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GST SUPER 30 Questions

Think GST
Think Vishal Sir!

For JAN'26 Exams

By
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Note:- The content highlighted in green colour pertains to the amendments for January 2026.

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01 Supply Under GST

Question 1

Mr. Vijay, registered 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 him] from his stock, for the said purpose.

1) Examine whether the said activity amounts to supply u/s 7 of the CGST Act 2017.
2) Further, a Janakpuri resident, Ajay, approached Mr. Vijay. He sold an air conditioner to Mr. Vijay for ₹ 5,000. Ajay had bought the said air conditioner six months before, for his residence.
3) Mr. Vijay is planning to transfer some goods to his branch, registered in West Bengal, without any consideration, so that the goods can be sold from the branch. He believes that the transaction that will be undertaken by him would not qualify as supply as no consideration is involved.
4) On occasion of Diwali, M/s Veer Ltd distributes gift hamper to its employee worth ₹ 3,00,000. Does it qualify as supply?

   Would your answer be different, if gifts of ₹ 42,000 have been given to a employee?

   What would be your answer if Veer Ltd. pays ₹ 3,00,000 to its employees upon achieving a specified sales target. The incentive is part of the salary of the employees and applicable tax is deducted at source as per relevant income tax provisions.

   What would be your answer if Veer Ltd offers its employees ESPP as part of their compensation package. When an employee decides to purchase these stocks, Dheer Ltd. (Japan based Co – holding company) directly transfers the shares to the employee. Veer Ltd. reimburses Dheer Ltd. for the cost of these shares on a cost-to-cost basis & there is no separate commission charged by Dheer Ltd.
5) Mr. Vijay has appointed Mr. Jai to procure goods based on a specification given by him. As the same kind of goods are not available in the area of Mr. Vijay, Mr. Jai buys the specified goods on his behalf from M/s XYZ Ltd. For this activity, invoice is issued in the name of principal.
   a) Whether it is to be treated as a supply under GST?
   b) Would your answer differ if invoice is issued in name of an agent Mr. Jai?
6) Mr. Vijay received interior decoration services for his residence from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar.

   What would be your answer if Mr. Vijay received interior decoration services for his residence from his brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on him]. Further, Mr. Vijay did not pay any consideration for the said service.

   Will your answer change if in the above case, if Mr. Vijay has taken interior decoration services with regard to his business premises and not for his residence?
7) Mr. Vijay also sold a plot of land in Safdarjung Enclave after levelling, laying down of drainage lines, water lines and electricity lines.
8) Mr. Vijay also donated some money to Jansewa Charitable Trust in the memory of his late father. The Jansewa Charitable Trust constructed a room in the school run by it from such donation and wrote "Donated by Mr. Vijay in the memory of his father" on the door of the room so constructed.
9) Mr. Vijay also provides bus service, meal coupon, telephone at residence, gives vehicle for official and personal use, uniform, and shoes to his employee. Explain the implication of GST under this case, if:-
   a) These perquisites are provided as per the contract entered between employer and employee.
   b) These perquisites are provided willingly by employer for better performance of employee without any agreement.

10) Along with above, Mr. Vijay also provides services of betting & Online money gaming to his customers.

11) Mr. Vijay has made intra-state supply of Air Conditioners to customers in Delhi, Freight is separately charged in invoices for delivery of goods at customer's doorstep.

Particulars	Amount (₹)
Value of goods (GST @6% each for CGST & SGST)	4,00,000
Value of freight charges charged separately in above invoices (GST @5% each for CGST & SGST)	1,00,000

12) In order to enhance his sales and to clear the stock of old models of air - conditioner, Mr. Vijay made combo offers to customers wherein, if a customer purchases an Air-conditioner along with a stabilizer, the same is offered at a combo price of ₹ 20,000 as against the original price of ₹ 30,000 (Air-conditioner ₹ 22,000 & stabilizer ₹ 8,000) if these are purchased separately. During the year, Mr. Vijay had made inter-State supply of 10 numbers of such combo products.
   - Rates of Air Conditioners: GST @6% each for CGST & SGST & 12% for IGST.
   - Rates of Stabilisers: GST @ 9% each for CGST & SGST & 18% for IGST.

13) In addition to above, Mr. Vijay needs an insurance worth ₹ 50 crore. He approaches FUTURE Insurance Ltd. for the same. However, since FUTURE Insurance Ltd. is unable to underwrite the entire risk alone, it enters into a reinsurance agreement with a reinsurer - ROYAL Insurance Ltd. The total premium charged is ₹ 5 lakh. The insurer - FUTURE Insurance Ltd. pays a reinsurance premium of ₹ 1 lakh to ROYAL Insurance Ltd. This allows FUTURE Insurance Ltd. to manage its risk and financial exposure. While paying this amount to ROYAL Insurance Ltd., FUTURE Insurance Ltd. deducts a ceding commission of ₹ 50,000 which it has charged for the services it provides to ROYAL Insurance Ltd. ROYAL Insurance Ltd. pays GST on the gross reinsurance premium including the ceding commission. Discuss whether the Services by FUTURE Insurance Ltd. to ROYAL Insurance Ltd. for which ceding commission is deducted from reinsurance premium paid by FUTURE Insurance Ltd. to ROYAL Insurance Ltd. amounts to supply.

14) FUTURE Insurance Ltd. enters into a co-insurance agreement with BHARTI Insurance Ltd. where FUTURE Insurance Ltd. is the lead insurer. The insured – Mr. Vijay - pays a total premium of ₹ 10,00,000 which is apportioned by the lead insurer - FUTURE Insurance Ltd. between itself and BHARTI Insurance Ltd. in the ratio of 60:40 for the insurance services jointly supplied by them to Mr. Vijay. FUTURE Insurance Ltd. agrees to discharge the entire GST liability on the full amount of premium received from Mr. Vijay. Discuss whether the Apportionment of co-insurance premium by FUTURE Insurance Ltd. to BHARTI Insurance Ltd. for the insurance services jointly supplied by them to Mr. Vijay amounts to supply.

Determine whether the above activities fall under the purview of supply as per Section 7 of CGST Act.

Answer:

(1)	**Legal Provision:** ➲ As per **Section 7(1)(c) read with Para 1 of Schedule I** of CGST Act, 2017, Permanent transfer or disposal of business assets where input tax credit has been availed on such assets shall be **treated as supply** even when it is made without consideration. **Discussion & Conclusion:** ➲ In the given case, permanent transfer of air conditioners by Mr. Vijay from its stock for personal use at its residence **would amount to supply** even though it is made without consideration.
(2)	**Legal Provision:** ➲ As per **Section 7(1)(a),** Supply of goods and/or services should be for consideration and should be in the course or furtherance of business. **Discussion & Conclusion:** ➲ In the given case, sale of air conditioner by Ajay to Vijay will **not qualify as supply,** Although it is made for a consideration, but it is **not in the course or furtherance** of business.

(3)

Legal Provision:

➲ As per **section 7(1)(c) read with Schedule I**, 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.

Discussion & Conclusion:

➲ In the given case, since the Mr. Vijay and his branch located in another State are distinct persons.

➲ Thus, supply of goods between them would **qualify as supply.**

(4)

Legal Provision:

➲ As per **section 7(1)(c) read with Para 2 of Schedule I,** Supply of goods &/or services between related persons is treated as supply even if it is without consideration.

➲ **Proviso to para 2 of schedule I** states that if gifts given by employer to an employee are not exceeding ₹ 50,000 in value in a financial year, then it shall not be treated as supply of goods &/or services.

➲ As per **explanation to section 15**, employer & employee are deemed to be related persons.

➲ As per **CBIC clarification**, ESOP/ESPP/RSU is a part of employee's remuneration as per their contract & thus, it is **not a supply** as per para 1 of Schedule III.

➲ Securities/shares are neither goods nor services as per the definitions in the GST Act & thus, **its sale or purchase is not a supply.**

Discussion & Conclusion:

a) Diwali gift to employee worth ₹ 3,00,000 **will qualify as supply** and such supply would be leviable to GST as the employer & employee are related and value of gift exceeds ₹50,000 in a financial year.

b) If gift of ₹ 42,000 is given instead of ₹ 3,00,000, the same **will not qualify as supply.** This is because, the value of gift is not exceeding ₹ 50,000 in a financial year.

c)

➲ In this case, the amount paid as incentive by Veer Ltd. is **not in the nature of gift,** and thus, is not covered under Schedule I.

➲ Infact, the incentive is **part of the salary** and is directly linked to the sales target.

➲ Therefore, the services provided in course or in relation to employment by the employees for which incentives are given to them shall **not be treated as a "supply".**

d) The reimbursement from Veer Ltd. to Dheer Ltd. for the shares transferred to its employees, when done on a cost-to-cost basis, is **not subject to GST.** Also, the sale or purchase of shares is **not a supply** as these are not goods or services.

(5)

Legal Provision:-

➲ As per **Section 7(1)(c) read with Para 3 of Schedule I,** Supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal, shall be treated as supply even if made without consideration.

➲ As per CBIC clarification, if **invoice** for further supply is **being issued by agent in his own name,** then this activity is treated as supply under Para 3 Schedule 1, otherwise not.

Discussion:-

➲ In the given case, Mr. Jai (Agent) is appointed just to procure the goods on behalf of Mr. Vijay (Principal) and he is issuing invoice also in name of Mr. Vijay (Principal).

➲ He has not involved himself in the supply or receipt of goods in any way.

➲ Hence, **Mr. Jai is not an agent** of Mr. Vijay for the purpose of para 3 of schedule I.

Conclusion:-

a) **No,** it is **not to be treated as a supply** as per para 3 of Schedule I. This is because Mr. Jai (Agent) is issuing invoice in name of the Mr. Vijay (Principal).

b) **Yes,** if invoice is in the name Mr. Jai (Agent), then this transaction will be **treated as supply** as per para 3 of Schedule I.

(6) **Legal Provision:**

- As per **section 7(1)(b),** Supply includes import of services for a consideration whether or not it is in the course or furtherance of business.
- **Section 7(1)(c) read with Para 4 of Schedule I** of CGST Act, states that if services are imported by a person from a related person located outside India without consideration & that too in the course or furtherance of business, then it is treated as supply.
- **Explanation to section 15** states that members of the same family are deemed to be **"related persons".**
- Further, as per **section 2(49),** brother is treated member of same family only when he is wholly or mainly dependent on the said person.

Discussion & Conclusion:

a)	In the given case, although the import of service for consideration by Mr. Vijay is **not in course or furtherance of business**, it would be **treated as supply.**
b)	➢ In the given case, Mr. Vijay has received **interior decoration services** from his brother. ➢ Mr. Vijay and his brother shall be **considered to be related** as Mr. Vijay's brother is wholly dependent on him. ➢ However, Mr. Vijay has taken interior decoration services for his residence and not in course or furtherance of business. Consequently, services provided by Mr. Vijay's brother to him **would not be treated as supply** under section 7 read with Schedule I.
c)	If Mr. Vijay has taken interior decoration services for his business premises, services provided by Mr. Vijay's brother to him **would be treated as supply u/s 7 read with Schedule I,** as the same are provided in course or furtherance of business.

(7)

- GST is not payable by Mr. Vijay on sale of plot of land.
- As per **Para 5 of Schedule III** of CGST Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services. Hence, 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** by CBIC that sale of such developed land is also sale of land and is covered by Para 5 of Schedule III and accordingly **does not attract GST.**

(8) **Legal Provision:**

- As per **CBIC clarification**, it is clarified that in case of donations received by a charitable institution, when the name of the donor is displayed in recipient institution's premise as an expression of **gratitude and public recognition of donor's act of philanthropy and is not aimed at giving publicity** to the donor to advertise or promote his business, then it can be said that there is **no supply of service for a consideration (i.e. donation).**
- Donations received by charitable organisations are treated as consideration only if there exists, quid pro quo, i.e., there is an obligation on part of recipient of donation or gift to supply a service.
- **Thus, GST is not leviable where all the following three conditions are satisfied namely:**
  - ➢ Gift or donation is made to a charitable organization.
  - ➢ Payment has the character of gift or donation.
  - ➢ Purpose is philanthropic (i.e., it leads to no commercial gain) and not advertisement.

Discussion & Conclusion:

- In given case, the way the name of Mr. Vijay is displayed on the door of room constructed in school run by Jansewa Charitable Trust, **it is only an expression of gratitude and public recognition** of Vijay's act of philanthropy and is **not aimed at advertising or promoting his business.**
- There is no reference/mention of his publishing house to be advertised.
- Thus, the **money donated** by Mr. Vijay is **not leviable** to GST.

(9)

Legal Provision:

- As per **section 7(2) read with para 1 of Schedule III,** any service provided by an employee to employer in the course of or in relation to employment shall be treated neither as a supply of goods nor a supply of services & thus, not taxable.
- As per **CBIC Clarification,** if any perquisites are provided by employer to its employees as per the contractual agreement between them, such perquisites shall be treated as consideration for employee in relation to his employment & thus, gets covered under para 1 of Schedule III.
- As per **para 2 of Schedule I,** gift given by employer to an employee exceeding ₹ 50,000 in value in a financial year is treated as deemed supply & thus, taxable under GST.

Discussion & Conclusion:

a)	➢ In given case, perquisites are provided by employer to employee are as per the contract between them & is thus provided in relation to employment. ➢ It is **not treated as supply** under GST as per para 1 of Schedule III & not leviable to GST.
b)	➢ Here, perquisites are provided by employer to employee without any agreement between them & thus, are not provided in relation to employment. ➢ It is not covered under para 1 of Schedule III & thus, taxable. However, **GST is payable only on value exceeding of ₹ 50,000** in a financial year for an employee as per para 2 of Schedule I.

(10)

Legal Provision:

- As per **section 7(2) read with para 6 Schedule III,** Actionable claims other than specified actionable claim shall be treated **neither as a supply of goods nor a supply of services.**
- Specified actionable claims **includes** betting, gambling, lottery, horse racing & Online money gaming.

Discussion & Conclusion:

- In the given case, Mr. Vijay provides services of specified actionable claim to his customers which is not comes under Schedule III.
- Thus, it will be treated as **Supply & GST will be charged.**

(11)

- Since goods are agreed to be delivered at customer's doorsteps, supply of air- conditioners along with transportation thereof is a composite supply which is **treated as the supply of the principal supply.**
- Accordingly, rate of principal supply, i.e. **Rate @ 6% each** of air-conditioners will be charged.

(12)

- Since supplies are not naturally bundled and a single price is being charged, it is a **mixed supply.**
- It is treated as supply of that particular supply which attracts **highest tax rate** (i.e., stabilizers)

(13)

Legal Provision: 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 is neither supply of goods nor supply of services, subject to the condition that the GST is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said commission. **[Para 10 of Schedule III]**

Conclusion: In the given case, the reinsurer (ROYAL Reinsurers Ltd.) is liable to pay GST on the gross reinsurance premium payable by the insurer (₹1 lakh), inclusive of the ceding commission (₹50,000).

(14)

Legal Provision: 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 is neither supply of goods nor supply of services if lead insurer paid GST on entire premium and hence no GST is charged on the apportionment transaction. **[Para 9 of Schedule III]**

Conclusion:

- The lead insurer (FUTURE Insurance Ltd.) is required to pay the entire GST (CGST and SGST or IGST, as applicable) on the full premium amount paid by the insured – Mr. Vijay, of ₹10,00,000.
- The co-insurer, BHARTI Insurance Ltd. does not pay GST on its share of the premium separately.

02 Reverse Charge Mechanism & ECO

Question 2

Om, Jai & Jagdish are three partners in Om Textiles, a partnership firm who are engaged in manufacturing of textiles & trading of garments & registered under GST. From the following information determine the person liable to pay GST, if both Supplier and Recipient are located in India:

1) Mr. Om who is partner in Om Textile supplies Silk yarn & Raw cotton to ABC Pvt. Ltd. who is registered under GST.

2) Om Textiles provides Sponsorship services to Mr. Manish Malhotra for a fashion week.

3) Om Textiles, Pune had appointed a senior advocate Ms. Priya for representation of firm's legal matter. Would your answer differ if Om Textile appoints local advocate Mr. Sagar who further appoints Ms. Priya for representation?

4) Om Textiles has availed the service by way of renting of motor vehicle from Mr. Poonawala for the total consideration of ₹ 1.5 lakhs (including cost of fuel). Mr. Poonawala opted for paying tax @ 5% (i.e. 2.5% CGST & 2.5% SGST) and avail input tax credit of input service received from supplier who is also engaged in same line of business.

5) Rental income received by State Government from renting an immovable property to Om Textiles.

6) Mr. Jagdish who is also an independent director of A2Z Pvt. Ltd. has received sitting fee amounting to ₹ 1 lakh from A2Z Pvt. Ltd for attending the Board meetings.

7) Om Textiles also rented out its 5 residential units to Rudra Technologies, an IT based firm registered in the State of Haryana, for accommodation of its employees.

8) Om Textiles availed services of GTA for transportation of goods by road from factory to its Showroom and paid freight of ₹ 1,00,000 where the GST is charged at the rate applicable. GTA is registered under GST & has exercised the option to pay tax under forward charge. What will be your answer if GTA has not exercised the option to pay tax under forward charge?

9) If Om Textiles cancelled its GST registration and then rents out its commercial property (non-residential) to ABC Pvt. Ltd. who is registered under GST for the purpose of setting up their office. Would your answer, differ if ABC Pvt. Ltd. opt for Composition Scheme.

10) Mr Jai booked tickets in Omnibus from VRL travels Pvt. Ltd through redBus for travelling from Mumbai to nashik. Would your answer differ if Mr Jai booked tickets from Geeta tours through redBus.

11) Mr. Om visits Goa for Business trip where hotel owner provides accommodation through Electronic Commerce operator "cool trips". The hotel owner is not liable to get registered as per the provisions of section 22(1) of the CGST Act. Would your answer differ if the ECO Cool Trips does not have a physical presence in India?

Answer:

(1)	**Legal Provision:** ➲ As per **section 9(3)** of CGST Act 2017, if **silk yarn** is provided by manufacturer & **Raw cotton** is provided by Agriculturist to any registered person, then GST is payable under reverse charge by the recipient. **Discussion & Conclusion:** ➲ In the given case, silk yarn is provided by Mr. Om who is a manufacturer, to ABC Pvt. Ltd, thus **tax is payable by ABC Pvt. Ltd.** under reverse charge. ➲ Whereas Raw cotton is provided by Mr. Om who is not an agriculturist, thus **reverse charge** provisions **will not be attracted here** & tax is to be paid by Om Textiles under Forward charge.

(2)	**Legal Provision:** As per **section 9(3)**, if **sponsorship services** are provided by **any person other than body corporate** to any body corporate or partnership firm located in the taxable territory, then GST is payable under reverse charge by recipient. **Discussion & Conclusion:-** ➲ In the given case, sponsorship services have been provided to an individual. ➲ Thus, the **reverse charge** provisions **will not be attracted** here. ➲ So, partnership firm i.e. the **supplier is liable to pay GST** under forward charge.
(3)	**Legal Provision:** ➲ As per **section 9(3)**, if **legal services** are provided by an individual advocate including a senior advocate to any business entity located in the taxable territory, then the GST is payable on reverse charge basis by recipient. ➲ Legal services include representation made on legal matters. **Discussion & Conclusion:** a) In the given case, Priya is a senior advocate providing representational service to a business entity i.e., Om Textiles., Pune. Therefore, **Om Textiles is to be liable to pay GST** under reverse charge for services provided by Ms. Priya. b) **No,** because the liability to pay GST will be on Om Textiles only even though Ms. Priya is appointed through another local advocate Mr. Sagar.
(4)	**Legal Provision:** ➲ As per **section 9(3) read with relevant notification**, If service by way of Renting of any motor vehicles, designed to carry passengers, (where the cost of fuel is included in the consideration charged from the service recipient), provided by any person other than body corporate (paying GST @ 5%, with limited ITC), to a body corporate, then Body corporate (being recipient) is liable to pay tax under reverse charge. **Discussion & Conclusion:** ➲ In the given case, Mr. Poonawala provided service of renting of motor vehicle to Om Textiles (who is not a body corporate) & opted to pay GST @5% ➲ Therefore, Mr. Poonawala is liable to pay tax under Forward Charge.
(5)	**Legal Provision:** ➲ As per **section 9(3)**, if service of **renting of immovable property** is provided by the Central Government **[excluding the Ministry of Railways (Indian Railways)],** State Government, Union territory or local Authority to **any registered person** located in the taxable territory, then GST is payable under reverse charge by recipient. **Discussion & Conclusion:** ➲ In the given case, Om Textiles is registered under GST & the State Government provided service of renting of immovable property to a registered person located in taxable territory. ➲ Therefore, **Om Textiles is liable to pay GST** under reverse charge.
(6)	**Legal provision:** As per **section 9(3)**, if services are provided by **director** to the company located in taxable territory, then the company (recipient) is liable to pay tax under reverse charge. **Conclusion:** Therefore, in the given case, person **liable to pay GST is the recipient of services**, i.e., A2Z Pvt. Ltd.
(7)	**Legal Provision:** ➲ Services provided to an unregistered person by way of renting of residential dwelling for use as residence is **exempt** from GST. ➲ If the residential dwelling is rented to a registered person, **exemption is not available.** ➲ Further, as per section 9(3) of CGST Act, 2017, tax on service provided by way of renting of residential dwelling to a registered person is payable by the recipient under reverse charge.

	Discussion & Conclusion: In given case, **Rudra Technologies is liable to pay GST** on the residential dwellings taken on rent by it from Om Textiles, under reverse charge mechanism.
(8)	**Legal Provision:** ➲ As per **section 9(3)** of CGST Act, if service of transportation of goods by road is provided by a GTA to a is a specified recipient, i.e., a partnership firm established by or under any law, then **such partnership firm is liable to pay tax under reverse charge.** ➲ However, if the registered GTA has exercised the option to pay tax under forward charge on transportation of goods and also issued a tax invoice to the recipient charging Central Tax at the applicable rates with a declaration thereon, then the **GTA is liable to pay tax under forward charge.** **Discussion & Conclusion:** ➲ In the first case, Om Textiles is a specified recipient, i.e., **a partnership firm** established by or under any law liable to pay freight. ➲ However, GTA has exercised the option to pay tax under forward charge and also issued a tax invoice charging GST at the applicable rate. ➲ Therefore, **GTA is liable to pay GST** under forward charge. ➲ In the second case, if GTA has not exercised the option to pay tax under forward charge, then Om Textiles, being a specified recipient, is **liable to tax under reverse charge.**
(9)	**Legal Provision:** As per **section 9(3)** of CGST Act, if service of renting of immovable property other than residential dwelling is provided by the **any unregistered person to any registered person except composition dealer** located in the taxable territory, then GST is payable by **recipient** under reverse charge. **Discussion & Conclusion:** ➲ In the given case, Om Textiles is unregistered and provides services of **renting of immovable commercial property** to ABC Pvt. Ltd who is registered under GST. ➲ Thus ABC Pvt. Ltd. is liable to pay GST under Reverse charge mechanism. ➲ However, in the 2nd case, No tax is payable as M/s ABC Pvt. Ltd. opts for Composition Scheme.
(10)	**Legal Provision:** ➲ As per **sec 9(5) read with CBIC notification,** If services provided by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company., then the tax shall be paid by Electronic Commerce operator, if such services are supplied through it. **Discussion & Conclusion:** ➲ In the given case, VRL Travels Pvt. Ltd provides Omnibus services to Mr. Jai, thus Supplier (ie **VRL Travels Pvt. Ltd. is liable to pay tax.** ➲ In the Second case, transportation services are provided by Geeta tours which is not a company, thus **ECO (ie redBus) is liable to pay tax.**
(11)	**Legal Provision:** ➲ **As per sec 9(5) of CGST Act read with CBIC notification,** if services provided by way of accommodation in hotels through ECO, then the tax shall be paid by Electronic Commerce operator. **Conclusion:** ➲ In the given case, Cool Trips provides hotel accommodation to Mr. X in Goa ➲ Thus, person liable to pay GST is the Electronic Commerce Operator -Cool Trips. ➲ All the provisions of the GST law shall apply to such Cool trips as if it is the supplier liable for paying the tax in relation to the supply of such services. ➲ If Cool Trips does not have a physical presence in India, person liable to pay tax is the person representing the Cool Trips for any purpose in India.

Question 3

Discuss the GST implication in the following case study.

It was a busy Monday morning in Mumbai, and Ravi, a software developer, needed a quick ride to the office. He opened an app FastCabs (an ECO) to book a motorcab. The app connected him to Mohan, an independent driver operating his own motorcab.

After a long workday, Ravi needed a place to stay overnight. He found BudgetStay, an unregistered hotel located near his office. BudgetStay had no GST registration but listed its rooms on an online travel platform operated by an ECO called StayEasy. Ravi booked a room through StayEasy and was charged for his stay.

The next morning, Ravi discovered a leaking pipe in his bathroom. In panic, he used the app QuickFix, which connected him to Suresh, an unregistered plumber. QuickFix was an online platform (ECO) that specialized in providing various home services such as plumbing and carpentry.

After the long day, Ravi decided to have dinner & ordered food through Zomato from The Royal Dine, located inside a luxury hotel. The hotel had a declared tariff of ₹10,000 per unit per day for its rooms, which qualified it as a specified premises under GST law.

Answer:

(a)	Since the ride was booked through FastCabs, thus FastCabs (the ECO) handled the GST collection and payment
(b)	➲ Since the service was provided through StayEasy (the ECO), GST will be applicable. ➲ However, if BudgetStay exceeded the GST registration threshold (₹20 lakhs turnover), it would have to register under GST, and then it would be responsible for handling the GST, not the ECO.
(c)	➲ Suresh's plumbing service was provided through an ECO (QuickFix), thus GST will be applicable. ➲ If Suresh gets registered under GST in the future, QuickFix would no longer be responsible for collecting the GST.
(d)	➲ Since the restaurant was located in a specified premises (the luxury hotel), no GST was applied to the meal. ➲ The ECO would not charge GST because the restaurant was part of a hotel with a tariff above ₹7,500.

03 COMPOSITION SCHEME

Question 4

Mr. Amar is running a consultancy firm and also a readymade garment showroom which are registered under same PAN. Turnover of the showroom is ₹35 lakhs and Receipt of the consultancy firm is ₹15 Lakhs in the current financial year. Based on above information, Answer the following questions independently.

a) Whether Mr. Amar is eligible for Composition Scheme u/s 10(1) of CGST Act (Assume turnover in state of preceding financial year is ₹10 Lakhs)?

b) If instead of consulting agency, Mr. Amar is running a Restaurant, whether he is eligible for composition?

c) If the turnover of Garment showroom is ₹1.5 Cr in the preceding financial year and there is no consultancy firm, whether he is eligible for Composition?

d) Mr. Amar has registered offices in Maharashtra & Punjab & supplies goods in neighbouring States

e) Mr, Akbar who is brother of Mr. Amar is a manufacturer of Building Bricks in State of Maharashtra. His turnover for the year does not exceed ₹1.5 Crore. He wants to take advise from Mr. Amar for eligibility of composition levy?Is he eligible?

f) Mr. Amar also decided to supply readymade garments through Amazon (i.e ECO).Can he do so?

g) Can Mr. Amar, having registration in multiple states, opt for payment of tax under composition levy only in one state and not in other state?

h) Can Mr. Amar who has opted to pay tax under the composition scheme avail Input Tax Credit on his inward supplies & collect tax on his outward supplies

i) Mr. Amar availing composition scheme, under sub-sections (1) & (2) of section 10, in Maharashtra. 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?

j) What are the penal consequences if Mr. Amar opts for the composition scheme & he is involved in violation of the conditions?

k) Are monthly returns required to be filed by Mr. Amar opting to pay tax under the composition scheme?

l) Can the option to pay tax under composition levy be exercised by Mr. Aniket who is relative of Mr. Amar at any time of the year?

Answer:

Legal Provision:-

- As per **section 10(1) read with second proviso thereto,**
  - a person providing Restaurant service can opt for composition scheme without any limit for supplying such service &
  - person who opts to pay tax u/s 10(1) may supply services (other than Restaurant service) in current financial year, of value not exceeding **higher of:-**
    - A 10% of turnover in a State or UT in the preceding financial year or
    - A ₹5 Lakhs.
- As per **section 10(2)(a)** of CGST Act, if any person is engaged in supply of services except as allowed above, then such person is ineligible for composition levy u/s 10(1).
- As per **section 10(2A)** of CGST Act, if a registered person is not eligible to opt to pay tax u/s 10(1) & (2) & has aggregate turnover in preceding financial year not exceeding ₹50 Lakhs, then such person can opt to pay tax under composition scheme under section 10(2A).
- As per **sections 10(2(c) & 10(2A)** of CGST Act, Supplier who is engaged in making any inter-State outward supplies of goods or services is not eligible to opt for composition scheme u/s 10(1) & 10(2A) respectively
- As per **section 10(2)(d) & section 10(2A),** the persons making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52 shall not be eligible to opt for Composition levy.
- As per **section 10(2)(e) of CGST Act**, a registered person manufacturing notified goods, one of which is Building

Bricks, is not eligible to opt for composition scheme u/s 10(1).

Discussion & Conclusion :-

a)	**No,** Mr. Amar is **not eligible** for composition scheme **u/s 10(1)** because:- ➲ he is supplying consultancy service of Rs 15 lakhs in current financial year ➲ which is more than the limit allowed ₹5 Lakhs (i.e., 10% of ₹10 lakhs or ₹5 lakhs, whichever is higher) But, Mr. Amar **can opt** for composition scheme **u/s 10(2A)** as his aggregate turnover in preceding financial year ₹10 Lakhs which is not exceeding ₹50 Lakhs
b)	**Yes,** as Mr. Amar is providing Restaurant services which **are eligible** for composition **scheme u/s 10(1) read with second proviso to section 10(1)** without any limit for providing such service and hence, not becoming ineligible u/s 10(2)(a) also.
c)	**Yes,** Mr. Amar, being a trader, **is eligible** for composition scheme **u/s 10(1)** and his aggregate turnover also is not exceeding ₹1.5 Crore in the preceding financial year.
d)	➲ In the given case, Mr. Amar supplies goods in neighbouring States. ➲ Thus, It is **not eligible** for composition levy **u/s 10** as it is making outward inter-state supply
e)	➲ In given case, Mr. Akbar is a manufacturer of Building Bricks which is a notified good u/s 10(2)(e). ➲ Therefore, he is not eligible to opt for composition levy scheme u/s 10, even if his aggregate turnover does not exceed ₹1.5 crore.
f)	➲ In the present case, Mr. Amar **supplies goods** through ECO, the restriction is only on services, that means composition dealer can make supply of goods through such ECO. ➲ Thus, Mr. Amar is **eligible** to opt for composition scheme.
g)	➲ **No,** Mr. Amar shall not be eligible to opt for the composition scheme u/s 10 unless all such registered persons (i.e., branches having separate registration under a single PAN) opt to pay tax under composition scheme. ➲ This scheme would **be applicable to all registrations separately held by person with same PAN.**
h)	➲ **No,** As per **section 10(4)** of CGST Act, any taxable person opting to pay tax under the composition scheme u/s 10(1) & 10 (2A) ➲ shall neither collect any tax from recipient on supplies made by him nor shall be entitled to any credit of input tax
i)	➲ **No.** As per **section 10(3)** of CGST Act, the option availed of by a registered person u/s 10(1) **lapses with effect from the day** on which his aggregate turnover during a financial year **exceeds the threshold limit** as specified u/s 10(1) of ₹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. ➲ After filing such intimation, he may furnish a statement in prescribed form **within a period of 30 days from the date from which the option is withdrawn** containing details of:- ➤ 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.
j)	As per **Section 10(5)**, if a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, then the person would be **liable to penalty in addition to tax payable by him to be determined as per section 73 or 74 or 74A** of CGST Act.
k)	➲ **No,** Person opting to pay tax under composition scheme are required to electronically filed GSTR-4 on yearly basis. Due date of filing **GSTR-4 is 30th June** following the end of financial year ➲ However, they are required to furnish a statement every quarter or part thereof containing the details of payment of self-assessed tax in **FORM GST CMP-08** till the 18th of the month succeeding such quarter.
l)	➲ No. The option is required to be given electronically in **FORM GST CMP-02,** prior to the commencement of the relevant financial year. ➲ But if Mr. Aniket applied for registration in between the year then he can opt for composition scheme by filling the details in Part B of **FORM GST REG-01.**

04 VALUE OF SUPPLY

Question 5

XYZ Pvt. Ltd. has supplied machinery to ABC Pvt. Ltd., It provides following particulars regarding the same:-

Particulars	Amount (₹)
List price of the Machine (exclusive of taxes and discount)	2,50,000
Trade discount is allowed at 3% on the basic price and is shown in the invoice	7,500
Tax levied by the Municipal Authority on the sale of such goods	6,000
Paid to one of the vendors by ABC Pvt.in relation to the service provided by the vendor to XYZ Pvt. Ltd. (not included in the list price above)	2,000
Packing charges (not included in the list price above)	2,500
Freight charges for delivery of the machine	1,500
ABC Pvt. Ltd. delayed the payment and paid as interest to XYZ Pvt. Ltd (including GST@18%)	5,000
Subsidy received from a NGO, directly linked to price	3,000
Subsidy received by the supplier from the State Government	5,000
XYZ Pvt. Ltd. offers 2% turnover discount on the list price after reviewing the performance of ABC Pvt. Ltd. The discount was not known at the time of supply.	-
XYZ Pvt. 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.	-
XYZ Pvt. Ltd. collected TCS under the provisions of the Income Tax Act 1961	9,500

Determine the value of taxable supply made by XYZ Pvt. Ltd. under GST law.

Answer: Computation of value of taxable supply made by XYZ Pvt. Ltd:

Particulars	Amount (₹)	Remarks
List price of the goods (exclusive of taxes & discount)	2,50,000	-
Less: 3% Trade discount on basic price of machinery	(7,500)	Discount given before or at the time of supply if duly recorded in invoice is **deductible** from the value of supply. **[Sec 15(3)(a)]**
Tax levied by Municipal Authority on the sale goods	6,000	Tax other than GST are includible in value, if charged separately. **[Sec 15(2)(a)]**
Payment made by ABC Pvt. Ltd. for service provided by vendor to XYZ Pvt Ltd.	2,000	Amount that supplier is liable to pay, but incurred by the recipient, is **includible** in the value of supply. **[Sec 15(2)(b)]**
Packing charges	2,500	The value of supply shall **include** incidental expenses, including commission and packing charges, charged by supplier to recipient. **[Sec 15(2)(c)]**
Freight charges for delivery of the goods	1,500	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. **[Section 15(2)(c).]**

Interest for delayed payment (rounded off)	4,237 (5,000* 100/118)	The value of supply shall **include** Interest or late fee or penalty for delayed payment of any consideration for supply. **[Sec 15(2)(d)]**
Subsidy received from NGO	3,000	Subsidy is received from a non-Govt. body and directly linked to the price, the same is **includible** in the value of supply. **[Sec 15(2)(e)]**
Subsidy received by the supplier from the SG	-	The value of a supply includes subsidies directly linked to the price, **excluding** subsidies provided by the SG & CG. **[Sec 15(2)(e)]**
Turnover discount	-	Since discount is not known at the time of supply, it is **not deductible** from the value of supply. **[Sec 15(3)]**
Less: Additional 1% discount at year end	Nil	Though the additional discount is established before or at the time of supply, it is **not deductible** from value as the same is not linked to any specific transactions & is adjusted by parties at the end of financial year. **[Sec 15(3)(b)]**
Amount of TCS Collected	-	TCS is **not includible** in the value of supply as it is an interim levy not having the character of tax.
Taxable Value of Supply	**2,61,737**	

05 TIME OF SUPPLY

Question 6

Determine the Time of supply for the purpose of payment of tax under CGST Act in the below cases.

1) A Ltd., registered under GST, is engaged in supplying of engineering goods as well as job work of engineering goods, A Ltd. provides following details regarding orders received for Supply of goods & Job work:-

Event	Supply of goods	Jobwork
Date of confirmation of order	08.01.20XX	01.03.20XX
Date of receipt of advance of 1,50,000	12.01.20XX	03.03.20XX
Date of removal of goods or completion of order	17.01.20XX	06.03.20XX
Date of issue of invoice for total amount	22.01.20XX	11.03.20XX
Date of receipt of balance payment of 1,00,000	01.01.20XX	16.03.20XX

2) A Ltd. has purchased the goods taxable on Reverse charge basis from B Ltd. invoice dated May 4.
A Ltd. received the goods on May 12 & makes payment for the same on May 30.
What would be your answer if goods are received on June 12.

3) A 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.

4) Investigation shows that A Ltd. 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 A Ltd.
A Ltd. have not issued invoice or entered the payment in their books of account.

5) A firm of advocates issues invoice for services to A Ltd. on 17th Feb. The payment is contested by A 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.

6) Meal coupons are sold to A Ltd. on 9th August for being distributed to the employees of the said company. The coupons are valid for six 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.

7) An income-tax and money laundering case against Mr. A who is an employee of A Ltd, working in reveals a large volume of undisclosed assets, which he claims as service income. On this basis, the GST authorities investigates 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. A voluntarily pays GST during the investigation.

8) A Ltd. supplied goods for ₹ 50,000 to its customer Mr. C on 1st January on the condition that payment for the same will be made within a week. However, Mr. C 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?

9) A Ltd. took telecommunication service from BSNL. For the month of January, 20XX, the bill amount was ₹ 5,000. It made a payment of ₹ 5,500 with an instruction to adjust the excess payment against next month's bill, and hence the same was adjusted by BSNL in case of his next month bill payable on 05/03/20XX (invoice issued on same date).
What would be your answer, if A Ltd. make payment of ₹ 6,500?

10) A Ltd. received legal services from Purohit Consultants who is not registered under GST on March 1, 20XX. The legal services are subject to GST under the RCM. A Ltd. issued an invoice for the services on March 10, 20XX & supplier has not issued the invoice as it is unregistered. A Ltd. made the payment for the legal services on May 02, 20XX. Determine Time of Supply.

What would be your answer if Purohit Consultants is registered under GST & invoice is issued by it only & not by A Ltd. on March 5, 20XX.

Answer:

1) a) Time and value of supply in case of supply of goods:-

Legal Provision:

- As per **section 12(2) of CGST Act, 2017 read with notification 66/2017,** the time of supply of goods taxable under forward charge shall be **earlier** of the following dates:-
  - Date of issue of invoice or
  - last date to issue the invoice u/s 31 (i.e. before or at the time of removal of goods for supply to the recipient, where supply involves movement of goods).
- As per **notification 66/2017,** the time of supply of goods is not on advance received & this is applicable to all registered persons except composition supplier & **registered person making supply of specified actionable claim.**

Conclusion:

- Thus, the time of supply for advance of ₹1,50,000 as well as for balance payment of ₹1,00,000 is **17.01.20XX** which is the date of removal of goods.
- Value of supply is ₹2,50,000.

b) Time and value of supply in case of job work:-

Legal Provision:

- As per **section 13(2)(a),** if invoice is issued within the time prescribed u/s 31 (i.e. within 30 days) for supply of services, then the time of supply of such services shall be **earlier** of:-
  - the date of issue of invoice by the supplier or
  - the date of receipt of payment

  (to the extent the invoice/payment covers the supply of services).

Conclusion:

- Thus, the time of supply for advance of ₹1,50,000 received for the supply of job work services is **03.03.20XX** and for balance payment of ₹1,00,000 is 11.03.20XX.
- Value of supply is ₹2,50,000.

2) Legal Provision: As per **section 12(3)** of CGST Act, 2017, if **supply of goods is taxable under reverse charge,** then the time of supply of goods shall be the **earliest** of the following dates:-

a) Date of **receipt** of goods or

b) Date of **payment** which shall be earlier of following:-
- date entered in the books of account of the recipient or
- date on which the payment is debited in his bank account.

c) Date immediately **following 30 days** from date of issue of invoice by the supplier. (Here, date of invoice is relevant only for calculating thirty days from that date.)

Discussion & Conclusion:

1) In 1st case, **May 12** will be the time of supply of goods taxable under reverse charge being **earlier of:-**
- Date of receipt of goods i.e. May 12 or
- Date of payment made i.e. May 30 or
- June 4 being 31st day from date of invoice which is May 4.

2) In 2nd case, **May 30** will be the time of supply being the earliest of dates as per section 12(3).

3)	**Legal Provision:** ➲ As per **section 13(2)(b),** if invoice is not issued within the time prescribed u/s 31 for supply of services, then the time of supply of such services shall be **earlier of:-** ➢ the date of provision of service or ➢ the date of receipt of payment. ➲ As per **section 31(2)**, generally, the tax invoice shall be issued within 30 days of supply of service & in case of banking & FI, it should be within 45 days. **Discussion & Conclusion:** ➲ In the given case, the advance payment was received on 5th January and the service was provided on 23rd April. ➲ However, **no invoice was issued** even after the expiry of prescribed period for issue of invoice. ➲ Therefore, the time of supply of service is **5th January** which is the date of receipt of payment.
4)	**Legal Provision:** ➲ As per **section 13(2)(c)**, if time of supply of service cannot be determined u/s 13(2)(a) & 13(2)(b), then the time of supply shall be:- ➢ date on which the recipient shows the receipt of services in his books of account. **Discussion & Conclusion:** ➲ In the given case, time of supply cannot be determined as per section 13(2)(a)/(b) as neither the invoice has been issued nor the date of provision of service is available & the date of receipt of payment in the books of the supplier is also not available. ➲ Now, the time of supply as per section 13(2)(c) shall be the date on which the recipient of service shows receipt of the service in his books of account. ➲ Thus, the time of supply will be **4th April** which is the date on which the Apartment Owners' Association records the receipt of service in its books of account.
5)	**Legal Provision:** ➲ As per **section 9(3),** if legal services are provided by firm of advocates to any business entity located in the taxable territory, then the GST is payable on **reverse charge** basis by recipient. ➲ As per **section 13(3)**, the time of supply of service taxable under reverse charge is **earlier** of the following:- ➢ Date of payment made by the recipient. ➢ Date immediately following 60 days from date of issue of invoice by the supplier. ➢ **Date of issue of invoice (Self Invoice) by the Recipient, in cases where invoice is to be issued by the recipient** **Discussion & Conclusion:** ➲ In the given case, the date of payment (i.e. 3rd November) comes subsequent to 61st day (i.e. 19th April) from the date of issue of invoice by the supplier of service. ➲ Hence, the **time of supply of service** as per section 13(3) shall be **19th April.**
6)	**Legal Provision:-** ➲ As per **section 12(4)** , time of supply of vouchers issued by supplier of goods shall be:- ➢ the date of issue of voucher, if the supply is identifiable at that point; or ➢ the date of redemption of voucher, in all other cases. **Discussion & Conclusion:-** ➲ In the given case, supply is **not identifiable** at the time of issue of coupon. ➲ This is because coupons can be used for a variety of food items, which are taxed at different rates & thus, supply cannot be identified at the time of purchase of the coupons. ➲ Therefore, the TOS of coupons shall be **date of redemption of coupons** by employees.
7)	**Legal Provision:** As per **section 13(5),** where it is not possible to determine the time of supply under section 13(2), 13(3) and 13(4), then:- a) **In a case where a periodical return has to be filed:-** Time of supply shall be the date on which such return is to be filed (i.e. Due date for filing of periodical return) or b) **In any other case:-** The time of supply shall be the date on which the tax is paid.

Discussion & Conclusion:

➲ In the given case, it is **not possible** to determine the time of supply using:-

- ➢ date of invoice,
- ➢ date of provision of service,
- ➢ date of receipt of payment &
- ➢ date of receipt of services in the books of account of the recipient.

➲ On the other hand, Mr. A, being an employee in a company, is not a registered person and hence, the periodical return is also not to be filed.

➲ Therefore, the **date of payment of GST by Mr. XYZ will be the time of supply u/s 13(5).**

8) **Legal Provision:-**

➲ As per **section 12(6),** the time of supply for the **addition in value** of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date of receipt of such addition in value by supplier.

Discussion & Conclusion:-

➲ Thus, in the given case, the **time of supply of interest** would be the date on which the supplier has received such additional consideration, i.e. **2nd February.**

9) **Legal Provision:-** As per **proviso to section 13(2)**, if supplier of taxable services receives upto Rs 1,000/- in **excess** of the amount indicated in the tax invoice, then the supplier has the option to take the date of issue of invoice for such excess amount as the time of supply for such excess.

Discussion & Conclusion:-

(1) **If A Ltd. makes the payment of ₹ 5,500:-**

➲ In the given case, **excess amount paid is ₹ 500** (which is not exceeding ₹ 1,000) as the January, 20XX bill was for ₹ 5,000 & payment made ₹ 5,500.

➲ Therefore, time of supply of such excess amount is **05/03/20XX** i.e. date of invoice for such excess as per proviso to section 13(2).

(2) **If A Ltd. makes the payment of ₹ 6,500:-**

➲ Here, the excess payment is ₹ 1,500 which exceeds ₹ 1,000.

➲ In such case, above **proviso is not applicable.**

➲ Therefore, as per section 13(2), the **time of supply shall be the date of receipt** of such excess advance amount.

10) **Legal Provision:** If supply of services is liable under reverse charge, then time of supply of services shall be the **earliest** of the following dates: **[Sec 13(3)]**

a) Date of payment by recipient (i.e., earlier of book entry or debit to bank)

b) 61st day from supplier's invoice, in cases where invoice is required to be issued by the supplier or

c) Date of issue of invoice (Self Invoice) by the Recipient, in cases where invoice is to be issued by the recipient.

Discussion & Conclusion:

➲ In given case, Purohit Consultants is **not registered** under GST, so it is not required to issue invoice, so condition of 61st day from issuance of invoice by supplier is not relevant here.

➲ Thus, Time of Supply will be **earlier** of following:

a) Date of payment is May 02, 20XX.

b) Date of issue of invoice by A Ltd. (recipient) is **March 10, 20XX.**

➲ Therefore , TOS will be March 10, 20XX.

➲ In the second case, invoice is issued by Purohit Consultants, So TOS will be **earlier of:**

a) Date of payment is May 02, 20XX

b) 61st date from the invoice issuance date by the supplier i.e May 5, 20XX.

➲ Thus, TOS will be **May 02, 20XX.**

Authors Note: Provision under section 12(4)/(12(5)/12(6) for goods & Section 13(4)/13(5)/13(6) for services are same & proviso regarding time of supply if excess amount is received upto 1,000 is same for goods as well as services.

Question 7

Mr. A is registered under regular scheme under GST in Gujarat who trades in biscuits. On the other hand, he is also a partner in 2 partnership firms (registered under GST) in Gujarat, named Mehmaan Nawaazi Hotel and Lakhpati Casino. The hotel is running restaurant and serving food which had aggregate turnover of ₹ 120 lakhs in preceding financial year. Lakhpati Casino is a dealer in specified actionable claim who did not opt for composition scheme. Mr. B has availed service from all three of them (i.e. Mr. A, Mehmaan Nawaazi Hotel and Lakhpati Casino) in the month of May, the details of which are as under:-

Particulars	Mr. A	Mehmaan Nawazi Hotel	Lakhpati Casino
Date of supply	2nd May	10th May	12th May
Date of issue of invoice for ₹ 10,000 in each case	4th May	11th June	10th May
Date of receipt of payment by supplier	1st May	6th May	₹ 5,000 on 9th May & ₹ 5,000 on 18th May

Would notification 66/2017 apply to Mehmaan Nawaazi Hotel, if it was providing goods under composition scheme instead of restaurant service? Also, Determine the time of supply in each case for Mr. A, Mehmaan Nawaazi Hotel and Lakhpati Casino.

Answer :-

Legal Provision:-

➲ As per **section 12(2)** of CGST Act, 2017, the time of supply of goods shall be the **earlier** of the following:-

- Date of issue of invoice or
- Last date to issue invoice or
- Date of receipt of payment.

➲ As per **N/no. 66/2017** under CGST Act, the registered person other than following person:-

- A composition supplier and
- **registered person making supply of specified actionable claims as defined in clause (102A) of section 2 of the said Act,**

shall pay CGST on the outward supply of goods at the time of supply as specified section 12(2)(a).

➲ As per **section 13(2)(b)** of CGST Act, 2017, if **invoice is not issued within 30 days** of supply of services, then the **time of supply** of such services shall be **earlier** of:-

- the date of provision of service or
- the date of receipt of payment.

Discussion & Conclusion:-

1. In given case, notification 66/2017 applies to Mr. A and he shall be liable to pay tax on invoice basis only and not on advance received. Accordingly, the time of supply shall be **2nd May** i.e. the last date to issue invoice as per section 12(2) read with notification 66/2017.
2. In case of Mehmaan Nawaazi Hotel, notification 66/2017 is not applicable as this notification applies only to supply of goods and not services. Even if this firm was dealing in goods, this notification would still not apply as it is covered under the exception to notification 66/2017 (being a composition supplier) & hence, it is liable to pay tax on advance receipt also. The time of supply in this is **6th May** because invoice is issued after 30 days of supply of service & also the consideration is received in advance.
3. Lakhpati Casino is also covered under the exception to notification 66/2017 as it is dealing in specified actionable claim i.e. casino. Hence, it is liable to pay tax on advance receipt also. The time of supply in this is **9th May for ₹ 5,000 & 10th May for balance ₹ 5,000** as per section 12(2) read with notification 66/2017.

06 IGST ACT (PLACE OF SUPPLY)

Question 8

Mr. P is registered in Maharashtra. Determine the place of supply of goods & nature of transaction under the provisions of IGST Act, 2017 for the following transactions undertaken by it:-

1) Mr. P received an order from A Ltd. of Jaipur for supply of certain goods which were to be delivered at Jaipur.

2) Mr. P enters into an agreement to sell goods to Mohan of Surat. While the goods were being packed in Maharashtra godown of Mr. P, Mohan got an order from Sohan of Jaipur, Rajasthan for the said goods. Mohan agreed to supply the said goods to Sohan and asked Mr. P to deliver the goods to Sohan at Jaipur.

3) Mr. P (Pune) has leased its machine (cost ₹ 8,00,000) to ABC Pvt. Ltd. (Noida, UP) for production of goods on a monthly rent of ₹ 35,000. After 12 months ABC Pvt. Ltd. requested Mr. P to sell the machine to it for ₹ 5,00,000, which is agreed to by Mr. P

4) Mr. P receives an order from Mr. Q, an individual (unregistered person) residing in Delhi. Mr. Q purchases a dining table and requests delivery to his residence in Delhi. Mr. P issues an invoice with Mr. Q's Delhi address and arranges for the delivery of the dining table through a third-party logistics provider. Determine Place of Supply and GST implications.

Will the place of supply still be same, if Mr. Q instructs Mr. P to deliver the dining table to another address located in Punjab which is recorded in invoice as address of delivery whereas the billing is done at Delhi's address?

5) Alpha Refineries (Ahmedabad, Gujarat) gives a contract to Mr. P to supply a machine which is required to be assembled in a power plant in its refinery located in Kutch, Gujarat.

6) Mr. P (Pune) boards the Pune-Jodhpur train at Pune. Mr. P sells the goods taken on board by him (Pune), in the train, at Mount Abu during the journey.

Answer:-

1)

Legal Provision:

- As per **section 10(1)(a)** of IGST Act, if **supply involves movement** of goods by supplier or recipient or any other person, then place of supply of such goods shall be the location of goods at the time at which the **movement of goods terminates** for delivery to the recipient.
- As per **section 7(1)** of IGST Act, if the location of supplier and the place of supply are in **two different States**, then the supply shall be treated as **inter-state supply** and **liable to IGST**.

Discussion & Conclusion:

- In the given case, Location of Supplier is Maharashtra and place of supply u/s 10(1)(a) of IGST Act is **Jaipur** as movement of goods terminates for delivery to the recipient at Surat.
- Also, it is **inter-state supply** & thus, **IGST** will be charged.

2)

Legal Provision: As per **section 10(1)(b)** of IGST Act, if goods are delivered by supplier to any person on direction of a third person, before or during movement of goods, then:-

- it shall be deemed that the said third person has received the goods and
- place of supply of such goods shall be the **principal place of business of such third person.**

Discussion & Conclusion:

For Supply between Mr. P (Maharashtra) & Mohan (Surat, Gujarat):-

- This is a bill to ship to supply where goods are delivered to Sohan on the direction of Mohan.
- Thus, it is deemed that Mohan has received the goods & the place of supply of such goods **u/s 10(1)(b)** of IGST Act is the principal place of business of Mohan i.e., Surat, **Gujarat.**

For Supply between Mohan (Surat, Gujarat) & Sohan (Jaipur, Rajasthan):-

- In this case, since the supply involves movement of goods, the place of supply **u/s 10(1)(a)** of IGST Act is the

	location of the goods at the time when the movement of goods terminates for delivery to the recipient (Sohan) i.e., **Jaipur, Rajasthan.** **In both the above cases, location of supplier & place of supply are in different states & hence, they are inter-state supplies liable to IGST.**
3)	**Legal Provision:** As per **section 10(1)(c) of IGST Act,** if the supply does not involve movement of goods by supplier or recipient, the place of supply shall be the location of goods at the time of the delivery to recipient. **Discussion & Conclusion:** ➲ In this case, there will be **no movement** of goods and the same will be sold on as is where is basis. ➲ Thus, location of machine at the time of sale will be the place of supply i.e., **Noida u/s 10(1)(c)** of IGST Act. ➲ Since the location of Supplier and place of supply are in different States, it is **inter-state supply** &, liable to **IGST.**
4)	**Legal Provision:-** ➲ As per **section 10(1)(ca)** of IGST Act, if the supply of goods is made to unregistered person, the place of supply shall be the **location as per the address of the said person recorded in the invoice.** ➲ However, If the address of the unregistered person is not recorded in the invoice, the place of supply shall be the **location of the supplier.** ➲ As per **CBIC clarification**, if billing address differs from delivery address in invoice in case of supply of goods to unregistered person, **POS shall be address of delivery of goods recorded on invoice.** **Discussion & Conclusion:** ➲ In the given case, the invoice issued by Mr. P records Mr. Q's address in Delhi. Therefore, the place of supply for this transaction will be **Delhi.** ➲ Since the place of supply (Delhi) is different from the location of the supplier (Maharashtra), this transaction constitutes an **interstate supply.** Thus, liable to **IGST.** ➲ In second case, if billing address differs from the delivery address in invoice, **POS** shall be the **address of delivery** of dining table recorded on invoice i.e. **Punjab.**
5)	**Legal Provision:** ➲ As per **section 10(1)(d)** of IGST Act, if goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. **Discussion & Conclusion:** ➲ The **place of supply u/s 10(1)(d)** of IGST Act is the site of assembly machine i.e., **Kutch** even though Alpha refineries is located in Ahmedabad. ➲ Since the location of Supplier and POS are in same States, it is **intra-state supply** &, liable to **CGST & SGST.**
6)	**Legal Provision:** ➲ As per **section 10(1)(e)** of IGST Act, if 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.** **Discussion & Conclusion:** ➲ In the given case, the place of supply of the goods sold by Mr. P is the location at which the goods are taken on board, i.e. **Pune u/s 10(1)(e)** and not Mount Abu where they have been sold.

Question 9

Determine the place of supply in the following cases independently:-

1) Mr. A, a CA in Gurugram, Haryana, (registered in Haryana) provides Consultancy services to his client Mr. C who is a resident of New Delhi but is not registered under GST. The address of Mr. C is available in the records of Mr. A.
What will be your answer if the address of Mr. C is not available in the records of Mr. A

2) Mr. Ramesh, a Chartered Accountant, (New Delhi) travels to Mumbai for business and stays in a hotel there.

3) The place of supply in relation to immovable property (situated in India) 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?

4) Mr. A, a business man from Pune, dines in a restaurant at Mumbai while on a business trip.

5) Mr. Suresh (unregistered person based in Noida) signs up with Excellent Linguistics (New Delhi) for training on English speaking at their New Delhi Centre.

6) 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.

7) Grand Gala Events, an event management company at Kolkata, organises two award functions for Narayan Jewellers of Chennai (Registered in Chennai, Tamil Nadu) at New Delhi and at Singapore.

8) Mr. Aatmaram, a manager in a Bank, is transferred from Bareilly, Uttar Pradesh to Bhopal, Madhya Pradesh. Mr. Aatmaram's family is stationed in Kanpur, Uttar Pradesh. He hires Gokul Carriers of Lucknow, Uttar Pradesh (registered in Uttar Pradesh), to transport his household goods from Kanpur to Bhopal.

9) Mr. Amar (registered person in New Delhi) travels from Mumbai to Bangalore in Airjet flight. Mr. Amar has bought the tickets for the journey from Airjet's office registered in New Delhi.

10) 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.

11) Mr. X, registered in Guwahati, has availed land-line services from BSNL. The telephone is installed in residential premises in Kolkata and the billing address is office of Mr. X in Guwahati.

12) Telecom India installs an internet leased circuit between Nagpur and Jabalpur office of Reliance Ltd. for the consolidated amount of ₹10 lakhs as per the contract made by both the parties in the FY 20XX-XY. The starting point of this circuit is in Nagpur and the end point of the circuit is in Jabalpur.

13) A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali.

14) 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).

15) How to determine the place of supply, if advertisement service is supplied to the Central Government/ State Government/ Statutory body/ Local authority meant for the State or Union Territory?

Answer:

1)	**Legal Provision:** As per **section 12(2)** of IGST Act, the place of supply of services **other than** those specified under sections 12(3) to 12(14) shall be as under:- a) If supply is made to registered person, place of supply shall be the location of **registered recipient.** b) If supply is made to an unregistered person, place of supply shall be:- - the **location of recipient** if the address is available in the records of supplier & - the **location of supplier** in other cases. **Discussion & Conclusion:** (i) If the address of Mr. C is available in the records of Mr. A, the place of supply shall be the location of Mr. C i.e. **New Delhi.** (ii)If the address of Mr. C is not available in the records of Mr. A, the place of supply shall be the location of Mr. A which is **Gurugram.**
2)	**Legal Provision:** ➲ As per **section 12(3)** of IGST Act, the place of supply of services shall be the location where the **immovable property is located or intended to be located** for the following services supplied:- ➢ Services supplied directly in relation to an immovable property including services provided by architects, engineers, etc. ➢ Lodging accommodation services provided by hotel, etc. ➲ However, if the immovable property is located or intended to be located outside India, the place of supply shall be the **location of the recipient.** **Conclusion:** ➲ The place of supply of lodging accommodation service is the location where the hotel is located i.e., **Mumbai.**
3)	➲ As per **explanation to section 12(3)** of IGST Act, if 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 contract or agreement entered into.

	➲ In the absence of such contract or agreement, value of supply for each state is determined on **other prescribed reasonable basis.** ➲ As per **Rule 4** of IGST Rules, in the absence of a contract or agreement between supplier & recipient of services, the **proportionate value** of services supplied in different States where the immovable property is located is computed on the basis of the **area of immovable property lying in each State.**
4)	**Legal Provision:** ➲ As per **section 12(4)** of IGST Act, the place of supply of restaurant and catering services & beauty treatment service shall be the location where the services are actually performed. **Conclusion:** ➲ The place of supply of restaurant service taken by Mr. A is **Mumbai** where the service is actually performed.
5)	**Legal Provision:** ➲ As per **section 12(5)** of IGST Act, the place of supply for services in relation to training & performance appraisal provided to:- a) a registered person shall be the location of such **registered recipient,** b) an unregistered person shall be the location where the services are **actually performed.** **Conclusion:** Since the recipient of service is unregistered, the place of supply is the location where services are actually provided, i.e. **New Delhi.**
6)	**Legal Provision:** ➲ As per **section 12(6)** of IGST Act, for services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, the place of supply shall be the place where the **event is actually held or where the park or such other place is located.** **Conclusion:** The place of supply is the location where the circus is held, i.e. **Gurugram.**
7)	**Legal Provision:** ➲ As per **section 12(7)** of IGST Act, if service of organizing of an event is provided to a registered person, the place of supply shall be the **location of such registered recipient.** ➲ However, if recipient is not registered, place of supply shall be the **place where event is actually held** and if the event is held outside India, the place of supply shall be the **location of the recipient.** **Discussion & Conclusion:** ➲ In given case, since the award functions at New Delhi and Singapore are organized for Narayan Jewellers (**registered in Chennai**), the place of supply in both the cases is the location of Narayan Jewellers, i.e. **Chennai, Tamil Nadu.** ➲ The location of the supplier and the location of the recipient is irrelevant in this case.
8)	**Legal Provision:** ➲ As per **section 12(8)** of IGST Act, for supply of services by way of transportation of goods, including mail or courier, the place of supply shall be as under:- ➢ If the recipient is registered, place of supply shall be the **location of such registered person.** ➢ If the recipient is not registered, the place of supply shall be the place where the **goods are handed over for their transportation.** **Discussion & Conclusion:** ➲ Since in given case, recipient Aatmaram is an unregistered person, the place of supply is the location where goods are handed over to Gokul Carriers for their transportation, i.e. **Kanpur.**
9)	**Legal Provision:** ➲ As per **section 12(9)** of IGST Act, if the passenger transportation service is provided to:- a) a registered person, the place of supply shall be the **location of such registered** person, b) an unregistered person, the place of supply shall be the place where the **passenger embarks on the**

	conveyance for a continuous journey. **Conclusion:** In given case, the place of supply is the location of registered recipient i.e., **New Delhi.**
10)	**Legal Provision :** As per **section 12(10)** of IGST Act, the place of supply of services supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle shall be the location of the first scheduled point of departure of that conveyance for the journey. **Discussion & Conclusion:** In given case, the place of supply of service of showing 'movie on demand' is the first scheduled point of departure of the conveyance for the journey i.e., **Delhi.**
11)	**Legal Provision:** As per **section 12(11)** of IGST Act, the place of supply of services of installation of fixed telecommunication line is the location where the telecommunication line is installed for receipt of services. **Conclusion:** Thus, the place of supply of service is **Kolkata** in this case.
12)	**Legal Provision:** ➲ As per **section 12(11)** of IGST Act read with **rule 6** of IGST Rules, if the leased circuit is installed in more than one State & a consolidated amount is charged for such installation services, then the place shall be each of the respective States. ➲ The proportionate value for services provided in each state shall be determined as per the **contract or agreement entered.** ➲ In the **absence** of a contract or agreement between supplier & recipient, such proportionate the value shall be determined on the basis of **number of points lying in each State.** **Discussion & Conclusion:-** In given case, place of supply of service of installation of leased circuit shall be **Maharashtra & Madhya Pradesh** both & the value of supply in each of these states shall be in the ratio of 1:1 i.e. **₹ 5 lakhs in Maharashtra and ₹ 5 lakhs in Madhya Pradesh.**
13)	**Legal Provision:** ➲ As per **section 12(12)** of IGST Act, the place of supply of banking & other financial services (including stock broking services) provided to any person shall be the **location of the recipient of services in the records of the supplier.** ➲ However, if the location of recipient of services is not available in the records of supplier, the place of supply shall be the **location of the supplier** of services. **Conclusion:** The place of supply is the **location of supplier** of services i.e. **Kullu-Manali, Himachal Pradesh** as the location of recipient of services is not available in the records of supplier.
14)	**Legal Provision:** ➲ As per **section 12(13)** of IGST Act, the place of supply of insurance services provided **to:-** a) a registered person shall be the location of such **registered recipient** & b) an unregistered person shall be the **location of recipient of services in the records** of supplier. **Discussion & Conclusion:** ➲ The place of supply is the location of the registered recipient i.e., **Mumbai, Maharashtra** as the insurance cover is taken by a registered person.
15)	➲ As per **section 12(14)** of IGST Act, if advertisement service is provided to the Central Government/ State Government/ Statutory body/ Local authority meant for the State or Union Territory identified in contract or agreement, then the place of supply shall be in **each of such States or Union Territories** where the advertisement is broadcasted or run or played or disseminated. ➲ The proportionate value for services provided in each state is determined on basis of dissemination in the respective States or Union territories as per the **contract or agreement entered.** ➲ In the **absence** of a contract or agreement between supplier & recipient, such proportionate the value shall be determined as per **rule 3** of IGST Rules.

07 EXEMPTIONS

Question 10

M/s P, a registered supplier of Rajasthan, has received the following amounts in respect of the various activities undertaken during the month of April, 20XX:-

S.No.	Particulars	Amount (₹)
1.	Commission received as a recovery agent from a Non-Banking Finance Company (NBFC)	80,000
2.	Actionable claim received from normal business debtors	10,50,000
3.	Amount received from ABC Ltd. for performance of classical dance in one program.	1,74,500
4.	Business assets (old computers) given to a friend free of cost, the market value of all the computers was ₹ 51,000. No input tax credit has been availed on such computers when used for business	No amount charged
5.	Consideration received for one month rent from a registered individual person for renting of residential dwelling for use as residence	15,200
6.	Amount received for warehousing of jaggery	50,000
7.	Commission received as business facilitator for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts	20,000
8.	Amount received for services by way of labour contracts for repairing a single residential unit otherwise than as a part of residential complex	10,000
9.	Amount received for acting as brand ambassador for corporate client	75,000
10.	Amount received for service provided to the Indian Olympic Association as team manager of national team.	80,000
11.	Interest income on credit card issued by the bank	40,000
12.	Service to foreign diplomatic mission located in India	28,000
13.	Funeral services	30,000
14.	Amount charged for service provided to recognized sports body as selector of national team	50,000

Details of Input services:

S.No.	Particulars	Amount (₹)
1.	Paid to an unregistered Goods Transport agency for various consignments of transportation of goods by road.(Each individual consignment in a single carriage was of less than ₹ 1,450.)	15,100

All the transactions stated above are Intra-State transactions and all amounts are exclusive of GST.
You are required to compute gross value of taxable supply on which GST is to be paid by M/s P for the month of April, 20XX by giving necessary explanations for treatment of various items.

Answer: Computation of value of taxable supply on which GST is to be paid by M/s P:-

Particulars	Amount (₹)	Remarks
Commission received as a recovery agent from NBFC	-	Tax is payable by NBFC under reverse charge.
Actionable claim received from normal business debtors	-	**No tax is payable,** as actionable claims other than specified actionable claims are covered under Schedule III, i.e. they are neither supply of goods nor supply of services.
Amount received from ABC Ltd. for performance of classical dance	1,74,500	Taxable since consideration for classical dance performance **exceeds** ₹ 1,50,000.
Business assets given free of cost	-	**Not a supply** as it is made without consideration and not covered in Schedule I because ITC is not availed on the same.
Rent from registered individual person	-	Tax is payable by the registered individual person under reverse charge.
Warehousing of jaggery	50,000	Services by way of storage or warehousing of cereals, pulses, fruits & vegetables are exempt, thus jaggery is **not comes under this category.**
Commission received as business facilitator	Nil	Services provided by a business facilitator to a banking company with respect to accounts only in its rural area branch are exempt. In this case, services are provided to **urban branch** of bank & thus, **taxable.** However, tax is to be paid by recipient i.e. **banking company, under reverse charge.** Hence, M/s P will not be liable to pay GST on commission received for said services.
Amount received for services by way of labour contracts	10,000	**Repairing** of a residential unit is **not eligible** for exemption since pure labour contracts of construction, erection, commissioning, or installation of original works of single residential unit otherwise than as a part of a residential complex are exempt which do not cover repairing.
Acting as brand ambassador for corporate client	75,000	It is **liable** to tax as it is not specifically exempt.
Service provided to Indian Olympic Association as team manager of national team.	Nil	It is **exempt**, since services provided by a team manager to Indian Olympic Association (i.e., a recognized sports body) are exempt.
Interest income on credit card issued by the bank	40,000	**Taxable,** as interest income on extending loans is exempt but interest income on credit card services is an exception to this exemption.
Services provided to foreign diplomatic mission located in India	28,000	Services given by a foreign diplomatic mission located in India are exempt from GST but services provided to such mission are **taxable.**
Funeral services	Nil	Funeral services are not supply as they are covered in entry 4 of Schedule III to CGST Act, 2017 and thus, are outside the ambit of GST.

Amount charged for service provided to recognized sports body as selector of national team	50,000	It is **taxable** as exemption is given to player, referee, umpire, coach or team manager and not to selectors.
Services from unregistered GTA	15,100	Tax on services provided by unregistered GTA is payable under reverse charge by Mr. Jayesh being a registered person.
Gross value of Taxable Supply	**4,42,600**	

Question 11

Determine whether the following transactions are liable to GST. Briefly explain the applicable statutory provisions in support of your conclusions.

1) Mr. Rahul is a proprietor of a proprietorship concern- "Rahul Trading". Rahul Trading is registered under GST in Gujarat. Mr. Rahul rents a residential flat in his personal capacity for use as his own residence and such renting is on his own account and not that of the proprietorship concern.
2) GST on payment of honorarium to the Guest Anchors.
3) Holiday Guest House, situated at Shimla, provides boarding & lodging services to tourists at economical cost. The charges of a single deluxe room per day are ₹ 999. Mr. X has booked one deluxe room for two days during Christmas holidays.
4) Gokul Residents' Welfare Association received ₹ 9,000 per month as contribution from each member for sourcing of goods and services from third persons for common use of its members. [GST Rate 18%]
   Will your answer differ, if Gokul Residents' Welfare Association collects maintenance charges of ₹ 6,500 per month per member.
5) Wellness Hospital, a clinical establishment located in Tirupati, is specialised in diabetic treatment.
   The hospital has its own canteen – Tasty Foods. The canteen serves the food and drink to the inpatients as advised by the doctors/nutritionists of the hospital. Apart from this, other patients (who are not admitted) or attendants or visitors of the in-patients also take food and drink from the canteen.
6) 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.
7) Deccan Shipping Pvt. Ltd., registered under GST in Andaman and Nicobar islands, provided the passenger transportation services to the local residents in the ferries owned by it from Neil Island to Havelock Island.
8) Mr. Shyam Das was admitted to Suraksha Hospital in Mumbai for 2 days in relation to diagnosis of removal of stones from his kidney. For the said services, Suraksha hospital charged following from Mr. Das:
   a) Room rent ₹7,000 per day for 2 days.
   b) Operation theatre charges ₹5,000
   c) Doctors Consultation Charges ₹8,000
   d) Other services ₹4,000
9) Kesar Maharaj, a renowned classical dancer gave a classical dance performance in an auditorium. The consideration charged for the said performance is ₹ 98,500. Is Kesar Maharaj liable to pay GST on the consideration received for the said performance, if such performance is not for promotion of any product/services?
   Will your answer be different, if Kesar Maharaj gives Coaching in recreational activities relating to arts?
   What would be your answer, if Kesar Maharaj gives a contemporary Bollywood style dance performance in TV Serial?
10) 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.
11) Mr. Ashok, a senior advocate from Mumbai, provided legal consultancy services to Mr. Sagar who is also an individual advocate having turnover of ₹15 lakhs in preceding financial year.
12) National Testing Agency conducted entrance examination for admission to various educational institutions.
13) Mr. Poddar has 3 buildings – A, B & C. Building A is run as hotel which offers accommodation services with a value of supply at ₹18,000 per person per month. A customer books a room for 95 continuous days in it.

Building B is a residential building named as i.e Greenwood Hostel in which, 1st floor flat is given on rent to college student for 3 months whose rent is ₹ 25,000 per person per month i.e. ₹ 75,000. Building C is also residential which is given on rent as student residences to students & each residence in it is given on rent to each student for 60 days where rent is ₹18,000 per person per month i.e. ₹36,000.

14) Service of affiliation provided by Central educational board to a private school.

Answer:

1)	**Legal Provision:** Services by way of renting of residential dwelling to a registered person is exempt from GST, if – ➲ the registered person is proprietor of a proprietorship concern & rents the residential dwelling in his personal capacity for use as his own residence and ➲ such renting is on his own account and not that of the proprietorship concern. **Discussion & Conclusion:** ➲ In the given case, Rahul is a proprietor of Rahul Trading. ➲ Mr. Rahul is renting his residential flat for use as his own residence and that too on his own account and not that of the proprietorship concern. ➲ Thus, the **said service is covered under exemption** notification & **no GST is payable** on it.
2)	➲ It is **Clarified** by CBIC 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.** ➲ Sansad TV and other TV channels invite guest anchors to participate in their shows and pay remuneration to them in the form of honorarium.
3)	**Legal Provision:** ➲ Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, are taxable irrespective of the amount. **Discussion & Conclusion:** ➲ In given case, **GST is payable** by Holiday Guest House on the booking done by Mr. X.
4)	**Legal Provision:-** ➲ Supply of service by 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 **upto ₹ 7,500 per month per member** for sourcing goods or services from a third person for common use of its members in a housing society or residential complex is **exempt.** **Discussion & Conclusion:-** ➲ In the first case, ₹ 9,000 contribution per month per member received by Gokul Residents' Welfare Association **exceeds ₹ 7,500 & hence, exemption is not available.** Thus, GST @18% shall be payable on entire contribution of ₹ 9000/- per month per member. ➲ In second case, services provided by such association are **exempt** since maintenance charges ₹ 6,500 collected per month per member do not exceed ₹ 7,500.
5)	**Legal Provision:-** ➲ Health care services provided by a clinical establishment, an authorised medical practitioner or paramedics are exempt from GST. ➲ As per **CBIC clarification,** ➢ Food supplied by hospital canteen to inpatients as advised by doctor/ nutritionists is a part of composite supply of healthcare services & is not separately taxable. Thus, it is exempt. ➢ Food supplied by hospital to patients (not admitted) or their attendants or visitors are taxable.

	Discussion & Conclusion:- ➲ In view of the same, GST is exempt on the food supplied by Tasty Foods to the inpatients as advised by doctors/nutritionists. ➲ However, supplies of food by it to patients (not admitted) or attendants/visitors of the in-patients is **taxable,** and **GST is payable** on the same.
6)	**Legal Provision:-** ➲ Services of giving on hire a motor vehicle meant to carry **more than 12 passengers** to a State Transport Undertaking is exempt from GST. **Discussion & Conclusion:-** ➲ In given case, since motor vehicles given on hire by Fast Cab Renting to State Transport Undertaking are meant to carry 8-10 passengers, it is **not eligible** for exemption & thus, is **liable to GST.**
7)	➲ Transportation of passenger services provided by the private operator- Deccan Shipping Pvt. Ltd. are **exempt** from GST. ➲ Transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India is also exempt from GST vide exemption notification. ➲ As per the **CBIC clarification** on applicability of GST on private ferry tickets, it is clarified that **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. ➲ The expression 'public transport' 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.
8)	**Legal provision:** ➲ Health care services by a clinical establishment are **exempt** from GST. ➲ However, services provided by a clinical establishment by way of providing room having room charges **exceeding ₹5,000 per day** to a person receiving health care services are **not exempt.** **Discussion & conclusion:** ➲ In view of the same, only the room rent of ₹14,000 (₹7,000 per day × 2 days) is **liable** to GST. ➲ Other than room rent, all other nature of services provided by Suraksha Hospital are **exempt** from GST.
9)	**Legal Provision:** ➲ Performance by an artist in folk or classical art forms of music, dance or theatre is **exempt** from GST, if consideration charged for such performance is not more than ₹1,50,000. However, exemption **will not apply** to service provided by such artist as brand ambassador. ➲ Training or coaching service in recreational activities relating to arts or culture **by an individual** is exempt from GST. **Discussion & conclusion:** ➲ In given case, classical dance performance by Kesar Maharaj is exempt from GST as consideration is ₹ 98,500 which does not exceed ₹1,50,000 & also, he is not promoting anything. Hence, he is **not liable to pay GST.** ➲ If Kesar Maharaj (an individual) provides coaching in recreational activities relating to arts, then he is **not liable to pay GST** as this service is **specifically exempted** if it is provided by an individual. ➲ If Kesar Maharaj gives a contemporary Bollywood style dance performance in TV Serials, then such performance will not be eligible for exemption because the performance is not in folk or classical art forms of dance. Hence, **GST would be payable** on the same.
10)	**Legal Provision:** ➲ Services by way of fumigation in a warehouse of agricultural produce are **not exempt** from GST.

Discussion & Conclusion:

➲ In the present case, since Gupta Pest Control Co. provides services by way of fumigation in the warehouse of sugarcane [being an agricultural produce], said services are **taxable** and GST is payable on the same.

11) **Legal Provision:**

➲ Legal service provided by a senior advocate to a business entity with an aggregate turnover up to such amount in preceding financial year as makes it **eligible** for exemption from registration under GST Acts is exempted under GST.

Discussion & Conclusion:

➲ In given case, the turnover of Mr. Sagar in preceding financial year is not exceeding the threshold limit of ₹20 lakhs applicable for registration & thus, legal service provided to him by Mr. Ashok is **exempt.**

12) **Legal Provision**

➲ As per **explanation** to exemption notification, any authority, board or body set up by 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 of conduct of entrance examination for admission to educational institutions.

Discussion & Conclusion:

➲ National Testing Agency is treated as educational institution & thus, services provided by it by way of conducting entrance examination for admission to various educational institutions is **exempted** from GST.

13) **Legal Provision:**

➲ Accommodation services with a value of supply **less than or equal to ₹ 20,000** per person per month, provided for a minimum continuous period of 90 days, are **exempt** from GST.

➲ Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person is **exempted.** However, accommodation services for students in student residences & accommodation services provided by Hostels, Camps, Paying Guest accommodations & the like **are not covered** in this exemption.

Discussion & Conclusion:

i)
- Building A hotel offers accommodation at ₹18,000 per person per month, and the customer books the room for 95 continuous days.
- Since both conditions are met i.e. value of supply is less than ₹20,000 per person per month and the accommodation is for more than 90 days. **Therefore,** this service is exempt from GST

ii) Renting of 1st floor of Hostel B to student is **taxable** under GST as value **exceeds ₹ 20,000 per person per month & also forms part of exception to other exemption.**

iii) Renting of each residence in building C to student is **taxable** under GST as here, the value is not **exceeding ₹ 20,000 per person per month but it is for a period of 60 days** (i.e. less than 90 days) & **also forms part of exception to other exemption.**

14) **Legal Provision:**

➲ Services of affiliation provided by a Central to a school established, owned or controlled by the Central Government is **exempt.**

➲ As per **CBIC clarification,** the affiliation service provided to a private school is not related to admission of students or conduct of examinations & thus, services of affiliation, provided to all other schools by them **are taxable.**

Discussion & Conclusion:-

➲ In given case, affiliation service provided by Central educational board to a private school is **taxable.**

08 PAYMENT OF TAX & TDS-TCS

Question 12

Answer the following question independently:

1) 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?

2) 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 within the specified due date. Reason for such delay is attributable to delay in closure of books for March, which have been finalised during May. 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 Give your guidance in this regard.

3) Explain the manner of utilization of input tax credit?

4) Mr. Manik provides the following information regarding his tax & other liabilities under GST law as per Electronic Liability Register:

Sr. No.	Particulars	Amount (₹)
1	Tax due for the month of May	25,000
2	Interest due for the month of May	2,000
3	Penalty due for the month of May	3,000
4	Tax due for the month of June	35,000
5	Liability arising out of demand notice u/s 73	48,000

   Mr. Manik wants to clear his liability of demand notice u/s 73 first.
   Discuss the provision of order of discharge of GST liability u/s 49 (8) of the CGST Act & advice to Mr. Manik.

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

6) Pranesh has deposited a sum of ₹ 5,000 under the head of 'Fee' column of Cess and ₹ 4,000 was lying unutilized under the head of 'Penalty' column of IGST. Both the deposits were made wrongly instead of depositing under the head of Fee column under SGST.
   In the light of the provisions of section 49(10) & 49(11) of the CGST Act, 2017, briefly explain the relevant provisions as how can Pranesh rectify these errors?

7) ABC Ltd., a registered taxpayer under GST, is required to file its GSTR-3B return for the month of July 2024. The due date for filing the return is 20th August 2024, but ABC Ltd. files its return on 30th August 2024, 10 days after the due date.
   On the due date (20th August 2024), ABC Ltd. had ₹50,000 credited into its Electronic Cash Ledger. The tax payable for the month of July was ₹40,000. Due to a delay in filing, ABC Ltd. filed the return on 30th August 2024 and made the payment of ₹40,000 from the Electronic Cash Ledger on that date.
   Does ABC Ltd. need to pay any interest on the delayed payment of tax since the return was filed after the due date?

8) Mr. Broker wrongly availed ₹ 1,25,000 as input tax credit (CGST + SGST) at the time of furnishing return under section 39 of the CGST Act, 2017 for the month of October 20XX. This ITC was not utilized against the output tax liability for the month of October 20XX. Mr. Broker utilised ITC of ₹ 75,000 from the above wrongly availed ITC of ₹1,25,000 against output tax liability for the month of November 20XX.

Mr. Broker paid the amount of ITC wrongly utilised of ₹ 75,000 on 10th March, 20YY and reversed the unutilized amount of ₹ 50,000 on 20th March 20YY. Calculate the total interest payable (CGST + SGST) rounded off to nearest rupee under GST law if Mr. Broker files:

1) Form GSTR-3B for the month of October on 18th November 20XX, and

2) Form GSTR-3B for the month of November on 25th December 20XX.

Note: Assume there is no extension of due date of filing of Form GSTR-3B, and no other transactions were undertaken during the year 20XX-YY.

Answer:

1)

➲ As per **Section 49(1) of CGST Act 2017,** the deposit in electronic cash ledger can be made through any of the following modes, namely:-

(i) Internet Banking through authorised banks
- Unified Payment Interface (UPI) from any bank
- Immediate Payment Services (IMPS) from any bank

(ii) Credit card or Debit card through the authorised bank

(iii) National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or Immediate Payment Service (IMPS) from any bank or

(iv) Over the Counter payment through authorised banks for deposits up to ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft.

➲ Thus, offline mode is also permitted under GST subject to specified conditions.

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. ➢ **Cross-utilization** among Major and Minor heads is not possible, **But** as per **Section 49(10)** of CGST Act 2017, **a registered person** may, on the common portal, **transfer any amount** of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act to the electronic cash ledger for Integrated tax, Central tax, State tax or Union territory tax or cess in **FORM GST PMT-09, if declaration is given.**

2)

Legal Provision:

➲ As per **Section 49(3)** of the CGST Act 2017, 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.

➲ As per **section 49(4)**, the amount available in the electronic credit ledger may be used for making any payment towards **output tax.**

Discussion & Conclusion:

➲ As per the above-mentioned provisions, late fees shall be paid only through electronic cash ledger and not through electronic credit ledger.

➲ Hence, the sum of ₹ 2,000 shown on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes.

➲ **Thus,** contention of the accountant of M/s ABC & Co. is **not correct.**

3)	As per **section 49(5), 49A, 49B of CGST Act read with rule 88A of CGST Rules,** the manner of utilization of input tax credit under GST is as follows:- ➲ Credit of:- ➢ IGST shall be used for paying IGST first & then CGST or SGST/UTGST in any order and in any proportion. ➢ CGST shall be used for paying CGST first & then to pay IGST ➢ SGST/UTGST shall be used for paying SGST/UTGST first & then to pay IGST ➲ However, **IGST credit is to be fully utilized first** as above & then the CGST/ SGST/ UTGST credit can be utilized & SGST/UTGST can be used to pay IGST only after CGST balance is not available to pay IGST.
4)	**Legal provision:** ➲ As per **section 49(8)**, Every taxable person shall discharge his tax and other dues under GST law in following order, namely a) self-assessed tax, interest, penalty, fee or any other amount related to returns of the previous tax periods. b) self-assessed tax, interest, penalty, fee or any other amount related to returns of the current tax period. c) any other amount payable including demand determined under section 73 or section 74 **or section 74A** **Discussion & conclusion:** ➲ In this case, Mr. Manik cannot clear his liability of demand notice u/s 73 first. ➲ **Thus,** the **order of discharge of liability** of Mr. Manik will be as under: a) Tax, interest and penalty for the month of May ₹ 30,000 b) Tax due for the month of June ₹ 35,000 c) Liability arising out of demand notice u/s 73 ₹ 48,000
5)	As per **Section 49(9)**, every person **who has paid the tax** on goods or services or both under CGST Act shall be **deemed to have passed on the full incidence** of such tax to the recipient of such goods or services or both **unless the contrary is proved by him.**
6)	**Legal provision:-** ➲ As per **section 49(10),** registered person is allowed to make intra-head or inter-head transfer of amount, as available in electronic cash ledger, using specified form (i.e. Form GST PMT-09). ➲ It can transfer 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. **Discussion & Conclusion:-** ➲ **Therefore**, in given case, amount of ₹ 5,000 available under minor head 'fee' of major head 'cess' and ₹ 4,000 available under minor head 'penalty' of major head 'IGST' can be transferred to minor head 'fee' of major head 'SGST' using specified form (i.e. Form GST PMT-09).
7)	**Legal Provision:** ➲ If any amount has been credited into the E- Cash Ledger on or before the due date for filing the return, and the amount remains in the ledger until it is debited for payment of tax after the due date, such amount shall not be considered while calculating interest. **(Proviso to Rule 88B)** **Discussion & Conclusion:** ➲ In the case of ABC Ltd., the amount of ₹50,000 was available in the E-Cash Ledger on the due date (20th August 2024). Although the return was filed late, on 30th August 2024, the tax payable of ₹40,000 was paid from the available balance in the Cash Ledger. ➲ Since the amount was available in the ledger on the due date and remained there until it was debited for payment on 30th August. Thus, ABC Ltd. **will not be liable to pay any interest** on the delayed filing of the return.

8) **Legal Provision:**

➲ As per **Sec 50 read with Rule 88B,** if ITC has been wrongly availed and utilised, the registered person shall pay **interest** on the same

- ➢ for the period starting from the date of utilisation of such wrongly availed ITC
- ➢ till the date of reversal of ITC or payment of tax in respect of such amount
- ➢ @ 18% per annum.

➲ Where date of utilisation of ITC will be **Earlier of** Due date of furnishing returns or Actual date of filing return.

Discussion & Conclusion:

➲ In the given case, Since wrongly availed ITC of ₹ 50,000 has been reversed without utilizing the same, interest is not payable on the same.

➲ However, Interest is payable on wrongly availed and utilised ITC of ₹75,000.

➲ Date of utilisation of said ITC will be:

- ➢ Due date of furnishing return for Nov 20XX [20th December, 20XX] or
- ➢ Actual date of filing of the return for Nov 20XX [25th December 20XX] **whichever is earlier.**

➲ Thus, date of utilisation of said ITC will be **20th December, 20XX.**

➲ Interest (CGST + SGST) will be payable for **80 days** [21st December 20XX to 10th March, 20YY (both days inclusive)] as follows:

= ₹75,000 × 80/365 × 18%

= ₹2,959 [CGST+SGST] (rounded off)

Authors Note: ICAI has calculated interest from next day of Date of utilisation, but the provision says it should be from the date of utilisation, So Answer may vary in some cases & Student has to follow ICAI Approach.

Question 13

From the following information of independent cases, your expert advice, with appropriate reasoning, is sought on the applicability of TDS/TCS provisions of the CGST Act, 2017.

1) M/s Super Builders, a registered supplier in Tamil Nadu, was awarded a works contract by Government of Tamil Nadu amounting to ₹4,30,000. Of this, value of exempt supply was ₹1,00,000.

2) Tasty Caterers, a registered supplier of Kerala, provided catering services in Kochi, Kerala to Government of Andhra Pradesh for its annual training camp held for its staff. Value of said services was ₹4,50,000.

3) A CG Department located at UP is registered with the Commercial Tax Department UP State for deducting GST. It enters into a contract with a Public Sector Undertaking (PSU), registered under GST in the State of Delhi, for supplying goods valued ₹3,50,000.

The PSU argues that no tax is deductible on this supply by the CG Department as it is located outside the State of UP and therefore not liable to tax under CGST and SGST as it is a local levy and IGST tax deduction is not applicable if it is located in another State, other than the State in which the Department is registered.

4)Ramlala Enterprises, registered in Delhi, is engaged in supply of interior decoration services to Andhra Bhawan located in Delhi. Service contract is entered into with the Government of Andhra Pradesh (registered only in Andhra Pradesh). The total contract value inclusive of GST is Rs 15,50,000 and payment for the same is due in October 20XX.

You are required to determine amount of tax, if any, to be deducted in the above case assuming the rate of CGST, SGST and IGST as 9%, 9% and 18% respectively.

Will your answer be different, if Ramlala Enterprises is registered under composition scheme?

5) Top Fashions, a designer cloth dealer and registered in the State of West Bengal, effected supply through 'QUICK DEAL', an electronic commerce operator. Net value of taxable intra-State supplies effected for the month of October 20XX was ₹1,50,000.

6) ABC Ltd. who is dealer of Royal brand sells watches through Slipkart, an electronic commerce operator? What would be your answer, if ABC Ltd. sells watch on its own through its own website.

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

Answer:-

1)	**Legal Provision:** ➲ As per **Section 51** of the CGST Act, A State Government is required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, **exceeds ₹2,50,000.** **Conclusion:** ➲ TDS to be deducted in the given intra-State supply (since place of supply and location of supplier is in Tamil Nadu) is as follows: = (₹4,30,000 - ₹1,00,000) x 1% = ₹3,300 (CGST) & ₹3,300 (SGST)
2)	**Legal Provision:** ➲ As per **proviso to Sec 51**, Tax shall **not be deducted** if location of supplier & place of supply is in a State/ UT which is different from the State/UT of registration of recipient. **Discussion & Conclusion:** ➲ Since, in the given case, the location of supplier and place of supply are in the same State, i.e., Kerala and location of recipient is in Andhra Pradesh. ➲ **Thus**, Andhra Pradesh Government is **not required to deduct TDS** as the total value of supply under the contract is more than ₹2,50,000.

3)	**Legal Provision:** ➲ As per **section 51**, Certain specified persons are required to deduct tax from the payment made to the supplier of taxable goods and/or services, where the total value of such supply [excluding GST] under a contract, **exceeds ₹ 2,50,000.** ➲ However, the **tax is not liable to be deducted** at source when supply of goods and/or services has taken place **between** one specified person to another specified person. **Discussion & Conclusion:** ➲ In the given case, Since both Central Government Department and PSU are the specified persons. ➲ Thus, tax is not deductible in case of supply of goods between them.
4)	**Legal Provision:** ➲ As per **section 51** of the CGST Act, Government departments, agencies, local authority and notified persons are required to deduct tax @ 2% (1% CGST + 1% SGST/UTGST) or IGST @ 2% from payment made to the supplier of taxable goods or services where the total value of such supply [excluding GST & Cess in the invoice] under a contract, exceeds ₹2,50,000. ➲ Further As per **proviso to Sec 51,** Tax shall not be deducted if location of supplier & place of supply is in a State/ UT which is different from the State/UT of registration of recipient. ➲ As per **section 12(3)** of IGST Act, the place of supply of services directly in relation to an immovable property including services provided by interior decorators is the **location of immovable property.** **Discussion & Conclusion:** ➲ In given case, the place of supply of the interior decoration of Andhra Bhawan shall be **Delhi.** ➲ Since the location of the supplier (Ramlala Enterprises) and the place of supply is Delhi and the State of registration of the recipient i.e. Government of Andhra Pradesh is Andhra Pradesh, **no tax** is liable to be deducted in the given case. ➲ The answer will remain **unchanged** even if Ramlala Enterprises is registered under composition scheme.
5)	**Legal Provision:** As per **Section 52,** An electronic commerce operator (ECO), **not being an agent** is required to collect TCS - an amount @ 0.5% (CGST 0.25% and SGST @ 0.25%) of the **net value of taxable supplies** made through it by other suppliers. **Conclusion:** ➲ Thus, Amount of TCS: = ₹1,50,000 x 0.25% = ₹375 (CGST) & ₹375(SGST)
6)	**Legal Provision:** As per **Section 52,** An electronic commerce operator (ECO), **not being an agent** is required to collect TCS - an amount @ 0.5% (CGST 0.25% and SGST @ 0.25%) of the **net value of taxable supplies** made through it by other suppliers, where the consideration for such supplies is to be collected by ECO. **Discussion & Conclusion:** ➲ In the given case, ABC limited who is dealer of Royal brand sells watches through Slipkart. Thus, TCS will be applicable to Slipkart. ➲ In the **second case**, ABC Ltd. sells watch through its own website. **Thus,** TCS won't be applicable.
7)	➲ 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 and the amount collected by it as TCS during the month **within 10 days** after the end of each month in which supplies are made. ➲ Also, the ECO is also required to file an Annual Statement on or before 31st day of December following the end of the financial year. ➲ However, The operator **shall not be allowed to furnish a statement after the expiry of 3 years** from the due date of furnishing the said statement. ➲ The Commissioner has been **empowered to extend the due date** for furnishing of monthly and annual statement by the person collecting tax at source.

Question 14

Bindusara commences the business of supplying taxable goods locally within the State of Rajasthan in April. He is not yet registered under GST. As his aggregate turnover reaches ₹ 8 lakh by the end of the month of June, Bindusara starts exploring the option to sell the goods supplied by him within Rajasthan on a popular electronic commerce platform – E-vastustore by listing the goods on the said platform.

He approaches you for advice on following issues in this regard:

(A) Bindusara wishes to continue his business without registering under GST since it will enhance the compliance burden under GST law. Can he supply the goods through E-vastustore without obtaining GST registration? You are required to advise him.

(B) Discuss the GST implications in case Bindusara supplies goods through electronic commerce platform – E-vastustore.

(C) Can Bindusara opt for composition scheme u/s 10 in future, if he becomes liable to register on crossing the threshold limit for registration u/s 22? If yes, can he make inter-state supply of goods & continue to be under composition scheme?

(D) If Bindusara obtains registration & opts for composition scheme, what are the compliances that are to be fulfilled by ECO- E-vastustore, if Bindusara supplies goods through it?

(E) What is maximum time limit to furnish a statement for an ECO?

Answer:-

A) **Yes, Bindusara can supply goods through E-vastustore without obtaining GST registration.**

Legal Provision:-

➲ As per **section 24(ix)**, persons who supply goods and/or services, other than services notified under section 9(5), through such electronic commerce operator (ECO) who is required to collect TCS u/s 52 is required to obtain registration **mandatorily.**

➲ However, as per **notification**, the persons making supplies of goods through an ECO who is required to collect TCS and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit as per 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 u/s 25, the enrolment number shall cease to be valid from the effective date of registration.

Discussion & Conclusion:-

➲ In given case, Bindusara **can supply** goods through E-vastustore without obtaining GST registration till the time its aggregate turnover does not exceed the threshold limit as per section 22(1) thereby complying with the aforesaid conditions.

B)	➲ As Bindusara is not required to obtain registration under GST, there shall be **no GST implications** on the supplies made by him through electronic commerce platform – E-vastustore. ➲ However, ECO - **E-vastustore – is required to submit the details** of supplies made through it by the unregistered suppliers (including Bindusara) having enrolment number in Form GSTR 8. ➲ Further, no tax at source shall be collected by the E-vastustore in respect of such supplies. ➲ E-vastustore shall allow the supply of goods through it by Bindusara **only if enrolment number** has been allotted on the common portal to him; ➲ E-vastustore shall **not allow any inter-State** supply of goods through it by Bindusara;
C)	i) **Yes,** Bindusara **can opt for composition scheme u/s 10** while applying for registration or even after obtaining registration. This is because, as per **section 10(2)(d),** the restriction to opt for composition scheme is on the person engaged in making any supply of services through an ECO who is required to collect tax at source u/S 52 & not on supply of goods through such ECO. ii) **No**, Bindusara **cannot make inter-state supply** of goods because if he does that, he will become ineligible to remain in composition scheme as per section 10(2)(c).
D)	**ECO- E-vastustore who is required to collect tax at source u/s 52 shall follow the following special procedure for supply of goods made through it by Bindusara – a composition dealer:—** (i) E-vastustore shall not allow any inter-State supply of goods through it by Bindusara; (ii) E-vastustore shall collect tax at source u/s 52(1) for supply of goods made through it by Bindusara and pay to the Government within the time limit; and (iii) E-vastustore shall furnish details of supplies of goods made through it by Bindusara in GSTR-8.
E)	➲ GSTR-8 & deposit of TCS should be made **on/before 10th day of next month** (due date can be extended by Central or State Commissioner). ➲ However, ECO shall **not be allowed** to furnish a statement in GSTR-8 **after the expiry of 3 years** from the due date of furnishing the said statement. Government may allow further extension in certain cases.

09 INPUT TAX CREDIT

Question 15

ABC Co. Ltd., registered under GST is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

Sr. No.	Particulars	GST (₹)
1	Electrical transformers to be used in the manufacturing process	5,20,000
2	Trucks used for the transport of raw material	1,00,000
3	Raw material to be received in August	2,00,000
4	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company	25,000
5	Capital Goods (Invoice missing for one out of 5 items & GST paid on the same was ₹ 70,000)	5,00,000
6	GST paid on health insurance policies	80,000
7	Payment made to contractor for construction of staff quarter	1,25,000
8	Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,97,000
9	General insurance taken on a car used by executives of the company for official purposes	10,200
10	Inputs purchased, but stolen from the factory	1,40,000
11	Input purchased was directly delivered to Mr. Joe, a job worker and a registered supplier	80,000
12	Goods purchased from Asha Ltd & payment is also made but tax has not been deposited by Asha Ltd. to Government & also not reported in GSTR – 1	86,500
13	Capital goods used for making outward supplies to SEZ unit	52,000
14	Rent-a-cab facility availed for employees to fulfil a statutory obligation	36,000
15	Procurement of certain goods which were distributed as part of the corporate social responsibility expenditure required under the provisions of the Companies Act, 2013.	5,00,000
16	Purchases a demo vehicle for demonstration purposes	50,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

Answer: Computation of ITC available with ABC Co. Ltd. for the month of July:-

Sr.No.	particulars	GST (₹)	Explanation
1	Electrical transformers to be used in the manufacturing process	5,20,000	ITC is **available** on goods used in the course or furtherance of business u/s 16(1) of CGST Act.
2	Trucks used to transport of raw Material	1,00,000	ITC is **not blocked** u/s 17(5)(a) of CGST Act on motor vehicles used for transportation of goods.

3	Raw material	-	Since raw material is not received in July, 20XX, ITC for the same **cannot be availed** in July, 20XX u/s 16(2).
4	Confectionery items for consumption of customers at customers meet	-	ITC is **blocked** u/s 17(5)(b) of CGST Act on food or beverages 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 or provided by an employer to its employees under a statutory obligation.
5	Capital Goods	4,30,000	ITC can be availed only on basis of a **valid document u/s 16(2)**. Thus, ITC for the item for which invoice is missing cannot be availed.
6	GST paid on health insurance policies	-	ITC is **blocked** u/s 17(5) of CGST Act on health insurance taken for employees except when there is a statutory obligation on employer to provide the same.
7	Payment made to contractor for construction of staff quarter	-	ITC is **blocked** on works contract services supplied for construction of an immovable property except where it is an input Service for further supply of works contract service u/s 17(5)(c).
8	Bus for transportation of employees	1,97,000	ITC is **not blocked** u/s 17(5)(a) of CGST Act on motor vehicles for transportation of persons with seating capacity more than 13 persons (including driver) used for any purpose.
9	General insurance taken on car used by executives of company for official purpose	-	As per section 17(5)(ab) of CGST Act, ITC is blocked on general insurance of those motor vehicles on which ITC is blocked u/s 17(5)(a). In this case, ITC on car is blocked u/s 17(5)(a) as it's seating capacity less than 13 & not used for purpose mentioned in exceptions & thus, ITC is **blocked** on general insurance of car also.
10	Inputs purchased, but stolen from factory	-	ITC is **blocked** on goods stolen as per 17(5)(h) of CGST Act.
11	Input purchased was directly delivered to Mr. Joe, a job worker and a registered supplier	80,000	As per explanation to sec 16(2)(b), goods delivered to a third person on direction of registered person are deemed to have been received by such registered person. So, ITC is **available** to registered person even though he did not receive the goods.
12	Goods purchased from Asha Ltd.	-	All conditions are to be satisfied u/s 16(2) to avail ITC. So, ITC is **not available** in either of the cases where supplier has not reported invoice in GSTR-1 or has not paid tax to Govt.
13	Capital goods used for making outward supplies to SEZ unit	52,000	ITC is **allowed** on capital goods used for making taxable including zero-rated supplies. Supply to SEZ units are zero rated supplies u/s 16(1) of IGST Act & hence, ITC is **available** in this case.

14	Rent-a-cab facility availed for employees to fulfil a statutory obligation	36,000	ITC is **not blocked** u/s 17(5)(b) of CGST Act on rent-a cab services where the government notifies services which are obligatory for an employer to provide to its employees.
15	Procurement of goods for CSR	-	ITC is **blocked** u/s 17(5)(fa) on purchase of goods which are used or intended to be used for activities relating to his obligations under CSR as per section 135 of the Companies Act 2013.
16	Purchases a demo vehicle for demonstration purposes	50,000	**CBIC clarified** that if the vehicle is solely used for demonstration purposes and not for passenger transport or training, thus ITC is **not blocked** u/s 17(5)(a).
Total ITC Available		**14,65,000**	

Question 16

Answer the following questions independently :

1) Can a person take ITC without payment of consideration for the supply along with tax?

2) If part payment of consideration is made by the recipient to the supplier, then whether full amount of tax can be adjusted first. If no, then whether it has to be calculated proportionately?

3) A 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. State the exceptions to said rule.

4) What is the time limit for taking ITC and reasons therefor?

5) Aakarsha Traders, a registered supplier under GST in Uttar Pradesh, had their GST registration cancelled retrospectively with effect from 1st September of current financial year. The cancellation order was passed on 15th September of current financial year. At the time of cancellation, the supplier had not availed ITC on certain eligible invoices issued in February and March of the preceding financial year for inward supplies of taxable goods on which ITC is otherwise available under GST law.

Subsequently, on filing an application for revocation, the cancellation of registration was revoked by the Proper Officer on 15th December of current financial year.

The firm wishes to file its GSTR-3B return for the month of September on 21st December of current financial year and wishes to claim ITC on the said invoices of February and March of preceding financial year in this return.

You are required to advise Aakarsha Traders whether it is entitled to claim input tax credit (ITC) in respect of invoices issued in February and March of the preceding financial year in terms of provisions of the GST law assuming that annual return for previous year is furnished on 31st December of the current financial year.

6) Babla & Bros. is exclusively engaged in making exempt supply of goods & is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla & Bros. was ₹ 45 lakhs. Examine the eligibility of Babla & Bros. for availing ITC, if any.

7) What is the ITC entitlement of a newly registered person?

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?

9) Mamta Sales 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 Sales for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods.

10) 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.

11) What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Answer:

1)	➲ **Yes,** the recipient can take full ITC. ➲ However, **proviso to section 16(2) read with rule 37** states that recipient is required to pay the **full** 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.
2)	➲ If recipient fails to do so, then corresponding credits availed in respect of such supply, **proportionate to the amount not paid to the supplier,** by him will be added to his output tax liability or it shall be **reversed** along with interest. ➲ If part payment is made against an invoice, then proportionate ITC is available for the tax involved & thus, full amount of tax cannot be adjusted first against the part payment made.
3)	The condition of payment of value of supply plus tax within 180 days **does not apply** in the following situations: a) Supplies on which tax is payable under reverse charge. b) Deemed supplies without consideration. c) 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.
4)	➲ As per **section 16(4)** of CGST Act, time limit for availing ITC by registered person for any invoice or debit note shall be earlier of following dates:- - 30th day of November following the end of financial year to which such invoice or debit note pertains or - Furnishing of the relevant annual return. ➲ However, there is **no time limit for re-availing the credit that had been reversed earlier.** ➲ As per **section 18(2),** in special circumstances like new registration, voluntary registration, etc., registered person can take ITC **within 1 year** from date of issue of tax invoice by supplier.
5)	As per **section 16(6),** If the registration of a registered person is cancelled u/s 29, and subsequently cancellation is revoked by any order u/s 30, and availment of ITC was not restricted u/s 16(4) on the date of cancellation, then such person is **entitled to take ITC** on such invoice or debit note in a return u/s 39: (i) filed up to 30th November following the financial year to which such invoice or debit note pertains, or date of furnishing 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.** **Discussion & Conclusion:** ➲ In the given case, Aakarsha Traders is entitled to claim ITC in respect of invoices issued in February and March of the preceding financial year in a return u/s 39: ➢ filed up to 30th November of current financial year or ➢ (return filed for the period from effective date of cancellation of registration till the date of order of revocation of cancellation of registration, within 30 days of revocation of cancellation i.e., up to 14th January. **whichever is later.** ➲ Thus, Aakarsha Traders is **entitled** to claim input tax credit (ITC) in respect of invoices issued in February and March of the preceding financial year in the return for the month of September furnished on 21st December of current financial year.
6)	**Legal Provision:** ➲ As per **section 18(1)(a) of CGST Act,** if a person applied for registration within 30 days from the date on which he becomes liable to registration, then he shall be entitled to take ITC of:- - Inputs held in stock, - Inputs contained in semi-finished goods held in stock & - Inputs contained in finished goods held in stock

	on the day immediately preceding the date from which he becomes liable to pay tax. **Discussion & Conclusion:** ➲ In given case, exemption available on goods being supplied by Babla & Bros., an unregistered person, is withdrawn & it becomes liable to registration as its turnover has crossed threshold limit for registration on the day when the exemption is withdrawn. ➲ **Assuming** that Babla & Bros. applies for registration **within 30 days of 1st October,** and it obtains such registration, it can take ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on 30th September. ➲ **ITC on capital goods will not be available** in this case.
7)	➲ As per **section 18(1)(a) of CGST Act,** if a person who is liable to take registration has applied for registration within 30 days from the date on which he became liable to registration, he can take ➢ ITC of inputs held in stock & inputs contained in semi- finished or in finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax. ➲ As per **section 18(1)(b) of CGST Act,** a person applying for registration voluntarily can take ➢ ITC of inputs held in stock and inputs contained in semi- finished or in finished goods held in stock on the day immediately preceding the date of grant of registration.
8)	➲ As per **section 18(1)(c) of CGST Act,** 'AB' is eligible for ITC on inputs held in stock and inputs contained in semi-finished or in 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)	**Legal Provision:-** ➲ As per **section 18(1)(d) of CGST Act,** registered person whose exempt supply becomes taxable supply can take ITC of:- ➢ Inputs held in stock, Inputs contained in semi-finished or in finished goods held in stock relatable to such exempt supply & ➢ on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable. ➲ ITC on capital goods will be **reduced by 5% per quarter or part thereof** from the date of invoice. **Discussion & Conclusion:-** ➲ In given case, Mamta Sales is a registered person whose exempt supply is becoming taxable supply. ➲ Thus, as per **section 18(1)(d), it can take ITC** of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply **on 30th September.**
10)	➲ As per **section 18(3)** of CGST Act, in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in electronic credit ledger of registered person can be transferred to new entity, if there is a specific provision for transfer of liabilities in such change of constitution. ➲ The registered person should furnish details of change in constitution on common portal & submit a certificate from practicing Chartered Accountant/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. ➲ Upon acceptance of details by transferee on common portal, the unutilized ITC gets credited to his electronic credit ledger. ➲ Transferee should record the inputs and capital goods so transferred in his books of account.
11)	➲ As per **section 18(6) of CGST Act,** if capital goods or plant & machinery on which ITC has been taken are supplied outward by registered person, then **he must pay an amount which is higher of:** ➢ ITC taken on such goods **reduced by 5%** per quarter or part thereof from the date of issue of invoice OR ➢ **Tax on transaction value** of such goods determined u/s 15. ➲ However, if refractory bricks, moulds & dies, jigs & fixtures are supplied as scrap, person may pay tax on transaction value of such goods determined u/s 15.

Question 17

M/s. Grey, a registered taxable person under regular scheme provides following information in respect of supplies, during the month of April, 20XX:-

Particulars	Amount (₹)
Inter-state supply of goods	1,00,000
Intra-state supply of 500 packets of detergent @ ₹ 400 each along with a plastic bucket worth ₹ 100 each with each packet, being a mixed supply. (Rate of GST on detergent is 18% and on plastic bucket is 28%)	2,00,000
Supply of online educational journals to M/s. Pinnacle, a private coaching centre providing tuitions to students of Class X-XII, being intra-state supply	50,000
M/s. Grey has also received the following inward supplies:-	
Inter-state supply of goods (out of which, invoice for goods worth ₹ 20,000 is missing and no other tax paying documentis available)	70,000
Repairing of bus with seating capacity of 20 passengers used to transport its employees from their residence, being intra-state supply	50,000

Details of opening balances of ITC as on 1-4-20XX are as follows:-

CGST	₹ 5,000
SGST	₹ 5,000
IGST	₹ 40,000

Following additional information is provided:-

(a) Rate of GST in respect of all inward and outward supplies except item (ii) above is 18% i.e. CGST and SGST @ 9% and IGST @ 18%.

(b) All figures mentioned above are exclusive of taxes.

(c) All the conditions for availing the ITC have been fulfilled except specifically given and M/s. Grey is not eligible for any threshold exemption.

Compute the minimum net GST payable in cash by M/s. Grey for the month of April, 20XX.

Answer:- (A) Calculation of Total Tax Liability:-

Particulars	Value (₹)	IGST (₹)	CGST (₹)	SGST (₹)
Inter-State supply of goods	1,00,000	18,000	-	-
Intra-state supply of 500 packets of detergent along with plastic basket **(Note-1)**	2,00,000 (500*400)	-	28,000 (2,00,000* 14%)	28,000 (2,00,000* 14%)
Supply of online educational journal to private coaching centre **(Note-2)**	50,000	-	4,500 (50,000*9%)	4,500 (50,000*9%)
Total Tax Liability (A)		**18,000**	**32,500**	**32,500**

(B) Calculation of Total Input Tax Credit (ITC):-

Particulars	Value (₹)	IGST (₹)	CGST (₹)	SGST (₹)
Brought forward ITC **(Given)**		40,000	5,000	5,000
Inter-State purchase of goods **(Note-3)**	50,000	9,000 (50,000*18%)		
Repairing of bus with seating capacity of 20 passengers **(Note-4)**	50,000	-	4,500 (50,000*9%)	4,500 (50,000*9%)
Total ITC (B)		**49,000**	**9,500**	**9,500**

(C) Computation of minimum net GST payable in cash by M/s. Grey for the month of April, 20XX:-

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Total Tax Liability (A) above	18,000	32,500	32,500
Less:- Set off of ITC			
IGST = ₹ 49,000	(18,000)	(23,000)	(8,000)
CGST = ₹ 9,500	-	(9,500)	x
SGST = ₹ 9,500	-	x	(9,500)
Minimum net GST payable in cash (Note-5)	**Nil**	**Nil**	**15,000**

Notes:-

1. Supply of detergent and bucket together with a single price of ₹ 400 is a mixed supply & it shall be treated as **supply of that particular supply** that attracts **highest rate of tax** (28%).
2. Supply of online educational journal to an educational institution which provides a qualification recognised by law in India is exempt. Since, private coaching centre does not provide any recognised qualification, supply of online educational journals to the same **will be taxable.**
3. ITC can be taken only on basis of a valid tax paying document **u/s 16(2)(a)** of CGST Act. Thus, ITC **will not be available** on goods of ₹ 20,000 for which the invoice is missing.
4. **ITC is not blocked** u/s 17(5)(a) of CGST Act on motor vehicles for transportation of persons with seating capacity more than 13 persons (including driver) & thus, ITC is not blocked on its repair also u/s 17(5)(ab).
5. IGST credit shall be first used fully to pay IGST & then to pay CGST and SGST in any order and in any proportion. Thus, **there cannot be one answer** for minimum net CGST and SGST payable in cash.

Question 18

Mr. Prithviraj, registered under GST, is engaged in supplying services (as discussed in the table below) in Maharashtra. He has furnished the following information with respect to the services provided/ received by him, during the month of February:

S.No.	Particulars	Amount (₹)
(i)	Carnatic music performance given by Mr. Prithviraj to promote a brand of readymade garments (Intra-State transaction)	1,40,000
(ii)	Outdoor catering services availed for a marketing event organised for his prospective customers (Intra-State transaction)	50,000
(iii)	Services of transportation of students provided to Subhaskar College providing education as part of a curriculum for obtaining a recognised qualification (Intra-State transaction)	1,00,000
(iv)	Legal services availed for official purpose from an advocate located in Gujarat (Inter-State transaction)	1,75,000
(v)	Services provided to Wealth Bank as a business correspondent with respect to accounts in a branch of the bank located in urban area (Intra-State transaction)	2,00,000
(vi)	Recovery agent's services provided to a car dealer (Intra-State transaction)	15,000
(vii)	General insurance taken on a car (seating capacity 5) used for official purposes (Intra-State transaction)	40,000

Note:

1) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

2) All inward and outward supplies are exclusive of taxes, wherever applicable.

3) All the conditions necessary for availing the ITC have been fulfilled.

4) The turnover of Mr. Prithviraj was ₹2.5 crore in the previous financial year.

Compute the net GST payable in cash, by Mr. Prithviraj for the month of February.

Answer: 1) Computation of GST payable:

Particulars	Value (₹)	IGST @ 18% (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)
GST payable under Forward Charge				
Carnatic music performance given to promote a brand of readymade garments **(Note 1)**	1,40,000	Nil	12,600	12,600
Services of transportation of students provided to Subhaskar College **(Note 2)**	1,00,000	Nil	9,000	9,000
Services provided to Wealth Bank as a business correspondent **(Note 3)**	2,00,000	Nil	18,000	18,000
Services provided as a recovery agent **(Note 4)**	15,000	Nil	1,350	1,350
Total GST payable under forward charge (A)		**Nil**	**40,950**	**40,950**
GST payable under Reverse Charge				
Legal services availed from an advocate **(Note 5)**	1,75,000	31,500	Nil	Nil
Total GST payable under reverse charge (B)		**31,500**	**Nil**	**Nil**
Total GST Payable [A+B]		**31,500**	**40,950**	**40,950**

2) Computation of total ITC available:

Particulars	Value (₹)	IGST @ 18% (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)
Outdoor catering services availed **(Note 6)**	50,000	Nil	**Nil**	Nil
Legal services availed **(Note 7)**	1,75,000	31,500	Nil	Nil
General insurance taken on a car (seating capacity 5) used for official purposes **(Note 8)**	40,000	Nil	Nil	Nil
Total ITC available		**31,500**	**Nil**	**Nil**

3) Computation of net GST payable in cash:

Particulars	IGST @ 18% (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)
GST payable under forward charge	Nil	40,950	40,950
Less: ITC of IGST **(Note 9)**	-	(15,750)	(15,750)
	Nil	**25,200**	**25,200**
Add: GST payable under reverse charge in cash **(Note 10)**	31,500	Nil	Nil
Net GST payable in cash	**31,500**	**25,200**	**25,200**

Notes:

1)	Carnatic music performance by Mr. Prithviraj is **not exempt** from GST even though consideration charged does not exceed ₹1,50,000 since said performance has been made by him as a brand ambassador.
2)	Services of transportation of students provided to an educational institution other than an institution providing pre-school education or education up to higher secondary school, are **not exempt.**
3)	Services provided by a business correspondent to a banking company are **not exempt** when such services are provided with respect to accounts in its urban area branch.

4)	Tax is payable under forward charge since recovery agent's services are being provided to a person other than banking company/ financial institution/ non-banking financial company.
5)	Legal services received by a business entity with aggregate turnover in preceding financial year exceeding threshold limit for registration (₹ 20 lakh) are **not exempt** and tax on the same is payable under reverse charge.
6)	As per **section 17(5)(b)**, ITC on outdoor catering services is blocked except when such services are a) used by the taxpayer who is in the same line of business or b) provided by the employer to its employees under a statutory obligation.
7)	ITC on the services which are used in course or furtherance of business is **allowed.**
8)	As per **section 17(5)(a)**, ITC is **not available** on Motor vehicle for transportation of persons having approved seating capacity of not more than 13 persons (including driver), **except** when they are used for making following taxable supplies:- a) Further supply of such motor vehicles or b) Transportation of passengers or c) Imparting training on driving such motor vehicles. Further, as per **section 17(5)(ab), ITC is not allowed** on services of general insurance relating to such ineligible motor vehicles.
9)	IGST credit is first utilized towards payment of IGST, remaining amount can be utilized towards CGST and SGST in any order & in any proportion. Thus, net GST payable in cash under the heads CGST & SGST will vary but the total amount of net GST payable in cash will be ₹ 81,900 in each case.
10)	Tax payable under reverse charge, being not an output tax, cannot be set off against ITC and thus, will have to be paid in cash.

10 REGISTRATION

Question 19

Rishabh Enterprises- a sole proprietorship firm- started an air-conditioned restaurant in Virar, Maharashtra in the month of February wherein the customers are served cooked food as well as cold drinks/ non-alcoholic beverages. In March, the firm opened a liquor shop in Raipur, Uttarakhand for trading in alcoholic liquor for human consumption.

Particulars	February (₹)*	March (₹)*
Serving of cooked food and cold drinks/non- alcoholic beverages in restaurant in Maharashtra	5,50,000	6,50,000
Sale of alcoholic liquor for human consumption in Uttarakhand	-	5,00,000
Supply of packed food items from restaurant in MH	1,50,000	2,00,000

*** excluding GST,**

1) Determine whether Rishabh Enterprises is liable to be registered under GST law with the help of the above information.

Would your answer differ, if Rishabh Enterprises is exclusively engaged in intra-state supply of food items only.

2) Rishabh Enterprises is engaged in wholesale cum retail trading of goods in the State of Maharashtra. 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.

3) Rishabh Enterprises is engaged in trading of taxable goods on his own account and also acting as an agent of Mr. Rishi. His turnover in the financial year 20XX-XY is of ₹ 12 lakhs on his own account and ₹ 9 lakhs on behalf of principal. Both turnovers are Intra -State supply.

4) Rishabh Enterprises starts exploring the option to sell the goods supplied by him within Uttarakhand on a popular electronic commerce platform – E-vastustore by listing the goods on the said platform.

He approaches you for advice on following issues in this regard:

a) Rishabh Enterprises wishes to continue his business without registering under GST since it will enhance the compliance burden under GST law. Can he supply the goods through E-vastustore without obtaining GST registration? You are required to advise him.

b) Discuss the GST implications in case Rishabh Enterprises supplies goods through electronic commerce platform - E-vastustore.

5) Apart from above, Rishabh Enterprises is also engaged in the business of buying and selling of shares on his own account from the secondary market and its income from this activity is assessed as business income under the Income-tax Act 1961. During the year its total sales from shares was ₹ 90 lakh. Comment.

6) If the aggregate turnover of Rishabh enterprises in the state of Maharashtra exceeded ₹ 20 lakh on 25th March, 20XX. It applies for registration on 19th April, 20XX and is granted registration certificate on 29th April, 20XX.

a) Determine the effective date of registration.

b) What will be your answer, if Rishabh enterprises submits the application for registration on 27th April, 20XX and is granted registration on 5th May, 20XX?

c) What would be your answer if it applied for registration on GST portal but missed to submit the details of its bank account. Its tax consultant advised that prior submission of bank details is mandatory to obtain registration. Examine whether the advice of Rishabh Enterprise's tax consultant is correct.

7) Rishabh enterprises required to file return under section 39(1) for each month or part thereof, but it has not furnished returns for a continuous period of 6 months. Explain whether proper officer can cancel the registration of Rishabh enterprises on his own.

a) If yes, then discuss all the other situations also, where proper officer can do so.

b) Also discuss the circumstances where registration is liable to be cancelled by proper officer otherwise than on his own motion also.

8) What would be your answer in given case (7) above if Rishabh Enterprises applied for revocation of cancellation of registration and the order for revocation of cancellation of registration was passed. What are the provisions regarding filing returns before making such an application of revocation of cancellation of registration in the given case?

Answer:

1) Legal Provision:

- As per **section 22** of CGST Act, a supplier is liable to be registered in the State/ Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit.
- **The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-**
  (i) ₹10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
  (ii) ₹20 lakh for the rest of India.
- Also, **the threshold limit** for a person making **exclusive intra-state supplies of goods** is as under:-
  - ₹10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.
  - ₹20 lakh for the States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.
  - ₹40 lakh for rest of India.
- As per **section 2(6), "Aggregate turnover"** means the aggregate value of all:-
  - taxable supplies,
  - exempt supplies (wholly exempt, nil rated & Non-taxable)
  - exports &
  - inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis

but excludes:-

- central tax, State tax, Union territory tax, integrated tax and cess &
- the value of inward supplies on which tax is payable by a person on reverse charge basis.

Discussion & Conclusion:

- In given case, since Rishabh Enterprises is engaged in making taxable supplies of goods and services from Maharashtra and non-taxable supplies from Uttarakhand, the threshold limit for obtaining registration is ₹ 20 lakh.
- **Computation of aggregate turnover of Rishabh Enterprises is as under:-**

Particulars	Turnover of February (₹)	Cumulative Turnover of February & March (₹) (₹)
Serving of cooked food and cold drinks/non-alcoholic beverages inrestaurant in Maharashtra	5,50,000	12,00,000 [₹ 5,50,000 + ₹ 6,50,000]
Add: Sale of alcoholic liquor for human consumption in Uttarakhand **[Note]**	-	5,50,000
Add: Supply of packed food items from restaurant in Maharashtra	1,50,000	3,50,000 [₹ 1,50,000 + ₹ 2,00,000]
Aggregate Turnover	**7,00,000**	**20,50,000**

- Rishabh Enterprises was **not liable to be registered in February** since its aggregate turnover did not exceed ₹ 20 lakh in that month.
- However, since its aggregate turnover exceeds ₹ 20 lakh in March, it **shall apply for registration in Maharashtra**

within 30 days from the date on which it becomes liable to registration.

➲ Further, he is **not liable to be registered in Uttarakhand** since he is not making any taxable supply from Uttarakhand.

➲ In **second case,** The applicable threshold limit for registration for Rishabh Enterprises 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.

Note: As per **section 2(47), exempt supply includes non-taxable supply.** Thus, supply of alcoholic liquor for human consumption in Uttarakhand, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

2) **Legal Provision:**

➲ As per **section 24**, person making **interstate taxable supply** of goods (other than taxable supply of handicraft goods) are compulsorily required to obtain registration irrespective of the quantum of aggregate turnover.

Discussion & Conclusion:

➲ Here, Rishabh Enterprises is making inter-state taxable supply of goods.

➲ Thus, he is **required to obtain registration compulsorily** under GST laws even though his aggregate turnover does not exceed the threshold limit applicable u/s 22.

3) **Legal Provision:**

➲ As per **section 24,** Persons making 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.

➲ As per **Explanation to section 22,** aggregate turnover includes all supplies made by the taxable person,
- whether on his own account or
- made on behalf of all his principals.

➲ If agent issues invoice in his own name, then section 24 gets attracted, otherwise he is liable to register u/s 22 if his aggregate turnover crosses the threshold limit for registration.

Discussion & Conclusion:

➲ In the given case, since Rishabh Enterprises is also acting as an agent of Mr. Rishi, he is required to obtain **registration compulsorily** under GST laws irrespective of the quantum of aggregate turnover.

Assumption: It is assumed that agent is issuing invoice for further supply in his own name.

4) **a)**

➲ **Yes,** Rishabh Enterprises **can supply goods** through E-vastustore without obtaining GST registration.

➲ As per **section 24(ix),** persons who supply goods and/or services, other than services notified under section 9(5), through such ECO who is required to collect TCS under section 52 is required to obtain registration mandatorily.

➲ However, the persons making **supplies of goods** through an ECO who is required to collect TCS and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit as per section 22(1), are **exempted from obtaining registration**, subject to the following conditions, **namely:**

a) such persons shall not make any inter-State supply of goods.

b) such persons shall not make supply of goods through ECO in more than one State/UT.

c) such persons shall be required to have a PAN issued under the Income-tax Act, 1961.

d) such persons shall, before making any supply of goods through ECO, declare on the common portal:
- their PAN
- address of their place of business &
- State/UT in which such persons seek to make such supply,

which shall be subjected to validation on the common portal.

e) such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared above.

f) such persons shall not be granted more than one enrolment number in a State/UT.

g) 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 &

h) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

	b)	➲ As Rishabh Enterprises is not required to obtain registration under GST, there shall be **no GST implications** on the supplies made by him through ECO - E-vastustore. ➲ However, the ECO is required to **submit the details of supplies** made through it by the unregistered suppliers (including Rishabh Enterprises) having enrolment number in **Form GSTR 8.** ➲ Further, no tax at source shall be collected by the E-vastustore for such supplies.
5)		➲ A supplier is liable to obtain registration in a State/Union Territory from where he makes taxable supply of goods and/or services. ➲ Shares are excluded from the definition of goods as well as services & hence, **buying and selling of shares is not a supply** of goods and/or services under GST law. ➲ Thus, Rishabh enterprises is **not liable to obtain registration** since it is not engaged in making a taxable supply of goods and/or services.
6)		**Legal Provision:** ➲ As per **section 22 read with section 25,** a supplier, whose aggregate turnover in a financial year **exceeds ₹ 20 lakh** in a State other than Manipur, Mizoram, Nagaland, Tripura, is liable to apply for registration **within 30 days** from the date of becoming liable to registration. ➲ Where the application is submitted within the said period, the effective date of registration is the date on which the person becomes liable to registration ➢ otherwise, it is the date of grant of registration. **Discussion & Conclusion:** ➲ In given case, applicable turnover limit for registration is ₹ 20 lakh as Maharashtra is not a Special Category State.
	a)	Since Rishabh enterprises applied for registration **within 30 days** of becoming liable to registration, the effective date of registration is **25th March, 20XX.**
	b)	In this case, since Rishabh enterprises applies for registration a**fter the expiry of 30 days** from the date of becoming liable to registration, the effective date of registration is **5th May, 20XX.**
	c)	➢ **No, the advice of Rishabh Enterprise's consultant** that prior submission of bank details is mandatory to obtain registration is no more valid in law. ➢ **A new rule 10A** has been inserted in the CGST Rules, 2017 to **allow** the registered person to **furnish details of bank account** 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 the information shall be furnished **which is earlier of:-** - Within 30 days from the date of grant of registration certificate or - Furnishing details of outward supplies in Form GSTR 1 or using IFF u/s 37.
7)		➲ **Yes, the proper officer can cancel the registration of Rishabh enterprises on his own after opportunity of being heard to it.** ➲As per **section 29(2) read with rule 21** of CGST Rules 2017, the circumstances under which **proper officer can cancel the registration on his own** of a registered person after giving the person an **opportunity of being heard** are as under:- (1) A registered person has **contravened any of the following provisions** of the GST law:- a) he does not conduct any business from the declared place of business. b) he issues invoice/bill without supply of goods or services or both in violation of the provisions of GST law. c) he violates the provisions of anti-profiteering. d) he violates the provisions relating to furnishing of bank details. e) He avails input tax credit in violation of the provisions of section 16 of CGST Act or the rules made thereunder. f) 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.

g) violates the provision of rule 86B.

ga) violates the provisions of 3rd or 4th proviso to rule 23(1)

- ➲ failed to file returns due between the order of cancellation and revocation of registration within 30 days of the revocation order.
- ➲ If the cancellation was retrospective, failed to file all returns from the date of order of cancellation date to the revocation order within 30 days.

h) being a registered person required to file return under section 39(1) for each month or part thereof, has not furnished returns for a continuous 6 months.

i) being a registered person required to file return under proviso to section 39(1) for each quarter or part thereof, has not furnished returns for a continuous 2 tax periods.

(2) A person paying tax under **composition levy** has furnished the return for a financial year **beyond 3 months** from the due date of furnishing the said return.

(3) Voluntarily registered person has **not commenced the business within 6 months** from the date of registration.

(4) Registration was obtained by means **of fraud, wilful misstatement or suppression of facts.**

➲ **Further As per section 29(1),** following are the circumstances where proper officer **may cancel** the registration either:-

- on his own motion or
- on an application filed by the registered person or
- on an application filed by his legal heirs, in case of death of such person.

(a) If 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.

(b) If there is any change in the constitution of the business.

(c) If the taxable person is no longer liable to be registered under section 22 or section 24 or intend to optout of the registration voluntarily made under section 25(3).

➲ Proper officer shall not cancel registration **without giving person an opportunity of being heard.**

8) **Legal Provision:-**

➲ As per **section 30 read with Rule 23 of CGST Rules 2017**, where the **registration is cancelled suo-motu** by the appropriate officer, the registrant seeking revocation of the order, **has to apply for the revocation** of cancellation **within 90 days** from the date of service of the order of cancellation of registration.

➲ However, such period can be **further extended upto 180 days,** if sufficient cause has been shown by registrant.

➲ Further, it has to furnish **all the returns due** till the date of such cancellation **before the application for revocation can be filed.**

➲ Further, it should also pay any amount due as tax along with any amount payable towards interest, penalty, and late fee in respect of the said returns.

Discussion & Conclusion:- Thus, in the given case, **before making an application** for revocation of cancellation of registration, Rishabh Enterprises should **file all returns due** for the period.

Question 20

Answer the following questions with respect to casual taxable person (CTP) and Non-resident taxable person (NRTP) under the CGST Act, 2017: -

a) Who is CTP & NRTP?

b) Can a casual taxable person opt for the composition scheme?

c) When is the CTP & NRTP liable to get registered?

d) Is PAN being mandatory for registration of CTP and NRTP?

e) What is the validity period of the registration certificate issued to a CTP and NRTP?

f) Can the validity of registration certificate issued to a CTP and NRTP be extended? If yes, what will be the period of extension?

Answer :-

a)	➲ As per **section 2(20)** of CGST Act, 2017, **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.** ➲ As per **section 2(77)** of CGST Act, 2017, Non-resident taxable person means a person- ➢ who **occasionally undertakes transactions** involving supply of goods and/or services, ➢ whether as principal, agent or in any other capacity, ➢ but who **has no fixed place** of business or residence **in India.**
b)	**No,** as per **section 10(2) and 10(2A)**, a casual taxable person cannot opt for the composition scheme.
c)	➲ As per **section 24,** a casual taxable person (CTP) is liable to obtain registration compulsorily under GST law. ➲ CTP has to apply for registration **at least 5 days prior to commencement of business** as per **section 25(1) read with proviso thereto.** ➲ However, if CTP is making taxable supplies of specified handicraft goods, then it is eligible for the threshold limit applicable as per **section 22.** ➲ **Whereas** non-resident taxable person, should apply for registration **at least 5 days prior to the commencement of business** irrespective of the threshold limit.
d)	➲ **Yes, PAN is being mandatory** for registration of casual taxable person. ➲ **However, PAN is not mandatory** for registration of non-resident taxable person. ➢ 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.
e)	➲ As per **section 27(1) read with proviso thereto**, Registration Certificate granted to a casual taxable person & non-resident taxable person will be valid for **earlier of:-** ➢ **period specified in the application** for registration or ➢ period of **90 days** from the effective date of registration. ➲ However, at the request of the said taxable person, the proper officer may **extend the validity by a further period not exceeding 90 days.**
f)	➲ **Yes,** the **validity** of registration certificate issued to a casual taxable person and non-resident taxable person **can be extended**. ➲ It can be extended by a **further period not exceeding 90 days** by making application before the end of period of validity of registration granted to him.

11 TAX INVOICE

Question 21

Shakti Ltd., a registered supplier, engaged in goods as well as services in Pune, Maharashtra. Some of the goods sold by it are exempt whereas some are taxable. You are required to answer the following questions:-

1) **Shakti Ltd 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 Pune on 11th October. As per the agreement, the goods were to be delivered on or before 31st October. Suraj Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.**
2) **Shakti Ltd. is supplying taxable goods to Suraj Enterprises. It submits the account of total supplies made during the 2-month period on the 25th of alternate month. Do Shakti Ltd. have to issue an invoice each time by dispatching the goods?**
3) **On 20/05/20XX, Shakti Ltd. has sent 500 units of transmitters for exhibition at Satara on sale or return basis. Out of the said 500 units, 300 units have been sold on 28/07/20XX at the exhibition. Out of remaining 200 units, 150 units have been brought back to Pune on 25/11/20XX and balance 50 units have neither been sold nor brought back.**
   Explain the provisions under GST law relating to issue of invoices with exact dates on which tax invoices need to be issued by Shakti Ltd.
4) **Shakti Ltd. has provided services for an event at Kapoor Film Agencies, Mumbai on 5th June, 20XX. Payment for the event was made on 19th June, 20XX. Determine the time of issue of invoice.**
5) **Shakti Ltd.provides Continuous Supply of Services (CSS) to M/s. TNB Limited. It furnishes the following further information:-**
   a) **Date of commencement of providing CSS - 01-10-20XX**
   b) **Date of completion of providing CSS - 31-01-20XY**
   c) **Date of receipt of payment by Shakti Ltd. - 30-03-20XY**

   Determine the time of issue of invoice as per provisions of CGST Act, 2017 in the following circumstances:-
   (i) **If no due date for payment is agreed upon by both under the contract of CSS.**
   (ii) **If payment is linked to the completion of service.**
   (iii) **If M/s. TNB Limited has to make payment on 25-03-20XY as per the contract between them.**
6) **Shakti Ltd. had undertaken a contract for supplying manpower for 28 days for ₹ 28,000, However, after 10 days, the service has stopped. Should Shakti Ltd. raise an invoice?**
7) **The aggregate turnover of Shakti Ltd., Delhi, exceeded ₹ 20 lakh on 12th August. It applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice Shakti 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.**
8) **Shakti Ltd. has undertaken following sales during the day:**

S.No.	Particulars	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, Shakti Ltd. may issue a Consolidated Tax Invoice instead of Tax Invoice at the end of the day?

9) If Shakti Ltd. has opted for composition levy scheme in the current financial year. Advice whether it is mandatory to issue a tax invoice. If not, what is the other document to be issued by him.

10) Shakti Ltd. has received advance payment with respect to services to be supplied to Surajmal. Its accountant asked to issue the receipt voucher with respect to such services to be supplied. However, Shakti Ltd. 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 Shakti Ltd. regarding the same.

11) Shakti Ltd. has availed GTA services on which it is liable to pay tax under reverse charge. It wishes to know whether it is required to issue an invoice. Please advise

12) Shakti Ltd. wishes to know whether it's necessary to show tax amount separately in the tax invoices issued to the customers.

Answer:

1)	**Legal Provision:-** ➲ As per **section 31(1)** of CGST Act, 2017, a registered person supplying taxable goods shall issue invoice before or at the time of removal of goods for supply to the recipient if supply involves movement of goods. **Discussion & Conclusion:** In the given case, invoice has to be issued **on or before 11th October, 20XX** which is the **time of removal** of goods for supply to recipient.
2)	**Legal Provision:** ➲ As per **section 31(4),** in **continuous supply of goods** where successive statement 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. **Discussion & Conclusion:** ➲ No, invoice is not required to be issued each time the goods are dispatched. ➲ Since the given instance is a case of continuous supply of goods, tax invoice has to be issued **latest by the time of submitting the statement every time** (i.e. 25th of Alternate Month).
3)	**Legal Provision:-** ➲ As per **section 31(7),** Where the goods being sent for sale or return are removed before the supply takes place, the tax invoice shall be issued - before or at the time of supply or - 6 months from the date of removal, **whichever is earlier** **Discussion & Conclusion:** ➲ In the given case, 500 units of transmitters have been sent for exhibition on sale or return basis out of which 300 units are sold before 6 months from the date of removal. ➲ Thus, tax invoice for 300 units needs to be issued before or at the time of supply of such goods, i.e. upto **28/07/20XX.** ➲ Remaining 200 (150+ 50) units have neither been sold nor brought back till the expiry of 6 months from the date of removal goods, i.e. 20/11/20XX. ➲ Thus, tax invoice for 200 units needs to be issued upto **20/11/20XX.**
4)	**Legal Provision:-** ➲ As per **section 31(2)**, 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. **Discussion & Conclusion:-** ➲ In the given case, invoice has to be issued within 30 days from 5th June, 20XX (date of supply of service), i.e. **on or before, 5th July, 20XX.**

5)	**Legal Provision:-** ➲ As per **section 31(5),** the time period within which tax invoice shall be issued in case of continuous supply of services is as below:- a) **If due date of payment is ascertainable from the contract:-** Invoice shall be issued on or before **due date of payment.** b) **If due date of payment is not ascertainable from the contract:-** Invoice shall be issued before or at the time of **receipt of payment** by supplier of services. c) **If payment is linked to the completion of an event:-** Invoice shall be issued on or before the date of **completion of that event.** **Discussion & Conclusion:-** In view of the aforesaid provisions, time of issue of invoice will be as follows in the given different circumstances:- (i) In the given case, the invoice should be issued **on or before 30.03.20XY** which is the date of receipt of payment by Shakti Ltd. (ii) In the given case, Since payment is linked to the completion of service, the invoice should be issued **on or before 31.01.20XY** which is the date of completion of service. (iii) If M/s. TNB Limited has to make payment on 25.03.20XY as per the contract between them, the invoice should be issued **on or before 25.03.20XY.**
6)	➲ **Yes.** ➲ As per **section 31(6),** where a **supply of service ceases** under a contract before its completion, the **invoice shall be issued at the time the supply ceases,** i.e., on the 10th day. ➲ The invoice shall be issued **to the extent of the service provided** before its cessation. ➲ Value of such invoice shall be determined in **proportionate** to supply made in 10 days i.e. ₹10,000.
7)	**Legal Provision:-** ➲ As per **section 22(1),** a supplier is liable to register under GST Act, if his aggregate turnover in a financial year for **other than special category states of Manipur, Mizoram, Tripura & Nagaland exceeds ₹20 lakhs.** ➲ Where the application is submitted within 30 days from the date of becoming liable to 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. ➲ As per **section 31(3)(a),** if a registered person is granted **registration with effect from a date earlier than the date of issuance of registration certificate**, then - he may issue **revised tax invoices** for taxable supplies effected - during the period between effective date of registration and date of issue of registration certificate. - **within 1 month** from the date of issue of registration certificate. **Discussion & Conclusion:** ➲ In the given case, Shakti Ltd. has to issue the **Revised Tax Invoices** for the taxable supplies made between effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from 6th September, i.e. **on or before 6th October.**
8)	**Legal Provision:-** ➲ As per **section 31(3)(b) read with proviso to rule 46** a registered person is not required to issue a tax invoice, **if** - the value of supply of good &/or services is less than ₹ 200, - the recipient is unregistered person & - the recipient does not require tax invoice. ➲ Such person shall issue a **consolidated tax invoice at the close of each day for all such supplies.** ➲ Further, **as per Rule 55** of CGST Rules, 2017, the **tax invoice is also not required to be issued** under the CGST Act, 2017 in the case of:- 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.

Discussion:-

➲ In the given case, Shakti Ltd. **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,
- these recipients are unregistered persons and
-do not require a tax invoice.

➲ In case of **Raghav Traders**, although the value of goods supplied to it is less than ₹ 200, Raghav Traders is registered under GST & so, Consolidated Tax Invoice cannot be issued.

➲ Consolidated Tax Invoice **cannot be issued** for supply of goods to **Dhruv Enterprises and Gaurav** although both of them are unregistered because value of goods supplied is not less than ₹200.

Conclusion:- Therefore, Shakti Ltd. **may issue one Consolidated Tax Invoice** instead of Tax Invoice at the end of the day only in respect of supply of goods made to **Oberoi Orphanage** [worth ₹ 188] and **Aaradhya** [worth ₹ 158] together.

9)

Legal Provision:-

➲ As per **section 31(3)(c)**, a registered person paying tax under section 10 (i.e. under composition levy) shall issue a **bill of supply** instead of a tax invoice, containing such particulars and in such manner as may be prescribed.

Discussion & Conclusion:-

➲ In the given case, Shakti Ltd. is paying tax under composition scheme.

➲ Therefore, it **cannot issue** tax invoice. Instead, it shall issue a Bill of Supply.

10)

Legal Provision:

➲ As per **section 31(3)(d),** on receipt of advance payment for any supply of goods and/or services, a registered person shall issue a receipt voucher or any other document evidencing receipt of such payment & containing prescribed particulars.

➲ As per **section 31(3)(e)**, if a registered person issues a Receipt Voucher for advance payment received for supply of goods &/or services, but subsequently:-
- No supply is made &
- No tax invoice is issued for the same,

then he may issue a **Refund Voucher against such advance payment** to the person who had made the payment.

Discussion & Conclusion:

➲ Shakti Ltd. is required to **issue a receipt voucher at the time of receipt of advance** payment with respect to services to be supplied to Surajmal.

➲ In the given case, subsequently no services are supplied by Shakti Ltd., and no tax invoice is issued in pursuance thereof, Shakti Ltd. **may issue a refund voucher** against such payment to Surajmal.

11)

➲ The **Recipient is liable to pay tax** on reverse charge basis if he receives supply of such goods &/or services which are notified **under section 9(3) & 9(4)** of CGST Act, 2017

➲ As per section 31(3)(f), when a registered person receives supply of goods &/or services which are liable to pay tax on reverse charge basis from an unregistered person **(including those registered only for TDS u/s 51)** then Invoice is to be issued by recipient on the date of receipt of goods &/or services.

➲ As per section 31(3)(g), a registered person who is liable to pay tax under section 9(3)/9(4) of CGST Act shall issue a payment voucher at the time of making payment to the supplier.

➲ Further, As per Rule 47A, A registered person liable to pay tax under reverse charge must issue a **self-invoice within 30 days** of receiving the goods or services.

	Discussion & conclusion: ➲ Thus, a recipient who is liable to pay tax as per section 9(3) has to issue invoice only when supplies have been received from an unregistered supplier ➲ Shakti Ltd. has availed services of GTA (unregistered person) on which he is liable to pay tax under reverse charge u/s 9(3). ➲ He is required to issue an invoice (Self invoice) for GTA services availed by him **within 30 days from the date of receipt of service & issue a payment voucher** at time of making payment to GTA.
12)	➲ As per **section 33,** if a **supply is made for a consideration,** then every person who is liable to pay tax for such supply shall prominently indicate the amount of tax which shall form part of the price at which such supply is made in all documents relating to assessment, tax invoice & other like documents. ➲ As per **rule 46** of CGST Rules, a tax invoice shall contain the details of amount of tax charged in respect of taxable goods or services (CGST, SGST, IGST, UTGST or Cess).

Question 22

Answer the following questions:

1) What is 'e-invoicing & what is the threshold limit for mandatory issuance of E-invoice for all registered businesses.

2) Enumerate the persons to whom the provisions regarding E-invoicing are applicable.

3) A Government Department is registered under GST. It's aggregate turnover in the preceding financial year is ₹ 22 crore. You are required to comment with the help of relevant provisions whether the said Department is required to issue e-invoices in the current financial year.

4) Briefly explain the requirement of Dynamic Quick Response (QR) code and list out the non-applicability of requirement of Dynamic QR Code.

Answer:

1)	➲ E-invoicing is **reporting of business to business (B2B) invoices** to GST system for certain notified category of taxpayers. ➲ The threshold limit for mandatory issuance of e-invoice for all registered businesses is **₹ 5 Cr.**
2)	➲ **Mandatory e-invoicing** is applicable to notified registered businesses (except specified class of persons) with an aggregate turnover **exceeds ₹ 5 Crore** (based on PAN) in any preceding financial year from 2017-18 onwards. ➲ **Exception:-** Following persons are exempted from the mandatory requirement of e-invoicing:- - A Government Department - A local Authority - Special Economic Zone (SEZ) units - 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 service - Person supplying services of admission to exhibition of cinematograph films in multiplex screens ➲ As per **CBIC clarification,** 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. ➲ **Declaration to be given in tax invoice:-** A taxpayer whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 5 Crore but is exempted from e-invoicing shall give a declaration in the tax invoice that invoice is not required to be issued in the manner specified under rule 48(4).
3)	**Legal provision:** ➲ All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards **greater than ₹ 5 crore** are required to issue e- invoices **for B2B supplies** (supply of goods and/or

	services to a registered person) or **for exports** or **for B2G** (Government Departments or establishments/ Government agencies/ local authorities/ PSUs) supplies which are registered **solely for the purpose of TDS u/s 51 of the CGST Act.** ➲ Further, **notified entities are exempt** from the mandatory requirement of e-invoicing i.e. not required to issue e-invoices even if their turnover exceeds ₹ 5 crore in the preceding financial year from 2017-18 onwards. **Discussion & Conclusion:** ➲ Government Department is **specifically exempt** from mandatory requirement of e-invoicing even if the turnover exceeds ₹ 5 crore in the preceding financial year & thus, e- invoicing is **not applicable** to Government department.
4)	➲ All invoices **issued to an unregistered person** (B2C invoice) **by a registered person** whose **aggregate turnover** in any preceding financial year from 2017-18 onwards **exceeds ₹ 500 crores** are required to have a Dynamic QR code. ➲ However, Dynamic Quick Response (QR) code is **not applicable** to following suppliers when they issue an invoice to an unregistered person:- 1. Insurer or banking company or financial institution including NBFC. 2. GTA (Goods transport agency) supplying services in relation to transportation of goods by road in a goods carriage. 3. Supplier of passenger transportation service. 4. Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens. 5. Supplier of OIDAR (online information and database access or retrieval) services. 6. In case of exports.

Question 23

Answer the following questions with respect to credit notes & debit notes: -

1) What are the circumstances under which "Credit Notes" and "Debit Notes" needs to be issued by a registered person?

2) What are the tax implications on issue of a Credit Note and Debit Note?

3) What is the time limit to declare the details of a Credit Note and Debit Note issued under GST?

4) Mention the requirements for claiming a reduction in output tax liability by issuing Credit Note.

5) Is it correct to state that, Debit Note can be issued only for increasing tax liability by supplier?

6) Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March:-

(i) Value of supply charged in invoice no. 1 was ₹ 2,50,000 against the actual taxable value of ₹ 2,30,000.

(ii) 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.

(iii) 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:-

a) Who shall issue a debit/ credit note under CGST Act?

b) Whether debit note or credit note has to be issued in each of the above circumstances?

c) What is the maximum time-limit available for declaring the credit note in the GST Return?

Answer:

1)	➲ **As per section 34(1),** the circumstances under which **credit note** needs to be issued by a registered person are:- a) The **taxable value declared** in the invoice **is more** than the actual value of the supply, b) The **tax charged** in the invoice is more than the actual tax payable for the supply, c) The goods supplied are **returned** by the recipient, d) The recipient found that the goods or services or both supplied are deficient i.e. the **quantity received** by the recipient **is less** than what has been declared in the tax invoice and the customer choses to retain the same.

	➲ However, reduction in output tax liability of supplier shall **not be permitted**, if the incidence of tax and interest on such supply has been passed on to any other person. ➲ **Further As per section 34(3)**, the circumstances under which **debit note** needs to be issued by a taxable person are:- a) The **taxable value declared** in the invoice **is less** than the actual value of the supply b) The **tax charged** in the invoice **is less** than the actual tax payable in respect of the supply ➲ The **quantity received** by the recipient **is more** than what has been declared in the tax invoice and the customer choses to retain the same	
2)	As per **section 34,** on issue of a Credit Note under GST, there is a **reduction in output tax liability** (subject to doctrine of unjust enrichment) whereas, on issue of a Debit Note under GST, there is an **increase in the output tax liability** of the registered person issuing the same.	
3)	➲ Details of credit note issued by a registered supplier shall be declared:- In the return for the month during which such credit note is issued but **Till the earlier of:-** - 30th November following the end of F.Y. in which such supply was made, or - Date of furnishing of the relevant annual return. ➲ However, debit note issued by a registered person in relation to a supply of goods &/or services shall be declared **in the return for the month during which it is issued.**	
4)	The below requirements must be met for claiming a reduction in output tax liability by issuing Credit Note under **section 34:-** a) It can be proven that the **incidence of tax and interest** have not been passed on to any person. b) The details of the credit note are **declared within the prescribed timelines.** c) The recipient of the supply should **accept credit note in his return of inward supply** and reduce his claim of input tax credit to the extent of reduction in tax liability.	
5)	**Yes,** Debit Note can be issued only for increasing tax liability by the supplier. ➲ Debit note' are akin to **'supplementary invoice'.** ➲ They are issued by the supplier for recording **increase in taxable value or tax charged in the supply under section 34.**	
6)	**a)**	The debit/credit note shall be issued by the **registered person who has supplied** the goods and/or services, i.e. **Kartik & Co.**
	b)	**Yes,** debit/credit note need to be issued in each of the circumstances as under:- a) A **credit note** is required to be issued as the taxable value in invoice no. 1 exceeds the actual taxable value. b) A **debit note** is required to be issued as the tax charged in the invoice no. 4 is less than the actual tax payable. c) 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.
	c)	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 ACCOUNTS & RECORDS

Question 24

Mix & Match is a chain of stores dealing in readymade garments through five showrooms in Pune. It has a single GSTIN for all its showrooms in Pune and has a principal place of business at Camp, Pune.
It has approached you regarding the following:-

1) Advise Mix & Match about accounts & other records to be maintained u/s 35(1) of CGST Act, 2017.

2) It opted for composition scheme in current financial year. Discuss the records which are not to be maintained by a supplier opting for composition levy as enumerated in rule 56 of GST Rules, 2017.

3) Mix & Match wants to know whether the entries can be erased in the registers? What shall be the treatment of the same?

4) Mix & Match is planning to start a manufacturing unit to manufacture garments on its own in next financial year. Consequently, is there any specific set of records to be maintained by it? Mention.

5) Mix & Match is also providing customer support service to address their customers' grievances. Is there any specific set of details to be maintained by a supplier of service? Mention.

6) For the construction of one of its showroom, Mix & Match availed the services of a works contractor – ABC Ltd. (registered under GST). Is there any specific set of records to be maintained by provider of works contract service? If yes, mention them.

7) The transporter of Mix & Match is not registered under GST. Whether such unregistered transporter is required to maintain any records under CGST Act, 2017? Also explain, if any other unregistered persons are required to maintain records under GST.

8) Ascertain the period for which the books of accounts or other records need to be maintained?

Answer:

1)

- Mix & Match, a registered person, shall keep & maintain a **true and correct account** of following at his **principal place of business** as mentioned in certificate of registration **under section 35(1)** of CGST Act, 2017:-
  - production or manufacture of goods,
  - inward and outward supply of goods or services or both,
  - stock of goods,
  - input tax credit availed,
  - output tax payable & paid,
  - other prescribed particulars.
- The accounts & other particulars may be maintained in **electronic form** stored on any electronic device & shall be authenticated with a **digital signature under rule 56.**
- If **more than one place** of business is specified in the certificate of registration, the accounts relating to each place of business **should be kept at such places** of business.

2)

As per **rule 56(2) & (4)** of CGST Rules, following records are **not required** to be maintained by supplier who has opted for composition scheme but are required to be maintained by a normal tax payer:-

i) Stock of goods:-

- Accounts of stock in respect of goods received and supplied by him.
- Such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

ii) Details of tax:-

- Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and

	paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
3)	➲ **No,** as per **rule 56(8)** of CGST Rules, any entry in the register, accounts and documents shall **not be erased,** effaced or overwritten. ➲ All incorrect entries (other than those of clerical nature) **shall be scored out** under attestation and then the correct entry shall be recorded. ➲ registers & other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.
4)	**Yes,** as per **rule 56(12)**, apart from other records, every registered person **manufacturing goods** shall maintain **monthly production accounts** showing quantitative details of:- a) Raw materials or services used in the manufacture, and b) Goods manufactured including the waste and by products thereof.
5)	**Yes,** as per **rule 56(13),** every registered person **supplying services** shall additionally maintain the accounts showing quantitative details of:- a) Goods used in the provision of services, b) Details of input services utilised and c) Services supplied.
6)	**Yes, as per rule 56(14),** ABC Ltd., being a registered person executing works contract, shall keep separate accounts for works contract showing:- a) the names and addresses of the persons on whose behalf the works contract is executed, b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract, c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract, d) the details of payment received in respect of each works contract and e) the names and addresses of suppliers from whom he received goods or services.
7)	➲ **Yes. As per section 35(2) of CGST Act read with rule 58 of CGST Rules, unregistered transporters shall:-** - obtain a **unique enrolment number** on GST common portal and - **maintain records** of goods transported, delivered and goods stored in transit by them along with GSTIN of the registered consignor and consignee for each of his branches. ➲ **Every owner/ operator of warehouse/ godown/ any other place** used for storage of goods is also required to maintain records under GST even if it is unregistered.
8)	➲ As per **section 36 of CGST Act**, every registered person who is required to keep and maintain books of account or other records as per section 35(1) shall retain them for **72 months from the due date** of furnishing of annual return for the year pertaining to such accounts and records. ➲ But if registered person is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court which is filed by him or by Commissioner, or is under investigation for an offence under Chapter XIX, then he shall retain the books of account and other records **pertaining to the subject matter** of such appeal or revision or proceedings or investigation:- - for 1 year after final disposal of such appeal/ revision/ proceedings/ investigation, **or** - **for the period specified above,** **whichever is later.**

13 E-WAY BILL

Question 25

Mr. Yash, a manufacturer and supplier of plastic goods, is registered under GST in the state of Maharashtra. Mr. Yash sold plastic goods to a retail seller in Punjab, at a value of ₹ 43,000 (excluding GST leviable @ 18%). Now, it wants to send the consignment of such plastic goods to the retail seller in Punjab.

1) You are required to examine and advise Mr. Yash, whether e-way bill is mandatorily required to be generated in respect of such movement of goods under GST laws?
   What would be your answer If Mr. Yash made an inter-State supply of taxable goods valued at ₹ 47,500 and exempt goods valued at ₹ 2,000. Rate of IGST for taxable supply was 6%.
2) Mr. Yash sold goods (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?
3) Mr. Yash 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. Yash.
4) Assume that the sales order in the given case is of ₹ 1,20,000 (inclusive of GST leviable @ 18%). While checking the stock, it is found that order worth ₹ 55,000 can be fulfilled from the company's Pune store and remaining goods worth ₹ 65,000 can be sent from its Nashik store. Both the stores are instructed to issue separate invoices for the goods sent to retail seller in Gujarat. The goods are transported in a single conveyance owned by Radhey Transporters. You are required to advise Mr. Yash with regard to issuance of e-way bill(s).
5) What is the time limit to accept/ reject the e-way bill for supplier or recipient, as the case may be?
6) Mr. Yash wishes to transport cargo by road between two cities situated at a distance of 368 kilometres. Calculate the validity period of e-way bill under rule 138(10) of CGST Rules, 2017 for transport of the said cargo, if it is over dimensional cargo or otherwise.
7) Mr. Yash has also transported alcoholic liquor for human consumption of consignment Value of ₹ 1,50,000 from Maharashtra to Punjab. It has not generated e-way bill for the same. You are required to examine the correctness of action taken by Mr. Yash.
8) If goods are transferred by principal to job worker, there is no need to issue e-way bill. Comment on the validity of the above statement with reference to GST Laws.
9) Mr. Nandkishore registered under GST in Patiala, a regular return filer supplies goods in bulk to Mr. Yash for selling to end consumers. Mr. Yash paying tax in regular scheme in Maharashtra, has not filed GSTR-3B for last 2 months. Mr. Nandkishore wants to generate e-way bill for goods amounting to ₹ 5,00,000 to be supplied to Mr. Yash Also, Mr. Narayan from Jammu approached Mr. Yash for purchased goods amounting to ₹ 75,000. Mr. Yash wants to generate an e-way bill in respect of an outward supply of goods to Mr. Narayan. Examine with reference to the provisions under GST law, whether Mr. Nandkishore and Mr. Yash can generate e-way bill?

Answer:

1)	**Legal Provision:-** ➲ As per **Rule 138(1)** of CGST Rules, a registered person is mandatorily required to generate e-way bill if he causes movement of goods of consignment value **exceeding ₹ 50,000** in relation to a supply. ➲ The consignment value shall be the value as per section 15 as declared in an invoice - **including** CGST, SGST, UTGST, IGST and cess charged, if any, in the document but - it **excludes** the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods. **Discussion & Conclusion:** ➲ In given case, the consignment value of goods will be ₹ 50,740 [i.e., ₹ 43,000 + (₹ 43,000 ×18%)]. ➲ Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, the **e-way bill is mandatorily required to be generated** for movement of goods from Maharashtra to Punjab. ➲ In the second case, consignment value of goods (including GST and excluding value of exempt supply) is ₹ 50,350 (47,500 × 106%). ➲ Since there is a movement of goods of consignment value exceeding ₹ 50,000, Mr. Yash is mandatorily required to issue e-way bill.
2)	➲ 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 consignment value of goods will be ₹ 55,460 [(₹ 40,000 + ₹ 7,000) * 118%] ➲ Since there is a movement of goods of consignment value exceeding ₹ 50,000, Mr. yash is **mandatorily** required to issue e-way bill.
3)	➲ 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, Mr. Yash **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.
4)	**Legal Provision:** ➲ As per **rule 138,** e-way Bill is required to be generated mandatorily, if the goods are moved in relation to a supply and the consignment value [including CGST, SGST/UTGST, IGST and cess charged] **exceeds ₹ 50,000.** ➲ As per CBIC Clarification, 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, irrespective of the fact whether the same or different consignors or consignees are involved. ➲ Each invoice is considered as **separate consignment** for the purpose of generating e-way bills. **Discussion & Conclusion:** ➲ In given case, Mr. Yash 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. ➲ 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.
5)	➲ As per **Rule 138(12)**, the information furnished in Part A of e-way bill by the recipient/ transporter or by the supplier/ transporter, as the case may be, shall be accepted or rejected by the supplier/recipient within the **Earlier of:-** ➢ **72 hours** of details being made available to him on common portal or ➢ **Time of delivery** of goods. ➲ If such supplier/ recipient does not communicate his acceptance or rejection within this time, then it shall be deemed to be accepted.

6)	**Legal Provision:** As per **rule 138(10)**, the validity period of e-way bill is as under:- a) **If it is over dimensional cargo:-** The validity period of e-way bill is 1 day from relevant date upto 20 km and 1 additional day for every 20 km or part thereof thereafter. b) **If it is a cargo other than over dimensional cargo:-**The validity period of e- way bill is 1 day from relevant date upto 200 km and 1 additional day for every 200 km or part thereof thereafter. **Discussion & Conclusion:** In given case, the validity period of e-way bill for transport of cargo by road between two cities situated at a distance of 368 kilometres is as under:- a) **If it is over dimensional cargo:-** Validity period = 1 day + 18 days i.e., 19 days b) **If it is a cargo other than over dimensional cargo:-** Validity period = 1 day + 1 day i.e., 2 days
7)	➲ E-way bill is **not required to be generated** where the goods being transported are alcoholic liquor for human consumption. ➲ Thus, the action of Mr. Yash of not generating the e-way bill is **correct in law.**
8)	➲ The said statement is **not valid.** ➲ When goods are transferred by principal to job worker, e-way bill is required to be **mandatorily issued:** ➢ In case of intra-State transfer, if consignment value exceeds ₹ 50,000 & ➢ In case of inter-State transfer, irrespective of the value of the consignment.
9)	**Legal Provision:** ➲ As per **Rule 138E,** a taxpayer (consignor or consignee) shall be disabled from generating the e-way bill, if the GSTIN is not eligible for e-way bill generation. ➲ Under this rule, **GSTIN is blocked only for the defaulting supplier** for e-way bill generation and not for the defaulting Recipient or Transporter. ➲ A person paying tax under regular scheme who has **not furnished the returns for a consecutive period of two tax periods** is considered as a defaulting person. ➲ The suspended GSTIN cannot generate e-way bill as a supplier. However, it can get e-way bill generated as recipient or as transporter. ➲ In other words, e-way bill generation facility is blocked only for any outward movement of goods of registered person & not for his inward supplies. **Discussion & Conclusion:** ➲ In the given case, there will be **no restriction** in generating e-way Bill by **Mr. Nandkishore** as Mr. Nandkishore who is making outward movement of goods is a regular return filer. ➲ But, E-way bill generation is **blocked** for movement of goods by Mr. Yash to Mr. Narayan as it is an outward movement of goods of Mr. Yash who has not filed GSTR-3B for past 2 months.

14 RETURN

Question 26

Mr. Jeet, a registered supplier of designer wedding dresses under regular scheme, has aggregate annual turnover of ₹90 lakh in the preceding financial year. Answer the following questions.

1) It is of the view that in the current financial year, it is permitted to file its monthly statement of outward supplies – GSTR-1 on a quarterly basis while its accountant advises him to file the same on a monthly basis. You are required to advise Mr. Jeet on the same.
2) Mr. Jeet is filing GSTR 1 every month. During the month of February, he was out of India and so did not do any transaction during the 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?
3) List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF). Also briefly list the cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/IFF.
4) Mr. Jeet, monthly return filer, is engaged in making taxable supplies of goods and services. He furnished the details of his outward supplies in Form GSTR-1 for the month of January on 11th February.

   However, on 14th February, the accountant of Mr. Jeet noticed that one invoice issued to Bhawani Traders (registered in Gujarat) for supply of goods of value of ₹1,00,000 (taxable @ 18%) pertaining to January has been inadvertently missed to be declared in Form GSTR-1 furnished for January. He has approached you for the advice before furnishing Form GSTR-3B for the said month.

   You are required to briefly discuss whether Mr. Jeet can amend the details of outward supply furnished in Form GSTR-1 of January. If such amendment is permitted and details of Form GSTR-1 are amended, whether the details of said invoice will be available in Form GSTR-2B of Bhawani Traders for the month of January.
5) Mr Jeet did not file GSTR-3B for the month of June, but he wants to file GSTR-3B for the month of July. Is it possible? Also elaborate the provisions relating to nil GSTR-3B.
6) If Mr. Jeet is a registered taxpayer under composition scheme & did not make any taxable supply during the quarter ending Sept, 20XX. Is he required to file FORM GST CMP-08 for such tax period?
7) If Mr. Jeet is a registered dealer in Maharashtra 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 said F.Y. during which he opted out of composition scheme? Discuss.
8) Mr.Jeet has filed GSTR 3B before the due date u/s 39 but some changes are to be made so he wants to revise the return. Advice Mr. Jeet regarding rectification of error. Also, state the maximum time limit to furnish the GSTR - 3B in case of failure to furnish the same.
9) Mr. Jeet is winding up its business in Maharashtra. The Tax Consultant of Mr. Jeet has suggested that Mr.Jeet will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the state of Maharashtra. Do you agree with the stand taken by Tax Consultant of Mr. Jeet? Offer your comments.
10) Is Mr. Jeet is required to file an annual return also. If yes, what is the due date for the same. Also mention the Exceptions for Furnishing an annual return.
11) Discuss the Penal provisions, if any for not filing return u/s 39 and Annual return u/s 44.
12) Is it compulsory for Mr. Jeet to file return by himself, If no, then who is required to furnish returns for Mr. Jeet during a tax period.

Answer:-

1)	**Legal Provision:** ➲ As per **section 37** of CGST Act, GSTR-1 for a particular month is filed **on or before the 11th of immediately succeeding month** i.e. on monthly basis. ➲ However, to ease the compliance requirement, GSTR-1 can be filed quarterly by small taxpayers with aggregate annual turnover upto ₹ 5 crore in preceding financial year under **QRMP Scheme.** ➲ Under QRMP Scheme, for the first and second months of a quarter, the details of outward supplies can be furnished up to a cumulative value of ₹ 50 Lakhs in each of the months using invoice furnishing facility (IFF) electronically on common portal from the 1st day of the month succeeding such month **till the 13th day of the said month.** **Discussion & Conclusion:** ➲ In view of the same, Mr. Jeet **can file its GSTR-1 on quarterly basis** if it has opted to furnish the outward supply related details on quarterly basis and filing IFF on monthly basis as its aggregate turnover does not exceed ₹ 5 crore in the preceding financial year.
2)	**No,** Mr. Jeet is not correct. **Legal Provision:** ➲ Nil GSTR-1 needs to be filed, even if there is no business activity in the tax period. ➲ Further, a NIL GSTR-1 can be filed by a registered person through an SMS using the registered mobile number of the taxpayer & is verified by registered mobile number-based OTP facility. **Discussion & Conclusion:** ➲ In given case, even though Mr. Jeet was out of India and thus had not done any transaction during February, he is still required to file GSTR-1 for the that month.
3)	**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. **Cases where registered person is debarred from furnishing details of outward supplies in GSTR-** 1/using IFF: a) A registered person (under monthly scheme) has not furnished the return in Form GSTR-3B for the preceding 1 month. b) A registered person, opting for QRMP (Quarterly Return Monthly Payment) has **not furnished the return in Form GSTR-3B for preceding tax period.** c) A registered person, to whom an **intimation has been under Rule 88C** (Tax liability shown on GSTR 1 exceeds tax liability paid in GSTR 3B) unless he has deposited the specified amount or furnishing a reply. d) A registered person, to whom an **intimation has been under Rule 88D** unless he pays such excess ITC or furnishes a reply to explain it. e) A registered person **has not furnished** the details of the bank account under rule 10A.
4)	**Legal Provision:** ➲ As per **proviso to rule 59(1),** a registered person may, after furnishing the details of outward supplies of goods or services 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. ➲ Further, **rule 60(7)** provides that the additional details or amendments in details of outward supplies furnished by the supplier in Form GSTR-1A filed after the due date of furnishing of Form GSTR-1 for the previous tax period shall be reflected in Form GSTR-2B for the current tax period. ➲ This implies that 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.**

	Discussion & Conclusion: ➲ In the given case, Mr. Jeet has the option to furnish the details of the invoice issued to Bhawani Traders in Form GSTR-1A on or after 14th February but before filing Form GSTR-3B for January. ➲ The corresponding effect of the changes made through Form GSTR-1A on the liability of Mr. Jeet shall be reflected in Form GSTR-3B for January. ➲ Also, the details of missing invoice of Bhawani Traders will be available in its Form GSTR-2B for the month of February.
5)	**Legal Provision:** ➲ 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. **Discussion & Conclusion:** ➲ Therefore, in the given case, Mr. Jeet cannot file GSTR-3B for July if he has not filed GSTR-3B for the preceding month, i.e., June. **Provisions relating to 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. ➲ 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 GSTR-3B, **anytime on or after the 1st day** of the subsequent month/ quarter for which the return is being filed for.
6)	**Legal Provision:** ➲ Filing of GST CMP-08 is **mandatory** for composition supplier, **even if there is no business activity** in any particular tax period. **Discussion & Conclusion:** ➲ In this case, Mr. Jeet is **required to file CMP-08,** even if he did not render any taxable supply during the quarter ending Sept, 20XX.
7)	**Legal Provision:** ➲ If the taxpayer opts to withdraw from the composition scheme, he has to file **GSTR-4** for the period for which he has paid tax under the composition scheme. ➲ Such return is required to be furnished till **30th day of June** following the end of the financial year during which such withdrawal falls. **Discussion & Conclusion:** ➲ In the given case, Mr. Jeet is liable to file **GSTR-4** for the said F.Y. during which he opted out of composition scheme by 30th June of next F.Y.
8)	➲ As per **section 39(9),** any omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month or quarter during which such omission or incorrect particulars are noticed. ➲ **But the maximum time limit for making rectification is earlier of:-** - 30th November following the end of the financial year to which such details pertain or - Actual date of furnishing of relevant annual return. ➲ Any tax payable as a result of such error or omission will be paid along with interest. ➲ **Exception:** Error/omission discovered on account of scrutiny, audit, inspection, or enforcement activities by tax authorities cannot be rectified u/s 39(9) of CGST Act. ➲ **Maximum Time limit to furnish GSTR -3B:** ➲ However, registered person shall not be allowed to furnish GSTR -3B for a tax period after 3 years from due date of furnishing the said GSTR -3B. Government may allow to file it after 3 years in certain cases.

9) **No, the stand taken by Tax Consultant of Mr. Jeet is not correct.**

Legal Provision:

- 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 three months** of the date of cancellation or the date of cancellation order, **whichever is later.**

Discussion & Conclusion:

- In the given case, Mr. Jeet, a registered person, is winding up its business and is thus, applying for cancellation of registration.
- Therefore, he is **required to file both** annual return and final return.

10)

- As per **section 44, Every registered person** is required to file an annual return electronically in prescribed form.
- **However, the following persons are not required to file annual return:-**
  - Casual Taxable Person,
  - Non-resident taxable person,
  - Input Service Distributors and
  - Persons paying tax under section 51 or 52.
- **Section 44 is not applicable** to any department of Central Government/ State Government/ local authority, whose books of account are subject to audit by the Comptroller & Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for time being in force.
- On the recommendations of Council, Commissioner may exempt any class of registered persons from filing annual return by a notification.
- **Due date to furnish Annual return:-**
  - Annual return for a financial year shall be filed by **31st December of Next financial year.**
  - Due date may be extended by Commissioner.
- However, registered person shall not be allowed to furnish an annual return for a financial year after 3 years from due date of furnishing the said annual return. Government may allow to file it after 3 years in certain cases.

11)

- As per **section 47(1),** if there is a **delay in furnishing** of Returns (including returns under QRMP Scheme) under section 39 by registered person by the due dates, then he is **liable to pay late fee** which is **LOWER** of:-
  - ₹200 (i.e. 100 for CGST & SGST/UTGST each) for every day during which such failure continues or
  - ₹10,000 (i.e. ₹5,000 for CGST & SGST/UTGST each)
- However, as per the **CBIC notification**, the total late fees payable under section 47 by the registered person who fails furnish Form GSTR-3B by the due date has been rationalized as under:

a) For the registered persons who have nil outward supplies in the tax period or whose total tax payable in the GSTR-3B is Nil:-

- **Late fee =** ₹20 (i.e. ₹10 for CGST & SGST/UTGST each) per day of default but maximum is ₹500 (i.e. ₹2 50 for CGST & SGST/UTGST each).

b) For the registered persons other than those covered in (1) above (i.e. there is outward supply in GSTR-1 or there is tax payable as per GSTR-3B):-

(i) if the aggregate turnover is not exceeding ₹1.5 crores in the preceding FY:-

- **Late fee =** ₹50 (i.e. ₹25 for CGST & SGST/UTGST each) per day of default but maximum is ₹2000 (i.e. ₹ 1000 for CGST & SGST/UTGST each).

(ii) if the aggregate turnover is exceeding ₹1.5 crores but not exceeding ₹5 Crores in the preceding FY:-

- **Late fee =** ₹50 (i.e. ₹25 for CGST & SGST/UTGST each) per day of default but maximum is ₹5,000 (i.e. ₹ 2,500 for CGST & SGST/UTGST each).

c) For the registered persons other than those covered in (1) and (2) above (i.e. aggregate turnover is exceeding ₹ 5 Cr in preceding FY:-

- **Late fee =** ₹50(i.e. ₹25 for CGST & SGST/UTGST each) per day of default but maximum is ₹10,000 (i.e. ₹ 5,000 for CGST & SGST/UTGST each).

- As per **section 47(2)**, if a registered person fails to furnish the Annual return u/s 44 by the due date, he is liable to pay late fee which is LOWER of:-
  - ₹200 (i.e. 100 for CGST & SGST/UTGST each) for every day during which such failure continues or

		➢ ₹0.5% (i.e. 0.25% for CGST & SGST/UTGST each) of the turnover of registered person in the State/UT. ➲ However, as per the **CBIC notification,** the total late fees payable under section 47 by the registered person who fails furnish annual return in GSTR - 9 under section 44 by the due date has been rationalized as under:
	a)	If aggregate turnover of registered person in the relevant financial year is not exceeding ₹5 Crores:- ➢ ₹50 per day of default (i.e. ₹25 per day each under CGST & SGST/UTGST) **but** ➢ Maximum is 0.04% (i.e. 0.02% under CGST & SGST/UTGST each) of turnover in State or Union territory
	b)	If aggregate turnover of registered person in the relevant financial year is exceeding ₹5 Crores but not exceeding ₹20 Crores:- ➢ ₹100 per day of default (i.e. ₹50 per day each under CGST & SGST/UTGST) **but** ➢ Maximum is 0.04% (i.e. 0.02% under CGST & SGST/UTGST each) of turnover in State or Union territory
	c)	If aggregate turnover of registered person in the relevant financial year is exceeding ₹20 Crores:- ➢ ₹200 per day of default (i.e. ₹100 per day each under CGST & SGST/UTGST) **but** ➢ Maximum is 0.5% (i.e. 0.25% under CGST & SGST/UTGST each) of turnover in State or Union territory.
12)		➲ **No,** Mr. Jeet can also get his return filed through a Goods and Services Tax Practitioner (GSTP) as authorised by him subject to confirmation of registered person over mail or SMS each time when return filed by GSTP. ➲ As per **section 48(2),** a registered person may authorise an approved GSTP to furnish:- ➢ the details of outward supplies under section 37, and ➢ the return under section 39 or ➢ annual return under section 44 or ➢ final return under section 45 and ➢ to perform other prescribed functions. ➲ Thus, the GSTP can furnish the specified documents or information on behalf of registered person with prior authority of the registered person. ➲ However, there is no specific return furnishing mechanism for GSTP to disclose the activities carried out by it for any of the registered person during a tax period.

15 COMPUTATION OF GST

Question 27

Chill Ltd., Delhi, a registered supplier, manufacturing machineries has made a taxable supply of machinery during the month of March. It furnished the following details for each such machinery supplied:

S.No.	Particulars	Amount (₹)
(i)	List price of machinery (exclusive of taxes)	10,00,000
(ii)	Subsidy received from the Central Government for supply of machinery to Government School(exclusively related to supply of machinery included at S. No. 1)	2,10,000
(iii)	Subsidy received from an NGO for supply of machinery to an old age home (exclusively related to supply of goods included at S. No. 1)	2,00,000
(iv)	Tax levied by Municipal Authority	2,50,000
(iv)	Packing charges	1,25,000

Additional information:-

The list price of the machinery is after considering the two subsidies received. However, the other charges/ taxes/ fee are charged to the customers over and above the list price.

Further, the company has provided the following information pertaining to purchases made/ services availed by it in respect of supply of said machinery during the month of March:

S.No.	Particulars	Amount (₹)
1)	Raw material (to be received in the month of April)	8,50,000
2)	Membership of a club availed for employees working in the factory (not obligatory to be provided under any law)	4,00,000
3)	Inputs to be received in 6 lots, out of which 1st lot was received during the month	3,50,000
4)	Trucks used for transport of raw material	1,50,000
5)	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 2,82,000)	3,50,000

Note:

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

(ii) All inward and outward supplies are exclusive of taxes, wherever applicable.

(iii) All the conditions necessary for availing the ITC have been fulfilled, subject to the information given above.

(iv) All inward and outward supplies are inter-State supplies.

Compute the net GST payable in cash, by Chill Ltd. for the month of March.

Answer :-

1) Computation of total value of taxable supply made by Chill Ltd. during the month of March:

Particulars	Amount (₹)	Remark
List price of the machinery	10,00,000	
Subsidy received from the Central Government	Nil	**As per section 15(2)(e)** of the CGST Act, **subsidy** is received from **State Government**, the same is **not includible** in value of supply
Subsidy received from NGO	2,00,000	**As per section 15(2)(e)**, subsidy is received from a non-Government body and directly linked to the price, the same is includible in the value of supply
Tax levied by the Municipal Authority	2,50,000	**As per section 15(2)(a)** of CGST Act, Tax other than GST are includible in value, if charged separately
Packing charges	1,25,000	**As per section 15(2)(c)** of the CGST Act, the value of supply shall include incidental expenses, including commission and packing charges, charged by supplier to recipient
Total value of taxable supplies	**15,75,000**	

2) Computation of ITC that can be availed by Chill Ltd. for the month of March:

Particulars	ITC (₹)	Remark
Raw Material	Nil	Since raw material is not received in March, ITC for the same **cannot be availed** in March u/s 16(2).
Membership of a club availed for employees working in the factory (not obligatory to be provided under any law)	Nil	**ITC is blocked u/s 17(5)(b)** of CGST Act as said service is not provided by employer to employee under any statutory obligation
Inputs to be received in 6 lots, out of which 1st lot was received during the month	Nil	As per **1st proviso to section 16(2)** of CGST Act, In case of goods received in lots, ITC can be taken only upon receipt of the last lot.
Trucks used for transport of raw material	1,50,000	**ITC is not blocked** u/s 17(5)(a) of CGST Act on motor vehicles used for transportation of goods.
Capital goods	68,000	ITC can be **availed** only on basis of a valid document u/s 16(2). Thus, ITC for the item for which invoice is missing **cannot be availed** (i.e. for ₹ 2,82,000).
Total ITC	**2,18,000**	

3) Computation of net GST payable in cash:

Particulars	Value (₹)	IGST @ 18%
Supply of machinery	15,75,000	2,83,500
Less: ITC available		2,18,000
Net GST payable in cash		**65,500**

Question 28

Jino Enterprises, a partnership firm is a regular taxable person registered in Guwahati, Assam and is engaged in supply of Air conditioners and its accessories as well as air-conditioned repairing services. Details of their various activities for the month of October 20YY are as follows:

1) Intra State supply of Air conditioner to customers in Assam. Freight is separately charged in invoices for delivery of goods at customer's doorstep.

Particulars	Amount (₹)
Value of goods	4,00,000
Value of freight charges charged separately in above invoices	1,00,000

2) Intra State supply of repairing services wherein apart from charging service charges, cost of parts/ spares provided to customers is also charged and consideration for the same is separately mentioned in the invoices

Particulars	Amount (₹)
Value of services component of invoices	3,00,000
Value of parts / spares component in invoices	50,000

3) In order to enhance their sales and to clear the stock of old models of air - conditioner, Jino Enterprises made combo offers to customers wherein, if a customer purchases an Air-conditioner along with a stabilizer, the same is offered at a combo price of ₹ 20,000 as against the original price of ₹ 30,000 (Air-conditioner ₹ 22,000 & stabilizer ₹ 8,000) if these are purchased separately. During October 20YY, Jino Enterprises had made inter-State supply of 10 numbers of such combo products.

4) Purchased business class air tickets for intra State travel from Guwahati Airport, Assam to Dibrugarh Airport, Assam for its executive employees relating to business of the concern. Basic air fare was ₹ 40,000 and airlines charges GST @ 2.5% CGST, SGST each on basic freight, in case the same is applicable.

Additional Information:

a) All the figures mentioned above are exclusive of taxes.

b) In respect of few of the invoices relating to F.Y. 20XX -20YY, involving ITC of CGST ₹ 20,000, SGST of ₹ 20,000, IGST ₹ 80,000 was not taken earlier. Jino Enterprises now want to avail credit in respect of such invoices in the current month.

c) The rates of GST applicable on various supplies are as follows:

Nature of Supply	CGST	SGST	IGST
Air-Conditioner, Parts and accessories (Except Stabilizers)	6%	6%	12%
Services	9%	9%	18%
Stabilizers	9%	9%	18%
Freight	6%	6%	12%

Calculate the amount of minimum CGST, SGST & IGST tax payable in cash by Jino Enterprises for the month of October, 20YY.

Note: Working Notes (legal provisions) should form part of your answer.

Answer :-

Computation of minimum CGST, SGST and IGST payable in cash by Jino Enterprises for the month of October, 20YY:

Particulars	Value	IGST (₹)	CGST (₹)	SGST (₹)
Intra-State supply of air-conditioners **[Note 1]**	5,00,000 (4,00,000 +1,00,000)	-	30,000 (5,00,000 *6%)	30,000 (5,00,000 *6%)
Intra-State supply of repairing services **[Note 2]**	3,00,000	-	27,000 (3,00,000 *9%)	27,000 (3,00,000 *9%)
Intra-State supply of parts / spares **[Note 2]**	50,000	-	3,000 (50,000 *6%)	3,000 (50,000 *6%)
Inter-State supply of 10 combos of air- conditioners and stabilizers **[Note 3]**	2,00,000 (20,000*10)	36,000 (2,00,000 *18%)	-	-
Total Output Tax		**36,000**	**60,000**	**60,000**
Less: ITC **(Working Note) [Note 4]** IGST: 80,000 CGST: 21,000 SGST: 21,000		(36,000) - -	(22,000) (21,000) X	(22,000) X (21,000)
Minimum net GST payable in cash		**Nil**	**17,000**	**17,000**

Working Note:-

Computation of ITC available:

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Purchase of business class air tickets for travel from Assam **[Note 5]**	-	1,000 (40,000 *2.5%)	1,000 (40,000 *2.5%)
Invoices relating to FY 20XX-YY **[Note 6]**	80,000	20,000	20,000
Total ITC available	**80,000**	**21,000**	**21,000**

Notes:

1)	➲ Since goods are agreed to be delivered at customer's doorsteps, supply of air- conditioners along with transportation thereof is a composite supply which is treated as the supply of the principal supply. ➲ Accordingly, **rate of principal supply**, i.e. air-conditioners will be charged.
2)	Since parts/ spares and repair services are not naturally bundled, they are taxable separately at the applicable rates.
3)	➲ Since supplies are not naturally bundled and a single price is being charged, it is a mixed supply. ➲ It is treated as supply of that particular supply which attracts **highest tax rate**(i.e., stabilizers)

4)	➲ IGST credit is first utilized for payment of IGST liability. Remaining IGST credit has been utilised for payment of CGST and SGST in such proportion to keep the liability at its minimum. ➲ After exhausting IGST credit, CGST and SGST credits have been utilized. CGST credit is utilized for payment of CGST and SGST credit is utilised for the payment of SGST. ➲ ITC of CGST cannot be utilized for payment of SGST and vice versa.
5)	➲ **Not exempt**, since air travel embarking from Assam is not being undertaken in economy class. ➲ Further, ITC is **available** since service is used in the course/furtherance of business
6)	ITC in respect of any invoice can be taken upto 30th November following the end of FY to which such invoice relates or furnishing of the relevant annual return, **whichever is earlier.**

Question 29

'XY' of Kolkata is engaged in supply of various goods and services. It pays GST under regular scheme. The following information is provided by it for the month of July:-

Payments	Amount(₹)	Receipts	Amount(₹)
Inter-State purchases of office stationery	1,40,000	Inter-State supply of office stationery	2,00,000
Repairing of lorry used to transport goods from warehouse to clients' location [Intra-State supply]	1,00,000	Intra-State supply of 500 combo packs containing one calculator and one diary	4,00,000
		Intra-State supply of services of business correspondent to Shubhvidhi Bank with respect to accounts in its urban area branch	1,00,000

The following additional information is provided by 'XY' in relation to the above receipts and payments:-

(i) 10% of the inter-State supply of office stationery are made to unregistered persons.

(ii) Each combo pack (containing a calculator and a diary) is priced at ₹ 800. The calculator and the diary are individually priced at ₹ 700 and ₹ 200 respectively.

(iii) An invoice of ₹ 40,000 towards purchase of office stationery is missing and no other tax paying document is available in respect of such goods.

(iv) All the figures mentioned above are exclusive of taxes, wherever applicable.

(v) Rates of CGST, SGST and IGST for all services, office stationery and calculator are 9%, 9% and 18% respectively. Rates of CGST, SGST and IGST for diary are 14%, 14% and 28% respectively.

(vi) Subject to the information given above, all the necessary conditions for availing input tax credit have been fulfilled. Details of opening balances of input tax credit as on 1st July is given here under:

Tax	Amounts(₹)
CGST	5,000
SGST	5,000
IGST	80,000

Compute the minimum net GST [CGST, SGST or IGST, as the case may be] payable in cash by 'XY' for the month of July.

Answer:-

Computation of minimum net GST payable in cash by 'XY' for the month of July:-

Particulars	Value (₹)	IGST (₹)	CGST (₹)	SGST (₹)
(i) Calculation of Total tax liability:-				
Inter -State supply of office stationery **[Note 1]**	2,00,000	36,000 (2,00,000X18%)	-	-
Intra-State supply of 500 combo pack of calculators and diaries **[Note 2]**	4,00,000 (500 X 800)	-	56,000 (4,00,000 X 14%)	56,000 (4,00,000 X 14%)
Intra-State supply of services of business correspondent to Shubhvidhi Bank with respect to accounts in its urban area branch **(Note 3)**	1,00,000	-	9,000 (1,00,000 X 9%)	9,000 (1,00,000 X 9%)
Total tax liability		**36,000**	**65,000**	**65,000**
(ii) Calculation of total Input Tax Credit (ITC):				
Brought forward ITC **[Given]**		80,000	5,000	5,000
Inter-State purchase of office stationery **[Note 4]**	1,00,000	18,000 (1,00,000X 18%)		
Intra-State repairing of lorry used for transportation of goods **[Note 5]**	1,00,000		9,000 (1,00,000 X 9%)	9,000 (1,00,000 X 9%)
Total ITC		**98,000**	**14,000**	**14,000**
(iii) Calculation of Minimum net GST payable in cash:-				
Total tax liability [from (i)]		36,000	65,000	65,000
Less ITC [Note 6]				
IGST - 98,000 CGST - 14,000 SGST - 14,000		(36,000) - -	(11,000) (14,000) X	(51,000) X (14,000)
Minimum net GST payable in cash		**Nil**	**40,000**	**Nil**

Notes:-

1)	Taxable supplies made by a registered person are **liable to tax irrespective** of whether they are made to a registered person or to an unregistered person.
2)	➲ Supply of calculator and diary as a combo pack with a single price of ₹ 800 is a mixed supply. ➲ Being a mixed supply comprising of two supplies, it shall be treated as supply of that particular supply which attracts **highest rate** of tax.
3)	Services provided by a business facilitator/ business correspondent to a banking company only with respect to accounts in its rural area branch are **exempt** but not with respect to accounts in its urban area branch.
4)	➲ ITC can be taken only on the basis of a valid tax paying document. ➲ Thus, **ITC will not be available** on goods for which the invoice is missing.

5)	ITC on motor vehicles used for transportation of goods is allowed & Further, **ITC is allowed** on repair and maintenance services relating to motor vehicles on which ITC is allowed.
6)	➲ IGST credit, after being set off against IGST liability, can be utilised against CGST and SGST liability in any order and in any proportion. ➲ Thus, there cannot be one answer for the minimum net CGST and SGST payable in cash as amount of CGST and SGST liabilities are the same as also the amount of ITC for CGST & SGST is also the same.