

SUPPLY UNDER GST

Q5. Mr. Happy, registered under GST, has a huge residential property located at a prime location in Mumbai, Maharashtra. He has let out the 1st and 2nd floor to Mr. Peace for residential purposes in April. Mr. Peace, registered under GST, surrenders his tenancy rights to Mr. Serene (unregistered under GST) for a tenancy premium of ₹ 10,00,000 on 1st June. Mr. Serene has also paid the applicable stamp duty and registration charges on transfer of tenancy rights. Moreover, Mr. Serene has agreed to pay a monthly rent of ₹ 1,00,000 to Mr. Happy from June.

You are required to ascertain whether GST is payable on (i) tenancy premium paid by Mr. Serene to Mr. Peace and (ii) monthly rent paid by Mr. Serene to Mr. Happy for the month of June.

(Pg 2.3 – Refer changed question from here as per ICAI Module)

Answer:

Circular No. 44/2018 CT dated 02.05.2018 clarifies that the activity of transfer of tenancy right against consideration [i.e., tenancy premium] is squarely covered under supply of service liable to GST. It is a form of lease or renting of property and such activity is specifically declared to be a service in Schedule II i.e., any lease, tenancy, easement, license to occupy land is a supply of services.

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

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

Hence, in the given case, the tenancy premium of ₹ 10,00,000 received by Mr. Peace for surrendering his tenancy rights to Mr. Serene is liable to GST.

The circular further clarifies that since renting of residential dwelling for use as a residence is exempt [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017], grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. Consequently, monthly rent ₹ 1,00,000 received by Mr. Happy from Mr. Serene is exempt.

Q. ABC Insurance Ltd., a registered insurer in Maharashtra, is engaged in providing insurance services. During the current financial year, the company entered into following transactions:

- (i) ABC Insurance Ltd. enters into a co-insurance agreement with XYZ Insurance Ltd. where ABC Insurance Ltd. is the lead insurer. The insured – Gyaati Industries- pays a total premium of ₹ 50,00,000 which is apportioned by the lead insurer - ABC Insurance Ltd. between itself and XYZ Insurance Ltd. in the ratio of 60:40 for the insurance services jointly supplied by them to Gyaati Industries. ABC Insurance Ltd. agrees to discharge the entire GST liability on the full amount of premium received from Gyaati Industries.**
- (ii) A large industrial plant needs an insurance worth ₹ 500 crore. It approaches ABC Insurance Ltd. for the same. However, since ABC Insurance Ltd. is unable to underwrite the entire risk alone, it enters into a reinsurance agreement with a reinsurer - PQR Insurance Ltd. The total premium charged is ₹ 50 lakh. The insurer - ABC Insurance Ltd. pays a reinsurance premium of ₹ 20 lakh to PQR Insurance Ltd. This allows ABC Insurance Ltd. to manage its risk and financial exposure. While paying this amount to PQR Insurance Ltd., ABC Insurance Ltd. deducts a ceding commission of ₹ 1,00,000 which it has charged for the services it provides to PQR Insurance Ltd. PQR Insurance Ltd. pays GST on the gross reinsurance premium including the ceding commission.**

Based on the provisions of Schedule III of the CGST Act, 2017, discuss whether the following activities amount to supply:

- (a) Apportionment of co-insurance premium by ABC Insurance Ltd. to XYZ Insurance Ltd. for the insurance services jointly supplied by them to Gyaati Industries.
- (b) Services by ABC Insurance Ltd. to PQR Insurance Ltd. for which ceding commission is deducted from reinsurance premium paid by ABC Insurance Ltd. to PQR Insurance Ltd. (RTP Sep'25)

Answer:

- (a) As per para 9 of Schedule III of the CGST Act, 2017, 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 and hence no GST is charged on the apportionment transaction.

However, the lead insurer (ABC 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 – Gyati Industries, of ₹ 50,00,000. The co-insurer – XYZ Insurance Ltd. does not pay GST on its share of the premium separately.

- (b) As per para 10 of Schedule III of the CGST Act, 2017, 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 central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

However, the reinsurer (PQR Reinsurers Ltd.) is liable to pay GST on the gross reinsurance premium payable by the insurer (₹ 20 lakh), inclusive of the ceding commission (₹ 1 lakh).

CHARGE OF GST

Q2. Panini Private Limited agrees to sponsor a sports event organized by Pink City Club, a non-body corporate, in Jaipur. Panini Private Limited has paid an amount of ₹ 5,00,000 for such sponsorship of the sports event. Consequently, said event was named after the brand name of Panini Private Limited. Examine who is the person liable to pay tax in the given case.

(Pg 3.3 – Refer changed question & answer from here as per ICAI Module)

Answer:

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

In the present case, Pink City Club is the supplier of sponsorship services which is receiving the consideration in the form of sponsorship fee of ₹ 5,00,000 from Panini Private Limited, against the provision of sponsorship service. Since the recipient of sponsorship services- Panini Private Limited is a body corporate, GST on said services is payable by the recipient - Panini Private Limited, under reverse charge.

EXEMPTIONS FROM GST

Q33. M/s. JLM & Sons

(Pg 4.28)

Answer:

Computation of taxable value of supply on which tax is to be paid by M/s JLM & Sons and tax payable thereon

	Particulars	Value (₹)	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
(i)	Amount charged from Tamil Nadu Government [Taxable since composite supply of service of milling of wheat into flour and fortification for distribution by State Governments under PDS is exempt from GST only if value of goods supplied in said supply: does not exceed/ is upto 25% of the total value of composite supply. Further, it's an inter-State supply since place of supply is location of recipient, i.e., Tamil Nadu.]	8,50,000	-	-	1,53,000
(ii)	Direct selling agent (DSA) services to bank [DSA services are not being provided by an individual direct selling agent, but by a partnership firm. Therefore, tax is not payable under reverse charge, but is payable under forward charge. Further, it's an intra-State supply since place of supply is location of recipient, i.e., Karnataka.]	4,00,000	36,000	36,000	-
(iii)	Supply of tobacco leaves [Tax on supply of tobacco leaves by an agriculturist to a registered person is payable by recipient under reverse charge. So, tax is not payable by M/s JLM & Sons.*] <i>* It is important to note that in accordance with the definition of agriculturist as per section 2(7) of the CGST Act, 2017, only an individual or HUF qualifies as an "agriculturist". Thus, alternatively, it is also possible to interpret that since JLM & Sons is a partnership firm, it is not an agriculturist. In that case, CGST and SGST @ 9% each will be payable under forward charge by JLM & Sons, i.e. ₹ 9,450 – CGST & ₹ 9,450 – SGST.</i>		-	-	-
(iv)	Services provided to State Government [Services provided to the State Government under any training programme for which 75% or more of the total expenditure is borne by the State Government is exempt under GST.]		-	-	-
(v)	Compensation from Sunil Construction Ltd. [Service of agreeing to the obligation to refrain from an act is being provided. Further, it's an intra-State supply since place of supply is location of recipient, i.e., Bengaluru.]	26,00,000	2,34,000	2,34,000	-
	Taxable value of supply on which tax is to be paid by M/s JLM & Sons	38,50,000			

Q. M/s Speed Logistics gave on hire its tipper lorries to M/s ABC, a mining firm for transporting minerals from mining pit head to railway siding. Vehicle was given with driver but fuel cost was to be borne by the recipient. M/s Speed Logistics considered this transaction as exempt supply since it was covered under the entry of transportation of goods by road except by GTA in the exemption notification. Examine the correctness of this treatment. (Sep'25)

Answer:

In case of hiring of vehicle, the person taking vehicle on rent defines how and when the vehicles will be operated, determines schedules, routes and other operational considerations. Therefore, the person giving the vehicles on rent with operator for a specified period of time cannot be considered to be supplying the service by way of transport of goods by road; he is supplying service of renting of transport vehicles with operator, which is not exempt.

Thus, in the given case, treatment done by M/s Speed Logistics is not correct since services provided by M/s Speed Logistics are not exempt; they are taxable.

PLACE OF SUPPLY

Q36. Determine the 'place of supply'

(Pg 5.20)

Answer:

- (i) In cases involving supply of goods to an unregistered person, where the billing address and delivery address are different, the delivery address shall be the place of supply. Thus, place of supply is Mumbai, Maharashtra.
- (ii) The place of supply of personal grooming and fitness services is the location where the services are actually performed. Thus, place of supply is Delhi.
- (iii) Where any services directly in relation to an immovable property are supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory. Thus, place of supply is Dehradun, Uttarakhand in respect of interior decoration services provided in relation to the immovable properties located in Dehradun and Italy
- (iv) Where the goods are assembled at site, place of supply shall be the place of such assembly. Thus, place of supply is Bhopal, Madhya Pradesh.

Q. M/s Sea Foods Limited, registered in the State of Tamilnadu, made a supply of goods to M/s Eat Well Limited, registered in State of Maharashtra. The supply was made in the territorial waters, where appropriate baseline was situated within 4 nautical miles from the State of Kerala and 12 nautical miles from the State of Tamilnadu. Determine the place of supply with proper reasoning. (Sep'25)

Answer:

Where the place of supply is in the territorial waters, the place of supply shall be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Since in the given case, appropriate baseline is located within 4 nautical miles from Kerala and 12 nautical miles from Tamil Nadu, place of supply is Kerala.

TIME OF SUPPLY

Q11. Meal coupons

(Pg 6.5 – Provision is omitted due to amendment, so question is deleted)

Q33. (ii) Aanand Ltd.

(Pg 6.16 – Provision is omitted due to amendment, so question is deleted)

Q19. Mint Industries Ltd., a registered supplier, imports business support services from Green Inc. of USA on 13th August. The self-invoice is raised for the transaction by Mint Industries Ltd. 28th August. Mint Industries Ltd. makes the payment against the said invoice as follows:

Case I	22nd September
Case II	27th August

Determine time of supply in each of the aforesaid cases. (MTP-II Nov'23)

(Pg 6.8 – Refer changed question & answer from here as per ICAI Module)

Answer:

In case of services supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient, tax is payable under reverse charge by the person located in the taxable territory. [Notification No. 10/2017 IT (R) dated 28.06.2017].

Hence, in the given case, since the business support services are provided by Green Inc (located in non-taxable territory) to Mint Ltd. (person other than non-taxable online recipient and located in taxable territory), tax is payable under reverse charge by Mint Ltd. Further, since Green Inc. is not registered in India, invoice has been issued by recipient, i.e. Mint Industries Ltd.

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

- Date of payment, or
- Date of issue of invoice by the recipient, since invoice is issued by the recipient

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

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

CASE	Time of supply
CASE I	The time of supply is earlier of the date of payment, i.e. 22 nd September or date of issue of invoice, i.e. 28 th August, i.e. 28 th August.
CASE II	The time of supply is earlier of the date of payment, i.e. 27 th August or date of issue of invoice, i.e. 28 th August, i.e. 27 th August.

Q34. M/s. Vijay Communication Ltd.

(Pg 6.16)

Answer:

The GST is to be discharged on the supply of spectrum allocation services by the recipient of services (the telecom operator) on reverse charge basis (RCM).

- (i) In case where full upfront payment is made by the telecom operator, GST would be payable when the payment of the said upfront amount is made or is due, whichever is earlier.
- (ii) In case where deferred payment is made by the telecom operator in 18 monthly installments, supply shall be considered as 'continuous supply of services', since the services are being supplied continuously for a period exceeding 3 months with periodic payment obligations.

Since the due date of payment is ascertainable from the contract, the invoice shall be issued on or before such due date of payment as per the option exercised by the telecom operator. Thus, in this case, GST would be payable as and when the payments are due or made, whichever is earlier**.

** In above answer, it has been assumed that the due date of payment is ascertainable from the contract. However, it is also possible to assume that the due date of payment is NOT ascertainable from the contract. In that case, the invoice shall be issued before or at the time when the supplier of service - DoT receives the payment. Thus, GST would be payable as and when the payments are made.

Q. M/s Murty and Sons Ltd (MSL) is dealing in property business and is registered under GST since 2021 in Bengaluru, Karnataka having turnover of ₹ 2 crores in Financial Year 2023-24. MSL has taken legal service from Mr. Sachin, a junior advocate on 10th December, 2024. MSL paid ₹ 80,000 for this service on 18th February, 2025 through NEFT and the whole transaction was entered in the books on this day only.

In this case you are required to determine time of supply of service provided by Mr. Sachin to MSL in the following independent situations for the purpose of payment of tax under GST law along with explanations for the same:

S. No.	If Mr. Sachin is:	Invoice issued by:	Invoice issued on:
1.	An unregistered person	M/s Murty and Sons	8th January, 2025
2.	An unregistered person	M/s Murty and Sons	13th January, 2025
3.	An unregistered person	No invoice Issued	No invoice Issued
4.	A registered person	Mr. Sachin	6th January, 2025

Ignore the panel provision for late or non-issuance of invoices. (Sep'25)

Answer:

Tax on legal services provided by individual advocate - Mr. Sachin - to business entity - MSL - is payable under reverse charge.

The time of supply of service on which GST is payable on reverse charge basis is earlier of:

- Date of payment, as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier or
- Date immediately following 60 days (or 61st day) from the date of issue of invoice by the supplier, in cases where invoice is to be issued by the supplier or
- Date of issue of invoice by the recipient in cases where invoice is to be issued by the recipient

However, where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

In accordance with above provisions, time of supply in the given cases would be:

1. 8th January, 2025

Since supplier is unregistered, recipient - MSL issued the self-invoice. Thus, time of supply will be date of issue of invoice since it is earlier than date of payment (18th February).

2. 13th January, 2025

Since supplier is unregistered, MSL issued the self-invoice. Thus, time of supply will be date of issue of invoice since it is earlier than date of payment (18th February).

Alternatively, it is also possible to take following view:

Since supplier is unregistered, MSL issued the self-invoice. Time of supply will be earlier of date of issue of invoice (13th January) or last date on which invoice should have been issued, i.e., 30th day of receipt of service, i.e. 9th January). Thus, time of supply is 9th January, 2025.

3. 18th February, 2025

Since supplier is unregistered and MSL has not issued self-invoice at all, hence it is not possible to determine the time of supply from the normal provisions, so the time of supply will be the date of entry in books of accounts of the recipient of supply.

4. 18th February, 2025

Since it is earlier of:

- (i) the date of payment (18th February) or
- (ii) 61st day (or date immediately following 60 days) from the date of issue of invoice by the supplier (8th March).

VALUE OF SUPPLY

Q24. Fortune 365 is an online money gaming platform operating from UAE. It provides its users a platform to play and win money in different games that are available on its portal.

In the month of December, Player A, an unregistered person located in India, deposited an amount of ₹ 15,000 (inclusive of GST) in the master wallet available on the portal of Fortune 365. Subsequently, following transactions were undertaken by Player A in said month:

- (i) **Player A utilized the amount of ₹ 2,000 from the master wallet towards playing a virtual racing game on the portal. As a winning amount, ₹ 10,000 was credited to the master wallet of Player A.**
- (ii) **On another portal operated by Fortune 365 in the name of Bet 180, Player A placed a bet of face value of ₹ 11,000 on an international wrestling match. The amount of such bet was paid by the master wallet of Player A. However, he lost the bet and hence the bet amount of ₹ 11,000 with applicable taxes was transferred from the master wallet to the bank account of Bet 180.**
- (iii) **Player A transferred the balance amount from the master wallet to his bank account after the aforesaid transactions. Assume all the above transactions to be exclusive of GST unless otherwise specified.**
- (iv) **Rate of GST applicable is 40% (Please ignore the bifurcation of GST amount into CGST, SGST and IGST.)**

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

- (1) Compute the total GST payable on the aforesaid given transactions.**
- (2) Determine the net amount transferred by Player A to his bank account after the aforesaid transactions.**
- (3) Ascertain whether Fortune 365 is required to obtain registration under GST in India. Will your answer be different if Player A is registered under GST in India? (RTP May'24, May'24)**

(Pg 7.16 – Refer amended question & answer from here)

Answer:

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

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

In accordance with the above provisions:

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

- (i) Value of supply of online money gaming = Total amount deposited with the supplier by the player

in terms of rule 31B

= Initial deposit of ₹ 15,000 (inclusive of GST) by Player A with Fortune 365 after excluding GST = ₹ 10,714.29 (₹ 15,000 × 100/140)

GST payable = ₹ 10,714.29 × 40% = ₹ 4,286 – [A]

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

GST payable = ₹ 11,000 × 40% = ₹ 4,400 – [B]

Total amount of GST that would be collected by the Government on the given transactions = [A] + [B] = ₹ 8,686 (rounded off)

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

Particulars	Amount (₹)
Initial Deposit	15,000
Less – GST on deposit	4,286
Less – Payment for virtual racing game	2,000
Add – Winning from virtual racing game	10,000
Less – Payment for bet placed on Bet 180	11,000
Less – GST on the bet place on Bet 180	4,400
Net balance available for transfer	3,314

- (3) As per section 24(xia), every person supplying online money gaming from a place outside India to a person in India shall be required to obtain registration on a mandatory basis in India. Accordingly, Fortune 365 being a supplier of online money gaming operating from UAE and supplying services in India shall be liable to obtain registration compulsorily in India. The answer will not change irrespective of the fact that Player A is registered under GST in India or not.

Q25. M/s Winhere 2407

(Pg 7.17 – Question deleted, similar as above Q24)

INPUT TAX CREDIT

Q1. Xenon Pvt. Ltd.

(Pg 8.1 – Question deleted as per ICAI Module)

Q43. Siddhi Ltd. is a registered manufacturer engaged in taxable supply of goods. Siddhi Ltd. purchased the following goods during the month of January. The following particulars are provided by the company:

S. No.	Particulars	GST (₹)
1.	Capital goods purchased on which depreciation has been taken on full value including GST paid thereon	15,000
2.	Goods purchased from Ravi Traders (Invoice of Ravi Traders is received in month of January but goods were received in month of March)	20,000
3.	Car purchased for making further supply of such car. Such car is destroyed in accident while being used for test drive by potential customers.	30,000
5.	Truck purchased for delivery of finished products.	80,000

Determine the amount of ITC available with Siddhi Ltd. for the month of January by giving necessary explanations for treatment of various items as per the provisions of the CGST Act. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

(Pg 8.60 – Refer changed question & answer from here as per ICAI Module)

Answer:**Computation of ITC available with Siddhi Ltd. for the month of January**

Particulars	GST (₹)
Capital goods [Note 1]	Nil
Goods purchased from Ravi Traders [Note 2]	Nil
Cars purchased for making further supply [Note 3]	Nil
Trucks purchased for delivery of output goods [Note 5]	80,000
Total ITC available with Siddhi Ltd.	80,000

Notes:

- (1) Since depreciation has been claimed on the tax component of the value of the capital goods, ITC of such tax cannot be availed in terms of section 16(3).
- (2) ITC in respect of goods not received cannot be availed in terms of section 16(2)(b).
Since the goods have been received in the month of March, IT thereon can be availed in the month of March and not in the month of January even though the invoice for the same has been received in the month of January.
- (3) Though ITC on motor vehicles used for further supply of such vehicles is not blocked, ITC on goods destroyed for whatever reason is blocked [Clauses (a) and (h) of section 17(5)].
- (4) Section 17(5)(a) blocks ITC in respect of only those motor vehicles which are used for transportation of persons albeit with certain exceptions. Thus, ITC on motor vehicles used for transportation of goods is allowed.

Q71. M/s. BBV Ltd.**(Pg 8.128)****Answer:****Computation of minimum net GST liability of M/s BBV to be paid in cash for the month of October, 2024**

S. No.	Particulars	Amount (₹)	IGST (₹)
	Output tax payable under forward charge		
(i)	Export of product 'D' with payment of tax [Since exports are inter-State supplies, IGST is payable on them'.]	16,50,000	1,98,000 [16,50,000 x 12%]
(ii)	Product 'D' supplied to SEZ under LUT [Supply to a SEZ unit is a zero-rated supply. Further, no tax is payable since goods are supplied under LUT.]		-
(iii)	Export of product 'D' under LUT [Export is a zero-rated supply. Further, no tax is payable since goods are supplied under LUT.]		-
(iv)	Domestic outward supply of Product 'D'	46,00,000	5,52,000 [46,00,000 x 12%]
(v)	Outward services taxable under reverse charge [No tax is payable since recipient is liable to pay tax.]		-
(vi)	Sale of securities [Since securities are neither goods nor services, sale of securities is not a supply.]		-
(vii)	Supply of hiring of trucks to GTA [Exempt, since services by way of giving on hire to a GTA, a means of transportation of goods, are exempt.]		-
(viii)	Sale of land [Sale of land is neither supply of goods nor supply of services, as it is covered in Schedule III. Thus, it is not a supply.]		-

(ix)	Interest received on investments [Services by way of extending deposits in so far as the consideration is represented by way of interest are exempt.]		-
	Total output tax		7,50,000
	Less: Input tax credit [Refer working note below.] [ITC of IGST is being utilized for set-off of IGST liability.]		(1,39,523)
	Net GST payable Since the value of supply in October month exceeds ₹ 50 lakh, at least 1% of output tax liability is to be paid in cash, in terms of rule 86B. However, since in the given question, ITC available is much less than 99% of the output tax liability, there is no need for any adjustment of amount utilized from electronic credit ledger.		6,10,477
	Add: Tax on services received by the registered recipient from unregistered GTA is payable under reverse charge	75,000	3,750
	Minimum net GST payable in cash		6,14,227

Working note - Computation of eligible ITC available for set off

Particulars			IGST (₹)
Common credit on inputs	20,00,000	2,40,000 [20,00,000 × 12%]	3,84,000
Common credit on input services	8,00,000	1,44,000 [8,00,000 × 18%]	
Freight paid [Since used exclusively for taxable supply, ITC is fully available.]			3,750 [75,000 × 5%]
Less: Common credit attributable to exempt supplies (rounded off) = Common credit on inputs and input services x (Exempt turnover during the period / Total turnover during the period) = ₹ 3,84,000 x ₹ 1,55,42,000 / ₹ 2,40,43,000 Exempt turnover = ₹ 1,55,42,000 and Total turnover = ₹ 2,40,43,000 [Refer Notes 1 and 2]			(2,48,227)
Total ITC eligible for set-off			1,39,523

Notes:**1. Computation of Exempt turnover**

Particulars	Amount (₹)
Exempt turnover	
includes –	
(i) supply of hiring of trucks to GTA	7,00,000
(ii) services taxable under reverse charge	8,00,000
(iii) sale of securities (Value of exempt supply in respect of security is 1% of the sale value of such security) and	42,000
(iv) sale of land (Value of exempt supply in respect of land is the value adopted for paying stamp duty)	1,40,00,000
Excludes interest received on investments (₹ 2,51,000)	
Exempt Turnover	1,55,42,000

2. Computation of Total turnover = ₹ (16,50,000 + 9,00,000 + 11,00,000 + 46,00,000 + 8,00,000 + 42,000 + 7,00,000 + 1,40,00,000 + 2,51,000) = ₹ 2,40,43,000

Q. Nandita Pvt. Ltd., registered under GST in the State of Rajasthan, is engaged in making various supplies of goods and services. It also has a branch located in Uttarakhand and a manufacturing unit in Jharkhand.

The company has provided the following transactions undertaken by Rajasthan office, for the month of January:

S. No.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Entered into a forward contract for a commodity on the Multi Commodity Exchange (MCX) which was settled by netting off the difference between the forward rate and market rate on the settlement date in January itself	18,00,000
(ii)	Renting of dumpers including driver given for transport of minerals within the mining area in Jharkhand for a period of 2 years to Dhanvarsha Builders, registered in Jharkhand	11,50,000
(iii)	Manufactured the silk yarn from raw silk and supplied it to Gajodhar Traders, registered in Mumbai	80,00,000
(iv)	Amount received for accommodation services provided to 10 students preparing for UPSC. The said accommodation service is supplied for a continuous period of 6 months at a monthly rent of ₹ 20,000 per student.	2,00,000
(v)	Supplied branded electronic goods to a consignment agent -Suhasini Traders - in Jodhpur, Rajasthan. (Suhasini Traders issued an invoice using its own name while further supplying goods to customers.) Suhasini Traders supplied the Goods of like kind and quality to the unrelated wholesalers in the States of Madhya Pradesh and Uttar Pradesh for ₹ 5,60,000 during the same month. Open market value is ₹ 5,40,000.	-
	INWARD SUPPLY	
(i)	Availed event management services from “White Frame Events” (registered in Rajasthan) for organising the company's product launch meet at a convention centre in Delhi.	5,50,000
(ii)	Purchased high-capacity industrial machine from TechFab Engineering Ltd., a registered supplier based in Ranchi, Jharkhand to produce taxable items. As per the terms of the contract, parts of the machine were brought at the manufacturing unit located in Jharkhand and assembled and commissioned thereat and after recipient's inspection and approval, its delivery was completed.	2,00,000
(iii)	Purchased 3 electric scooters with engine capacity of 25 cc for use by its employees for commuting within the office premises and nearby client locations. Scooters were supplied in Jaipur by a GST-registered dealer located in Kerala.	1,80,000

The company provided the following additional information:

- (i) Some taxable goods were transferred to the company's branch located in Uttarakhand for promotional gifting by branch. Invoice value was ₹ 2,40,000, but open market value was ₹ 2,80,000.
- (ii) Nandita Pvt. Ltd. had secured a loan amounting to ₹ 120 crores in the month of April from Manimani Bank, Rajasthan. Penal charges amounting to ₹ 26,00,000 were levied by Manimani Bank in the month of January, in compliance with RBI directions, since Nandita Pvt. Ltd. failed to comply with the material terms and conditions of the loan contract.
- (iii) All the amounts given the question are exclusive of taxes, wherever applicable.
- (iv) All the inward supplies were used for taxable as well as exempted outward supplies.
- (v) There was no opening balance of any ITC for the relevant tax period.
- (vi) The company always chooses the most beneficial option for valuation of supplies made to agent and branches.

- (vii) Rates of CGST, SGST and IGST on all inward and outward supplies are 9%, 9% and 18% respectively.

Based on the information provided above, determine the following for Nandita Pvt. Ltd. (Rajasthan) for the month of January, providing brief reasoning thereof:

1. Eligible Input Tax Credit (ITC) available for set-off.
2. Minimum net GST liability payable in cash (CGST & SGST/IGST, as the case may be). (RTP Sep'25)

Answer:

Computation of minimum net GST payable in cash by Nandita Pvt. Ltd. for the month of January

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Forward derivatives contract [Forward derivative contracts where the settlement takes place by netting off the difference between the forward rate and market rate qualify as securities. Hence, they are neither goods nor services in terms of definitions of goods and services under sections 2(52) and 2(102). Thus, given transaction is not a supply.]	18,00,000	-	-	-
(ii)	Renting of dumpers to Dhanvarsha Builders [Not specifically exempt. Further, it is an inter-State supply since place of supply provided to registered person is location of recipient, i.e. Jharkhand.]	11,50,000			2,07,000 [11,50,000 × 18%]
(iii)	Supply of silk yarn [Tax on silk yarn supplied by a person who manufactures it from raw silk to a registered person is payable under RCM by the recipient. Thus, tax is payable by Gajodhar Traders.]	80,00,000	-	-	
(iv)	Accommodation service provided to students [Supply of accommodation services having value of supply less than or equal to ₹ 20,000 per person per month is exempt provide that the accommodation service is supplied for a continuous period of atleast 90 days.]	2,00,000	-	-	-
(v)	Supply of goods to an agent [Supply of goods by the company to agent qualifies as supply in terms of para 3 of Schedule I of the CGST Act, 2017 since agent issues invoice to customers in its own name. Further, it is an intra-State supply since place of supply is location where movement of goods terminates, viz. Rajasthan. Moreover, value of supply of goods to agent is: (i) Open Market Value (₹ 5,40,000) or (ii) 90% of the price of goods of like kind and quality charged by recipient to unrelated customer ₹ 5,04,000 (₹ 5,60,000 × 90%), at the option of supplier [Rule 29]. Since the company wishes to choose most beneficial option, least of the two values has been taken.]	5,04,000	45,360 [5,04,000 × 9%]	45,360 [5,04,000 × 9%]	

(vi)	Inter-State transfer of taxable goods to Uttarakhand branch [ITC of goods received for promotional gifting is not available to branch, as ITC in respect of goods disposed of by way of gift or free samples is blocked in terms of section 17(5)(h). Since recipient -branch - is not eligible for full ITC and goods are not intended for further supply as such by it, value of supply of said goods shall be open market value (Rule 28).]	2,80,000			50,400 [2,80,000 × 18%]
	Total output tax		45,360	45,360	2,57,400
	Less: ITC available for set off [Refer Working note below]		9,430	9,430	6,172
	Minimum net GST payable in cash (rounded off)		35,930	35,930	2,51,228

Working Note - Computation of eligible ITC available for set off

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
	Event management services availed [It is intra-State supply as place of supply of event management services provided to registered person is location of recipient, i.e. Rajasthan. Further, ITC of services used in course or furtherance of business is available.]	5,50,000	49,500 [5,50,000 × 9%]	49,500 [5,50,000 × 9%]	
	Machine purchased [It is intra-State supply since place of supply in case of goods not involving movement of goods is location of goods at the time of delivery to recipient, viz. Jharkhand. However, ITC of the same will not be available since the recipient of said intra-State supply is located in a different State than that of place of supply.]	1,00,000	-	-	-
	Electric scooters purchased [It is inter-State supply since place of supply is Jaipur and supplier is in Kerala. Further, ITC on two-wheelers with engine capacity upto 25cc, used in course or furtherance of business, is not blocked in terms of section 17(5)(a) since they are excluded from the definition of motor vehicle.]	1,80,000	-	-	32,400 [1,80,000 × 18%]
	Penal charges [Penal charges levied by regulatory entities including banks, in compliance with RBI directions are essentially in the nature of charges for breach of terms of contract and hence, no GST is payable on the same. Thus, no ITC is available.]	26,00,000	-	-	-
	Total ITC		49,500	49,500	32,400
Computation of eligible ITC available for set-off					
	Common credit [All inward supplies are used commonly for exempt and taxable supplies.]		49,500	49,500	32,400
	Less: ITC attributable to exempt supplies [Common		(40,070)	(40,070)	(26,228)

credit x (Exempt turnover/ Total turnover)] to be reversed ₹ [Common credit × 82,18,000/1,01,52,000] – Refer note below				
Eligible ITC available for set off		9,430	9,430	6,172

Note - As per section 17(3), value of exempt supply includes supplies on which the recipient is liable to pay tax on reverse charge basis and transactions in securities. As per explanation to Chapter V of the CGST Rules, the value of exempt supply for security is 1% of the sale value of such security.

Therefore, value of exempt supply in the given case will be the sum of value of output supply on which tax is payable under reverse charge (₹ 80,00,000), accommodation service provided to students (₹ 2,00,000), and value of supply of securities (1% of ₹ 18,00,000 = ₹ 18,000), which comes out to be ₹ 82,18,000.

Total turnover = ₹ 1,01,52,000 (₹ 18,000 + ₹ 11,50,000 + ₹ 80,00,000 + ₹ 2,00,000 + ₹ 5,04,000 + ₹ 2,80,000)

Q. Sakura Impex Limited (SIL), a registered supplier in the State of Andhra Pradesh, provides the following details of transactions undertaken in the month of January 2025:

Sl. No.	Particulars	Amount in ₹
	Outward transactions:	
(i)	Received an order for printing books from a publisher who owned the content. Paper, ink and printing activities were undertaken by SIL and books were supplied as ordered.	7,00,000
(ii)	Received rent from a GST registered limited company for use of SIL's commercial building at Andhra Pradesh, used for the purpose of residential quarters for the employees of the tenant company.	1,20,000
(iii)	Provided printing related consultancy services to M/s. Tay Hung & Co, a resident of South Korea, for the new market potential for South Korea, for the new market potential for its lasts Hi-teach printing machine. Market study involving demo of machine working was conducted in Japan, Indonesia and State of Andhra Pradesh, India. Out of consideration of ₹ 20 lakhs, ₹ 14 lakhs were apportioned to study done abroad.	20,00,000
(iv)	Provided a corporate guarantee to a related person located in India, who was not eligible for full ITC.	70,000
(v)	Received an advance for supply of services related to footwear sector.	1,00,000
(vi)	Supplied an old machinery used in manufacture of taxable goods to Mr. Prasad of Karnataka on the instruction of Mr. Subba Rao registered in Vizag, Andhra Pradesh.	4,00,000
	Inward transactions:	
(vii)	Paid consideration to Andhra Pradesh Government towards grant of certification relating to safety of workers at the workplace as required by the local laws.	60,000

The following additional information be taken into consideration:

- Wherever details for determination of place of supply are not given in the question, it shall be taken as inter-State transaction.
- Out of total consideration received for printing of books, ₹ 3,00,000 was related to paper and ink.
- SIL had filed Letter of Undertaking for zero-rated supplies to make exports without payment of tax.
- Corporate guarantee was given for grant of term loan by a PSU Bank for solar panel installation amounting to ₹ 20 Lakhs with a term of 5 years. The related party availed only ₹ 15 lakhs since it could manage the balance funds through its internal sources.
- Supply of service as well as invoice for footwear sector supply was made on 14th February 2025. There was a change in rate of tax from 12% (by a notification issued in January 2025) to 18%, with

effect from 1st February 2025.

- (vi) SIL had purchased the machine referred in Sl. No (vi) above in the month of January 2024 at a cost of ₹ 6,00,000 excluding GST. Since invoice was also issued in January 2024, ITC was eligible and claimed during the same month.
- (vii) Except as otherwise stated, rates of CGST, SGST and IGST are 6%, 6% and 12% respectively for paper and ink and 9%, 9% and 18% respectively for all other inward and outward supply of goods and/or services.
- (viii) All the amounts given above are exclusive of taxes wherever applicable.
- (ix) All the conditions applicable for availing ITC have been complied with, subject to the information given above and the said ITC were exclusively used for taxable outward supply only.

From the information given above, you are required to compute the net GST liability payable in cash (CGST, SGST or IGST as the case may be) for the month of January 2025. Brief reason for the treatment of each item should form part of the answer. (Sep'25)

Answer:

Computation of minimum net GST liability payable in cash for the month of January 2025

S. No.	Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Order for printing of books [Printing of books with only content being supplied by the publisher is a composite supply wherein supply of printing service is the principal supply.] <i>* It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as inter-State transaction.</i>	7,00,000			1,26,000* [7,00,000 x 18%]
(ii)	Renting of commercial building [Since renting of only residential dwelling for use as residence is exempt, renting of commercial buildings for use as residence is not exempt and is thus, taxable. Further, tax is payable under forward charge and not under reverse charge since supplier - SIL – is registered. It is an intra-State supply since place of supply of services in relation to immovable property is the location of such property, i.e. Andhra Pradesh.]	1,20,000	10,800 [1,20,000 x 9%]	10,800 [1,20,000 x 9%]	-
(iii)	Consultancy services provided to a resident of South Korea [Intra-State supply since where services supplied in respect of goods required to be made physically available by the recipient to supplier are supplied at more than one location, including a location in the taxable territory, place of supply is the location in the taxable territory, i.e., Andhra Pradesh.]	20,00,000	1,80,000 [20,00,000 x 9%]	1,80,000 [20,00,000 x 9%]	-
(iv)	Corporate guarantee on behalf of a related person in India [Value of supply of corporate guarantee service for 5 years is higher of the following:- (a) 1% per annum of amount of such guarantee offered [and not amount of loan actually disbursed to the recipient] multiplied by 5 years [1% x ₹ 20,00,000 x 5 years = ₹ 1,00,000] or	1,00,000			18,000** [1,00,000 x 18%]

	(b) Actual consideration i.e. ₹ 70,000 i.e. ₹ 1,00,000.] <i>** It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as inter-State transaction.</i>				
(v)	Supply of services related to footwear sector [In case of change in rate of tax, if supply and issue of invoice (14th February, 2025) are after the change in such rate (1st February, 2025), payment is received before change in rate, date of issue of invoice [14th February, 2025] is the time of supply. Therefore, advance is not taxable in the month of January, 2025.]		-	-	-
(vi)	Supply of old machinery [Intra-State supply since in case of “Bill to Ship to” supply, where goods are delivered by the supplier to the recipient at the instruction of a third person, place of supply is principal place of business of third person i.e. Andhra Pradesh. Further, refer working note 2 below for computation of amount to be paid on supply of old machinery on which ITC has been taken.]		40,500	40,500	-
	Total output tax liability		2,31,300	2,31,300	1,44,000
	Less: Input tax credit [Refer working note 1 below.]		-	-	-
	Minimum net GST payable in cash		2,31,300	2,31,300	1,44,000

Working note 1- Computation of eligible ITC available for set off

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(vii)	Grant of certification relating to safety of workers [Services provided by State Government by way of certification relating to safety of workers required under any law is exempt under GST. Since no tax is payable, no ITC is available on the same.]		-	-	-
	Total ITC available		-	-	-

Working note 2- Computation of amount to be paid on sale of old machinery

Particulars	Amount (₹)	Amount (₹)
If capital goods/plant and machinery on which ITC has been taken are supplied by a registered person, higher of the following amounts is to be paid:		
(a) ITC taken on machinery (₹ 6,00,000 x 18%) <i>Less: 5% per quarter or part thereof from the date of issue of invoice for machinery</i> [(₹ 6,00,000 x 18% x 5% x 5 quarters)]	1,08,000 <u>(27,000)</u> 81,000	40,500***
OR		OR
(b) Tax on transaction value [₹ 4,00,000 x 9%]		36,000
Amount to be paid (each under CGST & SGST)		40,500

*** ₹ 40,500 [each under CGST & SGST (₹ 81,000/2)]

Q. Mr. Viswas is registered under GST in the State of Karnataka. He is engaged in providing multiple types of services and provides the following information related to his business for the month of February 2025:

Particulars	Amount in ₹
Provided security services to various concerns (Out of ₹ 5,00,000, services provided to unregistered persons were ₹ 1,00,000)	5,00,000
Provided services for organizing an entertainment event to Wonderful Fims Limited, registered in the State of Telangana, for launch of their new movie. Event was held in the State of Karnataka.	15,00,000
Provided training services in a program organized by National Skill Development Corporation, even though Mr. Viswas was not a training partner.	2,00,000
Availed tax consultation services from his CA (Registered)	30,000
Availed various input services in relation to organizing entertainment event as in point (b) above from registered persons.	4,00,000
Sold his old godown used for the purposes of his business (stamp value was ₹ 14,00,000)	20,00,000

Following additional information is also provided by Mr. Viswas:

- Wherever details for determination of place of supply are not given in the question, it shall be taken as intra-State transaction.
- Imported consultation services in the course of his business from his father-in-law in Australia, without a consideration and valued at ₹ 1,20,000.
- All the amounts given above are exclusive of tax, wherever applicable.
- Assume the rate of tax for CGST/SGST/IGST as 9%/9%/18% respectively for both inward and outward supplies.
- Subject to the information given above, Mr. Viswas fulfilled all the conditions required for availing ITC.

You are required to determine the value of taxable supply and net GST liability payable in cash by Mr. Viswas for the month of February 2025.

Reason for treatment of each items needs to be given in the answer. (Sep'25)

Answer:

Computation of value of taxable supply and net GST liability payable in cash by Mr. Vishwas

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(a)	Security services to unregistered persons [On ₹ 1,00,000, tax is payable under forward charge and not under reverse charge since security services are provided to unregistered persons.] <i>* It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as intra-State transaction.</i>	1,00,000	9,000* [₹ 1,00,000 x 9%]	9,000 [₹ 1,00,000 x 9%]	-
	Security services to registered persons [On ₹ 4,00,000, tax is payable under reverse charge by the recipient since security services are provided by a non-body corporate or by an individual to registered persons.]		-	-	-
(b)	Organisation of entertainment event [Inter-State supply, since place of supply of services provided by way of organisation of entertainment event to a	15,00,000			2,70,000 [₹ 15,00,000 x 18%]

	registered recipient is the location of recipient, i.e. Telangana.]				
(c)	Training services in a program organized by National Skill Development Corporation (NSDC) [Taxable, since services provided by only a training partner approved by NSDC, in relation to the National Skill Development Programme are exempt.] <i>** It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as intra-State transaction.</i>	2,00,000	18,000** [₹ 2,00,000 x 9%]	18,000 [₹ 2,00,000 x 9%]	-
(d)	Sale of old godown [Since sale of building (godown) is neither supply of goods nor supply of services as it is covered in Schedule III of the CGST Act, 2017. Thus, sale of godown is not a supply.]	-	-	-	-
(e)	Import of consultation services from father-in law [Since father-in-law is not a related person, import of services from him, though in the course of business shall not be deemed as supply since it is made without consideration.]	-	-	-	-
	Value of taxable supply***	22,00,000			
	Total output tax		27,000	27,000	2,70,000
	Less: Input tax credit [Refer working note below.] [ITC of CGST is being used to pay CGST liability first and then remaining for payment of IGST. ITC of SGST is being used to pay SGST liability first and then remaining for payment of IGST.]		(27,000) CGST	(27,000) SGST	(10,350) CGST (10,350) SGST
	Minimum net GST payable in cash		Nil	Nil	2,49,300

*** Since the question simply mentions the value of taxable supply, it includes (i) value on which tax is payable by Mr. Vishwas as well as (ii) value on which tax is payable by the recipient of supply. However, alternatively, it is also possible to compute value of supply as only the value on which tax is payable by Mr. Vishwas only and not value on which tax is payable by the recipient of supply.

Working note - Computation of eligible ITC available for set off

Particulars	Value (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Input services availed in relation to organizing entertainment event [Since used exclusively for taxable supply, ITC is fully available.] <i>* It is specifically mentioned in the question that wherever details of place of supply are not given in the question, it shall be treated as intra-State transaction.</i>	4,00,000	36,000* [4,00,000 x 9%]	36,000 [4,00,000 x 9%]	
Tax consultation services received from CA [ITC is available since used in course or furtherance of business. Further, it is commonly used for making taxable and exempt supplies.]	30,000	2,700 [₹ 30,000 x 9%]	2,700 [₹ 30,000 x 9%]	

Less: Common credit attributable to exempt supplies = Common credit x (Exempt turnover / Total turnover) = ₹ 2,700 x ₹ 18,00,000 / ₹ 36,00,000 Exempt turnover = ₹ 18,00,000 Total turnover = ₹ 36,00,000 [Refer Notes 1 and 2 below]		(1,350)	(1,350)	
Total ITC eligible for set-off		37,350	37,350	
Note 1: Exempt turnover includes- (i) security services taxable under reverse charge (₹ 4,00,000), and (ii) sale of godown [₹ 14,00,000 (value adopted for paying stamp duty)] = ₹ 18,00,000				
Note 2: Total turnover = ₹ (5,00,000 + 15,00,000 + 2,00,000 + 14,00,000) = ₹ 36,00,000				

Q. OnePoint Supply Private Limited, a registered entity under GST in the State of Maharashtra, is engaged in making various supplies. It provides the following information for the month of April:

S. No.	Particulars	Amount (₹)
	OUTWARD SUPPLY:	
(i)	Supplied a consignment of 50 Power Drill Kits to M/s BuildPro & Sons in the State of Maharashtra at the instruction of M/s ToolMart of Tamil Nadu	6,00,000
(ii)	Supplied silk yarn (manufactured from silk worm cocoons) to SilkAura Creations for manufacturing saree. SilkAura Creations is not registered under GST. Invoice issued for the supply contains the address of the factory of SilkAura Creations located in Nasik, Maharashtra	4,00,000
(iii)	Provided complimentary training at Kalyani Village Resort, Mumbai, Maharashtra to its agents within Maharashtra on effective handling of customer queries [Open market value of said service is ₹ 2,60,000. Value of supply of service of like kind and quality is ₹ 2,50,000.]	9,00,000
(iv)	Transferred the tenancy rights of a commercial complex (taken on rent) located in Mumbai for a tenancy premium to Nexus Source Ltd. of Kanpur, Uttar Pradesh. Stamp duty and registration fee have already been paid on the tenancy premium.	8,00,000
	INWARD SUPPLY:	
(i)	Imported Bluetooth speakers from Korea [The goods landed in Mumbai Port and reached at its registered premises on 30th April. Value for the purpose of levying IGST is ₹ 4,00,000.]	
(ii)	Participation fee paid for the business exhibition held in Germany organised by Dhvani India Limited	45,00,000
(iii)	Salary paid to employees on rolls	10,40,000
(iv)	Consumables procured from registered suppliers located in Gujarat [includes diesel (excise and VAT paid) worth ₹ 75,000 used for running machinery in the factory.]	1,50,000

The company provided the following additional information:

- (i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively for both inward and outward supply of goods and services.

(ii) All the amounts given above are exclusive of taxes, wherever applicable.

(iii) There was no opening balance of any ITC.

From the information given above, you are required to compute the eligible Input Tax Credit (ITC) available and minimum net GST liability in cash (CGST, SGST or IGST, as the case may be), payable through Electronic Cash ledger and through ICEGATE portal of customs, for the month of April for One Point Supply Private Limited, Maharashtra. (RTP Jan'26)

Answer:

Computation of net GST payable in cash by OnePoint Supply Private Limited

S. No.	Particulars	CGST (₹)	SGST (₹)	IGST (₹)
1.	Output tax liability (Refer working note-1)	1,08,000	1,08,000	1,08,000
2.	Less: Input Tax Credit (Refer working note -2)	Nil	Nil	(85,500)
3.	Net GST payable in cash through Electronic Cash Ledger on GSTN portal [A]	1,08,000	1,08,000	22,500
4.	IGST payable on import of Bluetooth speakers payable in cash through ICEGATE portal while making customs clearance [B]	Nil	Nil	72,000

Working Note - 1 Computation of output tax liability

S. No.	Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
(i)	Consignment of Power Drill Kits supplied at the instruction of a third person [Since it is a bill to ship to supply where the goods are directions of a third person - M/s ToolMart, goods are deemed to be received by such third person and thus, the place of supply is Tamil Nadu, in terms of section 10(1)(b) of the IGST Act, 2017. Hence, it is an inter-State supply.]	6,00,000	-	-	1,08,000 [6,00,000 × 18%]
(ii)	Supplied silk yarn to SilkAura Creations [Intra-State supply since place of supply is the location as per the address of the said person recorded in the invoice issued in respect of the said supply, viz. Maharashtra, in terms of section 10(1)(ca) of IGST Act, 2017. Further, tax will be payable under forward charge since such silk yarn is being supplied to an unregistered person]	4,00,000	36,000 [4,00,000 × 9%]	36,000 [4,00,000 × 9%]	-
(iii)	Free of cost training to agents [Services provided by the company to agents without consideration is not deemed as supply in terms of para 3 of Schedule - I since only goods supplied by principal to agent are covered therein. Further, such services are also not covered in para 2 of Schedule I as agents are not related persons.]	-	-	-	-
(iv)	Transfer of tenancy rights [Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable even though stamp duty and registration fee have been paid on the same. It is an intra-State supply since place of supply is location of immovable property being Mumbai, Maharashtra.]	8,00,000	72,000 [8,00,000 × 9%]	72,000 [8,00,000 × 9%]	
	Total output tax		1,08,000	1,08,000	1,08,000

Working Note – 2**Computation of input tax credit available for set-off**

Particulars	Amount (₹)	CGST (₹)	SGST (₹)	IGST (₹)
Import of Bluetooth speakers [Input tax, inter alia, includes IGST charged on import of goods.]	4,00,000	Nil	Nil	72,000 [4,00,000 × 18%]
Participation fee paid for the business exhibition held in Germany organised by Dhvani India Limited [Since services provided by an organiser to any person in respect of a business exhibition held outside India, no GST is payable on said services. Consequently, no ITC is available.]	-	-	-	-
Salary paid to employees on rolls [Services by an employee to the employer in the course of or in relation to his employment is not a supply in terms of para 1 of Schedule III and hence, no GST is payable thereon. Consequently, no ITC is available.]	-			
Consumables procured from suppliers in Gujarat [ITC on consumables, being inputs used in the course or furtherance of business, is available in terms of section 16(1). However, levy of GST on diesel has been deferred till such date as may be notified by the Government on recommendations of the GST Council in terms of section 9(2). Hence, there being no levy of GST on diesel, there cannot be any ITC; VAT & excise paid are not covered in the definition of input tax under section 2(62).]	75,000 [1,50,000 – 75,000]			13,500 [75,000 × 18%]
Total ITC available for set off		Nil	Nil	85,500

Q. Zenith Chemical & Allied Ltd. is a diversified Indian conglomerate dealing in specialty chemicals, industrial reagents and allied services. Over the years, it has established production, trading and services units across multiple States. It has obtained separate Input Service Distributor (ISD) registration in the State of Kerala. The ISD receives invoices for services used across the group and distributes the Input Tax Credit (ITC) pertaining to these invoices to the various units. Following details are furnished for a particular month, and you are required to distribute the ITC to other units that are carrying manufacturing, trading and supplying services to the customers.

Sl. No.	Particulars	Amount in lakh (₹)
(1)	Turnover in the relevant month of each of the units:	
	Mumbai (Maharashtra)	12.00
	Bangalore (Karnataka)	60.00
	Hyderabad (Andhra Pradesh)	36.00
	Trivandrum (Kerala)	72.00
(2)	Total ITC of input services available during the month with the ISD (includes CGST/ SGST & IGST) on account of supplies received during the month.	48.00
(3)	Out of the above, ITC of input services exclusive to Bangalore unit, available as IGST credit.	12.00
(4)	Out of the above, ITC of input services exclusive to Trivandrum and Hyderabad units (CGST and SGST of ₹ 3.00 lakh each).	6.00
(5)	Rest of the credit of input services available is allocable as common credit to all the units and is received from local suppliers in Kerala.	

(6)	Basic value of a debit note received for input services during the month, in respect of a previous supply, with tax levied @ 12% IGST - being charged and shown separately. This pertains to all the four units of the company.	50.00
(7)	Total value in the credit note received for input services, during the month, applicable exclusively to Trivandrum (Kerala) unit, taxed at the rate of 9% CGST and 9% SGST, which is charged and indicated separately.	118.00 (inclusive of GST)

Notes:

1. All the above amounts are exclusive of GST unless otherwise specified.
2. Also make your comments regarding the amount of ITC in credit notes, if exceeds the ITC from invoices and debit notes in a particular month for all or any of the units. (RTP Jan'26)

Answer:

Computation of the amount of credit distributed by the ISD to various units of Zenith Chemical & Allied Ltd.

Particulars	Mumbai Unit			Bangalore Unit			Hyderabad Unit			Trivandrum Unit		
	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)	CGST (₹)	SGST (₹)	IGST (₹)
ITC exclusive to Bangalore unit available as IGST [ITC of IGST is distributed as IGST only.]						12						
ITC exclusive to Trivandrum and Hyderabad units [ITC of CGST and SGST is distributed as CGST and SGST to unit located in Kerala (Trivandrum unit) and as IGST to unit located in a different State (Hyderabad unit) in the ratio of 2:1.]									2	2	2	
Common credit for all units [Balance credit of CGST and SGST (since supplies are received locally) of ₹ 15 lakh each (₹ 48 lakh – ₹ 12 lakh – ₹ 6 lakh) to be distributed among all four units in proportion of their turnover of the relevant month, i.e., 1:5:3:6. Further, ITC will be distributed to Mumbai, Bangalore and Hyderabad unit as IGST and to Trivandrum unit as CGST and SGST.]			2			10			6	6	6	

Additional ITC [₹ 6 lakh (₹ 50 lakh × 12%)] on account of debit note received from supplier to be distributed among all four units in proportion of their turnover of the relevant month, i.e., 1:5:3:6. [ITC of IGST is distributed as IGST only.]			0.4			2			1.2			2.4
ITC to be reduced on account of credit note received from supplier, exclusive to Trivandrum unit 9% of (₹ 118 lakh × 100/118) [ITC of CGST & SGST is reduced as CGST & SGST credit]										(9)	(9)	
Total ITC apportioned to each unit	0	0	2.4	0	0	24	0	0	9.2	(1)	(1)	2.4
Negative amount apportioned to Trivandrum unit shall be added to its output tax liability since ITC distributed to it by ISD is less than the amount reduced on account of receipt of credit note.										1	1	

Q. 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. (RTP Sep'25)

Answer:

As per section 16(6), where:

- the registration of a registered person is cancelled under section 29,
- and subsequently cancellation is revoked by any order under section 30,

- and availment of ITC was not restricted under section 16(4) on the date of cancellation, then such person is entitled to take ITC on such invoice or debit note in a return under section 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.

In view of the aforementioned legal provisions in the given case, 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 a return under section 39:

- (i) filed up to 30th November of current financial year or
- (ii) 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.

REGISTRATION

Q2. AB Pvt. Ltd., Pune provides house-keeping services. The company supplies its services exclusively through an e-commerce website owned and managed by Hi-Tech Indya Pvt. Ltd., Pune. The turnover of AB Pvt. Ltd. in the current financial year is ₹ 18 lakh.

Advise AB Pvt. Ltd. as to whether they are required to obtain GST registration. (RTP May'22 Similar)

(Pg 9.2 – Refer changed question & answer from here as per ICAI Module)

Answer:

As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds threshold limit in a financial year.

However, section 24 of the said Act enlists certain categories of persons who are mandatorily required to obtain registration, irrespective of their turnover. Persons who supply goods or services or both through such electronic commerce operator (ECO), who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24. However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption. Also, as per section 23, person making supplies of goods through an ECO who is required to collect TCS u/s 52 of CGST Act are exempted from obtaining registration under GST subject to the certain conditions.

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Hi-Tech Indya Pvt. Ltd. owns and manages a website for e commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

Notification No. 17/2017 CT (R) dated 28.06.2017 issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers.

In the given case, AB Pvt. Ltd. provides house-keeping services through an ECO. It is presumed that Hi-Tech Indya is an ECO which is required to collect tax at source u/s 52.

However, house-keeping services provided by AB Pvt. Ltd., which is not liable for registration under section 22(1) as its turnover is less than ₹ 20 lakh, is a service notified under section 9(5). Thus, AB Pvt. Ltd. will be entitled for threshold exemption for registration and will not be required to obtain registration even though it supplies services through ECO.

Q. Comment and discuss with explanations the validity of the below statements with reference to provisions related to registration under GST law:

- (i) "There is no need of registration at all if a person is engaged in supply services (intra-State and/or inter-State) only through an E-Commerce Operator (ECO)."
- (ii) "There is no requirement of the physical verification of business premises."
- (iii) "There is no requirement to provide the details of bank account at the time of application of registration." (Sep'25)

Answer:

- (i) The statement is partially valid/not valid.

Person who is engaged in supply of services only through ECO who is required to collect TCS under section 52 is required to obtain registration compulsorily.

Exceptions:

- (i) Such persons having an aggregate turnover not exceeding ₹ 20 lakh (₹ 10 lakh in case of specified Special Category States) in a FY, are exempt from obtaining compulsory registration.
- (ii) Persons making notified supplies through an ECO.

- (ii) The statement is partially valid/not valid.

Physical verification of business premises for grant of registration under GST law is not required.

However, if the proper officer is satisfied that physical verification is necessary after grant of registration, he may get verification of place of business done.

In case of failure to undergo/opt for aadhaar authentication, where identified on the common portal based on data analysis and risk parameters, or where proper officer deems it necessary, physical verification is required to be conducted before the grant of registration.

After verification, proper officer shall upload verification report along with other documents, including photographs, in the prescribed form within specified time.

- (iii) The statement is valid/partially valid.

After the grant of registration, the registered person is allowed to furnish his bank account details:

- (i) within 30 days from date of grant of registration, or
- (ii) before furnishing the details of outward supplies under section 37 or GSTR-1/using IFF
whichever is earlier.

However, this relaxation is not available to those granted registration as TDS deductor/TCS collector or suo-motu registration.

TAX INVOICE, CREDIT NOTES & DEBIT NOTES

Q17. Examine the statement, “Once the E-Commerce operator (ECO) has complied with the dynamic QR code requirements for issuing invoices, the suppliers using such e-commerce portal for B2C supplies will not be required to comply with the requirements of dynamic QR code”.

Comment on the validity of the above statement with reference to GST law. (May’25)

(Pg 10.8)

Answer: The given statement is not correct.

Dynamic QR code requirements apply to each supplier separately, if such person is liable to issue invoices with Dynamic QR Code for B2C supplies.

In case, the supplier is making supply through the e-commerce portal or application, and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of Dynamic QR Code.

In cases other than pre-paid supply i.e. where payment is made after generation/ issuance of invoice, the supplier shall provide Dynamic QR Code on the invoice.

DEMAND & RECOVERY

Section 74A: Determination of Tax Not Paid Short Paid or Erroneously Refunded or ITC Wrongly Availed for any reason pertaining to FY 2024-25 onwards

Q1. Enlist the circumstances under which a show cause notice can be issued by the proper officer under section 74A. Specify the time limit for issuance of such show cause notice as also the time period for issuance of order by the proper officer under section 74A.

Answer:

As per section 74A, a show cause notice can be issued by the proper officer if it appears to him that:

- tax has not been paid; or
- tax has been short paid; or
- tax has been erroneously refunded; or
- input tax credit has been wrongly availed or utilized,

whether by reason of fraud or any wilful misstatement or suppression of facts to evade tax or for reason other than fraud or any wilful misstatement or suppression of facts to evade tax.

In either of the cases as enumerated above, the SCN should be issued within 42 months or 3.5 years from due date for furnishing of annual return for the financial year to which the tax not paid or short paid, etc. relates to, or the date of erroneous refund.

The proper officer shall issue said order within 12 months from date of issuance of the SCN. However, if the officer is unable to issue order within this time, the Commissioner or any officer authorised by the Commissioner who is senior in rank to the proper officer, but not below the rank of Joint Commissioner of Central Tax, may extend this period.

Such extension can be given for a maximum of 6 months, provided reasons for the delay in issuance of order are recorded in writing, before the expiry of the original 12 months’ period.

Q2. Rajul Associates has been issued a show cause notice (SCN) on 31.07.2029 u/s 74A on account of short payment of tax during the period between 01.07.2024 and 31.12.2024. It has been given an opportunity of personal hearing on 15.08.2029.

Advice Rajul Associates as to what should be the written submissions in the reply to the show cause notice issued to it. (MTP-I Dec'21, RTP May'18)

Answer:

The written submissions in reply to SCN issued to Rajul Associates are as follows:

- i. The show cause notice (SCN) issued for normal period of limitation under section 74A is not sustainable.
- ii. The SCN under section 74A can be issued within 42 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

The due date for furnishing annual return for a financial year is on or before the 31st day of December following the end of such financial year [Section 44]. Thus, SCN under section 74A can be issued within 42 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

- iii. The SCN has been issued for the period between 01.07.2024 to 31.12.2024 which falls in the financial year (FY) 2024-25. Due date for furnishing annual return for the FY 2024-25 is 31.12.2025 and 42 months period from due date of filing annual return lapses on 30.06.2029. Thus, SCN under section 74A ought to have been issued latest by 30.06.2029.
- iv. Since the notice has been issued after 30.06.2029, the entire proceeding is barred by limitation and deemed to be concluded under section 75(10).

Q3. Everest Technologies Private Limited has been issued a show cause notice (SCN) on 31.01.2028 under section 74A on account of short payment of tax during the period between 01.07.2024 and 31.12.2024. Everest Technologies Private Limited contends that the show cause notice issued to it is time-barred in law.

You are required to examine the technical veracity of the contention of Everest Technologies Private Limited. (MTP-II Dec'21)

Answer:

The contention of Everest Technologies Private Limited is not valid in law. The SCN under section 74A can be issued within 42 months from the due date for furnishing of annual return for the financial year to which the tax not paid or short-paid or ITC wrongly availed or utilized relates to or within 42 months from the date of erroneous refund.

The due date for furnishing annual return for a financial year is 31st day of December following the end of such financial year [Section 44].

The SCN has been issued for the period between 01.07.2024 to 31.12.2024 which falls in the financial year (FY) 2024-25. Due date for furnishing annual return for the FY 2024-25 is 31.12.2025 and 42 months period from due date of filing annual return lapses on 30.06.2029. Thus, SCN under section 74A ought to have been issued latest by 30.06.2029. Since in the given case, the notice has been issued on 31.01.2028, notice is not time-barred.

Q4. Mr. Jagjeevan has filed Form GSTR 3B after the due date prescribed for filing it. The adjudicating authority is of the opinion that penalty has to be levied under section 74A(5) & (11) of the CGST Act, 2017 and has decided to pass an order for levying penalty of 10% of the tax or ₹ 10,000, whichever is higher, on

the grounds that amount collected as tax has not been paid within a period of 30 days from the due date of payment of tax. Discuss the decision of the adjudication authority as to its correctness or otherwise.

(MTP-II May'23)

Also, discuss the law of limitation period for issuing the show cause notice and passing the adjudication order under section 74A of the CGST Act, 2017. (Nov'20)

Answer:

The decision of the adjudicating authority is not correct in law.

The provisions of section 74A(11) of the CGST Act, 2017 can be invoked only when the provisions of section 74A are invoked and the provisions of section 74A are generally not invoked in case of delayed filing of the return in Form GSTR-3B because tax along with applicable interest has already been paid.

Thus, penalty under the provisions of section 74A(11) is not payable in such cases although a general penalty may be imposed since the tax has been paid late in contravention of the provisions of the CGST Act.

The time-limit for issuance of SCN is 42 months from the due date for furnishing of annual return for the financial year to which the tax not paid or short-paid or ITC wrongly availed or utilized relates to or within 42 months from the date of erroneous refund.

The time-limit for issuance of order is 12 months from the date of issuance of SCN [extendible by max. 6 months by Commissioner, or authorised officer senior in rank to the PO but not below the rank of Joint Commissioner after recording the reasons for delay.]

The due date for furnishing annual return for a financial year is 31st day of December following the end of such financial year [Section 44].

Q5. Anant & Co. self-assessed its CGST liability as ₹ 90,000 for the month of April, but failed to make the payment.

Subsequently the Department initiated penal proceedings against Anant & Co. for recovery of penalty under section 74A for failure to pay GST and issued show cause notice on 10th August which was received by Anant & Co. on 14th August.

Anant & Co. deposited the tax along with interest on 25th August and informed the Department on the same day.

Department is contending that he is liable to pay a penalty of ₹ 45,000 (i.e., 50% of ₹ 90,000) under the CGST Act.

Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act. Explain the relevant provisions in brief.

(MTP-II May'24, May'23 Similar, MTP-I May'23, MTP-II Nov'22, MTP-I May'22, MTP May'20, Nov'18)

Answer: Due date for payment of tax for the month of April is 20th May.

As per section 74A, where self-assessed tax is not paid within 30 days from due date of payment of such tax, penalty equivalent to 10% of tax or ₹ 10,000, whichever is higher, is payable. Thus, option to pay tax within 60 days of issuance of SCN to avoid penalty, is not available in case of self- assessed tax.

Since in the given case, Anant & Co. has not paid the self-assessed tax within 30 days of due date [i.e., 20th May], penalty equivalent to:

(i) 10% of tax, viz., ₹ 9,000 (10% of ₹ 90,000) or

(ii) ₹ 10,000,

whichever is higher, is payable by him under CGST Act. Thus, penalty payable is ₹ 10,000. Equivalent amount of penalty is payable under SGST/UTGST Act.

Hence, the stand taken by the Department that penalty will be levied on Anant & Co. is correct, but the amount of penalty of ₹ 45,000 under the CGST Act is not correct.

Q6. Checkernot has self-assessed its CGST liability as ₹ 80,000. He fails to pay the tax within 30 days from the due date of payment of such tax.

Determine the interest and penalty payable by him explaining the provisions of law, with the following particulars available from his records:

Date of collection of tax 18th September, 20XX Date of payment of tax 26th November, 20XX.

No Show Cause Notice (SCN) has been issued to him so far, while he intends to discharge his liability, even before it is issued to him, on the assumption that no penalty is leviable on him as payment is made before issue of SCN. (May'23 Similar, MTP-I Jul'21)

Answer:

Due date for payment of tax collected on 18.09.20XX is 20.10.20XX. However, since tax is actually paid on 26.11.20XX, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with Notification No. 13/2017 CT dated 28.06.2017.

Amount of interest is: = ₹ 80,000 × 18% × 37/365 = ₹ 1,460 (rounded off)

As per section 74A of CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

(i) 10% of tax, viz., ₹ 8,000 or

(ii) ₹ 10,000, whichever is higher,

is payable. Therefore, penalty of ₹ 10,000 will have to be paid by Checkernot under CGST Act. Equivalent amount of penalty is payable under SGST/UTGST Act. However, such penalty is payable when the PO issues an order in this behalf.

Q7. Inoba Bhav is engaged in supply of taxable services. He supplies some services in the month of April and collects CGST of ₹ 15,50,000 on said supply on 18th April. However, he fails to pay the tax so collected within 30 days from the due date of payment of such tax.

No Show Cause Notice (SCN) has been issued to him so far. Inoba Bhav decides to discharge his tax liability, before the SCN is issued to him. He is of the view that no penalty is leviable if the payment of tax is made before issue of SCN.

Therefore, he self-assesses his CGST liability at ₹ 15,50,000 and pays the same on 26th June. Determine the interest and penalty, if any, payable by Inoba Bhav. (RTP May'20)

Answer:

Due date for payment of tax collected on 18th April is 20th May. However, since tax is actually paid on 26th

June, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 of CGST Act, 2017 read with Notification No. 13/2017 CT dated 28.06.2017. Amount of interest is:

$$= ₹ 15,50,000 \times 18\% \times 37/365 = ₹ 28,282 \text{ (rounded off)}$$

As per section 74A of the CGST Act, 2017, where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

- (i) 10% of tax, viz., ₹ 1,55,000 or
- (ii) ₹ 10,000, whichever is higher,

is payable. Therefore, penalty of ₹ 1,55,000 will have to be paid by Inoba Bhave under CGST Act. Equivalent amount of penalty is payable under SGST/UTGST Act.

Q8. A person is chargeable with tax in case of fraud. He decides to pay the amount of demand along with interest and penalty before issuance of show cause notice. Is any option of reduced penalty available to such person?

Answer:

Yes. In case of fraud cases, the person chargeable with tax may pay the alongwith interest payable under section 50 (interest on delayed payment of tax) and a penalty equivalent to 15% of such tax, before the issue of SCN/statement, on the basis of his own ascertainment of tax, or the tax as ascertained by the proper officer, and inform the proper officer in writing of such payment in prescribed form - Form DRC-03. An acknowledgement shall be made available to the person through the common portal electronically.

The proper officer, on receipt of such information, shall not serve any SCN in respect of the tax so paid or any penalty payable under the provisions of GST law.

Q9. A taxpayer has suppressed certain facts resulting in short payment of tax. The mistake is pointed out by the Department, but no show cause notice (SCN) has been issued. As per the taxpayer, suppression of tax is accepted at ₹ 12,00,000 and he agrees that the suppression has taken place in the month of January, 2019. He clears the dues on 20th April, 2019. However, the Department, on verification, identifies additional suppression of tax of ₹ 2,00,000 in the same month of January, 2019. SCN is issued and the taxpayer represents before the proper officer, which results into an adverse order against the taxpayer. The order is passed on 25.05.2019 and the taxpayer complies with the adverse adjudication order on 27.06.2019.

Determine the tax, interest and penalty payable at each stage. Assume Tax Rate as 18%. (Nov'19)

Answer:

For the purposes of section 74A, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

The suppression activity has taken place in January and the same has been reported in the return/ statement/report filed in the month of February and thus, interest would become payable from 21st February in this case.

Tax, interest and penalty payable before the issue of the SCN: In case of short payment of tax by reason of suppression of facts, if the taxpayer pays such short-paid tax and applicable interest before the issuance of show cause notice, penalty equal to 15% of such tax is payable.

Tax payable = ₹ 12,00,000

Interest = ₹ 12,00,000 × 18% × 59/365 = ₹ 34,915 (rounded off) [From 21st February to 20th April]

Penalty = ₹ 12,00,000 × 15% = ₹ 1,80,000

Tax, interest and penalty payable after the adjudication order: In case of short payment of tax by reason of suppression of facts, if the taxpayer pays such short-paid tax and applicable interest after 60 days of communication of the adjudication order penalty equal to 100% of such tax is payable.

Tax payable = ₹ 2,00,000

Interest = ₹ 2,00,000 × 18% × 127/365 = ₹ 12,526 (rounded off) [From 21st February to 27th June]

Penalty = ₹ 2,00,000

Q10. Discuss the amount of tax and penalty to be paid, if any, in the following independent cases where show cause notices are issued under section 74A of the CGST Act, 2017. (Jul'21)

S.No.	Date on which credit was taken wrongly	Amount of input tax credit taken wrongly (₹ in lakh)	Present status
1	31 st January, 2025	200	Adjudication order passed on 26th July, 2027 demanding the entire amount of credit with interest and imposing amount equal to the credit as penalty.
2	30 th June, 2025	250	Adjudication order passed on 26th August, 2027 demanding the entire amount of credit with interest and imposing amount equal to the credit as penalty.
3	30 th October, 2025	120	Show cause notice has been issued on 5th September, 2027 demanding the entire amount of credit with interest and proposing penalty equal to 100% of the credit taken.
4	30 th January, 2026	50	Statement of the Managing Director has been recorded on 6th September, 2027 wherein he has admitted the non-receipt of the inputs and availing the credit wrongly.

Note: In all the cases, assessee wants to pay the amount on 20-09-2027.

Answer:

S. No.	Date on which credit was taken wrongly	Amount of ITC wrongly taken (₹ in lakh)	Tax & penalty under section 74A
1	31st January 2025	200	Adjudication order is passed on 26th July, 2027 and payment is made on 20.09.2027 i.e., after 60 days of the communication of the adjudication order. Therefore, entire amount of ITC wrongly availed which is ₹ 200 lakh and equal amount of penalty i.e., ₹ 200 lakh shall be payable.

2	30th June 2025	250	Adjudication order is passed on 26th August, 2027 and payment is made on 20.09.2027 i.e., within 60 days of the communication of the adjudication order. Therefore, entire amount of ITC wrongly availed which is ₹ 250 lakh and 50% of the penalty imposed i.e., ₹ 125 lakh shall be payable.
3	30th October 2025	120	Show cause notice is issued on 5th September 2027 and payment is made on 20.09.2027 i.e., within 60 days of issue of show cause notice. Therefore, entire amount of ITC wrongly availed which is ₹ 120 lakh and 25% of the penalty imposed i.e., ₹ 30 lakh shall be payable.
4	30th January 2026	50	<u>Alternative-I:</u> It is assumed that payment has been made within 60 days of issue of show cause notice. Entire amount of ITC wrongly availed which is ₹ 50 lakh and 25% of the penalty imposed i.e., ₹ 12.5 lakh shall be payable. <u>Alternative-II:</u> It is assumed that show cause notice has not yet been issued. Payment made on 20.09.2027 is before issuance of show cause notice. Therefore, amount of ITC admitted to be taken wrongfully which is ₹ 50 lakh and penalty equal to 15% of such ITC i.e., ₹ 7.5 lakh shall be payable.

Q11. Is there any time limit prescribed for adjudication of the cases under CGST Act, 2017?

If yes, discuss the same.

Answer:

The proper officer shall issue said order within 12 months from date of issuance of the SCN. However, if the officer is unable to issue order within this time, the Commissioner or any officer authorised by the Commissioner who is senior in rank to the proper officer, but not below the rank of Joint Commissioner of Central Tax, may extend this period.

Such extension can be given for a maximum of 6 months, provided reasons for the delay in issuance of order are recorded in writing, before the expiry of the original 12 months' period.

Q12. Discuss briefly the time limit for issue of show cause notice as contained under section 74A in case where (i) the short payment is on account of fraud, and (ii) the short payment is on account of a bonafide error.

Answer: The proper officer can issue a show cause notice within 42 months from the due date of furnishing the annual return for relevant financial year to which short payment relates to [Section 74A(2)]. It is important to note that section 74A stipulates the same limitation period for issuance of show cause notice whether the short payment is on account of fraud or on account of a bonafide error.

Q13. Arnav Enterprises, a registered supplier located in Madhya Pradesh, has duly filed its monthly GST returns for the financial year 2024–25. During the scrutiny of its returns for the said financial year in August 2025, the proper officer noticed an inadvertent short payment of CGST and SGST totaling ₹ 4,60,000 in the month of October 2024, on account of a bonafide error. Before issuance of the show cause notice by the proper officer, Arnav Enterprises paid the tax of ₹ 1,00,000 (₹ 50,000 CGST and ₹ 50,000 SGST) on the basis of its own ascertainment along with applicable interest and with penalty, if any, on

15th September 2025 and informed the proper officer in writing of such payment.

Based on the facts above, answer the following:

- (1) Ascertain the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Arnav Enterprises.
- (2) Determine the amount of penalty, if any, payable on the payment of tax of ₹ 1,00,000 by Arnav Enterprises on the basis of its own ascertainment along with applicable interest on 15th September 2025.
- (3) Assuming that the proper officer decides to issue a show cause notice under section 74A on 10th October 2025, determine the maximum amount of tax for which he can issue the show cause notice. Ascertain the last date by which the proper officer should issue order under section 74A assuming that show cause notice is issued by proper officer on said date.
- (4) In continuation of sub-part (3) above, if proper officer issues a show cause notice under section 74A on 10th October, 2025 for the amount of tax so allowed and Arnav Enterprises decides to pay said tax along with applicable interest, on 5th December, 2025, you are required to determine penalty, if any, payable by Arnav Enterprises.

In each of the above cases, will your answer be different if the short payment of tax is on account of fraud, other facts remain the same?

Note – Assume that the due date for furnishing annual return has not been extended and limitation period for issuance of order under section 74A has not been extended by the Commissioner. Ignore computation of interest in the above question. (RTP Sep'25)

Answer:

- (1) The proper officer can issue a show cause notice within 42 months from the due date of furnishing the annual return for relevant financial year to which short payment relates to [Section 74A(2)]. For the financial year 2024–25, the due date for furnishing the annual return is 31st December, 2025. Therefore, the last date by which show cause notice can be issued by the proper officer for the amount of tax short paid by Arnav Enterprises is 30th June 2029.

Further, section 74A stipulates the same limitation period for issuance of show cause notice whether the short payment is on account of fraud or on account of a bonafide error. Thus, answer will remain same if the short payment of tax is on account of fraud.

- (2) The person chargeable with tax where any tax has been short paid, may, before service of show cause notice, pay the amount of tax along with interest payable under section 50 of such tax on the basis of his own ascertainment of such tax and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information shall not serve any show cause notice in respect of the tax so paid or any penalty payable under the provisions of the CGST Act or the rules made thereunder [Section 74A(8)(i)].

Thus, no penalty is payable by Arnav Enterprises in respect of payment of tax of ₹ 1,00,000 before issuance of show cause notice. No show cause notice will be issued by the proper officer in respect of the tax of ₹ 1,00,000 so paid.

However, in case where the short payment of tax is on account of fraud, the person chargeable with tax, may before service of show cause notice, pay the amount of tax along with interest payable under section 50 and a penalty equivalent to 15% of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information, shall not serve any show cause notice, in respect of the tax so paid or any penalty payable under the provisions of the CGST Act or the rules made thereunder [Section 74A(9)(i)].

Thus, a penalty of ₹ 15,000 [$₹ 1,00,000 \times 15\%$] is payable by Arnav Enterprises alongwith payment of tax of ₹ 1,00,000 with applicable interest, before issuance of show cause notice. No show cause notice will be served by the proper officer after payment of tax alongwith interest and penalty, in respect of the tax so paid.

- (3) Since Arnav Enterprises has paid the tax of ₹ 1,00,000 alongwith interest before issuance of show cause notice, no show cause notice will be issued by the proper officer in respect of the tax so paid [Section 74A(8)(i)].

However, where the proper officer is of the opinion that the amount paid under section 74A(8)(i) falls short of the amount actually payable, he shall proceed to issue the show cause notice in respect of such amount which falls short of the amount actually payable [Section 74A(10)].

Thus, in the given case, the proper officer will issue the notice for the remaining tax of ₹ 3,60,000 [$₹ 4,60,000 - ₹ 1,00,000$].

In case where the short-payment is on account of fraud, answer will be as follows:

Since Arnav Enterprises has paid the tax of ₹ 1,00,000 alongwith applicable interest and penalty before issuance of show cause notice, no show cause notice will be issued by the proper officer in respect of the tax so paid [Section 74A(9)(i)].

However, where the proper officer is of the opinion that the amount paid under section 74A(9)(i) falls short of the amount actually payable, he shall proceed to issue the show cause notice in respect of such amount which falls short of the amount actually payable [Section 74A(10)].

Thus, in the given case, the proper officer will issue the notice for the remaining tax of ₹ 3,60,000 [$₹ 4,60,000 - ₹ 1,00,000$].

Further, the proper officer is required to issue the order within 12 months from the date of issuance of show cause notice, in both fraud and non-fraud cases [Section 74A(7)]. Thus, in the given case, the proper officer has to issue the order on or before 10th October, 2026, whether the short payment is on account of fraud or on account of a bonafide error.

- (4) Where the person chargeable with tax, where any tax has been short paid, pays the said tax along with interest payable under section 50 within 60 days of issue of show cause notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded [Section 74A(8)(ii)].

Thus, in the given case, since Arnav Enterprises has paid the tax of ₹ 3,60,000 alongwith applicable interest within 60 days of issuance of show cause notice, i.e. on or before 9th December, 2025, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

In case where the short-payment is on account of fraud, answer will be as follows:

Where the person chargeable with tax, where any tax has been short paid, pays the said tax along with interest payable under section 50 and a penalty equivalent to 25% of such tax within 60 days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded [Section 74A(9)(ii)].

Thus, in the given case, Arnav Enterprises has to pay penalty of ₹ 90,000 [$₹ 3,60,000 \times 25\%$]. If Arnav Enterprises has paid the tax of ₹ 3,60,000 alongwith applicable interest and penalty of ₹ 90,000 [$₹ 3,60,000 \times 25\%$] on 5th December, 2025, which is within 60 days of issuance of show cause notice, i.e. on or before 9th December, 2025, all proceedings in respect of the said notice shall be deemed to be concluded.

Q14. M/s. Square & Co. received a notice u/s 74A of the CGST Act, 2017 demanding tax, interest and penalty equal to 100% of tax due on the allegation of suppression of facts for the financial year 2024-25. Notice was issued on 24.11.2028. Square & Co. filed an appeal denying any suppression and on which Appellate Authority concluded that the penalty equal to 100% of tax due is not sustainable, for the reason that the charges of suppression of facts have not been established by the Department. Proper Officer re-determined the amount of penalty leviable for the reasons other than suppression of facts.

Square & Co. is of the opinion that the action of Proper Officer is not in line with GST Law. Square & Co. filed its Annual Return for the financial year 2024-25 on 30.11.2025. Assume the due date of such return as 31.12.2025.

Square & Co. seeks your advice with reason on the following issues:

- (i) Whether the Proper Officer can proceed to re-determine the amount of penalty?
- (ii) If yes, whether the fresh demand is valid?
- (iii) If the above notice issued u/s 74A is assumed to have been issued on 24.09.2029, what would be your answer for the validity of demand? (Nov'23)

Answer:

- (i) Since the appellate authority concluded that the penalty equal to 100% of tax due is not sustainable, for reason that the charges of suppression of facts, have not been established by Department against M/s Square & Co., the proper officer can re-determine the demand, deeming as if the notice was issued for reasons other than suppression of facts.
- (ii) Fresh demand will be considered valid since SCN under section 74A of the CGST Act, 2017 is same in both the cases i.e. cases of suppression of facts and cases other than suppression of facts, i.e. within 42 months from the due date of furnishing of annual return. In the given case, since, the SCN was issued on 24.11.2028, i.e. within 42 months from the due date of furnishing of annual return for FY 2024-25, i.e. on or before 30.06.2029.
- (iii) If show cause notice under section 74A of the CGST Act, 2017 was issued on 24.09.2029, i.e. after 42 months from the due date of furnishing of annual return for financial year 2024-25, the SCN would be time barred and hence entire demand of tax, interest & penalty would be invalid.

Q15. M/s Seagull and Co. filed the GST return under section 39 for the month of December 2024 with a delay of 73 days. Total tax paid in the said return was ₹ 60,000. Out of which ₹ 40,000 was set off from e-credit ledger and the balance ₹ 20,000 was set off from e-cash ledger. E-cash ledger had a balance of ₹ 6,000 since 1st December 2024.

You are required to determine with explanations:

- (i) Interest, if any, payable under section 50(1) of the CGST Act, 2017 in respect of delayed payment of tax by Seagull and Co.
- (ii) Suppose if, all facts remaining the same, except that the said return was filed after the issue of notice under section 74A, determine the interest, if any, payable under section 50(1) of the CGST Act, 2017. (Sep'25)

Answer:

- (i) The interest on delayed payment under section 50 payable in respect of supplies made and declared in the return for a tax period furnished after the due date is levied only on that portion of tax which is paid by

debiting electronic cash ledger.

Further, any amount credited to Electronic Cash Ledger on/before the due date of return and is later used/debited to pay tax while filing return after due date will not be considered (i.e. interest not to be paid on that amount) while calculating above interest provided said amount remained in the ledger from the due date until its debit while filing return.

Accordingly, in the given case, interest payable under section 50 is:

on ₹ 14,000 (₹ 60,000 – ₹ 40,000 – ₹ 6,000)

Applicable rate of interest will be 18%

No. of days of delay = 73 days = ₹ 14,000 × 18% × 73/365 = ₹ 504 (₹ 252 CGST + ₹ 252 SGST)

- (ii) In case where return is filed after issue of notice under section 74A, the interest would be payable on total amount of tax of ₹ 60,000 that is paid from electronic cash ledger as well as from electronic credit ledger.

However, amount lying in e-cash ledger on or before the due date of filing said return i.e. ₹ 6,000 shall not be considered while calculating such interest (i.e. interest not to be paid on that amount).

Accordingly, in the given case, interest payable under section 50 is:

on ₹ 54,000 (₹ 60,000 – ₹ 6,000)

= ₹ 54,000 × 18% × 73 / 365

= ₹ 1,944 (₹ 972 CGST and ₹ 972 SGST)

Q16. M/s True and Co. (Firm) filed its GST return for the month of January 2025 and in the said return, tax was short paid inadvertently due to a mistake committed in filing the return. Due date for filing of annual return for the financial year 2024-25 is 31.12.2025. The firm asks your opinion with brief legal provisions on the following issues:

- (i) What is the latest date by which show cause notice (SCN) under section 74A can be issued by the proper officer in the above situation?
- (ii) What is the timeline to pass order for the above said SCN?
- (iii) What would be your answer for point (i) and (ii) in case the reason of short payment was as a result of wilful-misstatement?

Assume that no extension of time will be provided by the appropriate authority for passing the order in the above situation. (Sep'25)

Answer:

- (i) The proper officer can issue a show cause notice within 42 months from the due date of furnishing the annual return (31.12.2025) for relevant financial year to which short payment relates to, i.e. upto 30.06.2029 in the given case.
- (ii) The time-limit to pass the order for the above SCN is upto 12 months from the date of issuance of said SCN. This can be extended by a maximum 6 months in special circumstances.
- (iii) Answers to (i) and (ii) above will remain same in case the reason of the short-payment was a result of willful mis-statement.

Q17. Mr. Vikramaditya Rao, a registered supplier under GST in the State of Gujarat, is engaged in providing financial consultancy services across various States in India. He made several taxable supplies during the month of April. On 18th April, he collected the IGST of ₹ 15,50,000 from his clients for services rendered. However, owing to internal accounting delays and a system migration going on in his firm, Mr. Rao failed to deposit the said tax amount within 30 days from the due date of payment.

No Show Cause Notice (SCN) had been issued by the GST Department until that time. Before any such

notice could be served, Mr. Vikramaditya Rao, upon reconciling his accounts, voluntarily decided to discharge his outstanding tax liability. He believes that if the tax is paid before the issuance of an SCN, no penalty would be levied and only interest, if any, would be payable.

Accordingly, Mr. Rao self-assessed his total tax liability of ₹ 15,50,000 and made the payment on 26th June.

You are required to determine, under the relevant provisions of the GST law and rules made thereunder, the interest and penalty, if any, payable by Mr. Vikramaditya Rao in this case, assuming that he has not opted for Quarterly Return Monthly Payment scheme. (RTP Jan'26)

Answer:

Due date for payment of tax collected on 18th April is 20th May. However, since tax is actually paid on 26th June, interest @ 18% p.a. is payable for the period for which the tax remains unpaid [37 days] in terms of section 50 read with Notification No. 13/2017 CT dated 28.06.2017.

Amount of interest is as follows: = ₹ 15,50,000 × 18% × 37/365 = ₹ 28,282 (rounded off)

As per section 74A(11), where self-assessed tax/any amount collected as tax is not paid within 30 days from due date of payment of tax, then, inter alia, option to pay such tax before issuance of SCN to avoid penalty, is not available.

Consequently, penalty equivalent to

- (i) 10% of tax, viz., ₹ 1,55,500 or
- (ii) ₹ 20,000,

whichever is higher, is payable in terms of section 74A(5)(i). Therefore, penalty of ₹ 1,55,500 is payable by Vikramaditya Rao in the given case.

Section 75: General Provisions Relating to Determination of Tax

Q18. On 05.07.20XX, a show cause notice for ₹ 5,00,000 was issued to Mr. Vijay Kumar Sharma demanding short payment of GST of ₹ 4,50,000 for the month of January, 20XX and also interest of ₹ 50,000.

Mr. Sharma raised objections and after personal hearing on 30.08.20XX, adjudicating authority passed the final order for ₹ 3,50,000 for GST, without any reference with regard to payment of interest.

Mr. Sharma deposited the tax of ₹ 3,50,000 on 02.09.20XX and informed the department on the same day. Subsequently, on 15.09.20XX, department demanded payment of interest of ₹ 60,000 on GST of ₹ 3,50,000.

Mr. Vijay Kumar Sharma is not ready to pay any interest. His contention is that he is not liable for interest because he deposited all the amount specified in the final adjudication order.

Examine with a brief note the validity of the action taken by the Department with reference to provisions of the CGST Act, 2017. (MTP Nov'20, MTP Nov'19)

Answer:

As per section 75 of the CGST Act, 2017, the interest on the tax short paid has to be paid whether or not the same is specified in the order determining the tax liability.

Thus, in view of the same, Mr. Vijay Kumar Sharma will have to pay the interest even though the same is not specified in the final adjudication order. His contention that he is not liable for interest because he deposited all the amount specified in the final adjudication order is not valid in law.

However, the amount of interest demanded in the order cannot be in excess of the amount specified in the notice.

Therefore, in the given case, Department cannot demand the interest in excess of the amount specified in the notice, which will be ₹ 50,000.

Q19. A show cause notice was issued demanding GST of ₹ 1,80,180 for the month of July, 20XX on 1st October, 20XX. However, adjudicating authority after the personal hearing found that there was a typographical error while mentioning the amount of GST and he confirmed the demand for ₹ 10,80,180. Assessee seeks your advice.

What would be your advice if: (a) assessee comes to you after issue of order or (b) a corrigendum revising the amount to ₹ 10,80,180 on 15th November, 20XX is issued.

Answer:

(i) Advice after issue of order:

As per section 75(7) of the CGST Act, 2017, inter alia, the amount of tax, interest and penalty demanded in the order cannot exceed the amount specified in the notice.

Since, in the given case, the amount of tax demanded in the order exceeds the amount of tax demanded in the show cause notice, the assessee can file an appeal against the adjudication order within the prescribed time limit.

(ii) Advice after issue of corrigendum:

Any authority, who has issued, inter alia, any notice, may rectify any error which is apparent on the face of record in such notice, inter alia, on its own motion within a period of 6 months from the date of issue of such notice except where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission [Section 161 of the CGST Act, 2017].

In the given case, since the corrigendum has been issued to rectify a typographical error in the show cause notice, which is an error apparent on the face of the record, the rectification is correct in law. Further, being rectification of a clerical error, the time limit of 6 months will not apply.

Therefore, the assessee should reply to the show cause notice considering the revised amount of demand.

Q20. Discuss the validity of the following independent cases under the provisions of CGST Act, 2017:

- (i) CGST officer had issued a notice under section 74A for charges of fraud against which appeal was preferred by the assessee. Appellate Authority concluded that the notice issued under section 74A was not sustainable for the reason that charges of fraud had not been established. Now the officer wishes to determine the tax payable by treating the said notice as if it was issued on the grounds of bonafide mistake. Is the action of the officer valid?
- (ii) CGST officer issued an adjudication order which did not specify payment of interest on the tax short paid by the registered person. So, the assessee contends that interest cannot be demanded as the said order is silent on the same. Is the contention of the assessee, correct? (MTP-I Nov'24, Jul'21)

Answer:

- (i) **Valid.** As per section 75 of the CGST Act, 2017, if the Appellate Authority concludes that penalty prescribed for fraud cases under section 74A is not sustainable for the reason that the charges of fraud has not been established, the penalty prescribed for non-fraud cases under section 74A shall be payable by such person.
- (ii) **Incorrect.** As per section 75 of the CGST Act, 2017, the interest on the tax short paid or not paid shall be payable whether or not the same is specified in the order determining the tax liability.

Section 76: Tax collected but not paid to Govt.

Q21. Mohan Enterprises is entitled for exemption from tax under GST law. However, it collected tax from its buyers worth ₹ 50,000 in the month of August. It has not deposited the said amount collected as GST with the Government. You are required to brief to Mohan Enterprises the consequences of collecting tax, but not depositing the same with Government as provided u/s 76. (MTP-I Jul'21)

Answer:

It is mandatory to pay amount, collected from other person representing tax under GST law, to the Government. Every person who has collected from any other person any amount as representing the tax under GST law, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

For any such amount not so paid, proper officer may issue SCN for recovery of such amount and penalty equivalent to amount specified in notice.

The proper officer shall, after considering the representation, if any, made by the person on whom SCN is served, determine the amount due from such person and thereupon such person shall pay the amount so determined along with interest at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

Q22. Subharti Enterprises collected GST on the goods supplied by it from its customers on the belief that said supply is taxable. However, later it discovered that goods supplied by it are exempt from GST.

The accountant of Subharti Enterprises advised it that the amount mistakenly collected by Subharti Enterprises representing as tax was not required to be deposited with Government. Subharti Enterprises has approached you for seeking the advice on the same. You are required to advise it elaborating the relevant provisions. (MTP-II Nov'23, MTP-II May'22, MTP-II May'19, RTP Nov'18)

Answer:

The provisions of section 76 of the CGST Act 2017 make it mandatory on Subharti Enterprises to pay amount collected from other person representing tax under this Act, to the Government.

Section 76 of the CGST Act 2017 stipulates that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or Court or in any other provisions of the CGST Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

Where any amount is required to be paid to the Government as mentioned above, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

The proper officer shall, after considering the representation, if any, made by the person on whom show cause notice (SCN) is served, determine the amount due from such person and thereupon such person shall pay the amount so determined.

The person who has collected any amount as representing the tax, but not deposited the same with the Government shall in addition to paying the said amount determined by the proper officer shall also be liable to pay interest thereon. Interest is payable at the rate specified under section 50. Interest is payable from the date such amount was collected by him to the date such amount is paid by him to the Government.

The proper officer shall issue an order within 1 year [excluding the period of stay order] from the date of issue of the notice. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

Section 77: Tax wrongfully collected & paid to Govt.

Q23. Narmada Enterprises, a registered person, pays CGST and SGST on a transaction considered by it to be an intra-State supply. However, subsequently said transaction is held to be an inter-State supply. Examine the recourse available with Narmada Enterprises. (RTP Nov'20)

Answer:

Section 77(1) of the CGST Act, 2017 stipulates that a registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union territory tax on a transaction considered by him to be an

intra -State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid.

Further, section 19(2) of the IGST Act, 2017 provides that a registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

Thus, in the given case, Narmada Enterprises shall be refunded the amount of taxes so paid and it shall not be required to pay any interest on the amount of IGST payable by it on the transaction wrongly considered by it earlier as intra-State transaction.

Q24. A taxable person has mistakenly paid CGST and SGST for an inter-State supply. Subsequently, when he discovers the same, can he adjust the IGST liability against the wrongly paid CGST and SGST? (MTP Nov'19)

Answer:

Section 77, inter alia, stipulates that a registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

The IGST liability cannot be adjusted against the CGST and SGST wrongly paid.

Section 78: Initiation of Recovery Proceedings

Q25. In the month of March 2021, during the course of Departmental GST audit under section 65 of the CGST Act, 2017 of Always Right Private Limited, audit team observed that input tax credit claimed by the company was blocked under section 17(5) of the CGST Act, 2017. Audit memo was given to the company for submission of reply on the audit observations mentioned in the memo. Company submitted its reply contending that the said credit was not blocked under section 17(5) and had been rightly claimed. Department was not satisfied with the reply submitted by the company. Audit team served a show cause notice under section 74A of the CGST Act, 2017 and transferred the matter to adjudicating officer and also started recovery process under sections 78 and 79 of the CGST Act, 2017 for recovery of the input tax credit wrongly availed. You are required to comment whether action of the Department to recover the amount is justified with the reference to the legal provisions of the GST law. (Dec'21)

Answer: The action of the Department to initiate the recovery proceedings without adjudication order being passed is not valid.

Recovery proceedings can be initiated under GST law if a taxable person fails to pay any amount payable in pursuance of an order passed under this law within a period of 3 months (or reduced period by proper officer) from the date of service of such order.

However, in the given case, the recovery proceedings have been initiated only after serving the show cause notice and transferring the matter to the adjudicating officer. The adjudication order has not yet been passed in the given case.

Section 79: Modes of Recovery of Tax

Q26. Briefly discuss modes of recovery of tax available to the proper officer. (MTP-II Nov'24, MTP Nov'19)

Answer:

The proper officer may recover the dues in following manner:

- (1) Deduction of dues from the amount owned by the tax authorities payable to such person.
- (2) Recovery by way of detaining and selling any goods belonging to such person;

- (3) Recovery from other person, from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the credit of the Central or a State Government;
- (4) Distrain any movable or immovable property belonging to such person, until the amount payable is paid. If the dues not paid within 30 days, the said property is to be sold and with the proceeds of such sale the amount payable and cost of sale shall be recovered.
- (5) Through the Collector of the district in which such person owns any property or resides or carries on his business, as if it was an arrear of land revenue.
- (6) By way of an application to the appropriate Magistrate who in turn shall proceed to recover the amount as if it were a fine imposed by him.
- (7) By enforcing the bond/instrument executed under this Act or any rules or regulations made thereunder.
- (8) CGST arrears can be recovered as an arrear of SGST and vice versa [Section 79].

Section 80: Payment of Tax & Other Amount in Instalments

Q27. Describe the provision of payment of tax and other amount in installment under section 80 of the CGST Act, 2017.

Also discuss, under what circumstances such payment facility shall not be allowed. (Nov'24)

Answer: On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, allow payment of tax and other amounts due by such person in maximum 24 monthly instalments, on payment of interest and subject to prescribed conditions and limitations.

If there is default in payment of any one instalment on due date, then the whole outstanding balance shall become due and payable immediately.

The facility of payment in instalments shall not be allowed where –

- (a) the taxable person has already defaulted on the payment of any amount under the GST law, for which the recovery process is on.
- (b) the taxable person has not been allowed to make payment in instalments in the preceding FY.
- (c) the amount for which instalment facility is sought is less than ₹ 25,000.
- (d) the amount payable is self-assessed tax.

Section 81: Transfer of property to be void in certain cases

Q28. Mr. Arihant is engaged in supply of taxable goods and is registered in the State of Orissa. A demand notice under GST law of ₹ 50 lakh is served on him on 5th April. On 10th April, despite having knowledge of said notice, Mr. Arihant transferred his ancestral property located in Punjab in the name of his wife Soma for a consideration of ₹ 2 lakh without taking any permission from the authorities under GST. The value for the purpose of stamp duty valuation was ₹ 80 lakh.

Subsequently, he filed a reply to said demand notice on 15th April stating that he would not be able to pay the amount of tax demanded in the notice due to his distressed financial situation.

Determine the validity of the act of transferring of property by Mr. Arihant to his wife Soma, under the provisions of the GST law. (MTP-II Apr'25, MTP-II May'23, RTP May'22)

Answer:

Section 81 of the CGST Act, 2017 stipulates that where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favor of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person.

However, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

In view of the above provisions, in the given case, transfer of property by Mr. Arihant to his wife Soma is void and the property will still be considered in the hands of Mr. Arihant under GST law for the purpose of recovery of dues under GST from him.

ASSESSMENT & AUDIT

Q15. Write short note on the ‘Assessment of Non-filer of returns’ under section 62 of the CGST Act, 2017. (May’25)

OR

Under what circumstances, special audit under section 66 of the CGST Act, 2017 may be directed? Is the special audit provision applicable even if the accounts of the registered person have already been audited under any other provisions of the GST law ? (May’25) (Pg 12.7)

Answer:

Best Judgment Assessment

Assessment of non-filer of returns under section 62 of the CGST Act, 2017:

Notwithstanding anything to the contrary contained in section 73 or section 74 or section 74A, where a registered person—

- fails to furnish the monthly/quarterly return under section 39 or
- fails to furnish the final return under section 45
- even after service of a notice requiring him to furnish the return within a period of 15 days

the proper officer may assess the tax liability of said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered.

The assessment order shall be issued within a period of 5 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates.

Where the registered person furnishes a valid return within 60 days of service of the assessment order passed above, the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest /late fee shall continue.

Otherwise, he may furnish the same within a further period of 60 days on payment of an additional late fee of ₹ 100 for each day of delay beyond 60 days of the service of the said assessment order. In such case, said order shall be deemed to have been withdrawn, but the liability to pay interest/late fee shall continue.

OR

Following are the circumstances in which special audit may be directed:

If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that –

- the value has not been correctly declared; or
- the credit availed is not within the normal limits,

he may, with the prior approval of the Commissioner, issue a direction to the registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

Yes, the provisions of special audit shall have effect even if the accounts of the registered person have been audited under any other provisions of the GST law.

Q. What is meant by 'commencement of audit' with reference to section 65 of the CGST Act, 2017? Also state the time limit for the completion of the audit in such cases. (Sep'25)

Answer: Commencement of audit means:

- (i) the date on which records and other documents, called for by tax authorities, are made available by the registered person or
- (ii) the date of actual institution of audit at the place of business, whichever is later.

The audit is required to be completed within 3 months (further extendable by maximum 6 months) from the date of commencement of audit.

Q. Singsang Ltd., a registered company under the GST law in the State of Uttar Pradesh, is engaged in the business of manufacturing and supplying electronic musical instruments. The company has an office and warehousing facility in Noida, Uttar Pradesh, from where it carries out its business operations and maintains all accounting and GST related records.

On 10th July, Singsang Ltd. received a notice for audit from the jurisdictional tax authority under section 65. Singsang Ltd. submitted all the records, books of accounts and supporting documents as sought by the tax authority on 25th July.

Subsequently, the tax audit team visited the premises of Singsang Ltd. in Noida on 8th August for conducting the audit.

Determine the time-limit within which the audit under section 65 is required to be completed assuming that no extension is permitted in the given case. (RTP Jan'26)

Answer:

According to section 65(4), the audit must be concluded within 3 months from the date of commencement. The commencement of audit is defined as the later of the following two events:

1. The date on which the taxpayer provides the records and other documents as requested by the tax authorities; or
2. The date on which the audit is actually carried out at the taxpayer's place of business.

In this scenario, the relevant dates are:

- Records and documents were made available by Singsang Ltd. on 25th July.
- The tax authority physically conducted the audit at the office of Singsang Ltd., Noida, Uttar Pradesh on 8th August.

The later date is 8th August, which is therefore considered as the date of commencement of audit. Accordingly, the audit under section 65(4) must be completed within three months from 8th August.

APPEALS & REVISION

Q1.

(Pg 14.1 – Refer amended answer from here)

Answer:

Yes, any person aggrieved by any order or decision passed by an adjudicating authority under the CGST Act has the right to appeal to the Appellate Authority under section 107. The appeal should be filed within 3 months from the date of communication of such order or decision. However, the Appellate Authority has the power to condone the delay of up to 1 month in filing the appeal if there is sufficient cause for the delay. The appeal can be filed only when the admitted liability and 10% of the disputed tax amount, subject to a maximum of ₹ 20 crore (₹ 40 crore in case of IGST) is paid as pre-deposit by the appellant.

Provided that a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax has been paid by the appellant.

Further, no appeal can be filed against the following orders in terms of section 121:

- (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
- (b) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) an order sanctioning prosecution under the Act; or
- (d) an order passed under section 80 (payment of tax in installments).

Q3.

(Pg 14.2 – Refer amended answer part (3) from here)

- (3) Home Furnishers' view is not correct in law. Section 107(6) provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—
- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
 - (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order subject to a maximum of ₹ 20 crore *; and
 - (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

* Equivalent amount is required to be deposited with respect to SGST liability.

Since in the given case, Home Furnishers disagrees with the entire tax demanded, it has to make a pre-deposit of 10% of the amount of tax in dispute arising from the impugned order, i.e., 10% of ₹ 50,00,000 which is ₹ 5,00,000 (i.e., ₹ CGST 2,50,000 and SGST ₹ 2,50,000).

Q5. On scrutiny of returns filed by Chandan & co., the department found some discrepancy in ITC claimed by the company and consequently a departmental audit was conducted under section 65 of CGST Act. On conclusion of the audit in February, the department issued a Show Cause Notice (SCN) alleging that the company had wrongly and deliberately claimed ITC in the returns without actual receipt of goods for the month of January. The Joint Commissioner of Central Tax, not being satisfied by the reply given by the company to the SCN, passed a written order on 28th April which was received by the company on 1st May. The order confirmed the tax demand of ₹ 30,00,000 (i.e., CGST ₹ 15,00,000 and SGST ₹ 15,00,000) and imposed a penalty of equal amount under section 74A. Aggrieved by the order, Chandan and co. decides to contest the order of adjudication in the entirety. It seeks advice on the following issue-

- (i) To whom should it make an appeal? Can it directly approach the high court?
- (ii) What is the time limit for filing the appeal in the given case?
- (iii) Is there any requirement of pre-deposit of any amount and if so, what would be the amount?

Provide your legal and reasoned advice to Chandan & Co. (May'22)

(Pg 14.3 – Refer amended answer from here)

Answer:

- (i) An appeal against the order passed by Joint Commissioner lies before the Appellate Authority - Commissioner (Appeals).

Chandan & Co. cannot directly approach the High Court. It needs to first file an appeal to Appellate Authority and then to Appellate Tribunal. However, a writ petition can be filed directly before the High Court for relief.

- (ii) The time-limit for filing an appeal in the given case is 3 months from the date of communication of the order appealed against, i.e., 3 months from 1st May. Hence, the appeal must be filed on or before 1st August.
- (iii) No appeal can be filed before the Appellate Authority unless appellant – Chandan & Co. has paid pre-deposit of ₹ 3,00,000, computed as sum of the following:

- (a) Full amount of tax, interest and penalty arising from the order as admitted by him, viz. nil, and
- (b) 10% of the remaining tax in dispute (₹ 30,00,000) arising from the order, viz. ₹ 3,00,000; and
- (c) A sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

Q10. The Appellate Tribunal has the discretion to refuse to admit any appeal. Examine the correctness of the above statement. (Pg 14.5 – Refer changed answer from here as per ICAI Module)

Answer:

The statement is incorrect.

Though the Appellate Tribunal does have the power to refuse to admit an appeal, it has the discretion of refusing the admission of an appeal in the following specific cases where –

- the tax or input tax credit involved or
- the difference in tax or the difference in input tax credit involved or
- the amount of fine, fees or penalty determined by such order,
- does not exceed ₹ 50,000.

Q14. With reference to sections 107(6) and 112(8), specify the amount of mandatory pre-deposit which should be made along with every appeal made before the Appellate Authority and the Appellate Tribunal. Does making the pre-deposit have any impact on recovery proceedings?

(Pg 14.7 – Refer amended answer from here)

Answer:

Section 107(6) provides that no appeal shall be filed before the Appellate Authority, unless the appellant has paid—

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order, subject to a maximum of ₹ 20 crore (₹ 40 crore in case of IGST); and
- (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

Section 112(8) lays down that no appeal can be filed before the Appellate Tribunal, unless the appellant deposits

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) 10% of the remaining amount of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, subject to a maximum of ₹ 20 crore (₹ 40 crore in case of IGST), in relation to which appeal has been filed; and
- (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

The above limits are applicable for the pre-deposits to be made under the CGST Act. Equal amount of pre-deposit is payable under the respective SGST Act as well.

Where the appellant has made the pre-deposit, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

Q15. XY Company received an adjudication order passed by the Assistant Commissioner of Central Tax on 1st November under section 74A wherein it was decided as follows:

CGST+SGST due	₹ 6,00,000
Interest	@ 18% p.a. for number of delayed days

Penalty	₹ 60,000
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The taxpayer filed an appeal before the Appellate Authority on 26th November.

Determine the amount of pre-deposit to be made by the company for filing the appeal if it disagrees with the entire tax demanded.

Whether your answer would be different, if the taxpayer appeals only against part of the demanded amount say ₹ 4,00,000 and admits the balance liability of tax amounting to ₹ 2,00,000 and proportionate penalty arising from the said order? (MTP-I Dec'21, May'18) (Pg 14.8 – Refer amended answer from here)

Answer:

Section 107(6) provides that no appeal shall be filed before Appellate Authority, unless the appellant pays *: -

- (a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and
- (b) 10% of remaining tax in dispute arising from the impugned order subject to a maximum of ₹ 20 crore, in relation to which the appeal has been filed; and
- (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

* Equivalent amount is required to be deposited with respect to SGST liability.

Thus, in Case-I, XY Company has to make a pre-deposit of 10% of ₹ 6,00,000, which is ₹ 60,000 (i.e., CGST ₹ 30,000 and SGST ₹ 30,000).

However, when XY Company admits the liability of only ₹ 2,00,000 (CGST + SGST) and disputes the balance tax demanded of ₹ 4,00,000, it has to make a pre-deposit of:

- (i) ₹ 2,00,000 + ₹ 20,000 [proportionate penalty on tax admitted] + interest @ 18% p.a. payable on the tax admitted for the period of delay, and
- (ii) 10% of ₹ 4,00,000 which is ₹ 40,000.

Q16. Nitya Associates is engaged in supplying taxable services in Kerela. The Assistant Commissioner of Central Tax passed an adjudication order under section 74A which was received by Nitya Associates on 18th October. In the said order, GST liability of ₹ 6,00,000 (CGST + SGST) was decided alongwith interest payable @ 18% p.a. for number of delayed days and a penalty of ₹ 60,000. Nitya Associates was in complete disagreement with said order. So, it filed an appeal before the Appellate Authority on 31st October.

Determine the amount of pre-deposit to be made by Nitya Associates for filing the appeal.

Whether your answer would be different if Nitya Associates appeals only against part of the demanded amount, say ₹ 4,00,000 and admits the balance liability of tax amounting to ₹ 2,00,000 and proportionate penalty arising from the said order? (RTP May'23) (Pg 14.8 – Refer amended answer from here)

Answer:

Section 107(6) provides that no appeal shall be filed before Appellate Authority (AA), unless the appellant pays*:

- (a) in full, tax, interest, fine, fee and penalty arising from impugned order, as is admitted by him; and
- (b) 10% of remaining tax in dispute arising from the impugned order subject to a maximum of ₹ 20 crore, in relation to which the appeal has been filed; and
- (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

* Equivalent amount is required to be deposited with respect to SGST liability.

Thus, in the given case, Nitya Associates has to make a pre-deposit of 10% of ₹ 6,00,000, which is ₹ 60,000 (i.e., CGST ₹ 30,000 and SGST ₹ 30,000).

However, when Nitya Associates admits the liability of ₹ 2,00,000 (CGST + SGST) and disputes only the balance

tax demanded of ₹ 4,00,000, it has to make a pre-deposit of:

- (i) ₹ 2,00,000 + ₹ 20,000 [proportionate penalty on tax admitted] + interest @ 18% p.a. payable on the tax admitted for the period of delay, and
- (ii) 10% of ₹ 4,00,000 which is ₹ 40,000.

Q17. In an order dated 20th August issued to GH (P) Ltd., the Joint Commissioner of CGST has confirmed IGST demand of ₹ 280 crores. The company is disputing the entire demand of IGST and wants to know the amount of pre-deposit it has to make under the IGST Act for filing an appeal before the Appellate Authority against the order of the Joint Commissioner.

Assuming that the Appellate Authority also confirms the order of the Joint Commissioner and the company wants to file an appeal before the Appellate Tribunal against the order of the Appellate Authority, determine the amount of pre-deposit to be made by the company for filing the said appeal. (MTP-II Apr'25, MTP-I Mar'25, MTP-II Dec'21, RTP Nov'19)

(Pg 14.9 – Refer amended answer from here)

Answer:

Section 107(6) read with section 20 of the IGST Act provides that no appeal shall be filed with the Appellate Authority unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute arising from the said order subject to a maximum of ₹ 40 crore. Thus, the amount of pre-deposit for filing an appeal with Appellate Authority cannot exceed ₹ 40 crore (for tax in dispute) where IGST demand is involved. **Provided that a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax has been paid by the appellant.**

In the given case, the amount of pre-deposit for filing an appeal with the Appellate Authority against the order of Joint Commissioner, where entire amount of tax is in dispute, is:

- (i) ₹ 28 crores [10% of the amount of tax in dispute, viz. ₹ 280 crores]
or
- (ii) ₹ 40 crores, whichever is less. = ₹ 28 crores.

Further, section 112(8) provides that no appeal shall be filed with the Appellate Tribunal unless the applicant has paid in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him and a sum equal to 10% of the remaining amount of tax in dispute, in addition to the amount paid as pre-deposit while filing appeal to the Appellate Authority, arising from the said order subject to a maximum of ₹ 40 crores. **Provided that a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax has been paid by the appellant.**

Thus, in the given case, the amount of pre-deposit for filing an appeal with the Appellate Tribunal against the order of the Appellate Authority, where entire amount of tax is in dispute, is:

- (i) ₹ 28 crores [10% of the amount of tax in dispute, viz. ₹ 280 crores]
Or
- (ii) ₹ 40 crores, whichever is less. = ₹ 28 crores.

Q18. Krish Pvt. Ltd. received an adjudication order demanding CGST and SGST of ₹ 200 crore each. Krish Pvt. Ltd. filed an appeal to Appellate Authority contesting the entire demand after depositing the mandatory pre-deposit amount. The Appellate Authority heard the appeal and decided in favour of the Department confirming the entire demand. The company filed an appeal to the Appellate Tribunal after depositing the mandatory pre-deposit amount. Determine the mandatory pre-deposit amount required to be

deposited under GST law with Appellate Authority and Appellate Tribunal by Krish Pvt. Ltd. while filing appeal. (MTP-I Nov'23) (Pg 14.9 – Refer amended answer from here)

Answer: No appeal shall be filed before the Appellate Authority, unless the appellant has paid—

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) a sum equal to 10% of the remaining amount of tax in dispute arising from the impugned order, subject to a maximum of ₹ 20 crore; and
- (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

Further, no appeal can be filed before the Tribunal, unless the appellant deposits *

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- (b) 10% of the remaining amount of tax in dispute, in addition to the amount deposited before the Appellate Authority, arising from the said order, subject to a maximum of ₹ 20 crore, in relation to which appeal has been filed; and
- (c) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

In view of the above provisions, the amount of pre-deposit to be made by Krish Pvt. Ltd. for filing the appeal to the Appellate Authority is ₹ 20 crore [10% of ₹ 200 crore (tax in dispute)]. Equivalent amount has to be paid for SGST too. Thus, a total of ₹ 40 crore has to be paid by the company as pre-deposit for filing the appeal to the Appellate Authority.

Further, the amount of pre-deposit to be made by Krish Pvt. Ltd. for filing the appeal before the Tribunal is ₹ 20 crore [10% of ₹ 200 crore (tax in dispute)]. Equivalent amount has to be paid for SGST too. Thus, a total of ₹ 40 crore has to be paid by the company as pre-deposit for filing the appeal to the Appellate Tribunal.

* It may be noted that the Appellate Tribunal has not been constituted so far and thus, no appeals can be filed before it.

Q19. In an order passed dated 1st April, 20XX issued to Sita Ram Pvt. Ltd., the Commissioner of Central Tax, being Revisionary Authority has confirmed IGST demand of ₹ 1,400 crore, penalty of ₹ 200 crore and interest of ₹ 20 crore.

Sita Ram Pvt. Ltd. admits the tax liability, penalty and interest to the extent of ₹ 200 crore, ₹ 20 crore and ₹ 10 crore respectively but wishes to litigate the balance amount of demand and thus, Sita Ram Pvt. Ltd. deposits the required amount of pre-deposit on 12th April, 20XX and files an appeal with the GSTAT.

GSTAT decides the appeal in favour of Sita Ram Pvt. Ltd. on 12th June, 20XX. Sita Ram Pvt. Ltd. submits an application seeking refund of the pre-deposit along with applicable interest on 2nd July, 20XX and the department acknowledges the application on the same day. The amount of pre-deposit is refunded to Sita Ram Pvt. Ltd. on 15th October, 20XX.

With reference to provisions of GST law, compute the amount of pre-deposit required to be deposited before filing appeal to GSTAT and interest payable by the department on refund of such pre-deposit, if any along with necessary explanations. (May'24) (Pg 14.10 – Refer amended answer from here)

Answer: The amount of pre-deposit to be made by Sita Ram Pvt. Ltd. for filing the appeal to the GSTAT is as under-

- (i) full amount of tax, interest and penalty as admitted by it, i.e. ₹ 230 (200 + 20 + 10) crores and
- (ii) 10% of the remaining tax in dispute, i.e. ₹ 120 crore (10% of ₹ 1,200 crore) subject to a maximum of ₹ 40 crores (in case of IGST); and
- (iii) a sum equal to 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.
= ₹ 270 crores

If the pre-deposit made by the appellant before the Tribunal is required to be refunded consequent to any order of the Tribunal, interest @ 9% p.a. shall be payable from the date of payment of the amount till the date of refund of such amount.

Period of delay counted from 12th April 20XX is 186 days.

Interest (rounded off) = ₹ 40 crore × 9% × 186/365 = ₹ 1,83,45,205.

Q24. M/s. Karim Associates (Supplier) was issued Show Cause Notice u/s 74 of CGST Act, 2017 by the Adjudicating Authority (AA). In the final order dated 30-08-2024 issued to M/s. Karim Associates, the Additional Commissioner of Central Tax (AA) confirmed the tax demand of ₹ 60,00,000. Demand on account of penalty of equal amount and interest amounting to ₹ 16,00,000 was also confirmed.

However, the Revisional Authority (RA), using the powers u/s 108 of the CGST Act, on its own motion called for the records and found that the order passed by the AA is erroneous in so far as it is prejudicial to the interest of revenue and enhanced the tax demand to ₹ 70,00,000, penalty of equal amount and interest amounting to ₹ 20,00,000 by order dated 15-11-2024.

The Supplier admitted tax demand of ₹ 20,00,000, interest amounting to ₹ 5,00,000 and penalty for ₹ 20,00,000 and deposited the admitted tax, interest and penalty on 30-11-2024. For the balance amount, the Supplier decided to file an appeal and appointed a Chartered Accountant for this purpose. The appeal was filed with the necessary pre-deposit of the amount and the same was decided in favour of M/s. Karima Associates on dated 28-02-2025.

The application for refund of pre-deposit was made on 01-03-2025 and refund was granted on 14-03-2025.

Considering the above facts, you are required to answer the following:

- (1) The appellate authority to which M/s. Karim Associates would be required to file the appeal against the order of RA.**
- (2) The amount of Pre-Deposit required to be deposited along with the above appeal.**
- (3) Compute the amount of interest payable on refund of such pre-deposit under section 115 of the CGST Act, 2017.**
- (4) The amount of pre-deposit required assuming if the appeal is to be filed against the orders of AA with original demand and after considering the same amount of payment of admitted demand deposited on 30-11-2024. (May'25) (Pg 14.13)**

Answer:

- (1) M/s Karim Associates would be required to file an appeal against the order of Revisional Authority to the Appellate Tribunal (GSTAT).
- (2) The amount of pre-deposit is computed as under-
 - (a) full amount of tax (₹ 20 lakh), interest (₹ 5 lakh) and penalty (₹ 20 lakh) admitted, i.e. ₹ 45 lakh and
 - (b) 10% of the remaining amount of tax in dispute [₹ 5 lakh (10% of ₹ 50 lakh)]; and
 - (c) 10% of the penalty, in case of any order demanding penalty without involving demand of any tax, i.e.

NIL

Thus, amount of pre-deposit would be ₹ 50 lakh (₹ 45 lakh + ₹ 5 lakh).

- (3) Interest on refund of pre-deposit shall be payable @ 9% per annum from the date of payment (30-11-2024) till the date of refund of such amount (14-03-2025), i.e. for 104 days, as under:

$$= ₹ 5,00,000 \times 9\% \times 104/365$$

$$= ₹ 12,821.92 \text{ [₹ 12,822 (rounded off)]}$$

- (4) In this case, the appeal should be filed to Appellate Authority and the amount of pre-deposit is computed as under-

- (i) Full amount of tax, interest and penalty admitted, i.e., ₹ 45 lakh
- (ii) 10% of the tax in dispute, i.e. ₹ 4 lakh (10% of ₹ 40 lakh); and
- (iii) 10% of the penalty, in case of any order demanding penalty without involving demand of any tax, i.e. NIL

Therefore, amount of pre-deposit to be made is ₹ 49 lakh (₹ 45 lakh + ₹ 4 lakh).

Q. The Appellate Authority (AA) passed an order against Venue Automobiles Pvt. Ltd. demanding IGST of ₹ 1,200 crore. Venue Automobiles Pvt. Ltd. wishes to file an appeal against the order of the AA. The company admits the liability of ₹ 100 crore but wishes to litigate the balance demand amount and thus, files an appeal to the Appellate Tribunal.

You are required to determine the amount of the pre-deposit, which is required to be paid by Venue Automobiles Pvt. Ltd. for filing the appeal. (RTP Sep'25)

Answer: Section 112(8) lays down that no appeal can be filed before the Appellate Tribunal, unless the appellant deposits:

- (a) full amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
- (b) 10% of the remaining amount of tax in dispute, in addition to the amount deposited before the AA, arising from the said order, subject to a maximum of ₹ 20 crore (₹ 40 crore in case of IGST), in relation to which appeal has been filed; and
- (c) 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

Accordingly, in the given case, the amount of pre-deposit to be made by Venue Automobiles Pvt. Ltd. for filing the appeal to the Appellate Tribunal is computed as under-

- (i) Full amount of tax, interest and penalty as admitted by the company, i.e. ₹ 100 crore and
- (ii) 10% of the tax in dispute, i.e. ₹ 110 crore (10% of ₹ 1,100 crore) subject to a maximum of ₹ 40 crore and
- (iii) 10% of the penalty, in case of any order demanding penalty without involving demand of any tax.

Therefore, total pre-deposit to be made by the company before filing an appeal in the Appellate Tribunal is ₹ 100 crore (total liability admitted by the company) plus ₹ 40 crore, i.e. ₹ 140 crore*.

* Since GST Tribunal has not yet become functional, Venue Automobiles Pvt. Ltd. decides to make the payment of an amount equal to the amount of pre-deposit on the GST portal and to file an undertaking/ declaration with the jurisdictional proper officer that it will file appeal against the order of the Appellate Authority before the Appellate Tribunal, as and when it comes into operation. It is clarified that if the taxpayer files an undertaking/ declaration with the jurisdictional proper officer that he will file appeal against the impugned order of the Appellate Authority before the Appellate Tribunal, as and when it comes into operation, within the prescribed timelines and on payment of said amount equal to the amount of pre-deposit (which will be adjusted against the amount of pre-deposit required to be deposited at the time of filing appeal before the Appellate Tribunal), recovery of the remaining amount of confirmed demand as per the order of the appellate authority will stand stayed.

Q. 'Generally, appellant is not allowed to produce any additional evidence at the appeal stage.' Examine this statement with reference to rule 112 of the CGST Rules, 2017 and discuss in brief, the provisions related to production of additional evidence before the Appellate Authority or the Appellate Tribunal. (Sep'25)

Answer:

The statement is correct.

Generally, the appellant is not allowed to produce any additional evidence at the appeal stage.

However, production of additional evidence at appeal stage is allowed:

- (i) where adjudicating authority/ Appellate Authority (hereinafter referred as AA) refused to admit evidence ought to be admitted
- (ii) where appellant was prevented by sufficient cause from producing evidence:
 - (a) called upon to produce by adjudicating authority/AA
 - (b) relevant to any ground of appeal
- (iii) where the order appealed against was made without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.

Any additional evidence shall not be admitted unless:

- (i) reasons for admitting such evidence are recorded in writing.
- (ii) a reasonable opportunity is allowed:
 - (a) to examine the evidence/document or to cross-examine any witness produced.
 - (b) to produce any evidence/witness in rebuttal of additional evidence produced.

This rule do not affect the power of AA/Tribunal to direct production of any document or examination of witness, to enable it to dispose off the appeal.

OFFENCES & PENALTIES

Q25. Department initiated prosecution proceedings against a taxable person who had evaded GST of ₹ 4.2 crores by supplying goods without issuing invoice to evade tax. He has approached the Commissioner with a request for compounding the offence. After considering the request, the Commissioner has directed him to pay an amount of ₹ 2.5 crores as compounding amount. Indicate the minimum and maximum limits for compounding amount. Is the amount fixed by the Commissioner in this case within the limits prescribed under the law? What is the consequence of the decision of the commissioner allowing the request for compounding the offence? (Nov'18 Old) (Pg 15.14 – Refer changed question & answer from here)

Answer:

As per section 138 of the CGST Act, 2017,

the minimum limit for compounding amount is **40% of tax involved**,

the upper limit for compounding amount is **60% of tax involved**.

In the present case, the minimum limit for compounding is **₹ 1.68 crores (40% x ₹ 4.2 crores)**.

The maximum limit for compounding in this case is **₹ 2.52 crores (60% x ₹ 4.2 crores)**.

Thus, the amount fixed by the Commissioner at ₹ 2.5 crores is within the limits prescribed under the law. If the taxable person pays the compounding amount decided by the Commissioner, no further proceedings shall be initiated under GST law against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Q27. Arjun has committed offence under CGST Act which can be compounded as per provisions of section 138(1) of the CGST Act, 2017. He has supplied goods without issuing invoice to evade tax amount of ₹ 10 crores. He wishes to apply to Commissioner for compounding the said offence. You are required to compute minimum and maximum compounding amount as per provisions of Section 138(2) of the CGST Act, 2017 payable by Arjun.

What are the consequences, if Arjun pays such compounding amount as may be determined by Commissioner. (Nov'22) **(Pg 15.14 – Refer changed question & answer from here)**

Answer:

- (i) Minimum limit for compounding amount is **50% of tax involved**
i.e., ₹ 5 crores (₹ 10 crores × 50%)
- (ii) Maximum limit for compounding amount is **75% of tax involved**
i.e., ₹ 7.5 crores (₹ 10 crores × 75%)

If Arjun pays such compounding amount as may be determined by Commissioner, no further proceedings shall be initiated under this Act against him in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Q30. Mr. X, a registered person under GST, issued invoice without actual supply of goods for taxable value amounting to ₹ 20 crore. Central GST authority issued a show cause notice under section 74A by demanding following:

CGST & SGST 18%	- ₹ 3.60 crore
Penalty u/s 74A amounting to 100% of tax due	- ₹ 3.60 crore
Interest @ 18% per annum	

You are required to answer the following:

- (i) Can the amount of tax be demanded in such cases ?
- (ii) Is it a cognizable offence ?
- (iii) Quantum of punishment if Mr. X has been convicted.
- (iv) Amount of penalty leviable on Mr. X, if any.
- (v) Amount of penalty leviable on the person who aids or abets the above offence. (May'25) **(Pg 15.16)**

Answer:

- (i) Since issuance of tax invoice without the underlying supply does not qualify as “supply” under GST, no tax liability would arise against Mr. X. Thus, tax is NOT required to be demanded from Mr. X.
- (ii) In the given case, the offence is non-cognizable since the amount of tax evaded or ITC availed/utilised wrongly, or the refund claimed fraudulently, does not exceed ₹ 500 lakh.
- (iii) In cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds ₹ 200 lakh but does not exceed ₹ 500 lakh, with imprisonment for a term which may extend to 3 years and with fine.

In the given case, the amount involved is ₹ 3.6 crore (together under CGST and SGST). So, the quantum of punishment will be 3 years and fine.

- (iv) Penalty is higher of the following amounts: -
 - (a) ₹ 10,000 (under CGST/SGST) or
 - (b) 100% of tax evaded or ITC availed of or passed on/distributed irregularly, or the refund claimed fraudulently.

So, in the given case, penalty would be ₹ 3.60 crore (₹ 1.80 crore under CGST and ₹ 1.80 crore under SGST).

- (v) The amount of penalty leviable on a person, who aids or abets the above offence would be ₹ 25,000 each under CGST and SGST. So, in the given case, the total amount of penalty would be ₹ 50,000 (₹ 25,000 under CGST + ₹ 25,000 under SGST).

Q. M/s Balaji Electronics Pvt. Ltd. of Chennai, Tamilnadu, handed over certain goods to transporter M/s Super Fast Roadways on 15th December, 2024 to be delivered to M/s Anna Electronics in Vellore, Tamilnadu amounting to ₹ 3,00,000. The said goods were chargeable to tax @ 18% GST (9% CGST & 9% SGST). The proper officer intercepted the vehicle under section 68 of the CGST Act, in transit and seized the goods on 16th December, 2024.

No one came forward to release the consignment till 31st December, 2024, so the proper officer issued a penalty order under section 129(3) of the CGST Act. M/s Balaji Electronics Pvt. Ltd. did not admit to the entire penalty amount specified in the order and hence filed an appeal to the Appellate Authority (AA) against the said order.

From the above information given above, calculate:

- (i) The amount of pre-deposit required to be deposited for filing appeal to AA under section 107(6) of the CGST Act against the order passed under section 129(3) of the CGST Act.**
- (ii) The amount to be paid by M/s Super Fast Roadways for release of its conveyance under section 129 of the CGST Act.**

Your answer should include explanations with necessary provisions in brief. (Sep'25)

Answer:

- (i) Since no one came forward to release the consignment, penalty payable under section 129(3) is as follows:**

(a) 50% of value of goods [₹ 1,50,000 (₹ 3,00,000 × 50%)] or

(b) 200% of tax payable on goods [₹ 54,000 (₹ 3,00,000 × 9% × 200%)]

whichever is higher, i.e. penalty will be: ₹ 3,00,000 (₹ 1,50,000 each under CGST and SGST)

Pre-deposit required to be deposited for filing an appeal to AA against an order passed under section 129(3) is as follows:

= 10% of the penalty under section 129(3) [as above]

= 10% of ₹ 3,00,000

i.e. pre-deposit will be : = ₹ 30,000 (₹ 15,000 each under CGST and SGST)

- (ii) Amount to be paid by M/s Super Fast Roadways for release of its conveyance under section 129 is as follows:**

(a) Penalty under section 129(3) (as computed in above) [₹ 1,50,000] or

(b) ₹ 1,00,000

whichever is less, i.e., penalty will be : ₹ 2,00,000 (₹ 1,00,000 each under CGST and SGST).

ADVANCE RULING

Q8. Can an advance ruling given be nullified?

(Pg 16.3 – Refer changed answer as per ICAI Module)

Answer:

Section 104(1) provides that an advance ruling shall be held to be ab initio void if the AAR or AAAR finds that the advance ruling was obtained by the applicant by fraud or suppression of material facts or misrepresentation of facts. In such a situation, all the provisions of the GST Act(s) shall apply to the applicant as if such advance ruling had never been made. An order declaring advance ruling to be void can be passed only after hearing the applicant.

Q13. State the power and procedure of Authority for Advance Ruling (AAR) and Appellate Authority for Advance Ruling (AAAR) with reference to section 105 and 106 of CGST Act, 2017. (May'25) (Pg 16.6)

Answer:

Power and procedure of Authority of Advance Ruling (AAR) and Appellate Authority of Advance Ruling

(AAAR):

Both the AAR and AAAR are vested with the powers of a civil court under Code of Civil Procedure, for:-

- (a) discovery and inspection,
- (b) enforcing the attendance of a person and examining him on oath,
- (c) issuing commissions and compelling production of books of account and other records.

Both the authorities are deemed to be a civil court for the purposes of section 195 of the Code of Criminal Procedure, but NOT for the purpose of Chapter XXVI of the Code of Criminal Procedure.

Any proceeding before the authority shall be deemed to be judicial proceeding under the Indian Penal Code (IPC).

The AAR and AAAR also have the power to regulate their own procedure.

PAYMENT OF TAX

Q13. M/s. XYZ

(Pg 17.14)

Answer:

S. No.	Particulars*	Tax to be deducted at source		
		CGST @ 1% (₹)	SGST @ 1% (₹)	IGST @ 2% (₹)
(i)	Taxable supply to Government of NCT of Delhi [Since the total value of taxable supply ₹ 2,20,339 (₹ 2,60,000 x 100/118)] under the contract for both taxable and exempted supply does not exceed ₹ 2,50,000, tax is NOT required to be deducted]	-	-	-
(ii)	Supply of taxable goods to Mumbai office of National Housing Bank [Since total contract value exceeds ₹ 2,50,000, tax is required to be deducted on intra-State supply.]	20,000	20,000	
(iii)	Taxable services to Government Department of Himachal Pradesh. [No TDS will be deducted since the location of supplier and place of supply (being location of immovable property) is in Maharashtra which is different from State of registration of recipient (Himachal Pradesh).]	-	-	-
(iv)	Supply of taxable goods to Chhattisgarh Government [Since total contract value does not exceed ₹ 2,50,000, no TDS will be deducted.]	-	-	-
(v)	Supply of taxable iron scrap [Any registered person receiving supplies of iron scrap from other registered person is notified person to deduct TDS where total contract value exceeds ₹ 2,50,000.]	3,000	3,000	

* Tax will be deducted at source at the time of making payment to M/s XYZ.

REFUNDS UNDER GST

Q. ArchiSpace Designs Private Limited (hereinafter referred as ArchiSpace) and Skyview Infra LLP (hereinafter referred as Skyview) entered into an agreement in June to provide architectural services. Skyview paid an advance of ₹ 2,00,000 on 15th May for provision of said services. However, before ArchiSpace could render the architectural services (scheduled to be supplied in June), the contract was cancelled on 25th May due to some legal permission delays.

ArchiSpace had already issued an invoice for the advance in May and had paid the applicable GST on the advance amount. As its tax consultant, you are required to advise whether ArchiSpace is eligible to claim a refund of the GST already paid on the advance or whether it should adjust its tax liability in its GST returns. (RTP Jan'26)

Answer:

When GST has been paid by the supplier on advances received for a service to be supplied in the future, the contract for which is subsequently cancelled, and for which the invoice was issued before the supply of service, the supplier is required to issue a credit note under section 34. The details of such credit notes must be declared in the GST return for the month in which the credit note is issued but not later than 30th November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the prescribed manner. In this situation, there is no need to file a separate refund claim. However, in cases where the supplier does not have any output liability against which the credit note can be adjusted, he may file a refund claim [Circular No. 137/07/2020 GST dated 13.04.2020].

Therefore, ArchiSpace must issue a credit note in accordance with the provisions of section 34. If there is no output liability available for adjustment, the company may proceed with a refund claim.

RETURNS UNDER GST

Q10. RRY Ltd.

(Pg 20.4)

Answer:

Since the aggregate annual turnover (PAN based) of RRY Ltd. in preceding financial year does not exceed ₹ 5 crore, it can opt for the QRMP scheme.

Further, QRMP scheme is GSTIN wise. Since distinct persons can avail QRMP scheme for one or more GSTINs, RRY Ltd. can opt for QRMP scheme for one of its places of business and continue with regular return filing scheme for its other place of business.

JOB WORK

Q9. M/s. VRM Ltd.

(Pg 22.5)

Answer:

Particulars	Amount* (₹)	Rate	GST (₹)
Job charges [Since mounting steel cabinets on metal frames by a job worker is treated as a service (even though the metal frames are also supplied as a part of the mounting activity) in terms of Schedule II to the CGST Act, tax is payable @ 18%. Value of steel cabinets supplied by the principal will be excluded from the job charges since supply of cabinets does not fall within the scope of supply to be made by job worker - M/s VRM Ltd.]	6,50,000	18%	1,17,000
Sale of metal waste [Since M/s VRM Ltd. is registered, the tax on the supply of metal waste being goods will be payable by it @ 12%.]	52,000	12%	6,240
Total taxable value and GST payable	7,02,000		1,23,240

* It has been most logically assumed that amounts given are exclusive of GST. However, it is also possible to assume the amounts to be inclusive of GST and solve accordingly.

MISCELLANEOUS PROVISIONS

Q. Section 160 of the CGST Act, 2017 provides that the assessment proceedings shall not be invalid on certain grounds. You are required to list such grounds along with type of proceedings covered with explanation. (Sep'25)

Answer: The type of proceedings covered are:

- assessment
- re-assessment
- adjudication
- review
- revision
- appeal
- rectification
- notice
- summons
- summons

The assessment proceedings shall not be invalid or deemed to be invalid merely by reason of any:

- mistake
- defect
- omission therein,

if such assessment proceedings are in substance and effect in conformity with/according to the intents, purposes and requirements of GST law or any earlier law.

ETHICAL ASPECTS UNDER GST

CASE STUDIES

Case Studies have been incorporated to exemplify some of the ethical considerations that a Chartered Accountant should bear in mind when issuing various certificates/reports under relevant GST provisions as well as while giving GST related advise to the client, ensuring GST compliances at the same time. This is intended to encourage the students to act ethically while discharging any GST related function and abstain themselves from inadvertently indulging in any unethical practices.

We have discussed the significant implications that would arise under the GST law in such cases. Students may also refer the relevant provisions of demands and recovery, offences, penalties and prosecution under the GST law for ascertaining the consequences of the unethical practices being followed. Further, a Chartered Accountant in practice may be deemed to be guilty of the professional misconduct in such cases, primarily under clause (7) / clause (8) of Part I of the Second Schedule to the Chartered Accountant Act, 1949, in such cases. **All the case studies pertain to Financial Year 2024-25 onwards.**

CASE STUDY 1

Facts of the case:

M/s L and Co., a partnership firm with two partners – Mr. X and Mr. Y, is registered under GST in Kolkata, West Bengal. It is engaged in supplying the materials used for construction related activity. Mr. X and Mr. Y are friends and each of them also have their own separate sole proprietorship firms engaged in supplying construction material; these firms are registered under GST. Mr. A (Mr. A is not a Chartered Accountant) is the tax consultant of the firm - M/s L and Co.

Mr. X gets an offer from a customer - M/s W Pvt. Ltd., (hereinafter referred to as WPL) - to issue some supply related bills to meet the budget allocated to WPL by their management in relation to civil works. Mr. X shall earn a commission of 20% of the value of supply charged in the supply bills accepted by WPL. Mr. X agrees to share

50% of his earnings with Mr. Y for undertaking the above project. M/s L and Co. needs a bank loan for expanding its business operations and the supply bills issued to WPL will inflate the turnover of M/s L and Co. Mr. X and Mr. Y sought advice from their tax consultant Mr. A as to how to execute the above project for the supply bills to be issued to WPL. Based on the guidance provided by Mr. A, it is executed as follows:

- M/s L and Co. shall issue supply related bills for steel, jelly stone and cement for ₹ 280 lakh to Mr. X wherein the delivery site shall be of WPL (Bill to Ship to Model).
- Mr. X shall avail and utilise the input tax credit (ITC) on the bill of ₹ 280 lakh and shall separately enter into a contract with WPL for supply of steel, jelly stone and cement (to be used for construction of foundation of Plant and Machinery) for ₹ 280 lakh. Further, Mr. X, in his individual capacity, shall issue labour work related bills for ₹ 40 lakh for the assembly and erection work relating to construction of foundation of Plant and Machinery undertaken at the site of WPL, without actually providing any service. WPL will avail and utilise the ITC on the bills of ₹ 280 lakh and ₹ 40 lakh used for underlying supply of goods.
- All inventory registers are updated duly by M/s L and Co. without any actual movement/supply of the material and some e-way bills are also generated on behalf of Mr. X for the supplies made to the work site of WPL.

Mr. A assures Mr. X and Mr. Y that:

- Inventory registers are up to date for material movement.
- Compliances pertaining to e-way bill have been taken care of.
- Money shall be duly realised as per the bills issued.

Mr. X approached his friend - Mr. P, a practicing Chartered Accountant, for seeking his help in above arrangement. However, Mr. P makes Mr. X conversant with the following GST implications that may arise in above arrangement:

GST Implications:

1. Issue of invoice by M/s L and Co. to Mr. X:

Since there has only been an issuance of tax invoice by the registered person - M/s L and Co. - to registered person 'Mr. X' without the underlying supply of steel, jelly stone and cement, therefore, such an activity does not satisfy the criteria of "supply", as defined under section 7. As there is no supply by M/s L and Co. to Mr. X in respect of such tax invoice in terms of the provisions of section 7, no tax liability arises against M/s L and Co. for the said transaction, and accordingly, no demand and recovery is required to be made against M/s L and Co. under the provisions of section 74A in respect of the same. The registered person - M/s L and Co. - shall, however, be liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii).

2. Issue of invoice by Mr. X to WPL:

The registered person - Mr. X has availed and utilized fraudulent ITC on the basis of the tax invoice issued in contravention of the provisions of section 16(2)(b), without receiving the supply of steel, jelly stone and cement. Further, there was no supply of steel, jelly stone and cement and labour work related services by Mr. X to WPL. Thus, in respect of the said transactions, no tax was required to be paid. In these specific cases, no demand and recovery of either ITC wrongly/ fraudulently availed by Mr. X in such case or tax liability in respect of the said outward transaction by Mr. X to WPL is required to be made from Mr. X under the provisions of section 74A. However, in such cases, Mr. X shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services. This offence is also punishable with imprisonment

for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

WPL will be liable for the demand and recovery of the ITC availed and utilised by it, along with penal action applicable for fraud cases under section 74A along with applicable interest under provisions of section 50, for taking/ utilizing ITC without actual receipt of steel, jelly stone and cement and without receiving the assembly and erection services, used for underlying supply of goods. This offence is also punishable with imprisonment for a term which may extend to 3 years and with fine in terms of section 132(1)(ii) subject to specified conditions.

3. GST implications on Mr. A:

Mr. A who advised for designing the above business practice shall also be liable to a penalty in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence is also punishable with imprisonment subject to specified conditions.

Mr. P apprised Mr. X that if any Chartered Accountant advises Mr. X on above arrangement, then he will also be punishable with penalty in terms of the provisions of 122(3) for aiding/abetting the offences specified above and may also be punishable with imprisonment subject to specified conditions. Further, he may also be held guilty of professional misconduct.

CASE STUDY 2

Facts of the case:

Doodle LLC is an entity registered in Germany and is engaged in providing online services across multiple countries including India. The service offerings include certain services which are covered within the purview of online information and database access or retrieval services i.e., OIDAR services liable to GST in India. Since Doodle LLC does not have any place of business in India, it appointed one of its employee - Mr. X (Mr. X is not a Chartered Accountant) as its authorized representative for all the purposes in India which includes undertaking GST compliances and also as an authorized signatory for any other regulatory compliances in India. Mr. X is a partner in XYZ & Associates LLP. Post appointment of Mr. X, following chain of events unfolded:

1. Mr. X, being an authorized representative of Doodle LLC, made an application for registration as an OIDAR service provider in India and undertook other GST compliances. Subsequently, Mr. X started filing the monthly GST returns and made payment of applicable GST in India on behalf of Doodle LLC. In lieu of such services, Mr. X was being remunerated a fixed sum on monthly basis as professional fee. The appointment of Mr. X was in his personal capacity and not a professional service contract with his partnership firm - XYZ & Associates LLP. However, for recovery of amount of fixed monthly remuneration from Doodle LLC, the invoices as 'export of services' were issued by Mr. X in the name of his partnership firm. The corresponding refund benefit was claimed by the partnership firm of Mr. X for input tax credit against such export of service invoices.
2. Doodle LLC appointed influencers in India to promote its services in India. The tax invoices of such influencers were received by Mr. X in name of XYZ & Associates LLP and input tax credit was availed by the partnership firm for such services. Said ITC was utilised for further supply of services. However, the actual service recipient in such case was Doodle LLC.
3. Subsequently, Doodle LLC was required to submit certain affidavits and accounting records before the office of the Enforcement Directorate. Being an authorized representative/ signatory of Doodle LLC, Mr. X approached Mr. P, a practicing Chartered Accountant, to prepare the affidavits and accounting records which included critical financial information and data of Doodle LLC. He elaborated the entire arrangement among Doodle LLC, Mr. X and XYZ & Associates LLP to Mr. P. He further requested Mr. P to certify and attest such records, which would be prepared and compiled by Mr. P in capacity of a practicing Chartered Accountant for submission before Enforcement Directorate.

Mr. P apprised Mr. X of the following GST implications:

GST Implications:

1. Incorrect issuance of invoice for export of services and claim of refund of input tax credit on the basis of such export of service related invoices

Mr. X was appointed as authorized representative and signatory of Doodle LLC in his personal capacity to undertake the compliances enumerated under the GST law in India. However, the consideration for such services was received at the behest of invoices issued in the name of his partnership firm. Further, such invoices were issued as 'export of service' invoices and corresponding refund of input tax credit was claimed by the firm of Mr. X. This act of Mr. X alongwith his firm is punishable as follows:

- Since Mr. X supplied services to Doodle LLC without any invoice, he shall also be liable for the demand and recovery of tax on said supply, along with penal action applicable for fraud cases under section 74A. Even if the contention is made that invoice was issued for such services by the firm of Mr. X, the same shall be treated as an incorrect invoice or false invoice as both, Mr. X and XYZ & Associates LLP are separate persons as per GST Law.
- Since both, Mr. X and XYZ & Associates LLP are different persons, the invoice issued by the firm shall be construed as issuance of invoice without supply of services viz. an offence punishable under section 122(1)(ii).
- Incorrect refund was claimed by XYZ & Associates LLP for input tax credit on the basis of incorrect invoice for export of services to Doodle LLC. This is an offence under section 122(1)(viii).
- All the above offences may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

2. Availment of input tax credit without actual receipt of services

XYZ & Associates LLP received invoices from the influencers who were actually providing services to Doodle LLC. Further, the input tax credit related to such invoices was availed by XYZ & Associates LLP in contravention of the provisions of section 16. Accordingly, the input tax credit availed and utilised by XYZ & Associates LLP for further supply of services is incorrect. Thus, XYZ & Associates LLP will be liable for the demand and recovery of the said ITC, along with penal action applicable for fraud cases under section 74A alongwith interest under section 50 as the actual service recipient was Doodle LLC and not XYZ & Associates LLP.

This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

3. GST implications on Mr. X

Mr. X was fully involved in wrongdoings in terms of the business transactions of Doodle LLC in India. Further, he was the authorized representative and signatory of Doodle LLC in India. Mr. X is liable to penalty under section 122(1A) and section 122(3) since he is involved in aiding and abetting the offences committed hereunder at his instance and has also derived monetary benefits from such practices. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

If a Chartered Accountant takes up the assignment offered by Mr. X and also attests/certifies the Doodle LLC's accounting records that would be prepared by him, for submission before the Enforcement Directorate in India, he may be held guilty of professional misconduct.

CASE STUDY 4**Facts of the case**

A Ltd. is engaged in the business of manufacturing cotton yarn, wherein cotton is the principal raw material in the manufacturing process. The price of cotton varies depending upon the market conditions and is dependent on various external factors. Mr. X (Mr. X is not a Chartered Accountant) is tax consultant of A Ltd. Mr. X advises A Ltd. on GST compliances.

In order to meet expansion related expenditure, A Ltd. sought a term loan and working capital loan from banks. As per the bank, the turnover and profitability criteria of A Ltd. were not meeting the benchmarks of bank for sanction of any loan facility. Accordingly, following actions were undertaken by Mr. X being the tax consultant of A Ltd.:

1. A separate entity i.e., B Ltd. was incorporated and the Directors of A Ltd. were appointed as Directors in B Ltd. This ensured that the control of B Ltd. remains with the Directors of A Ltd. Further, B Ltd. obtained GST registration as a manufacturer of yarn wherein Mr. X assisted B Ltd. in obtaining such GST registration. Mr. X obtained registration providing fake documents for registration.
2. Subsequently, A Ltd. started issuing tax invoices for supply of yarn to B Ltd. However, there was no actual movement of goods by A Ltd. to B Ltd. The tax invoices were issued and the same were reported in the GST returns by A Ltd. Further, B Ltd. availed the input tax credit of all such tax invoices reported by A Ltd. The finished goods related to such tax invoices were sold in the local market by A Ltd. in cash without charging any GST and without issuance of tax invoice.
3. B Ltd. issued tax invoices for provision of certain services to A Ltd. in form of testing of cotton, repairs and maintenance of machinery installed at A Ltd. apart from other services. However, no such services were actually provided by B Ltd. to A Ltd. The input tax credit appearing in the books of B Ltd. (which was availed on the basis of fake yarn invoices) was utilized by B Ltd. at the time of discharging GST liability in relation to the alleged tax invoices issued against provision of services to A Ltd.
4. Further, B Ltd. issued tax invoices for sale of yarn (allegedly purchased from A Ltd.) to other group entities to ensure that the stock of yarn becomes zero in the books of accounts at the year end. The tax invoices were issued at a rate lowered by 90% of the actual tax invoice received from A Ltd. contending that the quality of yarn had deteriorated during the storage.
5. Mr. X was aware of the aforesaid actions of A Ltd. and B Ltd. Further, the GST returns were filed by Mr. X for both the companies.
6. A Ltd. approached Mr. P, a practicing Chartered Accountant to issue relevant certificates to the bank certifying the turnover of A Ltd. and B Ltd. as genuine turnover to ensure that the required loan amount is sanctioned to A Ltd. A Ltd. elaborated the entire arrangement made by it with regard to B Ltd.

Mr. P apprised A Ltd. of the following GST implications that may arise in the given case:

GST Implications:**1. GST registration of B Ltd. sought on the basis of fake documents**

As per section 122(1)(xii), furnishing of false information with regard to registration particulars is an offence liable to penalty under GST Law. Thus, B Ltd is liable to penalty under section 122(1)(xii).

2. Issuance of tax invoice without actual supply of goods or services

Following instances happened wherein there was no actual supply of goods or services, however, tax invoice was

issued:

- Fake issuance of tax invoice for supply of yarn by A Ltd. to B Ltd. (Para 2)
- Fake issuance of tax invoice for supply of services by B Ltd. to A Ltd. (Para 3)
- Fake issuance of tax invoice for supply of goods by B Ltd to group entities (Para 4)

The aforesaid actions are liable for penal action under section 122(1)(ii) for issuing tax invoices without actual supply of goods and services. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

3. Fraudulent input tax credit availment

B Ltd. availed fraudulent input tax credit of the goods (yarn) which were not at all received by B Ltd. and the same was used in discharge of the tax liability related to invoices issued without any underlying supply of goods or services.

B Ltd. has availed and utilized fraudulent ITC on the basis of the said tax invoice, in contravention of the provisions of section 16(2)(b), without receiving the supply of goods and accordingly. In this case, there was no supply of by B Ltd. to A Ltd. in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, no demand and recovery of either input tax credit wrongly/ fraudulently availed by B Ltd. in such case or tax liability in respect of the said outward transaction by B Ltd. to A Ltd. is required to be made from B Ltd. under the provisions of section 74A. However, in such cases, B Ltd. shall be liable for penal action both under section 122(1)(ii) and section 122(1)(vii), for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services.

This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

4. Incorrect information in GST returns and falsification of books of accounts

The GST returns filed by A Ltd. and B Ltd. were not backed by correct information in terms of supply of goods and services. Knowing that there was no supply of goods or services and input tax credit is not available, the returns were filed by both the companies. The books of accounts and financial records were also falsified in terms of information related to sales and inventory. This act of furnishing incorrect information in GST return and falsifying financial records is an offence under section 122(1)(x). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

5. GST implications on Mr. X

Mr. X, being a consultant of A Ltd., had adequate knowledge of the fraud and wilful misrepresentation of the facts in terms of maintaining the financial records and submission of information in GST returns. In fact, Mr. X himself was filing the GST returns and was aware of the fake invoices and ineligible input tax credit availment by the companies. Mr. X shall be liable to a penalty in terms of the provisions of 122(3) since in the given case, he has aided or abetted the offences specified above. This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

If a Chartered Accountant undertakes the assignment of issuing relevant certificates to the bank thereby certifying the turnover of A Ltd. and B Ltd., he may be held guilty of professional misconduct. Further, he shall also be liable to a penalty in terms of the provisions of 122(3). This offence may also be punishable with imprisonment and fine under section 132(1) depending on the amount of default involved and subject to specified conditions.

LEVY OF & EXEMPTIONS FROM CUSTOM DUTY

Q4. M/s. XYZ, a 100% export-oriented undertaking (100% E.O.U. in short) imported DG sets and furnace oil duty free for setting up captive power plant for its power requirements for export production. This benefit was available vide an exemptions notification. They used the power so generated for export production but sold surplus power in domestic tariff area as power could not be stored.

Customs Department has demanded duty on DG sets and furnace oil as surplus power has been sold in domestic tariff area. The notification does not contain specific restriction that the imported goods can only be used for manufacture of export goods.

Do you think the demand of the Customs Department is valid in law? (MTP-I May'22)

(Pg 1.2 – Refer changed question from here as per ICAI Module)

Answer:

The facts of the case are similar to the case of Commissioner v. Hanil Era Textile Ltd. 2005 (180) ELT A44 (SC) wherein the Supreme Court agreed to the view taken by the Tribunal that in the absence of a restrictive clause in the notifications that imported goods are to be solely or exclusively used for manufacture of goods for export, there is no violation of any condition of notification, if surplus power generated due to unforeseen exigencies is sold in domestic tariff area.

Therefore, no duty can be demanded from M/s XYZ for selling the surplus power in domestic tariff area for the following reasons:

- (i) They have used the DG sets and furnace oil imported duty free for generation of power, and
- (ii) such power generated has been used for manufacturing goods for export, and
- (iii) only the surplus power has been sold, as power cannot be stored.

Q15. BCG Ltd. imported goods from Japan and intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 with regard to said goods. However, since it does not have a manufacturing facility at all, it needs to send the goods so imported for job work to a job worker. Its accountant advised it that as per the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, BCG Ltd. is not permitted to send such goods for job work. You are required to advise BCG Ltd. on the said issue elaborating the relevant legal provisions under the customs law. (RTP Nov'22)

(Pg 1.8 – Refer changed answer from here)

Answer: As per rule 7 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, the importer is permitted to send the goods for job work. The said rule stipulates that the importer shall maintain a record of the goods sent for job work during the month and mention the same in the prescribed quarterly statement. The importer shall send the goods to the premises of the job worker under an invoice or wherever applicable through an e-way bill, mentioning the description and quantity of the goods. The maximum period for which the goods can be sent to the job worker shall be 1 year from the date of the invoice/e-way bill.

In case the importer is not able to establish that the goods sent for job work have been used as per the particulars mentioned under rule 4 of the said rules, the Jurisdictional Custom Officer shall take prescribed necessary action against the importer.

The job worker shall -

- (i) maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process;
- (ii) produce the account details before the Jurisdictional Custom Officer as and when required by the said officer; and
- (iii) after completion of the job work, send the processed goods to the importer or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or an e-way bill.

Q27. M/s. Falcon Ltd.

(Pg 1.13)

Answer:

In the given case, differential duty payable by M/s Falcon Ltd. will be computed as follows:

- (I) Duty leviable on goods on clearance for which exemption was availed will be computed on depreciated value allowed in straight line method, *inter alia*, @ 4% for every quarter in the first year (part of quarter taken as full quarter).

Depreciation % will be = 4% x 2 quarters = 8%

Depreciation value will be: 8% of ₹ 3 crore = ₹ 24 lakh

Depreciated value of imported capital goods is ₹ 3 crore – ₹ 24 lakh = ₹ 276 lakh = ₹ 276 lakh x 15% = ₹ 41,40,000

- (II) Duty already paid = ₹ 30 lakh*

Differential duty payable = (I) – (II)

= ₹ 11,40,000, payable alongwith interest under section 28AA of the Customs Act, 1962.

** It is also possible to alternatively interpret that 'Duty already paid' is to be computed on the depreciated value of imported capital goods.*

Q. Suhasi Electronics Pvt. Ltd., an importer, who availed the benefit of the notification imported the raw materials for manufacturing LED panels. No condition or time period has been specified in the notification in relation to re-export of unutilized or defective goods, so imported. The goods were imported on 10th February, 2024.

However, a small portion of the goods received were found to be defective and remained unutilized due to a production shift in the company. Suhasi Electronics approached you to obtain advice for dealing with these defective and unutilized goods.

On the basis of provisions of the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022 as amended, you are required to discuss:

- Whether Suhasi Electronics can re-export these unutilised or defective goods? If yes, what is the maximum permissible time period, in which Suhasi Electronics can re-export the goods?**
- What are the conditions applicable in case of re-export of goods?**
- If Suhasi Electronics chooses to clear the goods for home consumption, explain the procedure for the same. (RTP Sep'25)**

Answer:

- (a) As per rule 10 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022 as amended, the importer who has availed the benefit of a notification shall use the goods imported in accordance with the conditions mentioned in the concerned notification within the period and with respect to unutilised or defective goods, so imported, the importer shall have an option to either re-export or clear the same for home consumption.

Thus, Suhasi Electronics Pvt. Ltd. can re-export such defective and unutilized goods.

The re-export or home clearance must be made within –

- within the period specified in the notification;
- within one year from the date of import, where the time period is not specified in the notification:

However, the said period of one year can be further extended by the jurisdictional Commissioner for a period not exceeding 3 months, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

So, re-export can be made by 9th February, 2025 in this case as no condition or time period has been specified in the notification in relation to re-export of unutilized or defective goods, so imported.

Further, the date of re-export can be extended by the jurisdictional Commissioner upto 3 months.

(b) Conditions applicable for re-export of goods:

- (i) Re-export of the unutilized or defective goods shall be recorded by the importer in the quarterly statement by providing the details of necessary export documents.
- (ii) The value of such goods for re-export shall not be less than the value of the said goods at the time of import.

(c) If Suhasi Electronics opts to clear the goods for home consumption:

- It can make voluntary payment of applicable customs duties along with interest on the common portal.
- The details of such duty payment and clearance must be disclosed in the importer's quarterly statement.

Q. M/s DMP Overseas Ltd. imports goods from USA and intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 with regard to said goods. However, since it does not have a manufacturing facility at all, it needs to send the goods so imported for job work to a third party job worker Mr. Raju.

The accountant of M/s DMP Overseas Ltd. advised it that as per the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, M/s DMP Overseas Ltd. is not permitted to send such goods to third party for job work.

You are required to advise M/s DMP Overseas Ltd. on the said issue elaborating the relevant legal provisions under the customs law. (Sep'25)

Answer: The advice of the accountant is not correct. The importer - M/s DMP Overseas Ltd. is permitted to send the imported goods to a job worker provided following conditions as laid down by the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022 are being fulfilled:

1. The importer shall maintain a record of goods sent for job work during the month and mention the same in the quarterly statement.
2. The goods shall be sent to job worker under invoice or through an e-way bill, mentioning their description and quantity.
3. The maximum period for which the goods can be sent to the job worker is one year from the date of invoice/e-way bill.
4. In case the importer is unable to establish that the goods sent for job work have been used as per the specified particulars, the jurisdictional customs officer shall take necessary action against the importer.

Conditions for job worker

1. Job worker shall maintain account of goods received, manufacturing process undertaken and waste generated, if any.
2. Job worker shall produce account details before jurisdictional customs officer on demand.
3. Job worker shall, after completion of job work return processed goods to importer or send them to another job worker as directed by importer for remaining process, under invoice or e-way bill.

Q. M/s. Global Machines Pvt. Ltd., an importer based in Chennai, imported a consignment of specialized steel rods in May, 2025 for manufacturing high-precision auto parts. Since the company does not have the required machinery for cutting and shaping, it sent these rods to a local job worker, M/s. Sharp Tools & Co. same day under a delivery challan and e-way bill, mentioning the description and quantity of rods. The job worker maintains records of receipt, the processes carried out and the scrap generated.

However, due to delays in production schedules, the rods remain with the job worker till June, 2026. Upon inspection by the jurisdictional Customs Officer, the importer is unable to establish proper utilization of some of the rods as per the particulars furnished earlier.

Based on the above-mentioned information furnished by M/s. Global Machines Pvt. Ltd., you are required to answer the following questions based on the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022 as amended:

- (a) What is the maximum time limit for which the goods can be sent to the job worker? Has Global Machines Pvt. Ltd. complied with this requirement?**
- (b) Discuss whether the importer shall be responsible for ensuring that the said goods are used in accordance with the purposes provided in the aforesaid rules?**
- (c) What record-keeping responsibilities does the job worker - Sharp Tools & Co. - have in this case?**
- (d) If part of the processed rods needs to be sent to another job worker for further finishing, which document must accompany such movement of goods? (RTP Jan'26)**

Answer:

- (a)** In accordance with Rule 7 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022, the maximum period for which the goods can be sent to the job worker is one year from the date of invoice or electronic way bill. Since the rods remained with the job worker, M/s. Sharp Tools & Co. beyond one year, the Global Machines Pvt. Ltd. has not complied with the requirement.
- (b)** Yes, importer shall be responsible for ensuring that the said goods are used in accordance with the purposes prescribed in the rules and in the event of failure to do so, the jurisdictional Customs Officer would take necessary action against the importer prescribed under rules 11 & 12 of the Customs (Import of Goods at Concessional Rate of Duty or for Specified Purposes) Rules, 2022.
- (c)** The job worker - Sharp Tools & Co.- have following record-keeping responsibilities in this case-
 - i. It shall maintain an account of receipt of goods, manufacturing process undertaken thereon and the waste generated, if any, during such process; and
 - ii. It shall produce the account details before the jurisdictional Customs Officer as and when required by the said officer.
- (d)** If part of the processed rods needs to be sent to another job worker for further finishing, the processed goods must move under the cover of an invoice or an electronic way bill.

VALUATION UNDER CUSTOMS

Q57. DEF Ltd.

(Pg 4.49)

Answer:

Computation of assessable value

Particulars	Amount (\$)
Price of the machine	20,000
Add: Design charges paid in USA [Includible since it is undertaken elsewhere than in India.]	300

Add: Licence fee payable by the buyer as a condition of sale [10% of ₹ 20,000] [Includible in assessable value.]	2,000
Add: Buying commission [Not includible in assessable value.]	
Add: Commission to local agent [5% of ₹ 20,000] [Includible in assessable value.]	<u>1,000</u>
Total	<u>23,300</u>
	Amount (₹)
Value in Indian currency [\$ 23,300 x ₹ 83] [Rate of exchange notified by the CBIC shall be considered.]	19,33,900
Add: Materials and components supplied by the buyer free of cost [Includible in assessable value.]	50,000
Customs FOB	19,83,900
Add: Air Freight [If the goods are imported by air, the freight cannot exceed 20% of FOB price]	3,96,780
Add: Insurance paid to the insurer in India* [Includible in assessable value.] * It has been most logically assumed that the insurance charges paid to insurer in India in Indian Rupees pertain to the insurance of goods till the place of importation and thus, have been included in the CIF value of goods. However, it is also possible to assume that since such charges are paid to insurer in India, they pertain to the insurance of goods post importation. In that case, they shall not be included in assessable value at all; further, since insurance charges till the place of importation become unascertainable, insurance @ 1.125% of Customs FOB shall be added while computing the CIF value/ assessable value.	6,000
CIF value/ Assessable value	23,86,680

Note: Development work undertaken in India is not includible since it is undertaken in India.

Q. Mr. Fedrick imported second-hand goods from a supplier in the United Kingdom by air under a CIF contract. As part of the transaction, vendor inspection charges amounting to £ 600 were incurred. This inspection is carried out by the foreign supplier on his own and were neither contractually agreed nor essential for making the goods ready for shipment. Additionally, a commission is payable to a local agent in India, calculated at 1% of the FOB (Free on Board) value in Indian currency.

The bill of entry was filed on 18th February, on which date the basic customs duty rate was 10%, and the exchange rate notified by CBIC was ₹ 102 per UK Pound. The aircraft carrying the goods arrived on 15th February, when the customs duty rate was 15%, and the CBIC- notified exchange rate was ₹ 98 per UK Pound. The inter-bank exchange rate prevailing on both dates was ₹ 106 per UK Pound.

However, the transaction underwent multiple price revisions due to fluctuations in international market rates between the date of contract and actual importation. Eventually, both parties settled on a negotiated price payable as follows:

Particulars	Contract Price (£)	Changed Price (£)	Negotiated Price (£)
CIF Value	5,200	5,900	5,500
Air Freight	400	600	500
Insurance	450	750	600

Compute the assessable value of second hand goods. (RTP Sep'25)

Answer:

Computation of custom duty payable

Particulars	Amount
CIF value (negotiated price) [Note-1]	5,500 £
Less: Air freight	500 £
Less: Insurance	<u>600 £</u>
FOB value	4,400 £

	Amount ₹
FOB Value (in ₹) [4,400 £ x ₹ 102] [Note-2]	4,48,800
Add: Vendor inspection charges [Note-3]	Nil
Add: Commission payable to local agent [1% of FOB value] [Note-4] = (US \$ 4,400 × ₹ 102) × 1%	<u>4,488</u>
FOB value as per Customs	4,53,288
Freight [Note-5] [500 £ x ₹ 102]	51,000
Insurance [Note-6] [600 £ x ₹ 102]	<u>61,200</u>
Assessable value	5,65,488
Add: Basic custom duty @ 10% [Note-7] – rounded off	56,548.80
Social Welfare Surcharge (10% of ₹ 56,548.80) [rounded off]	<u>5,655</u>
Customs duty payable [rounded off]	62,204

Notes:

- As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods. In this case, since the contract was re-negotiated and the importer paid the re-negotiated price, the transaction value would be such re-negotiated price and not the contract price.
- Rate of exchange notified by CBIC on the date of filing of bill of entry will be considered as per third proviso to section 14 of the Customs Act, 1962.
- Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value under rule 10(1)(e) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Charges of vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods [Bombay Dyeing & Mfg. v. CC 1997 (90) ELT 276 (SC)].
- Commission paid to local agent (since it is not buying commission) is includible in the assessable value on the presumption that local agent has been appointed by the exporter [Rule 10(1)(a)(i) of the Customs Valuation Rules].
- Actual amount incurred towards freight will be considered since freight is not more than 20% of FOB value [Fifth proviso to rule 10(2) of Customs Valuation Rules].
- Actual insurance charges paid are includible in the assessable value as per rule 10(2)(b) of the Customs Valuation Rules.
- As per proviso to section 15 of the Customs Act, 1962, rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.

Q. ABT Ltd. provided the following details of the one of its recent transaction of import of a machine through vessel from Japan in the month of January, 2025:

S. No.	Particulars	Amount in Japanese Yen (¥)
(i)	Cost upto port of exportation incurred by exporter	5,00,000
(ii)	Loading charges at the port of exportation	15,000
(iii)	Freight charges from port of export to port of import in India	1,15,000
(iv)	Actual insurance charge paid to the place of importation	20,000

Following additional amount was also paid by ABT Ltd.:

S. No	Particulars	Amount in Indian (₹)
(i)	Designing charges paid to consultancy firm in New Delhi, which was necessary for such machine	6,00,000
(ii)	Commission paid (not buying commission) to local agent of exporter	1,20,000

Other Information:

1	Bill of entry:	Dated 20.01.2025 On that day: (a) Basic custom duty (BCD) rate was 10% (b) Exchange rate as notified by CBIC 1 Yen = ₹ 0.65 (c) The inter – bank rate was 1 Yen = ₹ 0.67
2	Entry inward:	Dated 25.01.2025 On that day: (a) Basic custom duty (BCD) rate was 15% (b) Exchange rate as notified by CBIC 1 Yen = ₹ 0.66 (c) The inter-bank rate was 1 Yen = ₹ 0.68

From the above particulars, company wants you to calculate the assessable value and basic custom duty (BCD) payable with appropriate working notes under the Customs Act, 1962. (Sep'25)

Answer:

Computation of assessable value and basic customs duty (BCD)

Particulars	Amount in Japanese Yen
Cost upto port of exportation	5,00,000
Add: Loading charges at the port of exportation [Includible in assessable value]	<u>15,000</u>
Total	5,15,000
Rate of exchange [Converted @ ₹ 0.65 per Japanese Yen Rate of exchange notified by CBIC as prevalent on the date of filing of bill of entry is the applicable rate.]	₹ 0.65
Particulars	Amount in (₹)
Total (₹)	3,34,750
Add: Commission paid to local agent of exporter [Includible in assessable value since it's not a buying commission.]	<u>1,20,000</u>
FOB value as per customs	4,54,750
Add: Freight charges from port of export to port of import in India [1,15,000 × 0.65] [Includible in assessable value]	74,750
Add: Actual Insurance charges [20,000 × 0.65] [Includible in assessable value]	<u>13,000</u>
Assessable Value	5,42,500
Add: Basic customs duty @ 15% of ₹ 5,42,500 [Rate of duty would be the rate as prevalent on the date of filing of bill of entry or entry inwards, whichever is later.]	81,375

Note - Design and engineering work is includible in the assessable value only when the same is undertaken elsewhere than in India and necessary for the production of the imported goods. Thus, design and engineering work in New Delhi (or India) is not includible in assessable value.

Q. BlueCrest Machinery Co., a manufacturing firm in India, imported a machine from a UK supplier in May. FOB value of the machine was 10,000 UK Pound. Air freight incurred was 3,000 UK Pound. Further, the buyer was required to pay licence fee in UK is 400 UK Pound. Moreover, the firm had paid a buying commission of ₹ 20,000 in India.

In this regard, following additional information is also provided:

- (a) Date of bill of entry was 20th May and the rate of exchange notified by CBIC on this date was ₹ 99.00 per one pound. Rate of basic customs duty was 7.5%.**
- (b) Date of arrival of aircraft was 25th May and the rate of exchange notified by CBIC on this date was ₹ 98.50 per pound. Rate of basic customs duty was 10%.**
- (c) Integrated tax was 12%.**
- (d) Insurance premium details were not available.**

You are required to compute the total customs duty and integrated tax payable on the importation of machine. You may make suitable assumptions wherever required. (RTP Jan'26)

Answer:

Computation of total customs duty and integrated tax payable by BlueCrest Machinery Co.

Particulars	Amount (in ₹)
FOB value	10,000
Add: License fee required to be paid in UK [Note – 1]	400
Customs FOB value	10,400
Exchange rate is ₹ 99 per £ [Note – 2]	
	₹
Value in rupees	10,29,600.00
Add: Air freight [Restricted to 20% of ₹ 10,29,600 (Customs FOB value)] [Note – 3]	2,05,920.00
Insurance @ 1.125% of ₹ 10,29,600 [Note – 4]	11,583.00
Buying commission is not includible in the assessable value [Note – 5]	-
CIF Value	12,47,103.00
Assessable value	12,47,103.00
Rate of duty is 10% [Note – 6]	
Add: Basic custom duty @ 10% (₹ 12,47,103 × 10%) – rounded off (A)	1,24,710
Add: Social Welfare Surcharge (10% of ₹ 1,24,710) [rounded off] (B)	12,471
Value for integrated tax	13,84,284
Add: Integrated tax @ 12% -rounded off (C) [Note – 7]	1,66,114
Total customs duty and integrated tax payable [(A) + (B) + (C)]	3,03,295

Notes:

- Licence fee relating to imported goods payable by the buyer as a condition of sale is includible in the assessable value - Rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [hereinafter referred to as Customs Valuation Rules].
- Rate of exchange notified by CBIC on the date of filing of bill of entry has to be considered [Third proviso to section 14 of the Customs Act, 1962].
- In case of goods imported by air, freight cannot exceed 20% of FOB value [Fifth proviso to rule 10(2) of the Customs Valuation Rules].
- Insurance charges, when not ascertainable, have to be included @ 1.125% of FOB value of goods [Third proviso to rule 10(2) of the Customs Valuation Rules].
- Buying commission is not included in the assessable value [Clause (a)(i) of sub-rule (1) of rule 10 of the Customs Valuation Rules].
- Rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later [Proviso to section 15 of the Customs Act, 1962].
- Integrated tax is levied on the sum total of the assessable value of the imported goods, customs duties and applicable social welfare surcharge.

IMPORTATION, EXPORTATION & TRANS. OF GOODS

Q29. Sarah

(Pg 5.15)

Answer:

Computation of customs duty payable

	₹
Cigarettes [100 sticks can be accommodated in General Free Allowance (GFA)]	12,000
Travel souvenir [Allowed duty free]	Nil
Articles carried on in person	1,25,500
Firearms cartridge [50 cartridges can be accommodated in GFA]	25,500
Baggage that can be accommodated in GFA	1,63,000
Less: GFA	15,000
Baggage on which duty is payable	1,48,000
Duty payable @ 38.50% (inclusive of social welfare surcharge)	56,980

Q. With reference to customs law, state mandatory documents required for (any two for each):**(i) Export of goods****(ii) Import of goods (May'25)**

Answer:

(i) Mandatory documents for export of goods: The following documents are mandatory-

1. Bill of Lading/Airway Bill/Lorry Receipt/ Railway Receipt/Postal Receipt
2. Commercial Invoice cum Packing List (or separate invoice and packing list)
3. Shipping Bill/Bill of Export/ Postal Bill of Export

(ii) Mandatory documents for import of goods: The following documents are mandatory-

1. Bill of Lading/Airway Bill/Lorry Receipt/ Railway Receipt/Postal Receipt
2. Commercial Invoice cum Packing List (or separate invoice and packing list)
3. Bill of Entry

Q. Ms. Veronica, a UK Citizen, aged 17 years, visited India on tourist visa on 01.02.2025. She brought with her the following items on her visit,**(A) Travel souvenir worth ₹ 60,000****(B) Laptop computer valued ₹ 40,000****(C) Other articles carried on in person worth ₹ 75,000****With reference to the Baggage Rules, 2016, determine the value of baggage liable to customs duty. (Sep'25)**

Answer:

Computation of value of baggage liable to customs duty

Particulars	₹
Travel Souvenir [Allowed to be brought free of duty.]	Nil
Laptop computer [Not exempt, since one laptop computer is exempt only when imported into India by a passenger ≥ 18 years of age.]	40,000
Other articles carried on in person	75,000
Baggage that can be accommodated in GFA	1,15,000
Less: General Duty free baggage allowance in case of tourist of foreign origin	(15,000)
Value of baggage liable to customs duty	1,00,000

WAREHOUSING

Q11. Mr. Ankush**(Pg 6.5)****Answer:**

If goods remain in a warehouse beyond a period of 90 days from the date on which the order permitting deposit in warehouse is made, interest is payable @ 15% on the amount of duty payable at the time of clearance of the goods, for the period from the expiry of the said 90 days till the date of payment of duty on the warehoused goods.

Further, the facts of the given case are similar to the landmark judgement of *Pratibha Processors v. UOI 1996 (88) ELT 12* by Supreme Court. In this case, the Apex Court observed that:

- (i) if the warehoused goods are cleared beyond specified time, interest is payable on the amount of duty “payable or due” on the warehoused goods.
- (ii) In this case, on the date of clearance of the goods, no duty is payable.

Thus, the goods are not exigible or eligible to duty at the time of clearance.

In view of the above observations, the Supreme Court held that since the principal amount for computing interest is the amount of duty payable on clearance of goods, which is nil, interest payable is also nil. The interest is necessarily linked to the duty payable and if no duty is payable, there will be no liability of interest. The liability to pay interest is solely dependent upon the exigibility or actual liability to pay duty. Thus, in case where the liability to pay duty is nil, the interest will also be nil.

Thus, in view of the above, since in given case, Mr. Ankush has exported the goods from warehouse without payment of duty, no interest is payable by him.

Q. KW Fuels Pvt. Ltd. imported High Spirit Diesel (HSD) and stored it in a public warehouse. An ex-bond bill of entry for home consumption was filed and applicable customs duty was paid based on the rate prevalent on the date of presentation of such bill of entry. The proper officer passed an order for clearance for home consumption.

Owing to the highly inflammable nature of the commodity, the importer made an application to permit the storage of such diesel in the same warehouse until actual clearance for sale/use. The application was allowed. At the time of actual removal of goods from the warehouse, the rate of duty had been revised upwards.

The Department, invoking the revised duty rate, demanded payment of the differential duty on the ground that the goods were removed at a time when the higher rate was in effect. KW Fuels Pvt. Ltd. has contested the legitimacy of this demand.

Critically examine the validity of the Department’s demand in light of the provisions of the Customs Act, 1962 and relevant judicial ruling, if any. (RTP Sep’25)

Answer:

No, the demand raised by the Department is not valid. Section 49 of the Customs Act, 1962 inter alia provides that imported goods entered for home consumption if stored in a public warehouse, or in a private warehouse on the application of the importer and if the same cannot be cleared within a reasonable time, shall not be deemed to be warehoused goods for the purposes of this Act, and accordingly the provisions of Chapter IX shall not apply to such goods.

The facts of the given situation are also similar to the case of *CCus vs. Biecco Lawrie Ltd. 2008 (223) ELT 3 (SC)* wherein the Supreme Court has held that where duty on the warehoused goods is paid and out of charge order for home consumption is made by the proper officer in compliance of the provisions of section 68 of the Customs Act, the goods allowed to be retained for storage in the warehouse as permitted under section 49 of the Customs Act are not treated as warehoused goods and importer would not be required to pay anything more.

REFUND UNDER CUSTOMS

Q4. XYZ Ltd.

(Pg 7.2 – Question deleted as per ICAI Module)

Q. Section 26A of the Customs Act, 1962 provides that the import duty paid on clearance of imported goods for home consumption capable of being easily identified shall be refunded to the person by whom or on whose behalf such duty was paid subject to the fulfillment of certain conditions. You are required to list those conditions with explanation. (Sep'25)

Answer:

Section 26A provides that the import duty paid on clearance of imported goods for home consumption capable of being easily identified shall be refunded to the person by whom or on whose behalf such duty was paid subject to the fulfillment of the following conditions:

- (a) Goods are defective or not as per agreed specifications.
- (b) Goods are not worked upon/repaired/used after import except to discover the defects/ non-conformity with specifications.
- (c) Goods are identified as the goods which were imported.
- (d) Importer does not claim drawback.
- (e) Within 30 days (extendable up to 3 months) from order for the clearance of imported goods for home consumption, goods are either–
 - (i) exported,
 - (ii) title is relinquished and goods abandoned to customs, by importer, or
 - (iii) destroyed/rendered valueless in presence of customs officer.
- (f) No offence has been committed with respect to such goods.
- (g) Application for refund has been made upto 6 months from the relevant date.
- (h) Goods are not perishable goods or goods which have exceeded their shelf life or their recommended storage-before-use period.
- (i) Any other condition specified by the Board.

FOREIGN TRADE POLICY 2023

Q. Who has the authority to place an entity in Denied Entity List (DEL) and what are the restrictions imposed on the entity placed in DEL? Also enumerate when can the name once placed under DEL be removed from DEL? (Sep'25)

Answer:

An entity may be placed under DEL, by the concerned Regional Authority (or RA) of the DGFT.

In such a case:

- (i) firm may be refused grant or renewal of a licence/ authorization/ certificate/ scrip/ any instrument bestowing financial/ fiscal benefits, and
- (ii) all new licences, authorisations, scrips, certificates, instruments etc. will be blocked from printing/ issue/ renewal.

A firm's name can be removed from DEL, by the concerned RA for reasons if the firm completes Export Obligation/ pays penalty/fulfils requirement of demand notice(s) issued by the RA/submits documents required by the RA.

Q. The Central Government is in the process of drafting an amendment to the Foreign Trade Policy (FTP). During this process, it circulates a draft for stakeholder consultation and provides them 30 days for feedback. Global Exporters' Association (GEA) submits detailed suggestions, on the same. The Government acknowledges receipt of their suggestions but, in the final amendment, these recommendations are not accepted.

GEA requests the Government to explain why their views were rejected. The Ministry provides a brief explanation, stating that acceptance of the suggestions would conflict with India's international obligations under a trade agreement.

Separately, another association, Fresh Food Exporters Forum (FFEF), also submitted views relating to said amendment. Their suggestions were not incorporated, and the Government did not provide any reasons for the rejection.

Based on the above mentioned information, you are required to answer the following:

- (a) Is the Central Government obliged to always consult stakeholders before formulating or amending the FTP?**
- (b) Whether the action taken by Government for rejecting the proposal of GEA and giving only limited reasons was valid? Explain with brief reasoning.**
- (c) Can FFEF demand the Government to legally disclose the reasons for not accepting its feedback? Also, list the situations where the Government is not required to provide reasons for rejecting stakeholder views. (RTP Jan'26)**

Answer:

- (a)** The Central Government, in the course of formulation of FTP, as and when it deems reasonable to do so, may seek views / suggestions / comments / feedback from relevant stakeholders, including importers / exporters / industry experts with regard to formulation, incorporation of specific provision(s) or amendments in the FTP. However, Central Government reserves the right to suo moto formulate, amend or incorporate any specific provisions, without seeking views, suggestions, comments or feedback from stakeholders. Thus, the Central Government is not obliged to always consult stakeholders before formulating or amending the FTP.
- (b)** If the views, suggestions, comments or feedback are not incorporated in the FTP, the Central Government may to the extent possible and if deems reasonable to do so, provide, to the relevant stakeholders, including importers/exporters/industry experts the reasons for not considering their views etc. while formulating, amending or incorporating specific provisions in the FTP. Thus, the action taken by Government is valid in rejecting the proposal of GEA and giving only limited reasons.
- (c)** Central Government is not obliged or mandated to disclose reasons for not incorporating views etc., that no legal right is conferred on any person to seek reasons for his views, comments, opinions or feedback, not being incorporated in the FTP thereof. Disclosure is at the discretion of the Government.

Thus, FFEF cannot demand the Government to legally disclose the reasons for not accepting its feedback.

The Government is not required to provide reasons for rejection in case of stakeholder views that:-

- (i) adversely affect trade relations with any foreign country.
- (ii) adversely affect food, economic or national security of India;
- (iii) is in conflict with any government policies, strategic programs, international obligations or commitments or long-term plans and would undermine the objectives of such policies or programs;
- (iv) addresses matters unrelated to trade or serve narrow, private or special interests to the detriment of or contrary to the broader public interest, good; or
- (v) would require the disclosure of confidential or classified information Nothing shall confer any legal right whatsoever on any person to seek reasons for his views comments, opinions or feedback, not being incorporated in the FTP thereof.