of such error will be paid along with interest in GSTR-3B for the month of November.

17. Mr. Kohli is a registered supplier in the State of Gujarat. He is filing GSTR-1 every month. During the month of February, he went out of India and thus, could not do any business transaction during that month. He believes that as there is no transaction, there is no need to file GSTR-1 for the month of February.

Is he correct? Explain.

Answer:

No, Mr. Kohli is not correct. GSTR-1 needs to be filed even if there is no business activity in the tax period.

Therefore, in the given case, even though Mr. Kohli was out of India and thus, could not do any business transaction during the month of February, he is still required to file GSTR-1 for that month.

- 18. Mr. Kalpesh is a registered dealer in Kerala paying tax under composition levy from 1st April. However, he opts to pay tax under regular scheme from 1st December.**

Is he liable to file GSTR-4 for the month of November? Discuss.

Answer:

Where a taxpayer opts to withdraw from the composition scheme, he has to file GSTR-4 for the period prior to his opting for payment of tax under regular scheme.

Therefore, in the given case, Mr. Kalpesh is liable to file GSTR-4 for the month of November since he was paying tax under composition scheme during the month of November.

- 19. Mrs. Zarina, a registered dealer in Rajasthan, did not file GSTR-3B for the month of June but she wants to file GSTR-3B for the month of July.**

Is it possible? Answer with reference to section 39 of the CGST Act.

Answer:

As per section 39(10), a registered person is not allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him

Therefore, in the given case, Mrs. Zarina cannot file GSTR-3B for July if she has not filed GSTR-3B for the preceding month, i.e., June.

- 20. X has not made any outward supply during the month of September. However, X has procured certain input services during the month. X is of the opinion that he can file Nil GSTR-3B for the month of September through SMS.**

Whether the understanding of X is correct? Explain.

Answer:

Nil GSTR-3B means that the return has nil or no entry in all its Tables. Since in the present case X has received certain input services, **he cannot file Nil GSTR- 3B** through SMS as the said input services will need to be disclosed in the Table for Eligible ITC in GSTR-3B.

- 21. Quicktax, a GST return filing service provider, has asked its clients to provide the scanned copies of the tax invoices issued to B2B customers for uploading on the GST portal and filing the return.**

Whether the process followed by Quicktax is correct?

Answer:

No, the process followed by Quicktax is not correct.

The registered persons supplying goods or services to B2B customers are required to upload the invoice wise details of supplies made during the tax period. However, there is no requirement to upload the scanned copies of the invoices issued to the customers on the GST portal at the time of filing returns.

Only information required as per GST returns is to be captured in the return filing utility and the same is to be uploaded on the GST portal and not the scanned copies of the actual invoices.

- 22. "All taxpayers are required to file GSTR-1 only after the end of the tax period." Examine the validity of the statement.**

Answer:

The statement is partially valid. A taxpayer cannot file Form GSTR-1 before the end of the current tax period. **However, following are the exceptions to this rule:**

- Casual taxpayers, after the closure of their business
- Cancellation of GSTIN of a normal taxpayer. A taxpayer who has applied for cancellation of registration will be allowed to file Form GSTR-1 after confirming receipt of the application.

INPUT TAX CREDIT

The GST regime promises seamless credit on goods and services across the entire supply chain with **some exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services.**

ITC is considered to be the backbone of the GST regime. In fact, it is the provisions of ITC which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of the CGST Rules [Rules 36-45] prescribed the provisions relating to ITC. State GST laws also prescribe identical provisions in relation to ITC.

FEW DEFINITIONS

- **[3 Marks] Capital Goods means** goods, the value of which is capitalized in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business.
- **Input means** any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.
- **Input Service** means any service used or intended to be used by a supplier in the course or furtherance of business.
- **Inward Supply** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration.
- **Taxable Supply** means a supply of goods or services or both which is leviable to tax under CGST Act.
- **[3 Marks] Zero-Rated Supply** means any of the following supplies of goods or services or both, namely:-
 - ✓ Export of goods or services or both; or
 - ✓ Supply of goods or services or both for authorised operation to a **Special Economic Zone (SEZ) developer** or a **Special Economic Zone unit**.

ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]

1. Every registered person shall, subject to prescribed conditions and restrictions and in the manner specified in **Section 49** (Section 49 is covered in Payment of Tax Chapter), be entitled to 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 the course or furtherance of his business** and the said amount shall be **credited** to the electronic credit ledger of such person.
2. **[5 Marks]** Section 16(2) - Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him **unless**,– **[6 Conditions]**

A. he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed [Section 16(2)(a)]

ITC can be availed on the basis of any of the following documents [RULE 36] [5 Marks]:

- (i) Invoice issued by a supplier of goods and/or services
- (ii) Invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge)
- (iii) A debit note issued by supplier
- (iv) Bill of entry or similar document prescribed under Customs Act
- (v) Revised invoice
- (vi) Document issued by Input Service Distributor

The documents on the basis which ITC is being taken should contain at least the following details [RULE 36] [3 marks]:

- Amount of tax charged
- Description of goods or services
- Total value of supply of goods and/or services
- GSTIN of the **supplier and recipient**
- Place of supply in case of inter-State supply

Note:

- Section 16 and the CGST Rules do not specify that a particular copy of the invoice alone will form the basis of taking ITC. However, Rule 48 of the CGST Rules specifies that the **original copy is for the recipient of goods. The original copy may preferably be kept for record to support the credit entry.**
- **[RULE 36]** No ITC shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order **where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts under section 74. [effective from 08.10.2024 - NN 20/2024 CT dated 08.10.2024]**

B. **[Section 16(2)(aa)]** *“the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the **statement of outward supplies** and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37”*

C. **[Section 16(2)(b)]** he has received the goods or services or both

Explanation- For the purposes of this clause, it shall be deemed that the registered person has received the goods **or, as the case may be, services**

- a) where the **goods** are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, **either by way of transfer of documents of title to goods or otherwise;**
- b) where the **services** are provided by the supplier to any person on the direction of and on account of such registered person.

“Bill to Ship to” Model also included:

Under this model, the **goods are delivered to a third party on the direction of the registered person who purchases the goods from the supplier.** Receipt of goods u/s 16(2)(b) includes delivery to another person on the direction of the registered person by way of transfer of documents of title to goods or otherwise either before or during the movement of goods. It would be deemed that the registered person has received the goods in such scenario. **So, ITC will be available to the registered person on whose order the goods are delivered to third person.**

Example: A is a trader who places an order on B for a consignment of soda ash. A receives a buying order from C for the same quantity of soda ash. A instructs B to deliver the goods to C, and in turn he raises an invoice on C. Though the goods are not physically received at the premises of A, the condition of section 16(2)(b) is satisfied, **and A is entitled to ITC on the consignment.**

D. **[Section 16(2)(ba)]** the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;

E. **[Section 16(2)(c)]** subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply

F. **[Section 16(2)(d)]** he has furnished the return under section 39

IMPORTANT POINTS

1. **[2 Marks]** Where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment.

Example:

XYZ makes an advance payment in August and orders 10 MT of a particular chemical which is in short supply. The supplier of the chemical raises a bill for the entire amount in August and collects GST from XYZ on the advance paid. The chemical is delivered in lots over a period of three months and the supply is completed in November. Though XYZ paid some tax in advance as early as August, **he can take the ITC only on receipt of last instalment of the chemical in the month of November.**

2. **[3 Marks]** Payment for the invoice to be made within 180 days

[2nd Proviso to Section 16(2) read with Rule 37]

A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the amount towards the value of such supply whether wholly or partially, along with the tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, shall pay or reverse an amount equal to the input tax credit availed in respect of such supply, proportionate to the amount not paid to supplier, along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of 180 days from the date of the issue of the invoice.

Where the said registered person subsequently makes the payment of the amount towards the value of such supply along with tax payable thereon to the supplier thereof, he shall be entitled to re-avail the input tax credit

Exceptions

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations: **[3 Marks]**

- Supplies on which tax is payable **under reverse charge**
- Deemed supplies **without consideration [Schedule I]**
- **Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply [Section 15(2) – Payment to third party]**

3. **Section 16(3)** - Where the registered person has claimed depreciation on the tax component of the cost of CGs and P&M under the provisions of the Income-tax Act, 1961, **the ITC on the said tax component shall not be allowed.**

4. [3 Marks] Section 16(4) - A registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after 30th November following the end of financial year to which such invoice or debit note pertains or **furnishing of the relevant annual return, whichever is earlier**.

Time limit for availing ITC: 30th November of succeeding financial year or date of filing of annual return, whichever is earlier [Sec 16(4)]

Exception: The time limit u/s 16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

Example: Hercules Machinery delivered a machine to XYZ in January 2025 under Invoice No. 49 dated 28th January, 2025 for ₹ 4,15,000 plus GST, and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post delivery activities was covered in a debit note raised in April 2025 for ₹ 50,000 plus GST. **Hercules Machinery did not file its annual return till November, 2025.**

Therefore, the time limit for taking ITC available on Invoice of ₹ 4,15,000 is 30th November, 2025; earlier of the date of filing the annual return or 30th November 2025.

However, the debit note is raised in the next financial year i.e FY 2025-26. Hence, Time limit for taking ITC (against debit note) will be 30th November 2026 even if **debit note relates to an invoice received in the financial year ending March 2025.**

Clarification on time limit under Section 16(4) of the CGST Act, 2017 in respect of RCM supplies received from unregistered persons

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of the CGST Act, 2017 the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of the CGST Act, 2017 will be the financial year in which the invoice has been issued by the recipient under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of the CGST Act, 2017.

In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 of the CGST Act, 2017.

[Circular No. 211/5/2024 GST dated 26.06.2024]

Section 16(5) - Not Relevant for Exam

Notwithstanding anything contained in Section 16(4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto 30th November, 2021.

[Effective from 27.09.2024 - Amendment by the Finance (No. 2) Act, 2024]

Section 16(6)

Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court **and where availment of ITC in respect of an invoice or debit note was not restricted under section 16(4)** on the date of order of cancellation of registration, the said person shall be entitled to take the ITC in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,

- (i) filed upto 30th November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or
- (ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, **where such return is filed within 30 days from the date of order of revocation of cancellation of registration,**

whichever is later.

[Effective from 27.09.2024 - Amendment by the Finance (No. 2) Act, 2024]

Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [Rule 36(4)]***Rule 36(4)***

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 as amended in FORM GSTR-1A if any, or using the Invoice Furnishing Facility; and
- b) the details of ITC in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B

NOTE: Full ITC can be availed in respect of IGST paid on imports, documents issued under reverse charge, credit received from ISD etc., which are outside the ambit of section 37(1).

Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof [Rule 37A]

Rule 37A covers a situation where a registered person (recipient) avails ITC in GSTR-3B for a tax period in respect of such invoice/debit note, the details of which have been furnished by its supplier in the statement of outward supplies in FORM GSTR-1 as amended in FORM GSTR-1A if any, or using the Invoice Furnishing Facility.

However, supplier does not furnish return in Form GSTR-3B for the tax period corresponding to the said statement of outward supplies till 30th September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed.

In such a case, the said amount of ITC shall be reversed by the said recipient, while furnishing a return in Form GSTR-3B on or before 30th November following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest thereon under section 50.

Further, where the said supplier subsequently furnishes the return in Form GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in Form GSTR-3B for a tax period thereafter.

Transfer of credit on obtaining separate registrations for multiple places of business within a State/Union territory [Rule 41A]

The rule lays down that a registered person (transferor) who has obtained separate registration for multiple places of business and who intends to transfer, either wholly or partly, the unutilised ITC lying in his electronic credit ledger to any or all of the newly registered place of business, **should furnish the prescribed details in FORM GST ITC-02A on the common portal within a period of 30 days from obtaining such separate registrations.**

Upon acceptance of such details by the newly registered person (transferee) on the common portal, **the unutilised ITC would get credited to his electronic credit ledger.**

The ITC is transferred to the newly registered entities **in the ratio of the value of assets** held by them at the time of registration.

Here, the 'value of assets' **means the value of the entire assets of the business whether or not ITC has been availed thereon**

Section 41 - Availment of Input Tax Credit

1. Every registered person shall, subject to such conditions and restrictions as may be prescribed, be **entitled to avail the credit of eligible input tax, as self-assessed, in his return** and such amount shall be credited to his electronic credit ledger.
2. The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, **the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person** in such manner as may be prescribed.

Where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, **the said registered person may re-avail the amount of credit reversed by him** in such manner as may be prescribed.

APPORTIONMENT OF CREDIT & BLOCKED CREDITS [SECTION 17]

1. **Section 17(1):** Where the goods or services or both are used by the registered person partly for the purpose of any business **and partly for other purposes**, the amount of credit shall be **restricted to so much of the input tax as is attributable to the purposes of his business**.
2. **Section 17(2) -** Where the goods or services or both are used by the registered person partly for effecting **taxable supplies including zero-rated supplies** under this Act or under the IGST Act **and partly for effecting exempt supplies** under the said Acts, the amount of **credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies**.
3. **Important Section 17(3):** The value of exempt supply under sub-section (2) shall be **such as may be prescribed**, and shall include
 - **supplies on which the recipient is liable to pay tax on reverse charge basis,**
 - **transactions in securities,**
 - **sale of land,**
 - **sale of building (where entire consideration is received either after issuance of completion certificate by the competent authority or its first occupation, whichever is earlier)**
 - **Supply of warehoused goods to any person (prescribed one) before clearance for home consumption [Supply of goods from duty free shop at arrival terminal in international airports to the incoming passengers]**

[Thus, 'value of exempt supply' for the purpose of this sub-section shall not include the value of activities or transactions specified in Schedule III, except sale of land and building & Supply of warehoused goods to any person (prescribed one) before clearance for home consumption. Therefore, all other items of Schedule III, ITC will not be required to be reversed.]
4. **Section 17(4): [3 Marks]** 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 shall have the **option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to 50% of the eligible input tax credit** on inputs, capital goods and input services in that month and the rest shall lapse.

The option once exercised **shall not be withdrawn during the remaining part** of the financial year:

The **restriction of 50% shall not apply** to the tax paid on supplies made by one registered person to another registered person **having the same Permanent Account Number**.

Rule 38 - Claim of credit by a banking company or a financial institution

A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of Section 17(2), in accordance with the option permitted under Section 17(4), shall follow the following procedure, namely,-

- (a) the said company or institution shall not avail the credit of,-
 - (i) the tax paid on inputs and input services that are used for non-business purposes; and
 - (ii) the credit attributable to the supplies specified in Section 17(5);
- (b) the said company or institution shall avail the credit of tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.
- (c) 50% of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and the balance amount of input tax credit shall be reversed in FORM GSTR-3B;

ITC of tax paid on almost every inputs and input services used for supply of taxable goods or services or both is allowed under GST except a small list of items provided u/s 17(5). The negative list covers mainly items of personal consumption, inputs use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes. The detailed list is given hereunder:

(a) Motor vehicles for transportation of persons with seating capacity $\leq$ 13 persons (including the driver), EXCEPT WHEN USED FOR

- making further taxable supply of such motor vehicles;
- making taxable supply of transportation of passengers;
- making taxable supply of imparting training on driving such motor vehicles

Example: A car dealer is allowed ITC on cars purchased for resale; a cab service is allowed ITC on cars purchased for use as cabs; a driving school is allowed ITC on cars purchased for use in teaching driving.

Note:

1. *ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.*
2. *ITC on any other motor vehicle (e.g. motor vehicle used for transportation of goods, dumpers, tippers etc.) used for any purpose is allowed*

(b) Vessels and aircrafts EXCEPT when used for

- making further taxable supply of such vessels or aircraft;
- making taxable supply of transportation of passengers;
- making taxable supply of imparting training on navigating such vessels;
- making taxable supply of imparting training on flying such aircrafts;
- Transportation of goods.

(c) General insurance, servicing, repair and maintenance relating to:

- ✓ **Motor vehicles for transportation of persons with seating capacity $\leq$ 13 persons (including the driver),**
- ✓ **Vessels**
- ✓ **Aircraft**

Except when ITC on such motor vehicles, vessels or aircraft is allowed.

ITC is allowed if these services are received by a Taxable person engaged

- ✓ in the **manufacture** of such motor vehicles, vessels, aircraft
- ✓ in the **supply of general insurance services** in respect of such motor vehicles, vessels, aircraft insured by him

(d) Foods and beverages, Outdoor Catering, Beauty Treatment, Health Services, Cosmetic and Plastic Surgery,**EXCEPT**

- i. **When such goods and/or services are provided by an employer to its employees under a statutory obligation**
- ii. **WHEN** an inward supply of these is used for making an outward taxable supply of the **same category or as an element of a taxable composite or mixed supply.**

Example: A caterer for a wedding gets the sweet dish course supplied by a specialist in desserts. He is allowed ITC of the tax paid by him to the specialist.

(e) Membership of a club, health and fitness centre EXCEPT When such services are provided by an employer to its employees under a statutory obligation**(f) Leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is not allowed, life insurance and health insurance, EXCEPT WHERE**

- The Government has made it **obligatory for an employer** to provide any of these services to its employees; or
- Inward supply of these services is used for making an outward taxable supply of the **same category or as an element of a taxable composite or mixed supply.**

It is clarified that “leasing” referred herein refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items.

Accordingly, Availment of ITC is not barred in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.

(g) Travel benefits to employees on vacation such as LTC or home travel concession EXCEPT When such services are provided by an employer to its employees under a statutory obligation

(h) Works contract services for construction of an immovable property**EXCEPT WHEN**

- It is input service for further supply of works contract service
- Immovable property **is plant and machinery**

Note: One major input service ITC on which is blocked is input service relating to construction activity like office building, factory building etc. (except in case of persons like builders, developers and contractors who are undertaking construction for others). **However, ITC is available for routine construction related services like repairs, maintenance, renovation etc. of office and factory building.**

Thus, broadly, **ITC in respect of construction services is not available when the expenses are capitalised in books of account.** Here, it needs to be noted that capitalisation of an expense does not depend on whether the taxpayer intends to avail ITC, but on the basis of Accounting Standards and GAAP.

(i) Inward supplies received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account even when such supplies are used in the course or furtherance of business

Example: A company buys material and hires a contractor to construct an office building to house the plant supervisory staff. The input tax paid on such goods and services **is not allowed as credit.**

Meaning of construction and plant and machinery

“Construction”, includes re-construction, renovation, additions or alterations or repairs, **to the extent of capitalization**, to the said immovable property;

“Plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural supports **but excludes land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.**

Note:

ITC on works contract services availed for construction of eligible plant and machinery is allowed to the recipient **irrespective of the line of business of such recipient.**

For instance, ITC on works contract services for construction of machinery fixed to earth by a foundation, **would be allowed.**

However, ITC on works contract services for construction of telecommunication towers, **would be blocked.**

Important:

ITC on goods and/or services used in construction of immovable property is available only in the following three situations:

- 1. For construction of plant and machinery*
- 2. When the value of goods and/or services is not capitalized*
- 3. When the construction is not on own account*

(j) Inward supplies on which tax has been paid under the composition scheme

(k) Inward supplies received by a non-resident taxable person except goods imported by him

Note: *Whereas ITC on goods imported by a non-resident taxable person is allowed, ITC on services imported by him is blocked.*

(l) *Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under Corporate Social Responsibility [CSR Activities] referred to in section 135 of the Companies Act, 2013*

(m) Goods and / or services used for personal consumption

(n) Goods that are lost, stolen, destroyed, written off or disposed of by way of gift or free samples

[ITC on gifts and free samples is blocked as no tax is payable on its outward supply. In case of lost/destroyed/stolen written off goods also, ITC is not available as these goods cannot be said to have been used for making a taxable supply.]

(o) Any tax paid under section 74 ~~Section 129 and Section 130~~ in respect of any period up to Financial Year 2023-24.

[EFFECTIVE FROM 01.11.2024 - Amendment by the Finance (No. 2) Act, 2024]



VARIOUS EXAMPLES RELATED TO BLOCK CREDIT [SECTION 17(5)]:

1. ITC on cars purchased by a manufacturing company for official use of its employees **is blocked**.
2. ITC on cars purchased by a car dealer for sale to customers **is allowed**.
3. ITC on cars purchased by a company engaged in renting out cars for transportation of passengers, **is allowed**.
4. ITC on cars purchased by a car driving school **is allowed**.
5. **ITC on buses** (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back, **is allowed**.
6. ITC on trucks purchased by a company for transportation of its finished goods **is allowed**.
7. ITC on aircraft purchased by a manufacturing company for official use of its CEO **is blocked**.
8. ITC on aircraft purchased by an Aviation School providing training on non-flying aircrafts, **is allowed**.
9. ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes, **is blocked**.
10. ITC on maintenance & repair services availed by a company **for a truck** used for transporting its finished goods, **is allowed**.
11. ITC on general insurance services taken on cars manufactured by a car manufacturing company **is allowed**.
12. A manufacturing company purchases food items for being served **to its customers**, free of cost. ITC on such goods **is blocked**.
13. AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., **is allowed**.
14. ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers, **is blocked**.
15. Outdoor catering service is availed by a company to run a **free canteen in its factory**. The **Factories Act, 1948** requires the company to set up a canteen in its factory. ITC on such outdoor catering **is allowed**.

- 16.** The Managing Director of a company has taken membership of a club, the fees for which is paid by the company. ITC on such service **is blocked**.
- 17.** A company avails services of a travel agency for organizing a free vacation for its top performing employees. ITC on such services **is blocked**.
- 18.** ITC on works contracts services availed by a software company for construction of its office, **is blocked**.
- 19.** **CD & Co., a works contractor** of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., **is allowed**.
- 20.** ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, **is allowed**.
- 21.** ITC on works contract services availed by a manufacturing company **for construction of pipelines** to be laid outside its factory, **is blocked**.
- 22.** A consulting firm has availed services of a works contractor **for repair** of its office building. The company has booked such expenditure in its profit and loss account. **ITC on such services is allowed**.
- 23.** A telecommunication company has availed services of a works contractor for repair of its office building. The company **has capitalized** such expenditure. ITC on such services **is blocked**.
- 24.** A company buys cement, tiles etc. and avails the services of an architect **for construction of its office building**. ITC on such goods and services **is blocked**.
- 25.** MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex **for one of its clients**. ITC on such goods and services **is allowed to MN & Co.**
- 26.** A company buys cement, tiles etc. and avails the services of an architect **for renovation** of its office building. The company has booked **such expenditure in its profit and loss account**. ITC on such goods and services **is allowed**.

Section 17(5): Input Tax Credit on Motor Bikes (Two-wheelers)

As per CGST Act, "Motor Vehicle" shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988

As per Section 2(28) of the Motor Vehicles Act, 1988

"Motor Vehicle" or "Vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source **and includes a chassis to which a body has not been attached and a trailer; but does not include**

- **a vehicle running upon fixed rails or**
- **a vehicle of a special type adapted for use only in a factory or in any other enclosed premises**
or
- **a vehicle having less than 4 wheels fitted with engine capacity of not exceeding 25CC**

Hence, 2 wheeler fitted with engine capacity of 25CC or less, is always eligible for ITC if used for business purpose.

Clarification on availability of input tax credit in respect of demo vehicles which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver)

As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. **Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making 'further supply of such motor vehicles'.**

Accordingly, input tax credit in respect of demo vehicles is not blocked under section 17(5) of CGST Act, 2017.

Further, it is to be mentioned that in case of capitalization of demo vehicles, availability of input tax credit would be subject to provisions of section 16(3) of CGST Act, which provides that where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

It is further mentioned that in case demo vehicle, which is capitalized, is subsequently sold by the authorized dealer, the authorized dealer shall have to pay an amount or tax as per provisions of section 18(6) of CGST Act, 2017.

Circular No. 231/25/2024 GST dated 10.09.2024

Clarification on availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5)



Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication services is barred in terms of section 17(5) of the CGST Act, 2017?

Clarification: Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance.

In view of the Explanation in section 17 of the CGST Act, 2017 it appears that ducts and manholes are covered under the definition of “plant and machinery” as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another.

Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of “plant and machinery” in the Explanation to section 17 of the CGST Act, 2017 as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), under section 17(5) of the CGST Act, 2017.

Circular No. 219/13/2024 GST dated 26.06.2024

Clarification on ITC in the hands of the supplier in respect of sales promotional schemes**A. Free samples and gifts**

Clause (h) of sub-section (5) of section 17 of the CGST Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.

It has been clarified that ITC shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

However, where the activity of distribution of gifts or free samples falls within the scope of “supply” on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail the ITC.

B. Buy one get one free offer:

It is clarified that 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.**

C. Discounts including ‘Buy more, save more’ offers

It is clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods **used in relation to the supply of goods or services or both on such discounts.**

ITC reversal when return of time expired medicines/drugs are treated as fresh supply

The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as “goods”) are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be.

Such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry **are commonly referred to as time expired goods** and are returned to the manufacturer, on account of expiry, through the supply chain.

It has clarified that the retailer/ wholesaler can return the time expired goods, **either by treating the same as fresh supply or by issuing credit notes.**

Return of time-expired goods by treating the same as fresh supply

A. In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, “return supply”).

The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply.

The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfillment of the conditions specified in section 16.

B. In case the person returning the time-expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this scenario there will not be any availability of ITC to the recipient of return supply.

C. In case the person returning the time-expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h). **Here, ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.**

Example:

If a manufacturer has availed ITC of ₹ 10/- at the time of manufacture of medicines valued at ₹ 100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is ₹ 15/-. **So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of ₹ 15/- and not of ₹ 10/.**

The clarification may also be applicable to return of goods for reasons other than being time expired.

CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]**(1) [5 Marks]**

- (a) [Section 18(1)(a)] a person who has applied for registration under this Act 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.

Example: 'Z' becomes liable to pay tax on 1st August and has obtained registration on 15th August. 'Z' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as **on 31st July. 'Z' cannot take ITC on capital goods.**

- (b) [Section 18(1)(b)] a person who takes Voluntary 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 of grant of registration;**

Example: 'A' applies for **voluntary registration** on 5th June and obtains registration on 22nd June. 'A' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock **as on 21st June. 'A' cannot take ITC on capital goods.**

- (c) [Section 18(1)(c)] 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:

Provided that the credit on capital goods shall be reduced by prescribed percentage points (i.e. reduced by 5% per quarter of a year or part thereof from the date of issue of invoice);

- (d) [Section 18(1)(d)] where an exempt supply of goods or services or both by a registered person **becomes a taxable supply**, such person 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 relating to such exempt supply **and on capital goods exclusively used for such exempt supply** on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by prescribed percentage points (i.e. reduced by 5% per quarter of a year or part thereof from the date of issue of invoice).

(2) **Important:** A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him ***after the expiry of 1 year from the date of issue of tax invoice relating to such supply.***

(3) Where there is a **change in the constitution of a registered person** on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person **shall be allowed to transfer the input tax credit** which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

(4) [Section 18(4)] [5 marks] Where any registered person who has availed of ITC ***opts to pay tax under Section 10 or, where the goods or services or both supplied by him become wholly exempt***, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, **equivalent to the credit of input tax** in respect of **inputs** held in stock and inputs contained in semi-finished or finished goods held in stock and **on capital goods**, reduced by such percentage points as may be prescribed, **on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:**

Provided that after payment of such amount, the balance of ITC, if any, lying in his electronic credit ledger shall lapse.

(5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in prescribed manner.

(6) [Section 18(6)] [5 marks] In case of **supply of CGs or P&M**, on which input tax credit has been taken, **the registered person shall pay an amount that is the higher of the following:**

- (a) equal to the ITC taken on the said capital goods or plant and machinery **reduced by prescribed percentage points (i.e. reduced by 5% per quarter of a year or part thereof from the date of issue of invoice) OR**
- (b) the tax on the transaction value of such **CGs or P&M** determined under section 15,

However, where **refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap**, the taxable person **may pay tax on the transaction value** of such goods determined under section 15.

Rule 40: Manner of claiming credit in special circumstances

- (1) The ITC claimed in accordance with the provisions of Section 18(1) on the **inputs held in stock** or **inputs contained in semi-finished or finished goods held in stock**, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, **shall be subject to the following conditions, namely –**
- (a) the ITC on capital goods shall be claimed **after reducing the tax paid on such capital goods by 5% points per quarter of a year or part thereof** from the **date of the invoice** or such other documents on which the capital goods were **received by the taxable person**.
 - (b) **[2 marks]** the registered person shall **within a period of 30 days** (commissioner may **extend this time period**) from the date of his becoming eligible to avail the ITC under Section 18(1) shall make a declaration, electronically, on the common portal in **FORM GST ITC-01** to the effect that he is eligible to avail the input tax credit as aforesaid;
 - (c) the above declaration shall **clearly specify the details** relating to the Inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods–
 - (i) on the day **immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act**, in the case of a claim under Section 18(1)(a);
 - (ii) on the day **immediately preceding the date of the grant of registration**, in the case of a claim under Section 18(1)(b);
 - (iii) on the day **immediately preceding the date from which he becomes liable to pay tax under section 9**, in the case of a claim under Section 18(1)(c);
 - (iv) on the day **immediately preceding the date from which the supplies made by the registered person becomes taxable**, in the case of a claim under Section 18(1)(d);
 - (d) **[2 Marks]** the details furnished in the declaration under clause (b) shall be **duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds ₹ 200,000**;
 - (e) the ITC claimed in accordance with the provisions of clauses (c) and (d) of Section 18(1) shall be verified with the corresponding details furnished **by the corresponding supplier in FORM GSTR-1 or in FORM GSTR-1A, if any** or as the case may be, in **FORM GSTR- 4**, on the common portal.
- (2) The amount of credit in the case of supply of **capital goods or plant and machinery, for the purposes of Section 18(6)**, shall be calculated by reducing the input tax on the said goods **at the rate of 5% points for every quarter or part thereof** from the **date of the issue of the invoice** for such goods. **[Rule 44 is to be ignored here]**

Rule 41: Transfer of credit on sale, merger, amalgamation, lease or transfer of a business [Read with Section 18(3)]

- (1) A registered person shall, in the event of **sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason**, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of **unutilized input tax credit** lying in his electronic credit ledger **to the transferee**:

In the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets (**entire assets irrespective of whether ITC has been availed or not**) of the new units as specified in the demerger scheme.

Note: Transfer or change in the ownership of business includes **transfer or change in the ownership due to death of the sole proprietor**.

- (2) The **transferor** shall also submit a copy of a **certificate issued by a practicing chartered accountant or cost accountant** certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done **with a specific provision for the transfer of liabilities**.
- (3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, **the un-utilized credit specified in FORM GST ITC-02** shall be credited to his electronic credit ledger.
- (4) The **inputs and capital goods so transferred** shall be duly accounted for by the transferee in his books of account.

Rule 44: Manner of reversal of credit under special circumstances

(1) The amount of ITC relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of Section 18(4) or Section 29(5), **be determined in the following manner, namely,-**

(a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the **ITC shall be calculated proportionately** on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;

(b) for capital goods held in stock, the ITC involved in the remaining useful life in months shall **be computed on pro-rata basis**, taking the useful life as **5 years from date of invoice**.

Example:

Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life = $C \times 5/60$

(2) The amount, as specified in sub-rule (1) shall be **determined separately** for ITC of central tax, State tax, Union territory tax and integrated tax.

(3) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount **based on the prevailing market price** of the goods on the effective date of the occurrence of any of the **events specified in Section 18(4) or Section 29(5)**.

The details furnished shall be **duly certified by a practicing chartered accountant or cost accountant**.

(4) The amount so determined **shall form part of the output tax liability** of the registered person and the details of the amount shall be furnished

- in **FORM GST ITC-03**, where such amount relates to any event specified in Section 18(4) and
- in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

[VERY IMPORTANT: Section 19, Section 20, Section 21, Rule 42 & Rule 43 are excluded from CA-Intermediate Syllabus but applicable for CMA-Intermediate Students]

Page 12.27 to 12.30 are relevant only for CMA Intermediate Students

Rule 42: Manner of determination of input tax credit in respect of inputs or input services and reversal thereof**[Applicable for CMA Inter Students only (Excluded from CA-Intermediate Syllabus)]**

- (1) The ITC in respect of **inputs or input services**, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, **shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-**
- a) the total input tax involved on **inputs and input services** in a tax period, be denoted as 'T';
 - b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively **for the purposes other than business**, be denoted as 'T1';
 - c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used **exclusively for effecting exempt supplies**, be denoted as 'T2';
 - d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under Section 17(5), **be denoted as 'T3'**;
 - e) the amount of ITC **credited to the electronic credit ledger** of registered person, be denoted as 'C1' and **calculated as $C1 = T - (T1 + T2 + T3)$** ;
 - f) the amount of ITC attributable to inputs and input services intended to be used **exclusively for effecting supplies other than exempted but including zero rated supplies**, be denoted as 'T4';
 - g) input tax credit left after attribution of input tax credit **under clause (f) shall be called common credit**, be denoted as 'C2' and calculated as $C2 = C1 - T4$;
 - h) the amount of **input tax credit attributable towards exempt supplies**, be denoted as 'D1' and **calculated as - $D1 = (E \div F) \times C2$** 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:

Provided that where the **registered person does not have any turnover during the said tax period or the aforesaid information is not available**, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the **last tax period** for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover **shall exclude the amount of any duty or tax levied under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;**

- i) the amount of credit **attributable to non-business purposes** if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D2', **and shall be equal to 5% of C2; and**
- j) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies **and shall be denoted as 'C3' [C3 = C2 - (D1+D2)];**
- k) the amount 'C3, D1 & D2' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax **and declared in FORM GSTR-3B or through FORM GST DRC-03;**
- l) the amount equal to aggregate of 'D1' and 'D2' should be reversed by the registered person in GSTR 3B **or through FORM GST DRC-03;**

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated **at the invoice level by the registered person, the same shall be included in 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.**

Rule 43: Manner of determination of input tax credit in respect of Capital Goods and reversal thereof

[Applicable for CMA Inter Students only (Excluded from CA-Intermediate Syllabus)]

Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- the amount of input tax in respect of capital goods used or intended to be used **exclusively** for non-business purposes or used or intended to be used **exclusively** for effecting exempt supplies **shall not be credited** to electronic credit ledger;
- the amount of input tax 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;
- the amount of input tax in respect of capital goods **not covered under clauses (a) and (b)**, denoted as 'A' (**common credit**), **shall be credited** to the electronic credit ledger **and the useful life of such goods shall be taken as 5 years from the date of the invoice** for such goods:

Change from exclusive use for non-business purpose/exempt supplies to common use

Where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as 'A' **shall be credited** to the electronic credit ledger **subject to the condition that**

the ineligible credit attributable to the period during which such capital goods were covered by clause (a), **denoted as 'T_{ie}'**, shall be calculated at the rate of 5% points for every quarter or part thereof **and added to the output tax liability of the tax period** in which such credit is claimed;

- the aggregate of the amounts of 'A' **credited to the electronic credit ledger** under clause (c) in respect of **common capital goods** whose useful life remains during the tax period, **to be denoted as 'T_c'**, shall be the **common credit in respect of such capital goods**:

Provided that where any capital goods earlier covered under clause (b) are subsequently covered under clause (c), **the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value 'T_c'**; [SATC Note: ITC will not be again credited in ledger]

- the amount of input tax credit attributable **to a tax period** on common capital goods during their useful life, be denoted as 'T_m' and calculated as:-

$$T_m = T_c \div 60$$

- the amount of **common credit attributable towards exempted supplies**, be denoted as 'T_e', and calculated as:

$$T_e = (E \div F) \times T_m$$

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:

Where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the **last tax period** for which the details of such turnover are available;

- g) the **amount "T_e" along with the applicable interest** 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.
- h) The **amount "T_e"** shall be computed separately for central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B**.

Notes: Points are same for Rule 42 & Rule 43

1. Here, **exempt supplies include** reverse charge supplies, transactions in securities, sale of land, sale of building (when entire consideration is received either after issuance of completion certificate by the competent authority or its first occupation, whichever is earlier) and **Supply of warehoused goods to any person (prescribed one) before clearance for home consumption**.

Thus, ITC attributable to such supplies will need to be reversed.

2. Here, exempt supplies exclude-

- a) transactions/activities specified in Schedule III **except sale of land, sale of building & supply of warehoused goods to any person (prescribed one) before clearance for home consumption**.
- b) supply of services by way of accepting deposits, extending loans or advances where the **consideration is either interest or discount**. However, value of such services **is included** in the exempt supply **when the same are provided by a banking company or a financial institution including a NBFC**.
- ~~c) transportation of goods by a vessel from the customs station of clearance in India to a place outside India.~~

Thus, ITC attributable to such supplies need not be reversed.

3. Aggregate value of exempt supplies and total **turnover excludes the central excise duty, State excise duty, central sales tax and VAT**.
4. The **value of exempt supply in respect of land and building** is the value adopted for paying stamp duty (**SDV**) and **for security** is **1% of the sale value** of such security.
5. **The value of activities or transactions mentioned in paragraph 8(a) of Schedule III of the CGST Act, 2017 [Supply of warehoused goods to any person before clearance for home consumption] which is required to be included in the value of exempt supplies as per section 17(3) shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers.**

INPUT TAX CREDIT – SET A

1. In which of the following situations, taxpayer needs to reverse the credit already taken?
 - (a) If payment is not made to the supplier within 45 days from the date of invoice
 - (b) If payment is not made to the supplier within 90 days from the date of invoice
 - (c) If payment is not made to the supplier within 180 days from the date of invoice**
 - (d) None of the above
2. What is the time limit for taking ITC?
 - (a) 180 days
 - (b) 1 year
 - (c) 30th November of the next financial year or the date of filing annual return whichever is earlier**
 - (d) No limit
3. If the goods are received in lots/installment, -----
 - (a) 50% ITC can be taken on receipt of 1st installment and balance 50% on receipt of last installment.
 - (b) ITC can be availed upon receipt of last installment.**
 - (c) 100% ITC can be taken on receipt of 1st installment.
 - (d) Proportionate ITC can be availed on receipt of each lot/installment.
4. For banking companies using inputs and input services partly for taxable supplies and partly for exempt supplies, which of the statement is true?
 - (a) ITC shall be compulsorily restricted to credit attributable to taxable supplies including zero rated supplies
 - (b) 50% of eligible ITC on inputs, capital goods, and input service shall be mandatorily taken in a month and the rest shall lapse.
 - (c) Banking company can choose to exercise either option (a) or option (b)**
 - (d) None of the above
5. A supplier takes deduction of depreciation on the GST component of the cost of capital goods as per Income- tax Act, 1961. The supplier can-
 - (a) avail only 50% of the said tax component as IT
 - (b) not avail ITC on the said tax component**
 - (c) avail 100% ITC of the said tax component
 - (d) avail only 25% of the said tax component as ITC
6. Which of the following inward supplies are not eligible for ITC in case of a company manufacturing shoes?
 - (a) Food and beverages
 - (b) Outdoor catering
 - (c) Health services
 - (d) All of the above**
7. Which of the following statement is true for a composition tax payer?
 - (a) A composition tax payer can avail only 50% of ITC on capital goods.
 - (b) A composition tax payer can avail 100% ITC on inputs.
 - (c) ITC is not available on inward supplies made by a composition tax payer.**
 - (d) Composition tax will be available as ITC to the recipient only if the tax is mentioned separately in the invoice raised by the composition tax payer.
8. What is input tax?

Answer:

Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

9. [Important] What are the conditions necessary for obtaining ITC?**Answer:****Following 6 conditions are to be satisfied by the registered taxable person for obtaining ITC:**

- (a) he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- (b) *the details of above invoice or debit note has been **furnished** by the supplier in the **statement of outward supplies** and such details have been **communicated to the recipient** of such invoice or debit note **in the manner specified under section 37***
- (c) he has received the goods or services or both;
- (d) **the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted**
- (e) the supplier has actually paid the tax charged in respect of the supply to the Government; and
- (f) he has furnished the return under section 39.

10. Can a person take ITC without payment of consideration for the supply along with tax to the supplier?**Answer:**

Yes, the recipient can take ITC. However, he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

11. What is the time limit for taking ITC?**Answer:**

"Time limit for availing ITC: **30th November** of succeeding financial year or **date of filing of annual return**, whichever is earlier"

12. What is the ITC entitlement of a newly registered person?**Answer:**

A person applying for registration can take input tax credit of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day **immediately preceding the date of grant of registration**.

If the person was liable to take registration and he has applied for registration within thirty days from the date on which **he became liable** to registration, then ITC of inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day **immediately preceding the date on which he became liable to pay tax** can be taken.

In case of voluntary registration, ITC of such goods held in stock on the day immediately preceding the date of registration can be taken.

13. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?**Answer:**

In case of Supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery **reduced by 5% per quarter or part thereof** from the date of invoice **or** the tax on the transaction value of such capital goods, whichever is higher.

However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person **can pay tax on the transaction value**.

14. VERY IMP: Advice regarding availability of input tax credit (ITC) under the CGST Act, 2017 in the following independent cases:-

- (i) **AMT Co. Ltd. purchased a mini bus having seating capacity of 16 persons for transportation of its employees from their residence to office and back.**
- (ii) **Bangur Ceramics Ltd., a manufacturing company purchased two trucks for transportation of its finished goods from the factory to dealers located in various locations within the country.**
- (iii) **“Hans premium” dealing in luxury cars in Chankyapuri, Delhi purchased five Skoda VRS cars for sale to customers.**
- (iv) **Sun & Moon Packers Pvt. Ltd. availed outdoor catering service to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory.**

Answer:

- (i) Section 17(5) of the CGST Act, 2017, inter alia, blocks input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for certain specified purposes.

Since in the given case, the mini bus has a seating capacity of 16 persons, the ITC thereon will not be blocked.

- (ii) Section 17(5) of the CGST Act, 2017, inter alia, blocks input tax credit in respect of motor vehicles for transportation of persons with certain exceptions. Thus, ITC on motor vehicles for transportation of goods is allowed unconditionally.

Therefore, ITC on trucks purchased by Bangur Ceramics Ltd for transportation of its finished goods from the factory to dealers located in various locations with in the country is allowed.

- (iii) Section 17(5) of the CGST Act, 2017, inter alia, blocks input tax credit in respect of motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making further supply of such motor vehicles.

Being a dealer of cars, “Hans Premium” has purchased the cars for further supply. Therefore, ITC on such cars is allowed even though seating capacity is less than 13.

- (iv) Section 17(5) of the CGST Act, 2017 inter alia, blocks input tax credit in respect of outdoor catering services. However, ITC is available on such services, when the same are provided by an employer to its employees under a statutory obligation.

Thus, in view of the above- mentioned provisions, Sun & Moon packers Pvt. Ltd. can avail ITC in respect of outdoor catering services availed by it as the same is being provided under a statutory obligation.

15. Very Imp: With reference to the provisions of section 17 of the CGST Act, 2017, examine the availability of ITC under the CGST Act, 2017 in the 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) of the CGST Act, 2017 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 the factory premises.**

Thus, in view of the above-mentioned provisions, 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) of the CGST Act, 2017.**

- (ii) Section 17(5) of the CGST Act, 2017 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, taxable person 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) As per section 17(5) of the CGST Act, 2017, 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) 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.

- 16. A flying school imports an aircraft for use in its training activity, and takes ITC of the IGST paid on the import. The departmental audit raises an objection that aircrafts fall within the definition of “conveyance” in section 2(34) of the Act and that ITC is not allowed on conveyances. Offer your comments.**

Answer:

Under section 17(5) of the CGST Act, ITC is allowed on aircraft **if they are used to make the taxable supply of imparting training on flying an aircraft.** Therefore, the credit is correctly taken.

- 17. A taxable person is in the business of information technology. He buys a motor vehicle (Seating capacity – 5 persons) for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?**

Answer:

No. As per Section 17(5), ITC on **Motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) can be availed only if it is used for:**

- making further taxable supply of such motor vehicles;
- making taxable supply of transportation of passengers;
- making taxable supply of imparting training on driving such motor vehicles

18. 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 the SEZ.**

19. A garment factory receives a Government order for making uniforms for a commando unit. This supply is exempt from tax under a special notification. The fabric is separately procured for the supply, but thread and lining material for the collars are the ones which are used for other taxable products of the factory.

The turnover of the other products of the factory and exempted uniforms in July is ₹ 4 crore and ₹ 1 crore respectively, the ITC on thread and lining material procured in July is ₹ 5,000 and ₹ 15,000 respectively.

Calculate the eligible ITC on thread and lining material.

Answer:

Thread and lining material are inputs which are used for making taxable as well as exempt supplies. Therefore, credit on such items will be apportioned and credit attributable to exempt supplies will be added to the output tax liability.

Credit attributable to exempt supplies = Common credit x (Exempt turnover/ Total turnover)

Common credit = ₹ 15,000 + ₹ 5,000 = ₹ 20,000

Exempt turnover = ₹ 1 crore

Total turnover = ₹ 5 crore [₹ 1 crore + ₹ 4 crore]

Credit attributable to exempt supplies = (₹ 1 crore / ₹ 5 crore) x ₹ 20,000 = ₹ 4,000.

Ineligible credit of ₹ 4,000 will be added to the output tax liability for the month of July. Credit of ₹ 16,000 will be eligible credit for the month of July.

20. 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 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)].

21. M/s. X Ltd. supplied taxable goods from the factory after manufacture in the month of Oct 2023 for sale to a distributor for ₹ 8,00,000. M/s X Ltd has suppressed this transaction. However, he deposited the GST @12% on these goods on 10-1-2024 against show cause notice issued under Section 74 (when there is fraud) of the CGST Act, 2017 by the Central Tax Officer and passed the order accordingly. Whether distributor namely recipient of these goods is eligible to take input tax credit.

Answer:

As per CGST Rules, 2017, No credit on payment of tax due to fraud, willful-misstatement or suppression of fact etc. shall be allowed. In the given case no input tax credit was available to registered person if the supplier has paid tax in pursuance of order where any demand has been confirmed on account of any fraud, willful-misstatement or suppression of facts and so on under Sec. 74 of the CGST Act, 2017.

Hence, input tax credit is not allowed to recipient of these goods (i.e. distributor in the given case).

22. M/s A Ltd. of Aluva (Kerala) receives the input service from M/s B Ltd. of Bengaluru who raises the invoice for supply of service on 17th Dec 2024 and availed the credit on the same date.

Find the time limit within which M/s A Ltd. is required to pay the bill amount inclusive of tax to supplier of service. Also explain consequence if payment is not made within the stipulated time period as mentioned in 2nd proviso to section 16(2) of the CGST Act, 2017.

Re-credit is allowed if the payment is made to the supplier of service after expiry of time period as mentioned in 2nd proviso to section 16(2) of the CGST Act, 2017.

Answer:

In the given case M/s A Ltd. must pay to M/s B Ltd. the value of services and GST payable thereon by **13th June 2025** (within 180 days).

Working note:

From	To	No. of days
18th Dec 2024	13th June 2025	180

In case M/s A Ltd. does not pay by **13th June 2025**, the credit availed by it will be required to pay with interest.

23. M/s X Ltd. has establishment in Chennai, and establishment in Hyderabad. Supply of goods (open market value of ₹ 5,00,000) made by M/s X Ltd. Chennai to M/s X Ltd. Hyderabad. M/s X Ltd. Chennai paid IGST of ₹ 60,000. Accordingly M/s X Ltd. Hyderabad availed the input tax credit of ₹ 60,000. 2nd Proviso to Section 16(2) of CGST Act, 2017 is applicable in the given case (i.e to reverse the credit where payment is not made within 180 days from the date of invoice). Advise.

Answer:

As per proviso to rule 37(1) of the CGST Rules, 2017, the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to subsection (2) of section 16.

In the given case M/s X Ltd. Hyderabad is not required to reverse the input tax credit. Since, as per Section 25(4) of the CGST Act, 2017 two establishments are considered as establishment of distinct person and accordingly, supply made by one establishment to another establishment will be covered under Schedule I without consideration.

24. M/s Jay Ltd. being a manufacturer purchased machinery worth ₹ 10,00,000 on which GST ₹ 1,80,000 is paid. The manufacturer has following two options:

Option 1:

Claim depreciation on the entire value of machinery inclusive of GST (i.e ₹ 11,80,000) by forgoing ITC on capital goods.

Option 2:

Claim depreciation on the cost of machine (i.e. ₹ 10,00,000) and avail the ITC of GST portion (i.e. 1,80,000).

25. M/s X Ltd. purchased input for ₹ 2,00,000 vide Tax Invoice No. 12 dated 1st December 2024. M/s X Ltd. has submitted annual return for the financial year 2024-25 on 15th September 2025.

Find the time limit within which input tax credit can be availed on input by X Ltd. M/s X Ltd. wants to take input tax credit on such input on 30th September 2025, advise.

Answer:

Time limit to avail the credit is earlier of the following:

(a) 30th November 2025

or

(b) Date of filing of annual return i.e. 15th September 2025

Therefore, M/s X Ltd has to avail the input tax credit on or before 15th September 2025.

Advise:

After 15th September 2025, the registered taxable person cannot take credit based on invoice pertaining to supply of goods or services for the period 1st April 2024 to 31 March 2025. **Hence, in the given case M/s X Ltd is NOT eligible to avail the input tax credit on 30th September 2025.**

26. M/s X Ltd. manufacturer of textile products. Company received order from Government to supply goods to defense (exempted supply). The turnover of the other taxable goods and exempted goods ₹ 4 crore and ₹ 1 crore respectively. Common inputs on which GST paid ₹ 20,000. Calculate the eligible ITC on common inputs?

Answer:

Common inputs credit	₹ 20,000
Total turnover	₹ 5 crores
Credit attributable to exempted supplies (₹ 20,000 x ₹ 1 crore / ₹ 5 crore)	₹ 4,000
Eligible ITC is ₹ 16,000 (i.e 20,000 – 4,000)	

27. X Bank of India has corporate office in Mumbai and branches in Chennai, Delhi and Kolkata. Mumbai office provided services to Chennai office accordingly IGST paid. Office of Chennai will avail the credit of IGST. Chennai office is required to reverse such credit? Explain.

Answer:

As per Section 17(4) of the CGST Act, 2017 that reversal of 50% shall not be made for the credit availed by Chennai office on services provided by corporate office.

Thus, no credit reversal shall be made for the credit availed on input services provided by one registered person to another registered person holding same PAN.

28. OK Bank has availed credit of ₹ 25,00,000 lacs in the month of June 20XX. Total credit, out of which ₹ 5,00,000 pertains to non-business purpose and ₹ 7,00,000 pertains to credit availed under 2nd proviso of section 17(4) (service received from another branch). Find the total input tax credit eligible to OK Bank.

Note: OK Bank opted to avail ITC an amount equal to 50% of eligible credit.

Answer:

Statement showing eligible ITC to OK Bank for the month of June 20XX:

Particulars	ITC Amount in ₹	Remarks
ITC attributable to non-business purpose	Nil	ITC fully not allowed
ITC from its other establishment	7,00,000	ITC fully allowed.
Other ITC	6,50,000	(25,00,000–5,00,000–7 lakhs) x 50%
Total ITC allowed	13,50,000	

29. M/s A Ltd. a registered person under GST law and purchased 10 cars for ₹ 45 lakh plus 28% GST. M/s A Ltd sold 8 cars for ₹ 55 Lakh plus 28% GST.

Find the GST liability in the following two independent cases:

- (a) M/s A Ltd is a dealer of motor vehicles
(b) M/s A Ltd is not a dealer of motor vehicles

Answer: Statement showing net GST liability of M/s A Ltd.

Particulars	M/s A Ltd. is a dealer in motor vehicles (₹ in lacs)	M/s A Ltd. is not a dealer in motor vehicles (₹ in lacs)	Remarks
GST on Supply of goods	15.40	15.40	₹ 55 lacs x 28%
Less: ITC	(12.60)	Not allowed	₹ 45 lacs x 28%
Net GST liability	2.80	15.40	

30. Ferrari Company for conducting Formulae One car races purchased 20 Racing Cars for ₹ 80 lakhs plus GST 28%. Ferrari company is eligible for availing ITC on purchase of Racing Cars.

Answer: No. Ferrai Company can not avail the ITC on purchase of Racing Cars.

31. Mr. Ram a school van driver and also registered person under GST law. He purchased Omni vehicle for ₹ 8 lacs plus GST 28%. Mr. Ram is eligible for ITC on this vehicle. Explain.

Answer:

Since, Mr. Ram is a registered person supplying taxable services in the nature of transportation of passengers, he is eligible to avail the ITC on motor vehicle.

32. M/s Maruti Driving School Pvt. Ltd. supplied taxable services in the month of October 20XX for ₹ 15 lacs (plus GST 18%) to provide training on driving. Company purchased two vehicles for this purpose namely passenger vehicle for ₹ 20 lacs plus GST 28% and goods vehicle for ₹ 33 lacs plus GST 28%. Find the net GST liability of M/s Maruti Driving School Pvt. Ltd.

Answer:

GST on output supply	= ₹ 2,70,000
Less: ITC	
On passenger vehicle	= ₹ 5,60,000
On goods vehicle	= ₹ 9,24,000
Net Excess ITC c/f	= ₹ 12,14,000

33. Course completion certificate/training offered M/s Sky Ltd. (Flying Training Institute) purchased aircraft for ₹ 22 crores plus GST 28%. Whether the flying institute is eligible for input tax credit on purchase of air craft.

Answer:

Yes. M/s Sky Ltd. (Flying Training Institute) is eligible to avail ITC.

34. SATC Academy organizes parents meeting and provides meal during meeting to students and their parents. The supplier of food charged ₹ 72,500 plus GST 18%, under the category of outdoor catering. Explain SATC Academy being provider of taxable supply of services namely commercial training and coaching services is eligible to avail the credit of GST paid on outdoor catering service.

Answer:

GST paid on outdoor catering is not allowed as ITC **even though such services are used for business purpose**. Since, it is specifically mentioned under Section 17(5) of the CGST Act, 2017 where credit is not allowed.

35. Annapoorna caterings supply outdoor catering services to its customers by sub-contracting the same. Subcontractor supplied food items like ice creams, North Indian Meals, South Indian Meals and so on to Annapoorna caterings. Sub-contractor raised invoice on Annapoorna caterings for supply of outdoor catering services ₹ 2,00,000 plus GST 18%. Annapoorna caterings supplied outdoor catering to its customers for ₹ 2,10,000 plus GST 18%. Find the Net GST liability of Annapoorna caterings.

Answer:

Statement showing net GST liability of Annapoorna caterings:

Particulars	Value in ₹	Remarks
GST on outward supply	37,800	₹ 2,10,000 x 18%
Less: ITC from similar line of business	(36,000)	₹ 2,00,000 x 18%
Net GST liability	1,800	

36. Sky Ltd. is engaged in supply of transport of passengers by air services. The company avails outdoor catering services of M/s Anna Caterers in order to provide food and beverages to the passengers. M/s Anna Caterers raises an invoice on Sky Ltd charging GST. Sky Ltd. wants to avail the ITC on outdoor catering services supplied by M/s Anna Caterers. Advise.

Answer:

ITC shall be available where an inward supply of goods or services or both of a particular category is used by a registered person as an element of a taxable composite or mixed supply.

Advise: In the given case, Sky Ltd will be entitled to avail the ITC of the GST paid to M/s Anna Caterers since outdoor catering services forms part of taxable composite supply of passengers by air services.

37. Wipro Pro Ltd is a BPO which works on night shift basis. As per the Government Notification, it has to provide rent a cab facilities to its employees who work on night shifts. Whether, Wipro Pro is eligible to avail ITC on rent a cab services.

Answer:

Yes. Wipro pro Ltd can claim ITC on the GST paid on such rent-a-cab services.

38. Infosys Ltd. being a registered person under GST Law paid insurance premium for its employees along with GST thereon. Infosys Ltd. is can avail the ITC of GST paid on insurance premium?

Answer:

No. Infosys Ltd cannot avail the ITC benefit in the given case.

39. M/s MRFL Ltd. being a manufacturer of taxable goods paid general insurance premium to cover loss of stock of finished goods. Company wants to avail the GST paid on such premium as input tax credit. Advise.

Answer:

GST paid on general insurance premium to cover loss of stock of finished goods is well allowed as ITC. Hence, M/s MRFL Ltd. is eligible to avail the tax paid on general insurance premium as ITC.

40. M/s A Ltd. being a manufacturer of laptops registered under GST. Company appointed M/s B Ltd. for construction of factory building in the factory premises. Contract price is ₹ 120 lacs plus GST 18%. M/s B Ltd., supplied cement, steel and labour while executing the contract. Whether M/s A Ltd is eligible to avail the input tax credit on such works contract service.

Answer:

GST paid on works contract services which is used for land, building or any other civil structures specifically excluded from availing input tax credit under section 17(5) of the CGST Act, 2017. Therefore, in the given case M/s A Ltd is not eligible for input tax credit.

41. Determine the amount of input tax credit available with Arihant Manufacturing Ltd. in respect of the following items procured by them in the month of January 20XX:

Items	GST paid in ₹
Raw materials	72,000
Food and beverages & catering services are used in the guest house primarily for the stay of the newly recruited employees.	40,000
Inputs used for making structures for support of plant and machinery	1,25,000
Capital goods used as parts and components for use in the manufacture of final product	40,000

Answer:

Statement showing eligible input tax credit to Arihant Manufacturing Ltd.

Items	ITC in ₹
Raw materials	72,000
Food and beverages & catering services are used in the guesthouse primarily for the stay of the newly recruited employees.	Not allowed
Inputs used for making structures for support of plant and machinery	1,25,000
Capital goods used as parts and components for use in the manufacture of final product	40,000
Total credit allowed	2,37,000

42. Mr. A of USA being technician came to India to assemble parts of machinery. He also imported goods worth ₹ 10,00,000 and paid following customs duties:

- Basic customs duty is ₹ 1,00,000.
- Integrated Goods and Services Tax (IGST) of ₹ 1,98,540.

In India Mr. A wants to register as non-resident taxable person and his estimated liability is ₹ 2,50,000. How much Mr. A is liable to pay as advance tax?

Answer:

Mr. A of USA is liable to pay advance tax of ₹ 51,460. (i.e. ₹ 2,50,000 – ₹ 1,98,540)

43. M/s X Ltd. purchased shoes for their employee's personal consumption by paying GST thereon. ITC not allowed on such goods.
44. M/s Y Ltd. for safety reasons purchased hand gloves and shoes for workers as mandatory. Hence, ITC on such goods cannot be considered as used for personal purpose. Therefore, ITC allowed.

45. M/s X Ltd. sold goods to M/s Y Ltd. for ₹ 2,00,000 plus GST ₹ 36,000. M/s X Ltd. remitted the GST on or before the due date. During the audit of M/s X Ltd. books by the Central Tax Department quantified the GST liability ₹ 72,000 and demanded to pay differential duty of ₹ 36,000 u/s 74 of the CGST Act, 2017. Finally, M/s X Ltd. paid the differential GST of ₹ 36,000.

M/s Y Ltd. wants to avail the input tax credit of differential amount of GST, advise.

Answer:

Since, the differential GST paid by M/s X Ltd. against show cause notice u/s 74 of the CGST Act, 2017, will not be available as credit to M/s Y Ltd. in view of Section 17(5) of the CGST Act, 2017.

46. M/s X Ltd. becomes liable to pay tax on 1st December and has obtained registration on 15th December. The GST paid goods lying in the premises of M/s X Ltd. as on 30th November are as follows:

Particulars	Value in ₹ (Excluding tax)	GST ₹
Raw material	2,00,000	36,000
Capital goods	5,00,000	1,40,000
Raw material lying work in progress	3,00,000	54,000
Raw material lying in Finished Goods	12,00,000	2,16,000

You are required to answer the following:

- Eligible amount of input tax credit.
- Time limit to submit declaration on common portal.
- Whether any certification required while availing the credit, if so from whom.

Answer:

(a) Eligible input tax credit is ₹ 3,06,000/-

(b) Declaration in Form GST ITC-01 on or before 14th January should be submitted on common portal of GSTN.

(c) Declaration regarding inputs tax credit shall be duly certified by a practicing Chartered Accountant or a Cost Accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds ₹ 2,00,000.

In the give case, since, input tax credit declared is ₹ 3,06,000. Therefore, certificate from a practicing Chartered Accountant or a Cost Accountant is required.

Note: M/s X Ltd. cannot take ITC on capital goods.

47. Mr. A applies for voluntary registration on 22nd November and obtained registration on 25th November. Mr. A has stock on the following two dates:

Date	Opening balance (units)	Purchased (units)	Sold (units)
21st November	12,000	20,000	8,000

On 24th November, Mr. A purchased 5,000 units and sold 15,000 units.

On 24th November, Mr. A is also purchased plant and machinery for ₹ 2,00,000 plus GST 28%.

Mr. A purchased good at uniform rate through out the year at ₹ 100 per unit plus GST paid 18%.

You are required to find the eligible input tax credit to Mr. A.

Answer:

Stock as on 24th November = 14,000 units (12000 + 20000 – 8000 + 5000 - 15000)

Value of stock = ₹ 14,00,000
(i.e. 14,000 units x ₹ 100 per unit).

Input tax credit eligible is ₹ 2,52,000/-.

Note: ITC on capital goods not allowed.

48. Mr. C a registered taxable person, was paying tax at composition scheme upto 30th July 20XX. However, w.e.f. 31st July 20XX, Mr. C becomes liable to pay tax under regular scheme. Other information:

(a) Input as on 30th July for ₹ 3,54,000 (inclusive of GST paid @18%).

(b) Capital goods purchased for ₹ 5,00,000 (invoice date 22nd April 20XX, GST 18%)

Find the eligible ITC to Mr. C.

Note: Mr. C not availed depreciation on the GST paid on capital goods.

Answer:

ITC allowed on inputs = ₹ 54,000

ITC allowed on capital goods

ITC on capital goods = 90,000
Less: 5% p.q = - 9,000 (₹ 90,000 x 5% x 2)
ITC Eligible = ₹ 81,000

Total ITC allowed to Mr. C as on 31st July = ₹ 1,35,000

49. M/s A Ltd. sold plant and machinery after being used in the manufacture of taxable goods for ₹ 4,00,000 on 1st November 2024. GST is payable on transaction value of plant and machinery 18%. M/s A Ltd. was purchased this machine vide invoice dated 22nd October 2023 for ₹ 5,50,000/- plus GST 18%. M/s A Ltd. availed the credit on said plant and machinery.

Find the amount payable by M/s A Ltd. under Section 18(6) of the CGST Act, 2017.

Answer:

M/s A Ltd. shall pay amount equal to the input tax credit taken on the said capital goods reduced by 5% per quarter or part thereof from the date of the issue of the invoice for such goods or the tax on the transaction value of such capital goods u/s 15 of the CGST Act, 2017 **whichever is higher.**

Particulars	Amount in ₹	Working note
ITC taken on capital goods	99,000	5,50,000 x 18%
Less: 25% reduction	(24,750)	No. of quarters = 5 5% x 5 = 25% reduction
Balance ITC	74,250	
Tax on Transaction value	72,000	4,00,000 x 18%

Therefore, M/s A Ltd. is liable to pay an amount of ₹ 74,250/-.

50. [Important] The goods manufactured by Royal Ltd. have been exempted from GST with effect from 15th November 20XX. Earlier these goods were liable to tax @18%. Its inputs were liable to GST @12%. Following information is supplied on 15th November 20XX:

- (i) The inputs costing ₹ 1,44,720 are lying in stock.
- (ii) The inputs costing ₹ 77,184 are in process.
- (iii) The finished goods valuing ₹ 4,82,400 are in stock, the input cost is 50% of the value.
- (iv) The balance in electronic credit ledger account shows credit balance of ₹ 2,79,104.
- (v) Royal Ltd. also purchased capital goods for ₹ 2,00,000 by paying GST 28% (invoice dated 10th July 20XX)

The department has asked Royal Ltd. to reverse the credit taken on inputs referred above. However, Royal Ltd. contends that credit once validly taken is indefeasible and not required to be reversed. Decide.

What would be your answer if the balance in electronic credit ledger receivable account as on 15th November 20XX were ₹ 29,104?

Answer:

Statement showing amount to be paid by Royal Ltd. as on 15th November 20XX

S.No.	Particulars	Amount to be paid (₹)	Workings
(i)	Inputs lying in stock	17,366	₹ 1,44,720 x 12/100 = ₹ 17,366
(ii)	Inputs in process (i.e. Work in Progress)	9,262	₹ 77,184 x 12/100 = ₹ 9,262
(iii)	Inputs contained in finished goods lying in stock	28,944	₹ 4,82,400 x 50% x 12/100 = ₹ 28,944
(iv)	Capital goods	51,333	Useful life as per rule 44(1)(b) = 5 years (i.e. 60 months). No. of months capital goods have been in use = 4 months 5 days (i.e. 5 months) The useful remaining life in months = 55 months 2,00,000 x 28% x 55/60 = ₹ 51,333
	Amount to be paid by Royal Ltd.	1,06,906	

Amount payable by Royal Ltd. = ₹ 1,06,906
 Less: ITC Receivable = ₹ (2,79,104)
 Excess ITC = ₹ (1,72,198)

Excess ITC in electronic credit ledger of ₹ 1,72,198 shall lapse as 15th November 20XX.

If the balance in electronic credit ledger as on 15th November 20XX is ₹ 29,104, then amount payable is as follows:

Amount payable by Royal Ltd. = ₹ 1,06,906
 Less: ITC Receivable = ₹ (29,104)
 Amount payable = ₹ 77,802

INPUT TAX CREDIT – SET B

1. **Example:** XYZ enters into a contract with ABC for supply of 10 MT of a chemical for ₹ 1,18,000 (inclusive of GST of ₹ 18,000) in the month of August. The chemical is to be delivered in lots over a period of three months. ABC raises the invoice for the entire amount in August and XYZ also makes the payment in the same month but the supply is completed in November. **Though XYZ paid the full tax as early as August, it can take the ITC of the same only on receipt of last instalment of the chemical in the month of November.**
2. **Example:** A registered person is in the business of manufacturing shoes. He gave 50 pairs of shoes to his friends free of cost. **ITC on inputs and input services attributable to such 50 pair of shoes being used for non-business purposes will not be available.**
3. **Example:** A registered person manufactures a product 'X' chargeable to 18% GST, a product 'Y' chargeable to NIL rate of tax and a product 'Z' which is exported without payment of tax under bond. All the three products are manufactured from common inputs and input services. **ITC on inputs and input services attributable to product 'Y' being an exempt supply, will not be available.**
4. **Example:** Mr. X owns a grocery store. He procures rice, wheat and biscuits for being sold in its store. Out of the inventory so purchased, he gives 10 kgs each of rice and wheat to his wife for household use. **Being used for personal consumption, ITC on 10 kg of rice and 10 kg of wheat is blocked.**
5. **A registered person transfers its business to another person.**
Is such registered person allowed to transfer the unutilized ITC lying in its electronic credit ledger to such transferred business? Discuss.

Solution:

As per Section 18(3), in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities.

Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should record the inputs and capital goods so transferred in his books of account.

6. **Swastik Pvt. Ltd. is a manufacturer of taxable goods. It purchased a machinery for ₹ 8,00,000 on which IGST of ₹ 14,400 is paid. The company has claimed depreciation under the Income-tax Act, 1961 on the full value of the machine, i.e. including the IGST component as also availed ITC of ₹ 14,400 paid by it as IGST.**

Examine if the stand taken by the company is correct in law.

Answer

As per Section 16(3), if the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed.

Since in the given case, Swastik Pvt. Ltd. has claimed depreciation on the tax component of the cost of the machine, it cannot claim ITC of IGST of ₹ 14,400 paid by it on the machine. It can either claim depreciation on the tax component or avail ITC of such tax but cannot avail both the benefits simultaneously.

7. **[Important]** Sigma Consultants, an LLP of finance professionals, provides financial consultancy services. It made an advance payment of ₹ 1,18,000 (inclusive of IGST @ 18%) in the month of October to Azuro Computer Services for developing a software. The software would be used by the LLP to enhance the precision of the financial advice given by it to various clients. The balance payment is to be made after the successful test run of the software in the month of December. Sigma Consultants has availed ITC of IGST of ₹ 18,000 in the month of October.

Do you think Sigma Consultants can avail such ITC? Examine the scenario with reference to the relevant legal provisions.

Answer

As per section 16(2)(b), tax paid on supply of goods and/or services can be availed as ITC only if such goods and/or services are received by the registered person.

In the given case, Sigma Consultants has paid IGST of ₹ 18,000, in the month of October, on advance for IT services intended to be used in the course or furtherance of business.

However, it cannot avail ITC of such tax in the month of October as the services in relation to which the advance payment has been made have not been received in that month.

8. **'AB', a registered person, was paying tax under composition scheme up to 30th July. However, w.e.f. 31st July, 'AB' becomes liable to pay tax under regular scheme.**

Is 'AB' eligible for any ITC?

Answer

'AB' 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.**

9. **[Very Important]** Babla Enterprises is exclusively engaged in making exempt supply of goods and is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla Enterprises was ₹ 50 lakh.

Examine the eligibility of Babla Enterprises for availing ITC, if any.

Answer

Since the exemption available on goods being supplied by Babla Enterprises gets withdrawn, it becomes liable to registration as its turnover has crossed the threshold limit on the day when the exemption is withdrawn.

Assuming that Babla Enterprises applies for registration within 30 days of 1st October and it obtains such registration, it will 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 it becomes liable to pay tax, i.e. 30th September [Section 18(1)(a)].

Input tax paid on capital goods will not be available as ITC in this case.

10. Mamta Trade Links trades in exempt goods and provides taxable services. **It is registered under GST.** On 1st October, the exemption available on its goods gets withdrawn.

Analyze the scenario and determine the eligibility of Mamta Trade Links for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods.

Answer

If the exempt supply made by a registered person becomes a taxable supply, provisions of section 18(1)(d) become applicable. In the given case, since Mamta Trade Links is a registered person, section 18(1)(d) will be applicable.

As per section 18(1)(d), Mamta Trade Links will 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 relating to such exempt supply and **on capital goods exclusively used for such exempt supply** on the day immediately preceding the date from which such supply becomes taxable, i.e. 30th September. **ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.**

11. [Important] Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/services availed by it during the month of July:

	Particulars	GST (₹)
(1)	Raw material (to be received in the month of September)	2,50,000
(2)	Membership of a club availed for employees working in the factory	1,45,000
(3)	Inputs to be received in 5 lots, out of which 3 rd lot was received during the month	80,000
(4)	Trucks used for transport of raw material	40,000
(5)	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 80,000)	1,50,000

Determine the amount of ITC available with Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Answer

Computation of ITC available with Harshgeet Pvt. Ltd. for the month of July

Particulars	ITC (₹)
Raw Material [ITC not available as raw material is not received in July]	Nil
Membership of a club availed for employees working in the factory [Blocked credit in terms of section 17(5)]	Nil
Inputs to be received in 5 lots, out of which 3rd lot was received during the month [In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	Nil
Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	40,000
Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. ₹ 80,000, is not available.]	70,000
Total ITC	1,10,000

12. Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.

	Particulars	GST (₹)
(1)	Raw spices purchase ➤ Raw spices sold to customers ➤ Raw spices used for personal use of directors	50,000 20,000
(2)	Electric machinery purchased for being used in the manufacturing process	25,000
(3)	Motor vehicle used for transportation of the employee	55,000
(4)	Payment made to contractor for construction of staff quarter	1,25,000

Determine the amount of ITC available with Jamku Ltd. for the month October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Answer**Computation of ITC available with Jamku Ltd. for the month of October**

Particulars	ITC (₹)
Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	50,000
Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.]	Nil
Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	25,000
Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. In the given case, since the supplier is in the business of spices, ITC on motor vehicle used for transportation of the employee is blocked credit.]	Nil
Payment made to contractor for construction of staff quarter [ITC is not available on goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.]	Nil
Total ITC	75,000

- 13. [Important]** Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/services availed by it during the month of March:

	Particulars	GST (₹)
(1)	Purchase of iron which is used as a raw material [Goods were received in two instalments - first in March and the second in April]	2,50,000
(2)	Purchase of accessories which were delivered directly to the dealers of the company on the direction of Dina Ltd. [Only invoice was received by Dina Ltd.]	90,000
(3)	Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,97,000
(4)	General insurance taken on a car used by executives of the company for official purposes	5,200

You are required to determine the ITC available with Dina Ltd. for the month of March, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

Answer

Computation of ITC available with Dina Ltd. for the month of March

Particulars	ITC (₹)
Purchase of iron used as a raw material [When inputs are received in instalments, ITC can be availed only on the receipt of last instalment. Hence, since last instalment is received in April, ITC cannot be availed in March.]	Nil
Purchase of accessories delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	90,000
Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.]	1,97,000
General insurance taken on car used by executives of the company for official purpose [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]	Nil
Total ITC	2,87,000

14. **[Important]** M/s. Diwan & Sons of New Delhi, has placed an order for 250 kg of plastic granules @ ₹ 50 per kg (exclusive of GST) on M/s. Karim & Bros. of Noida, U.P. M/s. Karim & Bros. has agreed to deliver the goods at the warehouse of M/s. Diwan & Sons at New Delhi.

While the order was getting packed at the factory of M/s. Karim & Bros., M/s. Diwan & Sons got an order from Shubhkamna Sales of Hapur, U.P. for 250 kg of plastic granules @ ₹ 60 per kg (exclusive of GST).

In order to save on transportation cost, M/s. Diwan & Sons asks M/s. Karim & Bros. to directly deliver the plastic granules to Shubhkamna Sales at its godown located in Hapur. Accordingly, M/s. Karim & Bros. has delivered the plastic granules at the godown of Shubhkamna Sales at Hapur.

Examine the availability of ITC with M/s. Diwan & Sons & M/s. Karim & Bros.

Note: All the parties are registered under GST and rate of GST is 18%.

Answer

One of the conditions for availing ITC is that the registered person taking the ITC must have received the goods and / or services. However, goods delivered to a third person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, **are deemed to have been received by such registered person**. So, ITC is available to the registered person, on whose order the goods are delivered to a third person even though the registered person does not receive the goods.

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person). **Therefore, in view of the above provisions, ITC of ₹ 2,250 (₹ 50 x 250 x 18%) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.**

Further, in this case there is another supply between Diwan & Sons (supplier) and Shubhkamna Sales (recipient). **Therefore, Shubhkamna Sales can avail ITC of ₹ 2,700 (₹ 60 x 250 x 18%) on the purchase of 250 kg of plastic granules @ 60 per kg.**

15. Paritosh & Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	Amount (₹)
Intra-State supply of goods	10,00,000
Inter-State supply of goods	8,00,000

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	Amount (₹)
Intra-State purchases of goods	3,00,000
Inter-State purchases of goods	2,50,000

Paritosh & Co. has following ITCs with it at the beginning of the tax period:

Particulars	Amount (₹)
CGST	57,000
SGST	60,000
IGST	1,40,000

Note:

- (i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing ITC have been fulfilled.

Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.

Answer

Computation of GST payable on outward supplies

S.No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
(i)	Intra-State supply of goods for ₹ 10,00,000	90,000	90,000		1,80,000
(ii)	Inter-State supply of goods for ₹ 8,00,000			1,44,000	1,44,000
Total GST payable					3,24,000

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	60,000	1,40,000
Add: ITC on Intra-State purchases of goods valuing ₹ 3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 2,50,000	Nil	Nil	45,000
Total ITC	84,000	87,000	1,85,000

Computation of minimum GST payable from electronic cash ledger

Particulars	IGST @ 18% (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	Total (₹)
GST payable	1,44,000	90,000	90,000	3,24,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a manner to minimize cash outflow]	(1,44,000) IGST	(38,000) IGST	(3,000) IGST	1,85,000

		(52,000) CGST	(87,000) SGST	1,39,000
Minimum GST payable in cash	Nil	Nil	Nil	Nil
ITC balance to be carried forward next month	Nil	32,000	Nil	32,000

Note: The above computation is one of the many ways to set off the ITC of IGST (₹ 41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash. To illustrate, IGST of ₹ 10,000 can be set off against SGST payable and IGST of ₹ 31,000 can be set off against CGST payable.

In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be ₹ 25,000 and ₹ 7,000 (totaling to ₹ 32,000) respectively.

However, if the entire ITC of ₹ 41,000 is set off against CGST payable, then SGST of ₹ 3,000 will be payable in cash thus, increasing the cash outflow.

Therefore, such a set off would not be advisable for computing the minimum GST payable.

- 16.** ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	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 for consumption of employees working in the factory	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
(ii) ABC Co. Ltd. is not eligible for any threshold exemption.

ANSWER

Computation of ITC available with ABC Co. Ltd. for the month of July

S. No.	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 [Though ITC on motor vehicles has been specifically disallowed under section 17(5)(a), ITC on motor vehicles used for transportation of goods is allowed under section 17(5)]	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 employees working in the factory [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)]	Nil
Total ITC		8,20,000

17. XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2024 from the following particulars:-

S. No.	Inward supplies	GST (₹)	Remarks
(i)	Inputs 'A'	1,00,000	One invoice on which GST payable Was ₹ 10,000, is missing
(ii)	Inputs 'B'	50,000	Inputs are to be received in two instalments. First instalment has been received in October, 2024.
(iii)	Capital goods	1,20,000	XYZ Ltd. has capitalised 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 20.01.2024 on which GST payable was ₹ 50,000 has been received in October, 2024.

Note:

- (i) All the conditions necessary for availing the ITC have been fulfilled.
- (ii) ABC Co. Ltd. is not eligible for any threshold exemption.
- (iii) The annual return for the financial year 2023-24 was filed on 15th September, 2024.

ANSWER

Computation of ITC available with XYZ Ltd. for the month of October, 2024

S.No.	Inward supplies	GST (₹)
(i)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)]	90,000
(ii)	Inputs 'B' [When inputs are received in instalments, ITC can be availed only on receipt of last Instalment-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 the due date of furnishing of the return for the month of September following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier.]	1,75,000
Total		2,65,000

Since the annual return for the FY 2023-24 has been filed on 15th September, 2024, ITC on the invoice pertaining to FY 2023-24 cannot be availed after 15th September, 2024.

18. Example on Rule 37A [Important]:

Jhamku, a registered supplier, supplies goods to Chamku valuing ₹ 10,000 on which he charged CGST and SGST of ₹ 900 each in the invoice raised in March, 2025.

Jhamku uploaded the details of the said invoice in his GSTR-1 for the said month filed before the due date based on which Chamku availed the said ITC of ₹ 900 each towards CGST and SGST while filing his GSTR-3B for March, 2025 as the said ITC was also reflected in his GSTR-2B. However, Jhamku failed to furnish the corresponding GSTR-3B (for the month of March, 2025) up to September, 2025.

Accordingly, while filing GSTR-3B for the month of October, 2025 on 20th November, 2025, Chamku reversed an amount of ITC earlier availed by him. Subsequently, suppose if Jhamku files GSTR-3B on 20th December, 2025 and pays the said amount of ₹ 900 each towards CGST and SGST, Jhamku can now re-avail the said input tax credit of ₹ 900 towards CGST and SGST which he has reversed earlier.

19. [Important] Comfortable (P) Ltd. is registered under GST in the State of Odisha. It is engaged in the business of manufacturing of iron and steel products. It has received IT engineering services from High-Fi Infotech (P) Ltd. for ₹ 11,00,000/- (excluding GST @ 18%) on 28th October. Invoice for service rendered was issued on 5th November.

Comfortable (P) Ltd. made part payment of ₹ 4,20,000/- on 30th November. Being unhappy with service provided by High-fi Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by High-Fi Infotech (P) Ltd. by 15th April of next year. Comfortable (P) Ltd. made the balance payment on 6th July of next year.

Examine the availability of ITC with Comfortable (P) Ltd. in respect of IT engineering services received by it from High-Fi Infotech (P) Ltd.

Answer

Every registered person is entitled to take credit of input tax charged on any supply of goods and/or services which are used or intended to be used in the course or furtherance of his business if, *inter alia*, he is in possession of a tax invoice issued by a supplier and he has received the goods and/or services.

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. In the event of failure to do so, the corresponding credits availed by the registered person would be required to be reversed or paid by such person alongwith interest. However, once the recipient makes the payment of value of goods and/or services along with tax, he will be entitled to avail the credit again without any time limit. **In case part-payment has been made, proportionate credit would be allowed.**

In the given case, High-fi Infotech (P) Ltd. provides the service in the month of October and Comfortable (P) Ltd. receives the invoice in the month of November. **Therefore, in view of the above provisions and assuming all other conditions required for availing ITC having been fulfilled, ITC of ₹ 1,98,000 (₹ 11,00,000 x 18%) will be availed by Comfortable (P) Ltd. for the month of November when it receives the invoice issued by High-fi Infotech (P) Ltd.**

However, proportionate ITC amounting to ₹ 1,33,932 [(₹ 12,98,000 - ₹ 4,20,000)/118] x 18] will be reversed in GSTR-3B of Comfortable (P) Ltd. for May month, **along with interest thereon**, as full payment has not been made within 180 days of issuance of the invoice, **i.e. by 4th May of next year.**

ITC of ₹ 1,33,932 can, however, be availed again by Comfortable (P) Ltd. for the month of July next year when it makes the balance payment.

20. *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

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 the IGST Act. **Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ.**

PRACTICE QUESTIONS – SET C

[BASED ON RULE 42 & RULE 43 – ITC CHAPTER]
ONLY FOR CMA INTERMEDIATE STUDENTS

1. Mr. Akhil registered person provides the following information for the month of March 20XX. Compute ITC available:

Particulars	Amount
Input tax credit in respect of inward supply (ITC)	₹2,00,000
Taxable supply (Excluding zero rated supply)	₹10,00,000
Export i.e., zero-rated supply	₹ 5,00,000
Exempt supplies	₹ 3,00,000
Outward supplies on which reverse charge is applicable	₹ 2,00,000

Solution:

In this case computation of ITC available to Mr. Akhil are as under:

Particulars	Amount
Taxable supply (Excluding zero rated supply)	₹10,00,000
Export i.e., zero-rated supply	₹ 5,00,000
Exempt supplies	₹ 3,00,000
Outward supplies on which reverse charge is applicable	₹ 2,00,000
Total Supply (A)	₹ 20,00,000

Taxable supply including zero rated supplies [₹ 10,00,000 + ₹ 5,00,000]	B	₹ 15,00,000

Input tax credit in respect of inward supply	C	₹2,00,000
ITC available [C x B/A] for the month of March 20XX		₹ 1,50,000

2. **[Important]** M/s Lips Ltd., manufactures four types of 'Nail Polishes', namely Sweety, Pretty, Beauty, Tweety.

The Company has taken input tax credit of ₹ 3,00,000 on the common inputs used in the manufacture of 'Nail Polishes'. Common inputs also used partly for non-business purposes.

During the financial year 2024-25, the company manufactured 1000 liters of each type of 'Nail Polishes'. The Company was not in a position to maintain separate set of records with regards to inputs used for final products. GST payable on final goods @12%.

You are required to calculate the net GST payable by M/s Lips Ltd. for the year 2024-25 from the following data:

Product Name	Description	Sale price (Exclusive of GST)
Sweety	Sale to Domestic Tariff Area	₹ 30 per 20ml. bottle
Pretty	Sale to a Special Economic Zone (SEZ)	₹ 40 per 20ml. bottle
Beauty	Sale to A Ltd. of USA	₹ 50 per 20ml. bottle
Tweety	Sale to Defence Canteen (Exempted from GST)	₹ 60 per 20ml. bottle

Solution:

Statement showing GST on outward supplies:

Product Name	Description	Sale price (Exclusive of GST)	Transaction Value ₹	GST liable to pay ₹	Remarks
Sweety	Sale to Domestic Tariff Area	₹ 30 per 20ml. bottle	15,00,000	1,80,000 (₹ 15,00,000 × 12%)	₹ 15,00,000 (1000 liters × 1000ml./ 20ml × ₹ 30)
Pretty	Sale to a unit of SEZ (treated as exports)	₹ 40 per 20ml. bottle	20,00,000	Zero rated supplies	₹ 20,00,000 (1000 liters × 1000ml./ 20ml × ₹ 40)
Beauty	Sale to A Ltd. of USA (export sales)	₹ 50 per 20ml. bottle	25,00,000	Zero rated supplies	₹ 25,00,000 (1000 liters × 1000ml./ 20ml × ₹ 50)
Twety	Sale to Defence Canteen (Exempted from GST)	₹ 60 per 20ml. bottle	30,00,000	Exempted	₹ 30,00,000 (1000 liters × 1000ml./ 20ml × ₹ 60)
Total			90,00,000	1,80,000	

As per Section 17(3) of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017 proportionate reversal of credit is as follows:

Particulars	ITC reversal ₹	Working note
Input tax credit proportionate reversal on common inputs	1,00,000	(₹ 3,00,000 × ₹ 30,00,000) / ₹ 90,00,000
Credit attributable to non-business purposes on common inputs	15,000	₹ 3,00,000 × 5%
Total	1,15,000	

Quantum of eligible ITC is [₹ 3,00,000 – (₹ 1,00,000 + ₹ 15,000)] = ₹ 1,85,000/-

Statement showing net GST liability or excess credit:

Therefore, the GST payable on taxable supply of goods	= ₹ 1,80,000
Less: ITC credit allowed	= ₹ 1,85,000
Excess ITC can be carried forward into next month	= (₹ 5,000)

3. [Important] Ram & Co., being a registered person under GST supplied the following in the month of January 20XX:

Particulars	Value in ₹
Taxable supply of goods	20,00,000
Exempted supply of goods	5,00,000
Sale of land	12,50,000
Recovery Agent services supplied to OK Bank	2,50,000
Deposit on which interest received	2,00,000
Total	42,00,000

Common inputs for the relevant tax period is ₹ 2,00,000.

GST applicable rate on outward supply of goods @28%.

Find the GST liability?

Solution:

Statement showing net GST liability:	₹
Output Tax	5,60,000
Add: ITC Reversed	95,238
Output Tax liability	6,55,238
Less: ITC	(2,00,000)
Net GST liability	4,55,238

Working Note:**1. Exempted supply:**

Exempted supply of goods	₹ 5,00,000
Sale of land	₹ 12,50,000
Recovery Agent services supplied to OK Bank	₹ 2,50,000
Total	₹ 20,00,000

2. ITC not allowed as per Rule 42 of CGST Rules, 2017: ₹ 2,00,000 x 20L / 42L = ₹ 95,238/-

Sale of land and Recovery Agent to a banking company is treated as exempted supply as per Section 17(3) of the CGST Act, 2017.

Interest on deposits should not include in exempted supply. However, it is included in total turnover.

3. GST liability on outwards supply (₹ 20,00,000 x 28%) = ₹ 5,60,000**4. Net ITC allowed = ₹1,04,762 (₹ 2,00,000 - ₹ 95,238)****4. [Very Important] M/s. Abishek Industries Ltd., has given the following information pertaining to the month of October, 20XX:**

Sl. No.	Particulars	Amount (₹)
1.	Total Input Tax Credit (ITC) on inputs and input services	18,00,000
2.	ITC attributable exclusively for non-business purposes (included in S. No. 1 above)	1,50,000
3.	ITC attributable exclusively for effecting exempt supplies (included in S. No. 1 above)	6,50,000
4.	ITC in respect of inputs on which credit is not available u/s.17(5) (included in S. No. 1 above)	50,000
5.	ITC attributable exclusively for effecting taxable supplies (included in S. No. 1 above)	5,50,000
6.	Total turnover	1,12,65,000
7.	Total value of exempt supplies	54,16,000

- State the quantum of common credit.
- State the amount of ITC to be reversed as per Rule 42.

Solution:

Computation of common credit and amount to be reversed as per Rule 42:

Particulars	Reference	Amount (₹)
Total input tax on inputs & input services for the tax period Out of the total input tax (T):	T	18,00,000
Input tax used exclusively for non-business purposes	T1	1,50,000
Input tax used exclusively for effecting exempt supplies	T2	6,50,000
Input tax ineligible u/s 17(5)	T3	50,000
Total		8,50,000
ITC credited to Electronic Credit Ledger	C1 = T – (T1+T2+T3)	9,50,000
Input tax credit used exclusively for taxable supplies (including zero-rated supplies)	T4	5,50,000
Common Credit	C2 = C1 – T4	4,00,000
Aggregate Value of exempt supplies for the tax period	E	54,16,000
Total Turnover of the registered person for the tax period	F	1,12,65,000
Proportionate of Common credit not allowed	D1 = C2 x E/F	1,92,312
5% of Common credit not allowed	D2 = C2 x 5%	20,000
ITC to be reversed out of common credit	D1 + D2	2,12,312

5. 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.

Solution:

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]	2,000
Capital goods used exclusively for exempt supply [Since used exclusively for exempt supply, ITC is not available under rule 43]	Nil
Capital goods used for both taxable and exempt supply - Common credit (Tc) [Commonly used for taxable and exempt supplies]	4200
Total ITC credited to Electronic Credit Ledger for the month of September	6,200
Common credit for the month of September (Tm) = $Tc \div 60 = 4,200 \div 60$	70
Common credit attributable to exempt supplies in a month $(Te) = (E \div F) \times Tm$ 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 $= (40,000 / 1,10,000) \times ₹ 70$	25.45
Amount to be added to the output tax liability for the month of September	25.45

6. **[VERY IMPORTANT]** Agrawal 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. Agrawal 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 Agrawal 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

Solution:

Statement showing Common ITC on Capital Goods as on 1st April 20XX

Particulars	Value in ₹	Working note
Capital goods C Used both for taxable and exempted supplies	96,000	As per rule 43(1)(c) of CGST Rules, 2017
Capital goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,92,000	₹1,92,000 ITC allowed fully, provided ₹77,800 is considered as output tax liability in April, 20XX. [1.92 L x 5% x 8 quarters = ₹76,800]
Capital goods E (has been exclusively used for 3 years for taxable supplies). Now there is change in use, both for taxable and exempt supplies.	2,88,000	ITC already availed and hence, ITC in April 20XX is not allowed.
Common credit	5,76,000	
The amount of input tax credit attributable to a tax period on common capital goods during their useful life	9,600	5,76,000 ÷ 60 = ₹ 9,600
The amount of common credit attributable towards exempted supplies	4,800	(₹ 9,600 x ₹ 12,00,000) / ₹ 24,00,000

Statement showing Total ITC to the Electronic Credit Ledger for the month of April 20XX:

Particulars	Value in ₹
Capital Goods B used exclusively for taxable supplies (i.e. Zero-rated supply)	38,400
Capital Goods C Used both for taxable and exempted supplies	96,000
Capital Goods D (has been exclusively used for 2 years for exempted supplies). Now there is change in use, both for taxable and exempted supplies.	1,92,000
Electronic Credit Ledger	3,26,400

7. X, a manufacturer of roofing sheets, is having ₹ 1,60,000 as opening balance of ITC for June month. He provides the following information pertaining to the goods and services procured during the month of June:

- Input tax on raw materials is ₹ 40,000. The raw material is used for making both taxable and exempt supplies.**
- Input tax on catering services procured from 'Harvest Caterers' in connection with his house warming ceremony is ₹ 10,000.**
- Input tax on raw materials used exclusively in manufacture of exempt supplies of ₹ 2 lakh is ₹ 20,000.**
- 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 credited for the month of June to the Electronic Credit Ledger 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.

Solution:

Computation of ITC available and net GST payable from Electronic Cash Ledger for the month of June

Particulars	Amount (₹)	Amount (₹)
GST on taxable turnover for the month of June [₹ 60,00,000 × 18%]		10,80,000
Less: ITC available for June month in terms of Rule 42		
Opening balance of ITC available in the Electronic Credit Ledger	1,60,000	
Add: ITC credited to the Electronic Credit Ledger for 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 [Note 1]	40,000
Input tax on catering for house warming [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
ITC credited to the 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 to be reversed [Note 6]	1,290

Notes:

- 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.
- 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.**
- Input tax on inputs used exclusively for making exempt supplies is not available as ITC and thus, not credited to the Electronic Credit Ledger.
- 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.
- 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.

6. ITC attributable towards exempt supplies

= Common credit × (Aggregate value of exempt supplies during the tax period / Total turnover in the State during the tax period)

= ₹ 40,000 × ₹ 2,00,000 / ₹ 62,00,000

= ₹ 1,290 (rounded off).

8. [RULE 42] Y Ltd. manufactures taxable and exempted goods. Y Ltd. also simultaneously provides taxable as well as exempted output services. Raw material 10,000 units were purchased @ ₹ 100 per unit used commonly during the month of January 20XX to produce all final products. GST paid on inputs 12%. Input services commonly used for all goods and services in the month of January 20XX. Total ITC on inputs and input services taken into books of account in the relevant tax period is 1,74,000.

Turnover for the month of January 20XX (excluding all taxes)

Particulars	Value of finished goods ₹
Taxable supply of goods	2,00,000
Exempted supply of goods (₹ 80 per unit)	1,00,000
Taxable supply of services	1,00,000
Exempted supply of services	50,000
Total	4,50,000

You are required to compute the amount of reversal of input tax credit as per rule 42 of the CGST Rules, 2017 of the month of January 20XX.

Note: Each unit of exempted final product needs 2 units of raw materials. Assumed that there is no process loss.

Answer:

Step 1: Calculate common input tax credit on inputs and input services which are used to supply taxable as well as exempted output supplies:

Particulars	Value in ₹	Working note
Total ITC on inputs and input services	1,74,000	
Less: ITC on supplies exclusively used for the purpose other than business	Nil	
Less: ITC on supplies exclusively used for providing exempted supplies	(30,000)	2,500u x ₹ 100 x 12%
Less: ITC not available u/s 17(5) of the CGST Act, 2017	Nil	
Input tax credit which are used to supply taxable as well as exempted output supplies	1,44,000	
Less: ITC on supplies used exclusively for taxable supply including Zero rated supply (i.e. ITC on normal supplies)	(90,000)	(10,000u – 2,500u) x 12%
Common ITC, which are used to supply taxable as well as exempted output supplies (denoted as "C2")	54,000	

Step 2:

Amount of reversal of input tax credit attributable towards exempted supplies rule 42(1)(i) of the CGST Rules, 2017 is as follows:

$$(\text{₹ } 1,50,000 / 4,50,000) \times \text{₹ } 54,000 = \text{₹ } 18,000/-$$

Working Note:

- Number of units of exempted final products 1,250 units (i.e. ₹ 1,00,000 / ₹ 80 per unit = 1,250 units)
- Since, each unit of exempted final product needs 2 units of raw materials. Raw material used exclusively for exempted final product 2,500 units (i.e. 1,250 units x 2 units = 2,500 units).

JOB WORK

What is job-work?

Section 2(68) of the CGST Act, 2017 defines job-work as **'any treatment or process undertaken by a person on goods belonging to another registered person'. The one who does the said job would be termed as 'job worker'.**

Contents of a job-work

- The **ownership of the goods does not transfer to the job-worker** but it rests with the principal.
- The job worker is required to carry out the process **specified by the principal on the goods**.

There may arise a doubt as to whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job work.

In this regard, it is clarified 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.

Supply of job work services

The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. **He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act.**

The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges, **but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal.**

INPUT TAX CREDIT IN RESPECT OF GOOD SENT FOR JOB-WORK [Section 19]

- (1) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed **input tax credit on inputs sent to a job worker for job work.**
- (2) The principal shall be entitled to take credit of input tax on inputs **even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.**
- (3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker **in accordance with Section 143(1)(a) or (b) within 1 year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.**

Where the inputs are sent directly to a job worker, **the period of 1 year shall be counted from the date of receipt of inputs by the job worker.**

[ITC is required to reverse or pay an amount equal to credit availed with interest]

- (4) The principal shall, subject to such conditions and restrictions as may be prescribed, **be allowed input tax credit on capital goods sent to a job worker for job work.**
- (5) The principal shall be entitled to take credit of **input tax on capital goods even if the capital goods are directly sent to a job worker for job work** without being first brought to his place of business.
- (6) **Where the capital goods sent for job work are not received back by the principal within a period of 3 years of being sent out, 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 sent out**

Where the capital goods are sent directly to a job worker, **the period of 3 years shall be counted from the date of receipt of capital goods by the job worker.**

- (7) **Time Limit of 1 year or 3 year shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.**

Section 143:

However, the period of 1 year and 3 years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 1 year and 2 years respectively.

Conditions and restrictions in respect of inputs and capital goods sent to the job worker [Rule 45]

1. The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, and where the goods are sent from one job worker to another job worker, **the challan may be issued either by the principal or the job worker sending the goods to another job worker.**

Further, the challan issued by the principal may **be endorsed by the job worker**, indicating therein the quantity and description of goods **where the goods are sent by one job worker to another or are returned to the principal.**

Further, the challan endorsed by the job worker may be **further endorsed** by another job worker, indicating therein the quantity and description of goods **where the goods are sent by one job worker to another or are returned to the principal.**

2. The challan issued by the principal to the job worker **shall contain the details specified in rule 55 [Delivery challan].**

3. **Frequency of filing FORM GST ITC-04 revised from quarterly to annual/half-yearly**

The details of challans in respect of goods dispatched to a job worker or received from a job worker **during a specified period shall be included in FORM GST ITC-04 furnished for that period on or before the 25th day of the month** succeeding the said period or within such further period as may be extended by the Commissioner by a notification in this behalf.

“Specified period” shall mean-

- a) the period of 6 consecutive months commencing on the 1st day of April and the 1st day of October in respect of a principal whose **aggregate turnover during the immediately preceding financial year exceeds ₹ 5 crore; and**
 - b) a financial year in any other case
4. Where the inputs or capital goods are **not returned** to the principal within the time stipulated in section 143, it shall 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 and the said supply shall be declared in FORM GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.**

[Subsequent return of the goods by the job worker will be treated as a separate supply]

Note:

1. **The principal shall prepare in triplicate, the challan for sending the goods to a job worker.** Two copies of the challan may be sent to the job worker **alongwith the goods. The job worker should send one copy** of the said challan along with the goods, while returning them to the principal.

The Form GST ITC-04 will serve as the intimation under section 143.

2. **Requirement to generate E-way Bill:**

In case of job work, e-way bill shall be generated either by the principal or by the registered job worker **irrespective of the value of the consignment**, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory.

Further, the e-way bill shall be generated by the principal, wherever required, in case the job worker is unregistered.

JOB WORK PROCEDURE [SECTION 143]

(1) A **registered person** (hereafter in this section referred to as the “principal”) **may** under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work **and from there subsequently send to another job worker and likewise, and shall,** -

a) **bring back** inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out, to any of his place of business, **without payment of tax;**

b) **supply** such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out from the place of business of a job worker **on payment of tax within India, or with or without payment of tax for export,** as the case may be:

The principal **shall not supply the goods from the place of business of a job worker** in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business **except in a case—**

- i. where the job worker is registered under section 25; or
- ii. where the principal is engaged in the supply of such goods as may be notified by the Commissioner:

The period of 1 year and 3 years may, on sufficient cause being shown, **be extended by the Commissioner for a further period not exceeding 1 year and 2 years respectively.**

(2) The responsibility for keeping proper accounts for the inputs or capital goods **shall lie with the principal.**

(3) Where the inputs sent for job work are **not received back** by the principal after completion of job work or **are not supplied** from the place of business of the job worker in accordance with the provisions of this section within a period of 1 year of their being sent out, **it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.**

(4) Where the **capital goods, other than moulds and dies, jigs and fixtures, or tools,** sent for job work are **not received back** by the principal or are **not supplied** from the place of business of the job worker in accordance with the provisions of this section within a period of 3 years of their being sent out, **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 sent out.**

(5) Any **waste and scrap generated** during the job work **may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered,** or by the principal, if the job worker is not registered.

REGISTRATION REQUIREMENTS**(1) Registration requirements when both the principal and the job worker are located in the same State:**

The job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e., ₹ 20 lakh or ₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) [Section 22(1)].

(2) Registration requirements when the job worker is located in a State different from that of the principal:

Where the principal and the job worker are located in different States, the requirement for registration flows from section 24 of the CGST Act, which provides for compulsory registration of suppliers making any inter-State supplies.

However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed ₹ 20 lakh (or ₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) in a financial year.

Therefore, it is clarified that a job worker, being a supplier of service, is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit **regardless of whether the principal and the job worker are located in the same State or in different States.**

(3) Value of goods, after completion of job work, supplied directly from the premises of the registered job worker not to be included in its aggregate turnover:

The Principal can supply the goods directly from the premises of the job worker without bringing it back to his own premises. It is clarified that the supply of goods by the principal from the place of business/premises of the job worker **will be regarded as supply by the principal and not by the job worker.**

Therefore, the value of such goods supplied will be included in the aggregate turnover of the principal and not job worker.

EXAMPLES

1. Asha Ltd. supplies raw material to a job worker Kareena Ltd. After completing the job-work, the finished product of 5,000 packets are returned to Asha Ltd. putting the retail sale price as ₹ 20 on each packet. The product in the packet is covered under MRP provisions. Determine the transaction value in the hands of Kareena Ltd. Under GST law from the following details:

Particulars	Value in ₹
Cost of raw material supplied	30,000
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	3,000
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Asha Ltd. paid certain technology transfer fees to 'Reena Ltd', so that 'Kareena Ltd' can use the said technology in the given job-work operation.	22,500

Note: Kareena Ltd offered discount ₹ 2,000, provided full payment is made at the time of raising invoice and the same is mentioned in the invoice. Asha Ltd. made full payment at the time of issue of invoice.

Solution:

Statement showing transaction value of Kareena Ltd.

Particulars	Value in ₹
Cost of raw material supplied	Exempted supply
Job worker's charges including profit	10,000
Transportation charges for sending the raw material to the job worker	Exempted supply
Transportation charges for returning the finished packets to Asha Ltd.	4,500
Technology fee [Sec. 15(2)(b) of the CGST Act, 2017]	22,500
Sub-total	37,000
Less: Discount [Sec. 15(3) of CGST Act, 2017]	(2,000)
Transaction value (i.e. sole consideration)	35,000

2. A Ltd. sends the goods to B & co. for making finished goods on 30/07/20XX. What are the tax implications, in the following cases if GST @ 18% is levied.
- B & co. sends the goods back to A Ltd. within one year of being sent.
 - B & co. sells the goods directly to the customer on behalf of A Ltd.

Solution:

As per Sec 143 of the Act, supply of goods to a job worker without payment of tax is permissible upon an intimation.

In the given example, the implications are as follows:

- **On supply of goods to B & co.** – As per the sec 143 of Act, no tax shall be payable on supply of goods to B & co. However, the tax will be payable if finished goods is not returned before one year from 30/07/20XX.

B & co. sends the finished goods back to A ltd – As per the Act, there is no tax liability on returning of goods back to the principal i.e A Ltd within a period of one year. **Hence post completion of Job Work, no tax is leviable on finished goods returned to A Ltd.**

- **B & co. sells the finished goods on behalf of A Ltd.**
Sec 143, also allows the job worker to directly sell the goods on behalf of principal, **wherein the liability to pay tax is of the principal and not the job worker.** A Ltd is liable to pay GST on sale of Finished goods to customer by B & co.

However, A Ltd. must declare the premises of B & co. as an 'Additional Place of Business' and the sale of finished goods will form part of aggregate turnover of A Ltd. **Such a declaration is not required** in case where:

- Job worker is registered under Sec 25 or
- Principal is engaged in supply of notified goods.

3. A Ltd. sends the goods/inputs to B & co. for further processing on 30/08/2024. The value of goods sent for job work is ₹ 100,000. What are the tax implications, in the following cases, if GST @ 18% is levied.
- B & co. sends the processed good back to A Ltd on 30/10/2024.
 - B & co. send the processed good back to A Ltd on 30/10/2025.

Solution:**B & co. sends the processed goods back to A Ltd. on 30/10/2024**

As per Sec 143, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from Principal to Job-worker as on 30/08/2024 and subject to tax along with interest.

In the present case, as the inputs are received back on 30/10/2024 i.e before completion of one year, and hence no tax is payable.

B & co. sends the processed goods back to A Ltd. on 30/10/2025

As per Sec 143, Principal can remove the goods without payment of tax and take input tax credit provided inputs sent for job work are returned back within one year of removal. Otherwise, it shall be treated as supply from Principal to Job-worker as on 30/08/2024 and subject to tax along with interest.

In the present case, as the inputs are received back on 30/10/2025 and hence A Ltd needs to pay tax @ 18% i.e ₹ 9000 CGST and ₹ 9000 SGST along with the specified interest on completion of one year.

4. 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?

Solution:

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 the principal is engaged in supply of such goods as may be notified by the Commissioner.

5. 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?

Solution:

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 including interest accordingly.**

6. 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?

Solution:

Under section 19, 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.

However, the time-limit of three years 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.

INPUT SERVICE DISTRIBUTOR

1.	Definition [Section 2(61)]	<u>Input Service Distributor (ISD) means</u> an office of the supplier of goods or services or both which receives tax invoices issued under section 31 of the CGST Act, 2017 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax (CGST), State tax (SGST)/ Union territory tax (UTGST) or integrated tax (IGST) paid on the said services to a supplier of taxable goods or services or both <u>having same PAN as that of the ISD.</u>
	The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised on the Head Office. But the Head Office itself would not be providing any output supply so as to utilize the credit which gets accumulated on account of such input services. ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units. ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (i.e. inputs or capital goods).	
2.	Registration Compulsory [Section 24]	An ISD is compulsorily required to obtain a separate registration as an ISD even though it may be separately registered. There is no threshold limit for registration for an ISD and apply for the same in FORM GST REG-1. <i>The other locations may be registered separately.</i>
3.	Return [2 Marks]	An ISD will have to file <u>monthly returns in GSTR-6 within 13 days after the end of the month</u> and will have to furnish information of all ISD invoices issued. The details in the returns will be made available to the respective recipients in their GSTR 2A. An ISD <i>shall not be required to file Annual return.</i>
4.	Non-acceptance of invoice on which reverse charge is applicable	<u>An ISD cannot accept any invoices on which tax is to be discharged under reverse charge mechanism.</u> This is because the ISD mechanism is only to facilitate distribution of credit of taxes paid. The ISD itself cannot discharge any tax liability (as person liable to pay tax) and remit tax to government account. If ISD wants to take reverse charge supplies, then in that case ISD has to separately register as Normal taxpayer.
5.	ISD Invoice	For the purposes of distributing the input tax credit, an ISD has to issue an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, 2017, clearly indicating in such invoice that it is issued only for distribution of input tax credit.

6.	Distribution in the Same Month	The input tax credit available for distribution in a month shall be distributed in the same month and details furnished in FORM GSTR-6. Further, an ISD shall separately distribute both the amount of ineligible and eligible input tax credit.
7.	Content of the ISD invoice and ISD credit note [3 Marks]	➤ Name, address and GSTIN of the <u>ISD</u> and <u>recipient</u> of credit; ➤ A consecutive serial number up to 16 characters, containing alphabets or numerals or special characters or any combination thereof, for a financial year; ➤ Date of issue; ➤ Amount of the credit distributed; ➤ Signature of the ISD or his authorized representative. Relaxation for banks & FIs: If the ISD is a banking company/ financial institution including NBFC, the document for distributing credit need not be serially numbered.
8.	Distribution of taxes [3 Marks]	➤ <i>ITC of CGST, SGST/UTGST in respect of recipient located in the same State/Union Territory is distributed as CGST and SGST/UTGST respectively.</i> ➤ <i>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).</i> ➤ <i>ITC on account of IGST is distributed as IGST. It can be distributed as CGST/SGST also.</i>

Manner of distribution of credit by Input Service Distributor**[Section 20 of the CGST Act, 2017] - Effective till 31.03.2025**

1. The Input Service Distributor shall **distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax**, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.
2. **[5 Marks] - The Input Service Distributor may distribute the credit subject to the following conditions, namely:—**
 - a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
 - b) the amount of the credit distributed **shall not exceed the amount of credit available** for distribution;
 - c) the credit of tax paid on input services attributable to a recipient of credit **shall be distributed only to that recipient**;
 - d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed **amongst such recipients** to whom the input service is attributable and such distribution shall be **pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient**, during the relevant period, to the aggregate of the **turnover of all such recipients** to whom such input service is attributable **and which are operational in the current year**, during the said relevant period;
 - e) the credit of tax paid on **input services attributable to all recipients** of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the **aggregate of the turnover of all recipients and which are operational in the current year**, during the said relevant period.

Explanation.—For the purposes of this section,-

- a) the “relevant period” shall be-
 - (i) if the recipients of credit have turnover in their States or Union territories in the financial year **preceding the year** during which credit is to be distributed, **the said financial year**;
or
 - (ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, **the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed**;
- b) the expression “recipient of credit” means the supplier of goods or services or both having the **same Permanent Account Number** as that of the Input Service Distributor;
- c) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, **reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.**

Section 21 - Manner of recovery of credit distributed in excess

Where the input service distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, **the excess credit so distributed shall be recovered from such recipients along with interest**, and the provisions of section 73 or section 74 **or section 74A**, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

PRACTICAL QUESTIONS

1. M/s X Ltd. incorporated in Bangalore, with its business locations of selling and servicing of goods in Delhi, Chennai, Mumbai and Kolkata. M/s X Ltd. an ISD situated in Bangalore receives invoices indicating ₹ 4 lakhs of Central tax, ₹ 4 lakhs of State tax and ₹ 7 lakhs of integrated tax on input service. Input services commonly used by the units of M/s X Ltd. How these taxes are distributed by M/s X Ltd. to their other units.

Answer:

M/s X Ltd. can distribute central tax, State tax as well as integrated tax of ₹ 15 lakhs as credit of integrated tax amongst its locations at Delhi, Chennai, Mumbai and Kolkata through an ISD invoice containing the amount of credit distributed.

2. M/s XYZ Ltd, having its head Office at Mumbai, is registered as ISD. It has three units in different states namely 'Mumbai', 'Chennai' and 'Delhi' which are operational in the current year. M/s XYZ Ltd furnishes the following information for the month of December 2024.

You are required to distribute the below input tax credit.

- (i) CGST and SGST 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 Financial Year 2023-24 are as follows: -

Unit	Turnover in ₹
Turnover of Mumbai unit	5,00,00,000
Turnover of Chennai	3,00,00,000
Turnover of Delhi	2,00,00,000
Total turnover	10,00,00,000

Answer:

Statement showing distribution of input tax credit:

Particulars	Total credit available ₹	Credit distributed to all the units		
		Mumbai ₹	Chennai ₹	Delhi ₹
CGST & SGST paid on services used only for Mumbai Unit.	3,00,000	3,00,000	0	0
IGST, CGST & SGST paid on services used in 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

Working note:

- (1) CGST & SGST paid on services used only for Mumbai Unit should be distributed only to that unit.
- (2) Credit distributed pro rata basis on the basis of the turnover of all the units is as under: - ₹
- | | |
|---|----------|
| (a) Unit Mumbai: $(5,00,00,000/10,00,00,000) \times 12,00,000$ | 6,00,000 |
| (b) Unit Chennai: $(3,00,00,000/10,00,00,000) \times 12,00,000$ | 3,60,000 |
| (c) Unit Delhi: $(2,00,00,000/10,00,00,000) \times 12,00,000$ | 2,40,000 |

**Section 2(61)**

“Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under section 9(3) or 9(4), for or on behalf of distinct persons referred to in section 25, and liable to distribute the input tax credit in respect of such invoices in the manner provided in section 20

Section 20 - Manner of distribution of credit by Input Service Distributor

- (1) Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under section 9(3) or 9(4), for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under section 24 and shall distribute the input tax credit in respect of such invoices.
- (2) The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under section 9(3) or 9(4) **paid by a distinct person registered in the same State as the said Input Service Distributor**, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.
- (3) The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, ***in such manner as may be prescribed.***

PLACE OF SUPPLY

INTER-STATE SUPPLY [Section 7 of the IGST Act, 2017]

<u>Section</u>	<u>Particulars</u>
Section 7(1)	Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in - a) two different States; b) two different Union territories; or c) a State and a Union territory, shall be treated as a supply of goods in the course of inter-State trade or commerce.
Section 7(2)	Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce [Note: Thus, all imports shall be deemed as inter-State supplies and accordingly IGST shall be levied on the imported goods in addition to the applicable custom duties.]
Section 7(3)	Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in - (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of services in the course of inter-State trade or commerce.
Section 7(4)	Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.
Section 7(5)	Supply of goods or services or both, - a) when the supplier is located in India and the place of supply is outside India; b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. [Note: Any supplies made to SEZ unit/developer or vice versa are inter-State supplies. It is noteworthy that place of supply is not relevant in case of supplies to/from an SEZ unit or developer. Further, supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are zero-rated supplies]

INTRA-STATE SUPPLY [Section 8 of the IGST Act, 2017]

Section	Particulars
Section 8(1)	Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply: <i>Provided that the intra-State supply of goods shall not include supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit.</i>
Section 8(2)	Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply. <i>Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.</i>
	Explanation 1 For the purposes of this Act, where a person has, - - an establishment in India and any other establishment outside India; - an establishment in a State or Union territory and any other establishment outside that State or Union territory; or - an establishment in a State or Union territory and any other establishment registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.
	Explanation 2 A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Supplies in territorial waters [Section 9 of the IGST Act, 2017]

Notwithstanding anything contained in this Act -

a) where the location of the supplier is in the territorial waters, the location of such supplier; or
b) where the place of supply is in the territorial waters, the place of supply,
shall, for the purposes of this Act, **be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.**

Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.

The term 'Territorial waters' has not been defined in the GST law. However, as Per Section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 stipulates that **the limit of territorial waters is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line.**

PLACE OF SUPPLY

The place of supply provisions determine the place i.e., taxable jurisdiction where the tax should reach. *The place of supply and the location of the supplier are the two determinants to ascertain the nature of supply i.e., whether a supply is intra-State or inter-State.*

Chapter V of the IGST Act [Sections 10 to 13] prescribes the provisions relating to place of supply of goods and services in cross border transactions as well as domestic transactions.

Section 10:	<i>Place of supply of goods other than supply of goods imported into, or exported from India</i>
Section 11:	<i>Place of supply of goods imported into, or exported from India</i>
Section 12:	<i>Place of supply of services where location of supplier and recipient is in India</i>
Section 13:	<i>Place of supply of services where location of supplier or location of recipient is outside India</i>

Discussion of Section 11 & Section 13 [IGST Act] are excluded from CA-Intermediate Syllabus

GST is destination based tax i.e., consumption tax, which means tax will be levied where goods and services are consumed and will accrue to that state. So, the state where they are consumed will have the right to collect GST.

This, in turn, makes the concept of place of supply crucial under GST as all the provisions of GST revolves around it.

Now the question arises as how to determine the place of supply?

Goods, usually being tangible do not pose any significant problems for determination of their place of consumption.

Services, usually being intangible pose problems w.r.t determination of place of supply mainly due to following factors:

- **The manner of delivery of a service could be altered easily**
For example, telecom service could change from postpaid to pre-paid or billing address of the customer could be changed, repair or maintenance of software could be changed from onsite to online; banking services earlier required customer to go to the bank, now the customer can avail service from anywhere.
- **Service provider, service receiver and the service provided may not be ascertainable or may easily be suppressed as nothing tangible moves and there would hardly be any trail.**
- **For supplying a service, a fixed location of service provider is not mandatory** and even the service recipient may receive service while on the move. The location of billing could be changed overnight.
- **Sometime the same element may flow to more than one location**, for example, construction or other services in respect of a railway line, a national highway or a bridge on a river which originate in one State and end in the other State.

Similarly, a copyright for distribution and exhibition of film could be assigned for many States in a single transaction or an advertisement or a programme is broadcasted across the country at the same time.

An airline may issue seasonal tickets, containing say 10 vouchers which could be used for travel between any two locations in the country.

The card issued by New Delhi metro could be used by a person located in Noida, or New Delhi or Faridabad, without the New Delhi metro being able to distinguish the location or journeys at the time of receipt of payment.

- **Services are continuously evolving and thus, continue to pose newer challenges.** For example, 15-20 years back no one could have thought of DTH, online information, online banking, online booking of tickets, internet, mobile telecommunication etc.

Considering the difficulties in determining the actual place of consumption of services, the various elements involved in a service transaction are used as proxies for determining the place of consumption or place of supply of such services. A proxy which gives more appropriate result than others for determining the place of supply, could be used for determining the place of supply.

[4 Marks] The various elements [Proxies] used for determining the place of supply of a service are:

- a) location of service provider
- b) location of service receiver
- c) place where the activity takes place/place of performance
- d) place where the service is consumed
- e) place/person to which/whom actual benefit flows

Proxy which gives more appropriate result than others is used for determining the place of supply.

Separate rules for determining place of supply in respect of B2B and B2C transactions:

In respect of B2B (business to business) transactions, the supply is made by a registered person to another registered person and the taxes paid are taken as credit by the recipient, so such transactions are just pass through.

GST collected on B2B supplies effectively create a liability for the Government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit (ITC) for payment of future tax liability.

For B2B transactions, the location of recipient takes care in almost all the situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer.

The supply is consumed only when a B2B transaction is further converted into B2C (business to consumer) transaction.

In respect of B2C transactions, the supply is made to an unregistered person who consumes the same and the taxes paid actually reach the Government.

FEW DEFINITIONS**A. [5 Marks] Location of the recipient of services means:**

- (a) where a supply is received at a **place of business for which registration** has been obtained, the location of such place of business;
- (b) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a **fixed establishment elsewhere**, the location of such fixed establishment;
- (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment **most directly concerned** with the receipt of the supply; and
- (d) In absence of such places, the location of the **usual place of residence of the recipient** [Section 2(17)].

The above definition relates only to services. The term 'location of recipient of goods' **has not** been defined in the Act

B. Location of the supplier of services means:

- (a) where a supply is made from a **place of business for which registration** has been obtained, the location of such place of business;
- (b) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a **fixed establishment elsewhere**, the location of such fixed establishment;
- (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the **establishment most directly concerned** with the provision of the supply; and
- (d) in absence of such places, the location of the **usual place of residence of the supplier** [Section 2(18)]

The above definition relates only to services. The term 'location of supplier of goods' **has not been defined** in the Act.

Place of Supply of **Goods** other than supply of goods imported into, or exported from India [**Section 10**] – i.e. Domestic Transactions

1	(a) 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 <u>movement of goods terminates</u> for delivery to the recipient;
	Example: - Mr. A of Nasik, Maharashtra sells 10 refrigerators to Mr. B (Registered) of Pune, Maharashtra for delivery at Mr. B's place of business in Pune. The place of supply is Pune in Maharashtra [Intra-State Supply]. - Mr. A of Nasik, Maharashtra sells 20 refrigerators to Mr. C of Ahmedabad, Gujarat for delivery at Mr. C's place of business registered in Ahmedabad. The place of supply is Ahmedabad. [Inter-State Supply].	
	(b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, <i>whether acting as an agent or otherwise</i>, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise [Bill to Ship to Model]	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; [In simple words, where goods are delivered by the supplier to the recipient at the instruction of a third person, <u>the place of supply is the principal place of business of such third person and not of the actual recipient.</u>]
	Example: - Mr. X (a supplier registered in Uttar Pradesh having principal place of business at Noida) asks Mr. Y of Ahmedabad, Gujarat to deliver 50 washing machines to his buyer Mr. Z at Jaipur, Rajasthan. In this case, two supplies are involved, one between Mr. X and Mr. Z and other between Mr. Y and Mr. X. While the former supply is covered under clause (a) of section 10(1), the latter one i.e., between Mr. Y and Mr. X is covered under clause (b) of section 10(1). Accordingly, in this case, the place of supply of goods is not the location of delivery of such goods (Jaipur) but the principal place of business of third person i.e., principal place of business of Mr. X located at Noida. : - Mr. C of Chennai received purchase order from Mr. H of Hyderabad for want of commercial goods. Now supply involves movement of goods by supplier from Chennai to Hyderabad by road in a truck. Upon the direction of Mr. H of Hyderabad these goods are redirect to Branch office of Mr. H located in Vijayawada by way of transfer of documents of title to the goods (i.e. Lorry Receipt or LR copy). Here, Place of Supply of Goods will be Hyderabad.	
	(c) where the supply does not involve movement of goods, <u>whether by the supplier or the recipient</u>,	the place of supply shall be the location of such goods at the time of the delivery to the recipient;

	Example: 5. Mr. A (New Delhi) has leased his machine (cost ₹ 8,00,000) to Mr. B (Registered in Noida, Uttar Pradesh) for production of goods on a monthly rent of ₹ 40,000. After 14 months Mr. B requested Mr. A to sell the machine to him for ₹ 4,00,000, which is agreed to by Mr. A. In this case, there will be no movement of goods. Thus, the location of the machine at the time of such sale will be the place of supply i.e., Noida. 6. XZ Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from KTS Builders (Registered in Gurugram, Haryana) along with pre-installed office furniture and fixtures. Though there will be no GST liability on purchase of building, office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (XZ Ltd.) i.e., Gurugram.
	(ca) where the supply of goods is made to a person <u>other than a registered person</u> POS in case of OTC (over the counter) Sales to unregistered persons the place of supply shall, <u>notwithstanding anything contrary contained in clause (a) or clause (c)</u>, be the location <u>as per the address of the said person recorded in the invoice issued in respect of the said supply</u> and <u>the location of the supplier where the address of the said person is not recorded in the invoice.</u> Explanation: For the purposes of this clause, <u>recording of the name of the State of the said person in the invoice</u> shall be deemed to be the recording of the address of the said person.
	<u>Place of supply of the goods (particularly being supplied through e-commerce platform) to unregistered persons where billing address is different from the address of delivery of goods</u> Issue: Mr. A (unregistered person) located in X State places an order on an e-commerce platform for supply of a mobile phone, which is to be delivered at an address located in Y State. Mr. A, while placing the order on the e-commerce platform, provides the billing address located in X State. In such a scenario, what would be the place of supply of the said supply of mobile phone, whether the State pertaining to the billing address i.e. State X or the State pertaining to the delivery address i.e. State Y? Clarification: As per the provisions of section 10(1)(ca) discussed above, the place of supply of goods <u>shall be the address of delivery of goods recorded on the invoice i.e. State Y in the present case where the delivery address is located.</u> Also, in such cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, <u>the supplier may record the delivery address as the address of the recipient on the invoice for the purpose of determination of place of supply of the said supply of goods.</u> Circular No. 209/3/2024 GST dated 26.06.2024

	(d) Where the goods are assembled or installed at site	the place of supply <u>shall be the place of such installation or assembly</u>
	Example: 7. Mr. A (New Delhi) purchases a machine from Mr. B (New Delhi) for being installed in his factory at Noida, Uttar Pradesh. The place of supply is the site at which the machine is installed i.e., Noida. 8. Pure Refineries (Mumbai, Maharashtra) gives a contract to PQ Ltd. (Ranchi, Jharkhand) to assemble a power plant in its Kutch, Gujarat refinery. The place of supply is the site of assembly of power plant i.e., Kutch even though Pure refineries is located in Maharashtra.	
	(e) Where the goods are supplied on board a conveyance , including a vessel, an aircraft, a train or a motor vehicle	the place of supply shall be the location at which such goods are taken on board. Note: Place of supply of goods supplied on board a conveyance is determined under this provision even if the supply has been made by any of the passenger on board the conveyance and not by the carrier of the conveyance.
	Example: 9. Mr. X (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), at Jaipur during the journey. The place of supply of goods is the location at which the goods are taken on board i.e., New Delhi and not Jaipur where they have been sold. 10. Mr. W, an unregistered person, purchases coffee and snacks on board a Air-jet Mumbai-New Delhi flight. The food items were loaded into the aircraft at Mumbai. The place of supply of goods by Air-jet to Mr. W is the location at which the goods are taken on board i.e., Mumbai. 11. Ms. P (New Delhi) boards a New Delhi-Kolkata flight to attend a business meeting at Kolkata. She buys lunch in the flight. The food items were loaded into the aircraft at New Delhi. The Airlines is registered in New Delhi and Kolkata. The place of supply of food items by the airlines to Ms. P is the location at which the goods are taken on board i.e., New Delhi. It is irrelevant whether the buyer is registered or unregistered 12. Ms. S, an unregistered person, (New Delhi) is travelling from New Delhi to Kanpur, Uttar Pradesh in a train. The train starts at New Delhi and stops at three stations before reaching Kanpur. The food items were loaded into the train at Aligarh (Uttar Pradesh) – 2nd Station. Ms. S buys dinner on board the train. The place of supply is the location at which the goods are taken on board i.e., Aligarh. The location at which Ms. S boards the train is irrelevant	
2	Where the place of supply of goods cannot be determined	the place of supply shall be determined in such manner as may be prescribed

Place of supply of **Services** where location of supplier of service AND the location of the recipient of service is in India [**SECTION 12**]

1.	The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.	
2.	[Default Rule] If services are not covered in Sub-section (3) to (14), The place of supply of services made to a registered person shall be the location of such person The place of supply of services made to any person other than a registered person shall be ➤ the location of the recipient where the address on record exists; and ➤ the location of the supplier of services in other cases	
	Example: 1. Mr. A (a Chartered Accountant registered in New Delhi) makes a supply of service to his client Mr. B of Noida, Uttar Pradesh (registered in Uttar Pradesh). In this cases, since the supply is made to a registered person, the place of supply is the location of the registered recipient i.e., Noida. 2. Mr. H, a Chartered Accountant in Gurugram, Haryana, (registered in Haryana) provides consultancy services to his client Mr. P who is a resident of New Delhi but is not registered under GST. If the address of Mr. P is available in the records of Mr. H, location of Mr. P, i.e. New Delhi will be the place of supply, else the location of Mr. H, which is Gurugram, will be the place of supply	
3.	a) Services <u>directly in relation to an immovable property</u>, including services provided by ✓ <u>architects,</u> ✓ <u>interior decorators,</u> ✓ <u>surveyors,</u> ✓ <u>engineers and other related experts</u> or ✓ <u>estate agents.</u> b) <u>Any service provided by way of grant of rights to use</u> immovable property or for carrying out or coordination of construction work; or c) Services by way of <u>lodging accommodation by a hotel</u>, inn, guest house, home stay, club or campsite, by whatever name called, and <u>including a house boat or any other vessel</u>; or d) Services by way of accommodation in any immovable property <u>for organising any marriage</u> or reception or matters related thereto, official, social, cultural, religious or business function <u>including services provided in relation to such function at such property</u>; or e) Any services ancillary to the services referred to in clauses (a), (b) and (c),	The place of supply shall be the location at which the <u>immovable property or boat or vessel</u>, as the case may be, is located <u>or intended to be located</u>. If the location of the immovable property or boat or vessel <u>is located or intended to be located outside India</u>, the <u>place of supply shall be the location of the recipient.</u> Note: Where the immovable property or boat or vessel is located in <u>more than one State</u> or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, <u>in the absence of such contract or agreement, on such other basis as may be prescribed.</u> [refer Rule 4 of IGST Rule 2017]

Example:

- 3.** KTS Builders (Mumbai) is constructing a factory building for PLM Pvt. Ltd. (Kolkata), in New Delhi. **The place of supply is the location of the immovable property i.e., New Delhi.**
- 4.** Shah and Shah, an architectural firm at Kolkata, has been hired by MKF Builders of Mumbai to draw up a plan for a high rise building to be constructed by them in Ahmedabad, Gujarat. **The place of supply is the place where the immovable property is intended to be located i.e., Ahmedabad**
- 5.** Mr. Ramesh, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there. **The place of supply of accommodation service is the place where the hotel is located i.e., Mumbai.**
- 6.** Mr. X, a consulting engineer based in Mumbai, Maharashtra renders professional services in respect of an immovable property of Mr. Y (Bangalore) located in Australia. Since the immovable property is located outside India, **the place of supply of service is the location of recipient i.e., Bangalore and not the place where the immovable property is located (Australia).**

Rule 4 of the IGST Rules, 2017

The place of supply in case of the **supply of services attributable to different States or Union territories, under Section 12(3)** of the IGST Act, 2017 shall be:

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

- A. Services provided by way of lodging accommodation by a hotel, inn, guest house, club or campsite, by whatever name called and services ancillary to such services:**
- i. Where such property is a single property located in two or more contiguous States or Union territories or both:**
the supply of services shall be treated as made in each of the respective States or UTs, **in proportion to the area of the immovable property lying in each State or Union territory.**

Illustration 1:

There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. **The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.**

- ii. Cases except where such property is a single property located in two or more contiguous States or Union territories or both:**
the supply of services shall be treated as made in each of the respective States or Union territories, **in proportion to the number of nights stayed in such property.**

Illustration 2:

A hotel chain X charges a consolidated sum of ₹ 30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service **shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively.** The value of services provided will thus be apportioned as ₹ 20,000/- in the Union territory of Delhi and ₹ 10,000/- in the State of Uttar Pradesh.

B. All other services in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc :
the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the area of the immovable property lying in each State or Union territory

C. Services provided by way of lodging accommodation by a house boat or any other vessel and services ancillary to such services:

the supply shall be treated as made in each of the respective States or Union territories, in proportion to the time spent by the boat or vessel in each such State or Union territory, determined on the basis of a declaration made to the effect by the service provider.

Illustration 3:

A **Company C** provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka inasmuch as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

4.	In case of <u>restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery</u>	The place of supply <u>shall be the location where the services are actually performed.</u>
	Example: 7. Mr. A, a business man from Pune dines in a restaurant at Mumbai while on a business trip. The place of supply of restaurant service is the location where such service is performed i.e., Mumbai. 8. Mr. Timmy Ferreira, a makeup artist at Kolkata, goes to Jaipur, Rajasthan for doing the makeup of Ms. Simran Kapoor, a Bollywood actress based in Mumbai. The place of supply is the location where such service is performed i.e., Jaipur.	
5.	In case of <u>services in relation to training and performance appraisal</u> to (a) a registered person, (b) a person other than a registered person,	POS shall be the location of such person POS shall be the location where the services are actually performed
	Example: 9. DEO Consultants (Kolkata) impart GST training to accounts and finance personnel of Sun Cements Ltd. (Guwahati, Assam) at the company's Kolkata office. Since the recipient is registered, the place of supply is the location of the registered person i.e., Guwahati. 10. Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for training on English speaking at their New Delhi Centre. Since the recipient is unregistered, the place of supply is the location where services are provided i.e., New Delhi.	
6.	Services provided <u>by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park</u> or any other place and services ancillary thereto,	The place of supply shall be the <u>place where the event is actually held or where the park or such other place is located.</u>

	Example: 11. Mr. A, a resident of Ghaziabad, Uttar Pradesh, buys a ticket for a circus organized at Gurugram, Haryana by a circus company based in New Delhi. The place of supply is the location where the circus is held i.e., Gurugram. 12. Mr. B of New Delhi buys a ticket for an amusement park located in Noida, Uttar Pradesh. The place of the supply is the location where the park is located i.e., Noida.		
7.	<table border="0"> <tr> <td data-bbox="197 465 805 1346"> a) Services provided <u>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</u>; or b) services <u>ancillary to organisation of any of the events or services</u> referred to in clause (a) , or <u>assigning of sponsorship</u> to such events </td><td data-bbox="805 465 1476 1346"> <u>If services provided to a registered person,</u> POS shall be the location of such person. <u>If services provided to a person other than a registered person,</u> POS shall be the place where the event is actually held <u>and if the event is held outside India, the place of supply shall be the location of the recipient.</u> <u>Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event,</u> the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, <u>in the absence of such contract or agreement, on such other basis as may be prescribed.</u> [Rule 5] </td></tr> </table>	a) Services provided <u>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</u>; or b) services <u>ancillary to organisation of any of the events or services</u> referred to in clause (a) , or <u>assigning of sponsorship</u> to such events	<u>If services provided to a registered person,</u> POS shall be the location of such person. <u>If services provided to a person other than a registered person,</u> POS shall be the place where the event is actually held <u>and if the event is held outside India, the place of supply shall be the location of the recipient.</u> <u>Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event,</u> the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, <u>in the absence of such contract or agreement, on such other basis as may be prescribed.</u> [Rule 5]
a) Services provided <u>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</u>; or b) services <u>ancillary to organisation of any of the events or services</u> referred to in clause (a) , or <u>assigning of sponsorship</u> to such events	<u>If services provided to a registered person,</u> POS shall be the location of such person. <u>If services provided to a person other than a registered person,</u> POS shall be the place where the event is actually held <u>and if the event is held outside India, the place of supply shall be the location of the recipient.</u> <u>Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event,</u> the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, <u>in the absence of such contract or agreement, on such other basis as may be prescribed.</u> [Rule 5]		
	Example: 13. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mumbai. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e., Ahmedabad. 14. Mega Events, an event management company at New Delhi, organizes an award function for Shah Diamond Merchants of Ahmedabad (registered in Gujarat), at Mauritius. Since the recipient is a registered person, the place of supply is the location of the recipient, i.e., Ahmedabad 15. Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at New Delhi. The recipient being an unregistered person, the place of supply is the location where the event is held i.e., New Delhi. 16. Grand Wedding Planners (Chennai) is hired by Mr. Ramesh (unregistered person based in Hyderabad) to plan and organise his wedding at Seychelles. The recipient being an unregistered person and the event held outside India, the place of supply is the location of the recipient i.e., Hyderabad and not the location where the event is held i.e., Seychelles		

Rule 5 of IGST Rule 2017

The place of supply in case of supply of services attributable to different States or Union territories, under subsection (7) of section 12 of the said Act, in the case of-

1. 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; or
2. services ancillary **to the organisation** of any such events or assigning of sponsorship to such events,

where the services are supplied to a person other than a registered person, the event is held in India in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in each of the respective States or Union territories, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, **shall be determined by application of the generally accepted accounting principles.**

Illustration:

An event management company E has to organise some promotional events in States S1 and S2 for a recipient R. 3 events are to be organised in S1 and 2 in S2. They charge a consolidated amount of ₹ 10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at **by the application of generally accepted accounting principles** is 3:2.

The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as ₹ 6,00,000/- in S1 and ₹ 4,00,000/- in S2.

8.	In case of services by way of <u>transportation of Goods, including by mail or courier</u> to a) a registered person, b) a person other than a registered person,	The place of supply shall be the location of such person; The place of supply shall be the location at which such goods are handed over for their transportation.
	~~Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods~~	
	Example: 17. M/s XYZ Pvt. Ltd. is a registered company in New Delhi. It sends its courier to Pune through M/s Brue Air Courier Service. The recipient being registered person, the place of supply is the location of recipient i.e., New Delhi. 18. Mr. Y, an unregistered person, of New Delhi sends a courier to his brother in Amritsar, Punjab. The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation i.e., New Delhi. 19. PR Pvt. Ltd., a Goods Transportation Agency based in Kanpur, Uttar Pradesh, is hired by Hajela Enterprises (registered supplier in Kanpur) to transport its consignment of goods to a buyer in New Delhi. The recipient being registered, the place of supply is the location of recipient i.e., Kanpur.	

	20. ST Pvt. Ltd., a Goods Transportation Agency based in Noida, Uttar Pradesh, is hired by Chhaya Trade Links (registered supplier in New Delhi) to transport its consignment of goods to a buyer in Kanpur, Uttar Pradesh. <i>The recipient being registered, the place of supply is the location of recipient i.e., New Delhi.</i> 21. Mr. Srikant, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Srikant's family is stationed in Kanpur, Uttar Pradesh. He hires Goel Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal. <i>The recipient being unregistered person, the place of supply is the location where goods are handed over for their transportation i.e., Kanpur.</i>	
9.	In case of <u>Passenger transportation service</u> (a) to a registered person (b) to a person other than a registered person,	The place of supply shall be the location of such person The place of supply shall be the place where the <u>passenger embarks on the conveyance</u> for a continuous journey: For the purposes of this sub-section, the <u>return journey shall be treated as a separate journey</u>, even if the right to passage for onward and return journey is issued at the same time. Where the right to passage is given for future use and the point of embarkation is <u>not known at the time of issue of right to passage</u>, the place of supply of such service shall be determined in accordance with the provisions Section 12(2).
	Example: 22. Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Air-jet flight. Mr. Amar has bought the tickets for the journey from Air-jet's office registered in New Delhi. <i>The place of supply is the location of recipient i.e., New Delhi.</i> 23. Mr. Shyam, an unregistered person, based in Gurugram, Haryana books a two-way air journey ticket from New Delhi to Mumbai on 5th December. He leaves New Delhi on 10th December in a late-night flight and lands in Mumbai the next day. He leaves Mumbai on 14th December in a morning flight and lands in New Delhi the same day. The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time. Thus, being an unregistered person, <u>the place of supply for the outward and return journeys are the locations where the unregistered person embarks on the conveyance for the continuous journey i.e., New Delhi and Mumbai respectively.</u>	

10.	In relation to services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,	The place of supply shall be the location of the <u>first scheduled point of departure</u> of that conveyance for the journey.
	Example: 24. Mr. X is travelling from Delhi to Mumbai in an Airjet flight. He desires to watch an English movie during the journey by making the necessary payment. The place of supply of such service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey i.e., Delhi.	
11.	<u>Telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person</u> (a) In case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, (b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, (c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,- i. through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher,; or ii. by any person to the final subscriber, (d) in other cases,	POS be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services; POS be the location of billing address of the recipient of services on the record of the supplier of services; POS shall be the address of the selling agent or reseller or distributor as per the record of the supplier at the time of supply POS shall be the location where such pre-payment is received or such vouchers are sold; POS shall be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services: if such <u>pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment</u>, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services. <u>Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit,</u>

		the place of supply of such services shall be taken as being in <u>each of the respective States</u> or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, <u>in the absence of such contract or agreement, on such other basis as may be prescribed.</u> [Refer Rule 6 of IGST Rules]
	Example: 25. Mr. X (Kolkata) gets a landline phone installed at his home from Skybel Ltd. The place of supply is the location where the telecommunication line is installed i.e., Kolkata. 26. Mr. Y (Mumbai) gets a DTH installed at his home from RT Ltd. The place of supply is the location where the DTH is installed i.e., Mumbai. 27. Mr. D (Mumbai) takes a post-paid mobile connection in Mumbai from Skybel Ltd. The place of supply is the location of billing address of the recipient i.e., Mumbai. 28. Mr. C (Pune) purchases a pre-paid card from a selling agent in Mumbai. The place of supply is the address of the selling agent or re-seller i.e., Mumbai. 29. Mr. F (Puducherry) gets a pre-paid recharged from a grocery shop in Chennai. The place of supply is the location where such pre-payment is received i.e., Chennai.	

Rule 6 of IGST Rule 2017

*In the case of supply of services relating to a leased circuit, where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of such services, shall be taken as being in **each of the respective States or Union territories**, and in the absence of any contract or agreement between the supplier of service and recipient of services for separately collecting or determining the value of the services in each such State or Union territory, as the case maybe, shall be determined in the following manner, namely:—*

- 1. The number of points in a circuit shall be determined in the following manner:**
 - a.** *in the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points;*
 - b.** *any intermediate point or place in the circuit will also constitute a point **provided that the benefit of the leased circuit is also available at that intermediate point;***
- 2. The supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the number of points lying in the State or Union territory.**

Illustration-1:

A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence one point of this circuit is in Delhi and another in Maharashtra.

The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. **The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.**

Illustration-2:

A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence one point of this circuit is in Tamil Nadu and two points in Karnataka.

The place of supply of this service is in the States of Tamil Nadu and Karnataka. **The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively.**

Illustration-3:

A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam.

The place of supply of this service is in the States of West Bengal, Bihar and Assam. **The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of West Bengal, Bihar and Assam, respectively.**

12.	In case of banking and other financial services, including stock broking services to any person	The place of supply shall be the location of the recipient of services on the records of the supplier of services <u>If the location of recipient of services is not on the records of the supplier</u>, the place of supply shall be the location of the supplier of services.
	Example: 30. Mr. A (Chennai) buys shares from a broker in BSE (Mumbai). The place of supply is the location of the recipient of services on the records of the supplier i.e., Chennai. 31. Mr. B (New Delhi) withdraws money from Best Bank's ATM in Amritsar. Mr. B has crossed his limit of free ATM withdrawals. The place of supply is the location of the recipient of services in the records of the supplier i.e., New Delhi 32. Mr. C, an unregistered person from Varanasi, Uttar Pradesh, visits a bank registered in New Delhi for getting a demand draft made. Since the location of recipient is not available in the records of the supplier, the place of supply is the location of the supplier of services i.e., New Delhi.	
13.	Insurance Service to (a) to a registered person (b) to a person other than a registered person	Place of Supply shall be the location of such person Place of Supply shall be the location of the recipient of services on the records of the supplier of services.

	Example: 33. Mr. A, CEO of XY Ltd., Mumbai (a company registered in Maharashtra) buys insurance cover for the inventory stored in company's factory located at Mumbai, from Excellent Insurers, Chennai (registered in Tamil Nadu). The place of supply is the location of the registered recipient i.e., Mumbai. 34. Ms. B (unregistered resident of Kolkata) goes to her native place Patna, Bihar and buys a medical insurance policy for her parents there from Safe Insurers, Patna (registered in Bihar). The place of supply is the location of the recipient of services on the records of the supplier i.e., Patna	
14.	Advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement	The place of supply shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis <u>as may be prescribed.</u>
	Example: 35. Gujarat Government gives an advertisement contract to an advertising agency (registered in Ahmedabad) to promote Gujarat tourism throughout the country. The place of supply is in all the States and Union Territories of India. 36. Delhi Government gives an advertisement contract to an advertising agency registered in Delhi to promote its 'Every Child Can Read' campaign in Delhi. The place of supply is Delhi.	

Advertisement service to the Government - Rule 3 of IGST Rules, 2017

The value of such supplies is in proportion to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard. However, in the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories **will be computed in accordance with rule 3 of IGST Rules, 2017**. The provisions of the said rule are tabulated below:

Sl. No.	Type of advertisement	Factor which determines the proportionate value of service attributable to the dissemination in each State/Union territory
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union territory
	ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities. These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur. The release order will have details of the newspaper like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper. The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the State of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF should issue separate State-wise and Union territory-wise invoices based on the editions.	
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory
	As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of ₹1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States i.e., Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively. This breakup should be indicated in the print order. The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan. The ratio of this breakup i.e., 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e., ₹ 20,000 - Haryana, ₹ 50,000 - Uttar Pradesh and ₹ 30,000 - Rajasthan.	

3.	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ Union territory
	ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 metros, i.e., Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings. The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the 4 metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State-wise and Union territory-wise by IJ to ABC indicating the value pertaining to that State or Union territory.	
4.	Advertisements on trains	Length of the railway track in each State/Union Territory, for that train
	ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www.indianrail.gov.in. The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is ₹ 1,20,000, then KL will have to calculate the State-wise and Union territory-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory. In the given example, the State-wise and Union territory-wise breakup works out to Delhi (₹5,000), Haryana (₹5,000), Uttar Pradesh (₹20,000), Madhya Pradesh (₹20,000), Maharashtra (₹30,000), Karnataka (₹30,000) and Goa (₹10,000). Separate invoices will have to be issued State-wise and Union territory-wise by KL to ABC indicating the value pertaining to that State or Union territory.	
5.	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable for the advertisements on bills pertaining to consumers having billing addresses in each State/Union territory
6.	Advertisements on railway tickets	Number of Railway Stations in each State/Union territory
	ABC has issued a release order to MN for display of advertisements relating to the 'Ujjwala' scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh. The place of supply of this service is in Madhya Pradesh and Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website www.indianrail.gov.in.	

	Let us assume that this ratio is 713:251 and the total bill is ₹ 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to ₹7,130 and ₹2,510 respectively. Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that State.	
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/Union territory
	For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations. The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State. Separate invoices will have to be issued State-wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.	
8.	Advertisement on television channels	Number of viewers of such channel in each State/ union Territory. Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. <u>Figures for the last week of a given quarter</u> will be used for calculating viewership for the succeeding quarter. Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, <u>will be calculated in ratio of the populations of that State/Union territory, as determined in the latest Census.</u>
9.	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory.
	ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the States of Tamil Nadu and Telangana. The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State.	
10.	Advertisements on internet [It is deemed that such service is provided all over India.]	Number of internet subscribers in each State/Union Territory Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). <u>Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year.</u> Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the subscriber figures for a State/Union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.

11.	Advertisements through SMS	<u>Number of telecom subscribers in each State/Union Territory</u> Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers <u>for the succeeding quarter.</u> Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated <u>in the ratio of the populations of that State/Union territory, as determined in the latest census.</u>

Clarification regarding place of supply in case of supply of services in respect of advertising sector**[GST Circular]**

Advertising companies are often involved in procuring space on hoardings/ bill-boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients.

There may be variety of arrangements between the advertising company and its vendors as below:

Issue: *There may be a case wherein 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. What will be the place of supply of services provided by the vendor to the advertising company in such case?*

Clarification: *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. As per section 12(3)(a) of the IGST Act, the place of supply of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the location at which the immovable property is located.*

Therefore, the **place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding/ structure is located.**

Issue: *There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location.*

During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

Clarification: *In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, **the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property.***

Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. **Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location.**

Therefore, such services provided by the vendor to advertising company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.

Issue:

Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc.

Whether the place of supply for such services would be determined in terms of the provisions contained in section 12(2) of the IGST Act or the same shall be determined in terms of the provisions contained in section 12(3) of the IGST Act?

Clarification:

It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property.

Accordingly, the place of supply of such services will be determined as per the provisions contained in section 12(2) of the IGST Act.

[GST Circular]

C. [5 Marks] - Export of services means the supply of any service when

- i. the **supplier** of service is located in India,
- ii. the **recipient** of service is located outside India,
- iii. the **place of supply of service is outside India**,
- iv. the payment for such service has been received by the supplier of service in convertible foreign exchange **or in Indian rupees wherever permitted by the Reserve Bank of India,**
and
- v. the supplier of service and recipient of service are **not merely establishments of a distinct person** in accordance with explanation 1 of section 8 [Section 2(6)].

As per Explanation 1 to Section 8, the following are treated as establishments of distinct persons:

- an establishment in India and any other establishment outside India;
- an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory

Thus, payment for export of service can be received in Indian rupees, if permitted by the RBI. In case of exports to Nepal and Bhutan, the payment is received in Indian rupees as per RBI regulations.

D. Import of services means the supply of any service, where

- ii. the **supplier** of service is located outside India,
- iii. the **recipient** of service is located in India, **and**
- iv. the **place of supply** of service is in India [Section 2(11)]

E. Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India; [Section 2(5)]. This definition is similar to the definition of 'export' given under Customs Act, 1962.

F. Import of goods with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India [Section 2(10)].

G. [2 Marks] - Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, **but does not include a person who supplies such goods or services or both or securities on his own account** [Section 2(13)].

(a) The place of supply of goods imported into India shall be the location of the importer:

The import of goods has been defined in Section 2(10) of the IGST Act as bringing goods into India from a place outside India.

All imports are deemed as inter State supplies and accordingly IGST is levied in addition to the applicable custom duties.

(b) The place of supply of goods exported from India shall be the location outside India:

Section 2(5) defines export of goods to mean taking goods out of India to a place outside India.

Under the GST Law, export of goods has been treated as:

- a. inter-State supply
- b. 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.

Place of supply of Services where location of supplier or location of recipient is outside India [Section 13]

1.	The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.	
2.	[Default Rule] The place of supply of services <u>except the services specified in subsections (3) to (13)</u> shall be the location of the recipient of services. Where the location of the recipient of services is <u>not available</u> in the ordinary course of business, the place of supply shall be the location of the supplier of services.	
3.	a) Services supplied in respect of Goods which are <u>required to be made physically available by the recipient of services</u> to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services Thus, place of supply of services in respect of goods imported into India for any job work or any other process etc. and exported after such job work or process etc. without being put to any other use, will be determined in accordance with the general rule, i.e. section 13(2) of the IGST Act.	<u>The place of supply shall be the location where the services are actually performed.</u> When such services are <i>provided from a remote location by way of electronic means</i>, the place of supply shall be the location where goods are situated at the time of supply of services. Nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs <u>or for any other treatment or process and are exported after such repairs or treatment or process without being put to any other use in India, other than that which is required for such repairs or treatment or process.</u>
	b) services supplied <u>to an individual, represented</u> either as the recipient of services or a person acting on behalf of the recipient, <i>which require the physical presence of the recipient</i> or the person acting on his behalf, with the supplier for the supply of services	The place of supply shall be the <u>location where the services are actually performed</u>
	Example: 1. Mr. X (New Delhi) imports a machine from Germany for being installed in his factory at New Delhi. To install such machine, Mr. X takes the service of an engineer who comes to India from Germany for this specific installation. The 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. 2. A software company located in United States of America (USA) takes services of a software company located in Bangalore to service its software in USA. The Indian software company provides its services through electronic means from its office in India. <i>The place of supply is the location where goods are situated at the time of supply of service i.e., USA.</i>	

	3. ABC Ltd., Hyderabad has exported a machine to a company in Indonesia. The machine stops functioning and is thus, imported by ABC Ltd. for free repairs in terms of the sale contract. The machine is exported after repairs. The place of supply of repair service is the location of the recipient i.e., Indonesia. 4. Mr. X, a hair stylist registered in New Delhi, travels to Singapore to provide his services to Ms. Y, a resident of Singapore. The place of supply is the location where the services are actually performed i.e., Singapore.	
4.	Services supplied directly in relation to an immovable property, <u>including services supplied in this regard by experts and estate agents</u>, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or coordination of construction work, <u>including that of architects or interior decorators</u>,	<i>The place of supply shall be the place <u>where the immovable property is located or intended to be located.</u></i>
	Example: 5. Mr. C, an architect (New Delhi), provides professional services to Mr. Z of New York in relation to his immovable property located in Pune. The place of supply is the location of immovable property i.e., Pune. 6. Mr. C, an architect (New Delhi), enters into a contract with Mr. Z of New York to provide professional services in respect of immovable properties of Mr. Z located in Pune and New York. <i>Since the immovable properties are located in more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory i.e., Pune. [Section 13(4) + Section 13(6)]</i>	
5.	Services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation,	<i>The place of supply <u>shall be the place where the event is actually held.</u></i>
	Example: 7. A circus team from Russia organizes a circus in New Delhi. The place of supply is the location where the event is actually held i.e., New Delhi. 8. An event management company registered in New Delhi organises an art exhibition displaying works of an international painter based in Dubai. The exhibition is organised in 3 countries including New Delhi. <i>Since the service is supplied at more than one location including a location in the taxable territory, the place of supply is the location in the taxable territory i.e., New Delhi. [Section 13(5) + Section 13(6)]</i>	
6.	Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) <i>is supplied at more than one location, including a location in the taxable territory,</i>	<i>its place of supply shall be the location in the taxable territory.</i>

7.	Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) <u>are supplied in more than one State or Union territory,</u>	the place of supply of such services shall be taken as being in <u>each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value</u> for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed [Rule 7, Rule 8 & Rule 9 of IGST Rules - Not in Syllabus]
8.	a) Services supplied by a banking company, or a financial institution, or a non-banking financial company, <u>to account holders;</u> b) Intermediary services; c) Services consisting of hiring of means of transport, including yachts <u>but excluding aircrafts and vessels, up to a period of one month</u>	<u>The place of supply shall be the location of the supplier of services</u> <u>IMP:</u> “Services provided by an <u>intermediary</u> when location of both supplier and recipient of <u>goods</u> is outside the taxable territory” is <u>exempt from GST.</u>
	Example: 9. Mr. C, a foreign tourist, on a visit to Varanasi (Uttar Pradesh) uses his international debit card to withdraw money from an ATM of a local Bank registered in Uttar Pradesh. The place of supply is the location of the supplier of services i.e., Varanasi. 10. A travel agent registered in New Delhi books a tour of famous Indian cities for a Dubai resident. The place of supply is the location of the supplier of services i.e., New Delhi. 11. Mr. D, an unregistered person based in New Delhi, leaves for a European holiday. He hires a car from London, UK for 20 days. The place of supply is the location of the supplier of services i.e., London.	
9.	Services of transportation of goods, <u>other than by way of mail or courier.</u>	<u>Section 13(9) is omitted by Finance Act 2023. To determine POS, refer Section 13(2).</u>
10.	In respect of passenger transportation services	The place of supply shall be the <u>place where the passenger embarks on the conveyance for a continuous journey.</u>
	12. Mr. A, a foreign tourist, has booked a ticket for New Delhi-Sri Lanka flight from an airline registered in New Delhi for a continuous journey without any stopover. The place of supply is the place where the passenger embarks on the conveyance for a continuous journey i.e., New Delhi.	
11.	Services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board	The place of supply shall be the first scheduled point of departure of that conveyance for the journey

12.	In case of online information and database access or retrieval services [OIDAR Services]	The place of supply shall be the location of the recipient of services.
13.	In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances <i>in which the place of supply shall be the place of effective use and enjoyment of a service.</i>	

PLACE OF SUPPLY - SET 'A'**1. What is the place of supply where goods are removed?****Answer:**

As per Section 10(1)(a) of the IGST Act, the place of supply of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.

2. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?**Answer:**

As per Section 10(1)(b) of the IGST Act, it would be deemed that the third person has received the goods and the place of supply of such goods will be the principal place of business of such person (Third Person).

3. What is the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?**Answer:**

As per Section 10(1)(e) of the IGST Act, in respect of goods, the place of supply is the location at which such goods are taken on board.

However, in respect of services, the place of supply is the location of the first scheduled point of departure of that conveyance for the journey in terms of section 12(10) of the IGST Act.

4. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply of construction services?**Answer:**

Where the immovable property is located in more than one State, the supply of service is treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf [Explanation to section 12(3)].

In the absence of a contract or agreement between the supplier and recipient of services in this regard, the proportionate value of services supplied in different States/Union territories (where the immovable property is located) is computed on the basis of the area of the immovable property lying in each State/ Union territories [Rule 4 of the IGST Rules].

5. What would be the place of supply of services provided by an event management company for organizing a sporting event for a Sports Federation which is held in multiple States?**Answer:**

In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event is the location of such person. However, if the recipient is not registered, the place of supply is the place where event is held.

Since the event is being held in multiple states and a consolidated amount is charged for such services, the place of supply will be deemed to be in each State in proportion to the value for services determined in terms of the contract or agreement entered into in this regard [Explanation to section 12(7)].

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in each State (where the event is held) will be computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

6. What is the place of supply of services by way of transportation of goods, including by mail or courier when both the supplier and the recipient of the services are located in India?**Answer:**

If the recipient is registered, the location of such person is the place of supply. However, if the recipient is not registered, the place of supply is the place where the goods are handed over for transportation. ~~Further, if the goods are transported outside India, the destination of such goods is the place of supply~~ [Section 12(8)].

7. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Answer:

If the person is registered, the place of supply will be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi will be Mumbai, the place where he embarks [Section 12(9) of IGST Act].

However, for the return journey, the **place of supply will be Delhi as the return journey has to be treated as separate journey** [Explanation to section 12(9) of the IGST Act]

8. **[Important]** What is the place of supply for mobile connection? Can it be the location of supplier?

Answer:

The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply is the location of billing address of the recipient of services on the record of supplier of services.

In case of pre-paid connections, if the service is supplied:-

- i. through a selling agent or a re-seller or a distributor of SIM card or re-charge voucher, the place of supply is the place address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or
- ii. by any person to the final subscriber, the place of supply is the location where such prepayment is received or such vouchers are sold;
- iii. in other cases, the place of supply is the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services.

However, if the recharge is done through internet/e-payment, the location of recipient of service on record of the supplier will be taken as the place of supply.

[Section 12(11) of the IGST Act]

9. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What is the place of supply?

Answer:

The place of supply in case of banking services to any person shall be the location of the recipient of services on the records of the supplier of services.

However, if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services i.e. Kullu-Manali, Himachal Pradesh.

[Section 12(12) of the IGST Act]

10. An unregistered person from Gurugram travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What is the place of supply of insurance services?

Answer:

When insurance service is provided to an unregistered person, the location of the recipient of services on the records of the supplier of insurance services **is the place of supply. So, Gurugram is the place of supply.**

[Section 12(13) of the IGST Act]

PLACE OF SUPPLY - SET 'B'

1. Priyank of Pune, Maharashtra enters into an agreement to sell goods to Bisht of Bareilly, registered in Uttar Pradesh. While the goods were being packed in Pune godown of Priyank, Bisht got an order from Sahil of Shimoga, registered in Karnataka for the said goods. Bisht agreed to supply the said goods to Sahil and asked Priyank to deliver the goods to Sahil at Shimoga.

You are required to determine the place of supply(ies) in the above situation.

Solution:

The supply between Priyank (Pune) and Bisht (Bareilly) is a bill to ship to supply where the goods are delivered by the supplier [Priyank] to a recipient [Sahil (Shimoga)] or any other person on the direction of a third person [Bisht]. **The place of supply in case of domestic bill to ship to supply of goods is determined in terms of section 10(1)(b) of IGST Act, 2017.**

As per section 10(1)(b) of IGST Act, 2017, 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 has received the goods and the place of supply of such goods is the principal place of business of Bisht. **Accordingly, the place of supply between Priyank (Pune) and Bisht (Bareilly) will be Bareilly, Uttar Pradesh.**

This situation involves another supply between Bisht (Bareilly) and Sahil (Shimoga). The place of supply in this case will be determined in terms of section 10(1)(a) of IGST Act, 2017.

Section 10(1)(a) of IGST Act, 2017 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), i.e. Shimoga, Karnataka.

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 under IGST Act, 2017;
- (b) the nature of supply:- whether inter-State or intra-State and
- (c) whether CGST/SGST or IGST as would be applicable in this case.

Solution:

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 the principal place of business of such person [Section 10(1)(b) of the IGST Act, 2017]. Thus, the 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 of the IGST Act, 2017, 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) of the IGST Act, 2017].

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 of the IGST Act, 2017, liable to CGST and SGST.

3. **Musicera Pvt. Ltd., owned by NitishDaani - a famous classical singer - wishes to organise a 'NitishDaani 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 'NitishDaani 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 the amounts given above are exclusive of taxes, wherever applicable.

Solution:

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) of the IGST Act, 2017, 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.

Therefore, the 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 the Hotel Dumdum, i.e. Gurugram, Haryana. Since the location of the 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) of IGST Act, 2017 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.

Therefore, the 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 the location of the 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) 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, if the consideration for right to admission to the event is not more than ₹ 500 per person.** However, there will be no change in the answer in respect of supplies mentioned in point (ii) and (iii) above.

4. 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 the place of supply of the services provided by Super Events Pvt. Ltd. to Damani Industries.

Will your answer be different if the product launch party is organised at Dubai?

Solution:

Section 12(7) of IGST Act, 2017 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.

5. Mr. Murthy, an unregistered person and a resident of Pune, Maharashtra hires the services of M/s Sun Ltd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru, Karnataka.
- Determine the place of supply of services provided by M/s Sun Ltd.
 - What would your answer be in case the product launch takes place in Bangkok?
 - What would your answer be in case Mr. Murthy is a registered person and product launches take place in Bengaluru and Bangkok?

Solution:

- (i) As per section 12(7) of IGST Act, 2017, 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) of IGST Act, 2017.

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.

6. 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:

Location of Mr. Mahendra Goyal	Location of Mr. Harish Jain	Properties situated at
Delhi	Maharashtra	New York (USA)

Solution:

As per section 12(3) of the IGST Act, 2017, 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.

7. Determine the place of supply for the following independent cases under the IGST Act, 2017:

- (i) Grand Gala Events, an event management company at Kolkata, organises two award functions for Kalyan Jewellers of Chennai (Registered in Chennai, Tamilnadu) 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 at Malaysia?

Solution:

- (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) of IGST Act, 2017.

Since, in the given case, the award functions at New Delhi and Singapore are organized for Kalyan Jewellers (registered in Chennai), **place of supply in both the cases is the location of Kalyan Jewellers i.e., Chennai, Tamilnadu**

- (ii) As per section 12(7) of IGST Act, 2017, 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.**

GST VALUATION RULES

Supplies where value cannot be determined u/s 15(1) and notified supplies
[Sub-sections (4) and (5) of section 15]

Chapter IV: Determination of Value of Supply of the CGST Rules

[Rule 27 to Rule 35 of CGST Rule 2017]

1. Where the value of the supply of goods or services or both **cannot be determined** under sub-section (1), **the same shall be determined in such manner as may be prescribed.**

Rule 27	Value of supply of goods or services where the consideration is not wholly in money
Rule 28	Value of supply of goods or services or both between distinct or related persons, other than through an agent
Rule 29	Value of supply of goods made or received through an agent
Rule 30	Value of supply of goods or services or both based on cost
Rule 31	Residual method for determination of value of supply of goods or services or both

2. Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council **shall be determined in such manner as may be prescribed.**

Rule 31A	Value of supply in case of <u>lottery, betting, gambling and horse racing</u>
Rule 31B	Value of supply in case of <u>online gaming including online money gaming</u>
Rule 31C	Value of supply of <u>actionable claims in case of casino</u>
Rule 32	<u>Determination of value in respect of certain supplies</u> ➤ Service of purchase or sale of foreign currency including money changing ➤ Service of booking air tickets by an air travel agent ➤ Life insurance service ➤ Buying and selling of second hand goods (Margin Scheme) ➤ Vouchers, token, coupons or stamps (other than postage stamps) redeemable against goods or services ➤ Services provided without consideration between distinct persons under GST laws that are different units of the same legal entity

Rule 33: Value of supply of services in case of pure agent

Rule 34: Rate of exchange of currency, other than Indian rupees, for determination of value.

Rule 35: Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.

CHAPTER IV: DETERMINATION OF VALUE OF SUPPLY OF CGST RULES**Rule 27: Value of supply of goods or services where the consideration is not wholly in money**

Where the supply of goods or services is **for a consideration not wholly in money**, the value of the supply shall,-

- a) be the **open market value** of such supply;
- b) if the **open market value is not available**, be the sum total of consideration in money and any such further amount in money **as is equivalent to the consideration** not in money, if such amount is known at the time of supply;
- c) if the **value of supply is not determinable under clause (a) or clause (b)**, be the value of supply of goods or services or both of **like kind and quality**;
- d) if the **value is not determinable under clause (a) or clause (b) or clause (c)**, be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money **as determined by the application of rule 30 or rule 31 in that order**.

“Open market value” of a supply of goods or services or both

“open market value” of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, 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;

“Supply of goods or services or both of like kind and quality”

“supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

Illustration:

1. Where a new phone is supplied for twenty thousand rupees along with the exchange of an old phone and if the price of the new phone without exchange is twenty four thousand rupees, **the open market value of the new phone is twenty four thousand rupees.**
2. Where a laptop is supplied for forty thousand rupees along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is four thousand rupees but the open market value of the laptop is not known, **the value of the supply of the laptop is forty four thousand rupees.**
3. Where a new phone is supplied for ₹ 20,000/- along with the exchange of an old phone and if the price of the new phone without exchange is ₹ 24,000/-, the open market value of the new phone is ₹ 24000.

4. Mr. A being a registered person sells TVs to all customers at ₹ 45,000. He supplied new TV for ₹ 42,000 along with the exchange of an old TV. Find the open market value of TV.

Solution:

Open market value is ₹ 45,000.

5. M/s X Ltd is a manufacturer of car and sells the car in the open market at a price of ₹ 11,00,000. M/s X Ltd provided the car to his company auditor is only for ₹ 9,00,000. In return auditor provided auditing services to M/s X Ltd and charged ₹ 5,000 with the condition that company will be provided the car at the price of ₹ 9,00,000. Find the value as per Rule 27(a), Determination of value of supply.

Solution:

Open market value of the car is ₹ 11,00,000.

Therefore, M/s X Ltd transaction value should be ₹ 11,00,000 on which GST will be levied.

6. M/s X Ltd. is supplier of security services provided such services to M/s Y Ltd. As per the contract M/s Y Ltd is to pay monthly ₹ 1,00,000. In the month of November M/s Y Ltd. supplied uniforms to all employees of M/s X Ltd. By spending ₹ 20,000. As a result M/s X Ltd. raised the bill for ₹ 80,000 in the month of November. In the given case M/s X Ltd. received consideration for security service is partially in terms of money ₹ 80,000 and partially in kind (i.e uniforms). Find the taxable value of service on which GST will be levied.

Solution:

GST will be levied on the value of ₹ 1,00,000 (₹ 80,000 + uniforms equal to monetary value of ₹ 20,000) in the hands of M/s X Ltd.

7. SATC Academy normally charge ₹ 10,000 for teaching the commerce students. A merit student approaches the management of SATC Academy and narrates his financial position. SATC Academy management considered his financial position agrees to charge only ₹ 5,000 from such student. Find the value of taxable supply of service.

Solution:

Since, SATC Academy has not received any consideration from the student in any other form, ₹ 5,000 it-self is a sole consideration. **GST will be levied on ₹ 5,000.**

Rule 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent

1. The value of the supply of goods or services or both **between distinct persons** or where the **supplier and recipient are related**, other than where the supply is made through an agent, shall-
- a) be the **open market value** of such supply;
 - b) if the **open market value is not available**, be the value of supply of goods or services of **like kind and quality**;
 - c) if the **value is not determinable under clause (a) or (b)**, be the value as determined by the application of rule 30 or rule 31, **in that order**

Provided that where the **goods** [Only 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 customer not being a related person**

Provided further 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.

2. **[Amendment]** *Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person located in India, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be 1% of the amount of such guarantee offered per annum, or the actual consideration, whichever is higher.*

Provided that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the value of said supply of services

[Amendment effective from 26.10.2023]

Rule 29: Value of supply of goods made or received through an agent

The value of supply of goods between the principal and his agent shall-

- (a) be the open market value of the goods being supplied, or **at the option of the supplier**, be 90% of the price charged for the supply of goods of like kind and quality **by the recipient to his customer not being a related person**, where the goods are intended for further supply by the said recipient.
- (b) where the value of a supply is not determinable under clause (a), the same shall be determined by the application of rule 30 or rule 31 **in that order**.

Illustration:

8. A principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of ₹ 5,000 per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of ₹ 4,550 per quintal. Find the value of taxable supply in the hands of principal as per Rule 29(a) of the CGST Rules, 2017.

Solution:

The value of taxable supply made by the principal shall be ₹ 4,550 or where he exercises the option, the value shall be ₹ 4,500 (i.e. 90% of ₹ 5,000) per quintal.

9. M/s P Ltd. being a principal supplies laptops to his agent and the agent is supplying laptops of like kind and quality in subsequent supplies. M/s P Ltd incorporated in Chennai (Tamil Nadu). Agent is located in Nagercoil (Tamil Nadu). Goods supplied on 15th November by the Principal to his Agent.

Particulars	No. of units	Price at which principal supplies to agent	Price at which agent supplies to his customer not being a related person	Rate of GST Advalorem
Selling price on 15 th November	1,000	Nil	₹ 22,000	18%

Goods procured by agent from other independent supplier supplying laptops of like kind and quality at ₹ 20,000 per unit on 15th November.

Find the value of taxable supply of goods and GST liability in the hands of M/s P Ltd. of Chennai.

Solution:

Value of taxable supply made by principal shall be ₹ 20,000 per laptop or where the principal exercise the option the value shall be ₹ 19,800 per laptop (i.e. 90% of the ₹ 22,000).

It is economical to opt the 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being related person on the day of supply.

Total taxable value of supply = ₹ 198,00,000 (i.e. ₹ 19,800 x 1000 units).

GST liability in the hands of M/s P Ltd. of Chennai:

CGST 9% on ₹ 198 lakh = ₹ 17,82,000

SGST 9% on ₹ 198 lakh = ₹ 17,82,000

Rule 30: Value of supply of goods or services or both based on cost

Where the value of a supply of goods or services or both is **not determinable by any of the preceding rules of this Chapter**, the value shall be **110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services**.

Cost Accounting Standard (CAS)-4 issued by the Institute of Cost Accountants of India enumerates various costs to be included in determining the cost of production of goods. CAS-4 principles are also applicable for determining the cost of supply of service.

Thus, cost of acquisition will include cost of transportation, any local taxes, insurance, other expenditure like commission, fee and so on paid on procurement of goods.

However, GST element will not be considered for the purpose of determining the cost of acquisition.

Illustration:

10. Raj & Co. furnish the following expenditure incurred by them to find the transaction value for the purpose of paying GST.

Particulars	₹
(i) Direct material cost per unit inclusive of IGST at 18%	944
(ii) Direct wages	250
(iii) Other direct expenses	100
(iv) Indirect materials	75
(v) Factory overheads	200
(vi) Administrative overhead (25% relating to production capacity)	100
(vii) Selling and distribution expense	150
(viii) Quality control	25
(ix) Sale of scrap realised	20
(x) Actual profit margin	15%

Find the value for the purpose of payment of GST as per Rule 30 of the CGST Rules, 2017.

Solution:

Statement showing value of supply of goods as per Rule 30 of the CGST Rules, 2017:

Particulars	Value in ₹
Direct material cost (944 x 100/118)	800
Direct wages	250
Other direct expenses	100
Indirect materials	75
Factory overheads	200
Administrative overhead (25% of ₹ 100)	25
Quality control	25
Sub-total	1475
Less: Sale of scrap	(20)
Cost of production	1,455
Add: 10% profit margin as per Rule 30 of the CGST Rules, 2017	145.50
Value of taxable supply of goods	1,600.50

Rule 31: Residual method for determination of value of supply of goods or services or both

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined **using reasonable means consistent with the principles and the general provisions of section 15** and the provisions of this Chapter

Provided that in the case of supply of services, **the supplier may opt for this rule, ignoring rule 30.**

Rule 32: Determination of value in respect of certain supplies**Rule 32(5): Value of supply in buying and selling of second hand goods [Margin Scheme]**

Where a taxable supply is provided by a person dealing in **buying and selling of second hand goods** i.e., used goods as such or after such minor processing which does not change the nature of the goods **and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.**

The **purchase value of goods** repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt **shall be deemed to be the purchase price** of such goods by the defaulting borrower reduced by 5 % points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

Note: Intra-State supplies of second hand goods by an unregistered supplier to registered second hand goods dealer exempt from CGST

Illustration:

11. M/s Hariharan is dealer of old car and engaged in purchase and sale of old cars in Bihar, furnishes the details of following transactions for the month of August 20XX.

- 1. Purchased old car for ₹ 80,000/- and sold for ₹ 1,20,000/- in Bihar**
- 2. Purchased old car for ₹ 75,000/- and sold for ₹ 65,000/- in Bihar**
- 3. Purchased old car for ₹ 90,000/- but unable to sell during the month of August' 20XX**
- 4. Purchased old car for ₹ 1,00,000/- and sold for ₹ 1,30,000/- in Orissa**

Determine the value of taxable supply

Answer:

Computation of taxable value of supply:

S. No.	Purchase	Sale	Profit
1.	80,000	1,20,000	40,000
2.	75,000	65,000	Note (i)
3.	90,000	-	Note (ii)
4.	1,00,000	1,30,000	<u>30,000</u>
Taxable value of supply			<u>70,000</u>

Notes:

- (i)** As per Rule 32(5), no GST is payable in negative margin
- (ii)** No GST is payable on unsold goods
- (iii)** In case of sale of car in Orissa, IGST is applicable.

12. Ram & Co., being a car dealer dealing in second hand cars. Ram & Co., purchases used car from Mr. Raja and sell the very same car to Miss. Rani after water wash and painting. The purchase price is ₹ 2,00,000 whereas the sale price is ₹ 2,50,000. Find the GST liability as per rule 32(5) of the CGST Rules, 2017 by following margin scheme in the hands of Ram & Co. Assume applicable rate of GST 28%.

- Ram & Co., is not availing input tax credit on purchase of second hand cars.
- Whether your answer is different if the sale of second hand car for ₹ 1,80,000.

Note: Ram & Co., and Miss. Rani are located within the State of Tamil Nadu.

Solution:

GST net liability is as follows:

Particulars	Value ₹	14% CGST	14% SGST	Remarks
Output supply	2,50,000			
Less: purchase price	2,00,000			
Difference known as margin	50,000	7,000	7,000	Charge GST on the margin or profit earned on the goods (₹ 50,000 x 28%)

Yes. Our answer different in case of sale price is ₹ 1,80,000:

Sale price	= ₹ 1,80,000
Less: purchase price	= ₹ (2,00,000)
Margin	= ₹ (20,000)
GST liability	= ₹ Nil

Note: For a dealer who has opted for the margin scheme, there can be a scenario where the second-hand goods are sold at zero margins or for a lesser price than the purchase price. In this case, no GST will be applicable on the supply.

13. Mr. D being a dealer in goods sells new brand cars at ₹ 11,00,000. He advertises that customers can sell their old car if they buy new car from him. One customer exchanged his old car for ₹ 2,00,000. Mr. D sold new car to that customer for ₹ 9,00,000. The Central Tax Department demanded to pay GST on ₹ 11,00,000 whereas Mr. D argues that he is eligible to pay GST on the difference namely margin of ₹ 9,00,000 as per Rule 32(5) of the CGST Rules, 2017. Discuss and decide the correct approach.

Solution:

Rule 32(5) of the CGST Rules, 2017 is applicable only when person is dealing in buying and selling of second hand goods. In the given case Mr. D is not eligible for margin scheme as referred in rule 32(5). Since, dealer sold new car and therefore, provisions of rule 32(5) will not apply.

Therefore, from the above it is evident that the Central Tax Department view is correct.

14. Mr. X took a car loan of ₹ 3,00,000 from ABC Bank Ltd. on 1st September 2024 which was entirely used for the purchase of car worth the same amount. Mr. X defaults on the loan balance and thereby his car is repossessed by the bank on 1st Jan. 2025. This car is sold on 30th March 2025 by the bank for ₹ 2,50,000. Determine the valuation under GST.

How shall your answer differ if the car is sold for ₹ 2,70,000/-

Answer:

The purchase value to be taken will be the purchase price in the hands of the borrower – 5% per quarter or part thereof (September – March) i.e., $3,00,000 - (5\% \times 3 \times 300,000) = ₹ 2,55,000$.

As the sale value of the car is below ₹ 2,55,000, the margin will be ignored for the charging of GST.

In the alternate solution, ₹ 15,000 i.e., ₹ 2,70,000 – ₹ 2,55,000, shall be treated as taxable value of supply.

Rule 32(6)

The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both ***shall be equal to the money value of the goods or services or both redeemable*** against such token, voucher, coupon, or stamp.

Illustration:

15. Mr. X had purchased a voucher for ₹ 200 which was redeemable against purchase of a wallet worth ₹ 500 from Shopping Stop.

Here, the valuation that should be taken is the redemption value of ₹ 500 in respect of the voucher and not the purchase value of ₹ 200.

16. X Ltd. being a cloth merchant sold gift voucher to customer for ₹ 2,000 on 10th November to purchase specific cloth from its showroom. Goods actually purchased by customer on 15th November for ₹ 2,400. Find the time of supply and value of supply with regard to gift voucher in the hands of X Ltd. [Difference is payable in cash]

Solution:

Time of supply is at the time issue of voucher i.e. 10th November.

Value of supply = ₹ 2,000 for gift voucher.

17. Ram & Co., being dealer in electronics and electrical items, issued gift voucher to its customer for ₹ 2,000 on 15th November. Customer can use gift voucher to purchase anything which is available. Customer purchased goods worth ₹ 1,400 on 20th Nov.

Applicable CGST and SGST 9% each.

Find the following

- (a) time of supply
- (b) value of supply
- (c) GST liability in the hands of Ram & Co.

Solution:

(a) Time of supply is 20th November 20XX.

(b) Value of supply is ₹ 1,400.

(c) GST liability:

– CGST is ₹ 126 [$₹ 1,400 \times 9\% = ₹ 126$]

– SGST is ₹ 126

18. Mr. & Ms. Kapoor purchase 10 gift vouchers for ₹ 500 each from Crossword, and 5 vouchers from a reputed Spa costing ₹ 1,000 each. The vouchers from a reputed Spa had a special offer for couples, where in services for both persons at the price chargeable to one.

Find the value of supply in the hands of Crossword and reputed Spa.

Solution:

Statement showing value of taxable supply:

Particulars	Crossword Value in ₹	Reputed Spa value in ₹	Remarks
Value of taxable supply	5,000		10 gifts voucher x 500 = ₹ 5,000
		10,000	5 vouchers x ₹ 1,000 x 2 = ₹ 10,000

Rule 32(7)

The value of taxable services provided **by such class of service providers as may be notified** by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act **between distinct persons** as referred to in section 25, **where input tax credit is available, shall be deemed to be NIL.**

Rule 33: Value of supply of services in case of Pure Agents

Notwithstanding anything contained in the provisions of this Chapter, 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**.

The expression "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.

Illustration

19. Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies.

The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on B. **A is merely acting as a pure agent in the payment of those fees.**

Therefore, A's recovery of such expenses **is a disbursement and not part of the value** of supply made by A to B.

20. Mr. Ram is a registered dealer under GST Law. He sold furniture to a customer for ₹ 51,000 with free delivery. In such case Mr. Ram availing the service of the transporter for his own interest and therefore, transport charges is included in selling price of ₹ 51,000 **and he would be not considered as pure agent in this case.**

21. Mr. X is a Customs Broker issues an invoice for reimbursement of a few expenses and for consideration towards agency service rendered to an importer. The amounts charged by the Customs Broker are as below:

S. No.	Component charges in invoice	Amount in ₹
1	Agency income	10,000
2	Travelling expenses	5,500
3	Hotel expenses	9,500
4	Customs duty	55,000
5	Dock dues	2,500

Find the value of taxable supply of service in the hands of Customs Broker.

Solution:**Statement showing taxable value of supply of service:**

S. No.	Particulars	Amount in ₹	Remarks
1	Agency income	10,000	Addable into the value
2	Travelling expenses	5,500	-do-
3	Hotel expenses	9,500	-do-
4	Customs duty	Not addable	Pure agent reimbursement
5	Dock dues	Not addable	Pure agent reimbursement
Total		25,000	

Rule 34: Rate of exchange of currency, other than Indian rupees, for determination of value.-

1. The rate of exchange for determination of **value of taxable goods** shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.
2. The rate of exchange for determination of **value of taxable services** shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

Rule 35: Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.-

Where the value of supply is **inclusive** of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely,-

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

22. An assessee was under impression that his product is exempt from GST and hence sold the goods @ ₹ 177 per piece without charging GST. Later, it was found that actually, the product was chargeable with IGST 18%. Department claimed that since goods were removed without GST, transaction value should be ₹ 177 and GST is payable accordingly. Assessee contended that price of ₹ 177 should be taken as inclusive of GST and actual GST payable should be calculated by back calculations. Determine the correct GST payable per piece.

Solution:

As per rule 35 of the CGST Rules, 2017 transaction value and GST liability is as follows:

The Transaction value should be taken, **as cum-tax-price** and tax payable should be calculated by making back calculations.

Hence, the transaction value is as follows:

The transaction value	= ₹ 177 x 100/118	= ₹ 150
IGST	= ₹ 177 x 18/118	= ₹ 27
Total invoice price		= ₹ 177

Clarification regarding availment of ITC in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs

GST Circular

Issues	Clarification
Whether HO can avail the ITC in respect of common input services procured from a third party but attributable: i. to both HO and BOs or ii. exclusively to one or more BOs, issue tax invoices under section 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor (ISD) mechanism for distribution of ITC in respect of such common input services?	It is clarified that in such a case, as per the present provisions of the law, it is not mandatory for the HO to distribute such ITC by ISD mechanism. HO has an option to: i. distribute ITC in respect of such common input services by following ISD mechanism, or ii. <u>issue tax invoices under section 31 to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs</u> and the BOs can then avail ITC on the same subject to the provisions of sections 16 and 17. ISD mechanism can be opted only if the said input services are attributable to the said BO or have actually been provided to the said BO. In case ISD mechanism is opted, HO is required to get itself registered mandatorily as an ISD. Similarly, the HO can issue tax invoices under section 31 to the concerned BOs, <u>only if the common input services have actually been provided to the concerned BOs.</u>

Clarification regarding internally generated services - where HO is providing certain services to the BOs for which full ITC is available to the concerned BOs

GST Circular

Issues	Clarification
<i>In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full ITC is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs.</i> <i>Whether the HO is mandatorily required to issue invoice to BOs under section 31 for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full ITC is available to the concerned BOs?</i>	<i>The value of supply of services made by a registered person to a distinct person needs to be determined as per rule 28 read with section 15(4).</i> <i>As per rule 28(a), the value of supply between distinct persons <u>shall be the open market value (OMV) of such supply.</u></i> <i>The second proviso to rule 28 provides that where the recipient is eligible for full ITC, <u>the value declared in the invoice shall be deemed to be the OMV of the goods or services.</u></i> <i>Accordingly, in respect of supply of services by HO to BOs, the <u>value of the said supply of services declared in the invoice by HO shall be deemed to be OMV of such services, if the recipient BO is eligible for full ITC.</u></i> <i>Accordingly, in cases where full ITC is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the OMV of such services, <u>irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.</u></i> <i>Further, in such cases where full ITC is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, <u>the value of such services may be deemed to be declared as Nil by HO to BO,</u> and may be deemed as OMV in terms of second proviso to rule 28.</i>

<i>In respect of internally generated services provided by the HO to BOs, in cases where full ITC is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs?</i>	<i>In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, <u>is not mandatorily required to be included</u> while computing the taxable value of the supply of such services, even in cases where full ITC is not available to the concerned BO.</i>

Clarification on valuation of supply of import of services by a related person where recipient is eligible to full input tax credit

GST Circular No. 210/4/2024 dated 26.06.2024

It is clarified that in cases where the **foreign affiliate is providing certain services to the related domestic entity [Related Person]**, and where full input tax credit is available to the said related domestic entity, the value of such supply of services declared in the invoice by the said related domestic entity **may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.**

Further, in cases where full input tax credit is available to the recipient, **if the invoice is not issued by the related domestic entity with respect to any service provided by the foreign affiliate to it**, the value of such services **may be deemed to be declared as Nil**, and may be deemed as open market value in terms of second proviso to rule 28(1) of CGST Rules.

[Note: In case of import of services by a registered person in India from a **related person located outside India**, the tax is required to be paid by the registered person in India under reverse charge mechanism. In such cases, the registered person in India is required to issue self-invoice under Section 31(3)(f) of CGST Act and pay tax on reverse charge basis]

Taxability and valuation of personal guarantee by Directors and corporate guarantee by related person, for the company

GST Circular

S. No.	Issue	Clarification
1	Whether the activity of providing <u>personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not?</u>	Since director and company are related persons [in terms of Explanation (a) to section 15], the activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies <u>is to be treated as a supply of service, even when made without consideration [in terms of section 7(1)(c) read with para 2 of Schedule I].</u> <u>Value will be open market value (OMV) of such supply [in terms of rule 28].</u> However, <u>as per the mandate provided by the RBI Guidelines</u> in this regard, 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, <u>except in exceptional cases. Consequently, there is no question of such supply/ transaction having any OMV.</u> Accordingly, it is clarified that OMV of the said transaction/ supply <u>may be treated as zero</u> and therefore, no tax is payable on such supply of service by the director to the company. <u>However, in exceptional cases, where remuneration is payable to the director, the taxable value of such supply of service shall be the remuneration/ consideration provided to such guarantor by the company, directly or indirectly.</u>

2	Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services?	Where the corporate guarantee is provided to the bank/financial institutions by: i. a company for providing credit facilities to the other company, where both the companies are related, ii. a holding company, for securing credit facilities for its subsidiary company [related in terms of explanation to section 15], the activity is to be treated as a supply of service between related parties even when made without any consideration [in terms of section 7(1)(c) read with para 2 of Schedule I]. <u>In such cases, the taxable value will be determined as per the newly inserted sub-rule (2) to rule 28</u> As per rule 28(2), value in above cases will be <u>higher</u> of: i. 1% of the amount of such guarantee offered, or ii. actual consideration. It is clarified that this sub-rule shall not apply for determining value in S. No. 1 above.

SPECIAL CASES – VALUATION RULES

A. Value of supply in case of lottery, betting, gambling and horse racing [Rule 31A]

Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

Deemed Value of supply of lottery [Rule 31A(2)]

The deemed value of supply of lottery shall be higher of the following:

- 100/128 of the face value of ticket; or
- 100/128 of the price as notified in the Official Gazette by the Organising State.

Lotteries are sold as goods and can be of following two types:

- “Lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State.
- “Lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also.

Example 1: 4 Marks

State Government authorize a lottery whose particulars are as under

- Face value per ticket: ₹ 1000,
- The price as notified by official gazette: ₹ 600.

Compute value of supply

Further, how shall your answer differ if the price mentioned in (b) is ₹ 1,050 instead of ₹ 600

Answer:

Higher of the following shall be considered as value of supply:

Particulars	When notified price is ₹ 600	When notified price is ₹ 1,050
100/128 of face value of ticket i.e., ₹ 1,000 x 100 / 128	781.25	781.25
100/128 of notified price i.e., - ₹ 600 x 100 / 128 - ₹ 1,050 x 100 / 128	468.75	820.31
Value of supply (being higher of the above)	781.25	820.31

Value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club [Rule 31A(3)]

The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

B. Method for determination of value of supply in case of online gaming including online money gaming and value of supply of actionable claims in case of casino prescribed [Rule 31B and Rule 31C inserted]

Actionable claims of online money gaming, horse racing and casinos have been brought under the purview of supply by amending Schedule III of the CGST Act, 2017. Value of horse racing is already being determined under rule 31A.

A. Value of supply in case of online gaming including online money gaming [Rule 31B]

Notwithstanding anything contained in this chapter, 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.

However, any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, **shall not be deductible** from the value of supply of online money gaming.

B. Value of supply of actionable claims in case of casino [Rule 31C]

Notwithstanding anything contained in this chapter, the value of supply of **actionable claims in casino** shall be the total amount paid or payable by or on behalf of the player for –

- i. purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
- ii. participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required.

However, any amount returned/refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, **shall not be deductible** from the value of the supply of actionable claims in casino.

Explanation: For the purpose of Rule 31B and Rule 31C, any **amount received by the player** by winning any event, including game, scheme, competition or any other activity or process, which is used for playing by the said player in a further event without withdrawing, **shall not be considered as the amount paid to or deposited** with the supplier by or on behalf of the said player.

C. Value of supply of services in relation to life insurance business [Rule 32(4)]

The VALUE of supply of services in relation to life insurance business shall be,-

- A. the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;
- B. In case of **single premium annuity policies** other than (a), 10% of single premium charged from the policy holder; or
- C. In all other cases, 25% of the premium charged from the policy holder in the 1st year and 12.5% of the premium charged from the policy holder in subsequent year

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance. [TAX RATE – 18%]

Example 2:

Arihant Life Insurance Company Ltd. (ALICL) has started its operations in the year 2024-25 (w.e.f. 1-4-2024). During the year 2024-25, Arihant Life Insurance Company Ltd. (ALICL) has charged gross premium of ₹ 180 lakh from policy holders with respect to life insurance policies; out of which ₹ 100 lakh have been allocated for investment on behalf of the policy holders.

Compute the GST liability of ALICL for the year 2024-25 under rule 32(4) of the CGST Rules, 2017

- (i) if the amount allocated for investment has been intimated by ALICL to policy holders at the time of providing 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.

Applicable rate of GST 18%.

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 the 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) GST liability of ALICL for the year 2024-25 will be computed as under:
= ₹ 14.40 lakhs [₹ (180-100) lakh × 18%]
- (ii) 25% of the 1st year premium is value of taxable supply. Thus, GST liability of ALICL for the year 2024-25, being first year of its operations, will be computed as under:

Value of taxable supply = ₹ 180 lakh × 25% = ₹ 45 lakh

GST liability = ₹ 8.10 lakh (i.e. ₹ 45 lakh × 18%)

- (iii) GST liability of ALICL for the year 2024-25 will be computed as under:

= ₹ 32.40 lakh (₹ 180 lakh × 18%)

Example 3:

LIC of India provides you the following information for the month of Oct 20XX. You are required to compute GST payable by the company if the company has opted to pay GST as per Rule 32(4) of CGST Rules, 2017:

(1) General policies: Total premiums collected ₹ 12,000 lakhs (Out of which 1st year premium is ₹ 5,000 lakhs)

(2) Only Risk Cover Policies: Premiums collected ₹ 500 lakhs.

(3) Variable Insurance Policies: Premiums collected ₹ 8,000 lakhs. (80% of the amount is allocated for investments on behalf of policy holder for which policy holder is given separate break up in premium receipts).

Answer:

Statement showing GST liability of LIC of India for the month of OCT 20XX under Rule 32(4) of the CGST Rules, 2017

Particulars	Value ₹ in lakhs	Working note
General policies		
1st Year Premium	1,250	5,000 x 25%
2nd Year Premium	875	7,000 x 12.5%
Only Risk cover policies	500	
Variable insurance policies premium	1,600	(8,000 – 6,400)
Total taxable supply of service	4,225	
CGST 9%	380.25	(4,225 x 9%)
SGST 9%	380.25	(4,225 x 9%)

D. Special provision relating to determination of value of service of purchase or sale of foreign currency including money changing **[Rule 32(2)]**

The VALUE of service in relation to purchase or sale of foreign currency, including money changing, is determined by either of the two methods:

Method 1: **Rule 32(2)(a)**

Case 1: Transaction where one of the currencies exchanged is Indian Rupees

The value of supply is difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units of foreign currency.

However, if RBI reference rate for a currency is not available then value of supply is 1% of the gross amount of Indian Rupees provided/ received by the person changing the money.

Example 4:

On 10th May, Mr. Doshi converted USD \$ 100 into ₹ 8,400 @ ₹ 84 per USD through Eastern Money Changers. RBI reference rate on 10th May for US \$ is ₹ 83 per US \$.

The value of supply in this case is $(₹ 84 - ₹ 83) \times \$ 100 = ₹ 100$ and GST will be levied on this amount.

If the RBI reference rate is not available, then 1% of ₹ 8,400 i.e., ₹ 84 will be the value of supply of service.

Case 2: Transaction where neither of the currencies exchanged is Indian Rupees

The value of supply is 1% of the lesser of the two amounts the person changing the money would have received by converting (at RBI reference rate) any of the two currencies in Indian Rupees.

Example 5:

US \$ 9,000 are converted into UK £ 6,500. RBI reference rate at that time for US \$ is ₹ 83 per US dollar and for UK £ is ₹ 102 per UK Pound. In this case, neither of the currencies exchanged is Indian Rupee.

Hence, in the given case, value of taxable service would be 1% of the lower of the following:- (a) US dollar converted into Indian rupees = $\$ 9,000 \times ₹ 83 = ₹ 7,47,000$
(b) UK pound converted into Indian rupees = $£ 6,500 \times ₹ 102 = ₹ 6,63,000$

Value of taxable service = 1% of ₹ 6,63,000 = ₹ 6,630

Method 2: **Rule 32(2)(b)**

The person supplying the service may also exercise the following option (based on slab rates) to ascertain the value of service, however, once opted he cannot withdraw it during the remaining part of the financial year:

S. No.	Currency exchanged	Value of supply
1	Upto ₹ 1,00,000	1% of the 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

Example 6:

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

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

Particulars	Amount in ₹
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 Taxable supply	4,200

Example 7:

On 25th July 20XX, Mr. X located in Chennai converted USD 100 into INR, actual exchange rate INR 82 per USD through Akbar Travel a money exchanger. RBI's reference rate for buying and selling was ₹ 81/81.5 respectively on such date. Akbar Travel registered under GST and located at Chennai.

- (a) Find the Value of supply as per Rule 32(2)(a) of the CGST Rules, 2017?
- (b) How much GST is liable to pay, in case where the RBI reference rate for a currency is not available.

Note: Applicable rate of GST 18%.

Answer:

- (a) The value of supply = (₹ 82 – ₹ 81) * 100 = INR 100

Thus the value of taxable supply of Akbar Travel will be INR 100 and GST will be levied on this amount.

GST = ₹ 18/-

9% CGST = ₹ 9

9% SGST = ₹ 9

- (b) The value of supply = ₹ 82 (i.e. 1% of INR 8,200)

GST = ₹ 14.76

9% CGST = ₹ 7.38 or ₹ 8

9% SGST = ₹ 7.38 or ₹ 8

Example 8:

M/s. M Ltd., Mumbai is an authorised money changer. It has entered the following transactions (intra-state supplies) of money changing in the month of July 20XX:

- (i) 450 transactions of conversion of Dollar into Indian Rupees of ₹ 22,000 per transaction;
- (ii) 125 transactions of conversion of Euro into Indian rupees of ₹ 500 lakhs per transaction;

Input Tax Credit on input services ₹ 3,00,000 (CGST ₹ 1,50,000 & SGST ₹ 1,50,000) and input goods ₹ 4,00,000 (CGST ₹ 2,00,000 & SGST ₹ 2,00,000) is available. ITC on capital goods is ₹ 2,50,000 (capital goods purchased in the current year as intra-state purchases).

Find GST payable as per Rule 32(2)(b) of the CGST Rules, 2017. [GST RATE FOR EXAM – 18%]

Answer:**(i) Conversion of Dollar into Indian Rupees**

Value of one Transaction: ₹ 22,000 × 1% = ₹ 220, whereas minimum is ₹ 250 per transaction

Taxable Value (all Transaction): 450 transactions × ₹ 250 = ₹ 1,12,500.

(ii) Conversion of Euro into Indian rupees

Value of one Transaction- Upto ₹ 10 Lakhs = ₹ 5,500 + Balance ₹ 490 lakhs × 0.1% = ₹ 54,500
(Maximum is ₹ 60,000).

Taxable Value (all Transaction): 125 transactions × ₹ 54,500 = ₹ 68,12,500

Computation of GST Liability:

Particulars	CGST	SGST	Total	Remarks
Output Tax	6,23,250	6,23,250	12,46,500	(1,12,500 + 68,12,500) × 18%
Less: ITC on Input service	(1,50,000)	(1,50,000)	(3,00,000)	
Inputs	(2,00,000)	(2,00,000)	(4,00,000)	
Capital Goods	(1,25,000)	(1,25,000)	(2,50,000)	
Net output tax c/f	1,48,250	1,48,250	2,96,500	

E. Air Travel Agents - GST

Payment of tax at the option of the Air Travel Agent:

- A. Air travel agents are required to pay 18% GST on commission earned from airlines and also service charges, handling charges etc. (by whatever name called) collected from the customers / passengers.

OR

- B. Special provision relating to determination of value of service of booking of tickets for air travel by an air travel agent **[Rule 32(3)]**

The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of **5% of the basic fare in the case of domestic bookings, and at the rate of 10% of the basic fare in the case of international bookings** of passage for travel by air.

Explanation.- For the purposes of this sub-rule, the expression **“basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines**

Question 9:

Compute the GST liability of Mr. A, an air travel agent, for the quarter ended Dec. 31, 20XX using the following details:

Particulars	Amount (₹)
Basic air fare collected for domestic booking of tickets	50,00,000
Basic air fare collected for international booking of tickets	80,00,000
Commission received from the airlines on the sale of domestic and international tickets	4,50,000
Year ending bonus received from airlines	50,000

In the above case, would the GST liability of Mr. A be reduced if he opts for the special provision for payment of GST **as per Rule 32(3)** of the CGST Rules, 2017. The applicable rate of GST 18%.

Answer:

Statement Showing GST liability of Mr. A for the quarter ending 31st Dec 20XX: ₹
(Under Normal Provisions)

Commission received from the airlines on the sale of domestic and international tickets	4,50,000
Year ending bonus or incentive	50,000
Taxable supply of services	5,00,000
GST @18% on ₹ 5 lakh	90,000

Statement Showing GST liability of Mr. A for the quarter ending 31st Dec 20XX
(under Special Provision)

Basic air fare (domestic booking) [50,00,000 x 5%]	2,50,000
Basic air fare (international booking) [80,00,000 x 10%]	8,00,000
Total taxable supply of service	10,50,000
GST 18% on ₹ 10,50,000	1,89,000

Note: The GST liability of Mr. A would not be reduced in the aforesaid option. Therefore, special provision under Rule 32(3) of CGST Rules, 2017 is not economical.

PRACTICE QUESTIONS

1. 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 ₹ 78 per US \$. RBI reference rate for US \$ on that day is ₹ 78.60.
- (ii) 2,000 US \$ are sold to Menavati at the rate of ₹ 77.50 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:

(A) Rule 32(2)(a) of the CGST Rules, 2017

(B) Rule 32(2)(b) of the CGST Rules, 2017.

Solution:

Rule 32(2) of the CGST Rules, 2017 prescribes the provisions for determining the value of supply of services in relation to the purchase or sale of foreign currency, including money changing.

(A) Determination of value under rule 32(2)(a) of the CGST Rules, 2017

- (i) Rule 32(2)(a) of the CGST Rules, 2017 provides that the 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:

$$\begin{aligned}
 &= (\text{RBI reference for US \$} - \text{Buying rate of US \$}) \times \text{Total number of units of US \$ bought} \\
 &= (78.6 - 78) \times 1,000 \\
 &= ₹ 600/-
 \end{aligned}$$

- (ii) First proviso to rule 32(2)(a) of the CGST Act, 2017 lays down that when the RBI reference rate for a currency is not available, the 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 $(77.50 \times 2,000)$
 - = ₹ 1,550/-

(B) Determination of value under rule 32(2)(b) of the CGST Rules, 2017

Rule 32(2)(b) provides that value in relation to the supply of foreign currency, including money changing shall be deemed to be –

S. No.	Currency exchanged	Value of supply
1.	Upto ₹ 1,00,000	1% of the 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 = ₹ 78 × 1,000 = ₹ 78,000. 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 ₹ 78,000 or ₹ 250, whichever is higher.
= ₹ 250/-
- (ii) Gross amount of currency exchanged = ₹ 77.50 × 2,000 = ₹ 1,55,000. 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 $(₹ 1,55,000 - ₹ 1,00,000)$ = ₹ 1,275/-

2. 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 raised an invoice in July, 20XX as follows:

S.No.	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.?

Solution:

As per explanation to rule 33 of the CGST Rules, 2017, a “pure agent” means a person who-

- 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;
- 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;
- does not use for his own interest such goods or services so procured; and
- 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 of the CGST Rules, 2017 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
Add: Charges for transport of machine from Kandla port, Gujarat to its Rudra Logistics' godown in Ahmedabad, Gujarat	Nil
Add: Charges for transport of machine from Rudra Logistics' Ahmedabad godown to the warehouse of Rolly Polly Export Import House in Mumbai, Maharashtra	Nil
Add: Customs duty	Nil
Add: Dock charges	Nil
Add: Port charges	Nil
Add: Hotel expenses	45,000
Add: Travelling expenses	50,000
Add: Telephone expenses	2,000
Value of supply	5,97,000

Yes, our 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.

3. **IMP:** Dev Enterprises is the supplier of water coolers. Dev Enterprises supplied water coolers to Vimal Traders for consideration of ₹ 2,95,000 (inclusive of GST @ 18%). Vimal Traders also gave some materials to Dev Enterprises as consideration for such supply whose value was ₹ 10,000 (exclusive of GST).

Dev Enterprises has supplied the same goods to another 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 as per the provisions of the CGST Act, 2017.
- (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.

Solution:

- (1) In the given case, price is not the sole consideration for the supply. Apart from monetary consideration, the buyer has given some material to the supplier as consideration for such supply. Hence, the value of the supply cannot be determined on the basis of the transaction value in terms of section 15(1) of the CGST Act, 2017.

Here, the value will be determined with the help of rule 27 of the CGST Rules, 2017 (Valuation Rules) 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 ($₹ 2,97,360 \times 100/118$) 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, the value in the given case will be $(₹ 2,95,000 \times 100/118) + ₹ 10,000$, which is ₹ 2,60,000.

4. **Zindagi Life Insurance Company Limited (ZLICL) has collected premium from subscribers and it does not intimate the amount allocated for investment to subscribers at the time of collection of premium. During the month of September 20XX, it has collected the following receipts:**

Sl. No.	Particulars	Amount
1.	Premium for only risk cover	25,00,000
2.	Premium from new subscriber	40,00,000
3.	Renewal Premium	80,00,000
4.	Single premium on annuity	1,00,00,000

All amounts are exclusive of tax. You are required to compute the value of supply by ZLICL in accordance with GST laws.

Solution:

As per rule 32(4) of the CGST Rules, 2017, 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 ZLICL will be computed as under:

Computation of value of supply for ZLICL for the month of September 20XX

Particulars	Amount (₹)
Premium for only risk cover	25,00,000
Premium from new 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

**THE
CUSTOMs
ACT
1962**

Index [14th Edition]

CUSTOMs LAWs

CMA INTER - June & Dec 2025 Exam

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THE CUSTOMS ACT, 1962

Post-independence, the **Customs Act was passed in 1962**. It consolidated the erstwhile Sea Customs Act, 1878, Land Customs Act, 1924 and Indian Custom Aircraft Act, 1911. Further, the **Customs Tariff Act was passed in 1975** to replace the erstwhile Indian Tariff Act, 1934.

Constitutional Provisions

According to Article 265 of the Constitution of India, **No tax of any nature** can be levied and collected by Central or State Governments except by the authority of law. The authority to enact law and levy taxes and duties is given by the constitution vide Article 246.

According to Article 246, law can be enacted by Parliament or the State Legislature, if such power is given by the Constitution of India.

The power to levy the custom duty is conferred by **Entry No. 83** of the **Union List of the Seventh Schedule** to the Constitution of India which provides as under:

“Duty of Customs including exports duties”.

Thus, the power to make laws in respect of Customs duty **vests with the Central Government**. The tax receipts on account of customs duty are solely enjoyed by the Union.

Sources of Customs Law

1. The Customs Act, 1962	This is a consolidating enactment providing levy of import and export duties of customs on goods imported into or export from India through sea, air or land. It provides for the provisions of levy and collection of duty, importation or exportation, transit and transshipment, prohibition on importation or exportation of goods, warehousing etc.
2. The Customs Tariff Act, 1975	The Act contains various types of custom duties to be levied on the importation and exportation of the articles. It contains two schedules – Schedules 1: Known as ‘Import Tariff’ and Schedules 2: Known as ‘Export Tariff’ ‘Import Tariff’ refers to goods liable to import duty of Customs. ‘Export Tariff’ refers to goods liable to export duty of Customs.
3. Rules	Section 156 of the Customs Act, 1962 empowers the Central Government to make rules consistent with this Act. Few Examples: • Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 • Customs Valuation (Determination of Value of Export Goods) Rules, 2007 • Baggage Rules, 2016; • Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995; etc.
4. Regulations	Section 157 of the Customs Act, 1962 empowers the Central Board of Indirect Taxes and Customs to make regulations consistent with the Act and the rules, generally to carry out the purposes of the Act. Example: Export Manifest (Vessels) Regulations 1976
5. Notifications under Customs Act	Central Government has been empowered to issue notifications under various sections of the Customs Act, 1962.

Application of the Act

The Customs Act, 1962 applies **to the whole of India and, save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person.**

India **includes** territorial waters of India.

Extension of the Customs Act, 1962 and the Customs Tariff Act, 1975 to EEZ and Continental Shelf

- i. The **notified designated areas** in the Continental Shelf of India (CSI) and Exclusive Economic Zone of India (EEZI); and
- ii. **Whole** of the EEZ and Continental Shelf of India for following purposes:
 - a) the prospecting for extraction or production of mineral oils (including petroleum and natural gas) in the Continental Shelf and EEZ of India, and
 - b) the supply of any goods in connection with any of the aforesaid activities.

Tax-Point

Implication of the extension of the Act to whole of CSI and EEZI is that bringing of any goods from any other country to any place in EEZ or Continental Shelf of India **in connection with any activity related to extraction or production of mineral oils shall be treated as import** under the Customs Act, 1962 and would be charged to duty accordingly.

Note:

- (i) **Territorial waters of India extend upto 12 nautical miles** inside sea from baseline on coast of India and **include any bay, gulf, harbour, creek or tidal river.**

(1 nautical mile = 1.1515 miles = 1.853 Kms).

Further note that, India includes not only the surface of sea but also to the seabed and subsoil underlying, and the air space over, such waters.

India has sovereignty in its territorial waters. **That means all the provisions of the Customs Act and rules and regulations are applicable in Indian Territorial Waters.**

- (ii) **'Exclusive economic zone' extends to 200 nautical miles** from the base-line.

- (iii) **Continental Shelf of India (CSI):**

The continental shelf of India comprises the seabed and subsoil of the submarine areas that extend beyond the limit of its territorial waters **throughout the natural prolongation of its land territory to the outer edge of the continental margin** or to a distance of 200 nautical miles from the baseline, **where the outer edge of the continental margin does not extend up to that distance.**

(iv) “Indian customs waters”

“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.

Indian customs waters cover both the Indian territorial waters and exclusive economic zone as well.

Therefore, Indian customs waters extend to a total of 200 nm from base line.

Significance of Indian customs waters

- i. If an officer of Customs has reason to believe that any person in India or within the Indian customs waters has committed an offence punishable, **he may arrest such person** informing him of the grounds for such arrest.
- ii. Where the proper officer has reason to believe that any vessel in India or within the Indian customs waters has been, is being, or is about to be, **used in the smuggling of any goods** or in the carriage of any smuggled goods, **he may stop any such vehicle, animal or vessel or, in case of an aircraft, compel it to land.**
- iii. Any vessel which is or has been within the Indian customs waters is constructed, adapted, altered or fitted in any manner **for the purpose of concealing goods shall be liable to confiscation.**
- iv. Customs officer **has the power to search** any person who has landed from/about to board/is on board any vessel within Indian customs waters and who has secreted about his person, any goods liable to confiscation or any documents relating thereto.
- v. Any goods which are brought within the Indian customs waters for the purpose of being imported from a place outside India, **contrary to any prohibition imposed by or under this Act or any other law for the time being in force, shall be liable to confiscation.**

Charging Section

Section 12: Except as provided in this Act, or any other law for the time being in force,

- duties of customs shall be levied
- **at such rates as may be specified under the Customs Tariff Act, 1975**, or any other law for the time being in force,
- on goods imported into and exported from India.

The aforesaid provisions shall apply in respect of **all goods belonging to Government** as they apply in respect of goods not belonging to Government.

However, imports by Indian Navy, specific equipment required by police, Ministry of Defense, Coastal Guard etc. are fully exempt from customs duty by virtue of specific notifications subject to fulfillment of conditions and/or procedure set out in the said notifications.

Notes:

- (i) Customs duty is **charged on goods and not on the person** importing them or paying the duty. Being such, it is expected to be passed on to the buyer.
- (ii) **It may, however, be noted that this levy is subject to other sections in the Act. For instance:**
 - Section 13** – No duty on pilfered goods
 - Section 22** – Reduced duty on damaged goods
 - Section 23** – Remission of duty on destroyed goods.
- (iii) **Government goods shall be treated at par with non-Governmental goods** for the purposes of levy of customs duty.
- (iv) **The rate of import duty is specified in the First Schedule to the Customs Tariff Act, 1975 and the rate of export duty is specified in the Second Schedule to the said Act.**

Rates of duty:

The rates at which duties of customs shall be levied under the Customs Act 1962 are specified in the **First and Second Schedules** of the Customs Tariff Act, 1975.

- (a) **Preferential Rate of duty:** If the goods are imported from the preferential areas [as notified by the Central Government], then a **lower preferential rate of duty** will be applicable on such goods subject to the fulfillment of specified conditions.
- (b) **Standard rate of duty:** In any entry, if no preferential rate of duty has been notified, the **standard rate of duty** shall be applicable.

TAXABLE EVENT in case of import of goods into India / export of goods from India**Taxable Event in case of imports:**

Import of goods will commence when they cross the territorial waters but continues and is completed when they become part of the mass of goods within the country [**Garden Silk Mills Ltd. vs UOI (SC)**]

➤ **In case of goods cleared for home consumption:**

The taxable event being reached at the time when the goods reach the customs barriers and bill of entry for home consumption is filed.

The taxable event is the day of crossing of customs barrier **and not on the date when goods landed in India or had entered territorial waters of India.**

Note: Clearance for home consumption implies that customs duty on imported goods has been paid and goods can be taken out by importer for utilization or consumption within the country.

➤ **In case of goods cleared for warehousing:**

If imported goods are taken into warehouse, goods continue to be in custom bond. **Thus in case of warehouse also, import take place when the goods are cleared for home consumption from warehouse.**

If the goods are cleared to be stored in warehouse, payment of duty is required at the time of clearance of goods from warehouse. That means, payment of duty is deferred till the time of clearance from warehouse.

The taxable event in case of warehoused goods is when goods are cleared from customs bonded warehouse, by submitting ex-bond bill of entry.

Taxable Event in case of exports:

As per Section 16(1) of the Customs Act, 1962, **Taxable Event** arises only when proper officer **makes an order permitting clearance** (i.e. entry outwards) granted and loading of the goods for exportation took place under Section 51 of the Customs Act, 1962.

In the case of any other goods, on the date of payment of duty.

Export of goods is complete when the goods **cross the territorial waters of India.**

If ship sinks within the territorial waters, **export is not complete.**

Domestic Tariff Area

Domestic Tariff Area means the whole of India (including the territorial waters and continental shelf) **but does not include** the areas of the **Special Economic Zones, 100% Export Oriented Units (EOUs) / Electronic Hardware Technology Park (EHTP) / Software Technology Park (STP) / Bio Technology Park (BTP)**

Question:

Goods cleared from unit of DTA to Special Economic Zone (SEZ) chargeable to duty under the SEZ Act, 2005 or the Customs Act, 1962?

Solution:

Customs duty can be levied only on goods imported into or exported beyond the territorial waters of India. Section 12(1) of the Customs Act, 1962 (i.e. charging section) is not attracted for supplies made by a DTA unit to a unit located within the Special Economic Zone.

Therefore, goods cleared from DTA to SEZ is not liable to export duty either under SEZ Act, 2005 or under the Customs Act, 1962.

VARIOUS DEFINITIONS

TERM	DEFINITION
Adjudicating authority [Section 2(1)] [3 Marks]	Adjudicating authority means any authority competent to pass any order or decision under this Act, but does not include i. the Board, ii. Commissioner (Appeals) or iii. Appellate Tribunal
Assessment [Section 2(2)] [5 Marks]	Assessment means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force, with reference to: a. the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act; b. the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act; c. exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force; d. the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods; e. the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods; f. any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is NIL;
Baggage	Baggage includes unaccompanied baggage but does not include motor vehicles;
Beneficial owner	Beneficial owner means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;
Bill of entry [Section 2(4)]	Bill of entry means a bill of entry referred to in Section 46. Section 46 provides that the importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the Customs Automated System (CAS) to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.
Bill of export	Bill of export means a bill of export referred to in Section 50. Section 50 provides that the exporter of any goods shall make entry thereof by presenting electronically on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed.

Board	Board means the Central Board of Indirect Taxes and Customs (CBIC) constituted under the Central Boards of Revenue Act, 1963
Coastal Goods	Coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another
Conveyance	Conveyance includes a vessel (for sea), an aircraft (for air) and a vehicle (for land) <u>Tax Point:</u> Vehicle means conveyance of any kind used on land and includes a railway vehicle.
Customs Station [1 Marks]	Customs station means any customs port, customs airport, <u>international courier terminal</u> , foreign post office or land customs station
Customs Airport	Customs airport means any airport appointed under section 7(a) to be a customs airport and includes a place appointed under section 7(aa) to be an air freight station
Customs Area	Customs area means the area of a customs station <u>or a warehouse</u> and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities
Customs Port	Customs port means any port appointed under section 7(a) to be a customs port and includes a place appointed under section 7(aa) to be an inland container depot;
Dutiable goods [2 Marks]	Dutiable goods means any goods which are chargeable to duty and on which duty has not been paid.
Foreign-going vessel or aircraft [3 Marks]	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, <u>whether touching any intermediate port or airport in India or not, and includes -</u> - any naval vessel of a foreign Government taking part in any naval exercises; - 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
Goods [Section 2(22)] [3 Marks]	It includes, - vessels, aircraft and vehicles; - stores; - baggage; - currency and negotiable instrument; and - any other kind of movable property
Import	Import means bringing into India from a place outside India
Imported goods	Imported goods means any goods brought into India from a place outside India <u>but does not include goods, which have been cleared for home consumption</u>

Importer	Importer in relation to any goods at any time between their importation and the time when they are cleared for home consumption includes any owner, beneficial owner or any person holding himself out to be the importer Tax Point: The term importer also include a person who cleared the goods from warehouse even though he is not the actual importer.
Export	Export means taking out of India to a place outside India.
Export goods	Export goods means any goods which are to be taken out of India to a place outside India.
Exporter	Exporter in relation to any goods at any time between their entry for export and the time when they are exported includes – owner, beneficial owner or any person holding himself out to be the exporter
Arrival manifest or import manifest or import report [5 Marks]	Arrival manifest or import manifest or import report means the manifest or report required to be delivered under section 30. Section 30 provides that the person-in-charge (or any other notified person) of- i. a vessel; or ii. an aircraft; or iii. a vehicle, carrying imported goods or export goods shall deliver following document (in the prescribed form and manner) to the proper officer: <u>In the case of a vessel or an aircraft</u> an arrival manifest or import manifest (in case of export, departure manifest or export manifest) by presenting electronically prior to the arrival (in case of export, before departure) of the vessel or the aircraft <u>In the case of a vehicle</u> an import report (in case of export, export report) <u>within 12 hours</u> after its arrival in the customs station (in case of export, before departure)
Person-in-charge [Section 2(31)] [4 Marks]	Person-in-charge means: a. in relation to a vessel, the master of the vessel; b. in relation to an aircraft, the commander or pilot-in-charge of the aircraft; c. in relation to a railway train, the conductor, guard or other person having the chief direction of the train; d. in relation to any other conveyance, the driver or other person-in-charge of the conveyance
Prohibited goods	Prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;
Stores	Stores means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;

Imported Goods in Transit or Transshipment (without payment of duty)**[2 to 3 Marks]****Transit of Goods [Section 53]**

Where any goods imported in a conveyance and mentioned in the arrival manifest or import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.

Transshipment of Goods [Section 54]

Where any goods imported into a customs station are mentioned in the arrival manifest or import manifest or the import report, as the case may be, as for transshipment to anyplace in or outside India, such goods may be allowed to be so transshipped without payment of duty.

Where any goods imported into a customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer in such form and manner as may be prescribed.

Unlike Transit, Under Transshipment, goods are transferred from one conveyance to another.

Example:

A vessel Bhishma, sailing from U.S.A to Australia via India carries various types of products namely 'A, B, C & D'. 'A & B' are unloaded at Mumbai Port. On account of submission of bill of transshipment product 'A' transshipped to Chennai port as ultimate destination in India and product 'B' transshipped to Sri Lanka. Vessel Bhishma moved to Australia with Product C & D.

Find the Imported goods, Transshipment goods and Transit goods?

Solution:

Product 'A' is imported goods because its ultimate destination is in India.

Products 'A & B' are called as Transshipment goods, since these goods are transshipped to another vessel,

Product 'A' transshipped to Chennai attracts import duty at Chennai port whereas product 'B' is destined to Sri Lanka without payment of duty.

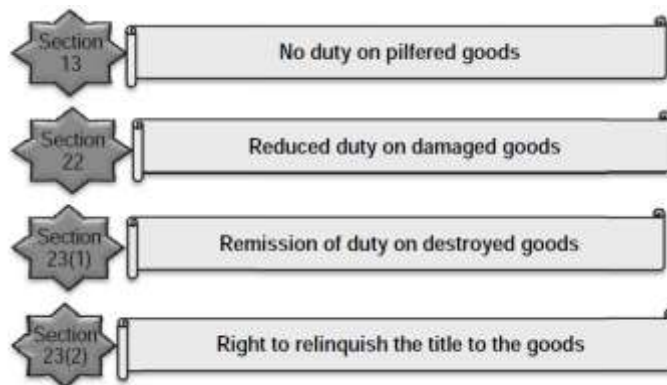
Product 'C & D' are called as Transit Goods.

Example:

State the difference between transit and transshipment of goods under the provisions of the Customs Act.

S. No.	Transit of Goods	Transshipment of Goods
(1)	Section 53 of the Customs Act, 1962 provides for transit of goods.	Section 54 of the Customs Act, 1962 provides for transshipment of goods.
(2)	In case of transit of goods, goods are allowed to remain on the same conveyance .	In case of transshipment of goods, the conveyance changes i.e., the goods are unloaded from one conveyance and loaded in another conveyance.
(3)	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.
(4)	Bill of transit or transshipment is not required here.	Bill of transshipment is required to be presented

Custom Duty not leviable in certain cases:



1. No duty on Pilfered Goods [Section 13]:

Conditions:

- Imported goods are pilfered
- Such goods are pilfered
 - ✓ after the unloading thereof and
 - ✓ before the proper officer has made an order for clearance for home consumption or deposit in a warehouse
- The pilfered goods are not re-stored

Treatment:

The importer shall not be liable to pay the duty leviable on such pilfered goods.

Tax point:

- Pilfer means** to steal something, typically of small value or in small quantities; petty theft. **It does not mean total destruction or complete lost.**
- The principle governed this provision is that "when the goods are not in the control of the importer; he is not liable to pay duty thereon".
- If such goods are re-stored to the importer after pilferage, the importer becomes liable to pay duty.**
- Section 13 does not deal in the situation**
 - Where goods are lost or destroyed.
 - Where goods are pilfered before unloading thereof
 - Where goods are pilfered after the order for clearance for home consumption or deposit in a warehouse, **section 13 is not applicable.**
- If goods are pilfered after the order of clearance is made but before the goods are actually cleared, Section 13 is not applicable and thus, duty would be leviable.**
- In case of Pilferage, only Section 13 applies and Remission of duty under section 23(1) is not permissible.
- Section 13 does not apply for the warehoused goods.**
- In case any imported goods which are pilfered while in custody, the custodian is required to pay duty on such goods.**
- No duty is payable if the pilferage found before goods cleared from customs:**
 - ✓ Importer does not have to prove pilferage,
 - ✓ If the duty is paid before finding the pilferage, refund can be claimed

Example:

If goods are pilfered after the order of clearance is made but before the goods are actually cleared, duty would be leviable?

Solution:

Yes. Importer has to pay duty.

Note: refund can be claimed

Example:

Provisions of section 13 would apply if it can be shown that pilferage took place prior to the unloading of goods?

Solution:

Section 13 would not apply in the given case.

The pilferage should have occurred after the goods are unloaded, but before the proper officer makes the order of clearance.

Example:

Explain the legal provisions relating to duty on pilfered goods.

Solution:**Duty on pilfered goods**

All imported goods unloaded in a customs area shall remain in the custody of an approved person (being approved by the Commissioner) until they are cleared for home consumption or are warehoused or are transhipped [Section 45(1)]

If any imported goods are pilfered after unloading thereof in a custom area while in the custody of such approved person, then that person shall be liable to pay duty on such goods at the rate prevailing on the date of delivery of an import manifest or an import report to the proper officer [Section 45(2)]

If any imported goods are pilfered after the unloading thereof but before the proper officer has made an order for clearance for home consumption or deposit in a warehouse, the importer shall not be liable to pay the duty leviable on such goods except where such goods are re-stored to the importer after pilferage - [Section 13]

Example:

Who is liable to pay duty on pilfered goods?

- a) Custodian
- b) Importer
- c) Proper Officer
- d) None of the above

Reason:

Custodian is liable to pay duty on pilfered goods.

2. Remission of duty on goods lost or destroyed [Section 23(1)]:

Subject to Section 13, where it is shown to the satisfaction of the Assistant Commissioner or Deputy Commissioner of Customs that any imported goods have been lost (otherwise than as a result of pilferage) or destroyed, **at any time before clearance for home consumption**, the AC/DC of Customs shall remit the duty on such goods.

ANALYSIS:

- (a) This section comes into play in case of loss/destruction of imported goods at any time before their clearance for home consumption.
- (b) The remission of duty is permissible only in the case of total loss of goods. This implies that the loss is forever and beyond recovery. The loss referred to in this section is generally due to natural causes like fire, flood, etc. **The loss of goods may be at the warehouse also.**
- (c) Since Section 23(1) is subject to the provisions of Section 13, in case the goods have been pilfered after they have been unloaded but before order for clearance for home consumption or deposit in a warehouse, Section 13 would apply and the importer would not be liable to pay the duty.

Distinction between Section 13 and Section 23(1)

Basis	Pilferage of Goods u/s 13	Loss or Destruction of Goods u/s 23(1)
Meaning	The word 'pilfer' means to steal, especially in small quantities; petty theft.	The word 'lost' or 'destroyed' refers to total loss of goods i.e. loss is forever and beyond recovery.
Duty on goods	Duty is not at all leviable on such goods.	The duty paid on the goods shall be remitted to the importer.
Subsequent restoration of goods	Where the pilfered goods are restored to the importer after pilferage, the importer becomes liable to duty.	In case of destruction of goods, the restoration of goods is not possible.
Warehoused goods	Provisions of Section 13 are not applicable to warehoused goods.	Provisions of Section 23(1) apply to warehoused goods also.
Onus to prove the pilferage/destruction or loss of goods	The onus to prove the pilferage does not lie on the importer.	The importer has to prove the loss/destruction to the satisfaction of the AC/DC of Customs.
Time of occurrence of pilferage or loss/destruction	The imported goods must have been pilfered after the unloading thereof and before an order for clearance for home consumption or deposit in a warehouse.	The imported goods should have been lost/destroyed at any time before clearance for home consumption.

3. Right to relinquish the title to the Goods [Section 23(2)]:

The owner of any imported goods may, at any time before an order for clearance of goods for home consumption or an order for permitting the deposit of goods in a warehouse has been made, **relinquish his title to the goods** and thereupon, he **shall not be liable to pay** the duty thereon.

However, the owner of any such imported goods **shall not be allowed to relinquish his title** to such goods regarding **which an offence appears to have been committed** under this Act or any other law for the time being in force.

ANALYSIS:

Sometimes, it may so happen that the importer is unwilling or unable to take delivery of the imported goods. Some of the likely causes may be:

- (a)** the goods may not be according to the specifications;
- (b)** the goods may have been damaged or deteriorated during voyage and as such may not be useful to the importer;
- (c)** There might have been breach of contract and, therefore, the importer may be unwilling to take delivery of the goods.

In all the above cases, the goods having been imported, the liability to customs duty is imposed and, therefore, the importer may relinquish his title to the goods unconditionally and abandon them. If the importer does so, he will not be required to pay the duty amount.

Note:

Relinquish literally means 'to withdraw from' or 'to abandon' or 'to give up anything or any right' or 'to cease to hold' or 'to surrender' or 'to give over the possession or control of, to leave off'.

Such relinquishment **should be unconditional**.

4. **Abatement of duty on Damaged or Deteriorated goods [Section 22] – Option to pay reduced duty**

- (a) **Cases where abatement is available:** Abatement is available if it is shown to the satisfaction of the Assistant Commissioner / Deputy Commissioner of Customs that the goods are damaged/deteriorated under any of the following circumstances:

S. No.	In case
1.	any imported goods had been damaged or had deteriorated at any time before or during the unloading of the goods in India
2.	any imported goods, other than warehoused goods, had been damaged or had deteriorated on account of any accident, at any time after the unloading thereof in India but before their examination for assessment by the customs authorities
3.	any warehoused goods had been damaged on account of any accident at any time before clearance for home consumption

Note: Provided such accident is not due to any willful act, negligence or default of the importer, his employee or agent.

Meaning:

- (1) **Damage:** The term 'damage' denotes **physical damage to the goods**. This implies that the goods are not fit to be used for the purpose for which they are meant.
- (2) **Deterioration:** Deterioration is reduction in quality of goods **due to natural causes**.

(b) **Amount of duty chargeable after abatement:**

The duty to be charged on the goods shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration, which the value of the damaged or deteriorated goods bears to the value before the damage or deterioration.

Mathematically,

$$\text{Duty to be charged} = \frac{\text{Value of damaged goods/ deterioration goods}}{\text{Value of goods before damage/deterioration}} \times \text{Duty on goods before damage / deterioration}$$

(c) **Valuation of the damaged or deteriorated goods:**

The value shall be:-

- (a) Value ascertained by the proper officer,
or
- (b) The proper officer may sell such goods by public auction/tender or if the importer agrees, in any other manner and the gross sale proceeds shall be deemed to be the value of such goods.

Example:

Value of goods before damage	₹ 1,00,000
Duty liability before damage	₹ 10,000
Value of goods after damage	₹ 40,000
Revised Duty liability after damage	₹ 4,000 [i.e., ₹ 10,000 * ₹ 40,000 / ₹ 1,00,000]

Exemption from Customs Duty [Section 25]

Central Government's power to grant exemption:

If the Central Government is satisfied that it is necessary in the public interest so to do -

- a) It may by notification in the Official Gazette exempt generally (either absolutely or subject to certain conditions), goods of any specified description from the whole (or any part) of duty.
- b) It may by special order exempt from the payment of duty under circumstances of an exceptional nature (being stated in such order) any goods on which duty is leviable.

Notes:

- i. An exemption from duty in respect of any goods may be granted by providing for the levy of the duty at a rate expressed in a form or method different from the form or method in which duty is leviable. **Such duty shall in no case exceed the original duty.**

Form or method means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

- ii. **Duty shall not be collected where the amount of duty leviable does not exceed ₹ 100.**

- iii. **Rationale for grant of exemption:** The power for grant of exemption vests with the Central Government subject to the overall control of the Parliament. The Government on a rational basis may use this power and the exemptions may be based on any of the following factors:

(a) **Moral grounds, where the duty should not be levied at all. Some of the instances, which may be given, are;**

- (i) Where the goods do not reach the Indian soil at all.
- (ii) Where the goods have reached the Indian soil, but are not available for consumption.
- (iii) Where the goods get damaged or deteriorated in transit.

(b) **Discretionary provision, where the exemption is used for controlling the economy and industrial growth of the country.**

Circumstance under which no duty will be levied

- a. No duty will be levied on pilfered goods under **section 13** of the Customs Act. If any imported goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a ware house, then the importer shall not be liable to pay the duty leviable on such goods.
- b. No duty will be levied in case of goods lost or destroyed due to natural causes like fire, flood, etc. such loss may take place at any time before the clearance of goods for home consumption. The loss may be at the warehouse. **[Section 23(1)]**
- c. **No duty will be levied in case of goods abandoned by importers [Section 23(2)]**
Sometimes it may so happen that importer is unwilling or unable to take delivery of the imported goods due to the following reasons:
 - (i) the said goods may not be according to the specification,
 - (ii) the goods may have been damaged during voyage,
 - (iii) there might have been breach of contract.

In all the above cases the importer has to relinquish his title to the goods unconditionally and abandon them. The relinquishment is done by endorsing the document of title to the goods in favour of the Commissioner of Customs along with invoice.
- d. No duty will be levied, if the Central Government is satisfied that it is necessary in the public interest not to levy import duty by issuing the notification in the Official Gazette. **[Section 25]**

Determination of duty where goods consist of articles liable to different rates of duty [Sec. 19]

Where the goods consist of a set of articles, duty shall be calculated on the following basis:

	Articles	Basis of chargeability
1	Articles liable to duty on the basis of quantity	Such articles shall be chargeable on the basis of quantity
2	Articles liable to duty on the basis of value:	
	(a) If they are liable to duty at same rate	Such articles shall be chargeable at that rate
	(b) If they are liable to duty at different rates	Such articles shall be chargeable <u>at the highest of such rates</u>
3	Articles not liable to duty	Such articles shall be chargeable on the basis mentioned in (2) above.

Other points:

1. **Accessories of and spare parts or maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article.** E.g. where a machine is chargeable at the rate of 30%, then repairing implements with that machine shall also be charged at the rate of 30%.
2. **Where the importer produces evidence to the satisfaction of the proper officer (or the evidence is available) regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.**

Re-importation of goods [Section 20]

If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.

Duty to be paid on goods derelict, wreck etc. coming into India [Section 21]

All Goods, Derelict, Jetsam, Flotsam and Wreck brought or coming into India, shall be dealt with as if they were imported into India. Thus, even though such goods had not been actually imported, **they would be liable to import duty.**

However, if such goods are entitled to be admitted duty-free under this Act, duty would not be levied provided it is shown to the satisfaction of the proper officer that they are so entitled.

Derelict -	This refers to any cargo, vessel, etc. abandoned in the sea with no hope of recovery.
Jetsam-	Jetsam means where goods are cast into sea to reduce weight of ship to prevent it from sinking and thrown goods sink.
Flotsam -	Jettisoned goods which continue floating in the sea are called flotsam.
Wreck-	This refers to cargo or vessel or any property which are cast ashore by tides after ship wreck.

Distinguish between Derelict, Jetsam and Flotsam

Derelict	Jetsam	Flotsam
Goods abandoned by the owner of goods without any hope of recovering it.	Owner of goods has no intention to abandon	Owner of goods has no intention to abandon
Goods are not thrown from the vessel to prevent it from sinking	Goods are thrown with speed from the vessel to prevent it from sinking	Goods are thrown with speed from the vessel to prevent it from sinking
Derelict gets sunk and does not drift to the shore	Jetsam gets sunk and drifts to the shore	Flotsam does not sink but it floats and drifts to the shore.

Distinguish between Jetsam and Flotsam**Answer:**

Jetsam and Flotsam are goods which are jettisoned (i.e. thrown with speed) from the vessel into the sea to reduce weight of vessel to prevent it from sinking. They are not abandoned goods. Jetsam gets sunk whereas Flotsam does not sink but floats. Duty is payable on both unless they are entitled to be admitted free of duty.

Importer Exporter Code (IEC)

1. Import Export Code Number (IEC) is required to be taken by every Importer and Exporter and no Import/Export is allowed without this number.
2. It is allotted by Directorate General of Foreign Trade (DGFT) on application made in prescribed form.
3. It is based on PAN allotted under Income-Tax.
4. It can be cancelled if importer/ exporter has-
 - a) Contravened the law
 - b) Engaged in Import/Export in a manner prejudicial to foreign trade relation of India or to interests of Exporters/Importers.

Classification of imported / export goods

Import and export of goods are required to be assessed to duty which may include an assessment of nil duty. For this purpose, it is necessary to determine the **classification of the goods, which basically means the categorization of the goods in a specific heading or sub-heading of the Schedules** to the Customs Tariff Act, 1975.

Why Classification

Following is the importance of correct classification:

- i. For determining rate of duty
- ii. For determining the eligibility of exemption notification, which are with reference to the tariff heading or sub headings. Wrong classification would either cause loss of revenue to the Central Government or impose unjustifiable loss to assessee
- iii. For applicability of other duties on goods like anti-dumping duty, safeguard duty, etc.
- iv. For applicability of any restriction and control on import or export of goods

Scheme of Classification

In the Tariff Schedule, commodities/products are arranged in a fixed pattern with the duty rates specified against each of them. **It contains 2 Schedules:**

First Schedule:

- The First Schedule contains **description of goods chargeable to import duty.**
- It specifies the nomenclature that is based on the Harmonized Commodity Description and Coding System generally referred to as "Harmonized System of Nomenclature" or simply "HSN", developed by the World Customs Organization (WCO) which is applied uniformly by more than 137 countries the world over.
- The First Schedule has **21 Sections and 98 Chapters.**
- A Section is a group consisting of a number of Chapters which codify a particular class of goods. The Section notes explain the scope of chapters / headings, etc.
- The Chapters consist of chapter notes, brief description of commodities arranged at four digit, six digit and eight digit levels.
- Every four-digit code is called a 'heading' and every six digit code is called a 'subheading' and 8-digit code is called a 'Tariff Item'.

Second Schedule:

The Second Schedule contains description of goods **chargeable to export duty.**

Type of Custom Duties

Customs Act, 1962	Customs Tariff Act, 1975	Finance Act
Sec 12 - Basic Custom Duty	 Sec 3(7) - IGST Sec 3(9) - GST Compensation Cess ~~Sec 6(1) - Protective Duty~~ Sec 8B - Safe Guard Measure Sec 9 - CVD on Subsidized Articles Sec 9A - Anti -Dumping Duty	SWS @10% (Not applicable in case of exports)

Basic Customs Duty levied u/s 12 of Customs Act.

As per Section 12 of Customs Act, 1962, Basic Customs Duty [BCD] can be levied on the value of goods. Section 2 of the Customs Tariff Act, 1975 provides the rate of duty to be applied on the value of goods. **Basically Section 2 of the Customs Tariff Act, 1975 provides following**

First Schedule	-	Goods liable for import duty
Second Schedule	-	Goods liable for export duty

The rate of basic customs duty is specified in Customs Tariff Act, read with relevant exemption notification. Generally, Basic Customs Duty is **10%**.

Assessable Value for computing BCD is Transaction Value under Section 14(1)/Tariff Value determined under Section 14(2).

Generally, BCD is levied at standard rate of duty but if certain conditions are satisfied (below), the importer can avail the benefit of preferential rate of duty on imported goods.

Conditions for availing the benefit of preferential rate of duty:

- (a) **Specific claim** for preferential rate must be made by the importer
- (b) Import must be from preferential area **as notified** by the Central Government
- (c) The goods should be **produced/manufactured in such preferential area**.

SOCIAL WELFARE SURCHARGE

- A. It is a levy introduced by Finance Act 2018 on all imported goods
- B. It is for purposes of the Union & a duty of Customs.
- C. It is levied on the **goods specified in the First Schedule** to the Customs Tariff Act, 1975, being the goods **imported into India**, to fulfil the commitment of the Government **to provide and finance education, health and social security**.
- D. The Social Welfare Surcharge shall be calculated at the rate of 10% **on the aggregate of duties, taxes and cesses (excluding IGST & GST CESS) which are levied and collected by the Central Government under section 12** of the Customs Act, 1962 and in the same manner as, a duty of customs, **but not including:**
- (a) the **safeguard duty** referred to in sections 8B and 8C of the Customs Tariff Act;
 - (b) the **countervailing duty** referred to in section 9 of the Customs Tariff Act;
 - (c) the **anti-dumping duty** referred to in section 9A of the Customs Tariff Act;
 - (d) the **Social Welfare Surcharge** on imported goods levied
- E.
- F. The Social Welfare Surcharge on imported goods **shall be in addition** to any other duties of customs or tax or cess chargeable on such goods, under the Customs Act, 1962
- G. **Social Welfare Surcharge** - 3% in case of goods being **gold, silver including that plated with platinum unwrought or in semi-manufactured form or in powder form**
- H. **Similarly, Government imposes certain surcharge or cess on specific goods from time to time.**
Example:
- **Road and Infrastructure cess** on motor spirit and high speed diesel,
 - **Health cess** on medical equipment, etc.
 - **Agriculture Infrastructure & Development Cess (AIDC)**

Integrated Goods and Services Tax (IGST) [Section 3(7)]

- IGST (Integrated Goods and Services Tax) is a component under GST law, which is levied on goods being imported into India from other country. ***It has been subsumed various customs duties including Countervailing Duty (CVD) and Special Additional Duty of Customs (SAD).***
- In the GST regime, IGST will be levied on imports by virtue of Section 3(7) of the Customs Tariff Act, 1975.
- ***Any article which is imported into India shall, in addition, be liable to integrated tax at such rate, not exceeding 40% as is leviable under section 5 of Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India.***

Manner of computing assessable value for levying Integrated tax (IGST) [Section 3(8)]

For the purposes **of calculating the IGST** on any imported article where such tax is leviable at any percentage of its value, **the value of the imported article shall be the aggregate of-**

- a. the **value of the imported article** determined under section 14(1) of the Customs Act, 1962 or the tariff value of such article fixed under section 14(2), as the case may be; and
- b. any **duty of customs chargeable on that article under section 12** of the Customs Act, 1962, **and any sum chargeable on that article** under any law for the time being in force as an addition to, and in the same manner as, a duty of customs like SWS, Anti-dumping duty, Safeguard measures, etc, **but does not include the integrated tax or the GST compensation cess.**

The **assessable value for levying GST compensation cess** is to be computed in the same manner as discussed above. [Section 3(10) of Customs Tariff Act]

MANNER OF COMPUTING VALUE IN CASE OF WAREHOUSED GOODS [Section 3(8A)]

Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 **are sold to any person before clearance for home consumption or export** under the said Act, the value of such goods **for the purpose of calculating the integrated tax shall be—**

- a. **where the whole of the goods are sold**, the value determined under subsection (8) or the transaction value of such goods, **whichever is higher**; or
- b. **where any part of the goods is sold**, the proportionate value of such goods as determined under subsection (8) or the transaction value of such goods, **whichever is higher**.

However, where the whole of the warehoused goods or any part thereof are **sold more than once** before such clearance for home consumption or export, the **transaction value of the last such transaction** shall be the transaction value.

For the purposes of this sub-section, the expression **“transaction value”, in relation to warehoused goods, means** the amount paid or payable as consideration for the sale of such goods.

The **value for levying GST compensation cess in case of warehoused goods** is to be computed in the same manner as discussed above. [Section 3(10A) of Customs Tariff Act]

GST Compensation Cess [Section 3(9)]

- Under GST regime, Compensation Cess will be charged on **luxury products like high-end cars and demerit commodities like pan masala, tobacco and aerated drinks** for the period of 5 years in order to compensate states for loss of revenue. **[It is further extended till 31.03.2026]**
- Any article which is imported into India shall, in addition, be liable to the goods and services tax compensation cess at such rate, as is leviable u/s 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017 on a like article on its supply in India.
- **Where such cess is leviable at any percentage of its value, the value of the imported article shall be the aggregate of the following:**
 - the value of the imported article determined u/s 14(1) of the Customs Act, 1962 or the tariff value of such article fixed u/s 14(2), as the case may be;
 - any duty of customs chargeable on that article u/s 12 of the Customs Act, 1962;
 - any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs like SWS, Anti-dumping duty, Safeguard duty, etc.;
 - **but does not include the IGST or this cess**

Tax Point: In respect of warehoused goods, similar provision is applicable as applicable in case of levying IGST.

- **Input Tax Credit be availed on IGST & GST Compensation Cess paid on inward supplies:**
Yes, input tax credit can be availed on IGST & GST Compensation Cess paid on inward supplies of the imported goods.

However, the credit of GST Compensation Cess paid can be utilized only towards payment of the GST Compensation Cess liability. IGST can be utilized in the payment of IGST, CGST, SGST/UTGST.

- In cases where imported goods are liable to Anti-Dumping Duty or Safeguard Duty, calculation of Anti - Dumping Duty or Safeguard duty would be as per the respective notification issued for levy of such duty. **It is also clarified that Value for calculation of IGST as well as Compensation Cess shall also include Anti - Dumping Duty amount and Safeguard duty amount.**

Steps for computation of Custom Duties including GST

S. No.	Particulars	₹
(1)	Assessable value for computing BCD [Transaction value under Section 14(1)/Tariff value under Section 14(2)]	XXXX
(2)	Basic Custom Duty [(1) × Rate of BCD]	XXXX
(3)	SWS@10% of (2)	XXXX
(4)	Total Value [(1)+(2)+(3)] for the purpose of Levy GST	XXXX
(5)	IGST [(4) * IGST Rate]	XXXX
(6)	GST Compensation Cess [(4) * Cess Rate]	XXXX
(7)	Total Value of Imports	XXXX
(8)	Total Custom Duty Payable – [(2) + (3) + (5) + (6)]	XXXX

Example:

Goods of ₹ 1,00,000 has been imported and the applicable rate of basic customs duty is 10%. On such goods applicable rate of IGST is 18% and GST Compensation cess is 28%. Then computation of duty shall be as under:

Assessable Value [A]	₹ 1,00,000
Basic Customs Duty [B = 10% of A]	₹ 10,000
Add: Social Welfare Surcharge [C = 10% of B]	₹ 1,000
Value for computing IGST [D = A + B + C]	₹ 1,11,000
Add: IGST [E = D x 18%]	₹ 19,980
Add: Compensation Cess [F = D x 28%]	₹ 31,080
Total Duty payable [B + C + E + F]	₹ 62,060

For aforesaid payment of IGST and compensation cess, ITC under GST law is available.

SECTION 6: PROTECTIVE DUTIES

This section is omitted by Finance (No. 2) Act, 2024

~~In order to protect the interests of any industry established in India, Central Government may impose protective duty on any goods imported into India.~~

~~Tax Point:~~

~~1. Government imposes such duty on recommendation made to it by the Tariff Commission established under the Tariff Commission Act, 1951.~~

~~2. This duty is effective only and inclusive of the date, if any, specified in the First Schedule of the Tariff [Section 7 of the Customs Tariff Act, 1975]~~

POWER OF CENTRAL GOVERNMENT TO APPLY SAFEGUARD MEASURES [SECTION 8B OF THE CUSTOMS TARIFF ACT]

A. **[3 Marks]** Circumstances in which safeguard measures can be imposed:

Central Government after conducting enquiry can impose the safeguard measures if it is satisfied that,

- a. Any article is imported into India in **increased quantities**; and
- b. Such increased importation is causing or threatening to cause **serious injury to domestic industry**.

The measures are imposed **by issuing a notification** in the Official Gazette.

B. Meaning of important terms

- a. "Domestic industry" means the producers—
 - i. as a whole of the like article or a directly competitive article in India; or
 - ii. whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India
- b. "**Serious injury**" means an injury causing significant overall impairment in the position of a domestic industry;
- c. "Threat of serious injury" means a clear and imminent danger of serious injury.
- d. "Developing country" means a **country notified by the Central Government** in the Official Gazette;

C. Objective of safeguard measures:

The safeguard measures are imposed **for the purpose of protecting the interests of any domestic industry in India aiming to make it more competitive**.

D. Modes of safeguard measures:

The **Central Government may impose following safeguard measures** to curb the increased quantity of imports of an article for preventing serious injury to domestic industry:

- a. **imposition of safeguard duty**; or
- b. application of tariff-rate quota; or
- c. other measures as the Central Government deems appropriate.

E. Points which merit consideration

1. The Central Government **may allocate tariff-rate quota to supplying countries** having a substantial interest in supplying the article in the prescribed manner.
2. The safeguard duty is in addition to any other duty in respect of such goods levied under this Act or any other law for the time being in force.
3. The Central Government may, by notification in the Official Gazette, **exempt** such quantity of any article as it may specify in the notification, when imported from any country/territory into India, **from payment of the whole/part of the safeguard duty leviable thereon**.

F. Minimum level of tariff rate quota:

Average level of imports in the last 3 representative years for which statistics are available, unless a different level is deemed necessary to prevent/remedy serious injury.

G. [2 Marks] Duration of safeguard measures:

The measures imposed under this section shall be in force **for a period of 4 years from the date of its imposition.**

H. [2 Marks] Extension of period:

The Central Government may extend the period of such imposition from the date of first imposition provided it is of the opinion that:-

- a. Domestic industry has taken measures to adjust to such injury or as the case may be to such threat and
- b. It is necessary that the safeguard measures should continue to be imposed.

However, the total period of levy of safeguard measures is restricted to 10 years.

I. Applicability of all machinery provisions of the Customs Act, 1962:

~~The provisions of the Customs Act, 1962 and the rules and regulations made there under, including those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.~~

The provisions of the Customs Act, 1962 and all rules and regulations made thereunder, including **but not limited to** those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, **exemptions**, interest, **recovery**, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act **or all rules or regulations made thereunder, as the case may be.**

[Amendment by the Finance (No. 2) Act, 2024]

[Same provisions are applicable in Section 3, Section 9 & section 9A of the Customs Tariff Act, 1975]

J. [8 Marks] Exemptions from safeguard measures**a. Articles from developing country:**

Articles originating from 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.**

b. Articles originating from more than one developing country:

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.

c. [3 Marks] Imports by 100% EOU or units in a Special Economic Zone:

Safeguard measures **shall not apply** to articles imported by a 100% EOU/SEZ unit unless -

- i. specifically made applicable; or
- ii. the article imported is either cleared as such into DTA or used in the manufacture of any goods that are cleared into DTA and 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.**

K. Provisional Assessment

- a. The Central Government is also empowered to **impose provisional safeguard measures**.
- b. This provisional safeguard measures may be imposed on the basis of preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry.
- c. **[2 Marks]** The **provisional safeguard measures shall be in force for a maximum period of 200 days** from the date of its imposition.
- d. If upon final determination, the Central Government is of the opinion that the increased imports have not caused or threatened to cause serious injury to a domestic industry, the safeguard duty collected shall be refunded.

Example on Safeguard Duty:

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 (including landing charges) of Sodium Nitrite imported from a developing country from 26th February, 20XX to 25th February, 20XX (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 under section 3(7) of the Customs Tariff Act, 1975.	12%
Social welfare surcharge	10%

Note: Ignore GST compensation cess

Answer:

Computation of customs duty and integrated tax payable thereon

Particular	Amount (₹)
Assessable value of sodium nitrite imported	30,00,000
Add: Basic custom duty @ 10% (₹ 30,00,000 × 10%)	3,00,000
Social welfare surcharge @ 10% × ₹ 3,00,000	30,000
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
Total	42,30,000
Integrated tax leviable under section 3(7) of Customs Tariff Act (₹ 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:

When shall the safeguard duty under section 8B of the Customs Tariff Act, 1975 be not imposed? Discuss briefly.

Answer:

The safeguard duty under section 8B of the Customs Tariff Act, 1975 is not imposed on the import of the following types of articles:

- 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;
- 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;
- Articles **imported by a 100% EOU or units in a Free Trade Zone or Special Economic Zone** unless the duty is specifically made applicable on them.

Note: “developing country” means a country notified by the Central Government in the Official Gazette for the purposes of this section.

Question:

Determine the safeguard duty payable by Black Ltd., White Ltd., and Red Ltd., and Green Ltd. under section 8B of the Customs Tariff Act, 1975 from the following:

Imports of Sodium Nitrite from developing and developed countries from 26th February, 2024 to 25th February, 2025 (both days inclusive) are as follows:

Importer	Country of Import	₹ in crores
Black Ltd.	Developing country	66
White Ltd.	Developing country	86
Red Ltd.	Developing country	52
Green Ltd.	Developing country	50
Others	Developed country	2246
	TOTAL	2500

Note: Safeguard duty 30%.

Answer:

According to Section 8B of Customs Tariff Act, 1975, in case of articles originating from a developing country (i.e. a country notified by the Government of India for purpose of levy of such duty), this duty cannot be imposed under following circumstances, -

- If the imports of such article from developing country **does not exceed 3% of the total imports** of that article into India.
- Where the article is originating from more than one developing countries (**each with less than three percent import share**), then the aggregate of imports from all such countries taken together does not exceed 9% of the total imports of that article into India.

Hence, the computation of Safeguard duty is as under —

Computation of Safeguard duty payable by Black Ltd., White Ltd., and Red Ltd., and Green Ltd.:

Importer	Country of Import	₹ in crores	% of imports	
Black Ltd.	Developing country	66	2.64%	3.44%
White Ltd.	Developing country	86		
Red Ltd.	Developing country	52	2.08%	2%
Green Ltd.	Developing country	50		
Others	Developed country	2246		
	TOTAL	2500	6.72%	3.44%

Safeguard duty is as follows:

Importer	₹ in crores	Safeguard duty	₹ in crores
Black Ltd.	66	30%	-
White Ltd.	86	30%	25.80
Red Ltd.	52	30%	-
Green Ltd.	50	30%	-

Articles originating from more than one developing countries (each with less than 3% import share), then the aggregate of imports from all such countries taken together does not exceed 9% (i.e. in the given case 6.72%) of the total imports of that article into India.

Therefore, Safeguard duty is not applicable to Black Ltd., Red Ltd., and Green Ltd.

Question:

Determine the safeguard duty payable by X Ltd., under section 8B of the Customs Tariff Act, 1975 from the following: X Ltd imported Sodium Nitrite from a developing country from 26th February, 2024 to 25th February, 2025 (both days inclusive) ₹ 50 crores. Total imports of Sodium Nitrite (including developing country) is ₹ 2,500 crores.

Note: Safeguard duty is @ 30%.

Whether your answer is different in case of import of Sodium Nitrite from a developing country ₹ 80 crores?

Solution:

Since, import from a developing country (₹ 50 crores) does not exceeds 3% (i.e. 2% only) of total import (₹ 2,500 crores) of that article in to India, Safeguard duty is Nil.

In case of import of Sodium Nitrite from a developing country ₹ 80 crores

In this case, safeguard duty will be payable by X Ltd. Since, import from a developing country exceeds 3% (i.e. 3.2%)

$$\text{Safeguard duty} = ₹ 24 \text{ crores (i.e. ₹ 80 crores} \times 30\%)$$

Question:

Determine the safeguard duty payable by X Ltd., Y Ltd., Z Ltd. and A Ltd. under section 8B of the Customs Tariff Act, 1975 from the following: Import of Sodium Nitrite from developing and developed countries from 26th February, 2024 to 25th February, 2025 (both days inclusive) are as follows:

Importer	Country of Import	₹ in Crores
X Ltd.	Developing Country	70
Y Ltd.	Developing Country	72
Z Ltd.	Developing Country	52
A Ltd.	Developing Country	50
Others	Developed Country	2,256
Total		2,500

Note: Safe-guard duty 30%.

Solution:

Importer	Country of Import	₹ in Crores	% of imports
X Ltd.	Developing Country	70	2.8%
Y Ltd.	Developing Country	72	2.88%
Z Ltd.	Developing Country	52	2.08%
A Ltd.	Developing Country	50	2%
Others	Developed Country	2,256	
Total		2,500	9.76%

Safeguard duty is as follows:

Importer	₹ in Crores	% of imports
X Ltd.	21	70 × 30%
Y Ltd.	21.60	72 × 30%
Z Ltd.	15.60	52 × 30%
A Ltd.	15	50 × 30%

Note:

Articles originating from more than one developing countries and imports from each developing country is less than 3%, safeguard duty can be imposed if imports from all such developing countries taken together exceeds 9% of total imports of that article in India.

Section 9: Countervailing Duty on Subsidized Articles

[3 Marks - Theory question]

Condition to impose:

- a. Any country or territory pays, or grants, directly or indirectly, any subsidy upon the manufacture or production therein or the exportation therefrom of any article **including any subsidy on transportation** of such article;
- b. Such article is imported into India;
- c. Such article is **imported directly / indirectly** from the country of manufacture, production; and
- d. The article is **imported in the same condition** as when exported from the country of manufacture or production or **has been changed in condition** by manufacture, production or otherwise.

Quantum of duty:

The Central Government **may impose a countervailing duty not exceeding the amount of such subsidy.**

Tax Point:

- **Duration of imposition:** Such duty shall be **in force for 5 years** (unless revoked earlier) from the date of its imposition. **However, it can be further extended for another 5 years.**

However, **where a review initiated** before the expiry of the aforesaid period of 5 years has not come to a conclusion before such expiry, **the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding 1 year.** Further, if the said duty is revoked temporarily, the period of such revocation shall not exceed 1 year at a time.

- **Such countervailing duty shall be in addition to any other duty imposed under this Act or any other law.**
- **A subsidy shall be deemed to exist if –**
 - a. **there is financial contribution by a Government, or any public body in the exporting or producing country or territory, that is, where –**
 - i. a Government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both;
 - ii. Government revenue that is otherwise due is foregone or not collected (including fiscal incentives);
 - iii. a Government provides goods or services other than general infrastructure or purchases goods;
 - iv. a Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i) to (iii); or
 - b. a Government grants or maintains any form of income or price support, which operates directly or indirectly **to increase export of any article from, or to reduce import of any article into, its territory, and a benefit is thereby conferred.**

- Where the Central Government, on such inquiry as it considers necessary, **is of the opinion that circumvention of imposed countervailing duty has taken place**, either
- by altering the description or name or composition of the article on which such duty has been imposed or
 - by import of such article in an unassembled or disassembled form or
 - by changing the country of its origin or export or
 - in any other manner, **whereby the countervailing duty so imposed is rendered ineffective**, it may extend the countervailing duty to such other article also from such date, not earlier than the date of initiation of the inquiry, as specified
- The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of subsidy, **impose a countervailing duty not exceeding the amount of such subsidy as provisionally estimated by it** and if such countervailing duty exceeds the subsidy as so determined, -
- a. the Central Government shall, having regard to such determination and as soon as may be after such determination, **reduce such countervailing duty**; and
 - b. **refund shall be made** of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced.
- **A notification issued or any countervailing duty imposed shall not apply to article imported by a 100% export-oriented undertaking or a unit in a special economic zone, unless,-**
- i. it is specifically made applicable in such notification or to such undertaking or unit; or
 - ii. such article is either **cleared as such** into the domestic tariff area or **used in the manufacture** of any goods that are cleared into the domestic tariff area, in which case, countervailing duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.
- **Further, the countervailing duty shall not be levied unless it is determined that –**
- a) the subsidy relates to export performance;
 - b) the subsidy relates to the use of domestic goods over imported goods in the export article; or
 - c) the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article **unless such a subsidy is for –**
 - i. research activities conducted by or on behalf of persons engaged in the manufacture, production or export;
 - ii. assistance to disadvantaged regions within the territory of the exporting country; or
 - iii. assistance to promote adaptation of existing facilities to new environmental requirements.
- **Levy from retrospective effect:**
- If the Central Government, is of the opinion that the **injury to the domestic industry which is difficult to repair**, is caused by massive imports **in a relatively short period**, of the article benefiting from subsidies paid or granted and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, **the Central Government may levy countervailing duty from a date prior to the date of imposition of countervailing duty but not beyond 90 days from the date of such notification**

Section 9A: Anti-Dumping Duty

[IMPORTANT]

Dumping is said to occur when the goods are exported by a country to another country **at a price lower than its normal value**. This is an **unfair trade practice** which can have a **distortive effect on international trade**.

Anti-dumping is a measure to rectify the situation arising out of the dumping of goods and its trade distortive effect. Thus, the **purpose of anti-dumping duty** is to rectify the trade distortive effect of dumping and re-establish fair trade. The use of anti-dumping measure as an instrument of fair competition is permitted by the WTO.

In fact, anti-dumping is an instrument for ensuring fair trade and is not a measure of protection per se for the domestic industry. **It provides relief to the domestic industry against the injury caused by dumping.**

Condition to impose:

- a) Any article is exported by an exporter or producer from any country or territory **to India at less than its normal value**; and
- b) Such article is imported into India;

Quantum of Anti-Dumping Duty:

The Central Government may impose an anti-dumping duty **not exceeding the margin of dumping in relation to such article.**

Margin of dumping:

Normal Value Less Export Price

Export price, in relation to an article, means

- a) the price of the article exported from the exporting country or territory; and
- b) in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed
 - **on the basis of the price at which the imported articles are first resold to an independent buyer** or
 - if the article is not resold to an independent buyer, or not resold in the condition as imported, on **such reasonable basis as may be determined in accordance with the rules made;**

Normal value, in relation to an article, means

- i. the 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 made; or
- ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, **the normal value shall be either:**
 - a. comparable representative price of the like article when exported from the exporting country or territory **to an appropriate third country as determined in accordance with the rules made;** or
 - b. the cost of production of the said article in the country of origin **along with reasonable addition for administrative, selling and general costs, and for profits,** as determined in accordance with the rules.

Duration of imposition

Such duty shall be in force for 5 years (unless revoked earlier) from the date of its imposition. However, if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, **extend the period of such imposition for a further period upto 5 years** and such further period shall commence from the date of order of such extension.

Where a review initiated before the expiry of the aforesaid period of 5 years has not come to a conclusion before such expiry, the **anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding 1 year.**

If the said duty is revoked temporarily, the period of such revocation **shall not exceed 1 year at a time.**

Circumvention of anti-dumping duty

Where the Central Government, on such inquiry as it may consider necessary, **is of the opinion that circumvention of anti-dumping duty imposed has taken place**, either

- by altering the description or name or composition of the article subject to such anti-dumping duty or
- by import of such article in an unassembled or disassembled form or
- by changing the country of its origin or export or
- in any other manner,

whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, specify.

Absorption of anti-dumping duty

Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that **absorption of anti-dumping duty imposed has taken place** whereby the anti-dumping duty so imposed is rendered ineffective, **it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may specify.**

Absorption of anti-dumping duty is said to have taken place,-

- a. if there is a decrease in the export price of an article without any commensurate change in the cost of production of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or
- b. under such other circumstances as may be provided by rules.

Provisional anti-dumping duty:

The Central Government may, pending the determination of the normal value and the margin of dumping in relation to any article, **impose on the importation of such article into India an anti-dumping duty on the basis of a provisional estimate** of such value and margin and if such anti-dumping duty exceeds the margin as so determined :-

- a. the Central Government shall, having regard to such determination and as soon as may be after such determination, **reduce such anti-dumping duty**; and
- b. refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.

Articles imported by a 100% EOU or SEZ Units:

A notification issued or any anti-dumping duty imposed **shall not apply** to articles imported by a 100% EOU or a SEZ unit, unless,-

- i. it is specifically made applicable in such notification or to such undertaking or unit; or
- ii. such article is either **cleared as such** into the domestic tariff area or **used in the manufacture of any goods that are cleared** into the domestic tariff area, in which case, anti-dumping duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.

Retrospective effect:

If the Central Government, in respect of the dumped article under inquiry, is of the opinion that:

- i. 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
- ii. the **injury is caused by massive dumping of an article imported in a relatively short time** which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty **but not beyond 90 days from the date of notification**, and such duty shall be payable at such rate and from such date as may be specified in the notification.

Refund of anti-dumping duty in certain cases [Section 9AA]

- Where upon determination by an officer authorised in this behalf by the Central Government, an importer proves to the satisfaction of the Central Government that he has paid anti-dumping duty imposed under section 9A on any article, in excess of the actual margin of dumping in relation to such article,
- the Central Government shall, as soon as may be, **reduce such anti-dumping duty** as is in excess of actual margin of dumping so determined, in relation to such article or such importer, **and such importer shall be entitled to refund of such excess duty.**

IMPORTANT [Section 9B]:

- **No article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;**
- **Countervailing and anti-dumping duties shall not be levied just because such articles are exempt from duties or taxes borne by like articles when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes.**

Export Duty [Second Schedule of the Customs Tariff Act, 1975]

In general, no duty is payable on export. However, Government has imposed export duty on certain goods like leather goods, ferrous waste and scrap, snake skins, etc.

Question:

What will be the dates of commencement of the definitive anti-dumping duty in the following cases under section 9A of the Customs Tariff Act, 1975 and the rules made thereunder:

- (i) where no provisional duty is imposed;
- (ii) where provisional duty is imposed;
- (iii) where anti-dumping duty is imposed retrospectively from a date prior to the date of imposition of provisional duty.

Solution:

The Central Government has power to levy anti-dumping duty on dumped articles in accordance with the provisions of section 9A of the Customs Tariff Act, 1975 and the rules framed thereunder.

- (i) In a case where no provisional duty is imposed, the date of commencement of anti-dumping duty will be the date of publication of notification, imposing anti-dumping duty under section 9A, in the Official Gazette.
- (ii) In a case where provisional duty is imposed under section 9A, the date of commencement of anti-dumping duty will be the date of publication of notification, imposing provisional duty under section 9A, in the Official Gazette.
- (iii) In a case where anti-dumping duty is imposed retrospectively under section 9A from a date prior to the date of imposition of provisional duty, the date of commencement of anti-dumping duty will be such prior date as may be notified in the notification imposing anti-dumping duty retrospectively, **but not beyond 90 days from the date of such notification of provisional duty.**

Question:

Surya Industries has challenged the imposition of anti-dumping duty retrospectively from the date prior to the date of imposition of anti-dumping duty on the grounds that it is unconstitutional. Explain whether it would succeed in its contention.

Solution:

Section 9A of the Customs Tariff Act, 1975 provides that the anti-dumping duty can be imposed with retrospective effect provided the Government is of the opinion that:-

- 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
- the injury is caused by massive dumping of an article imported in a relatively short time, which in the light of timing and volume of the imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti -dumping duty liable to be levied.

The duty can be levied retrospectively by issuing a notification but not beyond 90 days from the date of notification.

Thus, Surya Industries would succeed in its contention if all of the above conditions are not satisfied.

Question:

A commodity is imported into India from a country covered by a notification issued by the Central Government under Section 9A of the Customs Tariff Act, 1975.

Following particulars are made available:

CIF value of the consignment:	US\$25,000
Quantity imported:	500 kgs.
Exchange rate applicable:	₹ 60=US\$1
Basic customs duty:	12%
SWS as applicable.	

As per the notification, the anti-dumping duty will be equal to the difference between the cost of commodity calculated @ US\$70 per kg. and the landed value of the commodity as imported. Appraise the liability on account of normal duties, cess and the anti-dumping duty. Assume that only 'basic customs duty' (BCD) and SWS are payable. IGST @12% is also be applicable.

Solution:

Statement showing land value of imported goods and customs duties:

Particulars	US \$ CIF
Assessable Value	25,000
	Value in ₹
Assessable value (i.e. 25,000 x ₹60)	15,00,000
Add: Customs duty 13.20% (including sws) on Assessable value	1,98,000
Landed value (or value of imported goods)	16,98,000
Anti-dumping duty (₹21,00,000 – ₹16,98,000)	4,02,000
[Market value of imported goods (500 kgs x ₹60 x US \$70) = ₹21,00,000]	
Open Market Value	21,00,000
Add: IGST @12% on ₹21,00,000	<u>2,52,000</u>
Total	23,52,000

Total customs duty payable is ₹8,52,000 (i.e. ₹1,98,000 + ₹4,02,000 + ₹2,52,000)

Question:

With reference to the Customs Tariff Act, 1975, discuss the validity of the imposition of customs duties in the following cases:-

- Both countervailing duty and anti-dumping duty have been imposed on an article to compensate for the same situation of dumping.
- 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.

Solution:

(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.

Question: [5 Marks]

A commodity is imported into India from a country covered by a notification issue by the Central Government u/s 9A of the Customs Tariff Act, 1975. Following particulars are made available:

Assessable Value for levying Basic Customs Duty: ₹6,31,250

Quantity imported: 250 kgs.

Basic customs duty: 10%

IGST: 18%

As per the notification, the anti-dumping duty will be equal to the difference between the cost of commodity calculated @ US\$ 50 per kg (Exchange Rate is 1 USD = INR 70) and the landed value of the commodity as imported

State the amount payable on account of:

- Basic customs duty
- Anti-dumping duty
- IGST

Computation of Customs Duty, SWS, Anti-dumping duty and IGST

Assessable Value	6,31,250
Basic Customs Duty @ 10% on ₹ 6,31,250 [A]	63,125
Add: SWS @ 10% [B]	6,313
Landed value of imported goods [C]	7,00,688
 Rate of commodity as per Anti-Dumping Notification per kg.	US\$ 50
Quantity Imported	250 Kg
Value as per notification (500 x 50)	US\$ 12,500
Exchange rate 1US\$	₹ 70
Market Value in ₹ [D]	8,75,000
 Anti-dumping Duty [E = D - C]	1,74,312
Value for levying IGST [F = C + E]	8,75,000
Add: IGST @ 18% of [F]	1,57,500
Total Customs Duty Payable [A + B + E + F]	4,01,250

Class Notes

Exchange Rate & Duty Rate in case of Import or Export

Date relevant for determination of Rate of Exchange [3rd Proviso to Section 14(1)]

- (1) For imported goods, the conversion in value shall be done with reference to the rate of exchange prevalent on the date of filing bill of entry.
- (2) For export goods, the conversion in value shall be done with reference to the rate of exchange prevalent on the date of filing shipping bill or bill of export.

Rate of exchange means the rate of exchange determined by the Board (CBIC). There are separate rates for imported goods (selling rate) and export goods (buying rate).

Example:

ABC Manufacturers have imported machinery from US worth \$ 10,000. Determine the rate of exchange for the purpose of computation of customs duty from the following additional information:

Particulars	Date	Exchange rate as notification by CBIC	Exchange rate as notification by RBI
Date of bill of entry	24.10.20XX	₹ 78 per US dollar	₹ 79 per US dollar
Date of entry inward	20.10.20XX	₹ 80 per US dollar	₹ 81 per US dollar

Solution:

Exchange rate in the given case will be the rate of exchange notified by CBIC on the date of presentation of bill of entry i.e. 24.10.20XX

Hence, the rate of exchange for the purposes of computation of customs duty will be ₹ 78 per US dollar

Example:

X & Co. imported some goods from USA for being used in manufacture of its final product. Determine the exchange rate to be considered for computation of import duty from the following information:

Date	Particulars	Rate of exchange for 1 US\$ notified	
		By CBIC	By RBI
10.10.20XX	Import general manifest was submitted by master of vessel	₹ 74.20	₹ 73.20
15.10.20XX	Entry Inwards was granted by the customs officer	₹ 74.30	₹ 75.30
22.10.20XX	X & Co. presented the Bill of Entry	₹ 74.50	₹ 72.50
31.10.20XX	Goods were allowed to be cleared from the customs port	₹ 74.60	₹ 73.60

Solution:

The relevant rate of exchange for the purpose of valuation of imported goods is the rate of exchange (being notified by CBIC) as in force on the date on which a bill of entry in relation to imported goods is presented, i.e. 1 US \$ = ₹ 74.50. Further, rate of exchange notified by CBIC is relevant. Rate notified by RBI is not relevant.

Date for determining the rate of duty and tariff valuation of imported goods [Section 15]

Section 15 prescribes the relevant date for determining the rate of duty and tariff valuation, if any applicable to any imported goods in the following manner:

Case	The rate of duty and tariff valuation shall be the rate and valuation in force on the
Goods enter for the home consumption	Date on which a bill of entry in respect of such goods is presented OR Date of Entry Inwards of the Vessel is granted / Arrival of the Aircraft/Vehicles takes place; <u>whichever is later</u>
Goods cleared for the home consumption from the ware house	Date on which a bill of entry [EX-bond] for home consumption of such goods is presented
Any other case	Date of payment of duty

The provision of Section 15 shall not apply to baggage and goods imported by post.

It is to be noted that for determining assessable value, rate of exchange in force on actual submission of bill of entry shall be taken.

Example:

Bill of entry is presented on 1.1.20XX, the vessel or aircraft arrives on 3.1.20XX. In this situation, relevant date for determination of the rate of import duty is 3.1.20XX because though for procedural purposes, the Bill of Entry was filed on 01.01.20XX, for the purpose of determining the rate of duty and tariff valuation of such goods, Bill of Entry will be deemed to have been filed on 03.01.20XX.

Date of for determination of rate of duty and tariff valuation of export goods [Section 16]:

Section 16 prescribes the relevant date for determining the rate of duty and tariff valuation, if any applicable to any Export Goods in the following manner:

- In the case of goods entered for export under section 50, the date on which the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51.
- In the case of any other goods, the date of payment of duty.

The provision of section 16 shall not apply to baggage and goods exported by post.

Example:

An importer imported some goods for subsequent sale in India at \$10,000 on Assessable value basis. Relevant exchange rate and rate of duty are as follows:

Particulars	Date	Exchange rate declared by the CBIC	Rate of Basic Customs Duty
Date of submission of bill of entry	25th February, 20XX	₹ 78/USD	10%
Date of entry inwards granted to the vessel	5th March, 20XX	₹ 78.75/USD	12%

Calculate Assessable value and Customs Duty in Indian rupees? (SWS as applicable). Ignore IGST.

Solution:

Relevant rate of duty for the imported goods is 12% (i.e. Date of submission of bill of entry or Date of entry inwards granted to the vessel whichever is later)

Exchange Rate is ₹ 78 per USD (i.e. the rate of CBIC as on the date of submission of Bill of entry by the importer)

Computation of Total Custom Duty:

Assessable value	=	₹ 7,80,000	(i.e. USD 10,000 × ₹ 78)
Basic Customs Duty	=	₹ 93,600	(i.e. ₹ 7,80,000 × 12%)
SWS (10%)	=	₹ 9,360	(i.e. ₹ 93,600 × 10%)
Total Customs Duty	=	₹ 102,960	

Example:

The shipping bill in respect of an export consignment was presented to the Customs Officer on 25th May 20XX. The Customs Officer granted 'entry outwards' to the ship on 3rd June 20XX, the loading of the goods in the ship had commenced only after 17th June 20XX. A notification was issued by the Government of India under the Customs Act, 1962 exempting the export item from customs duty on 17th June 20XX. The assessee contends that since the loading of the goods in the ship had commenced after 17th June 20XX, the export consignment is eligible for the benefit of the exemption notification. You are required to examine whether the contention of the exporter is justifiable in the law.

Solution:

As per Section 16 of the Customs Act, 1962, 'Relevant Date' for customs duty in connection with export of goods would be the **rate which prevailed when "entry outwards" for the vessel** which ultimately exported the goods was effected and subsequent change in the rate of duty would be irrelevant.

In other words **rate of duty as on the date of entry outwards was granted.**

Therefore, the assessee is not entitled to seek exemption under notification dated 17th June 20XX since the "entry outwards" had been made on 3rd June 20XX.

Example:

Compute the total duty and integrated tax payable under the Customs Law on an imported equipment based on the following information:

Assessable value of the imported equipment US\$ 10,100

Date of bill of entry is 25th April:

Basic customs duty on this date is 10% and exchange rate notified by the CBIC is US \$ 1 = ₹ 85.

Date of entry inwards is 21st April:

Basic customs duty on this date is 20% and exchange rate notified by the CBIC is US \$ 1 = ₹ 80.

Integrated tax: 18%; Social Welfare surcharge 10%

Solution:**Computation of customs duty**

Particulars	₹
Assessable value (\$ 10,100 x 85)	8,58,500
Add: Basic custom duty @ 10% [A]	85,850
Add: Social Welfare Surcharge @ 10% on ₹ 85,850 [B]	8,585
Value for computing IGST	9,52,935
Add: Integrated tax @ 18% [C]	1,71,528
Total Customs duty and integrated tax payable [A + B + C]	2,65,963

Valuation in Customs

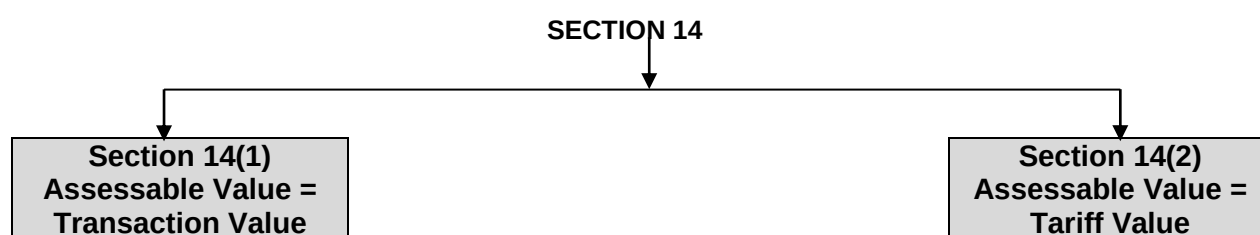
The manner in which duties of customs are charged on goods imported into India (import duty) or goods exported from India (export duty) is **basically either by way of –**

- (a) A **specific duty based on the quantity** of the goods like ₹ 1000 per metric tons of steel or
- (b) **Ad valorem**, namely expressed as percentage of the value of the goods i.e. 40% ad valorem. etc.

Concept of Value

Section 2(41) of the Customs Act, 1962, defines “**Value**” in relation to any goods as the value thereof determined in accordance with the provisions of sub-section (1) or sub-section (2) of section 14.

Valuation of Goods [Section 14]



Section 14(1)

For the purposes of the Customs Tariff Act, 1975, or any other law for the time being in force, the value of the imported goods and export goods **shall be the transaction value** of such goods, that is to say, the **price actually paid or payable** for the goods when sold **for export to India for delivery at the time and place of importation**, or as the case may be, **for export from India for delivery at the time and place of exportation**, where the **buyer and seller of the goods are not related** and price is the **sole consideration** for the sale subject to such other conditions as may be **specified in the rules** made in this behalf

Further, such transaction value in the case of imported goods **shall include**, in addition to the price as aforesaid, any amount paid or payable for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees, costs of transportation **to the place of importation**, insurance, loading, unloading and handling charges **to the extent and in the manner specified in the rules made in this behalf**

Provided further that the rules made in this behalf may provide for,-

- (i) the circumstances in which the buyer and the seller **shall be deemed to be related**;
- (ii) the **manner of determination of value** in respect of goods when there is no sale, or the buyer and the seller are related, or price is not the sole consideration for the sale or in any other case;
- (iii) the manner of **acceptance or rejection of value declared by the importer or exporter**, as the case may be, where the proper officer has reason to doubt the truth or accuracy of such value, and determination of value for the purposes of this section
- (iv) **the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria [Also, refer page 5.8]**

Provided also that such price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented under section 46, or a shipping bill of export, as the case may be, is presented under section 50.

Section 14(2) – Tariff Value

Notwithstanding anything contained in sub-section (1), if the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, **fix tariff values for any class of imported goods or export goods**, having regard to the trend of value of such or like goods, **and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value**

At present, tariff value has been fixed in respect of import for crude palm oil, crude palmolein, crude soyabean oil, brass scrap, poppy seeds, etc.

The valuation of imported and export goods is governed by the provisions of section 14 of the Customs Act, 1962 and the rules made thereunder.

The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR) contain the detailed provisions for arriving at the **transaction value of the imported goods**, on which the customs duty is levied.

The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007**Rule 10(1) - Additions in 'Transaction Value'**

In determining the transaction value, **there shall be added to the price actually paid or payable** for the imported goods:

- (a) the following to the extent they are incurred by the buyer **but are not included in the price actually paid or payable for the imported goods**, namely-
 - i. commissions and brokerage, **except buying commissions**;
 - ii. the cost of containers which are treated as being one for customs purposes with the goods in question;
 - iii. the cost of packing whether for labour or materials.
- (b) The value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly **by the buyer free of charge or at reduced cost** for use in connection with the production and sale for export of imported goods, **to the extent that such value has not been included** in the price actually paid or payable, namely:-
 - i. materials, components, parts and similar items incorporated in the imported goods;
 - ii. tools, dies, moulds and similar items used in the production of the Imported goods;
 - iii. materials consumed in the production of the imported goods;
 - iv. engineering, development, art work, design work, and plans and sketches **undertaken elsewhere than in India** and necessary for the production of the imported goods
- (c) **royalties and licence fees related to the imported goods** that the buyer is required to pay, directly or indirectly, **as a condition of the sale of the goods being valued**, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods **that accrues, directly or indirectly, to the seller**;
- (e) all other payments actually made or to be made **as a condition of sale of the imported goods**, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not included in the price actually paid or payable.

Important:

Where the royalty, licence fee or any other payment **for a process**, whether patented or otherwise, is includible referred to in clauses (c) and (e), such **charges shall be added to the price actually paid or payable for the imported goods, notwithstanding the fact that such goods may be subjected to the said process after importation of such goods.**

Rule 10(2)

For the purposes of Section 14(1) 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) **Transport Cost:** The **cost of transport, loading, unloading and handling charges associated with the delivery** of the imported goods **to the place of importation**;
- b) **Insurance Cost:** the cost of insurance **to the place of importation**:

Note:

1. Where Transport cost is **not ascertainable**, such cost shall be 20% of the free on board value [FOB Value] of the goods
2. Where the FOB value of the goods is not ascertainable but the sum of FOB value of the goods and the Insurance cost, the Transport cost shall be 20% of **such sum**

3. Where the Insurance cost is not ascertainable, such cost shall be 1.125% of FOB value of the goods
4. Where the FOB value of the goods is not ascertainable but the sum of FOB value of the goods and the Transport cost is ascertainable, the Insurance cost shall be 1.125% of **such sum**.
5. Where **goods are imported by air** and transport cost is ascertainable, such cost shall not exceed 20% of FOB value of the goods

Important:

1. $FOB\ value = Cost\ of\ production + Profit\ of\ the\ manufacturer + Freight\ in\ foreign\ country + Local\ taxes + Loading\ charges + Export\ duty\ and\ cess.$
2. 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**.
3. The cost of transport of the imported goods **includes the ship demurrage charges on chartered vessels, lighterage or barge charges.**
4. **Place of importation means** the customs station, where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse
5. Unloading charges or landing charges at the place of importation **shall not be considered**.
6. **Buying commission means** fees paid by an imported to his agent for the services of representing him abroad in the purchase of goods being valued.
7. When ship is not brought upto jetty because deep draught at port or ports are busy or any other reason, in this case cargo **shall be discharged at anchorage. Charges for bringing goods from outer anchorage to the jetty is called barging / lighterage charges.**
8. Demurrage charges **payable to port trust authorities** for delay in clearing goods **are not to be added**.
9. **Following cost shall not to be included:**
 - a. Duties and tax paid in India
 - b. Cost of erection charges in India
 - c. Cost of transport and insurance from port to factory of importer in India
 - d. Cost of development charges in connection with imported machinery
 - e. **Port demurrage charges** and unloading charges in India
 - f. Any other charges incurred after importation like post shipment charges **unless such charges are pre-condition for importation (e.g. inspection)**

Statement Showing Computation of Assessable value for Imported Goods

Value of Material (at ex-factory price)	XXXX
ADD: Carriage/freight/insurance up to the port (sea/air) of shipment in the exporter's country	XXXX
Charges for loading on to the ship at the shipping port in the exporter's country	XXXX
Free on Board (FOB)	XXXX
Add: If not included in the above [Rule 10(1)]	XXXX
Commission and brokerage (except buying commissions)	XXXX
Packing cost (except cost of durable and returnable packing)	XXXX
Cost of engineering, development and plan or sketches <u>(Undertaken outside India)</u>	XXXX
Royalties and license fee	XXXX
Value of subsequent re-sale if payable to foreign supplier	XXXX
Value of material supplied by the buyer free of cost	XXXX
FOB Value as per the Customs	XXXX
ADD: Actual Cost of freight (if not specified, then @ 20% of FOB value as per customs) [In case of air transport - Maximum 20%]	XXXX
Ship demurrage charges on chartered vessels	XXXX
Lighterage or barge charges	XXXX
Actual Insurance charges (if not specified, then @ 1.125% of FOB value as per customs)	XXXX
ASSESSABLE VALUE / Cost, Insurance and Freight (CIF)	XXXX

Class Notes

Practical Questions - SET 'A'

1. Question

Explain briefly, how the following would be treated for purposes of valuation under Section 14 of the Customs Act, 1962 and the Customs Valuation Rules, 2007.

- (i) "Dismantling charges" paid by the importer of a machine to the foreign supplier for removal of the machine before shipment at the foreign supplier's place.
- (ii) "Ship Demurrage charges" actually incurred by the importer of goods.

Solution:

Provisions relating to valuation of goods for purposes of customs duty are contained in Sec 14(1) read with Customs Valuation (Determination of Value of imported Goods) Rules, 2007.

Rules provides for acceptance of "transaction value" as assessable value subject to adjustments provided in Rule 10. Rule 10 states the various factors for which addition can be made while determining assessable value. **No addition can be made for factors other than those stated in Rule 10.**

The treatment of given items has been discussed below keeping in mind the provisions of Rule 10:

- (i) **"Dismantling charges" for removal of the machine before shipment:** Rule 10 is the "residuary provision" which provides for any payment made by buyer as a condition for sale of imported goods when such payment is directly to the exporter or to a third party to satisfy an obligation of the exporter seller. Rule 10 will cover up "dismantling charges" in the given situation.

It was held that in case of purchase of old machinery, all expenses connected with the dismantling of old machinery, and making it ready for being transported are includible.

- (ii) **"Demurrage charges":**

Demurrage (ship demurrage) becomes payable on when goods could not be unloaded within the specified time. **Ship demurrage is payable in addition to the normal contracted freight.**

Rule 10 of said rules provides for addition of "cost of transportation to the place of importation". It specifically provides that such charges **shall be includible as a part of "cost of transport"** of imported goods.

2. Question:

Discuss the includibility or otherwise of following costs/payments in the assessable value of imported goods. If these are not already included in the invoice price. -

- (i) Buying commission;
- (ii) Interest on delayed payment

Solution:

The treatment of given items has been discussed below:

- (i) **Buying Commission:**

Rule 10 provides for inclusion of commission and brokerage to the sale price to arrive at the assessable value. However, it **specifically provides** that buying commission shall not be includible. **Thus, any payment made as buying commission to the agent appointed by the buyer shall not be includible.**

- (ii) **"Interest on delayed payment":**

Rule 10 is the residuary clause which provides for the addition of any payment made by buyer to the exporter seller which is made as condition for sale of imported goods.

However, it is clarified that interest on delayed payment shall not be includible, if the following conditions are satisfied:

- (i) Interest charges are shown separately in the invoice;
- (ii) The financing agreement is in writing and
- (iii) Price has not been influenced on account of interest charges,

3. **Question:**

Discuss the includibility or otherwise to the assessable value of the following payments made by an importer to the overseas supplier of a second hand plant in India.

- (i) Fees for supervision of erection and commissioning of plant in India. For this purposes the foreign supplier deputed their technicians in India.
- (ii) Training charges paid to supplier, for imparting training to the Indian Company's personnel, on how to use the equipment.

Answer

The treatment of given item has been discussed below:

Rule 10 is the residuary clause which provides for the addition of any payment made by buyer to the exporter seller which is made as condition for sale of imported goods. However while making addition under the shelter of "residuary clause". It shall be ensure that no addition is made for post-importation expenditure.

(i) **"Supervision Fee" in respect of erection and commission of imported plant in India:**

Supervision fees/charges in respect of erection and commissioning of imported plant in India are by nature of post-importation expenditure and thus shall **not be included** in the assessable value.

(ii) **"Training Charges" in respect of imparting training to importer company's personnel:**

Training Charges are by nature of post-importation expenditure and thus, **shall not be included** in the assessable

4. **Question:**

Following particulars are available in respect of certain goods imported into India:

FOB price: US\$30,000 Exchange rate: Notified by RBI ₹ 80 = US\$ 1; Notified by CBIC ₹ 78 = US\$ 1. Compute the assessable value as per the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

Answer:

The answer is as follows –

FOB Price	\$ 30,000
Exchange rate notified by the CBIC (in force on date of presentation of bill of entry)	₹ 78
FOB price in Indian ₹	23,40,000
Add: Cost of transport @ 20% of FOB, assuming it is unascertainable	4,68,000
Add: Insurance @ 1.125% of FOB, assuming it is unascertainable	26,325
Assessable Value ₹	28,34,325

5. **Question:**

A material was imported by air at CIF price of 5,000 US\$. Freight paid was 1,500 US\$ and insurance cost was 500 US\$. The banker realized the payment from importer at the exchange rate of ₹ 75 per dollar. CBIC notified the exchange rate as ₹ 74.50 per US\$. Find the value of the material for the purpose of Levying duty.

Answer:

The answer is as follows –

FOB Price [CIF \$ 5000 - Freight \$ 1500 - Insurance \$ 500]	\$ 3,000.00
Exchange rate notified by the CBIC (in force on date of presentation of bill of entry)	₹ 74.50
	₹
FOB price in Indian ₹	2,23,500.00
Add: Cost of transport @ 20% of FOB [Actual is 1,500 \$; while in case of import by air, it cannot exceed 20% of FOB i.e. 20% of ₹ 3000 = 600 \$ × ₹ 74.50]	44,700.00
Add: Insurance [Actual viz. 500 \$ × ₹ 74.50]	37,250.00
Assessable Value ₹	3,05,450.00

6. **Question:**

Find out the assessable value of the imported goods under the Customs Act, 1962:

	Particular	US \$
1	Cost of the machine at the factory of the exporting country	10,000
2	Transport charges incurred by the exporter from his factory to the port for shipment	500
3	Handling charges paid for loading the machine in the ship	50
4	Buying commission paid by the importer	50
5	Freight charges from exporting country to India	1,000
6	Exchange rate to be considered:	1 \$ = ₹ 80

Solution:

FOB Price [Cost \$10,000 + Transport in foreign country \$500 + Handling in foreign country for loading goods in ship \$ 50] [FOB comprises of all such charges upto the stage foreign supplier ships the goods and the risk is assumed by the importer]	\$ 10,550.00
Exchange rate notified by the CBIC (in force on date of presentation of bill of entry)	₹ 80.00
FOB price in Indian	₹
Add: Buying commission [Not includible in view of provisions of Rule 10]	8,44,000
Add: Cost of transport under Rule 10([1,000 \$ × ₹ 80]	NIL
Add: Insurance under Rule 10 @ 1.125% of FOB, assuming it is unascertainable	80,000
	9,495
Assessable Value ₹	9,33,495

7. **Question:**

Compute the assessable value from the following data:

Particular	
Machinery imported	US \$ 4000
Accessories compulsorily supplied along with the machinery	US \$ 1000
Air freight	US \$ 1200
Insurance charges	Actuals not available
Local agent's commission to be paid in Indian Currency	₹ 9,300
Transportation from Indian Airport to factory	₹ 4,000
(Exchange rate US \$ 1 = ₹ 78. Provide explanation where necessary.)	

Solution:

FOB Price [\$ 4,000 + Accessory \$ 1000] [since accessory is compulsorily supplied along with article, it is chargeable in the same manner as the article]	\$ 5,000
Exchange rate notified by the CBIC (in force) on date of presentation of bill of entry	₹78 ₹
FOB Price in Indian ₹	3,90,000
Add: Local agents commission	9,300
FOB Value as per Custom	3,99,300
Add: Cost of transport @ 20% of FOB [Actual is 1,200 \$; while in case of import by air, it cannot exceed 20% of FOB i.e. 20% of 399,300]	79,860
Add: Insurance under Rule 10 @ 1.125% of FOB, as it is unascertainable	4,492
Add: Transport from airport to factory is a post-importation activity and not includible	NIL
Assessable Value ₹	4,83,652

8. Question:

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.No.	Particulars	Amount
(i)	Cost of the machine at the factory of the exporter	US \$ 20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	US \$ 1,000
(iii)	Handling charges paid for loading the machine in the ship	US \$ 100
(iv)	Buying commission paid by the importer	US \$ 100
(v)	Freight charges from exporting country to India	US \$ 2,000
(vi)	Actual insurance charges paid are not ascertainable	---
(vii)	Charges for design and engineering work undertaken for the machine in US	US \$ 5,000
(viii)	Unloading and handling charges paid at the place of importation	₹ 1,500
(ix)	Transport charges from Mumbai Port to Cochin	₹ 25,000
(x)	Exchange rate to be considered: 1\$ = ₹ 60	

Solution:

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	26,100.00
Add: Freight charges up to India	2,000.00
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 @ ₹ 60/ per \$	₹ 17,03,617.80
Assessable value (rounded off)	₹ 17,03,618

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) 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) of the CVR].
- (3) **Buying commission is not included** in the assessable value [Rule 10(1) of the CVR].
- (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].
- (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.

9. Question:

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

Solution:

Rule 10(2) of the Customs (Determination of Value of Imported Goods) Rules, 2007 (CVR) provides that for the purposes of section 14(1) 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** (Transportation cost);
- (b) the cost of insurance **to the place of importation** (Insurance cost)

Note:

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.

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.

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.

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.

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.

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 chartered 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 plus insurance charges	1000
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 in terms of rule 10(2)]	200
Cost of insurance [Includible in terms of rule 10(2)]	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 plus insurance charges	1000
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)]	60
Insurance [1.125% of sum of FOB value of the goods in terms of rule 10(2)]	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 rule 10(2)]	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 [Rule 10(2)]	200
Cost of insurance	10
Assessable value [CIF value]	1,210

10. Abhimanyu Enterprises, India imported a machine costing US \$ 17,000 from George Corp., US through a vessel. Determine the assessable value of the said machine under the Customs Act, 1962 with the help of the additional information given below:

	US \$
(i) Transport charges from the factory of George Corp. to the port for shipment	850
(ii) Freight charges from US to India	1,700
(iii) Handling charges paid for loading the machine in the ship	85
(iv) Buying commission paid by Abhimanyu Enterprises	85
(v) Exchange rate to be considered: 1\$ = ₹ 60	
(vi) Actual insurance charges paid are not ascertainable	

Solution:

Computation of assessable value of the imported machine

Particulars	US \$
Cost of the machine at the factory	17,000.00
Transport charges up to port	850.00
Handling charges at the port	85.00
FOB	<u>17,935.00</u>
Freight charges up to India	1,700.00
Insurance charges @ 1.125% of FOB [Note 1]	<u>201.77</u>
CIF	19,836.77
CIF in Indian rupees @ ₹ 60/ per \$	₹ 11,90,206.13
Assessable Value (rounded off)	₹ 11,90,206

Notes:

- (1) Insurance charges have been included @ 1.125% of FOB value of the machine [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) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007].

11. **Question:**

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 payable by Niketan Industries Ltd. with appropriate working notes:

S. No.	Particulars	Amount in
(i)	CIF value of the machine	4,50,000.00
(ii)	Freight incurred from port of entry to Inland Container depot	25,000.00
(iii)	Unloading and handling charges paid <u>at the</u> place of importation	40,000.00
(iv)	Designing charges paid to Consultancy firm in Mumbai	10,000.00

Basic Customs Duty leviable

10% advalorem

Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is 18%.

Note: Ignore GST Compensation Cess. SWS as applicable.

Solution:**Computation of assessable value and customs duty payable**

Particulars	₹
CIF value of machine	4,50,000
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	4,50,000
Add: Basic customs duty (BCD) @10%	45,000
Add: SWS@10%	4,500
Value for computing IGST	4,99,500
IGST @ 18%	89,910
Total duty and tax payable	1,39,410

Notes:-

- Only charges incurred for delivery of goods "to" the place of importation are includible in the transaction value vide rule 10(2) 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.**
 - In case of goods imported by sea and transhipped to another custom station in India, the cost of transport **associated with such transshipment is excluded** in terms of rule 10(2) of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.
 - Rule 10(1) 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.
12. **[IMPORTANT]** Compute the assessable value and total customs duty payable under the Customs Act, 1962 for an imported machine, based on the following information:

Particulars	US\$
(i) Cost of the machine at the factory of the exporter	20,000
(ii) Transport charges from the factory of exporter to port for shipment	800
(iii) Handling charges paid for loading the machine in the ship	50
(iv) Buying commission paid by the importer	100
(v) Lighterage charges paid by the importer	300
(vi) Freight and Insurance (1,000 + 200) incurred from port of entry to Inland Container Depot	1,200
(vii) Ship demurrage charges	300
(viii) Freight charges from exporting country to India [Insurance upto India is unascertainable]	4,000
(ix) Loading, Unloading and Handling Charges (includes \$ 100 incurred "at Indian port")	1,100
Date of bill of entry 20.3.20XX: Rate of BCD	20%
Exchange rate as notified by CBIC	₹ 80 per \$
Date of entry inward 25.3.20XX: Rate of BCD	10%
Exchange rate as notified by CBIC	₹ 85 per \$
Integrated Goods and Services Tax (IGST) rate	12.00%
GST Compensation Cess	10.00%

Solution:**Part 1: Computation of assessable value**

FOB Price [Item (i) + Item (ii) + Item (iii)]	
[FOB = Expenses upto loading of goods at foreign port]	\$20,850
Add: Item (iv) i.e., Buying Commission is not includible	—
Customs FOB	\$20,850
<u>Add: Cost of transport and loading, unloading and handling charges:</u>	
Item (v) Lighterage [Includible]	\$300
Item (vi) Port to ICD (Cost of transshipment not includible)	—
Item (vii) Ship Demurrage [Includible]	\$300
Item (viii) General Freight charges upto India	\$4,000
Item (ix) Loading, Unloading and Handling Charges [they are includible on actual basis only "upto place of importation". Hence, charges incurred "at" place of Indian port are not includible in customs value.]	\$1,000
Add: Insurance [Not given, assumed 1.125% of Customs FOB]	\$234.56
[Item (vi) Insurance of Port to ICD viz. transshipment not includible]	—
CIF or Assessable Value	26,684.56
Exchange Rate [As applicable on date of filing of bill of entry]	₹ 80 per \$
CIF or Assessable Value (in India ₹)	21,34,765

Part 2: Computation of duty

	Duty Rate	Total Amount	
Assessable Value	—	—	21,34,765
Add: BCD [rate prevalent on date of presentation of bill of entry or date of entry inwards, whichever is later , is applicable. Therefore, rate prevalent on 25-3-20XX viz. 10% shall be taken.]	10.00%	213,476.50	213,476.50
Add: SWS @10% on BCD	10.00%	21,347.65	21,347.65
Sub-total		2,34,824.15	23,69,589.15
Add: IGST on sub-total above	12.00%	2,84,350.70	2,84,350.70
GST Cess on sub-total above	10.00%	2,36,958.92	2,36,958.92
Total (rounded off to nearest rupee)		7,56,134	28,90,899

Note: Out of this, credit would be allowed of IGST and GST Cess.

13. **Question:**

TSM & Company Ltd. have imported a machine from U.K. Arrive at the assessable value for the purpose of customs duty payable:

- (i) F.O.B. cost of the machine: 10,000 U.K. Pounds
- (ii) Freight (air): 3,000 U.K. Pounds
- (iii) Engineering and design charges paid to a firm in U.K.: 500 U.K. Pounds
- (iv) License fee relating to imported goods payable by the buyer as a condition of sale: 20% of F.O.B. cost
- (v) Materials and components supplied by the buyer free of cost valued: ₹ 20,000
- (vi) Insurance paid to the insurer in India: ₹ 5,000
- (vii) Buying commission paid by the buyer to his agent in U.K.: 100 U.K. Pounds

Other particulars:

- (i) Inter-bank exchange rate as arrived by the authorized dealer: ₹ 72.50 per U.K. Pound
- (ii) CBIC had notified for Section 14 of the Customs Act, 1962, exchange rate of: ₹ 70.25 per U.K. Pound
- (iii) **Importer paid demurrage charges for delay in clearing machine from Airport: ₹ 5,000**
(Make suitable assumptions wherever required and show workings with explanations).

Solution:**Computation of Assessable Value:**

FOB cost of the machine	£ 10,000.00
Exchange rate notified by CBIC	₹ 70.25
	₹
FOB price in Indian ₹	7,02,500.00
Add : License fee relating to imported goods payable by the buyer as a condition of sale @ 20% of FoB price [Includible in Value]	1,40,500.00
Add : Development work [Development work other than in India is includible] [£ 500 x ₹ 70.25 = ₹ 35,125]	35,125.00
Add : Materials and components supplied by the assessee-buyer (free of charge) [Includible]	20,000.00
Add: Buying commission paid to agent abroad [Not includible]	NIL
Customs FOB	8,98,125.00
Add: Cost of transport and handling as follows —	
1. Normal cost: Actual is £ 3,000 x ₹ 70.25; but In case of import by air, <u>it can't exceed 20% of Customs FOB i.e. 20% of ₹ 8,98,125</u>	1,79,625.00
2. <u>Demurrage: cost of transport includes ship demurrage charges on chartered vessels. In this case, the import is by air. Hence, the demurrage charges cannot be included.</u>	Not included
Add: Insurance [Assumed to be for import upto airport, hence, includible.]	5,000.00
CIF or Assessable Value	10,82,750.00

14. Care Energy Ltd. imported a lift from England at an invoice price of ₹ 20,00,000. The assessee had supplied raw material worth ₹ 5,00,000 to the supplier for the manufacture of said lift. Due to safety reasons, the lift was not taken to the jetty in the port but was unloaded at the outer anchorage. The charges incurred for such unloading amounted to ₹ 25,000 and the cost incurred on transport of the lift from outer anchorage to the jetty were ₹ 50,000. The importer was also required to pay ship demurrage charges ₹ 10,000. The lift was imported at an actual cost of transport ₹ 45,000 and insurance charges ₹ 20,000. Compute its assessable value.

Solution:

	Value in ₹
Value of Goods	= 20,00,000
Add: Raw material supplied	= 5,00,000
FOB	= 25,00,000
Charges for unloading lift at the outer anchorage (It is not incurred at the port of importation)	= 25,000
Charges for bringing the goods from Outer anchorage to jetty is known as Barging/ lighterage or barge charges	= 50,000
Ship demurrage on chartered vessels (i.e. Demurrage is payable when ship was not unloaded within specified time)	= 10,000
Freight charges (Transport charges)	= 45,000
Insurance charges	= 20,000

Cost, Insurance and Freight (CIF) / Assessable Value	= 26,50,000

15. **IMPORTANT:** Following particulars are available in respect of certain goods imported into India:

CIF value:	US\$10,000
Exchange rate:	Notified by RBI [₹ 60 = US\$1]
Notified by CBIC	₹ 58 = US\$1

Compute the following:

- FOB value
- Cost of insurance
- Cost of freight and
- Assessable value in rupees as per the Customs Act, 1962 and the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

Solution:

As per Rule 10(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, where FOB value of goods and Cost of Insurance and Freight are not ascertainable, then the cost of insurance and transport shall be computed as follows:

Particulars	As per Rule 10(2)	Working
Cost of transport (i.e. Freight not known)	20% x (FOB value + Cost of Insurance)	CIF value x 20/120
Insurance (i.e. not known)	1.125% x (FOB value + Cost of transport)	CIF value x 1.125/101.125
FOB value	CIF value – cost transport – cost of insurance	

CIF value in ₹ 5,80,000 (i.e. US \$ 10,000 x ₹ 58)

Sl. No.	Particulars	₹	Working
(a)	Assessable value =	5,80,000	
(b)	Cost of transport =	96,667	(i.e. ₹ 5,80,000 x 20/120)
(c)	Cost of insurance=	6,452	(i.e. ₹ 5,80,000 x 1.125/101.125)
(d)	FOB value =	4,76,881	(i.e. ₹ 5,80,000 – 96,667 – 6,452)

Class Notes

Practical Questions - SET 'B'

1. Question

Compute value of the imported goods for customs purpose with the following information –

Particulars	Case 1	Case 2	Case 3
Price actually payable to the seller	10,000	20,000	30,000
Cost of packing materials	1,000	Nil	500
Labour charges for packing	200	Nil	300
Price of material supplied to seller by buyer free of cost	1,000	500	2,000
Cost of transport	1,000	Unascertained	12,000
Insurance	Unascertained	Unascertained	500
Local transport in India	500	400	600
Mode of transport	Sea	Sea	Air

Solution:

Computation of assessable value of goods for customs purpose

Particulars	Case 1	Case 2	Case 3
Price actually payable to the seller	10,000	20,000	30,000
Cost of packing materials	1,000	Nil	500
Labour charges for packing	200	Nil	300
Material supplied to seller by buyer free of cost	1,000	500	2,000
Free on Board Value [A]	12,200	20,500	32,800
Add:			
Cost of transport [B]	1,000	4,100	6,560
Insurance (1.125% of A) [C]	137	231	500
Assessable value	13,337	24,831	39,860

Notes

- When cost of transportation is not certain then 20% of FOB value shall be considered as cost of transport.
- When goods are transported through airways then, cost of transportation shall be restricted to 20% of FOB value.

2. Question

From the particulars given below, find out the assessable value of the imported goods under the Customs Act, 1962:

Particulars	US\$
(i) Cost of the machine at the factory of the exporting country	20,000
(ii) Transport charges incurred by the exporter from his factory to the port for shipment	1,000
(iii) Handling charges paid for loading the machine in the ship	100
(iv) Buying commission paid by the importer	100
(v) Freight charges from exporting country to India	2,000
(vi) Exchange Rate	1\$ = ₹ 65

Solution:**Computation of assessable value of goods for customs purpose**

Particulars	Value (US \$)
(i) Cost of the machine at the factory of the exporting country	20,000.00
(ii) Transport charges incurred by the exporter from his factory to the port for shipment	1,000.00
(iii) Handling charges paid for loading the machine in the ship	100.00
FOB Value of Exporter	21,100.00
(iv) Buying commission paid by the importer [Not includible]	-
(v) Cost of insurance [@ 1.125% of FOB]	237.38
(vi) Freight charges from exporting country to India	2,000.00
(vii) CIF Value/ Assessable value	23,337.38
Assessable value [\$ 23,337.38 x ₹ 65]	15,16,930.00

3. Question

XYZ Industries Ltd., has imported certain equipment from Japan at an FOB cost of 4,00,000 Yen (Japanese). The other expenses incurred by M/s. XYZ Industries in this connection are as follows:

Freight from Japan to Indian Port 40,000 Yen

Insurance paid to Insurer in India ₹ 10,000

Designing charges paid to Consultancy firm in Japan 60,000 Yen

M/s. XYZ Industries had expended ₹ 2,00,000 in India for certain development activities with respect to the imported equipment

XYZ Industries had incurred road transport cost from Mumbai port to their factory in MP ₹ 1,30,000

The CBIC had notified exchange rate of 1 Yen = ₹ 0.69. The inter bank rate was 1 Yen = ₹ 0.70

M/s XYZ Industries had effected payment to the Bank based on exchange rate 1 Yen = ₹ 0.71

The commission payable to the agent in India was 5% of FOB cost of the equipment in Indian Rupees.

Compute assessable value**Solution:**

Computation of assessable value of goods for customs purpose

Particulars	Amount in Yen
Free on Board (FOB)	4,00,000
Designing charges	60,000
Development charges [as it is post shipment expenses]	—
Road transport charges [as it is post shipment expenses]	—
Commission [4,00,000 x 5%]	20,000
Particulars	Amount in Yen
FOB value of the Customs	4,80,000
	Amount in ₹
FOB value of the Customs [by using exchange rate of the CBIC] [4,80,000 x 0.69]	3,31,200
Insurance	10,000
Freight [40,000 x 0.69]	27,600
Total CIF value/ Assessable Value	3,68,800

Working Notes:

- a) Only the cost of transport of the imported goods up to the place of importation is includible for the purpose of valuation. **Thus, transport cost from Mumbai port (place of importation) to the factory in MP has not been included in the assessable value.**
- b) Value of design work undertaken elsewhere than in India is includible in the value of the imported goods.
- c) Rate of exchange notified by the CBIC has been considered.
- d) Buying commission is not includible in the value of the imported goods. **Since the agent's commission does not represent buying commission, hence, it is includible.**
- e) Value of development work undertaken in India is not includible in the value of the imported goods. Hence, ₹ 2,00,000 expended in India for developmental activities have not been considered.
- f) Insurance of the machine is includible in the assessable value.

4. Question

How shall your answer differ, if the information regarding freight and insurance are not available.

Solution:

Computation of assessable value of goods for customs purpose

Particulars	Amount in Yen
Free on Board (FOB)	4,00,000
Designing charges	60,000
Development charges [as it is post shipment expenses]	—
Road transport charges [as it is post shipment expenses]	—
Commission [4,00,000 x 5%]	20,000
FOB value of the Customs	4,80,000
	Amount in ₹
FOB value of the Customs [by using exchange rate of the CBIC] [4,80,000 x 0.69]	3,31,200
Insurance [₹ 3,31,200 x 1.125%]	3,726
Freight [₹ 3,31,200 x 20%]	66,240
Total CIF value/ Assessable Value	4,01,166

5. Question

BSA and Company Ltd. have imported a machine from U.K. from the following particulars furnished by them, arrive at the assessable value for the purpose of customs duty payable:

(i)	F.O.B. cost of the machine	10,000 U.K. Pounds
(ii)	Freight (air)	3,000 U.K. Pounds
(iii)	Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
(iv)	License fee relating to imported goods payable by the buyer as a condition of sale	20% of F.O.B. Cost
(v)	Materials and components supplied by the buyer free of cost valued	₹ 20,000
(vi)	Insurance paid to the insurer in India	₹ 6,000
(vii)	Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds

Other Particulars:

- a) Inter-bank exchange rate as arrived at by the authorized dealer: ₹ 72.50 per U.K. Pound.
- b) CBIC had notified for purpose of Section 14 of the Customs Act, 1944, exchange rate of ₹ 70.25 per U.K. Pound.
- c) **Importer paid ₹ 5,000 towards demurrage charges for delay in clearing the machine from the Airport.**

Solution:

Computation of assessable value of goods for customs purpose

Particulars	UK Pounds
FOB Value	10,000
Add: Engineering and Design charges (Paid in (UK)	500
Add: License fee (20% on 10,000 UKP)	<u>2,000</u>
	12,500

	Value in ₹
Sub-total (12,500 UKP x ₹ 70.25)	8,78,125
Add: Material supplied by the buyer freely	20,000
FOB Value as per customs	8,98,125
Add: Air freight (₹ 8,98,125 × 20%) [Maximum]	1,79,625
Add: Insurance	6,000
CIF Value / Assessable value	10,83,750

Buying commission shall not be considered.

6. **Question**

X Ltd. imported goods from Switzerland 400 units @ \$ 110. Following further information is also needs to be considered:

- i. Freight (Vessel) – \$ 5000
- ii. **Demurrage charges paid to port authority** – \$ 1000
- iii. Insurance – \$ 50
- iv. Royalty for use of Patent – \$ 1,000
- v. Royalty as a condition of Sale – \$ 20,000

Assuming exchange rate is ₹ 70.00. Compute assessable value

Solution:

Computation of Assessable Value

Particulars	Amount
Purchase Value	\$ 44,000
Royalty for use of Patent	\$ 1,000
Royalty as a condition of Sale	\$ 20,000
FOB Value	\$ 65,000
Add: Freight	\$ 5,000
Add: Insurance Charges	\$ 50
Assessable Value	\$ 70,050
Assessable Value in INR [\$ 70,050 x ₹ 70]	₹ 49,03,500

Note

- a) Demurrage charges payable to port trust authorities for delay in clearing goods are not to be added
- b) Royalties and license fees relating to imported goods that buyer is required to pay, directly or indirectly, as a condition of sale of goods being valued are required to be added

7. **Question**

C Ltd, an importer, has imported a machine from USA at FOB Cost of \$ 10000.

- i. Freight from port in USA to Indian port was \$ 700.
- ii. Insurance was paid to insurer in India ₹ 6,000.
- iii. Design and development charges of \$ 2000 were paid to a consultancy firm in USA.
- iv. **The importer also spent an amount of ₹ 50,000 in India for development work connected with the machinery.**
- v. **₹ 10,000 were spent in transporting the machinery from India port to the factory of Importer**
- vi. Rate of exchange as announced by RBI was : ₹ 74.70 = 1 US \$
- vii. Rate of exchange as announced by CBIC: ₹ 75.60 = 1 US \$.
- viii. Rate which bank recovered the amount from importer: ₹ 75.30 = 1 US \$
- ix. **Foreign exporters have an agent in India. Commission is payable to the agent in Indian Rupees @ 5% of FOB price.**

Find the assessable value

Solution:**Computation of Assessable Value**

Particulars	Amount
FOB Value	\$ 10,000
Add: Design and Development Charges	\$ 2,000
Add: Commission	\$ 500
Add: Ocean Freight	\$ 700
Total	\$ 13,200
In INR [US \$ 13,200 x ₹ 75.60]	₹ 9,97,920
Add: Insurance	₹ 6,000
Assessable Value (Rounded off)	₹ 10,03,920

Note: Design and development work in India and transport cost incurred in India shall not be considered for ascertaining assessable value.

8. Question

Malya Internationals Ltd., has imported a machinery by air from Germany. Bill of Entry is presented on 20.01.20XX. However, entry inwards is granted on 25.01.20XX. Relevant information of the transaction are provided hereunder:

(i)	CIF Value of Machine	5,500 USD
(ii)	Air Freight Paid	1250 USD
(iii)	Insurance Charges Paid	100 USD
(iv)	Rate of Exchange on 20.01.20XX	As per RBI 1 USD = ₹ 65.50 As per CBIC 1 USD = ₹ 66
(v)	Rate of Exchange on 25.01.20XX	As per RBI 1 USD = ₹ 66.50 As per CBIC 1 USD = ₹ 67
(vi)	Basic Customs Duty Rate	10%
(vii)	IGST Rate	18%

Calculate the assessable value in INR for the purposes of levy of customs duty as well as total customs duty.

Solution:**Computation of assessable value**

Particulars	Amount in \$
CIF Value	5,500
Less: Air Freight	1250
Less: Insurance	100
FOB Value	4,150
Add: Air Freight [Since actual air freight is more than 20% of FOB, 20% of FOB shall be considered (4150 x 20% = 830)]	830
Add: Insurance	100
Assessable Value (in US \$)	5,080
Assessable Value in ₹	3,35,280

Computation of customs duty

Particulars	Details	Amount
Assessable Value		3,55,280
Add: Basic Customs Duty @ 10%	35,528	35,528
Add: Social Welfare Surcharge @ 10% on BCD	3,553	3,553
Total [A]		3,94,361
Add: IGST @ 18% [A x 18%]	70,985	70,985
Total duty payable		4,33,442

9. Question

From the undermentioned relating to import made on 12.10.20XX of product 'Minic' from New York, USA, to the Kochi Airport, by Mr. Prahalad, the importer:

FOB value of the product	\$ 10,000
Cost of transport	\$3,500
Insurance	\$ 1,000
Unloading charges at Kochi Airport	₹ 24,800
Basic customs duty	10%
IGST	18%
Exchange rate notified by RBI	1\$ = ₹ 64.50
Exchange rate notified by CBIC	1\$ = ₹ 64

Ascertain the assessable value and total tax and duty payable by Mr. Prahalad.

Solution:**Computation of assessable value and customs duty**

Particulars	Amount (\$)
FOB value of the product	10,000
Cost of transport [restricted to 20% of FOB]	2,000
Insurance (Actual) [if actual amount of insurance is known, the same is to be taken]	1,000
CIF Value	13,000
	Amount (₹)
Assessable value (13,000 × 64)	8,32,000
Basic customs duty at 10% [A]	83,200
Add: Social Welfare Surcharge @ 10% of custom duty [B]	8,320
Value for the purpose of levying integrated tax	9,23,520
Add: Integrated tax @ 18% [C]	1,66,234
Total duty & tax payable [A + B + C]	2,57,754

ITC of ₹ 1,66,234/- is available against payment of IGST.

10. Question

Compute the Assessable Value of a machine imported from Germany by RLI Ltd., under Customs Act, 1962. Also determine the duty liability of RLI Ltd.

Particulars	USD\$
FOB Value	30,000
Air Freight Paid	7,250
Insurance Cost	Not Known
Designing Charges incurred in India	₹ 15,000
Indian Agent's Commission	₹ 20,000
Transport Charges from port to factory in India	₹ 15,000
Rate of duty	10%
IGST	18%
Rate of exchange notified by CBEC	₹ 65 per USD

Solution:

Computation of assessable value and customs duty

Particulars	Amount
FOB Value	\$ 30,000.00
Add: Insurance @ 1.125% of FOB Value	\$ 337.50
Add: Air Freight (restricted to 20% of FOB)	<u>\$ 6,000.00</u>
	\$ 36,337.50
Value in INR @ ₹ 65	₹ 23,61,938.00
Add: Local Agent's Commission	₹ 20,000.00
Assessable Value for Customs	₹ 23,81,938.00
Basic customs duty at 10% [A]	2,38,194.00
Add: Social Welfare Surcharge @ 10% of custom duty [B]	23,819.00
Value for the purpose of levying integrated tax	26,43,951.00
Add: Integrated tax @ 18% [C]	4,75,911.00
Total duty & tax payable [A + B + C]	7,37,924.00



[Above solution is based on ICAI Material which is NOT correct. During class, correct format is discussed. Students may refer Question No. 13 for correct treatment of agent commission]. FOB Value as per custom.

11. Question

Informatics Ltd., imported a photography printer by air from Best Inc., of USA, as per following details.

Particulars	US \$
CIF Value	4,500
Air Freight Paid	1,000
Insurance Cost	250
Rate of exchange notified by CBEC	₹ 64.50 per USD
Inter Bank Selling Rate	₹ 65 per USD.
Basic Customs Duty	10% ad valorem.
IGST	18%

You are required to compute the Assessable Value and Import Duty payable by Informatics Ltd.

Solution:**Computation of assessable value and customs duty**

Particulars	Amount in \$
CIF Value	4,500
Less: Air Freight	1,000
Less: Insurance	250
FOB Value	3,250
Add: Air Freight [Since actual air freight is more than 20% of FOB, 20% of FOB shall be considered (3,250 x 20% = 650)]	650
Add: Insurance	250
Assessable Value (in US \$)	4,150
Assessable Value in ₹ [US \$ 4,150 x ₹ 64.50]	2,67,675

Computation of customs duty

Particulars	Details	Amount
Assessable Value		2,67,675
Add: Basic Customs Duty @ 10%	26,768	26,768
Add: Social Welfare Surcharge @10% on BCD	2,677	2,677
Total [A]		2,97,120
Add: IGST @ 18% [A x 18%]	53,482	53,482
Total duty payable		82,927

12. Question

R Ltd. has imported one machine from England. It has given the following particulars:

Price of machine 8,000 UK Pounds

Freight paid (air) 2,500 UK Pounds

Design and development charges paid in UK 500 UK Pounds

Commission payable to local agent of exporter @ 2% of price of machine, in Indian Rupees

Date of bill of entry: 24th October (Rate BCD 10%; Exchange rate as notified by CBIC ₹ 100 per UK Pound)

Date of arrival of aircraft: 20th October (Rate of BCD 15%; Exchange rate as notified by CBIC ₹ 97 per UK Pound)

Integrated tax is 18%

Insurance charges have been actually paid but details are not available.

Compute the total customs duty and integrated tax payable

Solution:**Computation of assessable value and customs duty**

Particular	Amount (UK P)
Price of machine	8,000
Add: Design and development charges	500
Total	8,500
Amount in ₹	
Total in rupees @ ₹ 100 per pound	8,50,000
Add: Local agency commission [(2% of 8,000 UK pounds) × ₹ 100]	16,000
FOB value as per Customs	8,66,000
Add: Air freight (₹ 8,66,000 × 20%)	1,73,200
Add: Insurance @ 1.125% of customs FOB	9,743
CIF Value / Assessable value	10,48,943
Add: Basic custom duty @ 10% [A]	1,04,894
Add: Social Welfare Surcharge @ 10% on ₹ 1,04,894 [B]	10,489
Value for computing IGST	11,64,326
Add: Integrated tax @ 18% [C]	2,09,579
Total duty & integrated tax payable [A + B + C]	3,24,962

13. Question

ABC Industries Ltd. of Mumbai imported one machine through vessel from Japan, in the month of November. The following particulars are made available for computation of customs duty:

S.N	Particulars	Amount in JPY (¥)
(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:-

	Amount in INR(₹)
(i) Designing charges, necessary for the machine, paid to consultancy firm in Delhi	8,00,000
(ii) Commission paid (not buying commission) to the 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 is not ascertainable	
(v) Ligherage charges paid at the port of importation	20,000

Other information

(i)	Rate of basic customs duty	10%
(ii)	Rate of social welfare surcharge	10%
(iii)	Integrated tax [IGST]	18%
(iv)	Ignore GST compensation cess.	
(v)	Rate of exchange to be taken 1 Japanese Yen (¥) =	₹ 0.71

Solution:

Computation of assessable value and customs duty

	Amount in JPY (¥)
Cost upto port of exportation	6,00,000
Add: Loading charges at the port of exportation	25,000
Total in Japanese Yen	6,25,000
	In ₹
Total in Indian rupees @ ₹ 0.71 per Japanese Yen	4,43,750
Add: Commission paid to local agent of exporter	1,25,000
FOB value as per customs	5,68,750
Add: Freight charges from port of export to port of import in India [$1,00,000 \text{ JPY} \times 0.71 = ₹ 71,000$]	71,000
Add: Lighterage charges paid by the importer at port of importation	20,000
Add: Insurance charges @ 1.125% of FOB [$₹ 5,68,750 \times 1.125\%$]	6,398
CIF value / Assessable Value	6,66,148
Add: Basic customs duty @ 10% of ₹ 6,66,148	66,615
Add: Social welfare surcharge @ 10% of ₹ 66,615	6,662
Value for computing IGST	7,39,425
Add: Integrated tax @ 18% of ₹ 7,39,425	1,33,097
Total custom duty and integrated tax payable [(A) +(B) + (C)]	2,06,374



Class Notes

CUSTOMS VALUATION (DETERMINATION OF VALUE OF IMPORTED GOODS) RULES, 2007

The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, consist of rules providing 6 methods of valuation.

Primary Method

(i) **Transaction Value** of Imported goods [Section 14(1) and Rule 3]

Secondary Method

(ii) Transaction Value of **Identical Goods** [Rule 4]

(iii) Transaction Value of **Similar Goods** [Rule 5]

(iv) **Deductive Value** which is based on identical or similar imported goods sold in India [Rule 7]

(v) **Computed value** which is based on cost of manufacture of goods plus profits [Rule 8]

(vi) **Residual method** based on reasonable means and data available [Rule 9]

Note: On the request of importer, the order of application of rules 7 (i.e. Deductive value) and 8 (i.e. Computed value) **shall be reversed**.

RULE 3 – TRANSACTION VALUE

1. Subject to rule 12, the value of imported goods **shall be the transaction value** adjusted in accordance with provisions of rule 10.
2. **Transaction Value shall be accepted Provided that-**
 - a) there are **no restrictions as to the disposition or use of the goods by the buyer** other than restrictions which-
 - (i) are imposed or required by law or by the public authorities in India; or
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods;
 - b) the **sale or price is not subject to some condition or consideration for which a value cannot** be determined in respect of the goods being valued;
 - c) **no part of the proceeds of any subsequent resale**, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, **unless an appropriate adjustment can be made**; and
 - d) the **buyer and seller are not related**, or where the buyer and seller are related, **that transaction value is acceptable for customs purposes**.
3. **Transaction value can be accepted though sale is made to related buyer**
 - a. **Where the buyer and seller are related**, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods **indicate that the relationship did not influence the price**.
 - b. **In a sale between related persons**, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, **closely approximates to one of the following values** ascertained at or about the same time.
 - i. the **transaction value of identical goods, or of similar goods**, in sales to unrelated buyers in India;
 - ii. the **deductive value for identical goods or similar goods**; or
 - iii. the **computed value for identical goods or similar goods**.

Provided that in applying the values used for comparison, due account **shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related**.

4. If the value cannot be determined under the provisions of this rule, the value shall be determined by proceeding sequentially through rule 4 to 9.

“DEFINITION”

For the purpose of these rules, **persons shall be deemed to be “related” only if-**

- (i) they are officers or directors of one another's businesses;
- (ii) they are legally recognised partners in business;
- (iii) they are employer and employee;
- (iv) **any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;**
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family.

Explanation I: The term “person” also **includes legal persons**.

Explanation II

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 for the purpose of these rules**.

RULE 4 – TRANSACTION VALUE OF IDENTICAL GOODS

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.

Tax Point**1. Identical goods means imported goods-**

- a. **which are same in all respects**, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of goods;
- b. produced in the country in which the goods being valued were produced; and
- c. produced by the same person who produced the goods or where no such goods are available, then goods produced by a different manufacturer.

However, identical goods do not include goods where engineering, development, art work, design work, plan or sketch was done by the buyer in India free of charge or at a reduced cost.

- 2. **Such identical goods shall be sold at the same commercial and quantity level.** Where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantity or both shall be used with certain adjustment.
- 3. **Where more than one transaction value of identical goods is found, then the lowest of such value** shall be used for determining the value of imported goods.

RULE 5 – TRANSACTION VALUE OF SIMILAR GOODS

The value of imported goods shall be the **transaction value of similar goods sold for export to India** and imported at or about the same time as the goods being valued.

Notes:**1. Similar goods means imported goods-**

- a) **which although not alike in all respect**, have like characteristics and like component materials which enable them to perform the same function. Such goods shall be **commercially interchangeable** with the goods being valued having regard to the quality, reputation and the existence of trade-mark.
- b) produced in the country in which the goods being valued were produced; and
- c) produced by the same person who produced the goods or where no such goods are available, then goods produced by a different manufacturer.

However, similar goods do not include goods where engineering, development, art work, design work, plan or sketch was done by the buyer in India free of charge or at a reduced cost.

2. Such similar goods shall be sold at the same commercial and quantity level. Where no such sale is found, the transaction value of similar goods sold at a different commercial level or in different quantity or both shall be used with certain adjustment.
3. Where more than one transaction value of similar goods is found, **then the lowest of such value shall be used for determining the value of imported goods.**

RULE 6**DETERMINATION OF VALUE WHERE VALUE CAN NOT BE DETERMINED UNDER RULES 3, 4 AND 5**

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.

Provided that at the request of the importer, and with the approval of the proper officer, **the order of application of rules 7 and 8 shall be reversed.**

Note:

Normally, Rule 8 is applied only when Rule 7 is not applicable. **But as per Rule 6, Rule 8 can precede Rule 7, if the following conditions are satisfied-**

- **On the request of importer**
- **On approval of proper officer**

RULE 7 – DEDUCTIVE VALUE (based on identical or similar imported goods sold in India)

*Where the goods being valued or identical or similar imported goods **are sold in India** at or about the time of determination of value, then the value of imported goods shall be based on the unit price at which such goods are sold **in the greatest aggregate quantity to the unrelated person in India** as reduced by -*

- a) *the commission usually paid or payable or the additions usually made for profits and general expenses for sales in India;*
- b) *the cost of transport and insurance and other cost incurred **within India**;*
- c) *the customs duty and other taxes **payable in India** by reason of importation or sale of the goods.*

Notes:

1. Where such goods are not sold at or about the same time of importation of the goods being valued, then the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in India **at the earliest date after importation but before the expiry of 90 days after such importation.**
2. Where such goods are sold in India after further processing, then the value shall be based on the unit price at which the imported goods after processing are sold in the **greatest aggregate quantity to unrelated person in India** as reduced by processing and other cost (as referred above) incurred in India.

Example:

Following are the sale details of product X (being 12000 units imported from Japan on 1-1-20XX), you are required to compute assessable value of product X for customs duty by applying deductive method –

Date of Sale	Quantity Sold (in units)	Price per unit
01-1-20XX	1000	₹ 100
10-1-20XX	2000	₹ 98
19-1-20XX	500	₹ 101
27-2-20XX	1500	₹ 100
03-3-20XX	1000	₹ 98
13-3-20XX	1500	₹ 99
30-3-20XX	1000	₹ 98
07-5-20XX	2000	₹ 100

Assume the expenditure incurred in India (including profit) is ₹ 18 per unit. Duty is charged on such article @ 25% (including SWS) ad valorem.

Solution:

Quantity sold at different prices are summarized below –

Price per unit	Quantity sold
₹ 100	1000 + 1500 = 2500 units
₹ 98	2000 + 1000 + 1000 = 4000 units
₹ 101	500 units
₹ 99	1500 units

Note: Sale made on 7/5/20XX is not considered as it is made after 90 days from importation thereof.

The greatest number of units sold at a particular price is 4000 units, therefore, the unit price in the greatest aggregate quantity is ₹ 98.

Computation of assessable value:

Assessable value + Customs duty = Unit sale price as computed above - Expenditure incurred in India

Assessable value + 25% of Assessable value = ₹ 98 – ₹ 18

125% of Assessable value = ₹ 80

Assessable value = ₹ 64 per unit

Assessable value of 12000 units = ₹ 7,68,000

Duty on above = ₹ 1,92,000

Example:

RPG Ltd. imported 125 units of minerals from High Seas for sale in India. Selling price is exclusive of duties and taxes. Freight from port to depot in India is ₹ 2,530 and insurance ₹ 310.

Sale quantity	Unit price (₹)
80	105
60	90
30	105
100	100
50	95
70	90
10	105

Basic Customs Duty - 12%. Assume there is no IGST applicable for the product.

You are required to calculate total customs duty as per Rule 7 of customs valuation (Determination of value of imported goods) Rules 2017.

Solution:

First of all, we are required to determine the price at which greatest quantity of the product is sold

Total quantity (Unit)	Unit price (₹)
130	90
50	95
100	100
120	105

The greatest number of units sold at a particular price is 130 units. Therefore, the unit price in the greatest aggregate quantity is ₹ 90.

Particulars	₹
Selling price (125 x ₹ 90)	1,1250
Less: Freight (post shipment)	(2,530)
Less: Insurance (Post shipment)	(310)
Assessable value	8,410
Custom duty [(12% + 10% SWS of BCD) = 13.20%]	1,110

Example:

X Ltd import 500 units of minerals from High seas for sale in India. Selling price exclusive of duties and Tax. Freight from port to depot in India is ₹ 10,150 and insurance is ₹ 1,250

Sale Quantity	Unit Price
400 Unit	100
300 Unit	90
150 Unit	100
500 Unit	95
250 Unit	105
350 Unit	90
50 Unit	100

Basic Custom Duty 10% and SWS as applicable. Calculate total custom duty as per Rule 7 of Custom Valuation. Assume there are no GST.

Solution:

Total Quantity Sold	Unit Price ₹
650	90
500	95
600	100
250	105

The greatest number of unit sold at a particular price is 650 units; therefore, the unit price is the greatest aggregate quantity is ₹ 90.

Selling Price ₹	45,000	(500 x 90)
Less: Freight (Post Shipment)	(10,150)	
Less: Insurance (Post Shipment)	<u>(1,250)</u>	
Assessable Value ₹	<u>33,600</u>	

Total Custom Duty = ₹ 3,696 (33,600 X 11%)

RULE 8 – COMPUTED VALUE Method - which is based on cost of manufacture of goods + profits

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- (a) the cost or value of materials and fabrication or other processing **employed in producing the imported goods**;
- (b) an **amount for profit and general expenses equal to that usually reflected** in sales of goods of the same class or kind as the goods being valued which are made by producers **in the country of exportation** for export to India;
- (c) the **cost of transport, insurance etc. as referred in Rule 10(2)**.

Note: This method is normally possible when the importer in India and foreign exporter are closely associated and the foreign exporter is willing to give necessary costing details.

RULE 9 – RESIDUAL METHOD based on reasonable means and data available

The sixth and the last method is called “residual method”. It is also often termed as ‘fallback method’.

Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value **shall be determined**

- **using reasonable means consistent with the principles;**
- **general provisions of these rules and**
- **on the basis of data available in India.**

Further, the value so determined **shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade**, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

No value shall be determined under the provisions of this rule on the basis of-

- (i) the selling price in India of the **goods produced in India**;
- (ii) a system which provides for the acceptance for customs purposes of the **highest of the two alternative values**;
- (iii) the price of the goods **on the domestic market** of the country of exportation;
- (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;
- (v) the price of the goods for the export to a country **other than India**;
- (vi) minimum customs values; or
- (vii) **Arbitrary or fictitious values.**

RULE 11 - Declaration by the importer

The importer or his agent shall furnish:

- a. A declaration disclosing full and accurate details relating to the value of imported goods; &
- b. Any other statement, information or documents including an invoice of the manufacturer or producer of the imported goods (where the goods are exported by a person other than the manufacturer or producer) as considered necessary by the proper officer for determination of the value of imported goods.

Notes:

1. **Declaration by importer, inter alia, includes-**

- Relationship between buyer and seller;
- The basis of the declared value;
- Conditions and restriction attached with sale;
- Costs not included in the invoice.

2. The provision of the Customs Act, 1962 relating to confiscation, penalty and prosecution shall apply to the cases where wrong statement, information, documents or declaration are furnished under these rules.

RULE 12 – REJECTION OF DECLARED VALUE

1. When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, **the proper officer still has reasonable doubt about the truth or accuracy** of the value so declared, it shall be deemed that the transaction value of such imported goods **cannot be determined under the provisions of rule 3.**
2. At the request of an importer, the proper officer, shall intimate the importer **in writing the grounds for doubting the truth or accuracy of the value declared** in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision.

Note:

- (i) This rule by **itself does not provide a method for determination of value**, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; **where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.**
- (ii) The declared value **shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation** with the importers.
- (iii) **[4 Marks]** The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include-
 - (a) **the significantly higher value** at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
 - (b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;
 - (c) the sale involves special discounts limited to exclusive agents;
 - (d) the mis-declaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
 - (e) the non declaration of parameters such as brand, grade, specifications that have relevance to value;
 - (f) the fraudulent or manipulated documents

Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023) notified

[Refer Page 4.1]

The second proviso of section 14(1) of the Customs Act lists out certain matters which may be provided for in the rules. **The said sub-section was amended vide the Finance Act, 2022 to insert the following text under its second proviso –**

“(iv) the additional obligations of the importer in respect of any class of imported goods and the checks to be exercised, including the circumstances and manner of exercising thereof, as the Board may specify, where, the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria:”

The said amendment is a measure to address the issue of undervaluation in imports and it provides for rules to be framed by the Central Government whereby the Board can be enabled to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods.

Now, the Central Government has notified the **Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAV Rules, 2023) which shall come into force from 11th February 2023, to tackle the menace of undervaluation of imports.**

Exceptions: These rules shall not be applied to [5 Marks]

- a. imports not involving duty;
- b. goods for which tariff value has been fixed by the Board in terms of section 14(2) of the Act;
- c. goods which attract import duty on specific rate basis;
- d. imports made in terms of authorization or license issued under duty exemption scheme of the Foreign Trade (Development and Regulation) Act, 1992 in which the inputs imported prior to export are physically contained in the export product;
- e. imports where buyer and seller are related and an investigation on relationship has already been contemplated or finalized;
- f. Project imports;
- g. imports by Government, Public Sector Undertakings;
- h. imports made in non-commercial quantities;
- i. goods imported for the purpose of re-export; or
- j. imports specified by the Board.

EXPORT GOODS

Important Definitions

Export	Export means taking out of India to a place outside India.
Export goods	Export goods means any goods which are to be taken out of India to a place outside India.
Exporter	Exporter in relation to any goods at any time between their entry for export and the time when they are exported includes – owner, beneficial owner or any person holding himself out to be the exporter

Taxable event for exported goods:

As per Section 16(1) of the Customs Act, 1962, taxable event arises only when **proper officer makes an order permitting clearance (i.e. entry outwards)** granted and loading of the goods for exportation took place under Section 51 of the Customs Act, 1962.

Rate of foreign exchange in case of exports:

In case of exports, rate of exchange of the CBIC as in force on the date on which a shipping bill or bill of export, as the case may be, **is presented** under Section 50 of the Customs Act, 1962 is applicable.

Assessable Value for exported goods:

For the purposes of calculation of export duty, the transaction value, that is to say the price actually paid or payable for the goods for delivery at the time and place of exportation under section 14 of Customs Act 1962, **shall be the FOB price of such goods at the time and place of exportation.**

Assessable value (for Exported Goods) = Free on board (i.e. FOB) Value

Free on Board (FOB): FOB means all expenditure incurred by exporter **up to the point of loading goods into the vessel or aircraft or vehicle.**

Cost Insurance and Freight (CIF): CIF means once the goods are reached to the importer country port or airport, **importer has to pay Cost (i.e. FOB value) along with Insurance and Freight from exporter country to importer country.**

Important point: As per our Foreign Trade Policy, all imports into India are measured in terms of CIF value whereas exports from India are measured in terms of FOB value.

VALUATION OF EXPORT GOODS

Valuation is essential for export goods even though many products are exempted from export duty under the Customs Law.

Importance of valuation of export goods:

- Duty Drawback
- Export incentives
- Refund of Tax Credit (GST), if any.
- Payment of duty on export, if any.

Questions

1. Write the differences between "Bill of export" and "import report" under the provisions of the Customs Act, 1962.

Solution:**Differences between "Bill of export" and "Import Report":**

Bill of Export	Import Report
As per Section 2(5) of the Customs Act, "Bill of export" means a bill of export referred to in section 50 of the Customs Act, 1962	As per Section 2(24) of the Customs Act, "Import manifest" or "Import report" means the manifest or report required to be delivered under section 30 of the Customs Act, 1962
The exporter of any goods shall make entry thereof by presenting to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in the prescribed form.	The person in charge of a vehicle carrying imported goods or any other person as may be notified by the Central Government shall, in the case of a vehicle, deliver to the proper officer an import report within 12 hours after its arrival in the customs station, in the prescribed form.

2. Pyramid Expo Ltd. has exported some goods by air. The FOB price of goods exported is US \$ 50,000. The shipping bill was presented electronically on 7-3-20XX and Let Export Order is passed by proper officer on 19-4-20XX. The rate of exchange notified by CBIC on 7-3-20XX and 19-4-20XX are 1 US \$ = ₹ 85 and 1 US \$ = ₹ 84 respectively. Compute the export duty payable by Pyramid Expo with the help of following details provided.

Particulars	Date	Rate of Duty
Presentation of shipping bill	7-3-20XX	12%
Let Export order	19-4-20XX	10%

Solution:**Computation of export duty**

Particulars	Amount (US \$)
Assessable Value	50,000
	Amount (₹)
Assessable Value = US \$ 50,000 x ₹ 85	42,50,000
Export duty @ 10%	4,25,000

Notes:-

- 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.
- 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 CBIC **on date of presentation of shipping bill of export**.
- 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.

Valuation of exported goods

*The value of export goods shall be deemed to be the price at which such or like goods are ordinarily sold or offered for sale for delivery **at the time and place of exportation in the course of international trade.***

The above price is taken into consideration only when following conditions are satisfied -

- a) The seller and the buyer have **no interest in the business of each other**;
- b) One of them has no interest in the business of other; and
- c) **The price is the sole consideration for the sale or offer for sale.**

Notes:

1. Price shall be calculated with reference to the rate of exchange as in force on the date on which a shipping bill or bill of export is presented. It is to be noted that rate determined by the Board shall be considered.
2. Generally, free on board value shall be considered as price for export. If the export sale contract is a CIF contract, **then post exportation elements like insurance, freight are required to be adjusted.**

The Customs Valuation (Determination of Value of Export Goods) Rules, 2007**Rule 1:**

- (i) These rules may be called the **Customs Valuation (Determination of Value of Export Goods) Rules, 2007.**
- (ii) They shall come into force **on the 10th day of October, 2007.**
- (iii) They shall **apply to export goods.**

Rule 2: Definitions

- A. **“Goods of like kind and quality”** means export goods which are **identical or similar in physical characteristics, quality and reputation** as the goods being valued, and perform the **same functions or are commercially interchangeable** with the goods being valued, produced by the same person or a different person; and
- B. **“Transaction value”** means the value of export goods within the meaning of sub-section (1) of section 14 of the Customs Act, 1962.

Rule 3: Determination of the method of valuation

- (i) Subject to rule 8, the value of export goods **shall be the transaction value.**
- (ii) The transaction value shall be accepted **even where the buyer and seller are related**, provided that the relationship has not influenced the price.
- (iii) If the value cannot be determined under the provisions this rule, the **value shall be determined by proceeding sequentially through rules 4 to 6.**

Rule 4: Determination of export value by comparison

1. The value of the export goods shall be based on the transaction value **of goods of like kind and quality** exported **at or about the same time** to other buyers in the **same destination country** of importation or in its absence **another destination country of importation adjusted in accordance** with the provisions of sub-rule (2).
2. In determining the value of export goods under sub-rule (1), the **proper officer shall make such adjustments as appear to him reasonable**, taking into consideration the relevant factors, including-
 - ✓ difference in the dates of exportation
 - ✓ difference in commercial levels and quantity levels

- ✓ difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared
- ✓ difference in domestic freight and insurance charges **depending on the place of exportation**

Rule 5: Computed value method

If the value cannot be determined under rule 4, **it shall be based on a computed value**, which shall include the following-

- ✓ cost of production, manufacture or processing of export goods
- ✓ charges, if any, for the design or brand
- ✓ An amount towards profit

Rule 6: Residual method

Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, **the value shall be determined using reasonable means consistent with the principles and general provisions of these rules** provided that local market price of the export goods **may not be the only basis** for determining the value of export goods.

Rule 7: Declaration by the exporter

The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.

Rule 8: Rejection of declared value

- a. When the proper officer **has reason to doubt the truth or accuracy** of the value declared in relation to any export goods, **he may ask the exporter** of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response from such exporter, the proper officer **still has reasonable doubt** about the truth or accuracy of the value so declared, **the transaction value shall be deemed to have not been determined in accordance with rule 3.**
- b. At the request of an exporter, the proper officer shall intimate the exporter in writing the **ground for doubting the truth or accuracy of the value declared** in relation to the export goods by such exporter **and provide a reasonable opportunity of being heard**, before taking a final decision

Note:

- i. *This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; **where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.***
- ii. *The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said inquiry in consultation with the exporter.*
- iii. **The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include-**
 - a) *the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.*
 - b) *the significantly higher value compared to the market value of goods of like kind and quality at the time of export.*
 - c) *the declaration of goods in parameters such as description, quality, quantity, year of manufacture or production.*