

PAPER – 4 : TAXATION
SECTION A : INCOME TAX LAW

Question No.1 is compulsory.

*Candidates are also required to answer any **two** questions from the remaining **three** questions.*

Working notes shall form part of the respective answers.

All questions pertaining to income-tax relate to assessment year 2020-21, unless stated otherwise in the question.

Question 1

From the following particulars furnished by Mr. Ganesh, aged 58 years, a resident Indian for the previous year ended 31.03.2020, you are requested to compute his total income and tax liability under normal as well as special provisions (AMT), if any, applicable to him for the Assessment Year 2020-21.

- (i) He occupies ground floor of his residential building and has let out first floor for residential use at an annual rent of ₹ 2,28,000. He has paid municipal taxes of ₹ 60,000 for the current financial year.*
- (ii) He owns an industrial undertaking established in a SEZ and which had commenced operation during the financial year 2017-18. Total turnover of the undertaking was ₹ 200 lakhs, which includes ₹ 140 lakhs from export turnover. This industrial undertaking fulfills all the conditions of section 10AA of the Income-tax Act, 1961. Profit from this industry is ₹ 25 lakhs.*
- (iii) He received royalty of ₹ 2,88,000 from abroad for a book authored by him on the nature of artistic. The rate of royalty as 18% of value of books and expenditure made for earning this royalty was ₹ 40,000. The amount remitted to India till 30th September, 2020 is ₹ 2,30,000.*
- (iv) Received, 40,000 as interest on saving bank deposits.*
- (v) Received ₹ 47,000 as share of profit from an AOP where all the members are individual and which had paid the tax by normal rates of income tax.*
- (vi) He also sold his vacant land on 10.11.2019 for ₹ 10 lakhs. The stamp duty value of land at the time of transfer was ₹ 14 lakhs. The FMV of the land as on 1st April, 2001 was ₹ 4 lakhs. This land was acquired by him on 05.08.1995 for ₹ 1.80 lakhs. He had incurred registration expenses of ₹ 10,000 at that time. The cost of inflation index for the year 2019-20 and 2001-02 are 289 and 100 respectively.*

The Suggested Answers for Paper 4A: Income-tax Law are based on the provisions of income-tax law as amended by the Finance Act, 2019 and Finance (No.2) Act, 2019. The relevant assessment year is A.Y.2020-21.

- (vii) He paid the following amounts, out of his taxable income:
- (a) Insurance premium of ₹ 39,000 paid on life insurance policy of son, who is not dependent on him.
- (b) Insurance premium of ₹ 48,000 on policy of his dependent father,
- (c) Tuition fees of ₹ 42,000 for his three children to a school. The fees being ₹ 14,000 p.a. per child. **(14 Marks)**

Answer**Computation of total income of Mr. Ganesh for A.Y. 2020-21**

	Particulars	₹	₹	₹
I	Income from house property			
	Let out portion [First floor]¹			
	Gross Annual Value [Rent received is taken as GAV, in the absence of other information]		2,28,000	
	Less: Municipal taxes paid by him in the P.Y. 2019-20 pertaining to let out portion [₹ 60,000/2]		<u>30,000</u>	
	Net Annual Value (NAV)		1,98,000	
	Less: Deduction u/s 24			
	(a) 30% of ₹ 1,98,000		<u>59,400</u>	
			1,38,600	
	Self-occupied portion [Ground Floor]			
	Annual Value		Nil	
	[No deduction is allowable in respect of municipal taxes paid]		<u> </u>	1,38,600
II	Profits and gains of business or profession			
	Income from SEZ unit		25,00,000	
	Share income from AOP (since AOP has paid tax at normal rates, share income from AOP will be included in computation of total income of a member as per section 86 ²)		<u>47,000</u>	25,47,000

¹ It is assumed that the ground floor and first floor are of equal area

² Since the total income of Mr. Ganesh, who is a member of the AOP, exceeds the basic exemption limit, the AOP should be taxable at maximum marginal rate and not at normal rates, in which case share income of a member would be exempt. This adjustment as well as rebate u/s 110 read with 86 is not within the scope of syllabus of this paper and hence, the same has not been considered in the given solution.

III	Capital Gains		
	Long-term capital gains on sale of land (since held for more than 24 months)		
	Full Value of Consideration [Higher of stamp duty value of ₹ 14 lakhs and Actual consideration of ₹ 10 lakhs, since stamp duty value exceeds actual consideration by more than 5%]	14,00,000	
	Less: Indexed Cost of acquisition [₹ 4,00,000 x 289/100]	<u>11,56,000</u>	2,44,000
	Cost of acquisition		
	Higher of -		
	- Actual cost ₹ 1.80 lakhs + ₹ 0.10 lakhs = ₹ 1.90 lakhs and		
	- Fair Market Value (FMV) as on 1.4.2001 = ₹ 4 lakhs		
IV	Income from Other Sources		
	Royalty from artistic book	2,88,000	
	Less: Expenses incurred for earning royalty	<u>40,000</u>	
		2,48,000	
	Interest on savings bank deposits	<u>40,000</u>	
			<u>2,88,000</u>
	Gross Total Income		32,17,600
	Less: Deduction u/s 10AA [Since the industrial undertaking is established in SEZ, it is entitled to deduction u/s 10AA@100% of export profits, since P.Y.2019-20 being the 3 rd year of operations]		17,50,000
	[Profits of the SEZ x Export Turnover/Total Turnover] x 100%		
	[₹ 25 lakhs x ₹ 140 lakhs/ ₹ 200 lakhs x 100%]		
	Less: Deduction under Chapter VI-A		
	Deduction under section 80C		
	Tuition fee paid for maximum of two children is allowable (₹ 14,000 x 2)	28,000	
	Insurance premium paid on life insurance policy of son allowable, even though not dependent on Mr. Ganesh	39,000	

³ Insurance premium paid on life insurance policy of father not allowable, even though father is dependent on Mr. Ganesh Deduction under section 80QQB Royalty [$\text{₹ } 2,88,000 \times 15/18 = \text{₹ } 2,40,000$, restricted to amount brought into India in convertible foreign exchange ₹ 2,30,000 minus ₹ 40,000 expenses already allowed as deduction while computing royalty income] Deduction under section 80TTA Interest on savings bank account, restricted to ₹ 10,000	-	67,000	
		1,90,000	
		10,000	
		<u>2,67,000</u>	
Total income			<u>12,00,600</u>

**Computation of tax liability of Mr. Ganesh for A.Y.2020-21
under the normal provisions of the Act**

Particulars	₹	₹
Tax on total income of ₹ 12,00,600		
Tax on LTCG of ₹ 2,44,000@20%		48,800
Tax on remaining total income of 9,56,600		
Upto ₹ 2,50,000	Nil	
₹ 2,50,001 – ₹ 5,00,000[@5% of ₹ 2.50 lakh]	12,500	
₹ 5,00,001 – ₹ 9,56,600[@20% of ₹ 4,56,600]	<u>91,320</u>	<u>1,03,820</u>
		1,52,620
Add: Health and education cess@4%		<u>6,105</u>
Total tax liability		<u>1,58,725</u>
Tax liability (rounded off)		1,58,730

³ Deduction u/s 80C has been worked out assuming that insurance premium of Rs.48,000 paid on policy of dependent father as given in point (vii)(b) is LIC premium, which is not allowable as deduction. However, if it is assumed that the insurance premium is in respect of health insurance, the whole amount of Rs. 48,000 is allowable as deduction u/s 80D.

**Computation of tax liability of Mr. Ganesh for A.Y.2020-21
under the special provisions of the Act**

Particulars	₹
Computation of adjusted total income	
Total income as per the normal provisions of the Act	12,00,600
Add: Deduction u/s 10AA	17,50,000
Deduction u/s 80QQB	1,90,000
	31,40,600
AMT@18.5%	5,81,011
Add: HEC@4%	<u>23,240</u>
AMT liability	<u>6,04,251</u>
AMT liability (rounded off)	6,04,250
<i>Since the regular income tax payable is less than the AMT, the adjusted total income of ₹ 31,40,600 would be deemed to be the total income and tax would be payable @18.5% plus HEC@4%. The total tax liability would be ₹ 6,04,250.</i>	

Question 2

- (a) Mr. Mukesh born on 1.4.1960 furnished his original return for Assessment Year 2020-21 on 30.07.2020. He has shown salary income of ₹ 7.30 lakhs (computed) and interest from his savings bank of ₹ 12,700 and from his fixed deposits of ₹ 43,000. He also claimed deduction under section 80C of ₹ 1.50 lakhs. He had claimed deduction u/s 80D of ₹ 25,000. He also claimed deduction u/s 80TTA of ₹ 10,000. His employer had deducted TDS of ₹ 33,950 from his salary, which he adjusted fully against tax payable.

He paid health insurance premium of ₹ 38,000 by account payee cheque for self and wife. He paid ₹ 1,500 in cash for his health check-up and ₹ 4,000 by cheque for preventive health check-up of his parents. He also paid medical insurance premium of ₹ 33,000 during the year to insure the health of his mother, aged 80 years, staying with his younger brother. He further incurred medical expenditure of ₹ 25,000 on his father, aged 81 years, who is staying with him. His father is not covered under any mediclaim policy.

He seeks your advice about possibility of revising his return and if possible file his revised return. Analyse the above narrated facts as per applicable provisions of the Income-tax Act, 1961. Does he need to revise his return and for what reasons? Please advise him suitably and if needed, re-compute his income and tax payable or refund due for the Assessment Year 2020-21. **(9 Marks)**

(b) State in brief the applicability of tax deduction at source provisions, the rate and amount of tax deduction in the following cases for the financial year 2019-20 under the Income-tax Act, 1961. Assume that all payments are made to residents :

- (i) Sanjay, a resident Indian individual, not deriving any income from business or profession makes payments of ₹ 12 lakh in January, 2020, ₹ 20 lakh in February, 2020 and ₹ 20 lakh in March, 2020 to Mohan, a contractor for reconstruction of his residential house.
- (ii) ABC Ltd. makes the payment of ₹ 1,50,000 to Ramlal, an individual transporter who owned 6 goods carriages throughout the previous year. He does not furnish his PAN.
- (iii) Smt. Sarita paid ₹ 5,000 on 17th April, 2019 to Smt. Deepa from the deposits in National Savings Scheme account. (5 Marks)

Answer

(a) Computation of total income of Mr. Mukesh for A.Y.2020-21 [As per the original return filed by him]

	Particulars	₹	₹
(i)	Salaries (Computed)		7,30,000
(ii)	<u>Income from Other Sources</u>		
	Interest on savings bank account	12,700	
	Interest on fixed deposits	<u>43,000</u>	<u>55,700</u>
			7,85,700
	Less: Deductions under Chapter VI-A		
(i)	Deduction u/s 80C	1,50,000	
(ii)	Deduction u/s 80D	25,000	
(iii)	Deduction u/s 80TTA	<u>10,000</u>	<u>1,85,000</u>
	Total Income		6,00,700

Computation of tax liability of Mr. Mukesh for A.Y.2020-21 (As per original return)

	₹
Tax on total income [20% of ₹ 1,00,700 (i.e., ₹ 6,00,700 – ₹ 5,00,000) + ₹ 12,500]	32,640
Add: HEC@4%	<u>1,306</u>
Tax payable on total income	<u>33,946</u>
Tax payable on total income (rounded off)	33,950
Less: Tax deducted at source u/s 192	<u>33,950</u>
Tax Payable	<u>Nil</u>

Need for filing revised return - Analysis

Since Mr. Mukesh's birthday falls on 1.4.2020, he would be treated as having completed 60 years of age in the P.Y.2019-20, and hence, he would be eligible for the benefit of higher deduction u/s 80D, higher deduction of up-to ₹ 50,000 u/s 80TTB (instead of ₹ 10,000 u/s 80TTA) while computing his total income as well as for higher basic exemption limit of ₹ 3,00,000 in the P.Y.2019-20 itself while computing his tax liability. Also, he would be entitled to deduction in respect of medical insurance premium paid to insure the health of his mother and medical expenses incurred on his father who is not covered under any Mediclaim policy. Accordingly, having discovered such omissions in the original return, he has to file his revised return of income u/s 139(5) on or before 31.3.2021 to avail these benefits which he has not availed while filing his original return of income. The computation of total income and tax liability (refund due) as per the revised return are worked out hereunder -

**Computation of Total Income of Mr. Mukesh for the A.Y. 2020-21
[As per the Revised Return]**

	Particulars	₹	₹
(i)	Salaries (Computed)		7,30,000
(ii)	<u>Income from Other Sources</u>		
	Interest on savings bank account	12,700	
	Interest on fixed deposits	<u>43,000</u>	
			<u>55,700</u>
	Gross Total Income		7,85,700
	Less: Deductions under Chapter VI-A		
(i)	Deduction u/s 80C	1,50,000	
(ii)	Deduction u/s 80D		
	Medical insurance premium for self and spouse	38,000	
	Preventive health check-up for self (allowable even if paid in cash)	<u>1,500</u>	
	Fully allowed as it is within the overall limit of ₹ 50,000 for family	39,500	
	Medical insurance premium for mother	33,000	

	Medical expenditure for father not covered under any policy	25,000		
	Preventive health check-up for parents (₹ 4,000, restricted to ₹ 3,500, being ₹ 5,000 – ₹ 1,500 claimed for self and spouse)	3,500		
		<u>61,500</u>		
	Restricted to maximum of ₹ 50,000 for parents		<u>50,000</u>	89,500
(iii)	Deduction u/s 80TTB			
	Interest on savings bank account		12,700	
	Interest on fixed deposits		<u>43,000</u>	
			55,700	
	Restricted to maximum of ₹ 50,000			<u>50,000</u>
				2,89,500
	Total Income			4,96,200

**Computation of tax liability of Mr. Mukesh for A.Y.2020-21
[As per the Revised Return]**

	₹
Tax on total income [5% of ₹1,96,200 (i.e., ₹4,96,200 – ₹ 3,00,000 basic exemption limit)]	9,810
Less: Rebate u/s 87A (Since his total income does not exceed ₹ 5 lakh) – ₹ 12,500 or tax on total income, whichever is lower	<u>9,810</u>
Tax payable on total income	Nil
Less: Tax deducted at source u/s 192	<u>33,950</u>
Refund due	<u>33,950</u>

Therefore, Mr. Mukesh has to file a revised return showing the above revised computation of total income and tax liability on or before 31.3.2021 to claim the enhanced deductions which he had not claimed in the original return and get refund of the entire income-tax of ₹ 33,950 deducted at source by his employer.

(b) TDS implications**(i) On payments made to contractor**

Tax is deductible @5% under section 194M, since payments to Mr. Mohan, a contractor, for reconstruction of his residential house exceeds ₹ 50 lakhs in aggregate during the F.Y.2019-20⁴.

Amount of tax to be deducted = 5% of ₹ 52 lakhs = ₹ 2,60,000

(ii) Payment to transporter who has not furnished PAN

Under section 194C, no tax is deductible in respect of payments to a transporter, who owns ten or less goods carriages at any time during the year and furnishes a declaration to that effect along with his PAN to the person paying or crediting such sum.

However, in this case, this exemption from TDS would not be available, since Ramlal has not furnished his PAN to ABC Ltd. As per section 206AA, due to non-furnishing of PAN, tax would be deductible at a higher rate of 20% and not @1% provided under section 194C.

Amount of tax to be deducted = ₹ 1,50,000 x 20% = ₹ 30,000

(iii) Payments in respect of deposits under NSS

Tax is deductible at source @10% under section 194EE, on such payment, since the same exceeds ₹ 2,500.

Amount of tax to be deducted = ₹ 5,000 x 10% = ₹ 500

Question 3

(a) Ms. Pooja a resident individual provides the following information of her income/losses for the year ended on 31st March, 2020:

S. No.	Particulars	(₹)
1.	Income from salary (Computed)	2,20,000
2.	Income from House Property (let out) (Net Annual Value)	1,50,000
3.	Share of loss from firm in which she is partner	10,000
4.	Loss from specified business covered under section 35AD	20,000
5.	Income from textile business before adjusting the following items:	3,00,000
	(a) Current year depreciation	60,000

⁴ Since Sanjay does not derive income from business or profession, TDS u/s 194C is not attracted in his case. In any case, the contractor is engaged for reconstruction of residential house, hence, the amount paid to him is exclusively for personal purposes of Mr. Sanjay. Consequently, section 194C would not be attracted.

	(b) Unabsorbed depreciation of earlier year	2,25,000
	(c) Brought forward loss of textile business of the A.Y. 2018-19	90,000
6.	Long-term capital gain on sale of debentures	75,000
7.	Long-term capital loss on sale of equity shares (STT not paid)	1,00,000
8.	Long-term capital gain on sale of equity shares listed in recognized stock exchange (STT paid at the time of acquisition and sale)	1,50,000
9.	Dividend from units of UTI	5,000

During the previous year 2019-20, Ms. Pooja has repaid ₹ 5,25,000 towards housing loan from a scheduled bank. Out of this ₹ 3,16,000 was towards payment of interest and rest towards principal.

Compute the gross total income of Ms. Pooja and ascertain the amount of loss that can be carried forward. Ms. Pooja has always filed her return within the due date specified under section 139(1) of the Income-tax Act, 1961. **(8 Marks)**

(b) Determine the Gross total income of Shri Ram Kumar and Smt. Ram Kumar for the assessment year 2020-21 from the following :

- (i) Salary received by Shri Ram Kumar from a company ₹ 1,80,000 per annum and Smt. Ram Kumar also doing job in a company and getting salary of ₹ 2,40,000 per annum.
- (ii) Shri Ram Kumar transferred a flat to his wife Smt. Ram Kumar on 1st September, 2019 for adequate consideration. The rent received from this let-out flat is ₹ 9,000 per month.
- (iii) Shri Ram Kumar and his wife Smt. Ram Kumar both are partners in a firm. Shri Ram Kumar received ₹ 36,000 and Smt. Ram Kumar received ₹ 64,000 as interest from the firm and also had a share of profit of ₹ 12,000 and ₹ 26,000 respectively.
- (iv) Smt. Ram Kumar transferred 10% debentures worth ₹ 3,00,000 to Shri Ram Kumar. The whole amount of ₹ 3,30,000 invested by Shri Ram Kumar in the similar investments and earned income of ₹ 39,000.
- (v) Mother of Shri Ram Kumar transferred a property to Master Rohit (son of Shri Ram Kumar) in the year 2018. Master Rohit (aged 13 years) received ₹ 15,000 as income from this property on 20th February, 2020. **(6 Marks)**

Answer**(a) Computation of gross total income of Ms. Pooja for the A.Y.2020-21**

Particulars	₹	₹
Salary Income (computed)	2,20,000	
Less: As per section 71(3A), loss from house property of ₹ 2,11,000 can be set-off, to the extent of	<u>2,00,000</u>	20,000
Income from House Property		
Net Annual Value of House Property	1,50,000	
Less: Deduction u/s 24		
(a) 30% of NAV	45,000	
(b) Interest on housing loan	<u>3,16,000</u>	
Loss from house property	(2,11,000)	
Less: Loss eligible for set-off against salary income restricted to	<u>2,00,000</u>	
Loss to be carried forward to A.Y. 2021-22 for set-off against income from house property, if any, in that year.	<u>(11,000)</u>	
Profits and gains of business or profession		
Share of loss from firm [loss from exempt source cannot be set-off against profit from taxable source. Hence such loss can neither be set-off nor be carried forward]	-	
Loss from specified business u/s 35AD ₹ 20,000 [Can be set-off only against income from any specified business. Hence, it has to be carried forward to A.Y.2021-22]	-	
Income from textile business	3,00,000	
Less: Current year depreciation	<u>60,000</u>	
	2,40,000	
Less: Brought forward loss of textile business	<u>90,000</u>	
	1,50,000	
Less: Unabsorbed depreciation (₹ 2,25,000) set-off to the extent of	<u>1,50,000</u>	Nil
Capital Gains		
Long-term capital gains on sale of debentures	75,000	
Less: Set-off of Long-term capital loss on sale of equity shares (STT not paid)	<u>75,000</u>	

		Nil	
Long-term capital gains on sale of listed equity shares (STT paid)	1,50,000		
Less: Set-off of balance long-term capital loss on sale of equity shares (STT not paid) [₹ 1,00,000 – ₹ 75,000]	<u>25,000</u>		
	1,25,000		
Less: Set-off of balance unabsorbed depreciation [₹ 2,25,000 – ₹ 1,50,000 s/o against business income]	<u>75,000</u>		
Long-term capital gains on sale of listed equity shares ⁵			50,000
Income from Other Sources			
Dividend from units of UTI [Exempt]			Nil
Gross Total Income			<u>70,000</u>

Losses to be carried forward to A.Y.2021-22		₹
(i)	Losses from specified business [can be carried forward indefinitely for set-off against income from any specified business]	20,000
(ii)	Loss from house property [can be carried forward upto 8 successive assessment years for set-off against income from house property]	11,000

(b) **Computation of Gross Total Income of Shri Ram Kumar and Smt. Ram Kumar for A.Y. 2020-21**

Particulars	Shri Ram Kumar		Smt. Ram Kumar	
	₹	₹	₹	₹
Salary	1,80,000		2,40,000	
Less: Standard deduction	<u>50,000</u>	1,30,000	<u>50,000</u>	1,90,000
Income from house property				
Rent received (taken as annual value in the absence of other information)	45,000		63,000	
Less: Deduction u/s 24(a)@30% of Annual Value	<u>13,500</u>	31,500	<u>18,900</u>	44,100
Note – Clubbing provisions are not attracted since the transfer to spouse is for adequate consideration. Therefore, the rent for the 5 months				

⁵ No tax is payable u/s 112A in respect of LTCG of ₹ 50,000, since the same is less than ₹ 1,00,000

upto the date of transfer is taxable in the hands of Ram Kumar and thereafter, in the hands of his wife.				
Profits and gains of business or profession				
Share of profit from firm [Exempt under section 10(2A)]	-		-	
Interest from firm (assumed that the same is fully deductible in the hands of the firm)	<u>36,000</u>	36,000	<u>64,000</u>	64,000
Income from other sources				
Interest on debentures (interest@10% on debentures transferred to Shri Ram Kumar without consideration to be included in the hands of the transferor-spouse, Smt. Ram Kumar) = 10% of ₹ 3 lakh (See Note 1 below)	-		30,000	
Income from investments [₹ 39,000 x 3,00,000/3,30,000] (The clubbing provisions will apply even if the form of the asset is changed. If the debentures are redeemed and invested in similar investments, income from ₹ 3 lakh invested (being the value of debentures transferred) alone will be included in the hands of the transferor-spouse, Smt. Ram Kumar. Income from accretion to such debentures (i.e., income earned by investing debenture interest of ₹ 30,000 will not be included in the hands of Smt. Ram Kumar. The same i.e., ₹ 3,545, will be taxable in the hands of the Shri Ram Kumar himself) (See Note 1 below)	<u>3,545</u>	3,545	<u>35,455</u>	65,455
Total income (before including minor's income)		2,01,045		3,63,555
Income of minor son Rohit to be				

included in Smt. Ram Kumar's income, since her total income before including minor's income is higher than that of her husband. She is eligible for exemption of ₹ 1,500 u/s 10(32) in respect of the income so included. Therefore, income to be included in her income is ₹ 13,500 (₹ 15,000 – ₹ 1,500) (See Note 2 below)			
Total Income		-	13,500
	2,01,045		3,77,055

Note –

- In respect of transfer of debentures by Smt. Ram Kumar to Shri Ram Kumar, it is not mentioned whether the transfer is for adequate consideration or not. Moreover, the date of transfer is also not given. The above solution is given on the assumption that transfer is for inadequate consideration. However, if it is assumed that transfer is for adequate consideration, the clubbing provisions would not be attracted. In such case, the interest on Debentures of ₹ 30,000 as well as income from investment of ₹ 39,000 will be taxable in the hands of Shri Ram Kumar.*
- In respect of property transferred to Rohit, the question simply states ₹ 15,000 as the income from property, without mentioning the nature of income (whether rental income or otherwise) or nature of property (whether house property or otherwise). Therefore, the said amount has **not** been treated as income from house property and deduction u/s 24(a) has **not** been provided in the above solution.*

However, if such sum is treated as income from house property, the income to be included in Smt. Ram Kumar's income would be ₹ 9,000 [₹ 15,000 – ₹ 4,500 (30% of ₹ 15,000 allowable as deduction u/s 24(a)) – ₹ 1,500 (exemption u/s 10(32)], and the same would be included under the head "Income from house property". Consequently, her total income would be ₹ 3,72,555.

Question 4

- (a) *Mr. Thomas, a non-resident and citizen of Japan entered into following transactions during the previous year ended 31.03.2020. Examine the tax implications in the hands of Mr. Thomas for the Assessment Year 2020-21 as per Income-tax Act, 1961. (Give brief reasoning)*
- Interest received from Mr. Marshal, a non-resident outside India (The borrowed fund is used by Mr. Marshal for investing in Indian company's debt fund for earning interest).*
 - Received ₹ 10 lakhs in Japan from a business enterprise in India for granting license for computer software (not hardware specific).*

- (3) He is also engaged in the business of running news agency and earned income of ₹ 10 lakhs from collection of news and views in India for transmission outside India.
- (4) He entered into an agreement with SKK & Co., a partnership firm for transfer of technical documents and design and for providing services relating thereto, to set up a Denim Jeans manufacturing plant, in Surat (India). He charged ₹ 10 lakhs for these services from SKK & Co. **(5 Marks)**
- (b) Mr. Govind purchased 600 shares of "Y" limited at ₹ 130 per share on 26.02.1979. "Y" limited issued him, 1,200 bonus shares on 20.02.1984. The fair market value of these share at Mumbai Stock Exchange as on 1.04.2001 was ₹ 900 per share and ₹ 2,000 per share as on 31.01.2018. On 31.01.2019 he converted 1000 shares as his stock in trade. The shares was traded at Mumbai Stock Exchange on that date at a high of ₹ 2,200 per share and closed for the day at ₹ 2,100 per share. On 07.07.2019 Mr. Govind sold all 1800 shares @ ₹ 2,400 per share at Mumbai Stock Exchange and securities transaction tax was paid. Compute total income of Mr. Govind for the assessment-year 2020-21. **(5 Marks)**
- (c) Briefly explain the provisions relating to tax deduction at source on cash withdrawal under section 194N of the Income-tax Act, 1961.

OR

Ms. Julie received following amounts during the previous year 2019-20.

- (1) Received loan of ₹ 5,00,000 from the ABC Private Limited, a closely held company engaged in textile business. She is holding 10% of the equity share capital in the said company. The accumulated profit of the company was ₹ 2,00,000 on the date of the loan.
- (2) Received Interest oil enhanced compensation of ₹ 5,00,000. Out of this interest, ₹ 1,50,000 relates to the previous year 2016-17, ₹ 1,90,000 relates to previous year 2017-18 and ₹ 1,60,000 relates to previous year 2018-19. She paid ₹ 1 lakh to her advocate for his efforts in the matter.

Discuss the tax implications, if any, arising from these transactions in her hand with reference to Assessment Year 2020-21. **(4 Marks)**

Answer

- (a) (1) Not taxable, since interest payable by a non-resident to another non-resident would be deemed to accrue or arise in India only if the borrowed fund is used for the purposes of business or profession carried on by him in India. In this case, it is used for investing in Indian company's debt fund for earning interest and not for the purposes of business or profession. Hence, it is **not taxable** in India.
- (2) Royalty includes, *inter alia*, consideration for grant of license for computer software. Hence, the amount of ₹ 10 lakhs payable by a resident (business enterprise in India) for grant of license for computer software would be royalty

which is deemed to accrue or arise in India in the hands of Mr. Thomas, a non-resident, since it is for the purpose of business in India. Hence, the royalty is **taxable** in India.

- (3) No income shall be deemed to accrue or arise to Mr. Thomas through or from activities which are confined to the collection of news and views in India for transmission outside India. Hence, ₹ 10 lakhs is **not taxable** in India in the hands of Mr. Thomas.
- (4) ₹ 10 lakhs is deemed to accrue or arise in India to Mr. Thomas, a non-resident, since it represents royalty/fees for technical services paid for services utilized in India, in this case, for setting up a Denim Jeans manufacturing plant in Surat. Hence, the same would be **taxable** in India in the hands of Mr. Thomas.

(b) **Computation of total income of Mr. Govind for the A.Y.2020-21**

Particulars		₹	₹
I	Profits and gains of business and profession		
	Full value of consideration [1000 shares x ₹ 2,400 per share]	24,00,000	
	Less: FMV on the date of conversion (₹ 2,100 x 1000 shares) [See Note below]	<u>21,00,000</u>	
			3,00,000
II	Capital Gains		
	In respect of 800 shares held as capital asset up-to the date of sale		
	Full value of consideration [800 shares x ₹ 2,400 per share]	19,20,000	
	Less: Cost of acquisition [800 shares x ₹ 2,000] (See Working Note below)	<u>16,00,000</u>	
			3,20,000
	In respect of 1,000 shares converted into stock in trade on 31.1.2019 (Capital gains is taxable in the P.Y.2019-20, when the stock in trade is sold)		
	Full value of consideration [1000 shares x ₹ 2,100, being FMV on the date of conversion]	21,00,000	
	Less: Cost of acquisition [1000 shares x ₹ 2,000] (See Working Note below)	<u>20,00,000</u>	<u>1,00,000</u>
	Total Income		<u>7,20,000</u>
	Working Note - Cost of acquisition (per share)		
	Higher of (i) and (ii), below	2,000	

(i)	₹ 900 per share, being In case of shares purchased - Original cost of acquisition (₹ 130) or FMV as on 1.4.2001 (₹ 900), at the option of the assessee In case of bonus shares - FMV as on 1.4.2001 (Nil or ₹ 900, at the option of the assessee)		
(ii)	₹ 2,000 per share, being the lower of FMV as on 31.1.2018 - ₹ 2,000 per share Sale consideration – ₹ 2,400 per share		

Note – Explanation to section 55(2)(ac) defines “fair market value” as the highest price of capital asset quoted on the stock exchange only for the purpose of the said clause (ac) i.e., to arrive at the FMV as on 31.1.2018 for computing cost of acquisition of shares.

However, the question states two prices on 31.1.2019, being the date of conversion of capital asset into stock in trade for which we have to consider the definition of “fair market value” as per section 2(22B). As per this definition, FMV refers to the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date. In the question, two prices are given on the relevant date i.e., the date of conversion of capital asset into stock in trade, namely, the highest price and the closing price. The above solution is given considering the closing price as the FMV as on 31.1.2019.

Alternatively, highest price can also be considered as the FMV as on 31.1.2019. In such case, the total income of Mr. Govind would be computed in the following manner:

Alternate Answer

Computation of total income of Mr. Govind for the A.Y.2020-21

	Particulars	₹	₹
I	Profits and gains of business and profession		
	Full value of consideration [1000 shares x ₹ 2,400 per share]	24,00,000	
	Less: FMV on the date of conversion (₹ 2,200 x 1000 shares) [See Note above]	<u>22,00,000</u>	2,00,000
II	Capital Gains		
	In respect of 800 shares held as capital asset upto the date of sale		
	Full value of consideration [800 shares x ₹ 2,400 per share]	19,20,000	
	Less: Cost of acquisition [800 shares x ₹ 2,000] (See Working Note below)	<u>16,00,000</u>	3,20,000

In respect of 1,000 shares converted into stock in trade on 31.1.2019 (Capital gains is taxable in the P.Y.2019-20, when the stock in trade is sold)		
Full value of consideration [1000 shares x ₹ 2,200, being FMV on the date of conversion] [See Note above]	22,00,000	
Less: Cost of acquisition [1000 shares x ₹ 2,000] (See Working Note below)	<u>20,00,000</u>	<u>2,00,000</u>
Total Income		<u>7,20,000</u>
Working Note - Cost of acquisition (per share)		
Higher of (i) and (ii), below	2,000	
(i) ₹ 900 per share, being In case of shares purchased - Original cost of acquisition (₹ 130) or FMV as on 1.4.2001 (₹ 900), at the option of the assessee In case of bonus shares - FMV as on 1.4.2001 (Nil or ₹ 900, at the option of the assessee)		
(ii) ₹2,000 per share, being the lower of FMV as on 31.1.2018 - ₹ 2,000 per share Sale consideration – ₹ 2,400 per share		

Note - It is possible to take a view that since no STT was paid on the date of conversion of capital asset, being listed shares into stock in trade, capital gains has to be computed u/s 112 and not 112A. If this view is taken, the total income of Mr. Govind would, accordingly, be computed in the following manner:

Computation of total income of Mr. Govind for the A.Y.2020-21

Particulars		₹	₹
I	Profits and gains of business and profession		
	Full value of consideration [1000 shares x ₹ 2,400 per share]	24,00,000	
	Less: FMV on the date of conversion (₹ 2,100 x 1000 shares) [See Note below]	<u>21,00,000</u>	3,00,000
II	Capital Gains		
	In respect of 800 shares held as capital asset up-to the date of sale		

Full value of consideration [800 shares x ₹ 2,400 per share]	19,20,000	
Less: Indexed cost of acquisition [800 shares x ₹ 900 x 289/100] (See Working Notes 1 and 2 below)	<u>20,80,800</u>	
	(1,60,800)	
In respect of 1,000 shares converted into stock in trade on 31.1.2019 (Capital gains is taxable in the P.Y.2019-20, when the stock in trade is sold)		
Full value of consideration [1000 shares x ₹ 2,100, being FMV on the date of conversion]	21,00,000	
Less: Cost of acquisition [1000 shares x ₹ 900 x 280/100] (See Working Notes 1 and 2 below)	<u>25,20,000</u>	
	(4,20,000)	
Long-term capital loss to be carried forward = (1,60,800) + (4,20,000) =	(5,80,800)	<hr/>
Total Income		<u>3,00,000</u>
Working Note –		
1. Cost of acquisition (per share)		
Higher of (i) and (ii), below i.e., ₹ 900 per share		
(i)	₹ 900 per share, being the FMV as on 1.4.2001	
(ii)	In case of shares purchased - Original cost of acquisition (₹ 130)	
	In case of bonus shares – Nil	
2.	In case of 800 shares sold during the year, the CII of F.Y.2019-20 i.e., 289 has to be considered to calculate indexed cost of acquisition. In case of 1000 shares converted into stock in trade on 31.1.2019, the CII of the year of conversion, i.e., F.Y.2018-19 i.e., 280 has to be considered to compute the indexed cost of acquisition.	

Note – Explanation to section 55(2)(ac) defines “fair market value” as the highest price of capital asset quoted on the stock exchange only for the purpose of the said clause (ac) i.e., to arrive at the FMV as on 31.1.2018 for computing cost of acquisition of shares.

However, the question states two prices on 31.1.2019, being the date of conversion of capital asset into stock in trade for which we have to consider the definition of “fair market value” as per section 2(22B). As per this definition, FMV refers to the price that

the capital asset would ordinarily fetch on sale in the open market on the relevant date. In the question, two prices are given on the relevant date i.e., the date of conversion of capital asset into stock in trade, namely, the highest price and the closing price. The above solution is given considering the closing price as the FMV as on 31.1.2019.

Alternatively, highest price can also be considered as the FMV as on 31.1.2019. In such case, the total income of Mr. Govind would be computed in the following manner:

Alternate Answer

Particulars		₹	₹
I	Profits and gains of business and profession		
	Full value of consideration [1000 shares x ₹ 2,400 per share]	24,00,000	
	Less: FMV on the date of conversion (₹ 2,200 x 1000 shares) [See Note above]	<u>22,00,000</u>	
			2,00,000
II	Capital Gains		
	In respect of 800 shares held as capital asset up-to the date of sale		
	Full value of consideration [800 shares x ₹ 2,400 per share]	19,20,000	
	Less: Indexed cost of acquisition [800 shares x ₹ 900 x 289/100] (See Working Notes 1 and 2 below)	<u>20,80,800</u>	
		(1,60,800)	
	In respect of 1,000 shares converted into stock in trade on 31.1.2019 (Capital gains is taxable in the P.Y.2019-20, when the stock in trade is sold)		
	Full value of consideration [1000 shares x ₹ 2,200, being FMV on the date of conversion]	22,00,000	
	Less: Cost of acquisition [1000 shares x ₹ 900 x 280/100] (See Working Notes 1 and 2 below)	<u>25,20,000</u>	
		<u>(3,20,000)</u>	
	Long-term capital loss to be carried forward = (1,60,800) + (3,20,000) =	<u>(4,80,800)</u>	
	Total Income		<u>2,00,000</u>

Working Note –			
1. Cost of acquisition (per share)			
Higher of (i) and (ii), below i.e., ₹ 900 per share			
(i)	₹ 900 per share, being the FMV as on 1.4.2001		
(ii)	In case of shares purchased - Original cost of acquisition (₹130)		
	In case of bonus shares – Nil		
2.	In case of 800 shares sold during the year, the CII of F.Y.2019-20 i.e., 289 has to be considered to calculate indexed cost of acquisition. In case of 1000 shares converted into stock in trade on 31.1.2019, the CII of the year of conversion, i.e., F.Y.2018-19 i.e., 280 has to be considered to compute the indexed cost of acquisition.		

(c) (First Alternative)

- (1) Section 194N, inserted with effect from 1.9.2019, requires that every person, being
- a banking company
 - a co-operative society engaged in carrying on the business of banking or
 - a post office
- who is responsible for paying any sum or aggregate of sums in cash exceeding ₹ 1 crore during the previous year to any person from one or more accounts maintained by such recipient-person with it, to deduct tax at source @2% of sum exceeding ₹1 crore.
- (2) This deduction is to be made at the time of payment of such sum.
- (3) Liability to deduct tax at source under section 194N shall **not** be applicable to any payment made to –
- the Government
 - any banking company or co-operative society engaged in carrying on the business of banking or a post-office
 - any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking
 - any white label ATM operator of a banking company or co-operative society engaged in carrying on the business of banking

- such other person or class of persons notified by the Central Government in consultation with the RBI.

(c) [Second Alternative]

- (1) Any payment by way of loan by a closely held company to its shareholder holding not less than 10% of voting power is deemed as dividend, to the extent of accumulated profits of the company. Accordingly, out of ₹ 5 lakhs given by ABC Pvt. Ltd. to Ms. Julie, loan to the extent of ₹ 2 lakhs would be treated as deemed dividend for the A.Y.2020-21. Such dividend would, however, be taxable@30% in the hands of ABC Ltd. Consequently, it would be fully exempt in Julie's hands under section 10(34).
- (2) Interest on enhanced compensation is chargeable to tax under the head "Income from other sources" in the year of receipt, after providing for deduction of 50% of such income. Accordingly, ₹ 2,50,000 [₹ 5,00,000 – ₹ 2,50,000, being 50% of ₹ 5 lakh] would be chargeable to tax in the hands of Ms. Julie under the head "Income from Other Sources" for the A.Y.2020-21.

SECTION B: INDIRECT TAXES

Question No. 5 is compulsory.

Candidates are also required to answer any **two** questions from the remaining **three** questions.

All questions should be answered on the basis of position of GST law as amended by significant notifications/circulars issued upto 30th April, 2020.

Working notes should form part of the answer.

Wherever necessary, suitable assumptions may be made by the candidates and disclosed by way of note.

Question 5

KNK Ltd., a registered supplier of Mumbai is a manufacturer of heavy machines. Its outward supplies (exclusive of GST) for the month of January, 2020 are as follows:

S. No.	Particulars	Amount (₹)
(i)	Inter-State	85,00,000
(ii)	Intra-State	15,00,000

Applicable rate of CGST, SGST and IGST on outward supply are 9%, 9% and 18% respectively. Details of GST paid on inward supplies during the month of January, 2020 are as follows:

S. No.	Particulars	CGST paid (₹)	SGST paid (₹)
(i)	Raw material A (of which 70% of inputs procured were used and 30% were in stock at the end of the January, 2020)	60,000	60,000
(ii)	Raw material B (of which 90% material received in factory and remaining material completely damaged due to a road accident on the way to factory. There was no negligence on the part of the KNK Ltd.)	50,000	50,000
(iii)	Construction of pipelines laid outside the factory premises	30,000	30,000
(iv)	Insurance charges paid for trucks used for transportation of goods.	55,000	55,000

Additional Information:

- (i) There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit (ITC) have been fulfilled.
- (ii) Details of GST paid on inward supplies are available in GSTR-2A except for item (i) i.e. Raw Material A, for which supplier has not filed its GSTR-1 for the month of January 2020, hence corresponding input tax credit (ITC) is not reflecting in GSTR-2A of KNK Ltd. in January, 2020.

Compute the following:

- (i) Amount of eligible input tax credit (ITC) available for the month of January, 2020.
- (ii) Minimum net GST payable in cash, for the month of January, 2020 after using available input tax credit.

Working notes should form part of your answer.

(8 Marks)

Answer

(i) Computation of amount of eligible ITC available for the month of January, 2020

S. No.	Particulars	CGST (₹)	SGST (₹)
(i)	Raw materials B (90%) [Note-1]	45,000	45,000
(ii)	Construction of pipelines laid outside the factory premises [Note-2]	Nil	Nil
(iii)	Insurance charges paid for trucks used for transportation of goods [Note-3]	55,000	55,000
(iv)	Raw materials A [Note-4]	Nil	Nil
(v)	Eligible ITC on invoices the details of which are available in GSTR-2A	1,00,000 (45,000 + 55,000)	1,00,000 (45,000 + 55,000)
(vi)	ITC on invoices the details of which are not available in GSTR-2A, i.e. the invoices which have not been uploaded by the suppliers in their GSTR-1 [Note-4]	10,000	10,000
	Total eligible ITC	1,10,000	1,10,000

Notes:

- ITC on goods destroyed is blocked under section 17 of the CGST Act, 2017.
- ITC on works contract services availed for construction of plant and machinery is allowed but pipelines laid outside the factory premises are excluded from the definition of plant and machinery and hence, ITC thereon is blocked.

3. ITC on motor vehicles used for transportation of goods is allowed. Further, ITC is also allowed on insurance services relating to motor vehicles, ITC on which is allowed.
4. Where invoice has not been uploaded by the supplier in its GSTR-1, 10% of the eligible ITC available in respect of the uploaded invoices can be claimed by the recipient, i.e. 10% of ₹ 1,00,000.

(ii) **Computation of minimum net GST payable in cash for the month of January, 2020**

Particulars	Value (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Inter-State outward supplies	85,00,000			15,30,000
Intra-State outward supplies	15,00,000	1,35,000	1,35,000	
Total output tax payable		1,35,000	1,35,000	15,30,000
Less: Set off of CGST and SGST credit against CGST and SGST liability respectively		<u>(1,10,000)</u>	<u>(1,10,000)</u>	
Minimum net GST payable in cash		25,000	25,000	15,30,000

Question 6

- (a) Following are the particulars, relating to one of the machine sold by SQM Ltd. to ACD Ltd. in the month of February 2020 at list price of ₹ 9,50,000. (exclusive of taxes and discount) Further, following additional amounts have been charged from ACD Ltd :

S. No.	Particulars	Amount (₹)
(i)	Municipal taxes chargeable on the machine	45,000
(ii)	Outward freight charges (Contract was to deliver machine at ACD Ltd.'s factory i.e. F.O.R. contract)	65,000

Additional information :

- (i) SQM Ltd. normally gives an interest-free credit period of 30 days for payment, after that it charges interest @ 1% p.m. or part thereof on list price.
ACD Ltd. paid for the supply after 45 days, but SQM Ltd. waived the interest payable.
- (ii) SQM Ltd. received ₹ 50,000 as subsidy, from one non-government organization (NGO) on sale of such machine. This subsidy was not linked to the price of machine and also not considered in list price of ₹ 9,50,000.
- (iii) ACD Ltd. deducted discount of ₹ 15,000 at the time of final payment, which was not as per agreement.

(iv) SQM Ltd. collected ₹ 9,500 as TCS (tax collected at source) under the provisions of the Income Tax Act, 1961.

Compute the value of taxable supply as per the provision of GST laws, considering that the price is the sole consideration for the supply and both parties are unrelated to each other.

Note: Correct legal provision should form part of your answer. **(6 Marks)**

(b) In the following independent cases, decide, who is liable to pay GST, if any.

You may assume that recipient is located in the taxable territory. Ignore the aggregate turnover and exemption available.

(i) 'Veer Transport', a registered Goods Transport Agency (GTA) paying IGST @ 12%, transported goods by road of Dilip & Company, a sole proprietary firm (other than specified person) which is not registered under GST or any other Law. **(2 Marks)**

(ii) Mr. Kamal Jain, an unregistered famous author, received ₹ 20 lakh of consideration from PQR Publications Ltd. for supply of services by way of temporary transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works of his new book. **(2 Marks)**

Answer

(a) **Computation of value of taxable supply**

S. No.	Particulars	Amount (₹)
	List price (exclusive of taxes and discount)	9,50,000
(i)	Municipal taxes [Note-1]	45,000
(ii)	Outward freight charges [Note-2]	65,000
	Value of taxable supply	10,60,000

Notes:

1. Tax other than GST, if charged separately, are includible in the value in terms of section 15.
2. Since contract is to deliver machine at buyer's factory, it is a composite supply wherein the freight charges will be added to the value of principal supply of machine.
3. Value of supply includes interest charged for delayed payment. However, since the interest on delayed payment has been waived off, the same has not been added to the value.

4. Subsidy provided by non-Government bodies is includible in the value in terms of section 15 provided the same is directly linked to the price. Since subsidy received from NGO is not directly linked to the price of the machine, the same has not been added to the value.
 5. Since the discount was not known or agreed to at the time of supply of goods to the buyers, such discount cannot be reduced from the price, in terms of section 15.
 6. TCS is not includible in the value of supply as it is an interim levy not having the character of tax.
- (b) (i) In case of a GTA service, where GST is payable @ 5% and recipient is one of the specified recipients, tax is payable by the recipient of service under reverse charge.

However, where GST is payable @ 12%, tax is payable under forward charge by the supplier of service. Therefore, in the given case, tax is payable under forward charge by "Veer Transport", a registered GTA.

Note In the given case, since the recipient of service is other than specified recipient, i.e., unregistered sole proprietorship firm, GTA service is exempt from GST. However, in the above answer, the said exemption has been ignored since the question specifically requires the students to ignore the exemptions, if any, available.

- (ii) Supply of services by an author by way of transfer of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher located in the taxable territory is taxable under reverse charge mechanism.

Thus, in the given case, the recipient of service, i.e. PQR Publications Ltd. is liable to pay GST. The tax can be paid by the author under forward charge if the author is a registered person. Since in the given case, the author is an unregistered person, the said option is not available to him.

Question 7

- (a) BBD Pvt. Ltd. of Gujarat exclusively manufactures and sells product 'Z' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'Z' only within Gujarat and is not registered under GST laws. The turnover of the company in the previous year 2018-19 was ₹ 50 lakh. The company expects the sales to grow by 10% in the current year 2019-20.

However, effective 01.01.2020, exemption available on 'Z' was withdrawn by the Central Government and GST@ 5% was imposed thereon. The turnover of the company for the nine months ended on 31.12.2019 was ₹ 42 lakh.

BBD Pvt. Ltd. is of the opinion that it is not required to get registered under GST for current financial year 2019-20.

Examine the above scenario and advise BBD Pvt. Ltd. whether it needs to get registered under GST or not. (4 Marks)

- (b) *"It is mandatory to furnish the details of conveyance in Part-B of E-way Bill."*

Comment on the validity of the above statement with reference to provisions of E-Way Bill under CGST Rules, 2017. (3 Marks)

- (c) *"In Form GSTR-1, submission of invoice-wise details of outward supplies is mandatory for all kind of invoices issued during the tax period."*

Comment on the validity of the above statement with reference to GST laws. (3 Marks)

Answer

- (a) For a supplier exclusively engaged in intra-State supply of goods, the threshold limit of turnover to obtain registration in the State of Gujarat is ₹ 40 lakh. However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration.

Therefore, since BBD Pvt. Ltd. was engaged exclusively in supplying exempted goods till 31.12.2019, it was not required to be registered till that day; though voluntary registration was allowed.

The position, however, will change from 01.01.2020 as the supply of goods become taxable from that day and the turnover of BBD Pvt. Ltd. is more than ₹ 40 lakh. Since the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also, turnover of 'Z' till 31.12.2019 will be considered for determining the threshold limit even though the same was exempt from GST. Therefore, BBD Pvt. Ltd. needs to register within 30 days from 01.01.2020.

- (b) The given statement is partially valid.

An e-way bill is valid for movement of goods by road only when the information in Part-B – which includes details of conveyance - is furnished.

However, the details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of upto 50 km within the State/Union territory:

- (a) from the place of business of the consignor to the place of business of the transporter for further transportation or
- (b) from the place of business of the transporter finally to the place of business of the consignee.
- (c) The said statement is not valid.

In respect of following outward supplies, consolidated details and not invoice-wise details are required to be uploaded in the GSTR-1:

- (a) Intra-State supplies made to unregistered persons for each rate of tax

- (b) Inter-State supplies made to unregistered persons with invoice value upto ₹ 2,50,000 for each rate of tax separately for each State.

Question 8

- (a) *Who can impose restrictions on utilization of input tax credit (ITC) available in the electronic credit ledger and under what circumstances can restrictions be imposed under the CGST Rules 2017?* **(5 Marks)**

OR

- (b) *Explain the order of discharge of tax and other dues as per the provisions of section 49(8) of the CGST Act, 2017.* **(5 Marks)**

- (c) *With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply.*

(5 Marks)**Answer**

- (a) The Commissioner or an officer (not below the rank of an Assistant Commissioner) authorised by him has been empowered to impose restrictions on utilization of ITC available in the electronic credit ledger.

The restrictions can be imposed under the CGST Rules, 2017 in the following circumstances:

- (i) ITC has been availed on the basis of tax invoices/valid documents -
- issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or
 - without receipt of goods and/or services; or
 - the tax in relation to which has not been paid to the Government.
- (ii) Registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or
- (iii) Registered person availing ITC is not in possession of tax invoice/valid document.

(b) Alternative to Q. 8(a)

The order of discharge of tax and other dues as per provisions of section 49(8) of the CGST Act, 2017 is as under:-

- (a) self-assessed tax and other dues related to returns for the previous tax periods should be discharged first.
- (b) the self-assessed tax and other dues for the current period should be discharged next.

- (c) Lastly, any other amount payable including demand determined under section 73 or section 74 should be discharged.
- (c) Importation of services for a consideration whether or not in the course or furtherance of business is to be considered as supply.

Importation of services by a person without consideration is deemed as supply provided the following two conditions are satisfied:-

- (a) such import is from related person or from his establishments located outside India, and
- (b) such import is in the course or furtherance of business.

In case any or both of the above two conditions is/are not satisfied, the import of services without consideration shall not be deemed as supply.